

March 9, 2004

The Human Rights Committee

Re: Supplementary information on Colombia
Scheduled for review by the U.N. Human Rights Committee during its eightieth session

Dear Committee Members:

This letter is intended to supplement the periodic report submitted by Colombia, which is scheduled to be reviewed by the Human Rights Committee (the Committee) during its 80th session. The Center for Reproductive Rights, an independent non-governmental organization, hopes to further the work of the Committee by providing independent information concerning the rights protected in the International Covenant on Civil and Political Rights (ICCPR). This letter highlights several areas of concern related to the status of women's reproductive and sexual health and rights in Colombia and focuses specifically on discriminatory or inadequate laws and policies.

Because reproductive rights are fundamental to women's health and equality, States Parties' commitment to ensuring them should receive serious attention. Further, women's reproductive health and rights receive broad protection under the ICCPR. In its elaboration of equality of rights between men and women in General Comment 28, the Committee directs States Parties to report on laws as well as government or private action that interferes with women's equal enjoyment of the right to privacy in the area of reproductive health.¹ The Committee asks States Parties to eliminate any interference in the exercise of this right.² Women's lack of access to health services, particularly reproductive health services, has been identified by the Committee as a violation of Article 3, which guarantees the right of equality of men and women.³

We wish to bring to the Committee's attention the following issues of concern, which directly affect the reproductive health and lives of women in Colombia:

The Right to Reproductive Health Care, including Family Planning and Safe and Legal Abortion Services (Articles 3, 6, 23, and 26 of the ICCPR)

The ICCPR's guarantee of the right to life in Article 6 requires governments to take "positive measures" aimed at preserving life.⁴ Such measures should respond to the needs of both women and men, in keeping with Articles 3 and 26, which guarantee the right to equal enjoyment of the rights in the Covenant and equality before the law.⁵ Because reproductive health care is an essential condition for women's survival, these provisions collectively give rise to a governmental duty to ensure the full range of reproductive health services, including the means of preventing unwanted pregnancy.

The Committee has recognized in its General Comment 19 the right to "procreate and live together," which by inference includes the right to reproductive health care and to all safe and appropriate forms of contraception.⁶ Accordingly, the Committee has found possible violations of the ICCPR where women have difficulty accessing contraceptive methods to prevent

unwanted pregnancies.⁷ It has recognized that women's lack of access to contraceptives, including their high cost, is discriminatory.⁸

1. Family Planning

The government of Colombia is failing to ensure that women have access to reproductive health services. In 2000, the majority of family planning services, in the form of modern methods of family planning, were provided by the private sector (70%), including private hospitals and clinics, PROFAMILIA and pharmacies. Only 30% of such services were provided by the public sector, including government hospitals, health centers and mobile clinics, underscoring the importance of increased public participation in the provision of family planning services.⁹

2. Maternal Mortality

In 2001, the Colombian maternal mortality rate was 71 maternal deaths per 100,000 live births.¹⁰ According to both UNICEF Colombia and a joint study led by Reproductive Health for Refugees Consortium (RHRC) in 2001, great geographical differences exist in maternal mortality rates. For example, although rates are unavailable for 2001, in 1995, maternal mortality in Choco, Narino, Cauca, Amazonas, Caqueta and Putumayo was two to three times higher than the average rate.¹¹ At that time, the maternal mortality rate fluctuated between 198 per 100,000 in Cauca and Choco and 48 per 100,000 in Quindio.¹² Additionally, the RHRC survey reports that the Pacific Coast's maternal mortality rate is three times higher than the national average. According to the Colombian Ministry of Health, the 150 municipalities with the highest maternal mortality rates in the country have rates ranging from 207 to 570 deaths per 100,000 live births.¹³ Of these, 100 municipalities, including Bolivar, Cauca, Cesar, Cordoba, Narino and Sucre, are characterized by significant social inequities, violence and population displacement.¹⁴

The factors that lead to maternal mortality, which include discrimination, poverty, deficient access to services and information, lack of knowledge about the appropriate spacing of children between pregnancies, inadequate personal hygiene, inadequate precautions during pregnancy and immediately after birth, low educational levels, and difficulties reaching establishments that are adequately equipped to attend to women during their pregnancy, must be addressed. The higher rates of both prenatal and antenatal care that are provided in urban zones, as opposed to rural zones, and among those with higher levels of education, as opposed to lower levels, demonstrates the importance of concentrating efforts to decrease maternal mortality rates among rural populations and those without education.

3. Abortion

This Committee has acknowledged that States' duties to protect and ensure the right to life include a duty to protect women who terminate their pregnancies.¹⁵ It has called upon States to take measures "to ensure that women do not risk life because of restrictive legal provisions on abortion," i.e. being forced to seek abortions under clandestine, unsafe conditions.¹⁶ In this regard, the Committee has recommended liberalization of laws that criminalize abortion.¹⁷

Contrary to efforts to liberalize laws criminalizing abortion, Colombian law prohibits abortion under all circumstances including preservation of physical health, preservation of mental health, rape or incest, fetal impairment, for economic or social reasons, and upon request.¹⁸

As a result of the fact that abortion is illegal, it is common for women to use unsafe procedures to terminate unwanted pregnancies, contributing to high maternal mortality rates.¹⁹ The prohibition of abortion contributes to the high mortality rate, as abortion is the second leading cause of maternal death, accounting for 16% of the maternal mortality rate.²⁰ In 1995, the highest incidence of maternal deaths resulting from abortion occurred in women aged 20 to 29.²¹ Significantly, these causes have not changed in the last twenty years. The high incidence of maternal deaths resulting from abortion is related to the unmet demand for contraceptives in at-risk populations.²²

The criminalization of abortion has a discriminatory effect on impoverished women. While women of higher socio-economic classes are able to obtain safe, though illegal, abortions, women of lower incomes are forced to seek dangerous backroom abortions, contributing to the higher maternal mortality rates in rural areas.²³ In addition, poor women are at a higher risk of pregnancy as a result of inadequate access to sex education and contraceptives.²⁴

4. HIV/AIDS

The estimated number of adults and children living with HIV/AIDS at the end of 2001 ranged from 139,000 to 148,000, approximately 20,000 of whom were women aged 15–49, and 4,000 of whom were children under age 15.²⁵ As of December 2001, the reported cumulative number of persons living with HIV/AIDS was 19,603.²⁶ Of this number, 6,437 were AIDS cases and 13,166 were HIV cases.²⁷ The gender breakdown was 84.6% male and 14.6% female.²⁸

The male to female ratio of individuals with HIV/AIDS has changed dramatically from 18:1 in 1996 to 4:1 in 2000, demonstrating the increased prevalence among women and highlighting the special attention that governments should pay to the feminization of HIV/AIDS.²⁹ Of reported cases, 44% of HIV infections were among persons aged 15 to 35.³⁰ Geographical differences in the mode of HIV transmission through sexual contact are as follows: while MSM (men who have had sex with men) contact is predominant in Bogota and the Central Western region (MSM accounted for more than 50% of infections registered between 1990 and 1995), HIV infection is spread most through heterosexual contact in the Caribbean and North-Eastern regions.³¹

Colombia has fallen short of its duties to ensure women's access to information and education on HIV/AIDS. In this regard, greater government action is needed to prevent further infections, including adopting a more comprehensive approach to meeting the health and education needs of Colombian women.

5. Violence Against Women (Articles 3, 6 & 7)

Article 7 of the ICCPR states that no one shall be subjected to torture, inhuman or degrading treatment or punishment. Article 6 ensures the individuals' right to life. Both of these rights are violated when women have no protection from rape and domestic violence. Article 3, which

provides for the equal enjoyment by both sexes of the Covenant's rights, is violated when governments fail to enact and enforce laws protecting women's physical safety and integrity.

The Committee has urged States to promulgate laws providing effective protection against rape, sex abuse and violence against women.³² The Committee's numerous comments to States Parties on domestic violence³³ reinforce state responsibility by placing a strong emphasis on the need for legislation to criminalize this violence.³⁴ The Committee has further commented that acts of discrimination, such as sexual harassment in the workplace, should "be an offence punishable by law."³⁵

According to the National Institute of Legal Medicine and Forensic Science, in 2002, there were 64,979 reports of personal injuries caused by domestic violence.³⁶ Domestic violence occurs most frequently as conjugal abuse (62% of all cases of domestic violence involve conjugal abuse),³⁷ and 91% of victims of conjugal abuse are women.³⁸ The majority, 78%, or 50,710 cases, of domestic violence cases are directed against women.³⁹ However, the distribution is not uniform, principally affecting women between 25 and 34 years of age (35%) and women 18 to 24 years of age (24%).⁴⁰

Regarding sexual offenses, in 2000, 11% of women reported having been sexually abused by their spouses. Seven percent of all women reported having been violated by others: strangers (29%), friends (26%) and relatives (15%).⁴¹

Of all women who were abused or beaten, 62% did not do anything to seek help. The search for help was highest among adolescents and among those residing in regions of the Central Region (41%).⁴²

The Colombian government should safeguard women's physical integrity and safety by enacting and enforcing laws that eradicate all forms of violence against women.

6. Internally Displaced Women

Indigenous and Afro-Colombian women suffer discrimination on multiple levels, including gender, race, color and ethnic origin.⁴³ In general, women who make up the majority of the population of displaced persons,⁴⁴ and particularly indigenous and Afro-Colombian women, face discrimination on grounds that they are internally displaced. These women have limited access to health systems, particularly in the areas of reproductive health, malnutrition and mental health, despite the fact that many of them, as a result of the suffering that has been inflicted upon them through conflict, need trauma counseling. When they do receive health care services, they tend to receive low quality services.⁴⁵

In addition, as a result of armed conflict, women are particularly at risk of sexual violence by armed groups.⁴⁶ Further, they are forced to hide this fact for various reasons, including the fear of death threats that they receive from those who rape them.⁴⁷

7. Same Sex Unions

Unfortunately, Law 43, a draft bill recognizing same sex unions, failed to pass in Congress in 2003. The Law, would have acted as an instrument of general affirmation towards respect for differences, establishing the principle of non-discrimination based on identity or sexual orientation.⁴⁸

The Committee should consider addressing the following questions to the Colombian government:

1. What steps are being taken to ensure that women have access to reproductive health services, including the provision of contraceptive methods and the dissemination of information regarding contraception?
2. What measures are being taken to reduce the high maternal mortality rates, particularly among those populations, namely rural populations and those with lower educational levels, among whom maternal mortality rates are highest?
3. What measures are being taken to address the issue of abortion, a primary cause of maternal mortality, particularly among rural women upon whom the criminalization of abortion has a discriminatory effect?
4. What steps are being taken to address the increased feminization of HIV/AIDS? How effective is the National Program of Prevention and Control of STI/AIDS in combating HIV/AIDS?
5. What efforts have been made to reduce rates of violence, including sexual violence, committed against women?
6. What steps have been taken to ensure that victims of violence receive redress and that perpetrators of the violence are punished? How effective has Law 575 been in such efforts?
7. What steps have been taken to address the multiple layers of discrimination that internally displaced women face?

There remains a significant gap between the provisions of the International Covenant on Civil and Political Rights and the reality of women's reproductive health and lives. We appreciate the active interest that the Committee has taken in the reproductive health and rights of women in the past, stressing the need for governments to take steps to ensure the realization of these rights.

We hope that this information is useful during the Committee's review of the Colombian government's compliance with the ICCPR. If you have any questions, or would like further information, please do not hesitate to contact us.

Very truly yours,

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¹ Human Rights Committee, General Comment 28, Equality of rights between men and women (Article 3), 68th Sess., 1834th mtg., ¶ 20, U.N. Doc. CCPR/C/21/Rev/1/Add/10 (2000) [hereinafter HRC, General Comment 28].

² *Id.*

³ See, e.g., *Concluding Observations of the Human Rights Committee: Ecuador*, 63rd Sess., 1692nd mtg., ¶ 11, U.N. Doc. CCPR/C/79/Add.92 (1998) [hereinafter *HRC Concluding Observations: Ecuador*]; *Concluding Observations of the Human Rights Committee: Poland*, 66th Sess., ¶ 11, U.N. Doc. CCPR/C/79/Add.110 (1999) [hereinafter *HRC Concluding Observations: Poland*].

⁴ Human Rights Committee, General Comment 6, Right to Life (Article 6), 16th Sess., ¶ 5 (1982).

⁵ International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc A/6316 (1966), art. 3, art. 36, 999 U.N.T.S. 171 (*entered into force* Mar. 23, 1976).

⁶ Human Rights Committee, General Comment 19, Protection of the family, the right to marriage and equality of the spouses (Article 23), 39th Sess., ¶ 5 (1990).

⁷ UNITED NATIONS CENTER FOR HUMAN RIGHTS, MANUAL ON HUMAN RIGHTS REPORTING 120, ¶ 239, U.N. Doc. HR/PUB/91/1 (1991).

⁸ See, e.g., *HRC Concluding Observations: Poland*, *supra* note 3, ¶ 11(b).

⁹ PROFAMILIA, SALUD SEXUAL Y REPRODUCTIVA EN COLOMBIA ENCUESTA NACIONAL DE DEMOGRAFIA Y SALUD 16 (2000).

¹⁰ PAN AMERICAN HEALTH ORGANIZATION, REGIONAL CORE HEALTH DATA SYSTEM COUNTRY HEALTH PROFILE 2001, at www.paho.org/English/SHA/prflcol.htm.

¹¹ MORTALIDAD MATERNA EN COLOMBIA, at www.unicef.org.co/00.htm.

¹² *Id.*

¹³ MARIE STOPES INTERNATIONAL MARIE STOPES INTERNATIONAL WOMEN'S COMMISSION FOR REFUGEE WOMEN AND CHILDREN, DISPLACED AND DESPERATE: ASSESSMENT OF REPRODUCTIVE HEALTH FOR COLOMBIA'S INTERNALLY DISPLACED PERSONS 14 (2003).

¹⁴ *Id.*

¹⁵ See, e.g., *Concluding Observations of the Human Rights Committee: Chile*, 65th Sess., 1740th mtg., ¶ 15, U.N. Doc. CCPR/C/79/Add.104 (1999) [hereinafter *HRC Concluding Observations: Chile*].

¹⁶ *Report of the Human Rights Committee*, Vol. 1, 52nd Sess., Supp. No. 1, ¶ 167, U.N. Doc. A/52/40 (1997) [hereinafter *HRC Report*].

¹⁷ *HRC Concluding Observations: Chile*, *supra* note 15, ¶ 15.

¹⁸ Although the abortion law does not expressly allow abortions to be performed to save the life of the woman, general principles of criminal legislation allow abortions to be performed for this reason when necessary. UNITED NATIONS POPULATION DIVISION DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS, ABORTION POLICIES, A GLOBAL REVIEW, www.un.org/esa/population/publications/abortion/profiles.htm. The law dictates that a woman who causes her own abortion or permits another to perform the abortion will be penalized, with a sentence of one to three years imprisonment. (Article 343). An individual who induces an abortion without the consent of the woman or in a woman aged under fourteen years incurs a prison sentence of three to ten years. (Article 344). A woman who becomes pregnant as a result of carnal violence, abusive, or nonconsensual artificial insemination and who induces her own abortion or permits another to do so, is arrested for a period of four months to a year. (Article 345).

ANNUAL REVIEW OF POPULATION LAW, ABORTION LAWS, COLOMBIA, at <http://cyber.law.harvard.edu/population/>.

¹⁹ PAN AMERICAN HEALTH ORGANIZATION, REGIONAL CORE HEALTH DATA SYSTEM COUNTRY HEALTH PROFILE 2001, at www.paho.org/English/SHA/prflcol.htm.

²⁰ MORTALIDAD MATERNA EN COLOMBIA, at www.unicef.org.co/00.htm.

²¹ PAN AMERICAN HEALTH ORGANIZATION, REGIONAL CORE HEALTH DATA SYSTEM COUNTRY HEALTH PROFILE 2001, at www.paho.org/English/SHA/prflcol.htm.

²² *Id.*

²³ INTERNATIONAL WOMEN'S RIGHTS ACTION WATCH, COUNTRY REPORT FOURTH PERIODIC REPORT (1997), at <http://iwrw.igc.org/publications/countries/colombia.htm>.

²⁴ *Id.*

²⁵ UNAIDS, UNICEF, WORLD HEALTH ORGANIZATION, EPIDEMIOLOGICAL FACT SHEETS ON HIV/AIDS AND SEXUALLY TRANSMITTED INFECTIONS 2 (2002).

²⁶ *Id.*

²⁷ *Id.*

²⁸ The National Statistics Administrative Department (DANE) reports 12,410 registered AIDS deaths. However, only 3,645 AIDS deaths were registered at the Ministry of Health. Of the deaths registered with DANE, 887 were among children under 15 years old. The means of transmission among reported cases includes sexual transmission (78.0%) divided into heterosexual (47.7%), homosexual (34.0%) and bisexual (28.2%). Mother to child transmission was 1.6%; blood transmission was 0.6%; and 19.% of cases did not report means of transmission.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *HRC Report*, *supra* note 16.

³³ See, e.g., *Concluding Observations of the Human Rights Committee: Armenia*, 64th Sess., 1721st & 1725th mtgs., ¶ 16, U.N. Doc. CCPR/C/79/Add.100 (1998) [hereinafter *HRC Concluding Observations: Armenia*]; *Concluding Observations of the Human Rights Committee: Costa Rica*, 65th Sess., 1751st mtg., ¶ 12, U.N. Doc. CCPR/C/79/Add.107 (1999) [hereinafter *HRC Concluding Observations: Costa Rica*]; *Concluding Observations of the Human Rights Committee: Guatemala*, 56th Sess., 1499th mtg., ¶ 33, U.N. Doc. CCPR/C/79/Add.63 (1996) [hereinafter *HRC Concluding Observations: Guatemala*]; *Concluding Observations of the Human Rights Committee: Ireland*, 69th Sess., 1858th mtg., ¶ 29f, U.N. Doc. A/55/40, ¶¶ 422–451 (2000) [hereinafter *HRC Concluding Observations: Ireland*]; *Concluding Observations of the Human Rights Committee: Jamaica*, 61st Sess., 1641st mtg., ¶ 12, U.N. Doc. CCPR/C/79/Add.83 (1997) [hereinafter *HRC Concluding Observations: Jamaica*]; *Concluding Observations of the Human Rights Committee: Japan*, 64th Sess., 1726–1727th mtgs., ¶ 30, U.N. Doc. CCPR/C/79/Add.102 (1998) [hereinafter *HRC Concluding Observations: Japan*]; *Concluding Observations of the Human Rights Committee: Kyrgyzstan*, 69th Sess., 1754–1755th mtgs., ¶ 14, U.N. Doc. CCPR/CO/69/KGZ (2000) [hereinafter *HRC Concluding Observations: Kyrgyzstan*]; *Concluding Observations of the Human Rights Committee: Libyan Arab Jamahiriya*, 64th Sess., 1720th mtg., ¶ 17, U.N. Doc. CCPR/C/79/Add.101 (1998) [hereinafter *HRC Concluding Observations: Libyan Arab Jamahiriya*]; *Concluding Observations of the Human Rights Committee: Mexico*, 50th Sess., 1315th mtg., ¶ 17, U.N. Doc. CCPR/C/79/Add.32 (1994); *Concluding Observations of the Human Rights Committee: Senegal*, 61st Sess., 1640th mtg., ¶ 13, U.N. Doc. CCPR/C/79/Add.82 (1997) [hereinafter *HRC Concluding Observations: Senegal*]; *Concluding Observations of the Human Rights Committee: The Former Yugoslav Republic of Macedonia*, 63rd Sess., 1696th mtg., ¶ 14, U.N. Doc. CCPR/C/79/Add.96 (1998) [hereinafter *HRC Concluding Observations: Former Yugoslav Republic of Macedonia*]; *Concluding Observations of the Human Rights Committee: Yemen*, 53rd Sess., 1403rd–1404th mtgs., ¶ 255, U.N. Doc. CCPR/C/79/Add.51, A/50/40 (1995) [hereinafter *HRC Concluding Observations: Yemen*]; *Concluding Observations of the Human Rights Committee: Zimbabwe*, 62nd Sess., 1664th mtg., ¶ 14, U.N. Doc. CCPR/C/79/Add.89 (1998).

³⁴ See, e.g., *HRC Concluding Observations: Armenia*, *supra* note 33, ¶ 16; *HRC Concluding Observations: Costa Rica*, *supra* note 33, ¶ 12; *HRC Concluding Observations: Guatemala*, *supra* note 33, ¶ 33; *HRC Concluding Observations: Ireland*, *supra* note 33, ¶ 29(f); *HRC Concluding Observations: Jamaica*, *supra* note 33, ¶ 12; *HRC Concluding Observations: Japan*, *supra* note 33, ¶ 30; *HRC Concluding Observations: Kyrgyzstan*, *supra* note 33, ¶ 14; *HRC Concluding Observations: Libyan Arab Jamahiriya*, *supra* note 33, ¶ 17; *Concluding Observations of the Human Rights Committee: Russian Federation*, 54th Sess., 1440th mtg., ¶ 14, U.N. Doc. CCPR/C/79/Add.54 (1995); *HRC Concluding Observations: Senegal*, *supra* note 33, ¶ 13; *HRC Concluding Observations: Former Yugoslav Republic of Macedonia*, *supra* note 33, ¶ 14; *HRC Concluding Observations: Yemen*, *supra* note 33.

³⁵ See, e.g., *HRC Concluding Observations: Chile*, *supra* note 15, ¶ 249.

³⁶ JORGE O. GONZÁLEZ ORTÍZ, VIOLENCIA INTRAFAMILIAR: UNA FORMA DE RELACIÓN, UN ASUNTO DE DERECHOS HUMANOS [INTRAFAMILIAL VIOLENCE: A FORM OF RELATIONS, A MATTER OF HUMAN RIGHTS] 76.

³⁷ *Id.*

³⁸ Departamento Nacional de Planeación (DNP), PROFAMILIA, DANE, Medicina Legal, Red de Solidaridad Social, Consultoría para los Derechos Humanos y el Desplazamiento, IICA, BID, and Universidad Nacional, among others, cited in the text *Situación de las mujeres en Colombia diagnóstico en cifras, 2001*. Corporación Sisma Mujer, Bogotá, August, 2001.

³⁹ JORGE O. GONZÁLEZ ORTÍZ, VIOLENCIA INTRAFAMILIAR: UNA FORMA DE RELACIÓN, UN ASUNTO DE DERECHOS HUMANOS 78.

⁴⁰ *Id.*

⁴¹ PROFAMILIA, SALUD SEXUAL Y REPRODUCTIVA EN COLOMBIA ENCUESTA NACIONAL DE DEMOGRAFIA Y SALUD 180 (2000).

⁴² *Id.*

⁴³ *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms. Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights Resolution 2001/49, 58th Sess., ¶ 28, U.N. Doc. E/CN.4/2002/83/Add. 3 (2002).*

⁴⁴ *Id.* ¶ 68. Estimates of the proportion of displaced women in Colombia range from 49% to 58% of the total displaced population. Displaced women and children account for 74% of displaced individuals who need special assistance, and 80% of displaced persons found in large urban areas.

⁴⁵ *Id.* ¶ 80.

⁴⁶ *Id.* ¶ 42.

⁴⁷ *Id.* ¶ 43.

⁴⁸ LEY PAREJAS, EXPOSICION DE MOTIVOS PROYECTO DE LEY 43 DE 2002, at <http://www.leyparejas.org/leyparejas/Proyectodeley/exposicion43.htm>.