



June 8, 2001

The Human Rights Committee

Re: Supplementary information on Colombia
Scheduled for review by the U.N. Human Rights Committee during its August 2001 session

Dear Committee Members:

The purpose of this letter is to provide some independent information regarding Colombia, which is scheduled to be reviewed by the Human Rights Committee during its August session. Non-governmental organizations, such as the Center for Reproductive Law and Policy (CRLP) can play a central role in providing the committee with information that is reliable, accurate and independent concerning the rights covered by the International Covenant on Civil and Political Rights (Political Rights Covenant). This letter will highlight several particular areas of concern related to the status of women's reproductive rights in Colombia.

Reproductive rights are fundamental to women's health and equality and we believe that states parties' commitment to ensuring said rights should receive serious attention. Further, women's reproductive health and rights are a part of the Committee's mandate under the Covenant on Civil and Political Rights.

CRLP has identified for the Committee the following issues of concern, which directly affect the reproductive health and lives of women in Colombia:

A. The Right to Reproductive Health and Family Planning, including Safe and Legal Abortion (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.¹ 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. 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 Human Rights Committee ("the Committee") has recognized in its General Comment 19(39) 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.² Accordingly, the Committee has found possible violations of the Covenant where women have difficulty accessing contraceptive methods to prevent unwanted pregnancies.³

1. Family Planning

Family planning services are a component of the primary health care program, (pp.76 wow) and every health center and hospital must provide family planning services to low-income individuals. (pp.76 wow) However, resources continue to be concentrated in certain areas of the country, which means that a significant portion of the low-income population lacks access to these services.(pp.74 wow)

According to government information sources, the state has supported family planning services and incorporated them in population policy for many years.(pp. 7 shadow) In 1993, nevertheless, the state system covered only 20% of contraceptive methods countrywide. (pp.7 shadow) With respect to all contraceptives distributed, the Ministry of Health provides the following quantities: 53% of IUDs, 25.2% of birth-control pills, 25.2% of sterilizations, and 7% of condoms. (pp.7 shadow)

In Colombia, 98% of women between the ages of 15 and 44 know about contraceptive method use.(Essay pp.5) Although awareness of various family planning methods is high, it does not mean that women have accurate information on the methods, how to use them and their side effects.(Essay pp.5)

2. Abortion

The Committee has further acknowledged that States' duties to protect and ensure the right to life includes a duty to protect women who terminate their pregnancies.⁴ 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.⁵ In this regard, the Committee has recommended liberalization of laws that criminalize abortion.⁶

Abortion in Colombia is a public health problem of unknown magnitude, principally due to its illegality, which in turn contributes to substantial under-reporting. According to 1993 data, approximately 450,000 abortions occur in Colombia every year. (pp.8 Shadow report) A 1996 study of maternal mortality in Colombia (pp8 Shadow) estimated that in 1994, abortion was the second-leading cause of maternal mortality, which correlates with the high rate of unsatisfied demand for contraceptive methods. The same study shows that the 20-29 age group reported the highest incidence of abortion-related deaths. (pp.8 Shadow) According to the President's Council on Women, approximately 20% of Colombian women of child-bearing age (about 1.5 million) had at least one abortion in 1993. This number included women of all ages and social classes,

although young women aged 16-27 had the highest incidence of abortion. Women under age 15 also have abortions, and abortion is the fourth leading cause of hospitalization for this group. (pp.9 Shadow)

In 1995, approximately 80% of abortions were due to the absence of contraceptive methods; the remaining 20% occurred due to failures in contraceptive methods. (pp.8 Shadow report) Both the choice of method and its consequences are directly related to the type of practitioner and the social class of the pregnant woman. Poor women from both rural and urban areas suffer the most complications (50-60%) from either self-induced abortions or those performed by others. (pp.9 Shadow)

Given abortion's illegality and Colombian society's general condemnation of it, health care providers' response to complications arising from clandestine abortions is discriminatory, accusatory, and guilt-inducing. Some health officials report abortions to the criminal justice system. These officials do so to comply with citizens' general duty to report criminal acts of which they have knowledge. (pp.9 Shadow report)

3. Maternal Mortality

While Colombia's maternal mortality rate is declining (1986: 119.8 deaths per 100,000 live births; 1994: 98.2), it remains a serious health issue, as do problems of under-reported data. (pp. 5 Shadow) Poor women have higher rates of morbidity and mortality. (pp. 5 Shadow) For example, the Pacific Coast's maternal mortality rates are three times higher than the national average and nine times higher than the rate in the Medellín metropolitan area. (pp. 5 Shadow) For females aged 10-14 and 15-19, the leading cause of hospitalization is to give birth. (pp. 5 Shadow)

4. HIV/AIDS and Sexually Transmissible Infections (STIs)

The number of people living with HIV and AIDS in Colombia has risen since the first AIDS cases were reported in 1983. Through 1994, Colombia reported 85 cases of HIV/AIDS per one million inhabitants. (pp.12 Shadow report) Data from 1992 showed 2,855 cases of AIDS in men and 212 in women. (pp.12 Shadow) In 1993, there were 2,855 cases of HIV and 3,304 of AIDS. (pp.12 shadow)

Discrimination in health services exists against people, whether male or female, suffering from HIV/AIDS or STIs. This discrimination denotes prejudice and a lack of open discussion about sexual differences generally. No data exist to determine either the number of discrimination cases or of official responses to sanction abuses and discriminatory practices. (pp.12 shadow)

In order to receive medical attention for AIDS within the social security system, people must pay into the system for one hundred weeks (two years). This

requirement means that as result, many people end up not being covered. (pp.12 Shadow) It is furthermore believed, given under-reporting and the fact that the social security system does not include everyone, that rates of people living with HIV and AIDS are much higher than those officially reported.

5. Adolescent Reproductive Health

Although some private health care organizations such as PROFAMILIA offer reproductive health services on a sliding fee scale to adolescents, in practice, male and female adolescents lacking economic resources do not have adequate access either to reproductive health care or to contraceptive methods because the government does not cover such services.

Pregnancy at a young age is part of the cultural heritage in some regions. In most cases, however, these pregnancies are unwanted and involve single mothers who have usually been abandoned by their partners. (pp.12 Shadow) Furthermore, many of these pregnancies end in costly clandestine abortions performed under inadequate conditions. (pp. 13 Shadow) Of every 100 women who become pregnant before age 19, 45 have an abortion. According to hospital records, abortion is the third leading cause of maternal mortality among adolescents. (pp.13 Shadow)

B. Violence Against Women (Articles 3, 6 and 7 of the ICCPR)

Article 7 of the ICCPR states that no one shall be subjected to torture, inhuman or degrading treatment, or punishment. Article 6 ensures the individual's right to life. Both of these rights are potentially violated when women are subjected to rape and domestic violence. Article 3, which provides for the equal enjoyment by both sexes of the Covenant's rights, is violated if women are not protected from these practices by law and the government's diligent enforcement of such law.

The Committee has urged States to promulgate laws providing effective protection against rape, sex abuse, and violence against women.⁷ It has also said that making rape a privately prosecutable crime (so that victims, rather than the state, must file an action), and subjecting abortion to criminal penalties even in the case of rape, are incompatible with Articles 3, 6, and 7 of the Covenant.⁸ In the same vein, the Committee holds a negative view of legal provisions that exempt a rapist from punishment if he marries his victim,⁹ and has criticized States that do not consider rape in marriage an offense.¹⁰ It has further commented that acts of discrimination, such as sexual harassment in the workplace, should "be established as punishable crimes."¹¹

1. Sexual Violence

While recent changes have increased penalties for sexual crimes, serious difficulties remain in the ways such crimes are investigated. Specific problem areas include procedural issues, evidentiary issues, and lack of respect for victims' rights. (pp.18 Shadow) In addition, authorities lack the technical and

economic resources needed to conduct investigations, and the existing institutional infrastructure is not adequate for proper investigations.

Some judges' approach to sentencing sexual aggressors perpetuates prejudices such as the belief that women cause sexual violence by acting provocatively. (pp18 shadow) Furthermore, other stereotypes continue to prevent equal justice for women in the judicial system. Specifically, protection is limited according to subjective arguments of the woman's "honesty" or "good name," as well as the belief that women are not credible witnesses, particularly when the aggressor is a family member or otherwise unknown to her.

2. Domestic Violence

Despite government efforts to address domestic violence, such efforts fail to address the issue in an integrated and systematic way. Efforts are particularly insufficient in two respects: compensating victims and humanizing their treatment within the criminal justice system.

In 1997, 145 homicides resulted from domestic violence. (pp.19 Shadow) Of these homicides, 57% of the victims were women. (pp. 19 Shadow) According to 1995 statistics, women living with a partner suffered abuse as follows: 33% suffered verbal abuse from their partner or spouse; 19% suffered physical abuse (pp.19 Shadow); and 6% suffered sexual abuse. (pp. 19 Shadow) In 1995, the Institute of Legal Medicine recorded 42, 963 cases involving injury due to domestic violence. (pp. 19 Shadow)

The available data concerning domestic violence represent only a small part of the problem's true magnitude. No definitive estimates about under-reported data exist. Nevertheless, some data do indicate that although women know the institutions where they can file domestic violence complaints against their husbands, only 27% of victims have done so. (pp. 19 Shadow) Thus, a more accurate estimate of the problem's extent would mean multiplying existing data by four.

The law provides that as a temporary measure, judges can order housing for victims of domestic violence in half-way houses or shelters. Such orders, however, rarely occur because few shelters exist and most of these cater principally to minors. The shelters are usually administered by NGO's without government aid.

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

1. What steps are being taken to address the high level of maternal mortality in Colombia, particularly among rural women? What is being done to address the barriers that women face in accessing full and affordable reproductive health and family planning services?

2. What measures are being taken to address the issue of unsafe and illegal abortion, one of the primary causes of maternal mortality? What governmental efforts exist to ensure post-abortion care for complications as well as for reproductive health counseling?
3. What governmental efforts have been made to ensure that all persons living with HIV/AIDS have access to comprehensive medical services? What measures have been taken to combat discrimination and prejudiced practices against persons living with HIV/AIDS?
4. What governmental programs have been established to ensure that adolescents of all social classes have access to reproductive health services, and what efforts have been made to ensure that adolescents' rights to privacy and confidentiality are respected when seeking such services? Have any initiatives been taken to ensure that health care providers are sensitized to the specific reproductive health needs of adolescents? What measures have been taken to institutionalize sexual education programs?
5. What governmental efforts have been made to counter the increase in sexual and domestic violence? Are there any public campaigns to raise awareness about violence against women? Are there plans to increase the number of shelters for women faced with violence within the family? What efforts are being made to create adequate institutional infrastructures that conduct proper investigations for sexual crimes?

Finally, we have included the following supporting documentation for the Committee's reference:

- ♦ *The Colombia Chapter of Women of the World: Laws and Policies Affecting Their Reproductive Lives – Latin America and the Caribbean*, by CRLP and DEMUS, Estudio para la Defensa de los Derechos de la Mujer.
- ♦ *Women's Reproductive Rights in Colombia: A Shadow Report*, by CRLP and Corporación Casa de la Mujer.

There remains a significant gap between the provisions contained in 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 to the provisions contained within the International Covenant on Civil and Political Rights. If you have any questions, or would like further information, please do not hesitate to contact the undersigned.

Very truly yours,

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¹ Human Rights Committee, The Right to Life (article 6), General Comment 6, para. 5, July 30, 1982.

² UNITED NATIONS CENTER FOR HUMAN RIGHTS, MANUAL ON HUMAN RIGHTS REPORTING 120, U.N. Doc. HR/PUB/91/1 (1991) at 113.

³ *Id.* ¶ 239.

⁴ U.N. Doc CCPR/C/79/Add.104 ¶ 15.

⁵ *Report of the Human Rights Committee*, ¶ 167, 52nd Session, U.N. Doc. A/52/40.

⁶ U.N. Doc CCPR/C/79/Add.104 ¶ 15.

⁷ U.N. Doc. A/52/40, ¶ 167.

⁸ *Id.*

⁹ *Id.* ¶ 431.

¹⁰ *Id.*

¹¹ *Id.* ¶ 249.