

CENTER *for*
REPRODUCTIVE
RIGHTS

Report

An overview from
a gender and
reproductive rights
perspective

An examination of Reproductive Violence



against women
and girls

during the Armed
Conflict in
Colombia

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July 2020

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Glossary of acronyms and abbreviations

- HRC: United Nations Human Rights Committee
- CEDAW: Convention on the Elimination of All Forms of Discrimination against Women.
- IACHR: Inter-American Commission on Human Rights.
- CNMH: National Center for Historical Memory of Colombia [Centro Nacional de Memoria Histórica].
- CEDAW Committee: United Nations Committee on the Elimination of Discrimination against Women.
- CESCR: United Nations Committee on Economic, Social, and Cultural Rights.
- Convention of Belém do Pará: Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.
- Inter-American Court: Inter-American Court of Human Rights.
- IHRL: International Human Rights Law.
- IHL: International Humanitarian Law.
- ETP: Under Colombian law, elective termination of pregnancy.
- MESECVI: Follow-up Mechanism to the Belém do Pará Convention.
- ICCPR: International Covenant on Civil and Political Rights.
- ICESCR: International Covenant on Economic, Social and Cultural Rights.
- IAHR: Inter-American Human Rights System.

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Introduction



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The voices of the victims of reproductive violence do not stand out at first. Despite the growing awareness and reporting of the undeniable use of sexual violence by all parties during the armed conflict in Colombia, violations that directly impact the ability of people, particularly girls and women, to make decisions regarding their own reproductive health have remained mostly hidden, and in many cases women continue suffering the impact of these actions in their day-to-day lives.

The consequences of more than 50 years of armed conflict are experienced differently by Afro-Colombian, indigenous, and rural women, who have historically been unprotected as victims of structural violence that has prevented them from fully exercising their rights to, among others, sexual and reproductive health. In other words, this means that opportunities to make decisions regarding their own bodies have historically been limited.

Within the framework of the Peace Accords signed between the National Government and the FARC-EP guerrilla

group, the State is explicitly required, through the Special Jurisdiction for Peace (JEP) and the Truth Commission (CEV), to hear the voices of the victims of gender-based violence that have been so often silenced; to analyze and contribute to peace by acknowledging the violence perpetrated by illegal and legal armed groups; to contribute to determining the factors that allowed such violence to take place; and to establish reparation actions and guarantees of non-repetition.

To support this work, based on the experience of the Center for Reproductive Rights, this report provides specific legal

and conceptual elements to identify and analyze reproductive violence and violations of reproductive rights during the armed conflict and the consequences they have had in the lives of those who experienced them. Understanding the types of reproductive violence, the aims and purposes of these actions taken by legal and illegal armed actors, and the particular nature of their impact, will help determining the extent of such violence and guide reparation actions towards acknowledging that they took place and providing guarantees of non-repetition.

This documentary investigation included the review of 68 reports and documents containing information on gender-based violence during the armed conflict. These documents can be divided into two groups: (i) reports on cases of reproductive violence compiled and recorded in 51 documents of the National Center for Historical Memory; and (ii) 17 reports on cases of reproductive violence documented from other official sources, such as the Office of the Ombudsperson, women's and feminist organizations, and human rights platforms.

The Center for Reproductive Rights found that illegal armed groups, particularly paramilitary groups and the guerrilla groups Ejército de Liberación Nacional (ELN), Ejército Revolucionario Guevarista (ERG), and FARC-EP (Fuerzas Armadas Revolucionarias Colombianas – Ejército Popular), as well as members of the National Police, have committed reproductive violence against girls and women, with the experiences of Afro-Colombian, indigenous and rural girls and young women recruited by armed groups, lesbian women, trans men, and women in prostitution being of particular concern. Within the framework of the armed conflict, the types of reproductive violence committed included: forced contraception, forced sterilization, pregnancy from rape, forced or coerced

motherhood, forced abortion and violence against reproductive capacity. Additionally, the denial of ETP and violations of reproductive rights as a result of practices such as glyphosate spraying were identified as forms of institutional violence. This violence has been exercised for specific purposes: to terrorize, control and dominate the reproductive capacity of women, to use the bodies of girls and adolescents for war, and to dominate and control populations.

The voices of sexual and reproductive violence did not stand out right away. Rather, it is the important work of civil society organizations that has brought them to light. Enough time has passed for the violence that took place throughout the country to be openly recognized, but its impacts have caused women to often put their lives on hold, some of them suffering permanent physical and emotional harm. They have seen their reproductive plans cut short, their environments impacted, and they do not yet have access to the rights that have been violated. This text seeks, for the first time, to specifically deepen in the exploration of reproductive rights independently from sexual violence, to address the unique nature of the reproductive violence perpetrated and its impacts.

1. Legal overview of



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reproductive rights in the context of armed conflicts

1.1 Reproductive rights. Basic Concepts

Reproductive rights have been acknowledged as human rights, with the scope of their protection gradually expanding under the international human rights law (IHRL) and in national legal systems. Reproductive rights must therefore also be guaranteed by States during conflicts, which includes securing effective access to information and sexual and reproductive health services.

Likewise, such acknowledgement also requires States to prevent, investigate, punish and provide comprehensive reparation actions for forms of gender-based violence that affect reproductive freedom during armed conflicts, including transformative reparations that contribute to addressing the historic discrimination that has affected girls, women, and feminized individuals. This chapter provides a brief overview of the main human rights standards that apply to reproductive violence during conflicts.

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Reproductive rights involve acknowledging, respecting and guaranteeing every individual's ability to decide freely as to whether or not to procreate, including when and how frequently, as well as their freedom to decide responsibly as to the number of children they want to have.¹ These rights include and protect people's ability to make decisions freely and entail State obligations to provide comprehensive information, as well as the resources and access to health services for these decisions to be effective.²

The Programme of Action of the International Conference on Population and Development held in Cairo (ICPD) in 1994 defined reproductive health for the first time as “a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and its functions and processes.”³ The Programme established that reproductive health includes the “right to attain the highest standard of sexual and reproductive health,”⁴ as well as the opportunity to make such decisions without any discrimination, coercion, or violence.⁵ Although reproductive rights are closely interrelated to sexual rights, their scope of protection are different.



SEXUAL RIGHTS	REPRODUCTIVE RIGHTS
<ul style="list-style-type: none"> ➤ Right to increased autonomy and self-esteem in the exercise of sexuality. ➤ Right to explore and to enjoy a pleasurable sex life. ➤ Right to choose sexual partners. ➤ Right to experience sexuality without any type of violence. ➤ Right to consensual sexual relations. ➤ Right to decide freely and autonomously when and with whom to start one's sexual life. ➤ Right to decide to join with other people. ➤ Right to live and freely express sexual orientation and gender identity. ➤ Right to the protection and prevention of sexually transmitted infections or unwanted pregnancy. ➤ Right to receive information and access to sound quality health services on all elements of sexuality, free from all discrimination. 	<ul style="list-style-type: none"> ➤ Right to make reproductive decisions without any discrimination, coercion or violence. ➤ Right to freely decide whether to have children or not. ➤ Right to decide on the number of children and the time between pregnancies. ➤ Right to decide on the type of family to have. ➤ Right to exercise motherhood with equitable treatment in families, educational spaces and workplaces. ➤ Right to comprehensive sexual education throughout life. ➤ Right to access modern contraception methods, including emergency contraception. ➤ Right to access comprehensive health services and medical care to ensure safe maternity.

Source: UNFPA⁶

Since the ICPD, there has been a steady development of IHRL toward recognizing reproductive rights as human rights and establishing State obligations to protect and guarantee them,⁷ which are intrinsically interrelated to other rights, such as:

- **Right to equality and non-discrimination:** States must address the different health needs of women and girls, including access to reproductive health services without legal restrictions⁸ and without discriminatory gender stereotypes.⁹
- **Right to life:** States must guarantee that women are able to survive pregnancy and childbirth by ensuring their access to adequate pre- and post-natal medical care and to emergency obstetric services, as well as by protecting their lives from the physical and mental risks associated with unsafe abortion.¹⁰
- **Dignity:** The right of individuals to make personal decisions free of State interference as part of their exercise and enjoyment of sexual and reproductive health,¹¹ this includes access to sexual and reproductive health information and services and dignified treatment. Dignity also includes the protection for children and adolescents to ensure the proper development of their abilities.¹²

- **Right to health:** States must ensure the availability of acceptable and good quality reproductive health information, services, materials, and facilities for all women, free from discrimination, violence, and coercion.¹³ This includes, among other things, guaranteeing access to safe abortion services,¹⁴ information and access to contraceptive methods, including emergency oral contraception,¹⁵ as well as access to good quality maternal health services without any discrimination.¹⁶
- **Right to information:** Involves the States' duty to accessible, available, and reliable information on sexual and reproductive health,¹⁷ as a necessary condition for guaranteeing the exercise of reproductive rights. This includes providing information and confidential counseling to children and adolescents without their parents being necessarily present.¹⁸
- **Informed consent:** Consent is an ethical principle of respect for individual autonomy. It includes the duty to inform individuals, with reasonable adjustments, of the treatments available to them and ensure their free and voluntary consent.¹⁹ Respecting this right means preventing any procedure that can compromise individual reproductive capacity without authorization.²⁰

- **Right to freedom from torture and cruel, inhuman, or degrading treatment:** It is recognized that forcing women impregnated as a result of sexual violence to carry their pregnancies to term may be ill-advised.²¹
- **Right to autonomy and privacy:** Involves the respect for reproductive freedom, including prohibiting arbitrary State interference and guaranteeing effective access to reproductive health services.²² Reproductive freedom is the individual capacity to decide freely and responsibly on the number and time between children and access to information, education, and means for them to exercise these rights.²³ In the case of children and adolescents, it means respecting their capacity to make reproductive decisions depending on the development of their abilities, their maturity, and the context.²⁴
- **Right to privacy and confidentiality duty:** States must ensure the respect for the confidentiality and privacy of all individuals seeking access to sexual and reproductive health services and information. Involves the strict respect for professional medical confidentiality.²⁵

In Colombia, the Constitution protects reproductive rights by establishing “the right to decide responsibly on the number of children” (article 42) and the right to equality and the prohibition of discrimination against women (articles 13 and 43), as well as by recognizing international standards and precedents and including them in the constitution. Reproductive rights have been recognized as fundamental rights²⁶ inextricably related to other rights.²⁷ According to the Constitutional Court, these rights are twofold: reproductive self-determination and access to reproductive health services,²⁸ and are comprised of the following elements: i) education and information on various reproductive health services, medications and inputs; ii) access to timely, good quality and violence-free obstetric care; iii) prevention and treatment of illnesses affecting the female and male reproductive organs; iv) access to procreation technologies; and v) access to elective pregnancy termination (ETP), all pursuant to availability, accessibility, and quality standards.²⁹

1.2. Reproductive rights in the context of armed conflicts. International obligations of States

In the context of conflict and post-conflict scenarios, States remain bound by their international human rights obligations,³⁰ which protect the rights of women and girls and are supplemented by other international laws, such as the International Humanitarian Law (IHL) and international criminal law, the latter two being binding for the parties in a conflict.³¹ Although IHL and IHRL have different focuses, they share the objectives of protecting dignity, life, and health, and prohibiting discrimination and torture or other cruel, inhuman, and degrading treatment.³²

The obligations of States to guarantee the reproductive health of girls and women apply to those affected by conflicts.³³ During and after conflicts, States must ensure the availability of, acceptable and good quality reproductive health information, services, materials and facilities for all women, as well as free from discrimination³⁴ and any other form of violence or coercion.³⁵ The CEDAW Committee has recommended States to secure access to sexual and reproductive care in conflict zones, including maternal health services, contraception, emergency contraception, safe abortion services, postabortion care and HIV/AIDS prevention and treatment.³⁶

The United Nations Security Council has also addressed access to sexual and reproductive health services for women and girls during conflict since 2000 through 10 resolutions on the

Women, Peace, and Security Agenda.³⁷ A thematic analysis of these resolutions shows an explicit reference to ensuring these services during conflicts, including the whole range of sexual and reproductive health services, even for pregnancies resulting from rape, without any discrimination.³⁸

Regarding the right to be free of violence, States have obligations that include preventing acts of sexual violence,³⁹ the definition of which encompasses attacks against reproductive capacity, such as pregnancy and forced sterilization and abortion.⁴⁰ Under certain conditions, they may also be considered as war crimes or crimes against humanity,⁴¹ as well as torture or abusive treatment.⁴² States are also required to prevent, prohibit, investigate, prosecute, and punish forms of reproductive violence.⁴³ The CEDAW Committee has recommended States to “provide effective and timely remedies to the various types of violations experienced by women,” which must address violations of sexual and reproductive rights,⁴⁴ including actions to “prevent, investigate and punish gender-based violations such as forced marriages, forced pregnancies, abortions or sterilization of women and girls in conflict-affected areas.”⁴⁵

In the Inter-American system, nonconsensual sterilization has been recognized as a form of gender-based violence and a serious violation of human rights⁴⁶ and States have explicit obligations to prevent, punish, and eradicate violence against women, particularly sexual violence, as well as to act with due diligence

in these cases, including by working to change sociocultural patterns of behavior between men and women⁴⁷ and making reparations, including those aimed at changing the structural conditions of gender discrimination.⁴⁸

With regard to incorporating a gender approach to these actions, the CEDAW Committee established that States’ obligations also “require them to address all violations of women’s rights as well as the underlying structural sex and gender-based discrimination underpinning such violations.” They must provide appropriate reparations, including compensation, restitution, rehabilitation, measures of non-repetition, and measures to promote their physical and psychological recovery.⁴⁹ The CEDAW Committee established that “[b]esides providing redress to women for gender-based violations suffered during conflict, transitional justice mechanisms have the potential to secure a transformative change in women’s lives.”⁵⁰ Individual reparations are not sufficient, as “reparation measures should seek to transform the structural inequalities which led to violations of women’s rights, be suitable to women’s specific needs and prevent their reoccurrence.”⁵¹

In Colombia, these rights arise from the rights established in the National Constitution⁵² and the constitutional body of law.⁵³ Obligations to prevent, address, and redress gender-based violence against women and girls in the context of the armed conflict have

1.3.

Defining reproductive violence

been developed in constitutional jurisprudence⁵⁴ and through laws 1257 of 2008, 1448 of 2011, and 1719 of 2014. The latter typifies forms of reproductive violence, such as forced pregnancy, sterilization, and abortion, as criminal offenses.

Despite States' responsibilities with regard to violations of reproductive rights, the acknowledgement of this violence has been eclipsed by the development of international standards and decisions that have prioritized sexual violence as the main gender-based human rights violation in the context of armed conflicts. Although these developments are very important and necessary, it is crucial to focus on forms of violence other than those that have an impact on victims' sexuality, such as the reproductive violence perpetrated through armed violence, which has traditionally been ignored.

Based on the important progress made in protecting reproductive rights in the context of conflicts, it can be shown that, with regard to gender-based violence during conflict, emphasis has historically been placed almost exclusively on rape and its use as a weapon of war. Thus, the types of reproductive violence, i.e. violations against reproductive autonomy, are deemed included within the broader concept of sexual violence, making them less noticed and redressed.

Therefore, this chapter proposes a concept of reproductive violence the acknowledgement of which could provide clarity when identifying these types of violence perpetrated by armed actors during conflicts, along with the magnitude of their impact.

1.3.1. AN INTERNATIONAL OVERVIEW ON THE ACKNOWLEDGEMENT OF SEXUAL VIOLENCE

Over the last 30 years, a series of international bodies have recognized the systematic nature of sexual violence during armed conflicts.⁵⁵ Courts in the former Yugoslavia and Rwanda were the first to make an effort to consider such violence as war crimes.⁵⁶ Since Resolution 1325 of 2000, the United Nations Security Council has issued resolutions known as the Women, Peace, and Security Agenda, a milestone in the incorporation of the gender perspective in conflict and post-conflict contexts.⁵⁷ These resolutions call for an end to sexual

violence during armed conflicts and have expressed regret at the slow progress in eliminating it.⁵⁸

They represent an important acknowledgement of the disproportionate impact that war has on women and girls, an impact that goes beyond the concept of sexual violence as causing damage to honor, a stereotype-based approach that had been in use since World War II.⁵⁹ This approach prioritized women's chastity and ignored the impacts on victims' autonomy, freedom and integrity, considering damage only in regards to its impact on a third party, the honor of the father or husband, or the national or ethnic honor of a community or nation.⁶⁰

Toward the end of the 90s, the Rome Statute reiterated the recognition of sexual violence and other related crimes as war crimes.⁶¹ This opened the possibility of considering other types of violence as crimes against humanity and genocide, including sexual slavery, prostitution, forced pregnancy, forced sterilization, and any other sexual practice causing harm of a like magnitude⁶². This situated sexual violence as a crime in and of itself against the freedom, physical integrity and sexuality of women.⁶³

Resolution 1820 of the Security Council came as another step forward, establishing that sexual violence during conflicts is used as a tactic of war, and therefore, is central to increasing the harm experienced by victims.⁶⁴ This contributed significantly to the progressive recognition of sexual violence as a weapon, tactic or strategy of war, a view that has been taken up by international bodies, organizations, the media and public opinion

worldwide.⁶⁵ This is currently the most common way of describing control over women's bodies and their communities in armed contexts, leading to the idea that sexual subjugation during war takes a variety of forms that together comprise a single pillar of domination and harm that revolves around sexuality. Thus, sexual violence now encompasses types of violence that, while related, are associated with areas other than the victims' sexual lives.

1.3.2. THE EFFECTS OF THE BROAD ACKNOWLEDGEMENT OF SEXUAL VIOLENCE DURING CONFLICTS

Efforts to acknowledge sexual violence during conflicts have been the result of the work led by women's movements and have been successful at raising awareness on the violent practices that have gone unaddressed for decades. These efforts have successfully demonstrated that sexual violence is not simply the effect of war but the fundamental manifestation of war in the body and in the community.⁶⁶

However, the effect of this approach is that different types of violence tend to be represented under a single type of harm (sexual harm), making it difficult

to draw links between these types of violence and other types of harm (for example, reproductive harm, harm to health, harm to the life projects of victims, etc.). It can be difficult to think of different approaches to analyzing the consequences of war on the lives of surviving victims⁶⁷, with other forms of gender-based violence being overshadowed.⁶⁸ This has narrowed the analysis on the impacts of violence that intersect with other social structures, such as health, socioeconomic conditions, dispossession and displacement.

While the importance of this progress is undeniable, it is our view that because of it, the conditions are right to advance the conversation further. The broad definition of sexual violence has in practice made it harder to identify the details of the various types of violence contained in it.⁶⁹ It is therefore time to take an approach to make that possible. By refocusing the analysis on describing and analyzing the full spectrum of gender-based violence during conflicts, we can devise strategies for fully acknowledge and redress it to better meet the needs of victims.

The time has come to draw attention to the damage caused in the area of reproduction so it can be properly dealt with. To do so, we must recognize that, in addition to sexual violence, at different points and simultaneously, women, girls and other groups who were uniquely impacted by war were also the victims of reproductive violence. Recognizing the impacts on reproductive life and the whole range of damages experienced by victims facilitates a proper correlation between the damages caused and the reparations provided⁷⁰ and can contribute to reparations being transformative. Properly addressing gender-based violence during conflicts requires recognizing all the violence affecting the victims' lives, whether sexual or reproductive.

On previous occasions, Truth Commissions have made efforts to acknowledge different manifestations of gender-based violence, which can vary depending on the country and awareness on the scope and seriousness of such violence.⁷¹ Although the definition of sexual violence and the types of violence requiring redress tend to be expansive,⁷² the truth-seeking exercises all failed to recognize most types of reproductive violence, making adequate redress of their damage impossible. The Truth Commission of Colombia has a historic opportunity to move forward in the acknowledgement of this violence, including reproductive violence experienced by women and girls during conflicts.

1.4

What is reproductive violence?

Reproductive violence includes practices that directly or indirectly compromise and violate reproductive freedom, understood as the capacity of individuals to decide whether they want to have children or not and when, as well as their capacity to access sexual and reproductive health services and information such as contraception, safe abortion, and gynecological and obstetric health services. Given the dynamics of the Colombian conflict, its occurrence should be understood based on the local histories and specific geographic contexts where such violence took place. Reproductive violence during the armed conflict eliminated or reduced opportunities for women and girls to control their reproductive capacity and, therefore, the course of their lives.

Violence against women is defined as any act or conduct causing “death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere”⁷³ directed “against a woman because she is a woman or that affects women disproportionately.”⁷⁴ In this regard, it includes actions that may be perpetrated by individuals who are members of armed groups involved in the conflict, but also actions perpetrated by the State. In the former case, individuals are held responsible under national laws, including the transitional justice mechanisms adopted, supplemented by the International Humanitarian Law,⁷⁵ which has recognized some types of reproductive violence as war crimes or crimes against humanity. On the other hand, the State is responsible for human rights violations resulting from reproductive violence when such violence is committed by its agents, including forms of institutional violence.⁷⁶ The State is also responsible for those acts of gender-based violence, including reproductive violence, committed by private individuals when, being aware or when they should have been aware of an actual and immediate risk for a woman or a certain group of women, failing to act with reasonable due diligence to prevent or avoid the materialization of the risk or to duly investigate such acts.⁷⁷

Because it involves a violation of reproductive freedom, reproductive violence violates multiple rights, including the right to information and informed consent on reproductive matters, and also gravely impacting other intrinsically related rights, such as the right to life, integrity and health, as well as the right to live free from torture and cruel, inhuman and degrading treatment and the right to live free from gender-based violence. When such violence involves medical procedures, it is also contrary to ethical principles, such as respect for individuals and their autonomy, non-maleficence, beneficence and justice.⁷⁸

Thus, reproductive violence is expressed in different forms, which will be examined in detail in the following chapter, such as forced contraception, sterilization and forced abortions, and coerced and forced pregnancies and motherhood. It also includes forms of violence against pregnant women, as well as institutional violence such as the denial of ETP and miscarriages resulting from glyphosate spraying.

Moreover, the context of conflict exacerbates structures of inequity and discrimination that make it hard for people to make decisions on their sexuality and reproduction. Forced displacement interrupts access to basic reproductive health services,⁷⁹ and prolonging the conflict exacerbates maternal mortality.⁸⁰ In addition to enabling women to decide freely, access to contraception and ETP help preventing maternal mortality and are even more necessary in contexts of conflict due to the increased

risk during pregnancy and childbirth as a result of poor availability of maternal health services.⁸¹ Armed conflicts affect access to health in two ways: when violence causes harm to health directly and when it deepens structures of inequality that produce physical, economic, and discriminatory barriers to access health,⁸² including reproductive health. The inaccessibility to a broad range of these types of services leads to reproductive violence that exacerbates the mental, physical and social risks faced by victims of armed conflicts when they are not able to control reproduction.

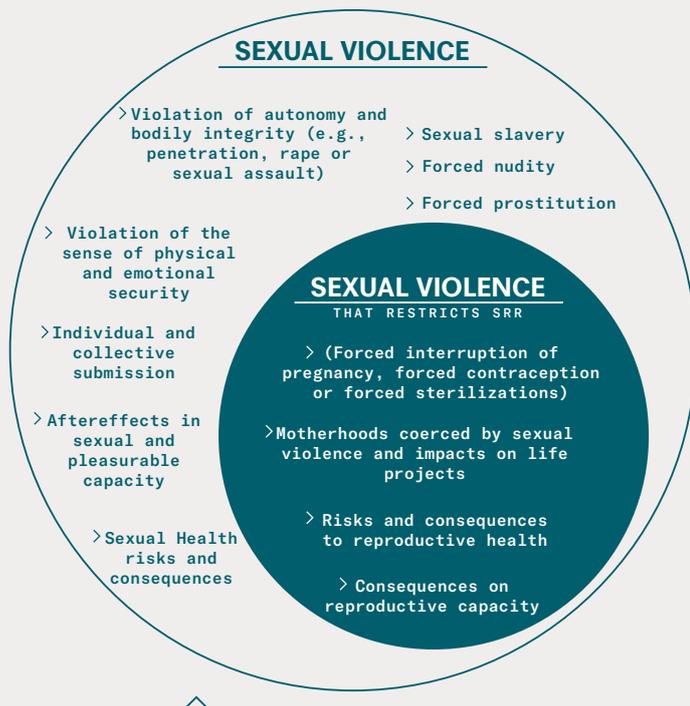


Figure 1: Sexual violence model.
Source: Created in-house

As noted earlier, the invisibility of reproductive violence obscures the fact that its effects can include different areas of sexual violence, such as reproduction, wellbeing, freedom, health, etc. It also means that connections between this type of violence and other social structures permeated by numerous injustices, such as the economy and material welfare, the social fabric, and the subjectivity of individuals and their communities, are not explored.

Other harm models must be devised to describe the full range of gender-based violence during the armed conflict. The model used thus far (figure 1) underpins sexual violence as a broad category encompassing several types of violence, consequently prioritizing attention to sexual harm.

Under this model, the general institutional response tends to recognize violence concerning people's reproductive rights as a subcategory of sexual violence. This often happens when recognizing the different patterns and types of sexual violence that restrict the exercise of sexual and reproductive rights (SRR),⁸³ such as sexual violence causing harm to health and reproductive life, rather than reproductive violence with impacts that are both interrelated with and are distinct from sexual violence.

This report proposes a model (figure 2) that provides greater visibility to the reproductive sphere and allows a more detailed reading of the operation and impacts of gender-based violence related to the armed conflict. In this model, people's reproductive capacity is not entirely included in the sexual sphere because two spheres are considered: one on sexual violence and the other on reproductive violence. When differentiating them, it is possible to show the scope and impact on both sexuality and reproduction.

Under this model, sexual violence encompasses all the practices involving violations of bodily autonomy executed during the armed conflict, including sexual acts (rape or forced nudity), coercion (harassment), and sexual exploitation (slavery or forced prostitution).⁸⁴ This also includes the effects of harm to victims' sexual capacity and pleasure. For its part, reproductive violence includes all violations of reproductive freedom, such as nonconsensual abortion, contraception, or sterilization. Recognizing reproductive violence thus makes it possible to identify practices that do not solely affect sexuality, such as violence against pregnant persons.

This differentiation also makes it possible to examine other forms of long-term violence experienced by individuals close to victims of sexual violence that are typically not made visible through legal and redressing processes, for example the impact on children conceived through rape.⁸⁵ The stigma and mistreatment suffered by women and their children are a form of reproductive violence that manifests as specific emotional, psychological, and social burdens.⁸⁶ Obscuring the unique features of these emotional burdens hinders the understanding of their effects on the victims' abilities to build their identities and their impact on, among other things, the victims' rights to freely develop their personality and their rights to human dignity, as well as how these impacts foster discrimination and stigmatization in the medium and long term,⁸⁷ which is an impact of reproductive violence on the communities' social fabric.

Next, we will provide a more detailed analysis of the practices comprising this violence and of the factors that increase the harm that individuals and communities have experienced in the context of armed conflicts.

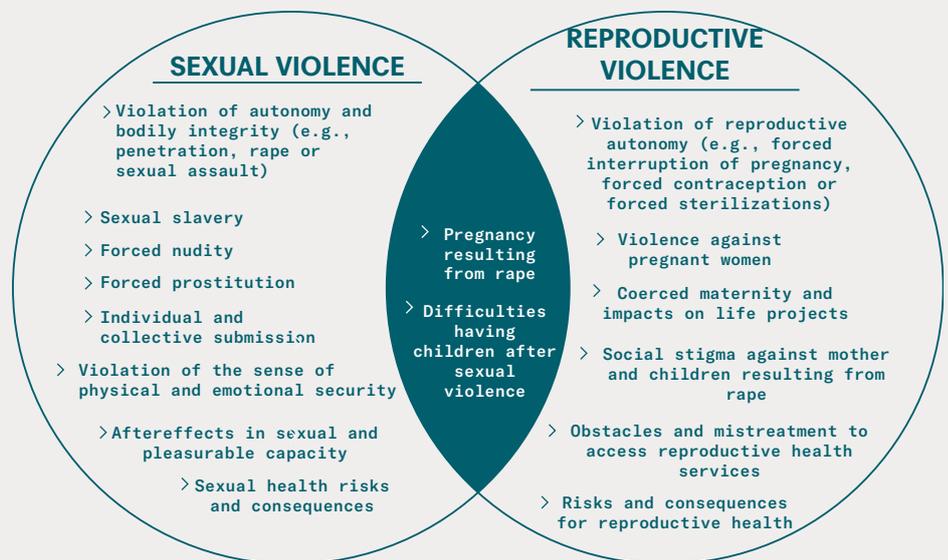


Figure 2: Sexual and reproductive violence model. Source: Created in-house

2. Reproductive violence



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during the armed conflict in Colombia

In the context of the Colombian conflict, all armed actors have perpetrated violence that threatens sexual and reproductive health, particularly among women. This violence has not been started by the armed actors, but is substantiated by the continuous normalization of gender-based violence already experienced on a daily basis by young, adolescent and adult women in the country.

2.1 Gender stereotypes on reproduction and their connection to violence against women and girls in the context of conflicts

Any proposal to understand these acts of violence must therefore contemplate the gender and racial stereotypes that have historically supported, normalized and legitimized male control over bodies considered to be feminine, and furthermore, the control and domination over indigenous and afro-Colombian girls and young women. The effects of these stereotypes are manifold: legitimizing violence, silencing victims, re-victimization by society and the State, and perpetuating the obstacles that women face in the context of armed conflicts to fully exercise their reproductive rights.

The following are some of the most common stereotypes in the country, taking into account that they depend on the context; they change and take on meaning based on specific historical and geographical contexts. The chapter will then look at two situations on which the violence committed during the armed conflict has had a direct impact, delving into the types of reproductive violence that have been found. The idea is to put forward a typology proposal that seeks to describe the connection between each type of violence and its function, thereby evidencing that such violence is neither opportunistic, coincidental or unavoidable.

Gender stereotypes are a “preconception of personal attributes, characteristics or roles that correspond or should correspond to either men or women.”⁸⁸ The use of these stereotypes affects women and girls to a disproportionately greater extent,⁸⁹ making it one of the causes and consequences of gender-based violence.⁹⁰

The areas of women’s and girls’ reproduction and sexuality are crisscrossed with gender discrimination⁹¹ and are therefore governed by stereotypes that assign specific roles and determine their decisions, usually subordinating them to men and in exclusive roles as caregivers and mothers.⁹² Failure to comply with these social rules, which in some cases are established by law, can lead to rejection, exclusion, stigma and even violence against those who transgress them.⁹³ The following are some, but not all, examples of gender stereotypes associated with reproduction:⁹⁴

- > **“The natural role of women in society is to reproduce and be a mother.”**⁹⁵ Under the stereotype, it is believed that women must carry pregnancies to term at all costs, with the fetus always being prioritized over the woman's life and health.⁹⁶ This stereotype has been the basis for a series of obstacles that prevent women who become pregnant due to rape from being able to exercise their right to decide freely whether to seek an ETP. The application of this stereotype constitutes a form of discrimination and violence.
- > **“Women must be chaste.”**⁹⁷ According to this stereotype, it is inappropriate for single women and adolescent girls to have access to contraceptives, as it is seen as an incentive to promiscuity. Also, women and adolescent girls who exercise their sexuality freely are condemned to social rejection or stigmatization, as this transgression is seen as a valid reason to commit violence or discriminatory acts against them. This stereotype, which reflects a socially-accepted moral ideology, was used by armed groups to exercise strict control over the behavior of girls and adolescents, including the way they dress, act and relate to other people.⁹⁸ Not infrequently, these exercises of power have had the social approval of communities.

- > **“Women and girls are emotionally unstable and incapable of making rational decisions about their sexual and reproductive lives.”**⁹⁹ This stereotype is used to justify the practice of removing reproductive decisions from women and placing them on fathers, husbands, or family members,¹⁰⁰ as well as interfering with or ignoring women’s consent. This is particularly reflected in institutional violence in which State institutions fail to provide girls and adolescent girls with access to health services such as ETP. It also underpins the use of reproductive violence in the ranks of armed groups.
- > **“Women who live in poverty are irresponsible.”** This stereotype obscures the lack of information and access to reproductive health services such as contraception methods to justify patterns of exclusion of those experiencing poverty.¹⁰¹ Forced sterilization is a form of violence grounded in this stereotype.
- > **“Lesbian women cannot be good mothers,** because they might confuse their children in respect of gender or sexual roles, causing discrimination against them¹⁰² or being a bad example.¹⁰³ This stereotype validates acts of discrimination to prevent lesbian women from becoming mothers should they decide to do so after becoming pregnant from rape.

- > **“Women combatants cannot become mothers,** because it will weaken the group they belong to compared to its adversaries.”¹⁰⁴ This stereotype is used by armed groups to justify preventing women from choosing to become mothers, using forced abortion and contraception.
- > **“Trans persons are abnormal and deprived.”** This stereotype has been used to justify the adoption of policies requiring sterilization as a requirement to legally change one’s gender,¹⁰⁵ justify prejudicial rapes by armed actors during the conflict and restrict the ability to exercise maternity or paternity.

With regard to the Afro-Colombian and indigenous populations, there are racial stereotypes, i.e. characteristics attributed to phenotypic traits, physical appearance, and place of origin, that reflect racist discourse and perpetuate the exclusion and marginalization of ethnic populations. Some of these stereotypes that incite reproductive violence are the following:

- > **“Afro-Colombian and Black girls are “impetuous and fiery.”**¹⁰⁶ This stereotype that hypersexualizes the bodies of girls and young women has allowed hiding the sexual and reproductive violence experienced by hundreds of women victims of armed groups. It has also made invisible the violence resulting from the so-called illness of “infatuation” perpetrated by law enforcement agencies in areas where militarization

has been an element of the State’s response. This stereotype is rooted in the colonization process and the structural racism that persists today.

- > **“Indigenous girls and women are inferior, uncivilized beings.”** This dehumanizing stereotype has enabled the legitimization of the violent actions of armed groups against indigenous women, including those forced to violate their reproductive freedom and dignity.¹⁰⁷ This stereotype also leads to institutional violence through the failure to guarantee the rights of indigenous girls and women to information and the ability to make decisions regarding their reproductive health, often making it impossible for them to access health under equal conditions,¹⁰⁸ based on the incorrect and simplistic understanding that indigenous cultures do not view sexual violence as violence.
- > **“Afro-Colombian, black and indigenous women are stronger.”** The “physical strength” attributed to racialized women has been used to justify their physical, sexual, and emotional exploitation,¹⁰⁹ as well as by healthcare staff to commit gynecological violence, including the denial of full information on their health; indifference to pain; verbal humiliation; forced or coerced medical procedures; invasive practices; and the unnecessary use of medications, among other manifestations.¹¹⁰

2.2 Intensification of reproductive violence in the context of armed conflicts

Although their scope and effects may differ, the common denominator of all these stereotypes is that they are mainly directed toward impeding women and girls from exercising their fundamental human right of autonomy to make decisions regarding their lives, bodies, and ways of existing and inhabiting the world. The persistence of these stereotypes upholds and worsens discrimination against women and girls and deny them their status as holders of rights and prevents them in practice from effectively exercising all their rights, particularly impacting access to their sexual and reproductive rights.¹¹¹

International standards on human rights protection clearly establish that States have an obligation to eliminate gender stereotypes by changing men's and women's sociocultural patterns of behavior,¹¹² as such patterns are obstacles to the substantive equal protection of genders.¹¹³ This includes cases in which stereotypes constitute a barrier to accessing health services, particularly sexual and reproductive health services.¹¹⁴ These obligations have also been acknowledged and developed in Colombia,¹¹⁵ for example, by acknowledging the importance of establishing mandatory healthcare protocols for victims of sexual violence during conflicts to prevent the application of discriminatory stereotypes against them, including the idea that women often exaggerate and lie when giving statements so they must be exposed, as well as the idea that victims

want to take advantage of the State and are seeking to benefit personally.¹¹⁶

Despite these advances, gender stereotypes regarding reproduction still pose a serious obstacle to effectively guaranteeing and enforcing reproductive rights, especially when coupled with other discrimination factors that make them especially hard to reach for population groups that have historically been excluded. Access to reproductive health services is still limited for women living in rural areas and Black/Afro-descendant women, indigenous women, and women with disabilities.¹¹⁷

These stereotypes can lead to harassment and multiple forms of gender-based violence,¹¹⁸ which, among other effects, can restrict access to reproductive health.¹¹⁹ which are exacerbated in rural areas impacted by the armed conflict.¹²⁰

In this regard: *"irrespective of the characteristics of the armed conflict, its duration or the actors involved, women and girls are increasingly deliberately targeted for and subjected to various forms of violence and abuse, ranging from arbitrary killings, torture and mutilation, sexual violence, forced marriage, forced prostitution and forced impregnation to forced termination of pregnancy and sterilization."*¹²¹

When considering the effects that gender stereotypes have on the lives of girls and women, it is clear that, although conflicts are not the only scenario in which reproductive violence may take place, it does worsen the already complex situation they face. According to the Constitutional Court, "violence perpetrated during the armed conflict in Colombia heightens and distinguishes the victimization faced by women, since due to their gender, they are exposed to particular risks and specific vulnerabilities."¹²²

Feminist organizations refer to the concept of continuum to describe the chain of violence experienced by women both within and outside the conflict. Thus, due to gender stereotypes, the reproductive freedom of women and girls was already being controlled in their private lives:

*"[T]here was a woman living in shockingly poor conditions, an alcoholic and very aggressive husband, with a great number of children, and the nurse (...) asked her why she did not plan her pregnancies and she said because her husband did not let her (...). They secretly gave her an injection, and when she did not become pregnant, her husband became angry and gave her a tremendous beating (...). That's sexual violence in all its forms, since engagement and marriage legalize violence, right?"*¹²³

The armed conflict exacerbates these forms of control over girls and women exercised by their families, partners, communities, and institutions, which is evidenced in two situations:

- The militarization of territories elevates the masculinity model related to the use of force and to the subjugation of women and girls,¹²⁴ based on a moral order that erects cultural barriers to accessing sexual and reproductive rights.
- This moral order also allows armed actors to control the sexuality and reproductive capacity of girls, women, and LGBTI persons leading to various types of reproductive violence.

While these are not the only situations that have an impact on the perpetuation of reproductive violence, they help explaining why such violence is frequently normalized or minimized.

The **MILITARIZATION OF TERRITORIES**, which is to say the presence of legal or illegal armed groups, translates into the normalization and justification of the subjugation of girls and women based on views of masculinity in which men are superior and validates a moral order over what is considered “inappropriate,” “reprehensible,” and

“punishable.”¹²⁵ This moral order provides a framework for the pre-existing logic of gender discrimination, with the result being that for women, it is impossible to freely choose with whom to have a romantic and/or sexual relationship and whether or not to have children, as they are pressured to act according to the dictates of gender stereotypes.

This leads to the second situation of **CONTROL OVER THE SEXUAL AND REPRODUCTIVE LIVES OF GIRLS AND WOMEN**. As a result of the moral order imposed in militarization contexts, armed actors exercise control over romantic relationships and define how to dress, behave, and relate to others.¹²⁶ These armed actors commit violence against girls and women in order to maintain this control. The result is that contexts favoring gender discrimination make it possible to functionally and effectively exercise this control for the purposes of war. Next, we will define some distinct elements of these forms of control.

CONTROL OVER WOMEN AND GIRLS

Regarding the bodies of girls and women, armed actors have taken advantage of the normalization of their fragility and subordination in an adult-centric world to use them as informants, messengers,

and for intelligence work. Their bodies have been made available for war, with sexual and reproductive violence being perpetrated on them. This has put them in a grave situation, forcing them at times to flee at the threat of being “seen” by a member of an armed group. Such has been the case for demobilized groups, which have threatened and punished adolescent girls for their romantic attachments to men they consider enemies.¹²⁷ In San Carlos, in the municipality of Oriente Antioqueño, many young women flee to avoid becoming the victims of sexual violence or recruitment by armed groups upon being accused of having romantic relationships with men who have been declared military targets.

According to these testimonies, “*those who stayed had to renounce all contact with their friends or neighbors.*”¹²⁸

CONTROL OVER WOMEN WHO ARE SEX WORKERS AND ARE SEXUALLY EXPLOITED

Armed groups have dominated and controlled the bodies of sex workers, starting with stigmatizing them as “obscene.”¹²⁹ The territorial control of these groups has extended to the control of brothels, including health check-ups. In El Placer, Putumayo:

2.3 Types of Reproductive Violence

Checkups were performed by paramilitary soldiers. They took charge of supervising and examining the bodies of [sex workers] on a weekly basis. The supervision and checkups were carried out by paramilitary soldiers (...) they had to do pap tests [every week]; a syphilis test every month and an HIV test every three months. (...) ‘El Medico,’ ‘La Mona’ or the commander on duty went to bars and food stands to check ID cards, and if prostitutes did not show one, they had to leave and were not allowed in the camps.¹³⁰

In Meta and Vichada, paramilitary soldiers supervised the sexual health of the women who were sex workers, conducting periodic physical examinations, STI and pregnancy tests. If anyone turned out to have an STI, they had to flee because the punishment was frequently death.¹³¹ This violence was often met with a certain degree of social approval.¹³²

CONTROL OVER PEOPLE WITH NON-HEGEMONIC GENDER IDENTITIES AND SEXUAL ORIENTATIONS

LGBTI persons have particularly been subject to control and regulation by

armed actors, which have perpetrated an array of acts of violence against them that have often been covered up or downplayed. Such violence intensifies the everyday violence they experience as a result of stigmatization and social disapproval. LGTBI individuals live with a series of gender stereotypes that make them “abnormal” or “pathological,” and therefore needing correction and punishment.¹³³

Next, we will examine the specific ways in which control and regulation operates, i.e. how it translated into the reproductive violence perpetrated during the armed conflict in Colombia.

Let’s reiterate a main concept: reproductive violence has been used in the armed conflict, particularly against girls and women, as a means of control and punishment used by armed groups for achieving their objectives. Additionally, this violence has been protected by the social normalization and minimization of its seriousness. In this section, we will look at seven types of reproductive violence evidenced from a review of the documentation, characterizing each one of them and one form of violation of reproductive rights resulting from State actions: miscarriages caused by glyphosate spraying.

For the first seven types, that is: forced contraception, forced sterilization, forced or coerced pregnancy, forced or coerced motherhood, forced or non-consensual abortion, and other types of violence against reproductive capacity, violence is often perpetrated by private individuals. In this regard, individuals who engage in such conduct as members of armed groups are responsible under the Colombian laws, or alternatively, under the IHL. Either way, the Colombian State is also responsible for its duty to act with due diligence to prevent and address such conducts, as well as for properly investigating and convicting those responsible when such events do occur, as explained in the initial chapters of this report. Likewise, the State is responsible for the actions of its own agents in all types of violence. This is especially clear in the case of denial

of ETP, which is defined in this document as a form of institutional violence. Finally, in the case of miscarriages caused by glyphosate spraying, the State may be responsible for violations of reproductive rights, as well as for violations of other human rights of the victims affected.

2.3.1. FORCED CONTRACEPTION OR FORCED REPRODUCTIVE PLANNING

We understand forced contraception to include all nonconsensual actions intended to prevent women from reproducing biologically, actions taken in this case by an armed group using methods with temporary effects. In Colombia, this type of violence was identified as a form of VGB¹³⁴, and has been documented as a practice used in the ranks of armed groups on the girls and women who joined them.

Contraception was one of the common practices used by the FARC-EP to standardize the bodies taking part in the war. However, some women have testified that the contraception used in the armed group was not an autonomous choice of women but was rather imposed by the armed group.

This type of contraception has the following characteristics: (i) It was a practice generally carried out during recruitment, regardless of the age or health of each one of the girls and women; (ii) it generally involved the use of hormonal contraceptives, including injections or implants and intrauterine devices; and (iii) in contrast to men contraception, contraceptive control over women was constant. This means that women's bodies were constantly monitored.

Forced contraception was one of the main mechanisms for controlling women in the ranks of armed groups:

*Most of the women interviewed said they were pressured constantly by commanding officers to use contraception as part of their lives as girls, teens and young women. The FARC and the ELN are said to have used monthly injections for this purpose. Particularly, paramilitary groups have been described as using condoms, with officers distributing them to men. However, pressure to regularly use planning methods was always exerted on women.*¹³⁵

The FARC-EP apparently standardized the use of contraception: during the Ninth Conference held in 2007, Norplan was chosen as the contraceptive method of use.¹³⁶



< Photo Credit: Federico Ríos

Regarding paramilitary groups, there is no easily distinguishable pattern of forced contraception for two reasons: (i) there were few women in their ranks; (ii) there are no apparent unified guidelines in this regard, as according to existing information, each commander made his own decisions about this.¹³⁷ There is evidence that the Autodefensas Campesinas [self-defense force] of Casanare and Bloque Norte imposed contraception as a policy.¹³⁸

In some places, contraception was also forced upon civilian women. According to information provided by demobilized members of paramilitary groups that had been active in Meta and Vichada, in municipalities such as Puerto Gaitán and Puerto López, women who perform sex work were forced to undergo periodic checkups and use contraception, on threat of punishment.¹³⁹ Women found ways to resist these practices, either to avoid the side effects of the medications they were given or because they wanted to become pregnant.

2.3.2. FORCED STERILIZATION

Forced sterilization is codified in Colombian law as acts during the armed conflict in which “a protected person is deprived by the use of violence of the ability to reproduce biologically”¹⁴⁰ using permanent methods in the context of the conflict. Under certain circumstances, it can be considered a crime against humanity or a war crime.¹⁴¹ This is one of the types of violence that has not been sufficiently documented in the Colombian context,¹⁴² despite indications that it took place during the conflict. In this regard, the testimony taken during a memory event in Santa Marta should be noted:

“We had the issue of sterilization here in our department. We were sent to get snipped so we would not have children and they did it at the hospital (...) They came and told the women they were going to take a trip, yeah? To get “disconnected,” because we were like animals having kids, they knew we were small-town women and that we had to have our babies. The buses came to the town and took them to the municipality of Fundación. There was a woman working in that municipality (...) then you wonder, how could this woman have offered to do all this? (...) It was so inhuman to come with a list in hand, because in that town everyone knew each other.”¹⁴³

Indeed, an important judicial precedent can be found in the Justice and Peace Ruling handed down by Judge Léster M. González R. in nine cases of the forced sterilization of women in the municipality of Zapayán, department of Magdalena, perpetrated by the Bloque Norte of the AUC:

On August 17, 2002, María Isabel Anaya Ulloa, Juana María De Ávila Mosquera, Elvira Modesta Anaya Ulloa, Mildret Zenith Sierra Padilla, Kelly Moya De Ávila, Juana María Zabaleta Mejía, Ana María Altamar Martínez, Gregoria María Rodríguez Padilla and Cornelia De Ávila Salinas were taken on the Piedras Pintadas town located in the municipality of Zapayan-Magdalena, under threat and against their will, along with other women from the area, by a member of the Bloque Norte AUC named Neila Alfredina Soto Ruiz, also known as “Doña Sonia,” with the aim of preventing reproduction in that town. They were taken to the hospital in Punta de Piedras, Magdalena, where they were subjected to a procedure known as “Forced Sterilization,” the result of which was serious harm to their physical integrity.¹⁴⁴

In both cases, violence was used against women of the civilian population, and the procedures were carried out in

nearby hospitals, which may be because local authorities collaborated or were under the control of armed groups. Such practices must be examined while keeping in mind that the women who were the victims of them are not identified as victims of sexual violence, meaning that the inquiry must take other routes, methodologically speaking.

2.3.3. FORCED OR COERCED PREGNANCY

Under Colombian law, this is when someone who “after a protected individual has become pregnant through conduct constituting carnal access that is violent, abusive, or perpetrated against a person who is unable to resist, forces the pregnant person to carry the pregnancy to term.”¹⁴⁵ This definition is broader than that set forth in the Rome Statute, which defines it as “the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law.”¹⁴⁶ It has also been recognized by the Constitutional Court as a form of GBV used in the context of the conflict.¹⁴⁷

A significant number of girls and women became pregnant as a consequence of sexual violence. The various reports indicate cases of forced or coerced pregnancies as a result of violence perpetrated by various armed groups. For example, in Putumayo, a civilian woman had a forced pregnancy resulting from sexual slavery perpetrated over the course of four years by a member of a paramilitary group, resulting in her having two children:

“Since the age of 13, a paramilitary soldier began to visit her (...) When she rejected him, Daniel threatened to kill her younger brothers and her parents, then raped her. After going to Daniela’s house and raping her three times, he threatened that if she did not go with him, he would kill her brothers in front of her. She was thus pressed into sexual slavery for the next four years:

I had to leave. He took me by force [...] He took me to the department of Atlantico, to Barranquilla. I was locked in there, without any communication; I couldn’t go out, he hit me, he abused me, I became pregnant, I had two children [...] Then, he shut me in there, I couldn’t go out, I couldn’t talk, I couldn’t communicate with anyone, not even with my family. I was there for years without talking to my family”⁴⁸

In the Bajo Calima region, an 11-year-old Afro-Colombian girl was raped by a

man belonging to the FARC-EP, and she became pregnant:

“He stayed for a week in our house and came to my bed and raped me. I couldn’t make a sound because he had a knife right here, he said: “scream and I will kill you.” From that point on I stayed with my aunt, but I didn’t know I was pregnant. So I stayed with my aunt, I didn’t eat anything (...) I didn’t do anything. I stayed home all day crying in a corner, I couldn’t go back to being myself, not even my grades, I used to be the best student at school, but from then on, no more.”⁴⁹

2.3.4. FORCED OR COERCED MOTHERHOOD

Pregnancies resulting from rape are often carried to term. This is so for multiple reasons: the woman’s decision, forced by the family, difficulties accessing elective termination of pregnancy, negative and condemnatory ideas about ETP. Because they were unaware of their pregnancy, many women had children as a result of the war.

Motherhood and fatherhood resulting from rape perpetrated by armed actors is called coerced motherhood and fatherhood. We draw a distinction between coerced motherhood and forced motherhood, with the latter involving actions which specific purpose is to impregnate the victim and ensure the pregnancy is carried to term. Coerced motherhood is experienced in many ways, but some general characteristics can be described:

- i. Power dynamics over the reproductive freedom of women, particularly girls and young women, significantly come into play when they must experience motherhood at a young age, frequently frustrating their life projects, particularly their opportunity to study. In these contexts, girls and young women do not have enough information and cannot decide freely with regard to options for terminating these pregnancies.
- ii. Women are frequently alone when facing the difficult decision of how to tell their children of their origin.
- iii. Children tend to be stigmatized based on their phenotypical characteristics, uncertain paternity or for being the children of an armed enemy actor.¹⁵⁰
- iv. This kind of motherhood frequently means an interruption of the woman or girl’s life project.
- v. This type of violence helps intensifying the feminization of poverty.

The motherhood experienced by impoverished girls and young women as a result of the normalization of the control and appropriation of their bodies in militarized contexts is also coerced. The constant presence of a large number of members of law enforcement agencies in outlying areas has led to an increase in pregnancies among girls and adolescents, who must then face their early pregnancies alone. With regard to the specific case of girls and

young women in Cartagena, the Office of the Ombudsperson established the following:

*The increasing presence of soldiers in populated areas with the goal of providing security has resulted in young women attracted by the warrior figure and the power that their positions provide in symbolic and actual terms in heavily militarized areas, with the hope of improving their living conditions, they became the soldiers' romantic companions. This situation led to an increase in pregnancies at an early age as a result of relations between soldiers and some young women, who were then left alone, as those who fathered the children were transferred by the Army to other regions of the country.*¹⁵¹

In some cases, this violence against girls and adolescents are classified as “flings” and lead to coerced pregnancies. Records of this type of violence are not kept, as the availability of girls living in economically unstable conditions has normalized. Power dynamics and harassment by armed actors corrupt the consent of girls and teenagers:¹⁵²

Cases of sexual harassment of young women and girls by members of the Navy have been documented, as well as cases in which soldiers paid the girls to have sexual relations with them. Soldiers make them fall in love, invite them to things, buy them presents, and the poor little girls go out with them.

*They start to grope them and the girls let it happen. Some girls have been impregnated by soldiers who don't take responsibility for fathering their children. Soldiers who get girls pregnant are quickly transferred out of the area.*¹⁵³

Additionally, lesbian women and trans men have become pregnant after being raped due to prejudice, misdescribed as “corrective” rapes. This has been a unique form of corporal punishment. In the case of lesbian women, forced motherhood may intersect with gender stereotypes that call into question their ability to be mothers due to their sexual orientation.¹⁵⁴

For trans men, pregnancy may conflict with the corporeal transformation that is important for the process of constructing their identities.¹⁵⁵ In a patriarchal and conservative context, this situation becomes in itself an opportunity for the exercise of violence by society and the community:

This discourse of “corrective” action is also described in the testimony of victims who identify themselves as trans men or trans masculine, for example the case of Víctor Manuel, who experienced sexual violence at the hands of a member of the FARC guerilla group in the Pacific region of the department of Nariño: “Because I was a trans boy, I have been insulted by paramilitary and guerrilla soldiers. In



^
Photo Credit:
Natalia Botero

fact, I was the victim of sexual violence, as a result of which I have a child. At the time it happened, during the rape, they kept telling me that I wasn't a man, that they could do to me what they would do to any woman, that a man has a penis and where was my penis (...). I have scars all over my arms because they cut me, I don't know, they were crazy. I don't know why they enjoyed hurting me, sexually abusing me and cutting my leg, I have a scar on my thigh too. Because of all this, I became pregnant. Lots of people have asked me why didn't I get an abortion”¹⁵⁶

2.3.5. FORCED AND NONCONSENSUAL ABORTION

Codified in Colombia as conduct committed by those who, “as part of and during the armed conflict, using violence, terminate or force the termination of the pregnancy of a protected person without that person's consent.”¹⁵⁷ In some cases, it has been considered a war crime.¹⁵⁸ In Colombia, members

of a number of armed groups have been convicted for offenses of nonconsensual abortion and forced abortion in cases where women, both civilian and combatants, were forced to have abortions after they became pregnant from a rape. There were also cases in which violence committed against pregnant women caused them to miscarry.¹⁵⁹

Forced abortions are pregnancies terminated at any gestational age against the will of the pregnant person. We will approach this modality by breaking it down into the three distinct purposes found:

➤ Abortion as a form of domination in an armed group

Abortion is used in practice to control and dominate women's bodies, and therefore, in armed groups, abortion is an action that maintains women's "loss of autonomy" (particularly when performed on indigenous and Afro-Colombian girls and adolescent recruits) and the control that armed groups exercise over their bodies.

Forced abortion in the FARC-EP was a clear and explicit policy made evident by its systematic nature and the series of arrangements made to implement it:

- i. Regular pregnancy checkups.
- ii. Individuals who "specialized" in performing the procedures.
- iii. Availability of medications such as Misoprostol and surgical supplies to perform the procedures.
- iv. Physical spaces set up for performing abortions.

In several cases, the procedures were performed in unsanitary conditions,

endangering the lives of women. A report from the Office of the Attorney General on the sexual violence perpetrated by the FARC-EP established that forced abortion was a regular practice, and hiding a pregnancy or resisting the abortion were punished with court-martial. The report included 232 reported cases of victims of sexual violence, of which 14% were cases of forced abortion in the ranks.¹⁶⁰ The Office estimated that more than 1,000 forced abortions were likely to have taken place per year.¹⁶¹

Following the signing of the Peace Accord, Corporación Rosa Blanca, which members are women who were part of the FARC-EP, has alleged that sexual violence in the ranks was perpetrated by guerrilla group members against girls and young women, who in some cases were also the victims of forced recruitment. Regarding forced abortions in the group, Lorena Murcia, a member of Corporación Rosa Blanca, stated:

*The first thing they always told us is that women are not here to have children. But what often happens is that the contraceptive methods they have fail. Medications never arrive in time to prevent pregnancies, so women cannot prevent them. When they are raped, they end up pregnant. The only women with the option to decide whether or not to have a child were the partners of senior officers. The rest knew that they had to have an abortion and be punished for violating the regulations.*¹⁶²

Regarding this crime, the Superior Court of Medellín issued a landmark ruling finding that the use of forced

abortion and forced contraception on seven women was a systematic, recurring and wide-spread practice in the Ejército Revolucionario Guevarista, which had an explicit policy of prohibiting women from having children because doing so would keep the armed group from being "in optimal fighting condition." It is clear that the policy was so inflexible that women had no chance to resist it. The ruling reveals cases of forced abortion that were carried out even in conditions that endangered the mothers: in some cases, without any medical supervision, abortions performed with no consideration for the risks of late-term pregnancy, administration of abortive medications without support or proper follow-up.¹⁶³ The ruling found that, in this case, the group's modus operandi was as follows:

- (i) Medical (pharmaceutical): Use of Misoprostol, sold under the brand Cytotec®. It was administered orally or vaginally, in doses of 2 to 4 pills. This was generally carried out at the camps, or at one of the indigenous shelters or communities.¹⁶⁴
- (ii) Surgical: Via suction curettage, performed by a physician¹⁶⁵ who provided services to the organization. This was performed in abandoned health centers or hospitals.¹⁶⁶

➤ Abortion to "eliminate evidence" of rape

Paramilitary groups performed forced abortions on women who had been subjected to sexual slavery and become pregnant as a result of this violence. The purpose of abortions was to avoid "leaving evidence" of the atrocities committed by paramil-

itary soldiers. In the Justice and Peace jurisdiction, this conduct was evident in the Bloque Norte AUC, which operated in Córdoba and Magdalena. In the case described below, the woman was subjected to sexual slavery for an extended period of time, and afterwards, she was forced to have an abortion under dangerous conditions:

*On April 17, 1997, Osiris Jiménez Zapata, a member of the Arahua ethnicity, was held against her will and transported by members of the Bloque Norte AUC on orders of the person also known as "Baltazar" to his base of operations in the Municipality of Ariguani, Magdalena, in the town of El Difícil. There, in addition to being held against her will for more than two months, she was repeatedly forced to have sexual relations with the aforementioned commander resulting in her pregnancy, for which reason she was forced to have a rudimentary abortion that caused her serious injuries. She was later released but prohibited from returning to the indigenous community to which she belonged.*¹⁶⁷

➤ Forced abortion to terrorize the civilian population.

In the context of scenarios of bloody violence such as massacres, violence against pregnant women is used specifically to terrorize a population. The paramilitaries used this particular form of violence to abuse and murder pregnant women. In a society where the figure of women as mothers holds special meaning, directing violence against the bodies of pregnant women sent the message that there were no limits and the enemy would be annihilated. The following are several cases found during research that took place in the Department of Caquetá, in Montes de María and Norte de Santander:

*Here among the women there was a girl, she was not from here, her brother had a business here in the community and she was seven months pregnant. They killed her brother and they took her without any clothes, wrapped in a towel. She said no, that she was pregnant, and they pushed her. She was screaming in the street don't kill me, it's not my fault, I haven't done anything, and they took her, and at the entry to Sucre they killed her, then cut open her belly and pulled out the baby and put it on top of her.*¹⁶⁸

*My other aunt told me, because they were on the same farm, she was pregnant. So the paramilitary soldiers came and they took them for guerrilla members... they took them away. She told me they tied them up, they took indigenous people, they took everyone... she was pregnant. Then one of them said to her, he took a machete and said "I'm going to cut open your belly and take out that guerrilla," she had a huge belly, and they took [the baby] into a room and no one knows what they did with him. That's why I say, one possibility is he should be in the cemetery, or off a cliff, because they've thrown a lot of people off there, both guerrilla and the paramilitary soldiers. This was Bloque Catatumbo, because they had armbands that said AUC and their faces were covered with bandanas.*¹⁶⁹

2.3.6. OTHER TYPES OF VIOLENCE AGAINST REPRODUCTIVE CAPACITY

Some particularly heinous forms of sexual violence are used by armed actors to destroy women's reproductive capacities. This includes impalement, violence against pregnant women, mutilation of sex organs, beatings and lacerations of the abdomen and breasts, and insults referring specifically to women's sex lives, all of which have been used by armed actors. In the context of the El Salado massacre, the violence used there against women, including explicit verbal references and torture, clearly falls within this modality:

There was an emphasis on sexuality when paramilitary soldiers referred to women, as their insults and the things they shouted focused on their intimacy with the "enemies"... The attack on the sexuality of the female body extends to the re-signification of sexual experience with the "enemy," turning it into torture. Women were punished for the "private" bond they had with the men... The material and symbolic attack on the "enemy's" reproduction extended to physical attacks on the body associated with maternity, such as the womb and breasts. It is no coincidence that clubs were used to strike women in the abdomen, it was beating the womb that socially and symbolically represented new life.¹⁷⁰

In Granada, municipality of Oriente Antioqueño, the murder of a pregnant woman illustrates how this form of spreading terror and sending a message to an enemy group works:

The murder of Eliana Vergara for being the romantic partner of a police officer: Another very sad incident of bloodshed affecting women here at the entrance to Granada, they killed Eliana Vergara, a teacher who was pregnant. She was the girlfriend of a captain, the captain paraded her everywhere, he showed her off, as soon as he got her pregnant, they transferred him and left her alone, and the guerrillas came and killed her while she was pregnant, that was a tragedy.¹⁷¹

In the Justice and Peace process, evidence of violence perpetrated against a pregnant woman was found:

The events took place between the night of January 13, 2001 and the early morning hours of the following day, when (...) a large group of men from the Fronteras Colombian self-defense units led by Jorge Iván Laverde Zapata arrived in three trucks (...) they arbitrarily entered the home and then in the street observed Ms. María Fernanda Carreño Estupiñán and her husband José Hernán Mejía in a vehicle. She was seven months pregnant. They took them against their will, along with Mr. Andelfo Lozano Riveros (...) to the La Palmita farm where they murdered them, shooting them multiple times.¹⁷²

Here we should note that the torture of pregnant women requires its own typology: "actions of a physical or psychological nature intended to cause pain or suffering perpetrated by one of the armed actors against pregnant women."¹⁷³

Armed actors have been documented perpetrating violence against pregnant women in multiple locations throughout the country. The message written on their bodies is one of absolute appropriation, not only of the bodies of pregnant women, but also of future lives, as well as the limitless degradation of violence, a message sent to the community as a whole. In this regard, the report *La Guerra Inscrita en el Cuerpo* (the war engraved on the body) describes several cases of sexual violence perpetrated against pregnant women:

Some pregnant women, after being sexually assaulted, had to deal with the consequences of the beatings and other physical tortures, along with the anguish and feelings of guilt that arise when their unborn children die in utero or are born prematurely and with some problem.¹⁷⁴

2.3.7. INSTITUTIONAL VIOLENCE BASED ON STIGMATIZATION OR DENIAL OF ETP IN THE CONTEXT OF ARMED CONFLICTS

The difficulties faced by girls and women who were victims of the armed conflict in accessing health means the State's ineffectiveness frequently caused a second type of violence: re-victimization by the State, which has already failed to perform its first duty to protect the population, and then failed again with its inability to care for the victims with dignity and on a timely basis.

It can be expressed in the stigmatization by health personnel that re-victimizes women who seek access to reproductive health services such as ETP in cases of pregnancy resulting from rape during the conflict. It has also been reported that care protocols for these cases are not followed: failures to provide confidentiality, mishandling of information, and a lack of safe and private spaces for care.¹⁷⁵ The following is a testimony of one of the many cases where victims encountered obstacles:

Mónica, an adolescent from Buenaventura, became pregnant at 14 years old after she was the victim of sexual violence. She had to have her child, since despite seeking medical care, she was denied an elective termination of pregnancy. "We filed the complaint. We went to the Legal Medicine Institute, to Family Welfare, we went to all institutions. We were going to terminate the pregnancy, but

then we couldn't because I was already four months pregnant. The doctor said no, because it was very dangerous and I could lose my life. We didn't do anything else, I left with my mother (...) we were there for two months (...) and then I went home. After that we were going to give the child up for adoption, but when he was born, we decided not to (...) But at first, I did not want him."¹⁷⁶

This type of violence can later lead to other forms of reproductive violence, such as coerced pregnancies and motherhood.

2.3.8 VIOLATION OF REPRODUCTIVE RIGHTS THROUGH STATE ACTIONS: MISCARRIAGES AS A RESULT OF GLYPHOSATE SPRAYING

Since 1978, the Colombian government began using glyphosate as a means of eradicating illegal crops in rural areas. Later, within the framework of Plan Colombia, from 1999 to 2015, glyphosate spraying was carried out in 1,800,000 ha of Colombian territory until the Constitutional Court issued ruling T-236 of 2017, suspending the spraying as a result of the application of the precautionary principle.¹⁷⁷ There is scientific evidence indicating that exposure to glyphosate can have significant negative impacts on human reproductive health, including fertility and fetal development problems. It can also cause miscarriages and possible future physical and/or cognitive disabilities in fetuses exposed to it during pregnancy.¹⁷⁸

In this regard, there have been reports of miscarriages as a result of the exposure by pregnant women to glyphosate when it was sprayed by State agents. One of them is the case of Yaneth Valderrama, a woman from Caquetá, who was sprayed in September of 1998 when she was four months pregnant. The spraying stained her skin and caused difficulty breathing and intense pain. When she went to seek medical attention, a curettage was performed after an incomplete miscarriage was discovered. She died in March 1999. Her relatives brought her case before the Inter-American Commission on Human Rights, which declared it admissible on June 21, 2018.¹⁷⁹ Another case brought before the IACHR was that of Doris Yaneth Alape, who gave birth prematurely at 28 weeks. Her son died shortly after in 1999, as a result of exposure to water contaminated with glyphosate following spraying by government agents. Doris later experienced other effects on her physical health that prevented her from being able to work.¹⁸⁰

3. Damages as a result of



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reproductive violence

3.1 Economic damages

Because less attention has been paid to reproductive violence, some forms of it, such as forced or coerced motherhood and pregnancies, are usually considered to be impacts of sexual violence, particularly rape. In other cases, while it may be recognized as a violation per se, the investigation of its particular effects is more limited. Raising awareness of the impacts that reproductive violence has on the lives of women and children will allow for a better understanding of the needs of victims when considering forms of reparation. Therefore, we will now analyze the damage resulting from this type of violence.

Damage can be defined as the result of criminal actions that violate the rights of a person or a group of persons, causing suffering to the victims and affecting all aspects of their private, family, social, political, cultural, and productive lives.¹⁸¹ The damage can be greater or lesser according to the context, depending on: i) the way in which the victim's environment reacts to the victimizing acts; ii) access to health services, and the quality of those services; iii) access to justice, including security measures for reporting and participating in processes. When analyzing the damages, the effects of gender stereotypes resulting in family and social pressure with respect to how reproductive freedom is exercised must be borne in mind. For example: stigmatizing a woman for terminating a

pregnancy, expecting a victim of rape to accept the pregnancy and assume the motherhood resulting from it, or believing that a woman combatant should not play the role of mother. This can lead to further victimization and influence how victims deal with these events.

This chapter aims to delve into the damages suffered by victims of reproductive violence based on the sources consulted in order to understand the scope of the impacts on reproductive violence. However, we begin from the premise that it is impossible to generalize these impacts, as they depend on the victim's family and social conditions and the political and economic context, as well as the individual characteristics of each person that affect how they react to such events.¹⁸² It should also be taken into consideration that the impacts of reproductive violence often interact with other types of violence, for example, when a woman is the victim of rape, becomes pregnant and is forced to have an abortion. In this case, forced abortion can be considered a consequence, but we should not lose sight of the fact that it is also a victimizing fact by itself. In these cases, assessing the damages requires understanding how reproductive violence operates in the context of the continuum of violence against women and girls.

This type of damage involves “a loss of, or detriment to, the income of victims, the expenses incurred as a result of the events and the pecuniary consequences that may have a cause-effect link with the events in question.”¹⁸³ The forms of reproductive violence can have economic impacts, as the physical consequences of such events can compromise the victims' ability to work or engage in productive activities. For example, in one case of a miscarriage caused by glyphosate spraying, it is noted that the victim was no longer able to work.¹⁸⁴ Such damage is also evident in the case of coerced and forced pregnancies and motherhood, including those resulting from the denial of ETP, as in many cases, the responsibility for raising and caring for the children and the financial cost of the pregnancy and rearing of the children fall exclusively or mainly on the victim.¹⁸⁵

Victims also must cover the medical costs of treating the damage to their physical integrity resulting from incidents, which may be particularly serious in cases in which procedures, such as sterilizations and forced abortions, are performed in unsanitary conditions. For women and girls in rural areas, the non-availability of health services can mean they do not receive care or that they are sent to far-off hospitals, which they end up paying for with their own resources. There may also be significant economic impacts when victims are forcibly displaced as a result of the incidents due to threats and stigma in their communities,¹⁸⁶ or fear of being victimized again. This results in a loss of support and the destabilization of their living conditions and families, placing them in a situation of greater vulnerability.¹⁸⁷

3.2 Non-economic damages

Non-economic damages “may include distress and suffering caused directly to the victims or their relatives, the undermining of individual core values, and changes of a non-economic nature in the living conditions of victims or their families.”¹⁸⁸ The following is an exploration of its physical and moral or emotional aspects.

3.2.1 DAMAGE OR HARM TO PHYSICAL HEALTH

The various forms of reproductive violence can have multiple and varied impacts on the physical health of victims, leading to short, medium, and long-term effects, the impacts of which can extend to mental health. It can lead to gynecological traumas (hysterectomy, mammary strangulation, fusing of the vagina and anus), infections from procedures performed in unsanitary conditions, and urinary tract infections. Chronic illnesses can develop affecting specific organs such as the colon, kidneys and uterus. In some cases, it can cause cancer of the reproductive organs.¹⁸⁹ It can also cause temporary or permanent infertility.

When rape is also involved, it can cause traumatic fistulas or sexually transmitted infections (STIs).¹⁹⁰ In the case of forced abortion, victims may have to deal with particularly serious aftereffects as a result of the lack of adequate medical care during procedures, which are carried out in unsanitary conditions and can involve cruel, inhuman and degrading treatment.¹⁹¹ In cases of violence perpetrated against pregnant women, the victimizing events can cause miscarriages and premature childbirth.¹⁹²

Regarding forced contraception, contraception methods are provided to victims without regard for whether they meet the conditions for being eligible for the method, such as their age and how long have they been in postpartum,¹⁹³ or the potential side effects that may arise, such as for example heavy and prolonged bleeding or loss of bone mass.¹⁹⁴ Hence, using these methods without adequate care can impact them physically. Regarding coerced or forced pregnancies as a result of rape, the physical effects can include high-risk pregnancies that endanger the health of both the mother and the fetus, who can be born with low birth weight, associated with neonatal mortality.¹⁹⁵ Forced or coerced

pregnancies in girls and teens can have unique impacts, as their bodies are not ready to carry a pregnancy and their lives and health may be put at serious risk.¹⁹⁶

3.2.2 MORAL OR EMOTIONAL DAMAGES

This damage is reflected in the psychological and moral suffering of victims, their relatives, or persons close to them.¹⁹⁷ It manifests in the form of sadness, fear, distrust, and a state of constant alert in response to experiencing the incidents and as a way of adapting to the context.¹⁹⁸ Without the proper setting to process, understand and assimilate them, these impacts can become more complex and take the form of posttraumatic stress, eating or sleep disorders.¹⁹⁹ They can also be reflected in the relationship victims develop with themselves and their bodies, which can become fractured or weakened, worsening further without social and institutional support. It can become harder to form bonds of trust and close connections with other people, which manifests as the impossibility of enjoying sexuality and closeness with others. This last factor impacts emotional attachment and the forming of romantic relationships.²⁰⁰ Forced or coerced pregnancies can also have emotional impacts as a result of the physical demands of carrying a pregnancy, in

addition to the stress of having to deal with forced or coerced motherhood in the future. In the case of trans men who become pregnant as a result of prejudicial rape,²⁰¹ it can clash with their own perception of their bodies, which is important for the construction of their identities.²⁰² In forced and coerced motherhood, raising a child conceived through rape can be a constant reminder of the violence experienced. The imposition of a maternal role can, among other consequences, lead to feelings of love and rage, acceptance and rejection of children, as well as a self-perception of oneself as a bad mother,²⁰³ with the stigma that goes along with that.

Furthermore, becoming infertile as a result of the effect of forced abortions, sterilizations, and contraception can impact of the emotional and mental lives of women, as can cases of miscarriage as a result of glyphosate spraying. It can manifest in feelings of guilt or distorted self-images that place all the responsibility for what happened on the victims.²⁰⁴ If these ideas are affirmed by the victim's surroundings through gender stereotypes, victims may have to face the impacts of violence alone, effectively re-victimizing them.

In the case of women who were victims of forced abortions, the effects may be intensified by feelings of loss specifically in the

form of the pregnancies that they were not able to carry to term. By separating them out in order to perform the procedures, many victims were prevented from having any emotional support at the time the incidents took place. The way in which they relate to themselves, their partners, men and society may also have been affected, as in their life outside the ranks of armed groups it can be difficult to find a way of relating other than subordination, given the unique relationship dynamics in these groups.

3.2.3 DAMAGE OR IMPACT ON THE SOCIAL ENVIRONMENT

➤ Stigmatization and silencing

Women who have suffered forms of reproductive violence may face forms of discrimination, stigmatization and rejection at the hands of their own families and the communities to which they belong, perpetuating and intensifying the suffering resulting from the incidents. Thus, rather than seen as harmed by them, women with pregnancies resulting from rape or coerced motherhood by armed groups are punished for having “the enemy’s” children, for having miscarried or having allowed an abortion, or for not being able to become pregnant, among others.

Socially, these victims face social rejection, stigmatization and disbelief regarding their status as victims.²⁰⁵ For example, in some cases victims of coerced pregnancies and motherhood have carried their pregnancies to term because their relatives and social and/or institutional surroundings have a negative perception of ETP, preventing them from accessing a right that, in Colombia, is constitutional. Given the stereotypes associated with motherhood as women’s ultimate purpose, as described above: “women with coerced motherhoods are particularly vulnerable to stigmatization as a result not only of sexual violence but of the difficulties they face in forming emotional bonds with their children.”²⁰⁶ For girls and teens, this can include rejection by their social surroundings,²⁰⁷ including their educational institutions, also impacting their life projects.

➤ Distrust of institutions

State institutions, especially those associated with access to the rights to health and justice, represent the ideals of victim protection. Their status as State institutions and their mandatory nature would seem to indicate, both mentally and emotionally, that they cover, acknowledge and address the needs of individuals who meet the conditions for accessing the full exercise of their rights.

When one of these entities fails to address what has taken place, the effects become mental, impacting the trust in others and producing feelings of having been denied by an important part of society.

In the cases of those in the ranks of armed groups who are victims of forced abortion, because of the stigma surrounding abortion and their status as former combatants, they can be re-victimized when turning to these institutions, including obstacles for being recognized as victims.²⁰⁸ The lack of psychological support in legal proceedings can prevent them from clearly understanding the illegality of what took place, sometimes leading them to believe that their role in the judicial context is that of the guilty party or witness, not the victim. Stigma can also arise when women decide or need to access reproductive health services.

3.3

Life project



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Natalia Botero

Damage to the life project means “damage caused by incidents of violence to the full realization of the person affected. This is because, based on the victims’ vocation, aptitudes, circumstances, potential and aspirations, they had established certain reasonable expectations and were able to meet them until that process was cut short.”²⁰⁹

All types of reproductive violence entail ruptures with the victims’ life projects, as they involve practices that undermine their autonomy and result in the imposition of decisions that transform their future lives. This impact is therefore present both in cases where victims are forced into unwanted motherhood and when they are prevented from having the motherhood they wish to have, either in the present or in the future.

Forced and coerced pregnancy and motherhood become an obstacle to women’s plans and life projects. For some, it means giving up their educational and family plans, and it takes away the opportunity to decide whether or not to have children and at what point. Having to become a mother completely transforms one’s projection of who one is and who one wishes to be, which can be worsened in the cases of girls and teens, as they are at a stage in life when they are still forming their identities. Also, when trans men are forced to carry a pregnancy to term and become mothers, or fathers, it may involve a physical and emotional experience that was not part of their life projects and could impact their own process of searching for and forming their identities. Likewise, for victims of forced abortions, sterilization, or contraception, it can change their life projects in which becoming a mother was a possibility.

4. Redressing

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Federico Ríos



reproductive
violence

4.1. The acknowledgement of reproductive violence as a first step toward reparation

As mentioned above, the invisibility of reproductive violence has in many cases impeded the determination of reparations measures that are adequate to the victims' needs. This chapter therefore seeks to delve into some considerations we view as necessary towards adopting reparation measures that best fit the extent and impact of this type of violence.

One important starting point is recognizing that reparation processes must include participation mechanisms to focus actions in the voices of victims, and that their positions be given serious consideration. The expertise of civil society organizations that have supported victims should also be taken into consideration, as they have in-depth knowledge of the effects of these violations and good practices for helping victims and survivors recover fully. Only taking these voices into account can help determining how victims and their communities can best move past this violence.

As indicated, States have an obligation to “assess the gender component of the damage caused to ensure women receive adequate, effective and immediate reparation for the violations suffered during the conflict.”²¹⁰ To fulfill this obligation, the reproductive component must be included. In order to transform structural inequalities through reparation processes, women's reproductive needs must be addressed and acknowledged.

While steps have been taken in previous Truth Commissions to incorporate a gender perspective into their work, efforts to identify and provide reparation for forms of reproductive violence remain limited. Peru's Truth and Reparation Commission (CVR) recognized that forced abortion and pregnancies as a result of rape had taken place. However, it omitted cases of forced sterilization. Additionally, the Comprehensive Reparation Plan (PRI) resulting from the report only included the victims of rape, leaving aside all victims of reproductive violence.²¹¹ East Timor's Commission for Reception, Truth and Reconciliation went further by recognizing the existence of a coercive reproductive planning program²¹² and by documenting cases of forced motherhood and obstacles to reproductive health services²¹² and by documenting cases of forced motherhood and obstacles to reproductive health services.²¹³ However, forced abortions and pregnancies were only examined as an impact of sexual violence. This Commission recommended the implementation of educational programs and access to reproductive health



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4.2.

Considerations for the material reparation of reproductive violence

services to foster the ability to make decisions free from violence.²¹⁴ Although transitional justice systems have made efforts to recognize the whole range of violence, no administrative reparation program has included plans to address reproductive violence independently of other forms of violence.²¹⁵

The Truth Commission of Colombia has an opportunity to set the first precedent by acknowledging reproductive violence, which is typically invisible. This will make it possible to establish these violations as independent human rights violations and foster the understanding on how their physical and psychological impacts interact with the social, cultural, economic and institutional structures²¹⁶ that affect victims. This acknowledgement can also contribute to the implementation of measures to repair the specific damages caused, for example, loss of reproductive capacity and infertility.²¹⁷ Lastly, it can set an important precedent so that future mechanisms of transitional justice might consider identifying and redressing this type of violence.²¹⁸ Lastly, it can set an important precedent so that future transitional justice mechanisms might consider identifying and redressing this type of violence.

All victims of reproductive violence are entitled to reparation measures that include compensation, restitution, rehabilitation, measures of non-repetition and measures to promote their physical and psychological recovery.²¹⁹ In this regard, it is not sufficient to simply provide money as compensation for the events, instead, the particular needs of the victim in question must be addressed. In all cases, measures must include the special support needed to address the physical and emotional aftereffects of reproductive violence, including impacts on life projects, meaning measures may need to be taken to improve the victim's economic situation. For cases of women who have seen their ability to have children impacted as a result of past events, these measures must include specialized treatment aimed at enabling them, if possible, to become mothers biologically, or support for adoption if desired.

On the other hand, for those who were victims of forced or coerced motherhood, reparation must address the material inequalities

faced by victims before, during and after experiencing such reproductive violence. Reparation for coerced motherhood can focus on mitigating the adversities faced by these children and young people by addressing the challenges and needs faced by their mothers. Such improvements would benefit both mothers and their children.²²⁰ Guaranteeing the right to education and professional training of children and young people who were conceived through sexual violence is crucial for their future. Additionally, this helps ensuring they will be able to break the cycles of poverty and feel like valuable members of their families and communities.²²¹ Reparation for these children, young people and adults can also include measures that include processes for constructing positive identities to help them navigate the emotional challenges of the circumstances of their conception and that go hand-in-hand with awareness-raising and stigma-reducing processes in their communities.²²² Access to specialized mental health services must also be considered.

4.3.

Access to reproductive health services as a contribution to transformative reparation

The reparation measures typically adopted with regard to access to reproductive health information and services have focused on specialized care in cases of rape that lead to damages to the victims' reproductive capacity.²²³ However, the implementation of these measures can be difficult²²⁴ given the barriers that already restrict access to reproductive health services in rural areas.²²⁵

It should be recalled that the gaps in access to sexual education, information and reproductive health services are precisely what has historically put women and girls living in rural areas affected by the conflict at greater risk of becoming victims of reproductive violence. Education and information on sexual and reproductive health, along with access to reproductive health services, are crucial for securing substantive equality for women and girls,²²⁶ and therefore reasonable and necessary adjustments must be provided to ensure accessibility for everyone. This is likewise necessary to overcome gender stereotypes, especially stereotypes regarding reproduction that cause discrimination and underpin forms of reproductive violence.²²⁷

Transformative reparations for reproductive violence must necessarily include measures to improve the availability and quality of access to sexual and reproductive health education, information and services in rural areas, with an emphasis on areas affected by the conflict, as differentiated approaches are needed to make them accessible to everyone. This includes eliminating barriers that have traditionally restricted access, including legal restrictions on free and safe abortion.²²⁸

4.4.

Other measures for the transformative reparation of reproductive violence

In view of the unique impacts that this violence can have on victims' life projects, reparation measures must also include actions to enable them to recommence or rebuild these projects following the victimizing events. These measures must always be intended, where possible, to make progress toward overcoming the status of victim and empowering these women as agents of change.

Given that reproductive violence is frequently not identified as such, measures can also contribute to providing victims with dignity and recognizing what took place at the hands of those responsible and perpetrators. Public acts of recognition and public apologies also contribute toward this end, while raising awareness with regard to the seriousness of what happened and the importance of recognition and reparations for coexistence and reconciliation processes.

Measures should also be taken to inform the public with regard to the facts and recognize them as human rights violations that took place during the conflict. To this end, campaigns can be launched to address the causes and impacts of this violence and the need for society to address them. Forms of educational communications

should be considered, suited to audiences, and disseminated so as to reach rural areas, such as via community radio.

Affirmative measures should be considered to change gender stereotypes that cause discrimination and violence against women and girls.²²⁹ They can be addressed through strategies to promote reproductive freedom as part of long-term prevention processes that impact communities through educational institutions, preventative healthcare spaces (for example, the health advocates that work in rural areas), and communities in general. This should include producing and distributing materials suitable for this purpose that address the stereotypes and prejudices impeding the exercise of sexual and reproductive health, with differentiated approaches for children and adolescents.

In considering reparation measures for indigenous communities and peoples, the measures implemented should strive towards eliminating damaging practices, gender discrimination and reproductive violence against women and girls, while taking their practices and customs into consideration.

Recommendations

The Center for Reproductive Rights has identified the following specific recommendations to be taken into account when addressing reproductive violence in situations subsequent to the Peace Accords:

Regarding the State, including transitional justice mechanisms:

1. To identify where forms of reproductive violence have taken place in the armed conflict and recognizing them as grave human rights violations. This includes forced abortions, coercive pregnancies, sterilizations, forced motherhood and reproductive planning, and any other form of control over the reproductive capacities of persons exercised by any actor in the conflict. This is contrary to all expressions that minimize or deny the seriousness of these incidents.
2. To explicitly consider how reproductive violence disproportionately affects girls, women and LGBTI persons as part of a structural context of gender discrimination. These considerations are particularly important for Afro-Colombian, black and indigenous victims, with regard to how gender violence intersects with racial violence in their cases.
3. To assess the physical, emotional and social damages of reproductive violence on victims, families, and communities, including its interaction with other forms of GBV.
4. To urge armed groups to publicly recognize the commission of this violence, which they have so far not done.
5. With the participation of victims, to determine forms of reparation that include measures to improve effective access to the sexual and reproductive health information and services they need to exercise their reproductive freedom and recommence their life projects, including the enjoyment of a satisfying sexuality.
6. To determine the social and cultural conditions that make invisible and normalize reproductive violence in order to implement educational strategies to ensure non-repetition.
7. To consider measures to improve effective access to sexual and reproductive health information and services for women, girls and LGBTI persons in rural areas of Colombia as part of reparations to ensure non-repetition.
8. To identify the gender and racial stereotypes that persist in society, particularly in the officers of the institutions in charge of providing care to victims of this violence who engage in re-victimizing practices.

Regarding perpetrators:

1. To publicly recognize the reproductive violence perpetrated in the armed conflict against girls, teens, women and LGBTI persons both within and outside the ranks of armed groups.
2. To comply with their obligations to contribute to comprehensive reparations for victims, including the right to know the truth of what happened.
3. To refrain from committing new human rights violations, particularly violations of the rights of girls and women.



Regarding society:

1. To recognize what happened and the seriousness of the various forms of reproductive violence and their unique impacts through actions that dignify victims and survivors and contribute to their integration and comprehensive reparation. This includes actions to continue documenting and raising awareness regarding reproductive violence and the needs for reparation of the victims identified.

2. With regard to the media, to contribute to raising awareness on the various facets and impacts of reproductive violence, with a respectful approach to handling information to provide dignity to victims and survivors. This includes moving beyond stereotypical imagery that impedes women and girls from achieving material equality in society.

3. Regarding the private sector and in compliance with its corporate social responsibility obligations, to contribute to mitigating

the disproportionate impact of the armed conflict on women and girls by building mechanisms for the socioeconomic reintegration for victims of reproductive violence, including former combatants.

4. With regard to the educational sector, to contemplate clear strategies for providing comprehensive sexual education that makes it possible to progressively overcome gender stereotypes and the consequent discrimination against women and girls, as well as the various forms of gender-based violence, including reproductive violence. In higher education, the various schools of study, including law, psychology, social work and medicine, must create spaces for researching, from their own disciplines, the scope and impact of reproductive violence, as well as proposals on how to improve the priority and differentiated care given to victims and survivors in terms of psychosocial, medical, and legal support.

Endnotes

- 1 Constitutional Court of Colombia, ruling T-697 of 2016, *supra* endnote 1. (Reporting Judge Gloria Stella Ortiz Delgado: December 13, 2016) [hereinafter: Constitutional Court, Ruling T-697 of 2016].
- 2 Constitutional Court of Colombia, ruling C-093 of 2018 (Reporting Judges José Reyes Cuartas and Gloria Stella Ortiz Delgado: October 10, 2018) [hereinafter: Constitutional Court, Ruling C-093 of 2018].
- 3 Plan of Action of the International Conference on Population and Development, point 7.2. Cairo, Egypt, Sept. 5-13, 1994, UN Doc. A/CONF.171/13/Rev.1 (1994), available at: https://www.un.org/en/development/desa/population/publications/ICPD_programme_of_action_es.pdf
- 4 *Id.* point 7.3.
- 5 *Id.*
- 6 United Nations Population Fund (UNFPA), *Derechos Sexuales y Reproductivos* (2017), available at: <https://bit.ly/3a7iyGw>
- 7 Alda Facio, *Reproductive Rights are Human Rights*. Inter-American Institute of Human Rights, (2008), pg. 35.
- 8 CESCR, General Comment No. 16 (2005): The equal right of men and women to the enjoyment of all economic, social and cultural rights (article 3 of the International Covenant on Economic, Social and Cultural Rights), para. 29, UN Doc. E/C.12/2005/4 (2005) [hereinafter CESCR General Comment No. 16].
- 9 CEDAW, Case of L.C. v. Peru, Communication 22/2009, UN Doc. CEDAW/C/50/D/22/2009, (2011) [hereinafter: CEDAW Committee, Case of L.C. v. Peru].
- 10 Human Rights Committee, General Comment No. 36: Article 6 (Right to life), para. 8, UN Doc. CCPR/C/GC/36 (2018).
- 11 Human Rights Council Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, The right of everyone to the enjoyment of the highest attainable standard of physical and mental health, para. 15, UN Doc. A/66/254 (2011) [hereinafter: Report of the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health].
- 12 Convention on the Rights of the Child, article 5, adopted on November 20, 1989, in resolution 44/25, UN Doc. A/RES/44/25 (1989).
- 13 CESCR, General Comment No. 14 (2000): The right to enjoy the highest attainable standard of health (Article 12 of International Covenant on Economic, Social and Cultural Rights), para. 12, UN Doc. E/C.12/2000/4 (2000) [hereinafter: CESCR, General Comment No. 14]; CEDAW Committee, General Recommendation No. 14: Women and Health, para. 2, UN Doc. A/54/38/Rev. 1 (1999) [hereinafter: CEDAW Committee, General Recommendation No. 14]
- 14 Three landmark cases in which victims were represented by the Center for Reproductive Rights and local ally organizations established foundational precedents for current developments in this area: Human Rights Committee, Case of K.L. v. Peru, Communication 1153/2003, UN Doc. CCPR/C/85/D/1153/2003, (2005) [hereinafter: Human Rights Committee, Case of K.L. v. Peru]; CEDAW Committee, Case of L.C. v. Peru, *supra* endnote 9; IACHR, Report 21/07 (friendly settlement), Petition 161-02: Paulina del Carmen Ramírez Jacinto, Mexico, March 9, 2007. Based on this progress, there have been several instances where States' obligations in this area have been recognized. In this regard, see: Center for Reproductive Rights, *Breaking ground 2020: Treaty Monitoring bodies on reproductive rights* (2020), available at: <https://reproductiverights.org/sites/default/files/documents/Breaking-Ground-2020.pdf>
- 15 CESCR, General Comment No. 22 on sexual and reproductive health, para. 13, 28, 45, 57, 62, UN Doc. E/C.12/GC/22 (2016) [hereinafter CESCR, General Comment No. 22]; Human Rights Committee, General Comment No. 36, *supra* endnote 10, para. 8; CEDAW Committee, General Recommendation No. 34 (2016): On the rights of rural women, para. 38, 39.a) UN Doc. CEDAW/C/GC/34 (2016); CEDAW Committee, General Recommendation No. 35 on gender-based violence against women, updating General Recommendation No. 19, para. 18, 40(c), UN Doc. CEDAW/C/GC/35 (2017) [hereinafter: CEDAW Committee, General Recommendation No. 35].
- 16 CEDAW Committee, Case of Alyne da Silva Pimentel v. Brazil. Communication 17/2008, UN Doc. CEDAW/C/49/D/17/2008 (2008). This case, also in which the Center for Reproductive Rights represented the victims, was the first before an international human rights monitoring body in which State obligations on access to maternal health services and emergency obstetric care without discrimination were recognized.
- 17 CESCR, General Comment No. 22, *supra* endnote 15, para. 49.a).
- 18 Committee on the Rights of the Child, General Comment No. 4: Adolescent Health and Development in the Context of the Convention on the Rights of the Child, para. 28 and 39 subparagraph c), UN Doc. CRC/GC/2003/4 (2003); Committee on the Rights of the Child, General Comment No. 20 on the implementation of the rights of the child during adolescence, para. 39 and 60, UN Doc. CRC/C/GC/20 (2016); CEDAW Committee, Concluding observations of the Committee on the Elimination of Discrimination against Women: Bolivarian Republic of Venezuela, para. 32, UN Doc. CEDAW/C/VEN/CO/6 (2006); CEDAW Committee, Report of the CEDAW Committee on its twenty-fourth session, para. 62, UN Doc. A/56/38 (2001); IACHR, *The Right of Boys and Girls to a Family. Alternative Care. Ending Institutionalization in the Americas*, para. 609 Doc. OEA/Ser.L/V/II. Doc.54/13 17 (2013).
- 19 CESCR, General Comment No. 22, *supra* endnote 15, para. 49.a); IACHR, Access to information on reproductive health from a human rights perspective, para. 43 and following, Doc. OEA/Ser.L/V/II (2011).
- 20 Center for Reproductive Rights, "Esterilización forzada en Chile" (2014), available at: <https://www.reproductiverights.org/FSvChile>; IACHR, Admissibility report 52/14. F.S. v Chile, OEA/Ser.L/V/II.151 Doc. 17 (2014); Inter-American Court, Case of I.V. v. Bolivia. Preliminary Objections, Merits, Reparations, and Costs. Ruling of November 30, 2016, Series C No. 329 (2016) [hereinafter: Inter-American Court, Case of I.V. v. Bolivia].
- 21 Human Rights Committee, Case of K.L. v. Peru, *supra* endnote 14; Human Rights Committee, Case of L.M.R. v. Argentina, Communication 1608/2007, UN Doc. CCPR/C/101/D/1608/2007 (2011); UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment, Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment, para. 46 and 78, UN Doc. A/HRC/22/53 (2013) [hereinafter: Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment].
- 22 Inter-American Court, Case of Artavia Murillo et al. (in vitro fertilization) v. Costa Rica, Preliminary Objections, Merits, Reparations, and Costs, Inter-American Court (series C) No. 257; Inter-American Court, Case of I.V. v. Bolivia, *supra* endnote 20.
- 23 Convention on the Elimination of All Forms of Discrimination against Women, article 16(e), adopted on December 16, 1979, Res. 34/180, (1979) [hereinafter: CEDAW].
- 24 CEDAW Committee and Committee on the Rights of the Child, General Recommendation No. 31 of the CEDAW Committee and General Comment No. 18 of the CRC on harmful practices, adopted jointly, para. 61 and 68, UN Doc. CEDAW/C/GC/31/CRC/C/GC/18 (2014); Ester Valenzuela Rivera and Lidia Casas Becerra, "Derechos sexuales y reproductivos: confidencialidad y VIH/SIDA en adolescentes chilenos," Universidad de Chile: Acta Bioethica, vol. XIII, no. 2, pgs. 207-215 (2007) available at <https://>

www.redalyc.org/pdf/554/55413208.pdf.

- 25 CESCR, General Comment No. 22, supra endnote 15, para. 40 and 49(d). In the inter-American system, see: IACHR, *Manuela and Family v. El Salvador*. Merits Report 153/18, Case 13,069, Doc. OEA/Ser.L/V/II.170 (2018).
- 26 Constitutional Court of Colombia, ruling SU-096 of 2018 (Reporting Judge José Fernando Reyes Cuartas: October 17, 2018) [hereinafter: Constitutional Court, Ruling SU-096 of 2018].
- 27 According to the Constitutional Court, reproductive rights intersect with the following rights: “the rights to human dignity and individual autonomy (Article 1, Political Constitution); to a life with dignity (Article 11, Political Constitution); to not be subjected to torture or cruel, inhuman, or degrading treatment (Article 12, Political Constitution); to individual and familial privacy (Article 15, Political Constitution); to equal protection (Article 13, Political Constitution); to the free development of personality (Article 16, Political Constitution); to freedom of conscience and religion (Article 18 and 19, Political Constitution); to social security and health (Articles 48 and 49, Political Constitution); and to education (Article 67, Political Constitution).” *Id.*, para. 9.
- 28 *Id.*, para. 23.
- 29 Constitutional Court of Colombia, rulings T-627 de 2012 (Reporting Judge Humberto Sierra Porto: August 10, 2012) and C-093 de 2018, supra endnote 2, cited by Ruling SU-096 of 2018, supra endnote 26, para. 35.
- 30 CEDAW Committee, General Recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, para. 9. UN Doc. CEDAW/C/GC/30 (2013) [hereinafter: CEDAW Committee, General Recommendation No. 30].
- 31 Center for Reproductive Rights, *Ensuring sexual and reproductive health and rights of women and girls affected by conflict* (2017), available at: <https://bit.ly/301Jwy7> [hereinafter Center for Reproductive Rights, *Ensuring sexual and reproductive health*].
- 32 Center for Reproductive Rights, *Fact sheet: Sexual and Reproductive Health and Rights in Conflict*, pg. 4 (2017), available at: <https://bit.ly/301Jwy7>.
- 33 *Id.*
- 34 CESCR, General Comment No. 16, supra endnote 8, para. 29.
- 35 CESCR, General Comment No. 14, supra endnote 13, para. 2.
- 36 CEDAW Committee, General Recommendation No. 30, supra endnote 30, para. 25.
- 37 United Nations Security Council, Resolution 1325 (2000), Adopted by the Security Council at its 4213th meeting, on 31 October 2000, UN Doc. S/RES/1325 (2000).
- 38 United Nations Security Council, Resolution 2122 (2013), Adopted by the Security Council at its 7044th meeting, on 18 October 2013, UN Doc. S/RES/2122 (2013); United Nations Security Council, Resolution 2467 (2019), Adopted by the Security Council at its 8514th meeting, on 23 April 2019, UN Doc. S/RES/2467 (2019).
- 39 Regarding the universal system, see, for example: CEDAW, supra endnote 23, Art. 5; CEDAW Committee, General Recommendation No. 33 on women’s access to justice, UN Doc. CEDAW/C/GC/33 (2015). In the inter-American system, see: Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women “Convention of Belém do Pará,” article 7 (1995) [hereinafter: Belém do Pará Convention]; Inter-American Court, Case of Fernández Ortega et al. v. Mexico (2011); Inter-American Court, Case of J. v. Peru (2013); Inter-American Court, Case of Cabrera García and Montiel Flores v. Mexico (2010); Inter-American Court, Case of Espinoza González v. Peru (2014). Regarding girls and teens in educational contexts, see: IACHR, *Paola del Rosario Albarracín Guzmán and relatives v. Ecuador*: Merits Report 110/18, Case 12,678, Doc. OEA/Ser.L/V/II.169 (2018), in which the Center for Reproductive Rights also represented the victims.
- 40 CEDAW Committee, General Recommendation No. 30, supra endnote 30, paras. 23, 34, and 38. Also see: CESCR, General Comment No. 22, supra endnote 15, para. 49(d). In the inter-American system, see: Inter-American Court, Case of I.V. v. Bolivia, supra endnote 20.
- 41 Rome Statute of the International Criminal Court (Rome, July 17, 1998), Articles 7 and 8, UN Doc. A/CONF.183/9 [hereinafter: Rome Statute]; International Criminal Court (ICC), *Prosecutor v. Bosco Ntaganda*, Trial Chamber VI, Case ICC-01/04-02/06-2359 (2019) [hereinafter: International Criminal Court, *Prosecutor v. Bosco Ntaganda*].
- 42 For example, forcing a woman or girl to carry a pregnancy resulting from rape to term has been understood to be abusive treatment. See:
- Human Rights Committee, Case of K.L. v. Peru, supra endnote 14; Human Rights Committee, 1608/2007, UN Doc. CCPR/C/101/D/1608/2007 (2011); Report of the UN Special Rapporteur on torture and other cruel, inhuman, or degrading treatment, supra endnote 21, para. 46 and 78. Treatment such as involuntary sterilization, denial of access to services like abortion, and forced abortions have also been understood as abusive. See: Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment, supra endnote 21, para. 46 and 47.
- 43 CEDAW Committee, General Recommendation No. 30, supra endnote 30, paras. 23, 34, and 38.
- 44 *Id.*, para. 81 g).
- 45 *Id.*, para. 65.
- 46 Inter-American Court, Case of IV v. Bolivia, supra endnote 20.
- 47 Convention of Belém do Pará, supra endnote 39, Article 8.
- 48 Inter-American Court, Case of González et al. (“Cotton Field”) v. Mexico, Preliminary Objections, Merits, Reparations, and Costs, Ruling of November 16, 2009, Series C No. 205 (2009) [hereinafter: Inter-American Court, Case of González et al. (“Cotton Field”) v. Mexico]; Inter-American Court, Case of López Soto et al. v. Venezuela, Ruling of September 26, 2018. Merits, Reparations, and Costs, Series C no. 362 (2018).
- 49 CEDAW Committee, General Recommendation No. 30, supra endnote 30, para. 79 and 81 a), b), e), g); CEDAW Committee, General Recommendation No. 33, supra endnote 39, para. 19 e), f) and g); CEDAW Committee, Concluding observations on the combined seventh and eighth periodic reports of Colombia, para. 17 and 18, UN Doc. CEDAW/C/COL/CO/7-8 (2013); Human Rights Committee. Concluding Observations on the seventh periodic report of Colombia, para. 18 and 19, Doc. CCPR/C/COL/CO/7 (2016).
- 50 CEDAW Committee, General Recommendation No. 30, supra endnote 30, para. 77
- 51 *Id.*, para.79.
- 52 Among others, articles 11, 12, 13, 43, 49, and 229 of the Political Constitution of Colombia, July 7, 1991 (Colombia).
- 53 The constitutional bloc includes many

- instruments, such as the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture, and others. Regionally, it also includes the American Convention on Human Rights, adopted on November 22, 1969, UN Doc. 27/08/1979 (1979) and the Convention of Belém do Pará, supra endnote 39.
- 54 In this regard, see: Constitutional Court of Colombia, ruling 092 of 2008 (Reporting Judge José Cepeda Espinosa: April 14, 2008) [hereinafter: Constitutional Court of Colombia, ruling 092 of 2008]; Constitutional Court of Colombia ruling 009 of 2015 (Reporting Judge Luis Ernesto Vargas Silva: January 27, 2015) [hereinafter: Constitutional Court, ruling 009 of 2015]; Constitutional Court of Colombia, ruling C-754 of 2015 (Reporting Judge Gloria Stella Ortiz Delgado: December 10, 2015) [hereinafter: Constitutional Court, Ruling C-754 of 2015].
- 55 Maria Eriksson Baaz & Maria Stern, *Sexual violence as a weapon of war? Perceptions, prescriptions, problems in the Congo and beyond*, London: Zed Books (2013) [hereinafter Baaz & Stern, *Sexual violence as a weapon of war?*].
- 56 International Criminal Tribunal for the former Yugoslavia (ICTY), Case against Kunarac, Kovac, and Vukovic, Appeals Chamber, Case IT-96-23-T & IT-96-23/1-T, (2002); also see: Cases: ICTY, *Prosecutor v. Dusko Tadic alias Dule*, IT-94-1-A (1995); ICTY, *Prosecutor v. Tihomir Blaskic*, IT-95-14-T (2000); ICTY, *Prosecutor v. Tihomir Blaskic*, IT-95-13/1-T (2007); ICTY, *Prosecutor v. Furundzija*, IT-95-17/1-T (1998). Kimberly Theidon, “A Greater Measure of Justice: Gender, Violence and Reparations,” in Ellen Lewin, *Mapping Feminist Anthropology for the 21st Century* (2017) [hereinafter Theidon, “A Greater Measure of Justice”].
- 57 Theidon, “A Greater Measure of Justice,” supra endnote 56.
- 58 *Id.*
- 59 IV. Geneva Convention relative to the Protection of Civilian Persons in Time of War, adopted on 12 August 1949 (1949).
- 60 Katrina Lee Koo, “Confronting a disciplinary blindness: women, war and rape in the international politics of security,” *Australian Journal of Political Science*, 37(3): 525–36 (2002) [hereinafter, Koo, K.L. “Confronting a disciplinary blindness”].
- 61 Rome Statute, supra endnote 41, article 7, number 1, subparagraphs g) and h), and article 8, number 2, subparagraph b) xxii; International Criminal Court, *Prosecutor v. Bosco Ntaganda*, supra endnote 41.
- 62 *Id.*
- 63 Luz Piedad Caicedo, “Gravedad penal de la violencia sexual cometida en el marco del conflicto armado colombiano,” *Corporación Humanas* (s.f.) available at: https://www.humanas.org.co/alfa/dat_particular/ar/humanas_documento_pon_48Ponencia_Gravedad_penal_de_la_Violencia_Sexual.pdf
- 64 United Nations Security Council, Resolution 1820 (2008), Adopted by the Security Council at its 5916th meeting, on 19 June 2008, UN Doc. S/RES/1820 (2008).
- 65 Baaz & Stern, *Sexual violence as a weapon of war*, supra endnote 55.
- 66 Paul Kirby, “How is rape a weapon of war? Feminist international relations, modes of critical explanation and the study of wartime sexual violence,” *European Journal of International Relations* 19 (4) (2013).
- 67 Theidon, *A Greater Measure of Justice*, supra nota 56.
- 68 Theidon, *A Greater Measure of Justice*, supra nota 56.
- 69 Kimberly Theidon, *Hidden in Plain Sight. Children Born of Wartime Sexual Violence*, *Current Anthropology*, 56, supplement 12 (2015) [hereinafter Theidon, Kimberly, *Hidden in Plain Sight*].
- 70 Ruth Rubio-Marin, *Reparations for Conflict-Related sexual and reproductive violence*, *Decalogue*, 19 *Wm. & Mary J. Women & L.* 69 (2012) [hereinafter Rubio-Marin, *Reparations for Conflict-Related sexual and reproductive violence*].
- 71 Collen Duggan & Ruth Jacobson, *Reparations of Sexual and Reproductive Violence: Moving from Codification to Implementation*, en Ruth Rubio-Marin (ed.), *The Gender of Reparations. Unsettling Sexual Hierarchies While Redressing Human Rights Violations*. International Center for Transitional Justice & Cambridge University Press (2009) [hereinafter, Duggan, Collen & Jacobson, Ruth, *Reparations of Sexual and Reproductive Violence*].
- 72 Diana Esther Guzman, “¿Reparar lo irreparable? violencia sexual en el conflicto armado colombiano. Propuestas con perspectiva de género.” UN Women (2012), available at: <https://www2.unwomen.org/-/media/field%20office%20colombia/documentos/publicaciones/2015/rep-arar%20lo%20irreparable.pdf?la=es&vs=155>
- 73 Convention of Belém do Pará, supra endnote 39, Article 1.
- 74 CEDAW Committee, General Recommendation No. 35, supra endnote 15, para. 1.
- 75 According to Article 1 of the Rome Statute of the International Criminal Court, it has the power “to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions.” Rome Statute, supra endnote 41, article 1.
- 76 According to MESECVI: “the negation of public policy and sexual and reproductive health services exclusively to women, through norms practices, and discriminatory stereotypes, constitutes a systematic violation of their human rights and subjects them to institutional violence. Declaration on Violence against Women, Girls and Adolescents and their Sexual and Reproductive Rights.” Declaration on Violence against Women, Girls and Adolescents and their Sexual and Reproductive Rights, Doc. OEA/Ser.L/II.7/10 (2014) available at: <https://www.oas.org/en/mesecevi/docs/CEV11-Declaration-EN.pdf>.
- 77 Convention of Belém do Pará, supra endnote 39, Article 7; Inter-American Court, Case of González et al. (“Cotton Field”) v. Mexico, supra endnote 48, para. 285. Also see: IACHR, Standards and recommendations. Violence and Discrimination against Women and Girls, para. 62, Doc. OEA/Ser.L/V/II (2019).
- 78 Rebeca Cook et al. *Salud Reproductiva y Derechos Humanos*, pg. 64 and following, Oxford, Profamilia, (2003), available at: http://www.bdigital.unal.edu.co/51594/1/9588164184_1.PDF.
- 79 Center for Reproductive Rights, Ensuring sexual and reproductive health, supra endnote 31.
- 80 Center for Reproductive Rights, Ensuring sexual and reproductive health, supra endnote 31. See Sally Palomino, “La mortalidad materna se agrava por el conflicto armado en Colombia,” *El País* (Dec. 3, 2015) available at: https://elpais.com/internacional/2015/12/03/actualidad/1449105431_096280.html.
- 81 Center for Reproductive Rights, Ensuring sexual and reproductive health, supra endnote 31.

- 82 Doctors without Borders (MSF) “Acceder a la salud es acceder a la vida: 977 voces” (2010) available at: https://www.colectivodeabogados.org/IMG/pdf/Informe_MSF_ACCEDER_A_LA_SALUD_ES_ACCEDER_A_LA_VIDA.pdf;
- See: Nina Chaparro, Annika Dalén, Diana Esther Guzmán, and Margarita Martínez Osorio, “El ejercicio de la interrupción voluntaria del embarazo en el marco del conflicto armado,” *Documentos Dejusticia* 25 (2015) available at https://www.dejusticia.org/wp-content/uploads/2017/02/fi_name_recurso_796.pdf [hereinafter: Nina Chaparro et al. “El ejercicio de la interrupción voluntaria del embarazo en el marco del conflicto armado”].
- 83 For example, in its latest report on sexual violence and historical memory, the National Center for Historical Memory still classifies reproductive violence as sexual violence that includes restrictions on reproductive rights. See: National Center for Historical Memory, *Memoria histórica con víctimas de violencia sexual: Aproximación conceptual y metodológica* (2018) available at: <http://centrodememoriahistorica.gov.co/wp-content/uploads/2020/02/memoria-historica-con-victimas-de-violencia-sexual.pdf>.
- 84 *Id.*
- 85 Donna Seto, *No Place For A War Baby: The Global Politics Of Children Born Of Wartime Sexual Violence* 14 (2013) [hereinafter Donna Seto, *No Place For A War Baby*].
- 86 *Id.*
- 87 Fionnuala Ní Aoláin, Catherine O’Rourke & Aisling Swaine, “Transforming reparations for Conflict-Related sexual violence: Principles and Practice,” *Harvard Human Rights Journal* 28 (2015) [hereinafter Fionnuala et al. *Transforming reparations for Conflict-Related sexual violence*”].
- 88 Inter-American Court, *Case of González et al. (“Cotton Field”) v. Mexico*, supra endnote 48, para. 401.
- 89 United Nations Office of the High Commissioner of Human Rights, “Back ground paper on the role of the judiciary in addressing the harmful gender stereotypes related to sexual and reproductive health and rights, available at: https://www.ohchr.org/Documents/Issues/Women/WRGS/JudiciaryRoleCounterStereotypes_EN.pdf [hereinafter: Office of the High Commissioner, “Back ground paper on the role of the judiciary in addressing the harmful gender stereotypes related to sexual and reproductive health and rights”].
- 90 Inter-American Court, *Case of González et al. (“Cotton Field”) v. Mexico*, supra endnote 48, para. 401.
- 91 United Nations Economic and Social Council, 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, *Cultural practices in the family that are violent towards women*, para. 99 to 104, UN Doc. E/CN.4/2002/83 (2002).
- 92 CESCR, *General Comment No. 22*, supra endnote 15, para. 27.
- 93 Report of the United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, supra endnote 11, para. 16.
- 94 Office of the High Commissioner, “Back ground paper on the role of the judiciary in addressing the harmful gender stereotypes related to sexual and reproductive health and rights, supra, endnote 89
- 95 CEDAW Committee, *Case of L.C. v. Peru*, supra endnote 14.
- 96 See, for example, the considerations in the case *L.C. v. Peru* of the CEDAW Committee. Therein, the Committee recognized that the State was responsible for, among other things, violation of article 5 of the CEDAW, which establishes an obligation to eliminate prejudices and practices based on stereotypes. The Committee concluded that L.C. was denied essential health services, including reproductive health services (a spinal operation and a therapeutic abortion) based exclusively on the stereotype that protecting the fetus should take precedence over protecting the health of the pregnant mother. CEDAW Committee, *Case of L.C. v. Peru*, supra endnote 9, para. 8.15. Review of similar application of this stereotype, with the absolute protection of fertilized eggs, was carried out in *Case of Artavia Murillo v. Costa Rica*. Inter-American Court, *Case of Artavia Murillo et al. (in vitro fertilization) v. Costa Rica*, supra endnote 22, para. 297.
- 97 In the case of *Manuela v. El Salvador*, during the criminal investigation of her after she had an obstetric emergency, she was assumed to be guilty because her pregnancy was the result of infidelity, supposedly providing a motive for disposing of the fetus. IACHR, *Manuela and Family v. El Salvador*, supra endnote 25, para. 148.
- 98 National Center for Historical Memory, San Carlos. *Memorias del éxodo en la guerra*, pg. 279 (2011) available at: http://centrodememoriahistorica.gov.co/descargas/informes2011/Informe_sancarlos_exodo_en_la_guerra.pdf [hereinafter: National Center for Historical Memory, San Carlos. *Memorias del éxodo en la guerra*].
- 99 Inter-American Court, *Case of IV v. Bolivia*, supra endnote 20, para. 137.
- 100 For example, see IACHR, *Access to Maternal Health Services from a Human Rights Perspective*, paras. 29 and 33 (2010), available at: <https://www.oas.org/en/iachr/women/docs/pdf/saludmaternaeng.pdf>.
- 101 Office of the High Commissioner, “Back ground paper on the role of the judiciary in addressing the harmful gender stereotypes related to sexual and reproductive health and rights, supra, endnote 89.
- 102 Inter-American Court, *Case of Atala Riffo and girls v. Chile. Merits, Reparations, and Costs. Ruling of February 24, 2012. Series C No. 239* (2012).
- 103 National Center for Historical Memory, *Aniquilar la diferencia. Lesbianas, gays, bisexuales y transgeneristas en el marco del conflicto armado colombiano*, pgs. 344-345 (2015) available at: <http://www.centrodememoriahistorica.gov.co/descargas/informes2015/aniquilar-la-diferencia/aniquilar-la-diferencia.pdf> [hereinafter, National Center for Historical Memory, *Aniquilar la diferencia*].
- 104 National Center for Historical Memory, *La guerra inscrita en el cuerpo*, pg. 513 (2017), available at: <http://centrodememoriahistorica.gov.co/wp-content/uploads/2020/05/la-guerra-inscrita-en-el-cuerpo.pdf> [hereinafter: National Center for Historical Memory, *La guerra inscrita en el cuerpo*]; National Center for Historical Memory, *Desafíos para la integración. Enfoques de género, edad y etnia*, pgs. 160-162 (2013)

- available at:
<http://www.centrodememoriahistorica.gov.co/descargas/informes2013/ddr/desafios-reintegracion.pdf>.
- 105 Report of the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment, supra endnote 21, para. 78.
- 106 National Center for Historical Memory, *La guerra inscrita en el cuerpo*, supra endnote 104.
- 107 CEDAW Committee, General Recommendation No. 19 on gender-based violence against women, para. 11 (1992); CEDAW Committee, General Recommendation No. 35, supra endnote 15, para. 26.
- 108 CEDAW Committee, *Case of Alyne da Silva Pimentel v. Brazil*, supra endnote 16.
- 109 Special Rapporteur on the Rights of Indigenous Peoples, Report of the Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli Corpuz, August 6, 2015, para. 16, UN Doc. A/HRC/30/41 (2015).
- 110 IACHR, *Indigenous Women*, para. 80, OEA/Ser.L/V/II, doc. 44/17 (2017) available at: <http://www.oas.org/en/iachr/reports/pdfs/mujeresindigenas.pdf>
- 111 CESCR, General Comment No. 22, supra endnote 15, para. 27.
- 112 CEDAW, supra endnote 23, articles 5 and 10. CEDAW Committee, General Recommendation No. 35, supra 15, para. 30. a). In the inter-American system, Convention of Belém do Pará, supra endnote 39, articles 6(b) and 8(b).
- 113 CESCR, General Comment No. 22, supra endnote 15, para. 27.
- 114 *Id.* para. 27 and 31.
- 115 Constitutional Court, Ruling C-754 of 2015, supra endnote 54.
- 116 *Id.*
- 117 CEDAW Committee, General Recommendation No. 34, supra endnote 15, para. 37.
- 118 CEDAW Committee, General Recommendation No. 19 on gender-based violence against women, para. 11 (1992); CEDAW Committee, General Recommendation No. 35, supra endnote 15, para. 26.
- 119 CESCR, General Comment No. 22, supra endnote 15, para. 31.
- 120 CEDAW Committee, General recommendation 30, supra endnote 30, para. 51; CEDAW Committee, General Recommendation No. 34, supra endnote 15, para. 22.
- 121 CEDAW Committee, General Recommendation No. 30, supra endnote 30
- 122 Constitutional Court, Ruling 092 of 2008, supra endnote 54.
- 123 Delegated ombudsperson for assessing the risk of the civilian population as a result of the armed conflict. Early Alert System, Office of the People's Ombudsman, *Violencia sexual contra las mujeres de Nariño y la situación de derechos de las mujeres víctimas en Pasto*, pg. 77 (2011) available at: https://www.sdgifund.org/sites/default/files/Colombia_VBG%20Narino.pdf.
- 124 Working Group on Women and Armed Conflict, Tenth Report on Sociopolitical Violence against Women and Girls in Colombia 2000-2010, pg. 18, (2010), available at: <http://justiciaporcolombia.org/sites/justiciaporcolombia.org/files/X%20informe2.pdf>
- 125 National Center for Historical Memory, *Aniquilar la diferencia*, supra endnote 103, pg. 26.
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- 143 National Center for Historical Memory, *La guerra inscrita en el cuerpo*, supra endnote 104, pg. 154.
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- 197 National Center for Historical Memory, Aportes teóricos y metodológicos para la valoración de los daños causados por la violencia, supra endnote 183, pg. 18.
- 198 Corporación Humanas, Cicatrices de la guerra en las colombianas, supra endnote 191, pg. 114.
- 199 Id.

- 200 Id.
- 201 These violations are based on negative stereotypes to justify the use of violence to eliminate the individual considered different, misdescribed as "corrective" violations. See: Caribe Afirmativo, "Investigación de violencias contra mujeres lesbianas, bisexuales y trans" (2019), pg. 19, available at: <https://bit.ly/3dOSTi5>.
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