



Submission by Human Rights Watch to the Committee on the Elimination of All Forms of Discrimination against Women on Colombia

72nd session, 2019

This submission focuses on the topics of sexual violence, women’s and girls’ sexual and reproductive health and rights, and the protection of students, teachers, and schools during time of armed conflict.

Sexual Violence Against Women and Girls (article 14)

Human Rights Watch published research in December 2018 that found that armed groups, including groups that emerged from the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, FARC) were committing rape and other sexual abuses in the southwestern municipality of Tumaco.¹ From January 2017 through the end of September 2018, 74 people in Tumaco were victims of “crimes against sexual integrity” (including rape and other sexual crimes) related to armed conflict in Tumaco, according to Colombia’s Victims’ Registry—by far the highest such figure for any municipality in Colombia. Further, official statistics likely vastly underrepresent the true scope of sexual violence in Tumaco, as many cases go unreported.

Human Rights Watch documented 11 cases of rape or attempted rape that have occurred in Tumaco since mid-2016.

A prosecutor and two human rights officials told us that in many cases women are coerced into becoming the sexual partners of armed group members. As one put it, “they can’t say ‘no’ to the commander.” Human Rights Watch documented six cases in which women decided to leave their homes after armed men ordered them or their

¹ Human Rights Watch, *Recycled Violence: Abuses by FARC Dissident Groups in Tumaco on Colombia’s Pacific Coast*, December 13, 2018, <https://www.hrw.org/report/2018/12/13/recycled-violence/abuses-farc-dissident-groups-tumaco-colombias-pacific-coast>

daughters to become their sexual partners. In three of the cases, when the women refused, the armed men threatened to rape them or kill them or their relatives. In the three others, parents fled with their children, fearing that armed men would recruit them or rape them.

In 2017, Human Rights Watch documented that members of the Gaitanist self-defenses of Colombia (*Autodefensas Gaitanistas de Colombia, AGC*) coerced girls as young as 12 to be their sexual partners in the western province of Chocó. In one Afro-Colombian community, two residents said that at least five girls under 18 have become pregnant by AGC members in recent years. A 12-year-old girl gave birth to the child of an AGC member in March 2016, and fled with her newborn daughter for fear of the group, a relative said. A 15-year-old girl became pregnant with the child of an AGC member in 2012.

A Chocó justice official and an official with the ombudsman's office said in separate interviews that child pregnancies by AGC members are common in other nearby communities as well. The official from the ombudsman's office said that, in some cases, such pregnancies resulted from rapes, but that families generally refrain from reporting rapes for fear of reprisals.²

We encourage the Committee make the following recommendations to the Colombian government:

- Work with the municipal and provincial governments to ensure that survivors of sexual violence receive the aid and protection to which they are entitled under Colombian law.
- Monitor failures to implement current laws and policies related to gender-based violence in Colombia, with a particular focus on sexual violence perpetrated by armed actors.
- Increase the number of investigators and prosecutors in Tumaco handling forced displacement, disappearances, sexual violence, child recruitment, and other serious abuses.
- Implement protection programs for victims of gender-based violence, so that victims who report violence receive adequate and durable protection, including in cases of sexual violence by armed actors.

² Colombia: Armed Groups Oppress Riverside Communities: Families Displaced as Groups Dispute Control of River, Human Rights Watch news release, June 7, 2017, <https://www.hrw.org/news/2017/06/07/colombia-armed-groups-oppress-riverside-communities> (accessed January 28, 2019).

Access to Abortion (article 12)

In 2006, Colombia's Constitutional Court decriminalized abortion when the life or health of the pregnant woman is at risk, when the pregnancy resulted from rape or incest, and when the fetus has a serious condition incompatible with life outside the womb.³ Several years after the Constitutional Court's ruling, Human Rights Watch documented barriers for women and girls seeking access to legal abortion after sexual violence. Our research suggested that even with the existing legal framework established by the Constitutional Court decision, women and girls struggle to access safe and legal abortion, in violation of their fundamental human rights.⁴

Similarly, in October 2018, Colombia's Constitutional Court found that "12 years after the ruling... there are all sorts of obstacles and barriers that enable women seeking an abortion." These obstacles, the court noted, "have irreversible consequences or force [women] to have abortions in unsecure ways that put their health at risk."⁵

In its 2013 review of Colombia, the CEDAW Committee expressed concern with "[t]he very limited implementation of Constitutional Court ruling C-355 (2006), which guarantees access to legal abortion under the grounds of life or health risks for the mother, rape and serious malformations of the foetus; the public campaigning against its implementation by high authorities of the State party; and the prevalence of invasive and expensive abortion procedures," as well as "[t]he high number of unsafe abortions and the refusal by health professionals to provide post-abortion services to women."⁶

We encourage the Committee to pose the following question to the Colombian government:

- What is the government doing to ensure compliance with Constitutional Court ruling C-355 (2006) and address barriers women and girls face in accessing timely, safe, legal abortion, particularly those from vulnerable groups such as

³ Constitutional Court of Colombia, Ruling C-355, May 10, 2006, <http://www.corteconstitucional.gov.co/relatoria/2006/c-355-06.htm> (accessed May 23, 2018).

⁴ Human Rights Watch, *Rights Out of Reach: Obstacles to Health, Justice, and Protection for Displaced Victims of Gender-Based Violence in Colombia*, November 2012, <https://www.hrw.org/report/2012/11/14/rights-out-reach/obstacles-health-justice-and-protection-displaced-victims-gender>.

⁵ Constitutional Court of Colombia, press release no. 42 of 2018, regarding ruling SU-096/18, October 17, 2018, <http://www.corteconstitucional.gov.co/comunicados/No.%2042%20comunicado%2017%20de%20octubre%20de%202018.pdf> (accessed January 30, 2019).

⁶ CEDAW Committee, Concluding observations on Colombia, CEDAW/C/COL/CO/7-8 (2013), para. 29.

adolescent girls, or women and girls from poor, indigenous, Afro-descendant, or rural communities?

We encourage the Committee make the following recommendations to the Colombian government:

- Decriminalize abortion in all circumstances, and address barriers for women and girls to access safe and legal abortion in the circumstances permitted under Constitutional Court ruling C-355 (2006), in line with international human rights obligations.

Protection of Education During Armed Conflict (article 10)

Human Rights Watch has documented recruitment of children, attacks on students, teachers, and schools, and the military use of schools in Colombia.

Child Recruitment

In 2018, Human Rights Watch documented that groups that emerged from the FARC have recruited children in Tumaco. As of September 2018, the Attorney General's Office was investigating 21 cases of child recruitment committed in Tumaco since January 2017.

Human Rights Watch documented 10 cases in which families fled their towns or neighborhoods after a group attempted to recruit a child in their family. Victims of attempted recruitment include boys and girls as young as 15.⁷

In 2017, Human Rights Watch documented child recruitment and restrictions in education in indigenous Wounaan and Afro-Colombian communities in the province of Chocó by members of the Gaitanist Self-Defenses of Colombia (AGC) and National Liberation Army (ELN) guerrillas.

Both the ELN and AGC have recruited children—including girls—in communities of the Litoral de San Juan and have attempted to recruit many others. Several justice officials and representatives of aid organizations said that recruitment of children is common but that victims' relatives typically do not report it for fear of reprisals. A leader of the General Community Council of the San Juan River (ACADESAN, *Consejo Comunitario*

⁷ Human Rights Watch, *Recycled Violence: Abuses by FARC Dissident Groups in Tumaco on Colombia's Pacific Coast*, December 13, 2018, <https://www.hrw.org/report/2018/12/13/recycled-violence/abuses-farc-dissident-groups-tumaco-colombias-pacific-coast>

General del Río San Juan) said that since early 2015, 30 children have been forcefully recruited by armed groups in communities ACADESAN represents by the San Juan river.

In February 2017, for example, armed men forcefully recruited a 15-year-old girl from the Wounaan community of Chagpien Tordó on the San Juan river, an aid group working in the area reported. After that, 106 community members fled to Buenaventura. Families who stayed in the village fear that four remaining young girls will be forcefully recruited, the organization reported.

Attacks on Schools and Military Use

In addition to depressing school attendance through the threat of recruitment, armed groups in Colombia disrupt education through firefights and by seizing schools for use by fighters.

In 2017, Human Rights Watch documented that in several communities in the western province of Chocó, classes had been interrupted in 2016 and 2017, sometimes for weeks, because children and teachers feared abuses or getting caught in confrontations, which have at times taken place near schools.

Armed groups in Chocó have at times used local schools as military bases or taken up positions in schools during hostilities. Around August 2016, ELN guerrillas temporarily occupied a Wounaan village school and threatened the teacher, an aid group that works in the area told Human Rights Watch.⁸

In 2018, Human Rights Watch documented a possible attack on education in the municipality of Tumaco. On July 27, 2018, a grenade exploded in a classroom in a primary school in Tumaco at around 2:15 p.m. The classroom is normally used by roughly 30 seven-year-old children at that hour, but it was empty that day because the children and teachers were attending a cultural event. Part of the classroom's roof and the metal door were broken. The school was closed when Human Rights Watch visited a few days later, and some of the children were attending classes at another school's cafeteria, a few blocks away.

⁸ Colombia: Armed Groups Oppress Riverside Communities: Families Displaced as Groups Dispute Control of River, Human Rights Watch news release, June 7, 2017, <https://www.hrw.org/news/2017/06/07/colombia-armed-groups-oppress-riverside-communities> (accessed January 28, 2019).

Human Rights Watch acknowledges Colombia's good practice on protecting schools from military use through various robust military orders and directives from the General Command of the Armed Forces as well as constitutional court decisions.⁹

However, Colombia has not endorsed the Safe Schools Declaration, an inter-governmental international commitment to protect education in armed conflict.¹⁰ Countries that endorse the declaration commit to take several common-sense steps that can make it less likely that students, teachers, and schools will be attacked during times of armed conflict. This would solidify Colombia's commitment to protecting students and education and encourage their replication elsewhere. As of January 2019, 83 countries have endorsed the Safe Schools Declaration, including 13 Latin American countries. The declaration includes a pledge to use the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*.¹¹

We encourage the Committee to pose the following questions to the Colombian government:

- What steps has Colombia taken in line with UN Security Council Resolution 2143 (2014) and 2225 (2015) to deter the use of schools for military purposes?
- What specific steps have been taken in order to protect women and girls and their right to education?

We encourage the Committee make the following recommendations to the Colombian government:

- Endorse the Safe Schools Declaration, thereby endorsing and committing to use the *Guidelines for Protecting Schools and Universities from Military Use in Armed Conflict*.

⁹ See e.g. General Commander of the Military Forces, order of July 6, 2010, official document Number 2010124005981 / CGFM-CGING-25.11; Wilson Pinzón and others v. the Mayor of La Calera, T-1206/01, Constitutional Court of Colombia, November 16, 2001; and Yenys Osuna Montes v. the Mayor of Zambrano Municipality, SU-256/99, Constitutional Court, April 21, 1999; available in Human Rights Watch, *Protecting Schools from Military Use: Law, Policy, and Military Doctrine*, March 20, 2017, <https://www.hrw.org/report/2017/03/20/protecting-schools-military-use/law-policy-and-military-doctrine>.

¹⁰ Safe Schools Declaration, May 28, 2015, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed January 28, 2019).

¹¹ Global Coalition to Protect Education from Attack (GCPEA), *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed January 28, 2019).

Access to health services and adequate nutrition (art. 12)

In 2017, Human Rights Watch reported on the humanitarian crisis of the Wayuu indigenous people in the northeastern province of La Guajira and the inadequate steps the Colombian government had taken to address it.¹² The crisis had claimed the life of children and pregnant mothers due to malnutrition.

In December 2015, the Inter-American Commission of Human Rights (IACHR) requested the Colombian government to take precautionary measures, including immediate ones, to address the “emergency” of Wayuu children in Uribia, Manaure, Riohacha, and Maicao, four municipalities in La Guajira.¹³ Following the IACHR ruling, Colombian high courts ordered the government to address the situation in multiple rulings.¹⁴ In January 2017, the IACHR expanded the measures to cover pregnant women and those breastfeeding their babies.¹⁵

Our research indicated that the crisis was caused by extremely limited access to food and water compounded with high levels of poverty and equally limited access to basic services. According to Human Rights Watch interviews with local prosecutors, corruption and mismanagement has played a significant role in the limited public services offered in the province, including on water.¹⁶ Wayuu people’s struggle with food insecurity is due to high levels of poverty preventing them from purchasing sufficient quantities of food, as well as limited access to water, restricting the Wayuu from growing enough food to augment the shortfall. Limitations in access to water for hygiene also affect peoples’ health, leading to diarrhea and other sickness which

¹² “OECD: Examine Local Hunger Crisis in Colombia”, October 30, 2017, <https://www.hrw.org/news/2017/10/30/oecd-examine-local-hunger-crisis-colombia>

¹³ Inter-American Commission on Human Rights, “PM 51/15 – Children and adolescents of the communities of Uribia, Manaure, Riohacha and Maicao of the Wayúu people, in the department of the Guajira, Colombia,” <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC51-15-Es.pdf> (accessed January 30, 2019).

¹⁴ See, e.g., Supreme Court of Colombia, Criminal Chamber, Judge Eugenio Fernandez Carlier, Case no. STP12990-2016, September 14, 2016, <http://www.cortesuprema.gov.co/corte/wp-content/uploads/relatorias/tutelas/B%20NOV2016/STP12990-2016.doc> (accessed January 30, 2019); Constitutional Court of Colombia, ruling T466/16, August 30, 2016, <http://www.corteconstitucional.gov.co/relatoria/2016/t-466-16.htm> (accessed January 30, 2019).

¹⁵ Inter-American Commission on Human Rights, “PM 51/15 – Pregnant and Nursing Women of the Wayúu Indigenous Community, Colombia,” January 26, 2017, <http://www.oas.org/es/cidh/decisiones/pdf/2017/3-17MC51-15-CO.pdf> (accessed January 30, 2019)

¹⁶ Human Rights Watch interview with prosecutors in La Guajira, June 2017. Colombia’s National Institute of Family Wellbeing, “Segunda fase del proceso de identificación, caracterización nutricional y sociofamiliar de los niños, niñas, adolescentes y sus familias, en los municipios de Uribia, Manaure y Maicao del departamento de La Guajira: informe final” (Second phase of process of identification and characterization of nutritional needs of children, adolescents and their families, in the municipalities of Uribia, Manaure, and Maicao y the province of La Guajira: Final report”), December 2015 (on file with Human Rights Watch).

could further foster malnutrition. Wayuu leaders also attribute partial blame for the crisis to the control exercised by armed groups over more profitable sectors of the local economy, as well as restrictions in food that can be obtained from Venezuela due to the humanitarian crisis in that country, both driving up the cost of food.

On February 21, 2017, the government of Colombia announced a plan to intervene to help provide water and health services in La Guajira. But malnutrition deaths continued to be high in 2018. According to official statistics, 58 children under age 5 died of malnutrition in La Guajira in 2018.¹⁷

We encourage the Committee make the following recommendation to the Colombian government:

- Urgently put in place measures to ensure that Wayuu people in La Guajira are able to secure sufficient quantities of water and food and have appropriate access to health services.

¹⁷ Colombian National Institute of Health, Epidemiological bulletin, week 52 of 2018, <https://www.ins.gov.co/buscador-eventos/BoletinEpidemiologico/2018%20Bolet%C3%ADn%20epidemiol%C3%B3gico%20semana%2052.pdf> (accessed January 29, 2019).