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The Colombian Commission for the Clarification of Truth, Coexistence and Non-Repetition and **Conflict-Related Sexual Violence**

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Preface

Colombia is now home to one of the most complex and ambitious transitional justice projects in the world. The Comprehensive System of Truth, Justice, Reparations and Non-Repetition (SIVJRNR, *Sistema Integral de Verdad, Justicia, Reparación y No Repetición*) arose from the Final Peace Agreement signed by the Government of Colombia and the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* (FARC-EP, Revolutionary Armed Forces of Colombia – People’s Army) in November 2016. This four-pronged system of truth, justice, reparations, and guarantees of non-repetition addresses the harms suffered by the victims of the most protracted internal armed conflicts in Latin America. While it is undeniable that important strides are being made to respond to victims’ rights to truth and reparations, it is also noteworthy that the SIVJRNR is being implemented amid ongoing conflict with several other armed groups. Colombia, unlike other polities included in *The Truth Commissions and Sexual Violence: African and Latin American Experiences* project,¹ has continued to function as a liberal democracy throughout more than 60 years of internal armed conflict. Despite periods of great fragility, a broad commitment to the rule-of-law endured in this period. Nevertheless, in the aftermath of serious restrictions on human rights imposed by the Executive through reiterated states of siege, unspeakable aggressions primarily targeted at civilians by a variety of armed actors, including state security forces, and attacks on state institutions and officials, there are now more than nine million victims registered for reparations in the country.

This report focuses on the Commission for the Clarification of Truth, Coexistence and Non-repetition (henceforth, the Commission), the extra-judicial element of truth of the SIVJRNR. It shows how the Commission addressed conflict-related sexual violence in response to the development of national and international standards and reflects on the Commission’s possible contribution to such norms elsewhere. Based on document analysis and secondary sources, including interviews, interventions in events, and public speeches by key players in this process, this report argues that the work of the Commission represents elements of both continuity and discontinuity. On the one hand, the Commission aimed to move past a framing that hyper-focused on sexual violence as a harm that uniquely affects women during conflict by redefining it as gender-neutral harm and breaking it down into 15 types of human rights violations. Furthermore, the Commission also considered more innovative notions of gender-based violence and reproductive violence in its work, defining both in a gender-neutral way. On the other hand, following the path laid out by other transitional and ordinary justice institutions in the country, the definition of gender used by the Commission only considers women, girls, and LGBTQI+ people. Moreover, although we can see some effort to map it out intersectionally, the analyses of the Commission’s approach to sexual violence privileges these groups.

¹ For more information on the project, see: www.cmi.no/projects/2633-truth-commissions-and-sexual-violence. See also the recently published report on CRSV in the Guatemalan case here: www.cmi.no/publications/9289-conflict-related-sexual-violence-crsv-and-transitional-justice-in-guatemala

The Colombian truth commission concluded its work in 2022, releasing its findings and recommendations in a Final Report comprising 23 volumes – to date one of the most voluminous truth commission reports in the world. Although all 23 volumes refer to CRSV in some measure, the 16 recommendations that contain explicit references to sexual violence appear in only three of these volumes: in the general *Hallazgos y recomendaciones* volume, *Resistir no es aguantar*, and *Mi cuerpo es la verdad*. Seizing on similar framing by experts, victims and their organisations, most of the recommendations of the Commission go beyond present victims, who are acknowledged as due accelerated reparations in different forms, to also emphasise guarantees of non-repetition. These recommendations with preventative functions clearly draw out the connections between gender-based violence as a form of structural violence amongst many and frame sexual violence as one of its representations. Despite limited results so far, President Petro stated that his administration was committed to the wholesale and strict implementation of the recommendations of the Commission, as well as the Final Agreement it arose from. A recent report on the implementation of the Final Agreement submitted to the United Nations highlights that, working together with the follow-up committee, the Petro administration identified 104 Commission recommendations it prioritised for implementation. In this regard, it is noteworthy that many these recommendations have either a gender or ethnic approach and are targeted at overcoming structural inequality.

Another reason to be hopeful is that the Commission was part of a larger transitional justice project, where several other institutions continue its legacy and work. Key amongst these is the war crimes tribunal that the Commission recommended open a case on sexual violence and the follow-up committee that, amongst other tasks, monitors the implementation of the Commission's recommendations. The latter was established in August 2022, and it is now working on its third report. The former took little over a year to heed the call of the Commission, opening what is now known as "Macro-case 11" in September 2023.

About the author

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List of acronyms

	SPANISH, ORIGINAL	ENGLISH
The Commission	Comisión para el Esclarecimiento de la Verdad, Convivencia y la No-repetición	Commission for the Clarification of Truth, Coexistence and Non-repetition
CRSV		Conflict-related sexual violence
CSM	Comité de Seguimiento y Monitoreo a la Implementación de las Recomendaciones de la Comisión	Committee for the Follow-up and Monitoring of the Implementation of the Recommendations of the Commission
ELN	Ejército de Liberación Nacional	National Liberation Army
FARC-EP	Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo	Revolutionary Armed Forces of Colombia – People’s Army
FN	Frente Nacional	National Front
GoC		Government of Colombia
JEP	Jurisdicción Especial para la Paz	Special Jurisdiction for Peace
LGBTIQ+		Lesbian, gay, bisexual, transgender, queer or questioning, intersex, asexual, and more
RUV	Registro Único de Víctimas	Single Registry for Victims
SIVJNRN	Sistema Integral de Verdad, Justicia, Reparación y No Repetición	Comprehensive System of Truth, Justice, Reparations and Non-Repetition
TC		Truth Commission
UN		United Nations
UNSC		United Nations Security Council
USAID		United States Agency for International Development

1. Introduction

Rape was first recognised as a crime against humanity by the International Criminal Tribunal for the Former Yugoslavia in the early 1990s. In the second half of that decade, rape was prosecuted at the International Criminal Tribunal for Rwanda as an act of genocide (Oosterveld 2019). Following these two developments, and under pressure from women’s and human rights organisations, an important shift in the understanding of conflict-related sexual violence (henceforth, CRSV) and gender-based crimes began. The Women, Peace and Security Agenda is a UN framework comprising several UN resolutions acknowledging the differential relationship of women and girls to armed conflict. Starting with UN Security Council Resolution 1325/2000, both the impacts of political violence on women and girls and their capacity as peacebuilders were gradually recognised at the international level. The insight that such violence is never committed in isolation but responds to deeper patterns of gender-based inequalities and structural violence was key (see UNDP 2019). In this vein, as the understanding of gender became more complex, a critical lens has been applied to the Women, Peace and Security Agenda in the last decade to support the inclusion of other identity groups in its purview (see Jayakumar 2022).

Simultaneously, truth commissions (henceforth, TCs) became a pivotal element in the transitions and (re)democratisation of countries recovering from large scale political violence in Latin America, Africa, and, to a lesser extent, Eastern Europe (Teitel 2000). Part of a standard transitional justice “menu” since the 1980s, TCs are ad hoc quasi-judicial bodies of inquiry that document human rights violations, establish (a narrative of) the causes of the violence, and make recommendations to governments to prevent similar abuses (Hayner 2011). *The Truth Commissions and Sexual Violence: African and Latin American Experiences* project, of which this report is a part, maps how truth commissions in Latin America and Africa have addressed CRSV and highlights how they contributed to the development of reparative and preventive measures in relation to these harms. By looking at six phases of the TC process, namely their context and establishment; mandate; operations; report and findings; recommendations; and implementation, the project offers systematic evidence of the connection between the development of international norms on CRSV and its increasing recognition by TCs.

This report focuses on the Colombian Commission for the Clarification of Truth, Coexistence and Non-repetition (henceforth, the Commission), a recent TC which arose from the 2016 Final Peace Agreement (henceforth, Final Agreement) between the Government of Colombia and the *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo*² (FARC-EP, Revolutionary Armed Forces of Colombia – People’s Army). The main objective of this report is to show how the Commission addressed CRSV in response to the development of national and international standards on this subject. I also reflect on the potential contributions of the Commission to other cases of transition or (re)democratisation or the

² Most of the text dealing with the Commission in its Point 5, titled *Agreement on Victims of the Conflict: The Comprehensive System of Truth, Justice, Reparation and Non-Repetition*, is repeated in Legislative Act 01/2017 that creates the Commission and Decree 588/2017, which regulates its activities. The minor differences between these documents relating to themes, objectives, and expectations regarding the work of the Commission do not affect the production of the report or the recommendations.

international agenda. The thick description of this case includes analyses of local political dynamics, the role of women and feminist organisations, stakeholder mobilisation, how cultural and legal norms shaped the transitional justice agenda, and public awareness of this process. I also ask what mechanisms were in place to address CRSV locally before the Commission, to what extent these aligned with the international CRSV agenda, what documentation strategies were used by the Commission when considering CRSV, and how its participation practices impacted on the creation of the recommendations. Finally, I provide insights into how the recommendations were received by the state, local civil society, and international community and what their chances of implementation are. The analyses presented here are based on document analysis and secondary sources, including interviews, interventions in events, and public speeches by key players in this process.

The Commission formally began operations on 28 November 2018 and launched its main volume, *Hallazgos y recomendaciones* or Findings and Recommendations, in an event on 28 June 2022.³ This period was preceded by a six-month planning phase and, thanks to the intervention of the Constitutional Court, was followed by two months reserved for dissemination and outreach activities in relation to outputs. The main objectives of the Commission, as stated in article 2 of Decree 588/2017, were:

- (1) to contribute to the clarification of truth about the internal armed conflict and offer an explanation of its complexity that facilitates a broad understanding of what occurred;
- (2) promote and contribute to the acknowledgement of the dignity of victims, the impacts and violations of their rights; the voluntary recognition of responsibilities (individual and collective), and the acknowledgement by [the Colombian] society of what happened;
- (3) contribute to coexistence in the territories, understood as creating a transformative environment that allows for the peaceful resolution of conflicts and the construction of a culture of respect and tolerance; and
- (4) identify and promote the necessary conditions for non-repetition.

Unlike many other truth commissions across Latin America and Africa, the Colombian truth commission was not a one-off event, nor was it a stand-alone truth-seeking or satisfaction mechanism. Rather, the Commission was part of a four-pronged tiered system of truth, justice, reparations, and guarantees of non-repetition. Besides the Commission, the Comprehensive System of Truth, Justice, Reparations and Non-Repetition (SIVJRNR, *Sistema Integral de Verdad, Justicia, Reparación y No repetición*) is also made up of a special judicial organ dedicated to war crimes and crimes against humanity known as *Jurisdicción Especial para la Paz* (JEP, Special Jurisdiction for Peace; henceforth, the Special Jurisdiction). This is an extensive reparations programme that incorporates CRSV amongst the dozens of harms it covers and includes a special search unit for people presumed missing or disappeared (for more details, see Bakiner 2019). Of these four mechanisms and their respective institutional embodiments, the Commission was the first to finish its mandate. Before the Final Agreement and the establishment of the Commission, state-sanctioned documentation of harms, including CRSV, was carried out by the Historical Memory Group

³ For the full report of the Commission, see www.comisiondelaverdad.co/

established through Law 975/2005 (Riaño Alcalá & Uribe 2016; Riaño-Alcalá & Baines 2011; García-Godos & Lid 2010).⁴ Law 1448/2011 expanded the mandate of the Historical Memory Group, now known as the National Centre for Historical Memory, and established the *Registro Único de Víctimas* (RUV, Single Registry for Victims). The Single Registry became the main tool to identify CRSV victims due reparations among more than a dozen human rights violations (Sánchez & Rudling 2019).

I argue that, in documenting, litigating, and advocating for the prevention of CRSV in Colombia, there has been a double tendency to spectacularise and exceptionalise sexual violence with respect to women and girls “during conflict” since the early 2000s. The framing and of hyper-attention on women as *the victims* of sexual violence has caused harms both to women and girls who did not suffer this particular type of violence (Weber 2018: 101) and led to other groups, notably men and boys and LGBTQI+ people, being marginalised in analyses of CRSV. The Commission aimed to move past this framing by redefining CRSV as gender-neutral harm and breaking it down into as many as 15 types of human rights violations. Furthermore, the Commission also included gender-based violence and reproductive violence in its glossary of terms and analyses and defined both in a gender-neutral way (CEV 2022c: 368; Sanchez Parra 2023).

Despite these important advances, the way gender itself has been understood over the last decades in Colombia cast a long shadow. This is why, ultimately, the Commission defined this term “as a tool of analysis that acknowledged the differentiated impacts of the armed conflict in the lives of *women, girls, and LGBTQI+ people* as a result of the violence perpetrated upon them by the armed actors on account of their gender, sexual orientation, gender identity and expression, and especially due to sexual violence” (CEV 2022a: 59; emphasis added). This definition of gender resembles the approach to gender the Constitutional Court, the Historical Memory Group, and the National Centre for Historical Memory had put forward in their work on CRSV in decades prior. Furthermore, the Commission also privileged the analysis of the use of CRSV by the armed actors against the “bodies of women and LGBTQI+ people.” Thus, I conclude that the work of the Commission on CRSV reveals both continuities and discontinuities with respect to Colombia and internationally in several ways.

First, in line with the National Centre for Historical Memory research on the armed conflict and the provisions of the Final Agreement, gender work and CRSV were both explicitly prioritised from the early stages of the work of the Commission. Not only did the Commission have a dedicated team for the gender approach, but it is also noteworthy that it later developed innovative strategies to document CRSV intersectionally and provided recommendations on this harm through broad consultations and reports which included submissions by CRSV victims and their organisations. The Final Report of the

⁴ In this sense, the most important intervention by the Constitutional Court in creating what is today understood as a victim-centered transitional justice project was Ruling C-370/2006. For details on this, see (Sánchez & Rudling 2019).

Commission is comprised of a total of 23 volumes.⁵ Some of these focus on specific identity groups, such as women, ethnic groups, or children, while others are cross-sectional insofar as they are either regional in focus, thus analysing a score of issues in relation to that specific geographical area or refer generally to a variety of impacts of the armed conflict. The total of 220 recommendations given by the Commission are distributed across five volumes, which will be analysed in more depth later in this report. The 16 recommendations that contain explicit references to CRSV appear in three volumes. Besides the general *Findings and Recommendations* volume, which refers to five recommendations, *Resistir no es aguantar* refers to one and *Mi cuerpo es la verdad* to ten. Even though the Commission did not focus specifically on furthering the understanding of intersectionality in relation to CRSV, the body of *Mi cuerpo es la verdad* contains a high number of references to this harm as do the recommendations that wrap up its two sections dedicated to women and LGBTQI+ people. This high number of references in a volume that bundles up the bodies of women and LGBTQI+ people with CRSV during conflict represents an element of continuity in the work of the Commission.

Second, the framing of CRSV as enmeshed in a system of violence is an element of discontinuity, nevertheless, it recovers some of the work done in Colombia by other institutions, particularly the Constitutional Court (Lemaitre & Sandvik 2014). The Commission links CRSV to reproductive violence more firmly, thereby accepting a description of CRSV as harms against individual autonomy and freedom. The analyses of the Commission, especially in the section dedicated to LGBTQI+ people in *Mi cuerpo es la verdad*, clearly outline how prejudice, in many forms, underlies hate crimes, discrimination, and other forms of marginalisation. As such, most of the recommendations of the Commission also appeal to the dismantling of the oppressive systems that subject specific individuals to greater vulnerability to CRSV. This can also be seen in the framing of CRSV by experts, victims, and victim organisations in their interactions with the Commission through, for example, events and submitted reports. Thus, most CRSV-related references in the recommendations go beyond present victims who are owed reparations to focus on how the justice system and the security sectors, among others, deal with this harm. Such recommendations have primarily preventative functions, recognising the advocacy of experts, victims, and victims' organisations who linked the gender approach to other systems of oppression such as classism, racism, and ableism. The result is that the recommendations clearly draw out the connections between gender-based violence as a form of structural violence amongst many and frame CRSV as one of its representations.

Third, returning to one of the points above, it is worth remembering that besides being part of a larger transitional justice project, some of which continue its legacy, the Commission established or developed several systems to carry the torch for its findings and recommendations after the end of its mandate. The *Comité de seguimiento y monitoreo a la implementación de las recomendaciones de la Comisión* (CSM, the Committee for the Follow-up and Monitoring of the Implementation of the Recommendations of the

⁵ Some count the 14 volumes that make up the territorial approach of the Commission as a single volume. That would reduce the total number of the volumes of the Final Report to 11.

Commission; henceforth, the Follow-Up Committee) was established in August 2022 to carry out, amongst other things, monitoring, evaluation and advocacy functions in relation to the recommendations. The work of the Commission also lives on in the continuing mechanisms of the Comprehensive System of Truth, Justice, Reparations and Non-Repitition and an extensive group of individuals, institutions, and civil society organisations that make up the *Red de Aliados* or the Allied Network of the Commission. While the Special Jurisdiction seems to have adopted the understanding of the Commission on CRSV and its relation to prejudice for its new macro-case, the *Red de Aliados* continues to organise dissemination and outreach events to popularise the findings and recommendations of the Commission. Finally, taking advantage of the synergies between international and local developments in CRSV frameworks, the staff of the Commission, victims, and victims' organisations, strengthened during the period of operations of the Commission, continue to work to expand opportunities for documentation and research on CRSV elsewhere.

The work of the Commission and its report were hailed as historic by some international actors, including the US ambassador to Colombia (see Pozzebon 2022). In several speeches, President Petro stated that his administration was committed to the wholesale and strict implementation of the recommendations of the Commission as well as the Final Agreement it arose from. Despite their best efforts to follow up on this promise, the first two years of this administration have shown limited results. First, the administration's designs for the sweeping inclusion of the recommendations in their National Development Plan was stopped in its tracks by Congress in 2023. Second, the Final Agreement, the provisions of which were further developed by some recommendations and outright replicated by others, is proving much more difficult to implement than the Petro administration expected in its first months. By July 2024, the Petro administration submitted a report to the UN Security Council asking for a seven-year extension of the deadline of implementation of the Final Agreement (see UN News 2024). The report mentions that, working together with the Follow-Up Committee, the government identified 104 recommendations it prioritised for implementation. Of these, 71% are said to have a gender or ethnic approach and entail "concrete actions in favour of these population groups [aimed at] overcoming structural inequality in terms of access to rights, land, justice and public policy" (GoC 2024: 48).

The remainder of this report is laid out as follows: the next two sections briefly map the background of the conflict and the scope and nature of CRSV. Section 4 outlines gender norms and dynamics in Colombia, while section 5 zooms in on how gender and CRSV were dealt with in previous transitional justice processes and by other actors documenting these harms. Section 6 emphasises how gender was dealt with the peace talks that preceded the signing of the Peace Agreement before section 7 examines how CRSV was understood, operationalised, documented, and represented in the findings and recommendations of the Commission. Section 8 discusses how the Commission report was received; and section 9 deals with advances in the implementation of the CRSV-focused recommendations. Section 10 charts the actors and stakeholders to the Commission process and its legacy. I conclude with a section that summarises the discussion put forward here and offer some final insights on future directions on this topic

by reflecting on how the legal and political opportunity structures on CRSV and gender-based violence might change following this truth commission process.

2. Background to the Period of Political Violence

Neither the Final Agreement nor Decree 588/2017 specify the exact period of political violence the Commission should investigate, making it difficult to determine the precise background and context of political violence to include here. The temporal scope of the Commission's investigations was expected to be "the period of the [armed] conflict" (GoC & FARC-EP 2016: 135). The Final Agreement text, replicated by Decree 588/2017, grants the Commission the capacity to "explore historic events prior to this" to "clarify the origins and multiple causes of the [armed] conflict" (GoC & FARC-EP 2016: 135). Thus, it was only upon the formal launch of its activities in November 2018, that the Commission announced that it would use 1958 as the start year for its analysis.

This year was chosen because 1958 marks the beginning of the consociational pact known as the *Frente Nacional* (FN, the National Front). FN was an agreement between the two traditional parties, the Conservative Party and Liberal Party, which excluded the political Left from power. This, the Commission maintained, was the most credible argument for the origin of the armed Left, especially the FARC-EP, the non-state armed group that co-signed the Final Agreement. Although some important members of the FARC-EP had a longer history of armed struggle that could be traced to the 1940s, and some members of the Historical Commission on the Armed Conflict⁶ advocated for an earlier start date for the analysis, the Commission argued that 1958 was a better start point for logical and operational reasons. First, given its own operational constraints, the Commission argued that it would be hard pressed to collect data, including new testimony, from those who had personal experiences of the period of violence prior to the 1950s. Second, the Commission argued that previous research and documentation efforts, some of which I will discuss below, had already filled this gap. Key for this report, *la Comisión Nacional Investigadora de las Causas y Situaciones Presentes de la Violencia en el Territorio Nacional* had already mapped out several atrocities and documented conflict-related harms prior to 1958, including instances of CRSV (Gutiérrez Torres 2020; see also Kalach Torres 2016). As will be discussed below, the judicial organ of the Final Agreement, the Special Jurisdiction, accepted the Colombian Communist Party as a collective victim of the armed conflict. Like the Commission, the Special Jurisdiction also uses 1958 as the start date for its work, arguing that exclusion of Colombian Communist Party from legal political life that year gave way to the establishment of the first wave guerrillas, key amongst them FARC-EP, and the armed persecution of the political Left.

La Violencia left nearly a quarter of a million people dead and millions displaced between 1948 and 1957 (CNMH 2013: 115). This earlier violent period, which the consociational pact sought to quell, resulted

⁶ This body was created during the peace negotiations between the Government of Colombia and the FARC-EP precisely because there was not agreement on the start date of the internal armed conflict.

from an episode of election violence in 1948 that turned into a protracted civil war. The violence was triggered days before the election by the assassination of Jorge Eliecer Gaitán, a progressive politician considered controversial by both traditional political parties. Once this inter-elite political violence spilled into the country from the capital, it took on the character of a civil war in rural areas (CNMH 2013: 111). The non-state armed groups that formed as a result were associated with different interest groups and political parties and acted to protect their affiliates. Some of their members transitioned to the current armed conflict as leaders of Leftist insurgent groups and, to a lesser extent, Right-wing self-defence groups or paramilitary groups (CNMH 2013: 117).

During this period, some human rights abuses that would become notorious during the current armed conflict, such as enforced disappearances and internal displacement, began to appear on the map of violence first time. CRSV is also known to have taken place in that period, but the extent and scale of it still remains somewhat of an unknown (see Uribe Alarcón 2015). Nevertheless, other types of human rights violations are uniquely linked to the current armed conflict. For instance, the kidnapping of economic and political elites for ransom is a practice that is very much aligned with the goals of insurgent groups from the post-1958 period. Particularly the FARC-EP and the *Ejército de Liberación Nacional* (ELN, National Liberation Army) are known to have considered this a legitimate form of taxation for the most powerful in the country (CNMH 2013: 135). Other practices, such as the use of bombs in urban areas and the placing of landmines and other types of explosive artefacts in rural areas, only became popular in the early 1980s. Linked to the rise of illicit crops and narco-trafficking, landmines became a key tool of territorial control for different non-state armed groups and bombs became a means of terrorising the urban population and seeking control of the state.

Unlike other Latin American countries, the Colombian state sanctioned and legally acknowledged the existence of self-defence groups that committed (some of) the most well-known atrocities. Even though the so-called first-wave guerrillas established in the early 1960s⁷ did not pose a serious threat to stability, the state allowed civilians to arm and establish groups that received training and sometimes military equipment and support from the Armed Forces. The co-operation between the Armed Forces and civilians was based on Decree 3398/1965, also known as the *Estatuto Organico de Defensa Nacional* (National Defence Statute), and Decree 1923/1978 or the *Estatuto de Seguridad* (Security Statute). With the Security Statute, these groups shifted from primarily defensive actors to players perpetually dedicated to “search-and-destroy” tactics (CNMH 2013: 200). Starting in the late 1970s, these groups sought to exterminate practically all those who exercised some type of (perceived) political opposition, going well beyond the incipient guerrillas of the first wave. If the Colombian state supported the conversion of self-defence

⁷ The FARC-EP, ELN, and the Ejército Popular de Liberación (EPL, Popular Liberation Army) were all established in 1964 and make up this first wave. The FARC, which had originated as a defence strategy against the radical sectors of the Conservative Party during La Violencia, only self-declared as Marxist-Leninist and associated with the Colombian Communist Party in 1966. The ELN and the EPL are organisations with international support, ideologically linked to international communism. While the EPL, most of which demobilised in the early 1990s, was more of a self-styled Maoist guerrilla, the ELN mixed liberation theology with ideas drawn from the Cuban Revolution (CNMH 2013: 123; see also Sánchez & Rudling 2019).

groups against the guerrillas into paramilitary groups in this way, the contact these groups had with the illegal substances industry and mining transformed many of them into openly anti-systemic actors. Since the 1980s, but especially in the decade after that, these groups controlled entire regions of the country, sometimes with support from the Armed Forces (CNMH 2013: 158ff). The Colombian state tried to control or delink itself from the paramilitaries several times. For instance, in the 1980s temporary bans on establishing or funding such groups were imposed and extensive disarmament, demobilisation and reintegration legislation was adopted starting in the early 2000s. Yet, these groups have proven extremely resilient and continue to contribute to the armed conflict dynamics today, as acknowledged by Constitutional Court Writ 119/2013 and indeed the Commission (see CEV 2022: 322ff).

Several second wave, primarily urban, guerrilla groups were also established in the 1970s. Key amongst them was the *Movimiento 19 de Abril* (M-19, April 19 Movement), the armed actor responsible for the increase in kidnappings in the 1970s and the November 1985 attack on the Palace of Justice; one of the most traumatic incidents during the armed conflict (CNMH 2013: 65). While the 1980s was a period of expansion for these groups, together with the *Movimiento Armado Quintín Lame* (MAQL, Quintin Lame Armed Movement), the *Partido Revolucionario de los Trabajadores* (PRT, Revolutionary Workers' Party) and the first wave guerrilla EPL, the M-19 reached an agreement to demobilise during the Gaviria administration (Rabasa and Chalk 2001: 77). The drafting of the current 1991 Constitution benefitted from the presence of the M-19, by then a legal political party known as *Alianza Democrática M-19* (Democratic Alliance M-19, AD M-19), voted into the Constituent Assembly as the third political force. The most significant outcome of their participation was the deepening of political inclusion and fundamental rights. These included wide-ranging participation guarantees and special rights and protections for ethnic minorities and women (Cepeda-Espinosa 2004: 549–476).

The piecemeal way in which peace efforts have borne fruit in the country also means that truth-seeking has been fragmented, and debate persists about both the harms that should be considered conflict-related and their scale (USAID/Colombia 2021). For instance, before the Historical Memory Group was established, *Comisión de Estudios sobre la Violencia*, *Comisión de Superación de la Violencia*,⁸ and *Comisión de Investigación de los Sucesos Violentos de Trujillo* fulfilled similar functions to those of a truth commission, but CRSV is not mentioned at length in any of their reports (see Kalach Torres 2016). The most reliable, although also not flawless, sources of information on global victimisation figures are the *Observatorio de Memoria y Conflicto* (OMC, Conflict and Memory Observatory), established by the National Centre for Historical Memory in 2018, and the *Registro Único de Víctimas* (RUV, Single Registry for Victims), created and managed by the Victims' Unit since 2011.⁹ There are also registers dedicated to specific violations, such as landmine accidents, forced displacement, or forced disappearances, that originate in either state

⁸ For full report, see: www.coljuristas.org/documentos/libros_e_informes/pacificar_la_paz.pdf

⁹ The case of the Single Registry is clear: this is a register created for the purposes of administrative reparations with a start date of 1 January 1985. While it pools victims from closed legal cases and existing reports to law enforcement, it also relies on reports from (in)direct interested in receiving these reparations.

agencies or civil society efforts dedicated to advocating for these specific victim categories. A complete record of the victimisation in the armed conflict is almost impossible to fathom. Suffice it to say that nearly 20% of the Colombian population is now registered to receive administrative reparations for violations as varied as landmine accidents, kidnapping, threats, forced displacement, CRSV, forced disappearance, and homicide (Sánchez & Rudling 2019).

3. Conflict-Related Sexual Violence (CRSV)

Many aspects relating to CRSV were already mapped out by the Historical Memory Group, the National Centre, and civil society actors before the creation of the Commission. The Historical Memory Group was tasked with reconstructing historical memory on the armed conflict, particularly around the paramilitary phenomenon as legal cases against their leaders were ongoing under Law 975/2005. Combining evidence from these trials, witness and victim testimonies, and other document evidence (García-Godos & Lid 2010; Riaño Alcalá & Uribe 2016; Riaño-Alcalá & Baines 2011), the Historical Memory Group began to publish reports starting in 2008. Two years later, *La masacre de Bahía Portete. Mujeres Wayuu en la mira* was published as its first gender-focused report. Speaking about the situation of the *wayuu* women, an Indigenous ethnic group based in the northern region of La Guajira, this report contains a section on the use of CRSV against women who displayed leadership on behalf of their community (GMH-CNMH 2010: 82-90). Discussions of CRSV were also included in the reports published on the massacres of El Salado and Trujillo (see GMH-CNMH 2008; GMH-CNMH 2009). A total of six gender-focused reports have been released by the Historical Memory Group-National Centre for Historical Memory, including one specifically dedicated to LGBTQI+ people and groups. *Basta Ya! Colombia: memorias de guerra y dignidad* is the 2013 National Centre for Historical Memory global report where the state of knowledge about the armed conflict, including CRSV, is documented.

These reports by the National Centre for Historical Memory establish a picture where women and LGBTQI+ people were targeted with CRSV on account of their gender, gender expression, gender identification and sexual orientation, and are the preeminent victims of this harm (CNMH 2018). For instance, *Basta Ya!* makes a reference to the Rome Statute and the International Criminal Court, that Colombia became a state party to in 2002, and offers a list that it acknowledges as “not [the] definitive [record of CRSV harms], but rather the bare minimum of the practices that make up sexual violence in this current historic moment” in footnote 104. These practices are: rape, sexual harassment, sexual humiliation, forced marriage or cohabitation, forced marriage of minors forced prostitution and the trafficking of women sexual slavery, forced nudity, forced abortion, forced pregnancy, forced sterilisation, the denial of the right to use contraception or the adoption of protection measures against sexually transmitted diseases, the forced use of contraception, the threat of sexual violence, sexual blackmail, violent acts that affect the sexual integrity of women such as female genital mutilation, and inspections to confirm virginity.

It is noteworthy that sexual violence against cisgender and heterosexual men or boys is not documented in *Basta Ya!* and none of the recommendations are on CRSV victims. Nevertheless, some of the instances of sexual harms documented in this volume are against gay men and a general reference to “gender-based and sexual diversity discrimination and intolerance” is included in its recommendations section. Paramilitary groups deployed CRSV as a strategy for social and territorial control with five different objectives: to attack women who were leaders (see also, CNMH 2010); to destroy affective bonds amongst their enemies; to ‘punish’ conduct they regarded as transgressive or shameful conduct; linked to cultural practices; to secure cohesion among members of the group and strengthen their violent identity (CNMH 2013: 80). Beyond destabilising the victims, the use of CRSV destabilises their communities (see Tabak 2011) because patriarchy “magnifies the challenges of dealing with CRSV in families, in communities and in the justice system” (Kreft 2020: 470).

CRSV has received a great deal of attention in reports and analyses put forward by Colombian women’s or feminist organisations (see Céspedes-Baéz & Jaramillo Ruiz 2018; Suárez-Baquero et al. 2022) and international organisations (see Amnesty International 2004). *Sisma Mujer, Humanas, Ruta Pacífica de las Mujeres* (see Rudling 2022) and Women’s Link International have all pointed that out that women experience a continuum of violence. Rather than being the product of the conflict, CRSV is understood by these organisations as intensifying during the conflict, without fundamentally changing its nature as its root is the structural gendered inequality pervasive in Colombian society (Kreft 2020). For its part, sometimes acting on advice by these organisations, the Special Chamber on Displacement of the Constitutional Court¹⁰ found in Writ 092/08 that CRSV was “a habitual, extensive, systematic and invisible practice” in the conflict. Used by all armed actors, including, to a lesser extent, by the state security forces, the Court pointed out that CRSV was “not the product of a casual and isolated disorder by low level combatants within the armed organisations; but ... the product of deliberate incentives and sanctions from the organisations’ senior leadership or echelons, directed at all of their combatants.” Appealing to the same concept of continuum of violence promoted by these organisations, Writ 092/08 identifies the patriarchal structure of Colombian society as one of the risk factors for women regarding CRSV.

Far less is known overall about CRSV that targeted men or boys and the use of CRSV by guerrilla groups and state forces (see Sisma Mujer 2009). Existing figures or estimates are assumed to greatly underestimate the magnitude of the phenomenon. Stigma (Kreft 2020), security concerns, and even trust in the state and institutions rank high amongst the preoccupations of those who (do not) report and existing institutional and civil society analyses widely acknowledge these issues (Riaño Alcalá & Uribe 2016; Riaño-Alcalá & Baines 2011; see also, Kreft & Agerberg 2023; *Case of Bedoya Lima et al. v. Colombia*). As the Special Jurisdiction continues its investigations over the next two decades, some of these blind spots are likely to be filled in gradually. For instance, *Case 03: Assassinations and Forced Disappearances Presented as Combat*

¹⁰ This rather unusual legal mechanism emerges from Writ T-025/2004 where the Constitutional Court not only declared the situation of displaced people to be unconstitutional but also created this specialised Chamber to follow up on its orders to the state in this regard.

*Casualties by State Agents*¹¹ accepted the argument put forward by LGBTQI+ organisations *Colombia Diversa* and *Caribe Afirmativo* that a gay man in Casanare was targeted because of his sexual orientation and this should be considered a hate crime (JEP 2022; see also Verdad Abierta 2021). Further, the Special Jurisdiction also announced the opening of *Case 11: Gender-based violence, sexual violence, reproductive violence, and other crimes committed due to prejudice based on sexual orientation, expression and/ or diverse gender-based identity within the armed conflict* in September 2023 (JEP 2023).

Since guerrilla groups and state security forces are dependent on either secrecy or the approval of the communities where they operate, the Special Jurisdiction is likely to find that their use of CRSV against civilians was more targeted and opportunistic. Groups such as the FARC were widely known to have controlled the sexuality of the women amongst its ranks through forced contraception or the assignment of a partner (Herrera & Porch 2008). Despite much social and legal resistance, the Constitutional Court recognised in 2019 in the case of *Helena* that combatants can, in some cases, be victims of CRSV by their own groups when their sexual and reproductive rights are abused (see Cocomá Ricaurte & Laguna Trujillo 2020). Previously, both Law 975/2005, which Law 1448/2011¹² had excluded members of the non-state armed groups from victims' registers and reparations. Further, guerrilla groups are also known to have acted as community justice agents in cases of sexual violence, enforcing a form of rebel justice that penalised their own members or civilians who were found guilty (see Aguilera Peña 2000; Espinosa Menéndez 2016).

When Law 1448/2011 was passed, extending the victim notion beyond those who were either collectively or individually affected by the perpetrators demobilising under Law 975/2005, the state of knowledge on CRSV was expanded in several important ways. First, this legislation enshrined a special gender protection for individual or collective victims that is inclusive of sexual orientation. Second, it acknowledged sexual violence as a harm due comprehensive reparation, that is reparations that replicate the regime of reparations awarded by the Inter-American Court of Human Rights in similar cases (see also *Case of Bedoya Lima*¹³ *et al. v. Colombia*¹⁴). Third, it spoke at length about transformative reparations, acknowledging that certain groups of people, notably women, LGBTQI+ people and members of ethnic groups, were more vulnerable to human rights violations because of historical injustice and current day discrimination (see Uprimny Yepes 2009). Finally, this legislation created a nation-wide state-sanctioned Single Registry for

¹¹ This case also included 10 women, one of whom was known to be pregnant when she was killed (Verdad Abierta 2021).

¹² The exception here were those members who were minors. Particularly, minors who were released by the armed groups or escaped before the age of 18 were considered victims of forced recruitment due reparations. Whether or not they could register as victims of other harms they could have suffered during the time they were held by the armed groups is less clear. For the full text of this law, see: www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=43043.

¹³ Jineth Bedoya Lima, a journalist reporting on issues relating to the armed conflict, especially justice, was kidnapped on 25 May 2000, held for nearly 10 hours and raped by several men following a visit to a local prison. Prior to this, she had paramilitary leaders willing to document links between their illegal activities and state officials. which she was dumped by the side of a road with her ID taped to her chest.

¹⁴ For the full sentence, see www.corteidh.or.cr/docs/casos/articulos/seriec_431_ing.pdf

Victims where gender expression, sexual orientation, and gender identification are recorded, though, as LGBTQI+ organisations have repeatedly complained, these are deficiently lumped together.¹⁵ Nevertheless, despite several limitations, including the 1 January 1985 start date for registration, we can now say that there are 39,625 people registered as victims of ‘crimes against sexual freedom and integrity’ as of 30 November 2023.¹⁶ The Conflict and Memory Observatory reports 16, 635 victims between the dates of 1 January 1958 and 30 June 2023, where nearly 91% are women and 10% are members of an ethnic group.¹⁷ Both the Observatory and the Single Registry report peaks of violence starting in the early 2000s that gradually diminish throughout that decade.

4. Gender Inequality, Gender Norms, and Gender Dynamics During and After the Political Violence

To quote Theidon (2009: 34), it is “an anthropological maxim that masculinities and femininities are culturally constructed and variable.” When we speak of gender norms in the geographical space that makes up the country of Colombia, we must begin by recognising its cultural diversity. Understanding salient notions of gender, especially when considering how it may relate to inequality, discrimination, and violence, must be done with a cultural and regional lens in mind. Colombia demonstrates stark distinctions between the rural and the urban as well as between its different regions, not least because of the nature of the colonisation processes that underlie the geographic population distribution in current day Colombia. While gender inequality is certainly pervasive in the country, the way it manifests and the other forms of inequality and discrimination it overlaps with vary from region to region and between urban and the rural spaces. The work on operationalising intersectionality for the purposes of public policy, and particularly the transitional justice project, is ongoing. Nevertheless, research with a differential approach on the armed conflict and documentation efforts on CRSV since the Historical Memory Group was first established in the early 2000s have increasingly recognised how forms of inequality and discrimination interact to intensify the vulnerability of specific individuals and groups. This is the result of the combination of the

¹⁵ Due to faults in the system of the Single Registry, it is difficult to cross-tabulate variables to show how many CRSV victims are currently registered by gender or LGBTQI+ status. What we know is that, of the more than 9 million victims currently registered for reparations, 4,826,824 identify as women, 5,797 – as LGBTI and 436 – as intersexual.

For updated numbers, see: <https://cifras.unidadvictimas.gov.co/Home/General>

¹⁶ Of these, only 38,603 qualify for the full spectrum of reparations due to victims either because the direct victim is dead or because the victimisation registered falls outside of the temporal scope of the law. The definition currently used on the website of the Single Registry stems from the Colombian Institute for Family Welfare (ICBF, Instituto Colombiano del Bienestar Familiar). This human rights violation is to be understood as “any act or omission aimed at violating the exercise of human rights, sexual or reproductive rights, directed at maintaining or soliciting sexual, physical, verbal contact or to engage in sexual interactions through the use of force or the threat of force, intimidation, coercion, coercion, blackmail, threats of force, intimidation, coercion, coercion or use of force, intimidation, coercion, blackmail, undue pressure, bribery, manipulation or any other mechanism that overrides or limits one’s will to decide about sexuality and reproduction.” See:

www.icbf.gov.co/sites/default/files/procesos/lm18.p_lineamiento_tecnico_programa_especializado_de_atencion_victimias_de_violencia_sexual_v1.pdf

¹⁷ For updated numbers, see: <https://micrositios.centrodememoriahistorica.gov.co/observatorio/portal-de-datos/el-conflicto-en-cifras/violencia-sexual/>

gender and ethnic approaches, both of which were developed through a series of legally binding documents since 2011.¹⁸

When speaking of gender roles, Weber (2018: 94) characterises the Caribbean coast as “defined by patriarchy and rurality, centred on the ‘nuclear family,’ which is led by male head of household who provides for the family [and where] women are the support base of the family in terms of caring and household tasks.” Furthermore, ruling in the case of the racial discrimination of an Afro-Colombian woman, the Constitutional Court recognised in Ruling T-422/1996 that “in the Colombian social context, differences and inequalities intersect and overlap one another, making certain groups particularly vulnerable. [...] The case of Indigenous and Black communities is, in this respect, paradigmatic: located, as a general rule, in the geographic and economic periphery of the country, they suffer from high levels of poverty and economic marginalization.” When considering how conflict-related harms, including CRSV, are perpetrated and perceived by both victims and the society around them, we should take note of how gendered relations *also* involve *other* situated power differentials (see Cárdenas 2018). For instance, Meertens and Zambrano (2010: 198) note how “[g]ender inequality also intersects practices of class dominance, as observed in some regions of the Caribbean Coast [where] powerful landholders preserve ‘feudal’ sexual privileges over young peasant women.” CRSV is undoubtedly related to the racialised victimisation of especially Afro-Colombians and Indigenous people during colonial times and enslavement (CEV 2022).

Gender stereotypes are rife in transitional justice legislation, including assistance and reparations programmes directed at victims, and disarmament, demobilisation, and reintegration (DDR) programmes for ex-combatants. For instance, DDR programmes tend to expect women to take up traditional homemaker roles once they demobilise because they exalt the ‘nuclear family’ in the same spirit as the Colombian constitutional text. Being stuck in the victim-perpetrator binary meant the implementation bodies of Law 975/2005 had not even prepared clothing for women who might demobilise from the

¹⁸ Law 1448/2011 acknowledged that the experience of people is marked in different ways by their gender, sexual orientation, age and disability and calls for measures of symbolic reparation such as truth-seeking to be consulted with Indigenous peoples and Afro-Colombians to “respect their customs and habits as well as their collective rights.” Its implementing Decree 4633/2011 focusing on Indigenous groups, Decree 4634/2011 – Roma people, and Decree 4635/2011 – on Afro-Colombian, Black and Raizal and Palenquero specified the meaning of the ethnic approach of the National Centre. From these decrees, the National Centre for Historical Memory extracts three “principles” central to its work in this sense: first, the Indigenous understanding of the territory as a victim of the conflict; second, that the armed conflict is just the most recent expression of a great number of violence(s) Indigenous peoples have suffered on account of their discrimination and marginalization; third, that political, economic and social conditions, including racism and the hegemonic development model, have affected the way in which the conflict manifested itself in specific regions of the country and affected different communities.” For further details on the differential approaches, as they were developed by the National Centre, see, Centro Nacional de Memoria Histórica. 2018. “Memorias Plurales: Experiencias y Lecciones Aprendidas para el Desarrollo de los Enfoques Diferenciales en el Centro Nacional de Memoria Histórica Balance de la Contribución del CNMH al Esclarecimiento Histórico.” Bogotá, Colombia: CNMH. Available at: www.centrodememoriahistorica.gov.co/micrositios/balances-jep/descargas/balance-enfoque.pdf.

paramilitary groups (see Theidon 2009). What is more, before the intervention of the Constitutional Court, Law 975/2005 did not even have a gender or ethnic approach (see Ruiz 2023; Sánchez & Rudling 2019). Years later, when Law 1448/2011 was passed and when the FARC began their demobilisation process, this same mechanism was being used to deny violence suffered by women while in the armed group *as well as* deny them agency once they demobilised. Their militarised femininity and potential perpetrator status made them less than ‘ideal victims’ on both accounts (see Weber 2020). Zulver (2019) and Stallone (2023) warn against equating gendered victimhood with impotence because, although individuals may occasionally feel helpless in their abandonment or victimisation by state or non-state actors, they also exercise agency within their constrained bounds (see also Herrera & Porch 2008; Tabak 2011; Cárdenas 2018). Women have also formulated demands and developed complex political identities, either following demobilisation, victimisation, or everyday discrimination (see also Zulver 2021). The cases of Bedoya Lima and ‘Helena’ referred to above are revealing in this sense.

The recognition of gender in victim-oriented legislation begins with Law 387/1997 that offers special assistance measures to people who are internally displaced. Women are not linked to CRSV here as the National Plan for the Comprehensive Assistance of the Displaced Population was simply expected to comprise special measures for “women and children, preferably widows, heads of household and orphans.” This sought to acknowledge, as had the Historical Memory Group, that the armed conflict disturbs existing gender hierarchies by forcing rural women assume roles outside of their traditional domestic activities once the family is displaced to urban centres or they become heads of household. Once the Constitutional Court declared the state of unconstitutional affairs in relation to displacement with Writ T-025/2004 two shifts took place. First, we see the gender-women-CRSV pipeline coming into effect as the Court considers the patriarchal structure of Colombian society a risk factor for women to suffer sexual harms, as discussed above. Second, the encounter of this understanding of gender as women and the gender approach with the increasing recognition of other differential approaches¹⁹ reveals a legally and practically poorly articulated intersectional approach. For instance, Law 1719/2014 adopts procedures to fast-track access to criminal justice for victims of sexual violence,²⁰ including CRSV, for “protected people”. As Law 1448/2011 before it, which firmly incorporated CRSV into the transitional justice paradigm, this legislation refers several criteria that increase the vulnerability of the victims to this harm, including gender expression and identity, ethnic group, sexual orientation, but offers no solution on intersectionality. Rather, it seems to consider these as individualised markers, siloed away in their own categories that have a type of cumulative effect, with no interactions (see also, CNMH 2018: 16).

¹⁹ The Commission that recognised the following approaches: a gender approach, inclusive of women and LGBTIQ+ people; a differential approach, that included ethnic groups, campesino groups, different age groups and diverse capabilities and functionalities; and a territorial approach, inclusive of a regional, national and exile dimension (for definitions and details of how these were operationalised, see CEV 2022a).

²⁰ Sexual violence is defined here as forced prostitution, sexual slavery, human trafficking for the purposes of sexual exploitation, forced sterilisation, forced pregnancy, forced nudity, and forced abortion. For the full text, see: www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=57716

Land restitution, and especially land titling, for women under Law 1448/2011 was met with transformative or gender just expectations as was Law 387/1997. Neither turned out to be either transformative or particularly gender just as women are “present in public discourse only as mothers, wives and economic dependents, their roles and contribution to society are prescribed and their needs are assumed to be in accordance with these roles” (Meertens & Zambrano 2010: 198). Neither was successful at reconceptualising women’s social roles with respect to land or their citizenship rights because they did not take the continuum of violence approach to dealing with gendered harms. Where Law 387/1997 made special reference to women in their most vulnerable caring roles as widows and heads of household, Law 1448/2011 made provisions for joint land titles, but operators failed to inform claimants of these provisions and adequately enforce them. The consequence of both pieces of legislation is that women continued to be primarily thought of as CRSV victims (see Weber 2018). Moreover, when speaking about the engagement of Indigenous women with the Commission, González Villamizar and Bueno-Hansen (2021: 22) find that the dominant liberal discourse that frames the realisation of the rights for minorities in terms of non-discrimination failed to deliver on its transformative promise because it is a “shallow effort” at “patching over profound ontological conflicts” between what the state and its agents assume is truth and justice and what these groups do.

5. CRSV in the Colombian Transitional Justice Agendas, Architecture, and Process

Investigations into CRSV were, at best, fragmentary before the establishment of the Historical Memory Group. None of the three truth-seeking bodies established in the 1980s and 1990s mentioned above reserved a prominent space for gender analyses in their reports. Sexualised forms of torture were, however, recognised on a case-by-case basis in some of their reports.²¹ The year after *La masacre de Bahía Portete*, the Historical Memory Group published *La memoria histórica desde la perspectiva de género* (GMH-CNNR 2011). These reports by the Historical Memory Group-National Centre for Historical Memory established a picture where women experienced the armed conflict in *different* ways in comparison to men. First, women bore the indirect consequences of the right to life violations targeted at men as they often became single providers or had to assume roles outside of their traditional domestic activities when the families were displaced. Second, an additional harm that compounds the effects of the conflict on them is that of being exposed to abuse from authorities and armed groups during their struggle for justice for victimised family members (see also, Ruta Pacífica de las Mujeres 2013). Finally, these reports show that women were targeted as direct victims for different reasons, with different violations, and with different effects when compared to men. For instance, *La memoria histórica* replicates some of the pitfalls already discussed above: it equated gender with women, including non-heterosexual men only tangentially, and conceived of CRSV as the most abhorrent abuse committed against them (for more details see, CNMH 2018: 20ff). When the *Aniquilar la diferencia* was published in 2015, the use of CRSV against LGBTQI+

²¹ See for instance: <https://biblioteca.corteidh.or.cr/adjunto/36470>

people was recognised as being linked to and supported by other forms of discrimination, including hate crimes, crimes motivated by prejudice, impunity and, more broadly, family and community prejudice (CNMH 2018: 37-8).

CRSV is also documented in the reports, friendly settlements, and judgements of the Inter-American System of Human Rights. For instance, the 2013 country report on human rights in Colombia by the Inter-American Commission on Human Rights contains special sections on children, women, and LGBTQI+ people, where sexual violence is discussed and recommendations are made to the Colombian state.²² With respect to children, the Commission found that Colombia lacked proper mechanisms to report and investigate sexual violence committed against them, especially when they were victims of recruitment by armed groups (IAComHR 2013: 291-2). The section dealing with LGBTQI+ people is particularly interesting in its focus on how state (in)action affects their rights and freedoms, especially when state agents engage in discrimination or do not appropriately and effectively investigate and sanction acts of violence (IAComHR 2013: 400ff).

Expert testimony in *Case of Bedoya Lima et al. v. Colombia* on stigma, impunity and the links between non-state armed groups and state agents in CRSV replicate the findings of this report's section on women. For instance, one expert testified that the stigma of CRSV victims extends to their family members who should also be considered victims, especially when they accompany and support justice efforts of the main complainant. Further, the Court concluded that the criminal investigation that followed Bedoya Lima's initial report was discriminatory based on gender. Citing the Convention of Belém do Pará, the Court stated that Colombia had failed its additional obligation to act in a timely fashion when women are victims of violence and procedures deployed were traumatic and revictimising. The Court found such practices send "a message that violence against women can be tolerated and accepted, fostering the perpetuation and social acceptance of the phenomenon, the feeling and impression of insecurity among women, and persistent mistrust of the justice system" (IACourtHR 2021 para. 135, 49-50).

Based on a common, but somewhat misguided, reading of gender by Recommendation 19/1990 by the Committee Convention for the Elimination of All Forms of Discrimination against Women, gender was initially equated with women by the women's and feminist movement in Colombia. *Corporación Humanas*, *Corporación Sisma Mujer*, *Red Nacional de Mujeres*, and *Campaña No es Hora de Callar* together with the umbrella organisation Coalition 1325 stand out amongst these groups (see below Céspedes-Baéz & Jaramillo Ruiz 2018) as having adopted this discourse to position themselves as subjects of rights in their dialogue with the Colombian state, especially with regards their victimisation in the armed conflict (Céspedes-Baéz 2017). The gender focus that this movement mobilised for, and both transitional and ordinary institutions gradually accepted, was grounded "in a basic understanding that the fundamental definition of gender is sex, and its consequence is the regulation of sexuality, which places [these concepts at the centre] of the production of the hierarchy between men and women" (CNMH 2018: 17).

²² See www.oas.org/es/cidh/docs/pdfs/Justicia-Verdad-Reparacion-es.pdf

Simultaneously, the framing of CRSV by the UN as a “weapon of war” has been promoted to push (inter)national actors into action. Wrapped up in security language and understood as a “strategy of war,” especially by UN Resolution 1820 of 2008, CRSV has increasingly been understood as an extraordinary form of violence delinked for its everyday manifestations (Kreft 2020). Sexual violence then became the key harm to characterise the experience of women in the armed conflict (CNMH 2018: 17) because policy tools directed towards the armed groups could be easily put in place (Kreft 2020). Women’s and feminist organisations struggle to this day to break the gender-woman-CRSV chain as transitional justice processes also became infused with this logic.

6. Gender in the 2012-2016 Colombian Peace Process

The inclusion of women as a special interest group in the 2012-2016 peace talks responded to the interlinked efforts of the negotiating parties and the highly organised women’s movement and feminist organisations in Colombia (ABC COLOMBIA 2013). By this point, the women’s and feminist movements had constructed a positive peace agenda with specific antipatriarchal dividends for women based on two previous experiences (González 2017: 121). First, the demobilisation process under Law 975/2005 produced institutional changes, most notably the Historical Memory Group, that created knowledge about women and other protected classes (Gómez Correal 2017: 15). Writ T-025/2004 and the subsequent monitoring of government action on internally displaced women by Constitutional Court also cleared the path for understanding the differentiated effects of the armed conflict different groups. Second, the failed peace dialogues with the FARC-EP carried out during the prior Pastrana administration gave these organisations both information, means, and motivation to better prepare for participation in upcoming future peace talks (Humanas 2021). For their part, the negotiating parties established the Gender Sub-Commission in September 2014. One of its members, ex-FARC-EP alias Victoria Sandino, now Judith Simanca, acknowledges that it was indeed due the “observations of the women’s movement” that some of the formulations of the Peace Agreement were changed so that women were explicitly recognised (Pacifista! 2016).

The Gender Sub-commission was only one of the modifications to the peace talks that resulted from the pressure of women’s and feminist organisations. Céspedes-Baéz and Jaramillo Ruiz (2018) also comment on the lack of gender balance in both sides of the negotiating table. It took several marches and interventions by women’s organisations and public figures to somewhat correct the entrenched belief that war is men’s business and should be resolved through a “debate between men who know war,” as one of the highest FARC commanders said (see Céspedes-Baéz & Jaramillo Ruiz 2018: 93). After nearly one year of negotiations, the government appointed two women to their negotiating team. Key amongst these efforts were the reports of Coalition 1325, an umbrella organisation established in 2001 to monitor compliance with UN Security Council Resolution 1325, and Mujeres por la Paz. The Coalition’s 2012 report pointed out the absence of women on the negotiations teams and the 2013 report criticised the lack of a gender approach in the negotiation agenda made public (Céspedes-Baéz & Jaramillo Ruiz 2018: 95).

The framing of gender in the Final Agreement was also impacted by citizen participation in several ways. Five delegations of 12 victims each were selected by the United Nations, the National University of Colombia, and the Episcopal Conference of the Catholic Church to broadly “reflect the ‘universe’ of victims and victimizing events” (Brett 2022). These delegations were not intended to represent *all victims*, but sought to balance the geography of the country, socio-demographic groups, victimising events given their nature, and victimisation by different actors. Selection criteria organisations agreed between facilitators, and victims’ organisations, most notably *MOVICE*, *Colombia sin Heridas*, the *Fundación Víctimas Visibles*, and the *Foro Nacional de Participación de las Víctimas* led to the selection of 36 women and 24 men between 19 and 78 years old (see Verdad Abierta 2014). Compared to the women’s movement, the inclusion of the LGBTQI+ population was met with more reluctance (González 2017: 121) and it was only Nora Elisa Vélez, an openly lesbian woman activist and a representative of LGBTQI+ people in the National Victims’ Roundtable, who participated in the penultimate delegation (Verdad Abierta 2014).

The delegates could only interact with the parties to the negotiations in their assigned 15-minute talk on their harms, organisation, political resistance, or make recommendations on issues to be included in the Agreement (Brett 2017: 43) or during the breaks between interventions. Despite initial reservations attributed by both state representatives and FARC negotiators to their lack of knowledge, Vélez’s intervention was met with an attitude of active listening. Vélez herself believes that her greatest contribution was to raise awareness with the FARC about the harms to the LGBTQI+ population, leading to Luciano Marín Arango, alias Iván Márquez, head of the FARC-EP negotiating team, committing to making reparations to this group (cited in Brett 2017: 68). Simanca, head of the Gender Sub-Commission for the FARC-EP, confirms this. She claims that the demobilising guerrilla, who had “previously considered themselves a heterosexual army,” had to recognise LGBTQI+ people as *another* discriminated and historically excluded population and prioritise them for guarantees of security and political participation (Pacifista! 2016). Yet, the gender approach of the Agreement is still steeped in a binary discourse and reflects traditional ideas about women and the family (Hagen 2016), especially in relation to rural reform (see Parada-Hernández & Marín-Jaramillo 2021). Thus, despite victim participation and separate meetings between the Gender Sub-Commission and women’s and feminist organisations inclusive of LGBTQI+ representatives, women are still referred to as special subjects of the gender approach (see Jamar 2021: 35). Rather than the ‘add women’ approach to gender, which has been popularised in the previous decades, the Agreement adds LGBTQI+ people.

Criticism of how gender is framed in the Final Agreement comes from several directions. First, some point out victim participation was instrumentalised by the parties. These critics deconstruct the concept of the centrality of victims as the core of the Agreement and wrap their critique around challenging the representativeness of the delegations. The Agreement text is criticised by calling into question the delegates’ capacity to illustrate the experiences of the more than nine million Colombians registered for reparations. They also challenge the delegates’ capacity to contribute due to the limitations on their interventions and that most of the key points of the Agreement had already been agreed by the time the delegates arrived (Céspedes-Baéz and Jaramillo Ruiz 2018: 98). Thus, critics point out that victims’

interventions were unduly compartmentalised in Point 5, although many had proposals and recommendations on other points of the Agreement, including political participation, rural reform, and security sector reform (Brett 2022).

Second, others criticise the Gender Sub-Commission for being instrumental in the negative effects on the inclusion of queer perspectives in the Agreement. These scholars decry the numerous references to women in their quality as mothers, caregivers, or family members of direct victims and the reduction of gender speech (see Hagen 2016; Jamar 2021; Céspedes-Baéz & Jaramillo Ruiz 2018: 99). This final charge, though legitimate, is also largely the outcome of the fact that the text of the Peace Agreement, originally signed by the Government of Colombia and the FARC-EP in Cartagena in September 2016, was re-negotiated following the failed referendum the next month. The Final Agreement signed in November 2016 responds to the requirement of the political elites and leaders who promoted the ‘no’ vote in that referendum. Specifically, these opposition groups accepted a trade-off where, amongst other things, the so-called ‘gender ideology’ of the original text, or measures that would benefit LGBTQI+ people, would be scaled back so that they support the approval of the text (pending the legally required debates) in Congress (see, González 2017; Céspedes-Baéz & Jaramillo Ruiz 2018: 103).

Unlike the remainder of the Final Agreement, its Point 5 is hailed by Céspedes-Baéz and Jaramillo Ruiz (2018, 100) as incorporating an “operative perspective of women” from the beginning. They point to how its focus on CRSV reflects the accumulated knowledge and pressure by the women’s and feminist movement for the parties to recognise the differentiated impact of the conflict on women. The platform *Cinco Claves*, a coalition made up of *Corporación Humanas*, *Corporación Sisma Mujer*, *Red Nacional de Mujeres*, and *Campaña No es Hora de Callar*, were instrumental in promoting the ban on an amnesty for CRSV (GoC & FARC 2016: 259), the creation of a special team to investigate it within the Special Jurisdiction, and the call to mainstream gender in the work of the Commission. This “one-dimensional image” of women as victims of CRSV “reflected what Colombian society is willing to recognize as women’s issues and the resistance to picture women as landowners, business owners, and entrepreneurs” (Céspedes-Baéz & Jaramillo Ruiz 2018: 102). Nevertheless, as highlighted above, since the Special Jurisdiction will continue to investigate and sanction CRSV, we are likely to know more about its use by the guerrillas and state actors, including how it was deployed against men and LGBTQI+ people. Moreover, because the Special Jurisdiction will use the report produced by the Commission to provide context for its own analyses, we are also likely to see advancements with respect to its framing, as detailed in section 7 below.

7. CRSV in the Truth Commission Process

CRSV in the Truth Commission Mandate

The main legal and regulatory framework that makes up the mandate of the Commission is the Final Agreement (specifically Point 5.1.1.1.) and Decree 588/2017. Mentions of gender, gender-based violence,

harms suffered by women, boys and girls, and discrimination run through Decree 588/2017. Nevertheless, it is noteworthy that neither the Final Agreement nor Decree 588/2017 speak directly about sexual violence. The Final Agreement prefers the much broader formulations of “victimisation suffered by women” (GoC & FARC-EP 2016: 133) or “differentiated effects of the conflict on women, boys, girls ... and LGBTI people” (GoC & FARC-EP 2016: 136). Nevertheless, given the advocacy of the women’s and feminist movement prior to and during the peace talks to include CRSV discussed above, there can be little doubt that their expectations were indeed that CRSV would be a prominent part of the work of this truth-seeking body.

The Commission was not designed to work on CRSV or gender-based violence intersectionally. What we can find in the two main documents that make up its mandate is a segmented view of harms, organisational, and documentation practices expected to be carried out by the Commission, that is largely based on constitutionally protected identity groups. Based on internationally recognised principles of non-discrimination, women, ethnic groups, children, seniors, people living with disabilities, LGBTQI+ people are amongst the classes that the 1991 Colombian Political Constitution protects (see Sánchez & Rudling 2019: 23). Following in the footsteps of the National Centre for Historical Memory, the Commission developed several internal mechanisms, including working groups and guidelines, on how to best incorporate these groups known as the differential approaches (CEV 2022a).

Thus, both Decree 588/2017 and the Final Agreement promoted the establishment of a Gender Working Group within the organisational structure of the Commission and called for it to streamline the gender approach throughout the work of the Commission based on some specific, but basic, guidelines. Decree 588/2017 called for the selection criteria for staffers of the Gender Working Group to include “knowledge and expertise of gender-based violence,” “knowledge and expertise of the armed conflict and its differentiated and disproportionate effects in women and people with diverse sexual orientations and gender identities” and “collective criteria such as ethnic diversity, interdisciplinarity and regional representation.” This final criterion was similar that applied to the selection of commissioners, with the addition of “equitable participation between women and men” in this latter case.

That there is no mention made of an Ethnic Working Group in Decree 588/2017 should speak volumes about the expectations of those working on regulating the activities of the Commission on intersectionality. Rather, the Ethnic Working Group was established early in the planning phase of the Commission to respond to the call of the 2016 Final Agreement for “the ethnic and cultural perspective” to be incorporated “in the design of the different ... extra-judicial mechanisms” and “the right to participation and prior consultation to be respected and guaranteed” (GoC & FARC-EP 2016: 209). In 2019, the Ethnic Working Group took on the title of Office of Ethnic Peoples or *Dirección de Pueblos*

Étnicos, becoming one of four offices²³ that made up the main leadership structure of the Commission's organisational chart (see CEV 2022a: 33). From this, we can surmise that an intersectional analysis or documentation of harms was not a forefront concern among those who directly managed the processes of the Commission because it did not figure in the design of the body.

The duty of the Commission to make recommendations arises from the Final Agreement and Decree 588/2017. The Commission was tasked by article 13 of the latter text with “produc[ing] a final report that considers the different contexts [where the armed conflict took place], reflects the investigations into all the components of its mandate, and contains the conclusions and recommendations of its work, including guarantees of non-repetition.” The report and the recommendations are also mentioned in the preamble of this document as “measure[s] of satisfaction for victims.” Since there was an expectation that victims of CRSV would be included in the investigations of the Commission, recommendations were also undoubtedly expected to cover them.

CRSV in the Truth Commission's Operations

Once the Commission entered its planning phase in mid-2018, the Gender Working Group responsible for streamlining the gender approach through the work of the Commission was the first element of internal structure to be established in July (see CEV 2022a: 29). Although there were no such titles formally assigned, the expertise of Alejandra Miller would lead us to conclude that Selection Committee²⁴ aimed for her to be the Gender Commissioner. Miller was one of eight principal investigators for the unofficial truth project on women in the armed conflict of the NGO *Ruta Pacífica de Mujeres*. Specialising in the Cauca region, she had also published widely on the socioeconomic rights violations committed against women and worked as a Secretary for Government and Participation in the Cauca Governor's Office (Verdad Abierta 2017). Her experience researching and advocating for issues of gender and victims of sexual violence was only paralleled by that of Salomé Gómez Corrales, the head of the Gender Working Group (see Sanchez Parra 2023).

Two commissioners had experience of and were members of different ethnic groups. María Patricia Tobón Yagarí, part of the *emberá* community, had worked with the National Indigenous Organization of Colombia (ONIC, *Organización Nacional Indígena de Colombia*) documenting the harms of ethnic groups and put forward proposals for the Ethnic Chapter of the Final Agreement (Verdad Abierta 2017). Ángela Salazar, an Afro-Colombian woman, had been a social leader and organizer, a victim of the armed conflict herself, working with women victims in the region of Urabá Antioqueño. She founded the Woman's House in Apartadó in the 1990s and was selected as national representative of the *Iniciativa de Mujeres por*

²³ This also meant that it was placed at the same administrative level as the Office for Social Dialogue (Dirección de Diálogo Social), Office for Knowledge (Dirección de Conocimiento), and Office for Territories (Dirección de Territorios).

²⁴ For details on how this body operated in relation to the Comprehensive System for Justice, Truth, Reparations and Non-Repetition, see: www.minjusticia.gov.co/programas-co/justicia-transicional/Documents/homeabc/ABC%20DEL%20COMITE%CC%81%20DE%20ESCOGENCIA.pdf

la Paz – IMP, an umbrella organisation for 22 groups that promoted and advocated for the recognition of women's roles in the armed conflict within the framework of the Women, Security and Peace agenda (CEV n/d). Sonia Londoño Niño was the head of the Office of Ethnic Peoples.

The legal obligation to implement prior consultation with Indigenous peoples resulted in an agreement to mainstream the ethnic approach through the work of the Commission as an ethnic approach against racism, discrimination, and other related forms of intolerance or *enfoque étnico contra el racismo la discriminación y las formas conexas de intolerancia* (CEV 2022a: 53). The reflections emerging from this process highlighted the need for an intersectional approach under a special approach dubbed *género, mujer, familia y generación* or gender, woman, family, and generation (see also, González Villamizar & Bueno-Hansen 2021). This approach underscored that, whatever conflict-related harms and impacts arise for Indigenous women, affect them as *Indigenous women*. Thus, because of their situated cosmivision as members of Indigenous peoples, sharp lines could not be drawn for these women between the individual and collective, the human and non-human victims, their bodies and the territories they inhabit, or the history of colonial violence and the current armed conflict (CEV 2022a: 59). For an analysis of how this intersectional approach worked in practice on the Caribbean Coast, see also González Villamizar (2023).

The research and documentation strategy of the Commission was three-fold. First, the Commission used existing reports and solicited reports from civil society on the harms and impacts of the armed conflict. Second, harms were documented through public interventions at events organised by the Office for Social Dialogue. Third, primary testimony was collected through private or group interviews. These two final strategies included testimony from perpetrators and those with the highest degree of responsibility that are appearing before the Special Jurisdiction and civilian third parties. CRSV was reported in all these instances, including by victims themselves, their surviving loved ones, and witnesses. For instance, the first event ever organised by the Commission, *Mi cuerpo dice la verdad* or My Body Tells the Truth, was held on 26 June 2019 and focused on CRSV. Moreover, Vera Grabe, former M-19 command, sent a document to the Commission where she relays sexual torture and rape with an object when she was detained under the Security Statute of the 1980s (see CEV 2022e: 154-6).

The Commission developed the Guide for Approaching Sexual violence²⁵ because it “believed that the best way to document the testimonies of victims of gender-based violence and sexual violence is by those people who know the territory and know how to identify these violences as well as accompany them and acknowledge the way that they manifest themselves where no preventive measures existed or no recognition [of the harms]”. Together with the gender policy²⁶ adopted by the Commission, this was the main device that instructed testimony takers and analysts dealing with CRSV on how to best document it (CEV 2022a: 74-5). A separate Protocol for Approaching the Cases of Gender-based Violence Amongst

²⁵ See <https://web.comisiondelaverdad.co/images/7. GUIA DE ABORDAJE DE VIOLENCIAS SEXUALES.pdf>

²⁶ See www.comisiondelaverdad.co/sites/default/files/descargables/2022-09/politica-interna-transversalizacion-enfoque-genero.pdf

Indigenous, Black, Afro-Colombian, Raizal, Palenquero and Rrom Peoples, Communities and Victims was also developed.²⁷

A few elements relating to the operating procedures of the Commissions stand out in these documents. First, as already outlined by the mandate, there is a preference for staffers who take victim statements to embody the experiences of the subjects of the analysis, even minimalistically from an identity politics perspective. Thus, the Guide calls for the victim to be able to select the gender of their interviewee and explicitly express agreement with the translator present. Second, the commitment to respect individuals' decisions to (not) divulge their sexual orientation or gender identity, LGBTQI+ victims were only to be approached through the organisations or social movements they participated in. Third, in the vein of the intersectional analysis, the Commission accepted the notion that CRSV is “a mode of expression of gender-based violence” (CEV n/d: 16) that exacerbates and is exacerbated by discrimination. Thus, the Guide speaks about the link between prejudice, hate crimes and sexual(ised) violence in the case of LGBTQI+ people (CEV n/d: 62-3) and delves into the structural violence that affects ethnic communities and their members (CEV n/d: 65-68). Interestingly, we also find a paragraph here about how men, including heterosexual cisgender men, were targeted with CRSV for not “fulfilling the socially established canon of masculinity” (CEV n/d: 63). The Protocol calls for CRSV to be analysed in relation to collective harms, individual harms with collective impacts, harms to cultural integrity, harms against the territory or environmental and territorial harms, harms against the autonomy and political and organisational integrity and harms due to racism and racial discrimination (CEV n/d: 3). Finally, the Guide uses the plural “sexual violences,” explains that they can “develop in a variety of ways, that can be amongst others: sexual slavery, rape, forced nudity, forced abortion, forced contraception and sexual abuse” and “forced parenthood, forced cohabitation, love matches as a war strategy,²⁸ and the imposition to dress as ‘women or men’” (CEV n/d: 9, 16). The definition of CRSV of the Protocol follows a more legalistic line. It quotes Law 1719/2014 and the Penal Code and states that it includes “forced prostitution, forced slavery, human trafficking, forced sterilization, forced pregnancy, forced nudity, forced abortion, and forced sterilisation” (CEV n/d: 3).

The Commission remained committed to what it called plural listening. It placed victims at the centre of its activities but carried out extensive checks both on the quality of the information obtained and for external validation towards the end of 2019. None of these processes had a legal function or sought to challenge the recollection or experience of the victims and witnesses as they testified to certain events. Their main purpose was to ensure the robustness of the Commission findings (CEV 2022a: 87). The main concern of the Commission was to give victims a voice, and, in relation to CRSV and gender-based violence, to show the “human side” of the conflict, notably how women and LGBTQI+ people were impacted by the conflict, how they resisted the conflict dynamics and how they persisted (CEV 2022a:

²⁷ See www.comisiondelaverdad.co/sites/default/files/descargables/2022-09/protocolo-abordaje-casos-violencias-genero-pueblos.pdf

²⁸ The phrase used is “el enamoramiento como estrategia de guerra”. See also Stallone (2023).

60). The interview materials and testimonies were the foundation of this “inductive approach to research” (CEV 2022a: 60).

The drive towards formulating recommendations started with the planning phase of the Commission when a working group on this issue was established (CEV 2022a: 22). Little is known about its internal dynamics, but it probably resembled other such groups in the Commission. For instance, the group dedicated to mapping out the state of knowledge on the origins and causes of the armed conflict analysed human rights and historical memory sources and carried out new interviews for clarification. It also reviewed existing databases, reports, and judgements handed down by (inter)national courts on different aspects of the armed conflict to establish a timeline and better understand the national and local dynamics. Recommendations of some type can be found in all the reports referenced above as sources on CRSV (see CEV 2022a: 22-28).

The Commission also gathered 10,093 proposals for recommendations from individuals and CSOs, including victims’ and human rights organisations (see CEV 2022: 770; CEV 2022d: 8), who submitted reports or participated in private and public (either online or in-person) events (see also, Rudling 2021). Of these proposals, 2,925 dealt with victims and 1,180 originated from victims, including, but not restricted to, CRSV victims (CEV 2022d: 11-2). Most of the 1,926 proposals for recommendations tagged with a gender approach put forward affirmative or transformative actions and giving visibility to CRSV victims and victims of hate crimes due to sexual orientation, gender expression or gender identity. Moreover, proposals made also show that the gender approach is interlinked with other systems of oppression such as classism, racism and ableism and draw out the links between gender-based violence as a form of structural violence amongst many. This made CRSV one of many representations of structural violence. It is noteworthy that while many proposals originated from women’s, feminist, or LGBTQI+ organisations, others came from *campesina*, Afro-Colombian, Indigenous or internally displaced organisations. Thus, while the proposals do speak to the use of women’s and LGBTQI+ people’s bodies as spoils of war in how CRSV was used against them, they also reflect broader concerns dealing with discrimination, marginalisation, and exclusion (CEV 2022d: 23-7).

CRSV in the Truth Commission Report’s Findings & Recommendations

The findings of the Commission are presented in 23 volumes that make up its Final Report. Generally, the framing of these volumes is to consider the factors that underscore the persistence of the armed conflict (as well as the harms that arise from it). CRSV is referred to in different ways in *all* volumes, but most references are concentrated in the following volumes with more than 30 references in each and sometimes as many as 150:

1. Hallazgos y recomendaciones;
2. Mi cuerpo es la verdad. Experiencias de mujeres y de personas LGBTQI+ en el conflicto armado;
3. La Colombia fuera de Colombia. Las verdades del exilio;

4. No es un mal menor. Niños, niñas y adolescentes en el conflicto armado;
5. Resistir no es aguantar. Violencias y daños contra los pueblos étnicos de Colombia;
6. Sufrir la guerra y rehacer la vida. Impactos, afrontamientos y resistencias; (7)
7. Hasta la Guerra tiene límites. Violaciones de los derechos humanos, infracciones al derecho internacional humanitario y responsabilidades colectivas.

It is noteworthy that several of these volumes have specific sections dedicated to CRSV. For example, (1) *Hallazgos y recomendaciones*; (2) *Mi cuerpo es la verdad*; (3) *La convocatoria a la paz grande*; (4) *No es un mal menor. Niños, niñas y adolescentes en el conflicto armado*. Moreover, (1) *La Colombia fuera de Colombia*; (2) *No es un mal menor*; and (3) *Resistir no es aguantar* offer data on sexual violence tailored to the specific group that they are analysing, although the framing layout and detail of the data is different. *My Body Is the Truth* is the volume that contains most references to CRSV. Further, this volume illustrates the differences between the Commission's treatment of different groups affected by this harm. While the component dedicated to women contains a section on CRSV, CRSV is discussed as part of a wider pattern of discrimination and prejudice that limited the personal development and autonomy of LGBTQI+ with no specific section, reflecting the wider understanding of LGBTQI+ people since the Final Agreement (see Garcés-Amaya 2022). Here, CRSV is included in the sections dealing with the "physical impacts of violence on sexualised parts of the body" and "impacts on the health, sexual and reproductive autonomy." The framing of CRSV in *My Body Is the Truth* confronts the readers and Colombian society with the "human side" of the conflict by placing the victims and their experiences at the centre (CEV 2022a: 60).

Gender was understood by the Commission, and defined by the Gender Working Group, "as a tool of analysis that acknowledged the differentiated impacts of the armed conflict in the lives of women, girls, and LGBTQI+ people as a result of the violence perpetrated upon them by the armed actors on account of their gender, sexual orientation, gender identity and expression, and especially due to sexual violence" (CEV 2022a: 59). Consequently, the Commission glossary of terms at the end of *My Body is the Truth* defines CRSV as "attacks of a sexual nature perpetrated by one of several actors of the armed conflict against people who are rendered defenceless not only through physical force, but also through different means of coercion or deception" (CEV 2022c: 368). Despite this seemingly gender-neutral definition of CRSV, the next sentence that summarises the different goals and motivations of CRSV clearly privileges its uses against the "bodies of women and LGBTQI+ people," as the reports of the National Centre for Historical Memory had done before the Commission.

The glossary of terms includes 15 violations that it identifies with CRSV: forced abortion, sexual harassment, threats of rape or sexual violence, forced birth control or forced sterilisation, forced nudity, forced pregnancy, sexual slavery, forced maternity or parenthood, the mutilation of sexual organs, forced witnessing of sexual acts, forced perpetration of sexual acts, human trafficking for sexual exploitation, torture while pregnant, rape, sexual and reproductive violence (CEV 2022c: 368-70). Furthermore, "reproductive violence" has its own definition in this glossary based on a report submitted by *Asociación de Mujeres Afrodescendientes del Cauca* (Association of Afro-descendant Women from the Cauca Region,

ASOM), referenced in the footnote, as “acts that entail the violation of the reproductive capacity and autonomy of a person”. It incorporates some of the terms tied to CRSV, notably forced birth control, forced abortion, forced sterilization, forced pregnancy and the denial of abortion services when the pregnancy is the result of rape. For details on this point, see Sanchez Parra (2023). Gender-based violence is also defined here as “coercive actions perpetrated on a woman or a man, based on the social and cultural construction of each sex” (CEV 2022c: 368).

Besides *Findings and Recommendations* (i.e., the main volume of the Final Report, which contains a total of 91 recommendations), five other volumes also include recommendations.²⁹ However, a total of 16 recommendations specifically dealing with CRSV can only be found in three volumes: (1) *Hallazgos y recomendaciones* (five recommendations); (2) *Resistir no es aguantar* (one recommendation); and (3) *Mi cuerpo es la verdad* (ten recommendations). Each of these recommendations may contain more than one component that can be implemented separately – so-called “actionable items”.³⁰

Most of these recommendations are explicitly targeted at non-repetition of sexual violence with a mix of affirmative actions and reparations, as could be expected based on the proposals of those who contributed through reports and testimony outlined above. For instance, the introduction to the section referring to women in *Mi cuerpo es la verdad* speaks about recommendations being mostly “reforms to address the facts and conditions that made possible the [conflict-related] violence suffered by women.” Further, these reforms are said to “promote the establishment of comprehensive actions to achieve economic and material equality, the eradication of the patriarchal order and the transformations necessary to establish a stable and lasting peace” (CEV 2022c: 203). The introduction to the recommendations targeted at LGBTQI+ people is even clearer: reparations should not mean a return to the *status quo ante* because “that would return [them] to the same historical and daily violence they have experienced.” Rather, what those who testified or interacted with the Commission expected from these recommendations were “structural changes should bring them new conditions of dignified life and full guarantees of rights” (CEV 2022c: 354).

²⁹ These are as follows: *Resistir no es aguantar. Violencias y daños contra los pueblos étnicos* (RNA), contains a total of 21 recommendations under the heading “Recomendaciones” between pages 665 and 671; *La Colombia fuera de Colombia. Las verdades del exilio* (CFC), contains a total of 32 recommendations under the heading “Recomendaciones finales” between pages 492 and 505; *Convocatoria a la paz grande* (CPG), contains a total of 19 recommendations under the heading “Los hallazgos y mensajes” between pages 40 and 45; *Colombia adentro. Relatos territoriales sobre el conflicto armado. El campesinado y la Guerra* (CA-C) contains a total of 7 recommendations under the heading “Conclusiones” between pages 170 and 176. Finally, *My Body Is the Truth* (MCV) contains a total of 50 recommendations, with a total of 12 recommendations directed at women under the heading “Recomendaciones para la no repetición de los hechos sufridos por las mujeres y las niñas en el marco del conflicto armado” between pages 203 and 213 and a total of 38 recommendations directed at LGBTQI+ people under the heading “Recomendaciones para la garantía de derechos y la no repetición de las violencias”, between pages 354 and 360.

³⁰ This term is used by Skaar, Wiebelhaus-Brahm and García-Godos (2022: 29-32) to signal that the wording of the recommendations is often complex. The authors point out that several individually identifiable actions are usually linked together in the same recommendation, which may or may not be distinguished from findings, suggestions or other comments made by the truth commissions with a number, letter or bullet point. The way recommendations are written often generates counting and monitoring problems (see also, Rudling et al., 2024).

Most recommendations on CRSV deal directly with the justice system and the security sector. Some of them lead into how the medical profession, the demobilisation and reparations programmes have treated victims and ex-combatants, and even how the War on Drugs is connected to sexual and reproductive rights through the harms emerging from the widespread and unchecked use of glyphosate, a non-selective systemic herbicide.³¹ Thus, while some recommendations deal with how these systems have inappropriately handled CRSV in the past and, in some cases, might even be perpetrating or colluding in its commission, other recommendations seek to protect potential future victims and offer guarantees of non-repetition. Both in the LGBTQI+ and the women sections, recommendations indicate that reporting victims are stigmatised, these violations minimised, and there is little systematic or timely action on their cases owing to lack of legal and regulatory frameworks, lack of proper training, or the presence of prejudice. Further, owing to impunity on CRSV, both components of *Mi cuerpo es la verdad* call for the Special Jurisdiction to open a case especially dedicated to “sexual and reproductive *violences*, as well as other violences motivated by the sexuality and the gender of the victims” (CEV 2022c: 355) and the component on women incorporates “ethnic group” to this list (CEV 2022c: 207). Recommendations in Findings and Recommendations deal with the inappropriate responses to CRSV by the transitional and ordinary justice systems at length, linking in several Constitutional Court sentences and Special Jurisdiction writs that have called attention to this. Finally, one recommendation of note calls for the implementation of *all* recommendations in the Final Report with a LGBTQI+ gender approach. This duplication of efforts in favour of all recommendations can be taken to mean that the recommendations themselves double, that is the 220 recommendations tallied could be thought of as 440.

8. Actors and Stakeholders in the Colombian Transitional Justice Process and the Truth Commission Legacy

A large variety of actors, both at the national and international levels, were involved in the Colombian peace process. This section takes stock of how different actors pushed for the inclusion of gender justice in the broader transitional justice process, with a particular focus on the Colombian truth commission.

The role of local civil society in advocating gender justice

As explained above, civil society was active in all the phases of the transitional justice process as far as advocating for gender justice is concerned. Even before the Commission was established, several individual victims and feminist and women’s organisations participated in the peace negotiations through the victims’ delegations, and experts were consulted by the Gender Sub-commission. Victims and feminist and women’s organisations also pressured the negotiating parties through marches, press releases, and continuing research on the subject. Once the Final Agreement was signed and the Commission began operating, several members of the women’s and feminist movements were directly or indirectly

³¹ The Constitutional Court has sought to put a stop to the use of glyphosate because of its detrimental effects on the health of humans, animals, and environment. Ruling T-236/2017 established several pre-conditions, amongst which the prior consultation with ethnic groups, for fumigations to be reinitiated (see Dejusticia 2022).

incorporated in its activities. The clearest example was the Gender Commissioner Alejandra Miller who herself had previously been a part of the Ruta Pacífica de las Mujeres, the first organisation to provide a report on women in the conflict. Furthermore, the platform *Cinco Claves*, instrumental in promoting the ban on an amnesty for CRSV during the peace talks, also provided expertise and reports on sexual and reproductive violence throughout the mandate of the Commission (5 Claves 2023) together with external academic experts (see Sanchez Parra 2023). Finally, members of different organisations were interviewed individually or in groups, asked to submit reports, or participate in what the Commission called the *Red de Aliados* or its Allied Network, the full list of which may be found amongst the references of the different volumes and the Commission's permalink.

The one-year mark of the launch of the report brought together several experts, victims and women's and feminist organisations, and Commissioner Miller, at a public university in Bogota to reflect on, amongst other things, the gender work of the Commission.³² Commissioner Miller stated that, in practice, the way in which staffers, victims, and collaborators were selected was very much an identity politics-based decision, where identities were not necessarily understood holistically, but fragmented to fulfil the research needs and internal classification of the Commission. Thus, she explained that while a lot of research had already been done on women in the conflict, knowledge about LGBTQI+ people and groups was much scarcer as their organisations were newer and less known to the human rights movement. This is similar to what Salomé Gómez, the head of the Gender Working Group, stated in a launch event for the report *My Body Is the Truth* nearly one year prior.

While the Commission was practically overwhelmed with information on women in the conflict, they had to seek out new testimony and experts and organisations had documented violence against LGBTQI+ individuals. Caribe Afirmativo, Colombia Diversa, Fundación GAAT, and Santamaría Fundación are the main organisations cited in *Mi cuerpo es la verdad* (CEV 2022c: 346). Colombia Diversa is part of the Gender Group in Peace (GPaz, *Grupo Género en la Paz*), an umbrella group that monitors the implementation of 119 gender provisions in the Final Agreement and litigates on behalf of LGBTQI+ victims before the Special Jurisdiction. The director of Caribe Afirmativo and the director of the Ruta Pacífica are now both members of the Follow-Up Committee of the Commission that is responsible for, amongst other things, monitoring, evaluation and advocacy in favour of the recommendations. *Mi cuerpo es la verdad* acknowledges GPaz as instrumental in the construction of the Final Agreement (CEV 2022c: 180) and several different organisations that were key in its everyday work and the report it released. For instance, this volume reconstructs the process of creation of *Asociación de Mujeres Afrodescendientes del Cauca* (Association of Afro-descendant Women from the Cauca Region, ASOM), the organisation that is cited for its definition of reproductive violence. *Mi cuerpo es la verdad* also recognises the *Organización Femenina Popular de Barrancabermeja* (Feminine Popular Organisation of Barrancabermeja, OFP) in providing self-care and psychosocial support for women (see Nieto-Valdivieso 2022). Different organisations, such as

³² For the full recording of this event, see www.youtube.com/watch?v=hzd_SIVub4Q&xt=10291s

Unión de Costureros and *Las Tamboreras del Cauca*, are cited as providing cultural and work outlets for women (CEV 2022c: 187) while others offered a social safety net for CRSV victims (Zulver 2021).

The gender justice movement in Colombia was strong, visible, and well-organised long before the creation of the Commission. This is largely why CRSV is mentioned in the Final Agreement and the first ever event organised by the Commission, while still in its planning phase in 2018, was on this harm. The first management report of the Gender Working Group for the 2018-2019 stage states that around 60 people provided it with support and expertise from 25 national organisations, five LGBTQI+ organisations, four universities and academic organisations and five international aid organisations in its first year of work (Gender Working Group 2019: 22). Nevertheless, we would be remiss not to recognise the divisions in the gender justice movement and the disparities in capacity, risks, and attention given to different organisations. Thus, while some organisations were certainly the drivers of the Commission, especially what regards staff and different conceptualisations of harms, other organisations flourished thanks to the work of the Commission. Many smaller organisations that benefitted from the attention windfall and funding received from the Commission to put together their reports have struggled since. The disparities between bigger and more visible organisations, especially when located in the capital, and the smaller regional groups is also visible (see also Villamizar & Bueno-Hansen 2021).

The role of international actors in shaping the Colombian peace process and the CRSV agenda

Many of the events organised by the Commission relating to gender and CRSV were supported by a score of international actors. Different management reports, either released by the different working groups within the Commission or the Commission as a whole, speak to organisational support as well as funding. For instance, the first event that the Commission organised on CRSV in 2018 was supported by UN Women, the European Union, and the Spanish Agency for International Development Cooperation – AECID. The ambassador for the European Union to Colombia participated in the event and there was a speaking engagement organised with them on CRSV after the event in Cartagena (Gender Working Group 2019). It is hard to give a global picture of precisely how international actors participated in the Commission work because there are so many different types involved in different capacities over the more than three years that the Commission was in operations. Some countries participated as individual country donors, others through the UN or through the United Nations Multi-Donor Fund for Sustaining Peace in Colombia, still others only through their civil society organisations. This means that they were indirectly responsible for how the transitional justice agenda or the understanding of CRSV developed because the funding they provided was used to organise events, to collect testimony and to fund organisations working on different conflict-related issues. Other international actors, notably different UN agencies, the World Health Organisation, and the Organisation for Economic Co-Operation and Development, are cited amongst the sources of the reports.

Other international interventions took the form of public statements of support and government reporting duties before international or supranational bodies and agencies. This was particularly important because

the Duque administration was openly opposed to the Commission, as one of the institutions that emerged from the Peace Agreement that they had campaigned against in the 2016 referendum. Not only were several UN agencies part of the Commission's Network of Allies, but the Final Agreement created the Mechanism for Monitoring and Verification which included UN officials. While this mechanism was responsible for the specific monitoring of measures outside of the remit of the Commission, Colombia delivered several reports to the Security Council on progress implementing the Peace Agreement during the period of the Commission. For instance, UN Security Council Resolution 2603/2021 extends the UN Verification Mission in Colombia and acknowledges the efforts made for peace. Similarly, the Inter-American Commission on Human Rights visited Colombia during the National Strikes of 2021 and produced a report where CRSV is tied to current day human rights violations and bad practices by the security sector in a continuation of the conflict (see IAComHR 2021). Many of the recommendations from this report impacted in the way in which the Commission presented its own recommendations, especially in Findings and recommendations and *Mi cuerpo es la verdad*. Other similarities can be observed between these recommendations and the report of the United Nations High Commissioner for Human Rights for 2021 (UNHCHR 2021).

Moreover, the UN continues to be important in the aftermath of the Commission. This is not only because the UN Verification Mission and the UN High Commissioner for Human Rights will continue to be involved in Colombia for years to come, but also because of direct support to the Commission's Follow-Up Committee. Thus, acknowledging the value of implementing the recommendations of the Commission, the UN Human Rights Council (2023: 3) called for the Office of the UN High Commissioner for Human Rights "to provide and step up its technical assistance and capacity-building to national and local authorities and other relevant actors with dedicated additional resources to assist Colombia with the implementation of the recommendations made by the Commission for the Clarification of Truth, Coexistence and Non-Repetition, with particular attention dedicated to victims and applying a gender perspective" for a two-year renewable period.

The role of economic and political elites

Political elites, notably the political opposition to the Santos administration, particularly the political party Centro Democrático and former President Álvaro Uribe, were instrumental in the failure of the 2016 referendum of the Peace Agreement. One of their key concerns was what they called the gender ideology of the negotiated text (see, González 2017; Céspedes-Baéz & Jaramillo Ruiz 2018: 103). Weeks prior to the vote, these groups promoted twin digital and media campaigns that falsely claimed that the Agreement was an assault against traditional family values, included abortion rights, impunity for crimes against humanity, including sexual violence, and promoted the "homosexual agenda". While none of this was true, and the Peace Agreement only advocated for equality on the grounds of non-discrimination, they tugged heart strings of many in a still very conservative and traditional country (Sanchez-Garzoli & Camacho 2016). Following the referendum, many of these actors continued to challenge the products and institutions that emerged from the Final Agreement despite being consulted on the current version of the

text *and* having the opportunity to vote on the legislation implementing it. Several of these political and economic elite actors participated directly in the work of the Commission, including former President Uribe who was interviewed in his home in 2021 (Ospina 2021). Shortly after the release of the report by the Commission, these political elites launched their own “alternative” report titled *¿Cuál verdad? Primera aproximación*. The recently replaced director of the National Centre, Darío Acevedo, wrote a chapter of this report where he challenged the perspective of the Commission on harms in the conflict, including CRSV (see Centro Democrático 2022).

Once the Commission ended its activities, two big political changes took place that align with (the search for) gender justice. First, Law 2281/2023 created the post of Minister for Equality and Equity.³³ Second, the National Development Plan of 2022-2026 declared a “emergency due to gender-based violence.”³⁴ “Women in all their diversities” and “LGBTIQ+ people” figure prominently amongst the groups covered by the work of the Minister for Equality and Equity as does gender justice. Law 2281/2023 refers specifically to “the elimination of all violences against women and the elimination of the economic, social and political barriers and discrimination against them” as one of this body. Article 344 of the National Development Plan calls for a score of protective measures directed at the legal and physical protection of women, including education campaigns, special training for law enforcement and the security sector, and transformations of the legal and care sectors. While it remains to be seen whether any of these legal framework changes will bear fruit, and if so when, they both had their advocates in the women’s and feminist movement and certainly represented (some of) their clamours for inclusion.

9. Reception of the Truth Commissions’ Final Report: Challenges to Accountability and Justice

The Final Report was released in a by-invitation only event on 28 June 2022 in a central location in Bogota, only miles away from where the 2016 Final Agreement was signed. The President of the Commission, Jesuit Father Francisco de Roux, and the incumbent President Gustavo Petro both delivered speeches. de Roux acknowledged the great suffering of the victims, including CRSV victims, and their resistance and work for peace. He also challenged Colombian society, mainly those whom we would identify as bystanders in transitional justice discourse, to reflect on how the normalisation of violence was permitted and what its social and political consequences are. Petro, at this point less than two weeks away from being inaugurated, received the report from the hands of de Roux and, in a clearly improvised speech, committed to the full implementation of its recommendations during his brief improvised speech.³⁵ It is noteworthy that exiting President Iván Duque refused to participate in this event, as he had refused to participate in the launch of the Commission on 28 November 2018 (see Verdad Abierta 2018; Torrado 2022). The work

³³ For the full text of this piece of legislation, see: www.minigualdadyequidad.gov.co/827/articles-277865_recurso_1.pdf

³⁴ For the full text of this piece of legislation, see https://colaboracion.dnp.gov.co/CDT/portalDNP/PND-2023/Ley_2294_del_19_de_mayo_de_2023.pdf

³⁵ For the full recording of the event, see: www.youtube.com/watch?v=rPZao0rSV_4

of the Commission and its report was hailed as historic by some internationally, including the US ambassador to Colombia (see Pozzebon 2022).

Decree 588/2017 called for the Commission to implement a dissemination strategy for the report to ensure broad awareness of its findings and its inclusion in cultural and educational activities. The particularity of the Commission was that, despite this release event, it had an additional two months of activities pending for “social appropriation,” formally ending its mandate on 28 August 2022. Thus, it could observe, respond, and even course-correct, at least to some degree, the interpretations, and reactions to its report as they emerged. The Commission expressed a particular interest in interacting with three groups through its dissemination and appropriation activities. First, decision-makers and those responsible for implementing policy stood out, especially Congress people tasked with the approval of the National Development Plan and civil servants and bureaucrats responsible for policies directed at victims and the necessary budgets (CEV 2022a: 123). Second, the *Red de Aliados*, the 3,300 individual and institutional partners-strong group the Commission organised and drawn on for support and expertise, was expected to participate in dissemination efforts (see CEV 2022a: 122). Finally, the Commission’s dissemination strategy focused on those who had participated in its work in one way or another, particularly experts, international aid, victims and human rights professionals, and supranational legal bodies (see IAComHR 2022).

Amongst the first group, one event worth mentioning is the delivery of the report by the Commission to the Senate just days before its mandate ended. The reactions of those present were mixed, perhaps as expected from a majority-led legislative body,³⁶ but generally aligned with what was expected based on their ideological leanings and party affiliation (for details, see Rudling 2022a). The explicit motivation for this event, as voiced by its President in the session, was that the government would ultimately be responsible for implementing the recommendations included in the report. Further, commissioners and staffers participated in dissemination efforts with the public, including the education sector and cultural institutions. For instance, days after the Commission formally ended its mandate, in September, there was a public discussion with staffers responsible for *My Body Is the Truth* and experts in Bogota.³⁷ Similarly, commissioners and staffers presented the findings and recommendations in fora organised by local and national-level LGBTQI+ organisations. The reception was generally warm, with activists recognising the shortcomings as well as progress made by the Commission on both CRSV and other issues. The director of Caribe Afirmativo, for instance, spoke highly of the rigorous research done by the Commission and its role in building a new Colombia (Caribe Afirmativo 2022).

Article 19 of Decree 588/2017 specifically tasked the government with guaranteeing the dissemination and publicity of the report. During his inaugural speech, Petro stated once more that he was committed

³⁶ For the full recording of the event, see: www.youtube.com/watch?v=d_h399OH_tQ

³⁷ For the full recording of the event, see: www.youtube.com/watch?v=jMDzSGy2qGU

to a “strict implementation of the recommendations,” as well as the Final Agreement.³⁸ This was materialised in efforts to include the recommendations of the Commission wholesale in the National Development Plan and its report in the National Education Plan. The first determination would have committed state institutions and, perhaps more importantly, apportion budget to the operationalisation and the implementation of recommendations. The second – to the dissemination of the report in public and private educational centres. Both these determinations came from the highest levels of the new government. For instance, in the latter case, the then Minister of Education, Alejandro Gaviria committed to the legacy of the Commission, explaining that the use of the report in schools was part of the Final Agreement (GoC & FARC-EP 2016: 190) and truth-seeking has important reconciliation functions (El Espectador 2022). For their part, the recommendations were included wholesale in article 8 of the National Development Plan (El Tiempo 2023). Both were met with resistance publicly and politically, including by some of those who had negotiated the Peace Agreement (see Cambio 2023).

10. Implementing the Commission’s Recommendations

The designs of the Petro administration for the wholesale implementation of the recommendations of the Commission were stopped short by Congress debates on the National Development Plan in the first half of 2023. Several positions on this issue emerged, but it quickly became clear that Congress was reluctant to commit a large amount of budget on achieving the expansive promises of the recommendations. These debates also revealed that there was generally a lack of clarity about the true contents of the recommendations, as different sources referred to different numbers of recommendations. The most important source of disagreement was that some referred only to the recommendations in the Findings and Recommendations volume, while others preferred a wider reading that included several volumes.

The final version of the National Development Plan does not mention the Commission nor the recommendations (GoC 2023), although both are mentioned in the supporting documentation provided by the Petro administration. For instance, the document titled the Basis of the National Development Plan commits the government to “establishing a progressive implementation of the recommendations” (GoC 2023: 202). Despite the lack of an explicit statement to this effect, several provisions on CRSV and more broadly on gender in the National Development Plan can be linked to the recommendations of the Commission. The National Development Plan prefers the much broader *violencias basadas en género* or gender-based violence and calls for:

- Article 94 – for the creation of a mechanism for the prevention and comprehensive care in cases of violence and discrimination of LGBTQI+ people;
- Article 162 – strengthening of the family commissariats;

³⁸ See www.cancilleria.gov.co/newsroom/news/palabras-presidente-republica-gustavo-petro-urrego-tomar-posesion-jefe-estado

- Article 163 – improving the institutional conditions to implement the writs and sentences of the Special Jurisdiction;
- Article 277 – the creation of a national policy for sexual and reproductive rights;
- Article 341 – for the creation of a system for the registry, care, monitoring and following up of gender-based violence;
- Article 344 – the adoption of emergency measures directed at the legal and physical protection of women.

Although there are only a few mentions of sexual violence in the National Development Plan, and none directly linked to the conflict, the provisions mentioned above matter because of how the recommendations of the Commission were written. As described above, most CRSV references in the recommendations deal with how the justice system and the security sector deal with this harm. Thus, the creation of a system for the registry, care, monitoring and following up of gender-based violence aligns well with several recommendations. Simultaneously, the latter two articles mentioned clearly have links with how the demobilization and reparations programmes have treated victims and ex-combatants and reproductive and sexual violence more broadly.

The creation of the National Action Plan on UN Resolution 1325 (UN Security Council 2023) and the opening of the macro-case 11 by the Special Jurisdiction (Special Jurisdiction 2023) are where most progress on implementation in relation to CRSV has been made. How the Special Jurisdiction aims to operationalise this macro-case largely matches how CRSV was understood by the Commission as well as the organisations, victims and witnesses that came before it. It is unclear at this point how the Special Jurisdiction will define gender and, therefore, CRSV, but prior knowledge suggests that analyses will cover sexual and reproductive violence and hate crimes based on sexual orientation, gender, gender identification, and gender expression. Prosecution of these crimes will likely follow the International Criminal Court policy on the crime of gender prosecution (ICC 2022). The creation of the National Action Plan on UN Resolution 1325 began in October 2022 and was directed from the Ministry of the Exterior or *Cancillería* and the President's Commissioner for the Equality of Women or *Consejería Presidencial para la Equidad de la Mujer*. 27 feminist and women's organisations were key to its creation, including the umbrella organisation, Alliance 1325 (Cancillería 2023a) and several organisations around the country or with a regional presence (Cancillería 2023b).

The Commission's Follow-Up Committee is another particularity of the Commission that is directly related to the implementation of its recommendations (GoC & FARC-EP 2016: 139). The Follow-Up Committee was tasked by the Final Agreement with "facilitating contact between different [state] institutions and human rights and victims' organisations ... [and] providing periodic reports monitoring the [implementation of the] recommendations ... with a territorial, differential and gender approach." Commission Resolution 019 of 26 April 2022, which formally regulated the Follow-Up Committee, seems to give it functions beyond the monitoring and go as far as producing impact of its own by advocating for the implementation of the recommendations. Article 3, which described the functions of the Committee,

calls for this body to “define and develop a strategy for engaging, dialoguing and advocating with different entities, sectors, population groups and organisations” to, amongst other things, “contribute to the implementation of recommendations.”

Thus, while the Follow-Up Committee does not have direct implementation functions, its advocacy function could maintain the recommendations in the limelight and ultimately assist in the implementation goal (Rudling et al. 2024). We see some of these advocacy and promotion endeavours demonstrated in two recent reports. First, the second report of the Follow-Up Committee on implementation of the recommendations, released in June 2024, recounts some of the advocacy and institutional coordination activities undertaken in the two years prior (CSM 2024). Second, the report on the Final Agreement submitted by the Petro administration to the United Nations in July 2024 highlights the work of the government to create compliance indicators for the recommendations in coordination with the Follow-Up Committee (GoC 2024: 48).

After some operational hardships in the two years prior, the Follow-Up Committee released its second report on the state of implementation of the recommendations in a by-invitation only event in June 2024.³⁹ Unlike the first report, which focused on the legislative advances in relation to the recommendations included in the National Development Plan, this assessment provided evidence on the totality of the 220 recommendations (CSM 2024: 14). The Follow-Up Committee commented on the difficulties that it has encountered in collating updated information on the implementation of the recommendations, but also spoke of dozens of meetings and workshops with different agencies, ministries and institutions where they strove to keep the recommendations in the public eye. Reading through the more than 300 pages of the report, we conclude that some of these activities clearly fall under advocacy and others lean more towards monitoring and evaluation. Returning to recommendation 21 from Findings and Recommendations introduced above, the Follow-Up Committee finds that the Statutory Law Draft Bill 275 of 2023 that regulates the right to protest is yet to be finalised by Congress. They also note several nascent efforts to restrict the use of unnecessary force by adopting appropriate disciplinary measures and eliminating a specialised crowd control body that sentences by local and regional courts indicated was responsible for human rights violations of the nature described by the recommendations going back at least five years (CSM 2024: 135-6).

The yearly report to the United Nations on the state of implementation of the Final Agreement submitted by the Petro administration in July 2024 requests a 7-year extension of the final deadline for implementation. The recognition by this report of the importance of the Follow-Up Committee and the prioritisation of 104 recommendations amongst the 220 reviewed by the Follow-Up Committee in its own report deemed urgent for implementation by the Petro administration offers reasons to be hopeful about the fate of all recommendations (GoC 2024). First, presumably, we are likely to see more implementing action on recommendations over the remaining two years of this administration. This means that the 16

³⁹ For the full recording of the event, see: www.youtube.com/watch?v=A-IFtgRacOo

recommendations, and the 32 actionable items that comprise them, that explicitly incorporate CRSV are also likely to see some progress, especially when they fulfil the two conditions outlined in the report, namely they overlap with the Final Agreement and are part of the 104 recommendations prioritised. Second, the quality of the information that the Follow-Up Committee will have access to carry out its monitoring and evaluation duties will likely improve over the next years, also strengthening its capacity to advocate for the implementation of recommendations more broadly.

11. Concluding Remarks and Future Directions

The Truth Commissions and Sexual Violence: African and Latin American Experiences project, of which this report is a part, explores how truth commissions in Latin America and Africa have addressed CRSV. The project contributes invaluable insights into how truth commissions have both taken advantage of and furnished opportunities for the development of reparative and preventive measures on these harms in their own contexts and beyond. This report has examined the Colombian Commission for the Clarification of Truth, Coexistence and Non-repetition (2018-22). Arising from the 2016 Final Peace Agreement, the Commission was tasked with contributing to the clarification of causes and patterns of violence during the internal armed conflict, acknowledging victims, furthering coexistence in the territories, and identifying and promoting the necessary conditions for non-repetition.

The objective of this report was to show how the Colombian truth commission dealt with CRSV by looking at its context and establishment, mandate, operations, report and findings, recommendations and their implementation. Based on document analysis and secondary sources, I argued that the norm on CRSV in Colombia since the early 2000s has been a double tendency to spectacularise it and exceptionalise it with respect to women and girls “during conflict”. This has led to the invisibilisation of different types of harms visited upon women and girls in reporting, specialised literature, and discussions on gender-based violence more generally. Simultaneously, other groups, most notably men and boys and LGBTQI+ people, were marginalised in analyses of CRSV.

The work of the Commission on CRSV revealed both continuities and discontinuities with respect to Colombia and internationally. For instance, the definition of Commission of gender resembled the approach to gender put forward by the Colombian Constitutional Court, the Historical Memory Group, and the National Centre for Historical Memory in their work on CRSV previously. Similarly, the Commission also privileged the use of CRSV by the armed actors against the “bodies of women and LGBTQI+ people” in the analysis it captured in the 23 volumes that make up its final report. An element of discontinuity is the framing by the Commission of CRSV as a harm enmeshed in a system of violence. This better aligns with current understandings promoted by local leading LGBTQI+ organisations, particularly Colombia Diversa. This framing links CRSV to reproductive violence more firmly, thereby accepting a description of the former as harms against individual autonomy and freedom. The Commission outlined how prejudice, in many forms, underlies hate crimes, discrimination and other forms of

marginalisation. CRSV is, thus, presented as the peak of the iceberg of different structural violences suffered by marginalised individuals and groups.

Of the total of 220 recommendations distributed by the Commission across five of its 23 volumes, 16 recommendations contain explicit references to CRSV as follows: five in *Findings and Recommendations*; one in *Resistir no es aguantar*; and ten in *Mi cuerpo es la verdad*. Most recommendations appeal to the dismantling the oppressive systems that subject these specific individuals to greater vulnerability to CRSV. As mentioned earlier in the report, these CRSV references in the recommendations move past the present victims to consider how social, legal, and economic systems may be reformed to offer guarantees of non-repetition and prevention of future harms. These recommendations draw out the connections between gender-based violence as a form of structural violence and frame CRSV as one way it manifests.

The work of the Commission and its report was hailed as historic locally and internationally. The current Petro administration remains committed to the implementation of the recommendations of the Commission, as well as the Final Agreement it arose from. In a recent report submitted to the United Nations, the Petro administration recognised the importance of both the Follow-Up Committee of the Commission and its recommendations, particularly those with a gender or ethnic approach. This offers good reason to be hopeful about the fate of the recommendations, especially those focusing on CRSV.

The two biggest impacts of the Commission in terms of legal or political opportunity relate to how we may understand gender and CRSV itself in the future. Progress on the implementation of its recommendations on the adoption of the first National Action Plan on UN Security Council Resolution 1325 and opening the macro-case 11 by the Special Jurisdiction that are most likely to contribute to this (see Beltrán Celemin 2023). The adoption of the first National Action Plan is most likely to advance the implementation of existing provisions with a gender approach in the Final Agreement. GPaz has documented at length what the implementation of these 119 provisions of the Final Agreement would mean for gender justice and women in Colombia and Colombia Diversa – for LGBTQI+ people. The focus of both these mappings goes beyond CRSV, and incorporates issues relating to land tenure and use, political participation and security guarantees (see GPaz 2022). Framing CRSV as the hard nucleus of a much broader problem of discrimination and prejudice in this way is reminiscent of how the Commission described CRSV in its recommendations.

The opening the “Macro-case 11” by the Special Jurisdiction is likely to impact how CRSV will be investigated legally and how victims will be treated by legal professionals and Colombian society more broadly. Some of these practices were already *en route* to being implemented even before the Commission report was released because there are provisions in the Final Agreement dealing with the treatment of CRSV victims. Furthermore, the investigation methodologies adopted by the Special Jurisdiction are likely to affect the procedures of the ordinary justice system as well. This latter change, which is underscored by recommendations included by the Commission in the volume titled *Mi cuerpo es la verdad*, is an even more important transformation since most CRSV victims are unlikely to be included in or otherwise

covered by the Special Jurisdiction cases (see Beltrán Celemin 2023). Thus, given the link of the recommendations to the Final Agreement, the pressure exerted by the women's and feminist movement on its negotiating parties, and its participation in the work of the Commission, we could say that whatever changes will take place in relation to the treatment and understanding of CRSV, these will have been promoted by women's and feminist organisations *through* the Commission (see Beltrán Celemin 2023). Acting upon its mandate, the Commission also acknowledged the work of the women's and feminist organisations outside its bounds, especially their lobbying of the Special Jurisdiction since at least 2021, their strategic litigation before the Constitutional Court in the case of *Helena*, and activism before supranational bodies, such as the Inter-American System of Human Rights and the United Nations.

The next step in the work on CRSV in Colombia and elsewhere will be to insist on delinking 'gender' from 'women' and eroding the hyper-attention given to CRSV as a crime that uniquely affects this group. Colombian LGBTQI+ organisations active in the women's and feminist are likely to be key in this task they have been critical of earlier work on CRSV, including some of the analyses of the Commission, as we saw in this report. On the one hand, these organisations promoted a wider understanding of gender, which is inclusive of gender expression, gender identity and sexual orientation. On the other hand, they tied CRSV to a wider culture of discrimination and prejudice. This achieved two goals. First, it removes CRSV from earlier readings that associated it to the 'women's body as spoils of war' trope. Second, it more firmly places CRSV in the continuum of violence, setting it up for an intersectional understanding that sees CRSV as tied to other forms of oppression that affects vulnerable people and groups, especially those with dissident sexualities and bodies.

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By several accounts, Colombia is now home to one of the most complex and ambitious transitional justice projects in the world. This report focuses on the Commission for the Clarification of Truth, Coexistence and Non-repetition; the extra-judicial element of truth of this project. Based on document analysis and secondary sources, including interviews, interventions in events, and public speeches by key players in this process, this report argues that the work of the Commission on sexual violence comprises elements of both continuity and discontinuity. The report looks to the development of national and international standards on this issue and reflects on what might be the impact of the Commission in this regard at home and beyond.

The Truth Commissions and Sexual Violence: African and Latin American Experiences project this report is part of maps how truth commissions in Africa and Latin America have addressed conflict-related sexual violence and highlights how they contributed to the development of reparative and preventive measures in relation to these harms. By looking at six phases of the truth commission process: their context and establishment; mandate; operations; reports and findings; recommendations; and implementation, the project offers systematic evidence of the connection between the development of international norms on conflict-related sexual violence and its increasing recognition by truth-seeking bodies.

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