

**Submission by the United Nations High Commissioner for Refugees**  
**For the Office of the High Commissioner for Human Rights' Compilation Report**  
**Universal Periodic Review: 3rd Cycle, 30th Session**

## COLOMBIA

### I. BACKGROUND INFORMATION

Colombia ratified the *1951 Convention relating to the Status of Refugees* in 1961 and acceded to its *1967 Protocol* in 1980 (hereinafter jointly referred to as the “*1951 Convention*”). In 1954, Colombia signed the *1954 Convention relating to the Status of Stateless Persons* (the “*1954 Convention*”) which it has yet to ratify. It also acceded to the *1961 Convention on the Reduction of Statelessness* (the “*1961 Convention*”) in 2014 with a reservation.<sup>1</sup>

The country is characterized by a situation of protracted internal displacement. According to the Government's data, between 1985 and 1 September 2017 some 8,532,636 persons are registered as victims (including IDPs and victims of other human rights violations), out of which 88.86 per cent are IDPs (as of 1 September 2017, Colombia had recognized 7,582,085 IDPs under the Unique Victims Registry (RUV)), 51.07 per cent are female and 32.81 per cent are children. The persistence of the causes of displacement and the lack of durable solutions led to a yearly average of 253,000 newly displaced between 2010 and 2016, although the average number of newly displaced persons is decreasing. Also, out of this total, 29,930 persons are identified as members of the Roma community (0.39 per cent), 190,920 as belonging to the indigenous community (2.51 per cent) and 793,930 as Afro-Colombians (10.47 per cent).

According to official sources, during 2016, there were a total of 258 registered refugees (29 per cent female) in the country - from Cuba (28 per cent), Venezuela (17 per cent), Ethiopia (6 per cent), Nicaragua (5 per cent) and Salvador (4 per cent), and 314 new asylum requests. For the first time, Venezuelans (212 cases) surpassed Cubans (54 cases) in terms of asylum claims. The Government recognized 32 refugees in 2016 (44 per cent female), including: 5 Afghans; 5 Iraqis; 4 persons from El Salvador; 4 Venezuelans; 9 Cubans; 1 Palestinian; 1 Syrian and 4 persons from Honduras; all but 2 of the Cuban cases were from 2015. At the end of 2016, 191 asylum claims were awaiting a decision, including 156 cases from Venezuela.

Regarding returnees, during 2016, 92 refugees returned to Colombia with UNHCR's assistance, likewise 129 spontaneous returnees were registered. From January to mid-June 2017, UNHCR has facilitated the repatriation of 40 Colombian refugees from Chile, Ecuador and Venezuela. Moreover, UNHCR has attended and provided legal counselling to 59 spontaneous returnees from countries such as Brazil, Chile, Ecuador, Panamá, Peru and Venezuela. In 2016, a total of 221 returnees were assisted, whereas in mid-2017, 99 cases have been registered, indicating that the trends in 2017 remains almost the same.

Since the demobilisation of FARC-EP, areas traditionally most affected by the armed conflict, particularly along the Venezuelan border and the Pacific region, present special risks because

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<sup>1</sup> Through Decree 330/2016 Colombia formalized the deposit of the 1961 Convention, with the reservation that it does not recognize the jurisdiction of the International Court of Justice with regard to the disputes that may arise between Contracting States concerning the interpretation of application of the Convention.

of the dispute in the control that other illegal armed actors are exerting on the territories and by the reconfiguration of new groups throughout the country. In the Colombian Pacific area there is a repositioning of new actors for the control of illicit activities left by the FARC. This situation has brought as a consequence an evident presence by the Auto Defensas Gaitanistas de Colombia (AGC), the guerrilla of the ELN and new groups that have arisen and who dispute the control of these territories. The humanitarian situation is complex, in particular in the departments of Chocó, Nariño and Valle where there have been confrontational scenarios with different intensities, affecting communities in terms of recruitment of children, targeted homicides, forced displacement, kidnappings and confinement. Although this was an expected scenario in the context of the FARC's demobilization and disarmament process, the frequency and impact of the events occurring in the first half of 2017 are greater than expected.

## **II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS**

### **Positive developments linked to 2nd cycle UPR recommendations**

**Linked to 2nd cycle UPR recommendation no.116.9: “Continue efforts through dialogue with the Revolutionary Armed Forces of Colombia to reach an agreement that will put an end to the armed conflict (Pakistan).”**

UNHCR congratulates Colombia on the success of the peace agreement reached between the FARC and the Colombian government, which brings an end to an armed conflict that has lasted over 50 years. In the Final Agreement, the Parties agreed to create an Integral System of Truth, Justice, Reparation and Non-Repetition in order to achieve the highest possible satisfaction of victims' rights, ensure accountability for violations, guarantee the legal security of those who participate in the System and contribute to coexistence, reconciliation and non-repetition of the conflict and thus ensure the transition from armed conflict to peace.

Along with the UN Political Mission,<sup>2</sup> the international community has been given specific roles for the implementation of the Peace Accord. Particularly, UNHCR has been called to support implementation concerning victims' human rights. The peace accord is the beginning of a systematic peace-building process that will encompass a range of measures targeted to reduce the country's risk of relapsing into conflict. With the large number of victims of forced displacement, finding comprehensive durable solutions for the displaced population is a key aspect of that process. Local integration, relocation and return of IDPs and Colombian refugees abroad, in safe and dignified conditions, will be fundamental to sustainable peace.

UNHCR also welcomes the initiation of peace negotiations between the Government and ELN, and expresses its support and wishes for a successful conclusion of the process, congratulating particularly the bilateral ceasefire that will be in effect initially between 1 October 2017 and 9 January 2018. At the same time, it continues advocating for the inclusion of victims and IDPs in the negotiation process, as was the case in negotiations with FARC.

**Linked to 2nd cycle UPR recommendation no 116.1. “Become a party of international instruments of protection and promotion of human rights still pending ratification, as appropriate, such as the 1961 Convention on the Reduction of Statelessness (Ecuador).”**

UNHCR commends Colombia's accession to the *1961 Convention on the Reduction of Statelessness*. This treaty is vital for future developments on Colombian nationality laws, since it establishes specific safeguards to prevent statelessness at birth and loss of nationality later in life. It also contains special provisions that allow people to acquire the nationality of the

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<sup>2</sup> The UN Political Mission, requested by the parties and approved by the Security Council through Resolution 2261 on 25 January 2016, has already been deployed. The UN Mission consists of unarmed international observers to monitor and verify the laying down of arms and be part of the aforementioned tripartite mechanism.

State in which they were born if they would otherwise be stateless. UNHCR also welcomes the fact that the Government of Colombia granted Colombian nationality to one stateless person in 2016, in the absence of a legal framework for stateless persons.

The National Register Office (RNEC) has issued internal guidelines to facilitate the granting of nationality for Colombian children born in Venezuela who arrived without birth certificates apostilled pursuant to the Hague Convention, which UNHCR welcomes. Children born in Venezuela and entitled to a Colombian nationality will be able to access public healthcare and education systems, facilitating their local integration in the country. The Government should be encouraged to expand the application of these guidelines to other nationalities.

### **III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS**

#### **Challenges linked to outstanding 2nd cycle UPR recommendations**

##### **Issue 1: Guarantees of protection for the IDP communities in the Pacific region**

**Linked to 2nd cycle UPR recommendation no. 116.44: “Intensify the Government presence in rural areas whose communities are victims of abuses, such as forced displacement, as well as target of violence perpetrated by criminal organizations (Italy).”**

The Office of the Ombudsman prepares ‘risk reports’ whenever it considers that there are situations that pose extraordinary risks to the rights of the population. Through its reports, it has noted on several occasions the difficult situation in the Pacific region. Given the current circumstances, it has expressed the need for exceptional measures to address the humanitarian situation in Buenaventura and Chocó, and in an integral way, in the entire Pacific region. As pointed out by the Office of the Ombudsman, in the current context of post-agreement with FARC the high risk faced by communities in the Pacific is a matter of concern to UNHCR. In recent years, the Pacific Coast region has remained one of the most affected by large-group displacements. Based on its monitoring activities, UNHCR observed that in 2016 more than 11,300 people (more than 3,000 families) were displaced in this region. As of mid-2017, nearly 7,000 people have been displaced or been affected by serious situations of confinement.<sup>3</sup> It is estimated that by the end of 2017 there will be 17,000 displaced families, showing an increase from 2016 even in a context of what is largely perceived as an improvement in conditions in the country. In the same way, slow-drip intra-urban displacement has also increased. The most affected regions are in the Pacific region: Chocó, Nariño, Valle del Cauca and border regions in Norte de Santander. UNHCR is concerned that, taking into account the frequency and impact of the events that are occurring in the first months of 2017, the instances of large-group displacements may surpass that of 2016.

It is important to note that the deteriorating humanitarian situation in the Pacific has a serious and disproportionate impact in particular on indigenous and Afro-Colombian communities.<sup>4</sup> These communities are affected not only by the forced displacement of their territories, but also by situations of confinement (given the presence of armed groups, restrictions on mobility and, in some cases, contamination of territories with anti-personnel landmines). The increase in cases of forced recruitment of children and adolescents is also of serious concern.

#### **Recommendations:**

UNHCR recommends that the Government of Colombia:

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<sup>3</sup> These figures refer to mass displacements, which are defined by the Colombian government under the Law of Victims as one that affects more than 10 families or 50 people. These events are of special government attention for the humanitarian assistance routes. These figures do not include individual displacements.

<sup>4</sup> In the last five months it has been 52 per cent indigenous and 26 per cent Afro-Colombian communities affected.

- (a) Ensure effective implementation of the institutional response mechanisms defined in the *Ethnic Decrees* (4633 and 4635) and the *Victims' Law 1448*; and
- (b) Guarantee humanitarian assistance for forcibly displaced and confined communities.

## **Issue 2: Ratification of the 1954 Convention**

**Linked to 2nd cycle UPR recommendation no 116.1:** “Become a party of international instruments of protection and promotion of human rights still pending ratification, as appropriate, such as the 1961 Convention on the Reduction of Statelessness (Ecuador).”

Even though Colombia partially followed recommendation 116.1, by acceding to the *1961 Convention*, it has not yet ratified the *1954 Convention*, which secures minimum standards of treatment for stateless persons and addresses the issue of naturalization.

### **Recommendation:**

UNHCR recommends that the Government of Colombia:

- (a) Ratify the *1954 Convention relating to the Status of Stateless Persons*.

## **Additional Protection Challenges**

### **Issue 3: Protection of refugees and persons in need of international protection**

In recent years, the number of persons seeking international protection in Colombia has increased, not least due to the recent improvements of the country's situation. This increase in claims is not however followed by enhanced accessibility to and better quality of the asylum, and as a result the protection system in the country remains weak. Several key issues need to be addressed, most notably:

1. The fact that filing asylum claims in airport transit zones is expressly prohibited: This prohibition, which is included in *Decree 1067* of 2015, has resulted in several cases of *refoulement*. As of the time of drafting, in 2017 alone, UNHCR had registered *refoulement* cases relating to five Eritrean nationals, two Pakistani nationals and two Sri Lankan nationals. These individuals were not allowed access to the asylum procedures authorities, but managed to communicate with UNHCR from the transit zone to ask for support. They were expelled despite UNHCR's intervention with the Government;
2. Lack of effective access to the asylum system: Officials from the asylum system are only present in the capital, relying on migration officials to receive claims elsewhere in the country; the lack of sufficient identification and referral capacity means that the large population of Venezuelans who might be in need of international protection are not able to access international protection. As special commissions have to travel to areas outside the capital to interview and later notify asylum-seekers of decisions, this delays RSD procedures considerably;
3. Lack of an effective regulation on complementary protection deriving from the State's obligations under international human rights law: Existing regulations do not specify in which instances complementary protection applies and do not establish the status to be granted to persons in need of such protection;
4. Need to ensure impartial RSD adjudication: Asylum claims are processed by the Ministry of Foreign Affairs, with a risk that asylum cases might be decided on the basis of political considerations rather than on their merit – a concern recognized by Ministry officials;
5. Lack of a timeframe for adjudicating claims: *Decree 1067* of 2015 does not establish a time limit for the Government to decide on an asylum claim, resulting in uncertainty for asylum-seekers and an average of over one year for decisions to be made; and
6. Asylum-seekers have no right to work: The fact that asylum-seekers are not allowed to work, coupled with the lack of Government programmes to provide socio-economic support, puts them in a vulnerable situation, forcing them to work irregularly or exposing them to the risks of human smuggling and trafficking in pursuing onward movements.

**Recommendations:**

UNHCR recommends that the Government of Colombia:

- (a) Consider the adoption of a law on international protection, ensuring effective access to a fair and impartial adjudication process throughout its territory; and
- (b) Consider including, in a law on international protection, comprehensive provisions not only on the protection of refugees, but also on complementary protection as derived from its obligations under international human rights law.

**Issue 3: Development of stateless determination procedures and protection measures**

There are no protection mechanisms for stateless persons in the country, which may make it difficult for stateless persons to regularize their migration status and to access basic rights such as health and education. Colombian legislation lacks provision establishing a stateless determination procedures or provisions which would facilitate access to naturalization for stateless persons. The latter is particularly concerning because stateless people may face difficulties in meeting the typical requirements for naturalization. Additionally, the naturalization process in Colombia is a discretionary act of the President of Colombia, which means that there is no certainty that if a person meets the requirements they would be granted nationality.

**Recommendation:**

UNHCR recommends that the Government of Colombia:

- (a) Develop national legislation to protect stateless persons and create stateless determination procedures and mechanisms to facilitate their naturalization.

**Issue 4: Harmonizing the 1961 Convention and Colombian nationality legislation**

Colombia has not yet amended the nationality law, Law 43 of 1993, to harmonise the legal system with the *1961 Convention*, especially to implement the safeguards established in article 1(1) of the Convention. Colombia applies the principles of *ius soli* and *ius domicili* to grant nationality to children born in Colombia to foreign parents. This is particularly worrying in the case of children born in Colombia to foreign parents who are not considered to be domiciled<sup>5</sup> in the country. According to Article 5 of *Law 43 of 1993*, these children could only be granted Colombian nationality if no other State has done so and their parents prove, through certification of the diplomatic or consular missions of their countries of origin, that their country does not apply *ius sanguinis* to grant nationality. These provisions affect children of irregular migrants and those without visas to prove their domicile in Colombia, it can also affect children of asylum-seekers, who may be unable to contact their consular or diplomatic authorities.

Article 5 of *Law 43 of 1993* regulates nationality by naturalization and not by birth, however, this provision includes the requirements to acquire Colombian nationality for those children born in Colombia to foreign parents who are not considered to be domiciled in Colombia. There is a need to clarify whether the goal of Article 5 of *Law 43 of 1993* is to grant those children nationality by birth or naturalization.

**Recommendation:**

UNHCR recommends that the Government of Colombia:

- (a) Harmonise nationality laws with the provisions of the *1961 Convention on the Reduction on Statelessness*.

**UNHCR  
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<sup>5</sup> A foreign national is domiciled in Colombia if he or she holds one of the types of visas mentioned in Guideline 059 of 2015 issued by the National Civil Registry – Registraduría Nacional del Estado Civil.

## ANNEX

### Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

## COLOMBIA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Colombia.

### I. Universal Periodic Review (Second Cycle – 2013)

| Recommendation <sup>6</sup>   | Recommending State/s | Position <sup>7</sup> |
|---|----------------------|-----------------------|
| <b>Refugees, asylum-seekers and IDPs</b>  |                      |                       |
| 116.9 Continue efforts through dialogue with the Revolutionary Armed Forces of Colombia to reach an agreement that will put an end to the armed conflict.   | Pakistan             | Supported             |
| 116.25. Provide to Colombian refugees the opportunity to present their request for reparation at the moment of their voluntary repatriation, if it is the case, so that they can benefit from the Victims and Land Restitution Law              | Panama               | Supported             |
| 117.3. Maintain and strengthen its political support and financial cooperation for the operations of the Office of the United Nations High Commissioner for Refugees, for the implementation of social projects in favour of Colombian refugees | Ecuador              | Noted                 |
| 116.44. Intensify the Government presence in the rural areas whose communities are victims of abuses, such as forced displacement, as well as target of violence perpetrated by criminal organizations  | Italy                | Accepted              |
| <b>Trafficking in persons</b>   |                      |                       |
| 115.4. Provide additional resources to its anti-trafficking in persons programmes   | Philippines          | Supported             |
| 116.58. Redouble efforts against trafficking in persons, in particular through the adoption of the new National Strategy 2013-2018  | Peru                 | Supported             |
| 116.59. Continue to combat human trafficking, in particular of women, boys and girls and continue strengthening its programs to prevent trafficking, in accordance with the National Integrated Strategy to Combat Human Trafficking            | State of Palestine   | Supported             |
| 116.60. Strengthen its human trafficking prevention programmes in its new National Strategy to Combat Trafficking in Persons  | Trinidad and Tobago  | Supported             |
| 116.61. Strengthen the trafficking prevention programmes under the national strategy to combat human trafficking 2007-2012, with particular attention to children from disadvantaged groups   | Egypt                | Supported             |
| 116.62. Continue its work in combating trafficking in persons, with particular attention given to children and disadvantaged groups, as envisaged in its future plan of National Strategy on trafficking prevention                             | Cambodia             | Supported             |
| 116.63. Continue specially its efforts to combat human trafficking  | Honduras             | Supported             |

<sup>6</sup> All recommendations made to Colombia during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Colombia" (4 July 2013), A/HRC/24/6, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/COIndex.aspx>.

<sup>7</sup> Colombia's views and replies can be found in: *Addendum* (19 July 2013), A/HRC/24/6/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/COIndex.aspx>.

|   |             |                        |
|---|-------------|------------------------|
| 116.64. Consider strengthening the comprehensive policy in the National Strategy to Combat Trafficking in Persons, including preventive measures  | Indonesia   | Supported              |
| 116.65. Strengthen its trafficking prevention programme under the National Strategy to Combat Human Trafficking 2007-2012, with particular attention to children and women  | Kyrgyzstan  | Supported              |
| 116.66. Continue its efforts to fight trafficking in persons within the framework of its Comprehensive National Strategy to Combat Trafficking in Persons. In this regard, we urge the Government of Colombia to continue to work towards finalizing and adopting its National Strategy 2013-2018 | Nigeria     | Supported              |
| <b>Groups with specific needs</b>   |             |                        |
| 116.28. Redouble on-going efforts to improve the quality of life of the most vulnerable groups, in particular indigenous peoples and people of African descent  | Peru        | Supported              |
| 116.94. Further promote economic and social rights of minorities and vulnerable groups  | Niger       | Supported              |
| 116.102. Continue prioritizing education opportunities for the largest possible proportions of rural inhabitants and vulnerable populations   | Azerbaijan  | Supported              |
| 116.110. Ensure that the legislation regarding the rights of minorities and indigenous people continue to be fully implemented, paying special attention to the protection of those people most vulnerable to threats and violence, such as human rights defenders                                | Italy       | Supported              |
| 116.111. Take all necessary measures to ensure the full and sustainable protection of indigenous peoples and peoples of African descent, in terms of both physical security and land rights   | New Zealand | Supported              |
| 116.112. Provide demobilized children with assistance and penalize those responsible for their recruitment  | Poland      | Supported <sup>8</sup> |
| 116.113. Investigate thoroughly all cases of illegal recruitment of children in armed groups and bring the perpetrators to justice  | Austria     | Supported              |
| 116.114. Continue to take effective measures to ensure the recovery, rehabilitation, and reintegration of child soldiers  | Austria     | Supported <sup>9</sup> |
| 116.48. Enhance the protection for children, including by improving the investigation, prosecution and prevention of violence against children  | Cyprus      | Supported              |
| 116.116. Continue to provide assistance to demobilized children, independently of the illegal armed group they may have belonged to, along the lines suggested by the Secretary-General   | Chile       | Supported              |
| 116.117. Intensify its efforts to counter the widespread practice of forced recruitment of children by non-state armed groups, and ensure that all demobilized children are given protection, reintegration and rehabilitation assistance   | Hungary     | Supported              |
| 116.119. Protect the right to property of the land of the indigenous and traditional peasant communities to prevent the dispossession of land suitable for agriculture in the present context of economic and social development  | Mexico      | Supported              |
| <b>Sexual and gender-based violence</b>   |             |                        |

<sup>8</sup> **Addendum:** "Accepted. Ongoing. It should be made clear that as far as Colombia is concerned, there are no demobilized children, but children who were formerly linked to illegal armed groups."

<sup>9</sup> **Addendum:** "Accepted. Ongoing. It should be made clear that as far as Colombia is concerned, there are no child soldiers, but children who were unlawfully recruited and used by illegal armed groups. In no case do the armed forces recruit minors into their ranks."

|  |              |                         |
|--|--------------|-------------------------|
| 115.1. Implement the recommendations made by the United Nations Special Representative of the Secretary General on Sexual Violence in Conflict, during her visit to Colombia in May 2012   | Sweden       | Supported <sup>10</sup> |
| 115.2. Develop and implement a comprehensive and interdisciplinary action plan aimed at combating violence against women, in consultation with victims and women organizations, and based on the recommendations made by the United Nations and the Inter-American human rights system   | Belgium      | Supported               |
| 115.3. Follow-up and implement effectively the recommendations of the Special Representative of the Secretary-General on Sexual Violence in Conflict   | Austria      | Supported               |
| 116.38. Extend an invitation to the Special Rapporteur on violence against women, its causes and consequences  | Hungary      | Supported               |
| 116.39. Invite the Special Rapporteur on violence against women, and develop, in consultation with civil society, a comprehensive plan of action to address sexual violence  | Hungary      | Supported               |
| 116.50. Continue to prioritise policies aimed at promoting the enjoyment of women's rights and prevention of sexual violence   | South Africa | Supported               |
| 116.51. Consider developing and implementing a comprehensive plan of action to further women's rights, including measures to combat violence against women   | Indonesia    | Supported               |
| 116.52. Step up efforts to prevent sexual violence against women and children and strengthen measures for the rehabilitation of boys and girls affected by armed conflicts   | Paraguay     | Supported               |
| 116.54. Increase efforts in addressing violence against women, including a provision of access to justice and medical care for victims as well as their social reintegration, in particular within the context of the armed conflict   | Slovakia     | Supported               |
| 116.55. Elaborate and apply in an effective manner an exhaustive and interdisciplinary action plan to address violence against women   | Spain        | Supported               |
| 116.56. Continue to work constructively to implement the laws, decrees and resolutions that have been approved to combat violence against women and girls and to guarantee access to justice for victims of sexual violence  | Canada       | Supported               |
| 116.57. Guarantee access to justice for victims of sexual violence by ensuring the effective implementation of laws on the protection of women   | France       | Supported               |
| 116.67. Strengthen the judiciary in order to guarantee its investigation and prosecution capacity so as to ensure access to justice for all citizens, in particular victims of sexual violence   | Switzerland  | Supported               |
| 117.5. In order to combat impunity, support the bill before Congress "to guarantee access to justice for victims of sexual violence, especially sexual violence in the context of armed conflict"  | Finland      | Noted                   |
| 117.6. Ensure the effective implementation of Order 092 of the Constitutional Court, which referred 183 cases of sexual violence against women to the Attorney-General's Office, the incorporation of Law 1257 on violence against women into the Criminal Code, and create an inter-institutional system for monitoring of the implementation of Security Council resolution 1325 | Ireland      | Noted                   |
| 118.23. Address how victims of sexual violence by illegal armed groups who are not considered parties to the conflict can access appropriate reparations   | Australia    | Noted                   |
| 118.24. Take concrete and effective actions to implement the existing legal framework and to tackle the widespread impunity for crimes related to sexual violence  | Sweden       | Noted                   |
| <b>SOGI</b>  |              |                         |

<sup>10</sup> **Addendum:** "Accepted. Colombia accepts the recommendations made in the report of the Special Representative that are compatible with the normative framework and current public policies and with its capacity to implement them, taking into account the observations and comments made on the document."



|  |           |           |
|--|-----------|-----------|
| 116.43. Consider the possibility of enhancing the necessary measures for the protection and integration of the LGBT population   | Argentina | Supported |
| <b>Stateless persons</b>   |           |           |
| 116.1. Become a party of the international instruments of protection and promotion of human rights still pending ratification, as appropriate, such as the 1961 Convention on the Reduction of Statelessness | Ecuador   | Supported |

## II. Treaty Bodies

### Committee on the Elimination of Discrimination against Women

Concluding Observations, (29 October 2013), [CEDAW/CBHS/CO/7-8](#)

#### **Stereotypes and harmful practices**

13. The Committee is concerned at the persistence of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society in the State party. It notes that such attitudes and stereotypes constitute a significant impediment to the implementation of the Convention, as they are root causes of women's disadvantaged position in political and public life, especially in decision-making positions and elected offices, as well as in the labour market; the prevalence of violence against women; and gender segregation as reflected in women's and girls' educational choices. It is also concerned that the State party has not taken sufficient sustained and systematic action to eliminate stereotypes, in particular those against indigenous and Afro-Colombian women. It is further concerned at the practice of female genital mutilation in some indigenous communities, including the Embera community, as well as at the insufficient measures taken to eliminate this practice, illustrated by its non-prohibition by law.

#### **14. The Committee recommends that the State party:**

- (a) **Develop a comprehensive strategy targeted at women, men, girls and boys to overcome patriarchal and gender-based stereotypical attitudes about the roles and responsibilities of women and men in the family and in society, in particular in areas where women are in the most disadvantaged position, such as public and political life and employment;**
- (b) **Disseminate the principles of non-discrimination and gender equality, through its cooperation with civil society and women's organizations, political parties, education professionals, the private sector and the media, to the general public and to specific audiences, such as decision makers, employers and youth, with a view to enhancing a positive and non-stereotypical portrayal of Afro-Colombian and indigenous women;**
- (c) **Undertake joint efforts with the indigenous authorities to eliminate female genital mutilation, including by raising awareness on its harmful effects for girls and women and by ensuring the implementation of the decisions taken by the Regional Council of Risaralda with regard to its practice; and prohibit female genital mutilation in the State party's legislation.**

#### **Violence against women**

15. The Committee is concerned at the high prevalence of violence against women, in particular domestic and sexual violence, despite the comprehensive legal framework to address violence against women in the State party.

#### **16. The Committee recommends that the State party:**

- (a) **Ensure women's adequate access to the protection and support measures envisaged in Law No. 1257 (2008) by simplifying the procedures for access**

**to them; ensuring consistency and articulation among the different decrees which constitute the regulatory framework of the Law, enhancing coordination among the institutions responsible for its implementation; and providing these institutions with sufficient human, technical and financial resources to increase their effectiveness in executing their mandate.**

#### **Conflict-related gender-based violence**

17. The Committee notes the efforts of the State party to address conflict-related gender-based violence, including sexual violence, such as Law No. 1448 (2011). It also notes the measures taken by the Attorney General's Office to improve the methodology of investigation and treatment of victims of these crimes. However, it expresses its serious concern at the prevalence of sexual violence against women and girls, including rape, by all actors in the armed conflict, including by post-demobilization armed groups. It is concerned at the significant underreporting of cases and at the widespread impunity with respect to the investigation, prosecution and punishment of perpetrators of conflict-related sexual violence against women and girls, which contribute to the victims' lack of confidence in the State response.

#### **18. The Committee recommends that the State party:**

- (a) Take measures to prevent gender-based violence, in particular sexual violence, by all actors in the armed conflict; conduct gender-sensitive training and adopt codes of conduct for the police and the military and ensure their proper dissemination.**

#### **Trafficking and exploitation of prostitution**

19. The Committee is concerned at the delays in the adoption of Law No. 985 (2005) regulatory decree on the protection of and assistance to victims of trafficking. It is also concerned at the lack of information with respect to the extent and causes of the external and internal trafficking of women and girls despite the fact that the State party is a country of origin of external trafficking and despite the existence of internal trafficking, particularly in regions where development mega-projects are being carried out.

#### **20. The Committee recommends that the State party:**

- (a) Enhance international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and harmonize legal procedures aimed at the prosecution and punishment of traffickers.**

#### **Rural, indigenous and Afro-Colombian women**

31. The Committee is concerned about the persistent discrimination experienced by rural women, indigenous women and Afro-Colombian women. It is deeply concerned that the disproportionate impact of the armed conflict in conjunction with the negative impact of agricultural and mining mega-projects on these groups of women are deepening the prevailing discrimination, inequalities and poverty which they have long been experiencing, despite the efforts of the State party to improve their situation. It is particularly concerned at:

#### **32. The Committee recommends that the State party:**

- (a) Translate into practical actions the legal requirement to take into consideration a gender and differentiated approach to address women victims' specific needs, with a view to eliminating the various barriers faced by them during the land restitution process;**
- (b) Fully acknowledge the link between gender-based violence, including sexual violence, and forced displacement and ensure the prompt investigation and prosecution of perpetrators, including post-demobilization armed groups.**

## **Committee on the Rights of the Child**

Concluding Observations (6 March 2015) [CRC/C/COL/CO/4-5](#)

### **Non-discrimination**

19. While noting the measures taken to eliminate discrimination against children in marginalized or disadvantaged situations, the Committee is deeply concerned about:

- (a) The structural discrimination against indigenous, Afro-Colombian and displaced children, children with disabilities, children living with HIV/AIDS, lesbian, gay, bisexual, transgender and intersex children, and children living in rural, remote and marginalized urban areas, particularly affecting their right to education and health and exposing them to violence;
- (b) The persistent patriarchal attitudes and gender stereotypes that discriminate against girls and women, resulting in an extremely high prevalence of violence against girls.

**20. The Committee recommends that the State party:**

- (a) **Strengthen its efforts to eliminate discrimination against children in marginalized situations by providing adequate resources for relevant policies and affirmative measures to ensure that children gain *de facto* enjoyment of their rights, in particular their rights to education and health.**
- (b) **Take the necessary measures to eliminate patriarchal attitudes and gender stereotypes that discriminate against girls and women, including through strengthening the implementation of the Public Policy on Gender Equality and through educational and awareness-raising programmes;**
- (c) **Facilitate child-friendly complaint mechanisms in educational establishments, health centres, juvenile detention centres, alternative-care institutions and in any other setting.**

### **Right to life, survival and development**

23. The Committee remains concerned about the insufficient measures taken by the State party to protect children's right to life, including in the context of the armed conflict. It is particularly concerned that:

- (a) Many children are the victims of killing and disappearance, including killing committed by government agents; and extensive impunity prevails in this regard. The root causes of those violent acts - such as the armed conflict, organized crime, corruption, drugs, poverty and marginalization - remain insufficiently addressed.

**24. The Committee urges the State party to make every effort to reinforce the protection of children's right to life, survival and development, including by:**

- (a) **Increasing its efforts to prevent the killing and disappearance of children and their family members, and addressing the root causes of those violent acts, such as the armed conflict, organized crime, corruption, drugs, poverty and marginalization.**

### **Freedom of the child from all forms of violence**

27. The Committee is deeply concerned at the high levels of violence that children are confronted with, and in particular about:

- (a) Reports that children continue to be the victims of acts of torture and other cruel or degrading treatment or punishment committed by government agents and/or non-State armed groups;
- (b) The high prevalence of domestic violence and abuse, particularly affecting girls, including those involved in domestic work. The Committee is concerned that, as a result

- of the deficiencies in the administrative process for re-establishing rights, child victims are removed from the home environment, whereas the perpetrator remains in the home;
- (c) The high incidence of violence against children perpetrated by gangs in the streets.

**28. The Committee urges the State party to prioritize the elimination of all forms of violence against children, and in particular to:**

- (a) **Evaluate the results of the National Action Plan for Children and Adolescents in this regard, and based on lessons learned take adequate measures to prevent and address all forms of violence against children, including girls involved in domestic work, and ensure that the gender dimension of violence is addressed effectively.**

**Displaced children**

55. While noting the programmes to protect displaced children, the majority being Afro-Colombian or indigenous children, the Committee remains concerned that these efforts have been insufficient to adequately ensure the rights of displaced children, as ordered by the Constitutional Court. It is particularly concerned that the specific needs of displaced girls, who are greatly exposed to violence and discrimination, have not been satisfactorily addressed.

**56. The Committee recommends that the State party:**

- (a) **Evaluate the “mobile units” strategy and similar initiatives and, based on lessons learned and in line with the Constitutional Court decisions, strengthen measures to protect displaced children and their families from violence, and ensure their access to food, adequate housing, education, recreation, health, civil registration, justice and integrated mental health and psychosocial rehabilitation services. Resources should be increased and monitoring mechanisms and coordination among relevant bodies strengthened;**
- (b) **Adequately address the specific needs of displaced girls, and ensure their protection from child labour, school dropout and violence, including sexual violence and exploitation.**

**Children belonging to minority or indigenous groups**

57. The Committee notes the measures taken by the State party to ensure the rights of indigenous and Afro-Colombian children. It nevertheless remains concerned that they continue to face discrimination and numerous challenges in accessing education, health care, civil registration services and justice. It also remains concerned that they are disproportionately affected by violence and the armed conflict and overrepresented among displaced children and children recruited by non-State armed groups.

**58. In the light of its general comment No. 11 (2009) on indigenous children and their rights under the Convention, the Committee recommends that the State part:**

- (b) **Strengthen its efforts to ensure that all Afro-Colombian and indigenous children are registered immediately after birth, and to facilitate cost-free registration of those who were not registered at birth.**

**Committee against Torture**

Concluding Observations, (29 May 2015), [CAT/C/COL/CO/5](#)

**Refugees and *non-refoulement***

15. Having examined the changes in asylum procedures introduced under Decree No. 2840 of 6 December 2013, the Committee observes that this decree provides that migration authorities may not accept asylum applications from persons who are in transit at border checkpoints. The Committee is concerned by the fact that the State party may have acted in breach of the principle of *non-refoulement* in respect of Lorent Saleh and

Gerando Carrero, both Venezuelan nationals, in 2014. The Committee takes note of the fact that the State party has asserted that, in accordance with international instruments, the principle of *non-refoulement* does not apply to refugees who are deemed, on the basis of substantial grounds, to constitute a security threat to the country in which they are located. In that regard, the Committee recalls that article 3 of the Convention affords absolute protection to all persons in the territory of the State party, regardless of the nature of that person and regardless of the danger that he or she may pose to society (see CAT/C/52/D/475/2011 and Corr.1, para. 10.4, and CAT/C/48/D/444/2010, para. 13.7). Finally, the Committee finds it regrettable that it has not received the information it requested regarding the acceptance of diplomatic guarantees as a safeguard against torture or ill-treatment (art. 3).

**16. The State party should:**

- (a) **Rescind or amend provisions that bar persons in transit at border checkpoints from submitting asylum applications to migration authorities;**
- (b) **Ensure that no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal, foreseeable risk of being subjected to torture;** (c) **Refrain from requesting or accepting diplomatic assurances when there are substantial grounds for believing that the person concerned would be in danger of being subjected to torture.**

**Human Rights Committee**

Concluding Observations, (17 November 2016), [CCPR/C/COL/CO/7](#)

**Discrimination and violence based on sexual orientation or gender identity**

16. The Committee recognizes the efforts made by the State party to protect the rights of lesbian, gay, bisexual, transgender and intersex persons, including the decisions of the Constitutional Court that guarantee the rights of same-sex couples to enter into civil marriages and to adopt children, and its efforts to combat discrimination and violence directed at them. The Committee is concerned, however, by reports that such persons have been the target of acts of violence, including murder, and police misconduct because of their sexual orientation or gender identity (arts. 2, 6, 7 and 26).

**17. The State party should continue and step up its efforts to combat stereotypes regarding, and prejudice against, lesbian, gay, bisexual, transgender and intersex persons, and to ensure that acts of discrimination and violence directed against them are prevented, that acts of violence against them are investigated, that the persons who commit such acts stand trial and are punished, and that victims are provided with assistance and full reparation. It should also adopt stronger measures to prevent members of the security forces from committing acts of discrimination or violence and to punish them if they do so. The Committee recommends that the State party continue its efforts to uphold the rights of same-sex couples in practice.**

**Violence against women and sexual violence**

18. The Committee recognizes that the State party has taken numerous steps to prevent and combat violence against women and sexual violence, to punish persons who commit such acts and to offer reparation and assistance to the victims. It is concerned, however, by reports that violence against women and sexual violence aimed primarily at women and girls continue to be serious problems both within and outside the context of the armed conflict, and by reports that many of these crimes go unpunished.

**19. The State party should redouble its efforts to prevent and combat all acts of violence against women and acts of sexual violence, to punish persons who commit such acts**

**and to offer assistance and full reparation to victims. In particular, it should facilitate the submission of complaints by victims, investigate all instances of violence against women and of sexual violence promptly, thoroughly and impartially, ensure that the persons committing such acts stand trial and are punished and ensure that victims receive assistance, full reparation and appropriate protection without delay by, inter alia, making a sufficient number of shelters available for victims throughout the country.**

#### **Internally displaced persons**

30. The Committee recognizes the efforts made by the State party to prevent internal displacements and to address this problem, and it notes that the number of internally displaced persons has fallen in recent years. It is concerned, however, by reports that instances of internal displacement, including cases involving large numbers of people, continue to occur owing to various factors, such as the activities of illegal armed groups that formed in the wake of the demobilization of paramilitary organizations and the implementation of megaprojects (arts. 2, 12, 26 and 27).

**31. The State party should continue and step up its efforts to prevent internal displacements, to ensure that all victims receive appropriate care, assistance and full reparation on a timely basis and to ensure that the return and relocation of displaced persons are conducted safely and in a sustainable manner.**

#### **Use and recruitment of children by illegal armed groups**

40. The Committee takes note of the efforts made by the State party to prevent children from being used or recruited by illegal armed groups and to separate those who have been recruited from those groups and offer them assistance and protection. It is concerned, however, at reports of the continued use and recruitment of children by illegal armed groups, including, in particular, the use and recruitment of indigenous and Afro-Colombian children, and by illegal armed groups that formed in the wake of the demobilization of paramilitary organizations

**41. The State party should continue and step up its efforts to prevent the use and recruitment of children by illegal armed groups; to ensure that, in accordance with the jurisprudence of the Constitutional Court, all children who have been used or recruited by such groups are treated as victims, regardless of which armed group they have been separated from; to ensure that all children separated from such groups receive protection and proper care with a view to their physical and psychological recovery and to the restoration of their rights; and to ensure that the responsible parties stand trial and are punished. The State party should also adopt effective measures to ensure that, in actual practice, children are not involved in intelligence work or in military civic activities.**

#### **Rights of Afro-Colombian and indigenous persons**

42. The Committee is concerned by reports that Afro-Colombian and indigenous persons continue to be discriminated against despite the steps taken by the State party to combat discrimination. It is also concerned by reports regarding the issuance of permits for natural resource development projects on the territories of indigenous peoples that, in some cases, have had an adverse impact on their way of life.

**43. The State party should:**

- (a) Continue and step up its efforts to prevent and combat discrimination against Afro-Colombian and indigenous persons, to ensure that those who engage in such discrimination are held accountable for their acts and to ensure the full enjoyment by Afro-Colombian and indigenous persons of their rights.**

#### **Committee on the Rights of the Persons with Disabilities**

**Freedom from exploitation, violence and abuse (art. 16)**

44. The Committee is concerned at the high levels of violence caused by the armed conflict, which have significantly affected women and girls with disabilities, including civilians and former combatants, displaced women with disabilities, and victims of the conflict, for instance, as a result of anti-personnel mines or paramilitary activity, particularly in rural and remote areas. It is particularly concerned that such acts are tried in military courts.

**45. The Committee recommends that the State party:**

- (c) **Give priority to programmes for preventing, eliminating and recovering from violence against women and girls with disabilities in conflict areas, as well as the return of displaced populations.**