



UNETCHAC
Universities Network
for Children
in Armed Conflict

CHILDREN AFFECTED BY ARMED CONFLICT

A comprehensive qualitative
and quantitative analysis
in selected countries in Africa,
Asia, Europe, and South America

Edited by
Laura Guercio and Paolina Massidda

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UNETCHAC 2 | 2024

CHILDREN IN ARMED CONFLICT

Handbook Series of the Universities Network for Children
in Armed Conflict

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- fostering synergies and cooperation between the participating Universities and Research Centres and other institutional and non-institutional actors (organizing international conferences, high-level events, specialist programs and webinars);
- developing shared initiatives and joint work experiences with multilevel approach in collaboration with several international institutions and organizations involved in the promotion and protection of children living in conflict zones;
- organizing research activities, academic weeks, training courses and periodic awareness campaigns;
- arising awareness on issues concerning the protection of the most vulnerable groups in armed conflicts also through the elaboration of in-depth documents and publication of reports and handbooks.



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“This publication was carried out with the support of the Directorate-General of Political Affairs and Security of the Italian Ministry of Foreign Affairs and International Cooperation, in accordance with Decree n. 2111/101 of the 27th of March 2023. The views expressed in this report are solely those of the authors and do not necessarily reflect the views of the Ministry of Foreign Affairs and International Cooperation.”



This project is supported by the Institute
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Gambini editore
UNIVERSITY PRESS
www.gambinieditore.it
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CHILDREN AFFECTED BY ARMED CONFLICT
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ISBN: 979-12-80787-07-1

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Isabella Gambini
s.l. via A. Manzoni, 36
05012 Attigliano (Tr)

Stampato digitalmente nel mese di febbraio 2024
MDF PRINT
Viale XXI Aprile, 61
00162 ROMA

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SOUTH AMERICA

Colombia

“The first time I got on a plane, it was to escape the war”

Girls and boys in the colombian armed conflict

Violations related to the conflict 1964-2016	Official Statistic	Outcome of the research
Killing	8.625 (killing)	450.666 (killing)
Recruitment	17.865	16.238
Sexual violence	5.041	2383
Attack on communities and educational institutions)	459	881
Forced displacement	~3.000.000	3.049.527
Violations and infringements of personal freedom: kidnapping and forced disappearance.	6.918	172.538

Six grave violations	International Data 2022	Outcome of the research 2022-first months of 2023
Killing and maiming	50 (killing); 34 (maiming)	N/A
Recruitment	157 (97 boys; 60 girls); 21 (killed)	24
Sexual violence	18 (girls)	N/A

Abduction		N/A
Attack on schools and hospitals	25 (schools); 3 (hospitals) 10 schools militarily used	N/A
Denial of humanitarian access	10	N/A

Challenges met during the research

Typology	Challenges	Comment
Quantitative	Absence of reliable data	Not all violations have been recorded during the conflict.
Qualitative	Cross reference and verification of data	See comment <i>supra</i> .
Quantitative	Under - reporting	See comment <i>supra</i> .

1. Country Analysis

Colombia is the only country in South America that has been suffering since the 1950s from a long-term, multilateral socio-political armed conflict.³⁶

³⁶ For this section see also: Kline, H. F. , McGreevey, . William Paul, Garavito, Clemente , Gilmore, . Robert Louis and Parsons, James J. (2024). Colombia. Encyclopedia Britannica. <https://www.britannica.com/place/Colombia>; Academia Colombiana de Historia, Historia extensa de Colombia, ed. by Luis Martínez Delgado (1964–).

1.1. Conflict

The conflict began on 27 May 1964, between the government of Colombia, far-right paramilitary groups and crime syndicates, and far-left guerrilla groups, fighting each other to increase their influence in Colombian territory.

The conflict is historically rooted in the disturbance known as *La Violencia*, which was triggered by the assassination of liberal political leader Jorge Eliécer Gaitán in 1948, and in the aftermath of the anti-communist repression in rural Colombia in the 1960s that led Liberal and Communist militants to re-organize into the Revolutionary Armed Forces of Colombia (FARC). The FARC and other guerrilla movements claimed to be fighting for the rights of the poor in Colombia to protect them from government violence and to provide social justice through communism. The Colombian government claimed to be fighting for order and stability, and to protect the rights and interests of its citizens. The paramilitary groups claimed to be reacting to perceived threats by guerrilla movements (Cadavid, 2013).

On 23 June 2016, the Colombian government and the FARC rebels signed a historic ceasefire, bringing them closer to ending more than five decades of conflict. Although the agreement was rejected in the subsequent October plebiscite, the same month, President of Colombia Juan Manuel Santos was awarded the Nobel Peace Prize for his efforts to bring the country's more than 50-year-long civil war to an end. A revised peace agreement was signed the following month and submitted to Congress for approval.

The House of Representatives unanimously approved the plan on 30 November 2016, a day after the Senate also gave its approval.

1.2. Post-conflict situation

According to a study by the Colombia's National Centre for Historical Memory, 220,000 people have died in the conflict between 1958 and 2013, most of them civilians (177,307 civilians and 40,787 fighters), and more than five million civilians were forced to flee from their homes between 1985 and 2012, generating the world's second-largest population of internally displaced persons (IDPs) (Centro Nacional de Memoria Histórica, 2014). Estimates indicate that 16.9% of the population in Colombia has been a direct victim of the war. 2.3 million children have been displaced from their homes, and 45,000 children killed, according to national figures cited by UNICEF. In total, one in three of the 7.6 million registered victims of the conflict are children, and since 1985, 8,000 minors have disappeared. As of April 2022, the Single Registry of Victims (RUV) reported 9,263,826 victims, with 2,048,563 of them being children (Registro Único de Víctimas (RUV); The Winged Foundation, 2023).

The United Nations has estimated that 12% of all civilian deaths in the Colombian conflict were caused by FARC and National Liberation Army (ELN) guerrillas, with 80% caused by right-wing paramilitaries, and the remaining 8% caused by Colombian security forces.

Practically all Colombians suffer or have suffered directly or indirectly from the misfortunes of war, which has ended up generating more than 8 million internally and externally displaced people, according to data from the United Nations High Commissioner for Refugees. However, displacement is not the only way to experience war. The figures do not consider the impact that conflict has on people's daily lives. Experiencing war is not only about exposing bodies to confrontation, but also about having lunch and hearing about bombings, kidnappings, and extortion on the part of

those waging the war. A brief stroll through the dusty, wide streets of any rural Colombian town will tell a story of pain and exile on its walls, squares and in the stories of its inhabitants. Recognizing how the conflict impacted the population is part of the process of rebuilding the social fabric.

Nearly 16% of the country has suffered directly the misfortunes of war. In other words, more than 9 million people have been historically recognized as victims of the conflict, according to figures from the Colombian Ministry of Social Protection through the Department of Victims Unit. Of this total number, more than 7 million are subjects of attention and reparation, i.e., victims who meet the requirements to access the measures of attention and reparation established in the Law (Victims and Land Restitution Law 1448 of 2011, extended in 2021 by another decade), and almost two million were between 0 and 18 years of age at the time of collecting the statistics.

Children, adolescents, and their families are considered vulnerable population and are given priority in this scenario. But what does it mean that the conflict affected the daily lives of Colombian children at almost imperceptible but equally dangerous levels?

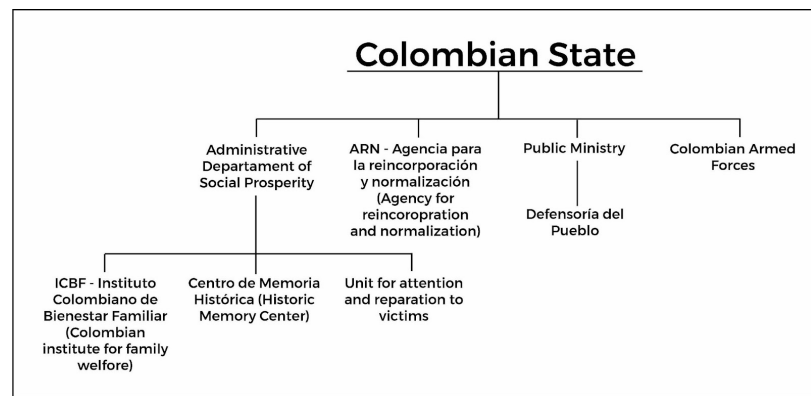
In an interview on 28 August 2014, Johanna, who at the time was a teenage Colombian refugee in Brazil, said that her first plane trip was to leave Ecuador as a refugee for northern Brazil, when she was a 10-year-old child. For many, traveling by plane from one country to another is a cause for celebration, but for Johanna and her family it equated with sadness and exile, if not shame for having tarnished their family name. Mistaken for guerrillas, they were forced by paramilitary groups to leave their community, having to seek refuge, at first, in Ecuador, from where they would leave a few years later, as the war followed them to the neighbouring country and they ended up witnessing more attacks and deaths there. Johanna and her brother, who

should have been protected by the Colombian state and the law, were taken over by the Ecuadorian state, which undertook to protect their lives, but also failed. They were kidnapped, and their family extorted, once again having to leave their homes and take refuge in a safer place.

But how can this experience be accounted for? How the violence of not being able to grow up near relatives and friends can be explained? Johanna and her family have been recognized as victims being recorded in the numbers of refugees under the care of the UNHCR, but this is not everyone's story. There are situations and experiences that are impossible to weigh up, which the laws and state apparatuses can't handle.

The involvement of girls and boys in the Colombian armed conflict is still a matter of concern by the Colombian state, on the one hand, and civil society organizations working with communities and in direct or indirect contact with victims.

Figure 1 - Colombian state institutions in direct contact with the victims.

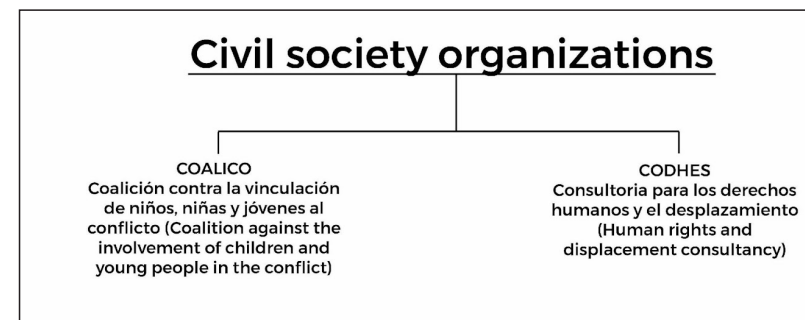


Source: Made by the researcher, 2023.

What are the ethnic, generational, gender and class differences involved when thinking about girls, boys, and adolescents as victims of the conflict? Was the violence they suffered the same for everyone? Is it possible to establish parameters to identify whether they are victims? Aren't all children, in some way, involuntarily involved in one side of the conflict and therefore victims of it? To what extent does the concept of victim help us understand the role they play in recomposing the social fabric and the transformation the country is going through?

To answer these questions for the purpose of this research, it was essential to review the existing documents on the Colombian armed conflict, children in the armed conflict and treaties on human rights and material on children's rights by the Colombia, as well as documents by universities research groups and by and civil society organizations. They provided the foundations for understanding the conflict as a multilateral and long-term phenomenon, as well as for identifying the actors in the field and the challenges post-conflict.

Figure 2 - Civil Society Organizations that served as a reference for the preparation of this report.



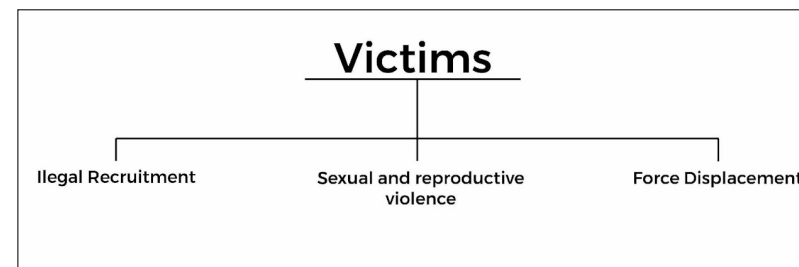
Source: Made by the researcher, 2023.

Useful and detailed information were also provided by victims and representatives of the institutions involved in the care, reception, reincorporation of children, and re-establishment of their rights.

Basic documents of vital importance to any post-conflict academic study were taken into account, such as the final draft of the Peace Accords signed by the National Government of the Republic of Colombia and the Final Report of the *Comisión de La Verdad* which seeks to know the truth, establish coexistence and guarantee the non-repetition of events. Both make up the largest study of the armed conflict in the country and include testimonies from victims. This research will present data on the current violations about children in Colombian and – concerning the armed conflict – will focus on three specific types of violence to which girls and boys have been subjected during the conflict: a) recruitment and use by armed groups; b) sexual and gender-based violence; c) and the forced displacement (internal or international) of children and their families in search of a less hostile place to survive. However, it is essential to underline that children living in the rural area, even if indirectly, are victims of the presence of armed groups in their territories and of the lack of state presence in their communities. This means that “many of the children affected by violence are not literate and only understand war as a form of subsistence, as is the case with minors who have been part of armed groups” (Ospina, *et.al*, 2018, p. 945) but not only.

The ethnic issue, which transpires through all the documents consulted, has to be underlined. It shows that some populations were more affected by the war, either because their territories - considered ancestral - are located in important corridors for the conflict, or because they are considered to be more resilient and stronger - defecting to a lesser extent. This is the case with indigenous people, who in Pacific Region (made up of the Departments of Nariño, Cauca, Valle del Cauca and Chocó) have had 29% of children

Figure 3 - Classification of children recognized as victims by the Colombian state.



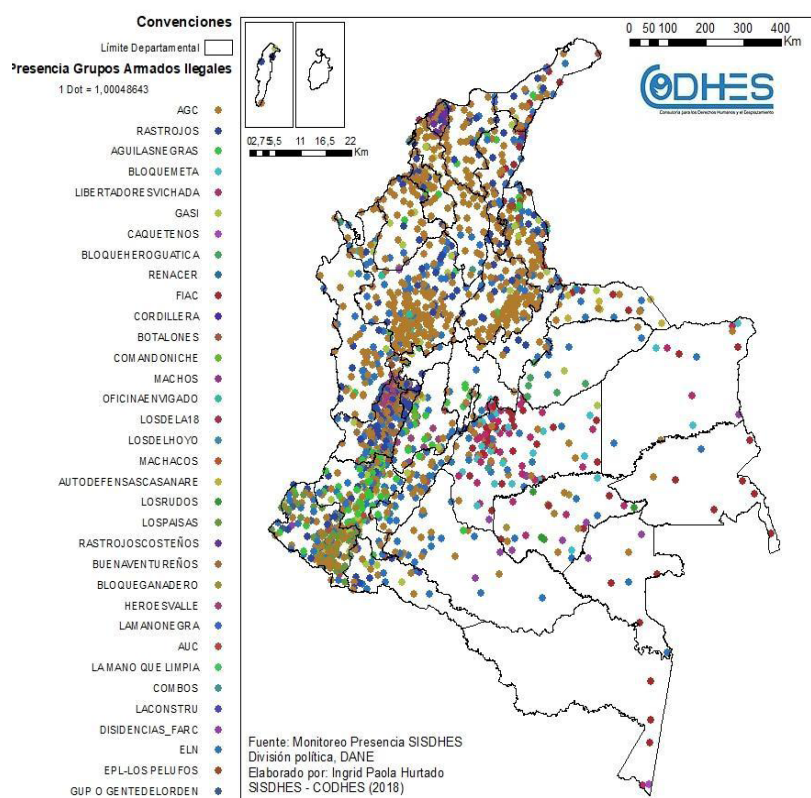
Source: Made by the researcher, 2023.

recruited, 9 times more than other ethnic groups. Recognizing the specificities and intersections of the victims is an important part of creating spaces for forgiveness and reconciliation. Not all victims are the same, but they all deserve to be listened to and understood as bridges to reconciliation. Gender was also stressed as a category of analysis, since girls and boys were treated differently given their conditions. A study carried out by Springer (2012) found that 42% of the girls interviewed felt obliged to meet the sexual needs of men in higher hierarchical positions, and in addition to non-consensual sexual activities, girls were also forced to perform menial labour. More information on can be found in the section on violations of girls’ sexual and reproductive rights.

“The armed” is the native term used by peasants to refer to the armed groups operating in the region where they lived. As the conflict was multilateral, a wide range of actors - sometimes difficult to recognize and classify - were involved. *Roughly speaking*, they operate under the protection of the state (the army), the guerrillas (FARC-EP, ELN, among others), the paramilitaries (the AUC, Aguilas Negras, among others) and the criminal gangs (BACRIM). In this regard, in 2018, the Consultancy for Human

Rights and Displacement (CODHES) produced a map showing the presence of illegal armed groups in Colombian territory. It shows the FARC dissidents more spread out and in smaller numbers throughout the country, while the paramilitary groups AUC, Aguilas Negras and criminal bands of various kinds concentrated in the west and northwest of the country.

Figure 4 - Presence of illegal armed groups in Colombian territory.



Source: Prepared by SISDHES - Information System on Human Rights and Displacement, linked to CODHES. Consulted on: 20/08/2023.

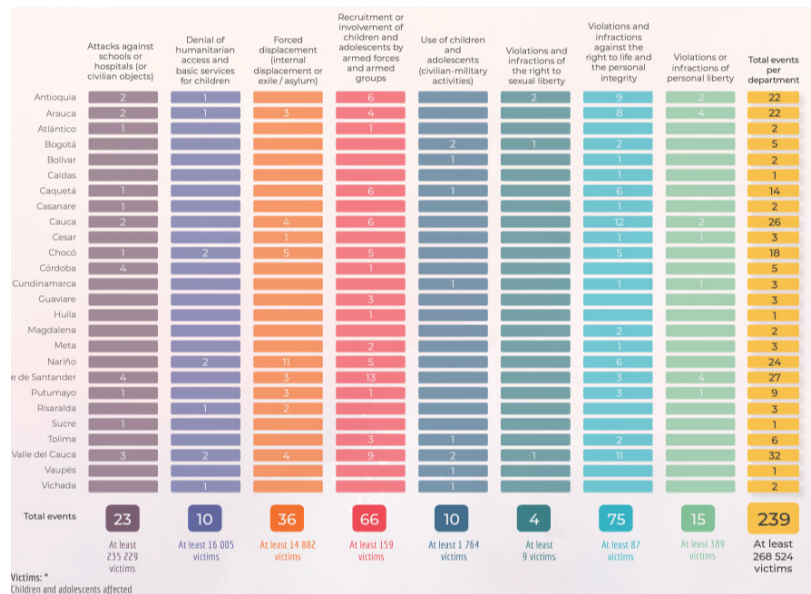
The *Observatorio de Niñez y Conflicto Armado* - ONCA, managed by the *Coalición Contra la Vinculación de Niños, Niñas y Jóvenes al Conflicto Armado Interno* - COALICO, identifies 7 categories of violations of children's rights, taking as a reference the UNSCR 1612, appropriate to the Colombian context:

1. Violations and infringements of the right to life and personal integrity;
2. Violations and infringements of personal freedom;
3. Use and recruitment of boys, girls and adolescents;
4. Attacks and occupation of schools, hospitals, and other civilian property;
5. Violations and infringements of the right to sexual freedom;
6. Blockade of supplies and basic services;
7. Forced displacement and refuge (special category for the Colombian context).

In its most recent report (January/December 2022), ONCA identified at least 268,524 child and adolescent victims, with rape and violations of the right to life and personal integrity and the use and recruitment of boys, girls and adolescents being the most common violations and the departments of Valle del Cauca, Norte de Santander, Cauca and Nariño being the places where the most violations took place.

The 2016 peace accord between the Revolutionary Armed Forces of Colombia (FARC) and the government ended a five-decade-long conflict and brought an initial decline in violence. But violence took new forms and abuses by armed groups increased in many remote areas in later years, reaching similar levels in 2022 to those that existed immediately before the peace process.

Annual Infographic - Monitoring by the COALICO's observatory on children and armed conflict.



Source: <https://coalico.org/infografias-onca/boletin-de-monitoreo-n-28-ninez-y-conflicto-armado-en-colombia-2/>

Human rights defenders, journalists, demobilized FARC fighters, Indigenous and Afro-descendant leaders, and other activists face pervasive death threats and violence.

Armed groups continue to commit serious abuses against civilians, including killings, child recruitment, and rape, especially in rural areas of the Pacific region and along the Venezuelan and Ecuadorian borders. Security forces and judicial authorities have failed to effectively protect the population, ensure victims' access to justice, and prosecute and dismantle the groups (Human Rights Watch, 2023).

Colombia continues to face important structural challenges. First, the rate of potential growth is insufficient to secure a convergence in income per capita to high-income countries. Second, Colombia remains one of the most unequal countries in the world. Economic growth alone has not been sufficient to reduce inequality, as barriers to economic opportunities persist for certain groups (including by gender, ethnicity, and geography), limiting socio-economic mobility. Reducing poverty durably and increasing resilience among the non-poor will require expanding the coverage and adaptiveness of the social security system, reducing rigidities in inclusion to social programs, making labour markets more efficient and inclusive, and improving the level and quality of education, health, and infrastructure. Third, a high (although declining) debt-to-GDP ratio reduces the fiscal space to respond to aggregate shocks or increase spending sustainably without additional resources.

Finally, Colombia needs to transition to net zero emissions; to a climate-resilient economy; and to a world that require less oil and coal. In addition to substantial investment and mobilization of financing, this will require stepping up productivity and technology adoption, managing the job transition, diversifying exports, reversing deforestation, and greening the energy, infrastructure, and transport sectors. Recent reforms (for example to taxes and green finance) tackle some of these issues, but further actions are needed to navigate these transitions while addressing the social and fiscal consolidation demands (World bank, 2023).

1.3. Social, cultural and religious aspects

Colombia has been deeply influenced by Spanish colonisation that began in the 16th century and lasted for almost 300 years. Though the country has been independent for nearly 200 years

(since 1819) the colonial impact on the ethnic make-up, religious landscape and culture of society remains very visible. The Spanish introduced Roman Catholicism to the land, brought with them thousands of African slaves and established a social hierarchy that favoured whites – the *casta* system (*sistema de castas*).

Today, the majority of Colombians are '*mestizos*', meaning they share a mixture of European and Amerindian heritage to some degree. Each of these diverse peoples has played a role in shaping the nature of Colombian society today. Ultimately, the contemporary culture is based on a '*mestizaj*' (mixture) of indigenous Colombian traditions, inherited Spanish Catholic values and African customs. However, the Spanish influence has been the most dominant. Colombian society is very hierarchical on the basis of class. This is the systemic result of colonisation as the Spanish developed a complex '*casta*' hierarchy that determined the privilege and socioeconomic standing of racial groups. Today, social stratifications remain obvious. There is a steeply unequal distribution of wealth throughout the country. While the middle and working classes are growing and gaining more social advantage, a small minority continue to hold most of Colombia's wealth and power.

Colombia does not have an official religion. However, Roman Catholicism is the dominant faith and deeply culturally pervasive. One's family is the most important aspect of life for most Colombians. It tends to have a major influence on the individual, providing a sense of identity, community and support. It also forms the basis for many people's social circles. There is a general expectation placed upon Colombians to be loyal and committed to their family by putting the interests of the family above their own. People will often go out of their way to support their relatives. Close-knit family relations provide Colombians with a network of security and support, particularly in times of need. This is espe-

cially relevant to the lower classes as the extended family can act as an indispensable source of support for coping with hardships during difficult time. The family dynamic and household structure varies between social classes. In the lower class, extended family members may live with the nuclear family in multigenerational households. Some children may move out of their parents' home at marriage, but it is common for Colombian families to live together continuously. People also tend to have many unplanned children, due to limited access to contraceptives and sexual education.

Colombia has made significant progress towards gender equality over the past century. Both men and women have equal rights and access to opportunities in law. However, broadly speaking, men are the primary income earners for the family while women are expected to be the homemakers. While many women comfortably hold jobs in addition to their domestic role, men often find it very shameful for their wife to earn more than themselves.

1.4. Implementation of human rights

Significant human rights issues include reports of unlawful or arbitrary killings; torture and arbitrary detention by government security forces and armed groups; serious abuses in a conflict; criminalization of libel; serious government corruption; violence against and forced displacement of Afro-Colombian and Indigenous persons; violence against lesbian, gay, bisexual, transgender, queer, and intersex persons; and killings of and other violence against trade unionists. The government generally took steps to investigate, prosecute, and punish officials who committed human rights abuses, although most cases experienced long delays. Many investigations included cases stemming from throughout the armed conflict in the country starting in the 1960s. The gov-

ernment generally implemented laws criminalizing official corruption. Armed groups, including dissidents of the former Revolutionary Armed Forces of Colombia, National Liberation Army, and drug-trafficking gangs, continued to operate. Armed groups, as well as narcotics traffickers, were reported as significant perpetrators of human rights abuses and violent crimes, including acts of extrajudicial and unlawful killings, extortion, and other abuses or crimes, such as kidnapping, torture, human trafficking, bombings, restrictions on freedom of movement, sexual violence, unlawful recruitment and use of child soldiers, and threats of violence against journalists, women, human rights defenders, and religious leaders. The government generally investigated these actions and prosecuted those responsible. Although prohibited by law, rape of men or women, including spousal rape, remained a serious problem. The law provides for sentences ranging from eight to 30 years' imprisonment for violent sexual assault. For acts of spousal sexual violence, the law mandates prison sentences of six months to two years. By law, femicide is punishable with penalties of 21 to 50 years in prison, longer than the minimum sentence of 13 years for homicide. The law augments both imprisonment and fines if a crime causes "transitory or permanent physical disfigurement," such as in the case of acid attacks, which have a penalty of up to 50 years in prison. The government did not always enforce the law effectively.

Despite special legal protections and government assistance programs, Indigenous persons continued to suffer discrimination and lacked access to basic services. Indigenous communities were often among the poorest in the country and had the highest age-specific mortality rates. The law provides for special criminal and civil jurisdictions based on traditional community laws within Indigenous territories. Legal proceedings in these jurisdictions were subject to manipulation and often rendered

punishments more lenient than those imposed by civilian state courts. Cases of abuse of children, including sexual exploitation were reported (US Dep. Of State, Reports on Human Rights Practices, 2023).

2. Level of adequacy to international law

Colombia has a legal system widely receptive to international law, with a Constitution attributing to IHRL and IHL treaties duly ratified by the country the same normative level as the constitutional order (Constitución Política de Colombia, 1991, Art. 93). Human rights treaties have the same legal standing as the Constitution. Other international treaties have the same standing as laws. Colombia is a member of the United Nations. It has ratified the following UN human rights treaties:

- International Covenant on Civil and Political Rights (CCPR);
- International Covenant on Economic, Social and Cultural Rights (CESCR);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- Convention on the Rights of Persons with Disabilities (CRPD);
- Convention on the Rights of the Child (CRC);
- Convention for the Protection of all Persons from Enforced Disappearance (CED);
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD);

- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) (UN Treaty Database, 2023).

Colombia has also ratified the Second Optional Protocol to the CCPR aimed at abolishing the death penalty, and optional protocols to the CRC addressing children in armed conflict and the sale of children, child prostitution, and child pornography.

Colombia is a Member State of the Organization of American States (OAS). As a Member of OAS, Colombia is held to the American Declaration of the Rights and Duties of Man and its human rights policies and practices are monitored by the Inter-American Commission on Human Rights. Colombia has ratified the following regional human rights treaties:

- Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (“Protocol of San Salvador”);
- Inter-American Convention to Prevent and Punish Torture;
- Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (“Convention of Belem do Pará”);
- Inter-American Convention on the Forced Disappearance of Persons;
- Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities.

(UN Treaty Body Database, 2023; International Justice Resource Center, 2023).

Colombia deposited its instrument of accession to the Rome Statute of the International Criminal Court (ICC) on 5 August 2002

together with a declaration pursuant to article 124 excluding war crimes from the jurisdiction of the ICC for a seven-year period. The ICC may therefore exercise its jurisdiction over war crimes committed in the territory or by the nationals of Colombia since 1 November 2009 and over other crimes listed in the Rome Statute committed since 1 November 2002. Since June 2004 a preliminary examination into the situation in the country was opened before the Court. The ICC Prosecutor received numerous communications under article 15 of the Rome Statute in relation to the situation. The preliminary examination focussed on alleged crimes against humanity and war crimes committed in the context of the armed conflict between and among government forces, paramilitary armed groups and rebel armed groups, including the crimes against humanity of murder; forcible transfer of population; imprisonment or other severe deprivation of physical liberty; torture; and rape and other forms of sexual violence; and the war crimes of murder; intentional attacks against civilians; torture; other cruel treatment; outrages on personal dignity; taking of hostages; rape and other forms of sexual violence; and using children to participate actively in hostilities. In 2012, the Prosecutor published an Interim Report (ICC website, 2023).

On 28 October 2021, the ICC Prosecutor announced his determination that complementarity was working in Colombia through the combination of proceedings before the ordinary courts, the Justice and Peace Law Tribunals, and the Special Jurisdiction for Peace. The ongoing progress made by these different jurisdictions led the Prosecutor to determine that the national authorities of Colombia could not be deemed to be inactive, nor unwilling or unable to genuinely investigate and prosecute conduct proscribed under the Rome Statute. To ensure that the progress made is sustained over the long term, the announcement of the closure of the preliminary examination was accompanied by the signing on 28 October

2021, in Bogota, of a Cooperation Agreement between the Office of the Prosecutor and the Government of Colombia to reinforce and further define the mutual roles to ensure that the significant progress achieved by domestic prosecutorial and judicial entities, and in particular by the Special Jurisdiction for Peace, is sustained and strengthened. On 30 November 2023, the Office of the Prosecutor issued its Final Report on the Situation in Colombia (ICC website, 2023).

3. National legislation

The first article of the Colombian constitution states that “Colombia is a social state based on the rule of law” and therefore special attention should be given to those who are weak or prevented from participating on equal terms. Children fall within these conditions. Therefore, the family, the community and the state must guarantee protection, understanding their rights as fundamental and taking precedence over those of the rest of the population (*Defensoría del Pueblo*, 2023).

It is the state’s duty to guarantee the full protection of the population as subjects of rights, as well as to implement social policies and programs that include the victims not only as such, but also as agents of change in society. The Constitution - and the international conventions ratified by Colombia - understands boys, girls, and adolescents as subjects of rights, recognizing their socio-cultural, ethnic and gender specificities, who must be protected in an integral and effective manner.

During its protracted armed conflict, Colombia has developed several legal and constitutional instruments to protect and redress victims, to facilitate peace negotiations, and to reintegrate members of armed groups into civilian life. In 1997 a legal framework

was adopted for assisting victims of internal displacement (*Congreso de la República de Colombia, Ley 387, 1997*). It was later complemented by the jurisprudence of the Constitutional Court, offering not only humanitarian and socio-economic assistance but seeking also reparations and durable solutions (*Corte Constitucional de Colombia, Sentencia T-025/04 - 2004*). In 2005 the Justice and Peace Law created a system of transitional justice for the demobilization of paramilitary groups, in talks with the government since 2003. The system was framed within the ordinary Colombian jurisdiction, offering to former fighters a trial with alternative punishment (5–8 years in prison) in exchange for their contribution to peace. Finally, and despite the ongoing armed conflict, in 2011 Colombia adopted the Law 1448, known as Law of Victims and Land Restitution. Following international standards on reparation, this law set up an ambitious system to register all the victims of armed conflict since 1985 and to offer a comprehensive set of measures of restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition (*Congreso de la República de Colombia, Ley 1448 - Ley de Víctimas y Restitución de Tierras*).

Concerning children, Colombia has a sound and broad legislative structure that establishes detailed protective measures concerning the rights of the child. Under the Constitution of 1991 with amendments through 2015 specifically, article 44 details the rights of children and mandates that these rights be given precedence over the rights of others (Max Planck Institute, 2021).

Since 1993, Colombia has categorically precluded the recruitment of minors below 18 years of age into the armed forces of the State (Article 10 of Law 48 of 1993). At the same time, the country's legislative branch has criminalized not only the recruitment itself, but also the fact of forcing minors to participate in hostilities in any manner. Article 162 of the 2000 Criminal Code considers that

the crime of illicit recruitment will be committed by anyone who, “on the occasion and in the development of the armed conflict, recruits minors under eighteen (18) years old or compels them to participate directly or indirectly in the hostilities or armed actions”. The Constitutional Court took a broad interpretation on the prohibition of the use of minors by organized armed groups:

[Recruitment of minors is prohibited] regardless of the tasks they are carrying out, since the participation or use of minors, either directly or indirectly, is tantamount to admitting them to the ranks of irregular armed groups. The notion of admission should be understood as the mere participation in the activities of the group, regardless of whether they are involved as combatants or not, thus going beyond the framework laid down in international law [The prohibition is] independent from the type of activities, that is, independent of whether they participate in the hostilities or serve as couriers, messengers, cooks, etc (Constitutional Court of Colombia, Sentence C-240, 1 April 2009, para. 7.3.4.).

Law 418 of 1997 establishes provisions aiming at protecting minors under the age of 18 from involvement in the conflict. To this end, it prohibits them from joining the ranks of the armed forces due to compulsory military service and stipulates that anyone who recruits minors to join illegal armed groups or self-defence groups will be punished with imprisonment for 3 to 5 years and will be excluded from legal benefits. The law also entrusts the *Instituto de Bienestar Familiar* (ICBF) with the task of providing priority assistance to minors who have been left without a family or whose family is unable to care for them, because they are victims of the conflict or have been involved in violent acts. The law was amended in 1999 by Law 548 which removed the exception to military service for children under 18, given the condition of voluntariness and parental consent.

Law 782 of 2002 recognizes as victims of political violence anyone who suffered damage to personal integrity or property as a result of terrorist attacks, fighting, kidnappings, attacks and massacres, as well as anyone under the age of 18 who took part in hostilities.

Law 975 of 2005 (or the Justice and Peace Law) defines the status of victims and establishes their rights to truth, justice and reparation. It also sets out the requirements for collective demobilization and leaves the ICBF in charge of looking after minors handed over by armed groups.

The Law 1098 of 2006 established the Childhood and Adolescence Code, which expressly includes the CRC as an integral part of it to be used in guiding its interpretation and application. Among its provisions, the Code provides that children have the right to life, quality of life, and a healthy environment, which comprises the provision of a balanced and healthy diet (Article 17); the obligations of the family, society, and the State to provide children with the necessary conditions to achieve adequate nutrition and health for their physical, mental, intellectual, and emotional development (Article 39). The Social Health Security System (*Sistema de Seguridad Social de Salud*) has the obligation, *inter alia*, to monitor nutritional trends and to improve diet habits (Article 46). The country also has other laws relating to children’s rights such as the Prevention of Sexual Violence and Integral Care of Child Victims of Sexual Abuse 2007. Additionally, Colombia adopted a number of relevant policies in child protection, including the National Action Plan for Children and Adolescents (2009–2019), the Development Plan (2014–2018) and the Policy on Early Childhood.

Concerning women, in 2008, Law 1257 was enacted to prevent and punish violence against women. The Public Policy Guidelines for Women’s Gender Equality and the Comprehensive Plan to en-

sure women have a life free of violence was approved in 2012. Colombia produced a National Policy on Gender Equality in 2013. Moreover, the National Development Plan 2018-2022 includes a chapter on women's rights based on three dimensions: economic, political and physical integrity, including violence against women. Despite efforts by women's organisations, the country does not have a National Action Plan (NAP). However, in August 2022 a new Government entered in office and the Foreign Ministry took the decision to formulate a NAP to implement Resolution 1325 and a consultation process began.

4. Judicial system

Colombia's court system has five jurisdictions: ordinary, constitutional, administrative, indigenous special jurisdiction (JEI, for its acronym in Spanish), and transitional justice or special jurisdiction for peace (JEP, for its acronym in Spanish). There is also a military justice system and electoral tribunals that resolve election-related disputes. The country is divided geographically into 32 departments; each department has municipalities and may also have subdivisions called districts, townships or in rural areas villages called corregimientos. The subordinate judiciary is organized to reflect these regional entities.

The Supreme Court of Justice (Corte Suprema de la Justicia) is the highest ordinary jurisdiction court. There are 23 seats on the court including the president and vice president. The court has three chambers, civil, criminal, and labour. Justices sit in panels of 4 – 7 judges. The entire court presides over certain complex cases, trials of high government officials, and matters involving representatives of foreign governments. Justices are appointed to single eight-year terms by Supreme Court members

from candidates submitted by the Superior Judicial Council. The subordinate courts of ordinary jurisdiction hear cases involving civil, family, criminal, commercial, land, and labour matters. The Superior Tribunals of the Judicial District (*Tribunales Superiores del Distrito Judicial*) are organized geographically and hear both appeals and specially designated first instance cases. The judges on this court are called 'magistrates' and hear cases in panels of two or three.

The first instance courts, called '*juzgados*', hear first instance cases in municipalities and districts. In many judicial districts, these judges specialize in civil, criminal, labour, or juvenile matters. However, in less populous regions, '*promiscu*' (generalist) judges hear all types of cases. *Juzgados* may not be permanently assigned to the more rural, less populous areas of Colombia or in regions still plagued by violence. In order to serve these regions, some judges may be tasked to travel to hear cases; they are called '*jueces ambulantes*'. Another type of judges, *jueces de control de garantías*, are responsible for ensuring that pre-trial procedures are followed. They also may be assigned to preside over time-sensitive matters such as an arraignment or emergency hearing, often traveling to the city or town where the crime occurred. They do not preside over trials.

There are several Special Jurisdictions:

- *The Constitutional Court* rules on the constitutionality of legislation, presidential decrees, the ratification of international treaties, and constitutional judicial revision for both laws and decrees. The authority to appoint members of the court is divided among the Supreme Court of Justice, Council of State, and Colombia's president. Each sends the names of three nominees to the Senate which then votes on the final candidate. The court's nine justices serve a single eight-year term.

- *The Indigenous Special Jurisdiction.* A little over three percent of Colombia's population is indigenous, with approximately eighty different self-governing groups. In 1970, Colombia's Supreme Court recognized the rights of the indigenous community, ruling that the national criminal code could not apply to these communities. However, indigenous groups were in legal limbo, with the government recognizing that the formal justice system did not meet their needs or respect their traditions but not offering an alternative until 1991 when the constitution affirmed the right of indigenous authorities to exercise judicial functions for their communities, with their own rules and procedures. Each indigenous community has its own criminal justice system. However, the rulings of Indigenous Councils and other tribunals must be consistent with Colombia's constitution and legislation. The Constitutional Court has held that indigenous justice applies if the offender is indigenous or if the alleged crime was committed within indigenous territory. However, a criminal offense committed by an indigenous person against a non-indigenous person and outside of indigenous territory, an ordinary criminal judge must determine the appropriate jurisdiction for the case and consider a number of factors, including the degree of isolation of the defendant's indigenous community.
- *The Special Jurisdiction for Peace.* In 2016 a peace agreement between the government and FARC created the Special Jurisdiction for Peace (Jurisdicción Especial para la Paz) tribunal for the Comprehensive System of Truth, Justice, Reparation and Non-Repetition. It began to investigate and hear cases in 2018, taking testimony from victims and prosecuting serious human rights violations including kidnapping, torture, extrajudicial executions, sexual violence, forced displacement, and recruitment of minors. There is also a process for granting am-

nesty and pardons to perpetrators of non-human rights crimes linked to the conflict, such as rebellion and arms dealing. The tribunal was given very broad jurisdictional scope, covering crimes related to the armed conflict committed in Colombia over a span of 50 years. The breadth of this mandate led to challenges with gathering evidence and processing the vast number of claims. The Special Jurisdiction for Peace has three first instance chambers and one Peace Tribunal divided in four sections, each of which applies domestic and international law, including a chamber for truth and responsibility and another chamber to consider amnesty. Magistrates were selected by an independent committee appointed by third parties designated by the Colombian Government and the FARC-EP. The selection process was implemented through an online platform open to public comments on candidates' qualifications and proficiency. Criteria for magistrates included provisions that members of minority communities be represented.

5. Crimes against and affecting children: quantitative and qualitative results

The signing of the final agreement for ending the conflict put an end to a five-decade-long conflict and led to the demobilisation of FARC-EP and its transformation into a political party. However, violence and insecurity linked to armed groups seeking to exert control in areas vacated by the former FARC-EP continue to have an impact on the rights and well-being of children (United Nations Security Council, 2019). Between July 2016 and June 2019, 850 grave violations against children were verified, representing a decrease compared with the 2,078 grave violations that were verified between September 2011 and June 2016.

In 2018, Colombia conducted the Violence Against Children and Youth Survey (VACS), led by the Ministry of Health and Social Protection and financed by the United States Agency for International Development (USAID), with technical advisory by the US Centers for Disease Control and Prevention (CDC), financial and technical support of Together for Girls, operational support by the United Nations International Organization for Migration (IOM). The VACS showed a disturbing situation: approximately two out of five children in Colombia had been victims of violence – either physical, sexual, or emotional – before the age of 18 (Government of Colombia, Ministry of Health and Social Protection, 2019). This panorama was also reflected by other official data sources. According to the records of the national forensics institute, in 2018, on average every day 62 cases of sexual violence, 66 cases of intrafamily violence, 35 cases of interpersonal violence and 2 violent deaths were reported (Harker Roa et al., 2019). Also, Save the Children (2018), highlights that in Colombia the proportion of children and youth affected by forced displacement (16.1%) is higher only in Somalia (17.9), Central African Republic (25.1), South Sudan (31.1) and Syria (68.2); and that in 2015 the population of children and adolescents the homicide rate (22.1 deaths per 100,000 inhabitants between the ages of 0 and 19) was higher only in Honduras (28.9) and Venezuela (26.9) (Harker Roa et al., 2019). In response to this situation, in 2019, Colombia created the “National Alliance to End Violence Against Children and Adolescents”, to develop a National Action Plan (NAP) on Violence against Children and Adolescents in Colombia 2021-2024 (Padilla, Rodríguez and Harker, 2023).

While the Code for Children and Adolescents sets the minimum age for hazardous work at eighteen and the Labour Code specifically prohibits children under the age of eighteen from working in underground mining and industrial painting, children in Co-

lombia still engage in the worst forms of child labour, including commercial sexual exploitation, agricultural activities and street work. In the agricultural sector, children may be exposed to long hours, the elements and high levels of dust, perform physically arduous tasks, use dangerous tools and face a high risk of occupational injury (International Centre of Education and Human Development (CINDE), 2006). They work in the production of coffee, sugarcane and coca, an illegal stimulant. Children are also engaged in artisanal mining, where they are exposed to toxic gases, long hours, explosives, and dangerous chemicals such as nitric acid. They work in emerald, gold, clay and coal mining, breaking rocks, digging in dirt with picks or their bare hands, removing water from mines and lifting heavy loads (Andi, 2012). Children work on the streets in urban areas, where they may be exposed to long hours, the elements and risk of physical injuries and robberies. They lift heavy loads in markets and are engaged in street vending (Bogota City Council, 2012). Children are also involved in recycling, where they are exposed to toxic substances such as lead and sulfuric acid as well as dangerous waste (Bogota City Council, 2012). Children are engaged in domestic service in Colombia. Indigenous families in rural areas often send their children to urban households to work as domestic workers. Child domestic workers may work up to twelve hours per day and perform household chores such as ironing, cleaning and cooking. Children working in domestic service are vulnerable to physical and sexual abuse by their employers. It was found that 2,117 children engaged in commercial sexual exploitation in eleven cities in Colombia (Plan International et al., 2014). Children are also involved in child pornography and sex tourism and are trafficked for the purpose of commercial sexual exploitation domestically and internationally (US Department of State, 2019). In 2022, Colombia made significant advancement in efforts to eliminate the

worst forms of child labour. Through Law 2205, the government amended the Code of Criminal Procedure, which prioritizes and accelerates investigations into commercial sexual exploitation and the use of children in pornography by establishing a prosecution timeline for the Attorney General's Office. The government also increased the number of labour inspectors from 885 to 1,165, developed an elite group of inspectors to focus on child labour, and increased the capacity of labour inspectors to identify children at risk. Furthermore, the Colombian Institute for Family Welfare established a 2023 Action Plan with Ecuadorian authorities to address child labour in illegal mining operations. Lastly, the government increased Venezuelan migrant children's enrolment in the education system by approximately 20 percent compared to the year prior. However, children are still subjected to the worst forms of child labour, including in commercial sexual exploitation and illicit activities, each sometimes as a result of human trafficking. In addition, inadequate resource allocation for the labour inspectorate, including an insufficient number of labour inspectors, may impede government efforts to protect children from the worst forms of child labour. Finally, existing social programs are insufficient to address the scope of the worst forms of child labour in Colombia, including commercial sexual exploitation and forced begging. It is estimated that in 2023, it affects 10 per cent of children (US Department of Labor, 2023).

The **recruitment and use of children** continued after the peace agreement with, however, a 98% reduction in cases between 2003 and September 2023. It was the most prominent grave violation verified, reaching a peak in 2018. The children, between 13 and 17 years of age, including Venezuelan children, were recruited. Recruitment and use by the ELN reached its peak in 2017, with children from indigenous communities often targeted. For instance, in February 2017, five indigenous children between the

ages of 14 and 17 years were recruited by ELN and in June 2017, seven children, including four girls, all members of an indigenous community, were recruited and used by ELN. Strategies used by armed groups to recruit children involved promises of money and protection or other forms of support and benefits for their families. Girls were often exposed to sexual violence during their association with armed groups. From July 2016 to June 2019, there were reports of the killing of 91 children and the maiming of 95 children, some as young as 5 years of age. Child casualties were the result of crossfire, indiscriminate attacks, the direct targeting of children, and bombing, as well as accidents caused by anti-personnel landmines and unexploded ordnance. Children associated with armed groups were killed or maimed during the fighting (Humanium, 2020).

Children were exposed to grave violations, in particular sexual violence, and their access to education and medical services was gravely affected. Afro-Colombian communities and indigenous people have been particularly affected by this violence, which is endangering their survival (Sardiza & García, 2017). These two ethnic groups account for 47 percent and 25 percent respectively of the total population massively displaced in Colombia in 2017. Historically, ethnic groups accounted for 10 percent and 3 percent respectively of the 7.4 million internally displaced persons (hereinafter IDPs) in Colombia. The ELN was accused of at least 24 cases of child recruitment between 2021 and 2023, according to Colombian authorities. Additionally, a member of the Gaitanista Self-Defense Forces of Colombia (*Autodefensas Gaitanistas de Colombia – AGC*) recently admitted to “having instrumentalized adolescents to carry out criminal actions in Antioquia,” according to the Colombian Attorney General's Office (InSight Crime, November 2023). “The observatory's figures suggest there is a reduction in cases of child recruitment, but this decrease is due

to under-reporting caused largely by the fear of reporting in territories governed by criminal structures,” a sociologist and analyst of Colombia’s armed conflict told InSight Crime on condition of anonymity.

The most recent report the UN Secretary-General on children and armed conflict (2023) includes the following data: 290 grave violations against 209 children verified (122 boys, 83 girls, 4 sex unknown), including 12 Venezuelan and 4 Ecuadorian children, and 44 children who were victims of multiple violations. In addition, the United Nations verified in 2022 four grave violations that had occurred in previous years. The United Nations verified the recruitment and use of 130 children (77 boys, 53 girls), between the ages of 11 and 17 by the *Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo* (FARC-EP) dissident groups (87), *Ejército de Liberación Nacional* (ELN) (18), *Clan del Golfo* (also known as *Autodefensas Gaitanistas de Colombia - AGC*) (15) and unidentified perpetrators (10). Fifty children were used in a combat role. Most of the children were released (100), while 18 were killed and 12 remain associated. The United Nations verified in 2022 the recruitment and use of 4 children that had occurred in previous years (2 boys, 2 girls) by ELN (3) and *Los Caparrapos* (1). According to the Colombian Family Welfare Institute, 220 children formerly associated with armed groups entered its protection programme. A total of 84 children (53 boys, 27 girls, 4 sex unknown) were killed (50) and maimed (34) by FARC-EP dissident groups (32), unidentified perpetrators (29), Colombian armed forces (CAF) (12), ELN (7) and AGC (4). Child casualties resulted from gunshots (52), explosive ordnance (22), air strikes (9) and torture (1). Sexual violence perpetrated against 18 girls by FARC-EP dissident groups (8), AGC (5), ELN (4) and CAF (1) was verified. A total of 25 attacks on schools (22), hospitals (3) and protected persons in relation to schools and/or hospitals were

verified and attributed to FARC-EP dissident groups (14), unidentified perpetrators (5), ELN (4) and AGC (2). Incidents involved threats and attacks against protected personnel (20), damages to schools (4) and attacks on an ambulance (1). A total of 10 schools were militarily used by FARC-EP dissident groups (6), CAF (1), AGC (1), ELN (1) and unidentified perpetrators (1). All schools were vacated. A total of 23 children (18 boys, 5 girls), between the ages of 12 and 17, were abducted by FARC-EP dissident groups (11), ELN (5), AGC (4) and unidentified perpetrators (3), and in the Bolivarian Republic of Venezuela, in areas at the border with Colombia (2), mostly for recruitment and use purposes. A total of 3 children were killed, 15 escaped or were released and the status of 5 is unknown. A total of 10 incidents of denial of humanitarian access were attributed to AGC (5), unidentified perpetrators (3) and ELN (2).

Concerning specifically the conflict which ended in 2016, the following 3 violations against children were mainly committed.

5.1. Recruitment and Use of Children

The interest of armed groups in boys, girls and adolescents is nothing new. Their illegal recruitment to work in the "trades of war" was the subject of analysis by the *Comisión de La Verdad*. The final document estimates that at least 11,314 boys and girls were illegally recruited between 1990 and 2017 (*Comisión de La Verdad*, 2022). However, the commission itself states that, given the difficulty in registering victims, this figure could be at least 30,000.

According to a research by the Memory and Conflict Observatory (*Observatorio de Memoria y Conflicto*) - documenting violence and victims of the armed conflict in Colombia - 16,900 children were recruited since 1962. Children between 12 and 17 years old

made up the majority, with 12,950 cases. Of these, 49.7% were students and 26.6% were girls. The guerrillas, including the National Liberation Army (*Ejército de Liberación Nacional* – ELN) and the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia* – FARC), are the main recruiting groups. These groups are responsible for 57% of the cases, with Antioquia (15.5%), Meta (9%), and Caquetá (7.5%) the most affected departments.

The *Comisión de La Verdad* observed that recruitment includes:

Any form of linkage or involvement of children and adolescents in the activities of armed groups, both legal (military forces) and illegal (guerrillas and paramilitaries) in the internal armed conflict, whether this participation is direct or indirect in the hostilities. The actions or roles that are included within the forms of utilization are warlike actions, surveillance and intelligence activities, logistical or administrative activities, activities related to drug trafficking and financing or obtaining resources for the armed actor (*Comisión de La Verdad*, 2022).

The Commission recognised the different roles that children may fulfil in the armed forces. The children recruited were not always used in direct confrontations; they served as messengers, transporting goods or infiltrating, as they aroused little doubt among the opposing gangs. Concerning the causes for the recruitment, they may include the children's conditions of poverty, violence or abandonment (*Comisión de la Verdad*, 2022). Most boys and girls who were victims of recruitment came from atypical families (66%) and were part of the poorest section (12%) of the Colombian population (Springer, 2012). They had a history of migration between municipalities prior to recruitment (which may be forced displacement by armed groups or economic scarcity) and patterns

of dropping out of school because they felt mistreated by teachers or classmates (31%) or because they were forced to work since an early age (54%) (Springer, 2012).

Although all the armed groups have specific instructions for the age of recruitment (18 for the *Autodefensas Unidas de Colombia* (AUC) and the Colombian Armed Forces, and 15 for the guerrillas), in practice this requirement was not verified.

The *Jurisdicción Especial para la Paz - JEP* (together with the *Comisión de la Verdad*) found that the group that recruited the most girls, boys, and adolescents in the period 1990-2017 was the FARC-EP with 75%, followed by the paramilitaries with 13% and the ELN with 9%, and 45% of the victims were under the age of 15.

The official information available is primarily concerned with how many children were recruited and by whom, to establish responsibility. However, minimum consideration is given to desertion, mainly because it is a difficult situation to measure, and few children survive it. In order to avoid traps and be accused of treason, children and adolescents who flee the armed groups do not report their actions to the authorities, for fear of reprisals.

The figures also show that it is difficult to relate the number of children killed in combat, given the difficulty of finding the bodies, which are often buried in *mass graves*.

Faced with this situation, in 2010 the *National Council for Economic and Social Policy (CONPES)* launched the *Policy for the Prevention of the Recruitment and Use of Children and Adolescents by Armed Groups outside the Law and Organized Criminal Groups*, with the aim of protecting children's rights not to take part in armed conflict. CONPES belongs to the Planning Department of the Republic of Colombia. The policy was updated in 2018, after the signing of the Peace Agreement, and focuses on the comprehensive protection of children, in line with the CRC. It underlines that keeping children away from the various forms of

violence and exploitation is the premise for impeding recruitment and that greater guarantees and protective environments lower the risk of recruitment and use of children by armed groups. Along the same lines as the Childhood and Adolescence Code, it is guided by the principles of the prevalence and interdependence of children's rights, a gender perspective, participation, diversity and life cycles (CONPES, 2018). The policy aims at gradually reducing, even disappearing, the phenomenon of the recruitment of children – “*who are victims of one of the worst forms of child labor, a war crime and illicit recruitment*” (CONPES, 2018).

On 1 March 2019, the Special Jurisdiction for Peace (JEP) opened case 007 to investigate cases of child recruitment from 1 January 1971 to 1 December 2016. The Prosecutor's Office has identified 5,252 victims of child recruitment thus far. However, this phenomenon is notable for its high degree of impunity—there are only 10 convictions out of the 4,219 investigations opened by the Prosecutor's Office. During the first stage of the investigation, the JEP applied the April 1997 Declaration of Cape Town Principles' definition of child recruitment. The Declaration defines a child soldier as any individual under the age of 18 who forms part of an armed group in any capacity other than being a family member. According to reports received by the JEP, during the FARC'S Seventh National Guerilla Conference in 1982, the group adopted a policy that allowed recruitment of children starting at the age of 15. Moreover, the JEP has also found that such policy was not strictly applied and almost half of FARC's child recruits were 15 years of age. These facts, according to the JEP, may suffice to attribute responsibility for these crimes to former FARC leaders. Indeed, between 2 December 2019 to 30 January 2020, the JEP summoned 14 former FARC-EP members to provide their version of the facts. Initially, the JEP only planned to summon former members of FARC'S *Es-*

tado Mayor or Secretariat from 1978 to 2007 (JEP, Comunicado 031, 2019).

In August 2021, the Chamber for the Recognition of Truth and Responsibility and the Determination of Facts and Conduct - SRVR - found a universe of 18,677 unique victims, which constitute a provisional figure of facts of Case 07, as a result of a preliminary cross-checking exercise on the recruitment and use allegedly committed by the extinct FARC-EP. This figure was obtained after cross-checking 31 databases provided through 45 reports submitted by victims' organisations, the state and academic institutions. In order to make visible the victims who for various reasons were never able to report, the Chamber also carried out an exercise to estimate the events that, although they occurred, were not recorded. Thus, it identified that for the period from 1996 to 2016 alone, the estimated total number of victims is between 19,253 and 23,811 children who were recruited. According to the information gathered, 48% of the recruitment and use of children is associated with the actions of the Eastern Bloc of the former FARC-EP. This bloc, which operated in Arauca, Boyacá, Cundinamarca, Casanare, Meta, Guaviare, Vichada, Guainía and Vaupés, is the structure with the highest number of associated victimisations. It is followed by the former Noroccidental, Occidental, Comando Conjunto Central, Magdalena Medio and Caribe blocs. For this reason, the Chamber decided to prioritise the investigation territorially. Given the characteristics of these departments, where 166 reservations of 60 indigenous peoples are located, the Chamber specifically investigates the differential impact that the recruitment and use of children had on ethnic peoples and seeks their participation in the versions that are carried out. Several victims also suffered SGBV (JEP website).

5.2. Forced displacement

According to the Report of the *Comisión de la Verdad*, “exile is invisible not only because of the high level of under-reporting, but also for structural reasons, such as the failure to recognize the facts as a violation of human rights” (*Comisión de la Verdad*, 2022). A large proportion of Colombians in exile, whether their refugee status is recognized or not, do not see themselves as victims, because they assume that this category is linked to suffering and victimization, they do not want to be part of. Fear of stigmatization is part of their daily lives, and sometimes leads to renouncing to their rights to protection out of shame and fear of the consequences. An important issue that became apparent during the research was the difficulty of establishing a “single story” when narrating the facts and the reasons for the displacement. When the need arose to produce a credible story, Johanna and her family produced different, but not conflicting, versions of the events, making it clear that there were multiple sides to the conflict. You don't leave the country for just one reason. In addition, the degree of intimacy with the interviewer, as well as the current period of life when the story is being told, also had an impact on the accounts.

According to the Registry for Displaced Populations (RUPD), by 31 March 2008, the displaced population numbered 2,452,152 people. The Registry is a demand-driven instrument, whereby displaced households must approach government offices to declare, under oath, the circumstances of their displacement. After a victim makes a declaration, government officials validate whether it is truthful and, if so, the legal status to be granted the members of the displaced household. About 30 percent of the displaced population is believed not to be registered, so that the total number of displaced people may number over 3.5 million, or 7.8 per-

cent of the national population. Between 1999 and 2002 when Colombia lived through a period of heavy conflict there was a strong increase in forced migration. After 2002, forced displacement decreased, yet an average of 266,635 people still migrated involuntarily each year, the equivalent of a medium-sized city in Colombia. Moreover, even when peace negotiations with paramilitary groups moved forward and the intensity of the conflict diminished, more than half of all forced migrations between 1999 and 2007 fell in the period of between 2003 and 2007. This indicates that a decrease in conflict does not necessarily imply an immediate reduction of forced displacement. The magnitude of forced migration is revealed when compared with international indices. For 2008, the Internal Displacement Monitoring Center for example estimates total worldwide internal population displacement at approximately 24.5 million people. Of those 14.3 percent are found in Colombia, second only to Sudan (Ibáñez, 2009); (Amnesty International, 2009).

Abrupt and coerced displacement is one of the harshest multiple-loss experiences imaginable. At the moment of departure, IDPs lose their homes, lands, animals, businesses, properties, assets, and personal possessions. They also lose their identities as productive landholders or gainfully employed citizens, their social status, their support networks, and their communities. The intensity of loss is often compounded by trauma. IDPs have been expelled from their homes, often by acts of extreme brutality. In Colombia this has involved a range of threatened or actual atrocities including violent assaults, assassinations, massacres, publicly witnessed acts of violence against civic leaders, torture, kidnapping, forced disappearance, sexual assault, and forced recruitment of youth to serve in the ranks of guerrilla or paramilitary groups. The circumstances of forced migration combine the stressors of extreme trauma with devastating loss in a manner that synergis-

tically elevates the likelihood for progression to psychopathology. This includes increased risks for such common mental disorders (CMDs) as major depression, posttraumatic stress disorder (PTSD), and generalized anxiety disorder, as well as somatic complaints and increased consumption of alcohol and illicit drugs. Disproportionately represented among Colombian forced migrants are women and children, as well as indigenous, Afro-Colombian, and low literacy subgroups. Moreover, in the Colombian case, displacement persists per decades. For children born and raised in displacement, life in resettlement becomes the “new normal.”; and they face low literacy, extreme poverty, employment in the informal sector, discrimination based on ethnicity, stigmatization based on IDP status, single-woman-headed households, and significant delays in qualifying for and receiving supportive services. Studies have revealed intergenerational transmission of trauma for children who are born to displaced families (Shultz et al., 2014).

5.3. Sexual and gender-based violence against girls

Sexual violence, a profound attack on human dignity and a grave violation of fundamental rights, was pervasive in the context of the armed conflict in Colombia. As of 30 April 2022, Colombia’s Unit for the Attention and Integral Reparation for Victims (the Victims Unit) (Unidad para la Atención y Reparación Integral a las Víctimas) had recorded 32,904 victims of *crimes against sexual freedom and integrity in the course of the armed conflict* between 1985 and 2016.

In 2014, a woman was raped in Colombia every 33 minutes. Every three days, two women were raped in the context of the Colombian armed conflict. Although all armed actors have committed sexual violence, state forces have been identified as the aggressors

in more than 50% of all conflict-related sexual violence reported between 2004 and 2012. Sexual and gender-based violence constituted one of the largest and gravest expressions of structural discrimination against women in Colombia. It remained widespread in the context of the armed conflict and unpunished. In its 2008 ruling referred to as “Auto 092,” the Colombian Constitutional Court highlighted the ongoing disproportionate effect of the armed conflict and forced displacement on women, especially with regard to the risk of sexual violence and persisting impunity for the perpetrators of such crimes. The Constitutional Court also remitted 183 specific cases of sexual violence to the Attorney General’s Office to review or initiate criminal investigations in order to overcome impunity and to ensure the application of the principle of due diligence (Constitutional Court, Auto 092, 2008). In January 2015, the Constitutional Court issued a follow-up decision, Auto 009, in which it again expressed its concerns about the persistence of specific gender-based risks faced by Colombian women. It called on the Colombian Government to counteract discriminatory gender stereotypes, and remitted a number of additional cases to the Attorney General’s Office for review. Aside from these decisions, there is very little reliable data on sexual and gender-based violence in Colombia. The Constitutional Court has found that violence against women and the special risks they face in the armed conflict have been rendered almost invisible (Constitutional Court, Auto 092, 2008). In relation to reporting rates for sexual violence in general and that in conflict situations in particular, both national and international bodies have recognized Colombia’s high rate of under-reporting for such crimes (Amnesty International, 2011, 2012; IACHR 2006, 2009; UN 2014).

Although there is data produced by the *Centro Nacional de Memoria Histórica*, the *Sistema Penal Oral Acusatorio*, the *Registro Único de Víctimas (RUV)* and the *Comisión de La Verdad (Truth*

Commission), to mention just a few institutions, the high rates of under-reporting are once again recognized, since the perpetrators are not held responsible for their actions and the victims are still processing the facts. This violence has sometimes been rendered invisible by the sense of guilt, fear and shame that the victims carry.

An analysis by the European Center for Constitutional and Human Rights (ECCHR) indicates three characteristics of sexual violence in Colombia : i) it often took place in the context of militarization; ii) it often occurred in correlation with internal displacement; and iii) it was often accompanied by other cruel human rights violations. Therefore, sexual violence often coincided with military operations by state forces against the civilian population in particular regions of the country as part of the military's efforts to achieve its objectives in the armed conflict. More specifically, one of the aims of socio-political violence, including sexual crimes, was to attack the civilian population perceived to be collaborating with the guerrillas, making them into military targets. State forces have committed sexual violence against women within civilian populations stigmatized as a whole for their supposed provision of social support or concealment to certain armed actors. They have also targeted specific women with sexual violence due to their perceived or real relationships with the "enemy side," i.e. the guerrillas. In the pursuit of this objective, specific circumstances were recurring. Sexual violence frequently occurred (a) in military operations meant to intimidate civilians and maintain territorial control, (b) in operations where paramilitaries participate; (c) in settings of detention and criminalization of persons; (d) against stigmatized communities which already suffer from processes of discrimination, like indigenous peoples and Afro descendants. The second aim was to enable members of the state forces to control the population and the territory through the abuse

of power towards the civilian population. This may or may not be directly connected to military interests (e.g. diminishing the capacity of the enemy or punishing the civilian population), political interests (e.g. controlling territories and communities), or economic interests (e.g. control over resources). However, the use of sexual violence was still related to the armed conflict in that the latter provides a coercive setting which: i) drastically limits the autonomy and rights of women; ii) deepens the invisibility and lack of attention with regards to violence against women; and iii) facilitates the commission of crimes while guaranteeing impunity (ECCHR, 2015).

The *Comisión de La Verdad* established violent sexual and reproductive practices against girls:

Rape, the threat of rape, sexual harassment, trafficking in persons for the purpose of sexual exploitation, sexual slavery, the obligation to witness, perform or permit sexual acts, forced nudity and mutilation of sexual organs. Another form of sexual violence is reproductive violence: contraception and forced castration, pregnancy and forced abortion, torture during pregnancy, as well as forced motherhood and child rearing (*Comisión de La Verdad*, 2022).

According to the Single Registry of Victims (RUV), at least 32,446 were victims of acts against sexual freedom and integrity, of which women and girls represent 92% of the victims registered by this institution. The work carried out by the *Comisión de La Verdad* shows that the most recurrent forms of violence were rape, threats of rape and sexual harassment, with girls and women between the ages of 12 and 28 being the most affected.

While sexual violence is known to have affected countless women and girls in the context of the Colombia conflict, less well docu-

mented is the impact of this crime on men and boys, who were also seriously impacted. In March 2022, several NGOs presented a report to the Special Jurisdiction for Peace documenting 75 cases of sexual violence against men and boys that occurred between 1989 and 2015. All the victims who provided testimonies were civilians, mainly from Montes de María sub-region, and Magdalena and Chocó departments, although allegations from other areas were also documented. Most of those who testified were farmers or fishermen. None was taking part in the hostilities at the time that the crimes of sexual violence occurred. Eighteen were children at the time of the events and nine identified as gay men.

In 51 cases, the victims were typically attacked in their homes; while cultivating their land; or while travelling along roads and highways where armed groups were present and in confrontation. Their experiences are characterised by extraordinary levels of brutality - the vast majority involved anal rape often by more than one person and sometimes in public or in the presence of family members. The testimonies tell of being bound and beaten. In addition, the victims were threatened with violence and death if they reported the incidents. In many cases, sexual violence was accompanied by or took place in the context of other serious violations of international law, including unlawful killings, torture and other ill-treatment, and extortion. In almost all the analysed cases, victims were forcibly displaced as a result of the sexual violence, which deprived them of their livelihoods and damaged community relations. Most reported severe physical and psychological injuries because of the sexual violence they suffered, for which most had not received any medical or psychosocial support (*Red de Mujeres Víctimas y profesionales/ Grupos Focales/ All Survivors Project, 2022*).

On 27 September 2023, the JEP opened the macro case 011 “Gender-based violence, sexual violence, reproductive violence, and

other crimes committed because of prejudice based on sexual orientation, gender expression and/or gender identity in the context of the Colombian armed conflict”. The JEP has defined three sub-cases: i) Sub-case 1, Gender-based violence against civilians committed by members of the FARC-EP; ii) Sub-case 2, Gender-based violence against civilians committed by members of the security forces; and iii) Sub-case 3, Gender-based and bias-based violence within the security forces and the FARC-EP. Given the magnitude of the under-reporting and the information gaps that exist on the facts to be investigated, the Chamber called on civil society organisations to expand their reports and to continue accompanying victims who wish to participate in the judicial process. JEP indicated that at least 35,178 people have suffered sexual, gender and reproductive violence during the armed conflict. Of these, 89.2 per cent are women and 35 per cent suffered violence when they were children and adolescents. Although 78 per cent of the records do not have data on the ethnic origin of the victims, there is information on acts committed against black, Afro-descendant, Raizal or Palenquero, indigenous and Rrom people. The analysis of this provisional data also establishes that the largest number of incidents were attributed to paramilitary groups (33 per cent), followed by the FARC-EP (5.82 per cent) and state agents (3.14 per cent). In 30 per cent of the records, the alleged armed actor responsible is not identified (JEP website).

6. Rehabilitation and reintegration of ex-combatants (including children)

The Disarmament and Demobilisation (DD) process marked the transformation of FARC from an armed group to a political movement. During this process, more than 8,000 weapons were

received, and 10,015 combatants demobilized in twenty-four Territorial Areas for Training and Reintegration (formerly known as *Zonas Veredales de Transición y Normalización/Transitional and Normalization Zones*).

Reincorporation of ex-combatants into Colombian society was conceived as a process where an individual, former guerrilla or paramilitary would walk along a path that should take over six years to cross, provided by the State with key stations: psychosocial counselling, technical training, family reunion, and economic reincorporation. Upon completion of each station, the individual would receive an incentive mostly pecuniary and during the duration of the process the Agency for Reintegration would monitor the conduct of this individual in terms of compliance with the law. The path to reincorporation, as well as the messages in their communication campaigns, evidence the role of former combatants in terms of being passive receivers of reincorporation services, especially training, provided by the State offices in cities. The Colombian Agency for Reincorporation saw this as the “*transition of demobilized persons to civilian life with an emphasis on access to jobs and legal incomes.*” (López, 2022).

With the Peace Agreement of 2016, the Colombian Agency for Reintegration (ACR), became the Colombian Agency for Reincorporation and Normalization (ARN), modifying many of its functions in order to assist the process of reincorporation of FARC EP’s former members. This transformation included a collective approach and a new concept called “Reincorporation”. This turn was key in the application of lessons learned in the former processes with other demobilized armed groups and the incorporation of new elements that appeared in the Peace Agreement like community involvement in the construction of peace. The call to civil society and other institutions to transform to accompany differently the implementation phase of the Agreement inspired

the program, Sustainable Peace for Colombia (PASO) of the One Earth Future Foundation to design and implement a peace-building and rural development model that incorporated the collective approach to productive and commercial projects that combined ex-combatants community participation and economic opportunity and commercialization associated to each territory. PASO understood the “Collective” concept as something that goes beyond the interest of ex-combatants and creates a network of trust and collaboration with the local communities and stakeholders. This model, with proven adaptability to different geographic contexts, is at the base of successful productive projects, stronger local organizations, and a broad participation of local communities and businesses and is being applied in the development of alternative economies to coca and in the integration of migrants to Colombia’s agricultural value chains. By the same token, the positive outcomes of the model are inspiring dialogs and conflict resolution initiatives that help the current peace processes underway in Colombia (López, 2022).

Only three pages of the Peace Agreement were dedicated to reincorporation. The main instrument for reincorporation would be a cooperative called ECOMUN that ex-combatants would adhere to voluntarily. The government would be responsible for facilitating its creation and would provide the necessary technical and legal assistance for its rapid creation. ECOMUN was finally created 9 months after the Agreement. The idea is for ECOMUN to be a very large, nationwide cooperative, the center of all productive collective projects. The Government had been addressing reincorporation as something controlled by the State and the style of reincorporation being individual and not collective, since the Ralito negotiations ended in July 2003. The then-called Colombian Agency for Reintegration, designed a model of individual reincorporation, containing eight elements: CODA certification (a

military certificate assigned to demobilized people), Health, Psychological Attention, Education, Training for Work, Economic Reintegration, Social Service, and Legal Assistance. Each of these components is comparable to stations where the excom receives a given amount of services such as tuition, workshop, personalized psychological attention, etc. (López, 2022).

The prolonged armed conflict had serious consequences on children. A study carried out by Ospina et al. (2018) shows that among children from urban areas, the end of the conflict represented the opportunity for the development of their communities, while for urban children it meant concern about the possibility that members of the armed groups would migrate to the city, while also expressing a desire to welcome them and build peace. The *Acuerdo Final para la Terminación del Conflicto y la Construcción de una paz estable y duradera* (Oficina Alto Comisionado para La Paz, 2018), between the National Government and the FARC-EP guerrillas, includes among the principles equality and gender-based approach. In Point 3, it recognises the reincorporation for minors who left the armed group indicating:

These minors will be granted all the rights, benefits and services established for the victims of the conflict, as well as those derived from their process of reincorporation in the terms contemplated in this Final Agreement, and their family reunification will be prioritized when this is possible, as well as their definitive placement in their communities of origin or in others of similar characteristics, always taking into account the best interests of the child.

Reincorporation is foreseen through the *Special Reincorporation Program*, created by the *National Reincorporation Council*, and shall include psychosocial support, always taking into account the best interests of the child.

Comprehensive Rural Reform is one of the main points of the Agreement which recognises that access to land is a prerequisite for the transformation of the countryside and that resources are needed for achieving the comprehensive rural development that will provide public services and goods, such as for education, health, recreation, infrastructure, technical assistance, food and nutrition, *inter alia*, which promote well-being and a dignified way of life for the rural population – girls, boys, men and women. The Reform

intends to ensure that the entire rural and urban population in Colombia has sufficient availability and access in terms of opportunity, quantity, quality and price to the food necessary for good nutrition, especially that of children, pregnant and lactating women and older adults, promoting food production and income generation as a priority (Peace Agreement, p. 11).

Overcoming poverty and inequality and achieving the well-being of the rural population, as well as closing the gap between the countryside and the city, are the responsibility of the *Territorially Focused Development Programs* (PDET). In these programs, it is understood that overcoming poverty and inequality is not only achieved through higher incomes for families, but also through adequate access to public goods and services. Re-establishing the rights of girls, boys and adolescents in the post-conflict scenario means, first of all, getting to know the trajectories and life stories of the children involved in it, seeking to differentiate between those who have given up arms and those who were born and socialized in armed groups and for whom the jungle and the armed mean territory and family, and the state - represented by the armed forces and the Colombian army - means enemy or target.

The end of the conflict is a unique opportunity to uncover the

truth. Understanding the facts and remembering them is indeed part of the process of reconciliation between communities and the reconstruction of the social fabric destroyed by the war. In this regard, the Agreement provides for a Comprehensive System of Truth, Justice, Reparation and Non-Repetition (*Sistema Integral de Verdad, Justicia, Reparación y No Repetición - SIVJRNR*) in which the victims are at the centre. Said system includes a Truth, Coexistence and Non-Recurrence Commission which efforts should focus on guaranteeing the participation of the victims of the conflict, ensuring the restoration of their dignity and contributing to the realisation of their right to the truth in particular, and in general of their rights to justice, comprehensive reparations and guarantees of non-recurrence, always taking pluralism and equity into consideration. All of the foregoing should also help change their living conditions for the better. It also includes a Special Unit for the Search for Persons deemed as Missing in the context of and due to the armed conflict. The system also provides for the establishment of the *Comisión de la Verdad*, an extra-judicial mechanism to shed light on five decades of atrocities and human rights violations committed during the country's armed conflict. It has advocated for the rights of millions of victims – children, women and men who themselves have fought tirelessly to be heard, for their collective and individual stories of suffering and resistance to be made public, and for their rights to be acknowledged and restored. The work of the Truth Commission has highlighted the causes of the conflict and exposed its painful reality. The Commission presented its final report in June 2022.

Finally, the *Jurisdicción Especial por la Paz* (JEP) was created as a transitional justice mechanism through which FARC members, members of the Public Force and third parties who have participated in the armed conflict are investigated and put on trial. The objectives of the Jurisdiction are to satisfy the victims' right

to justice, offer truth to Colombian society, protect the rights of the victims, contribute to the achievement of a stable and lasting peace, and adopt decisions that grant full legal certainty to those they participated directly or indirectly in the internal armed conflict, regarding facts committed in the context and because of it, in particular those that constitute serious violations of IHL or serious violations of HRL.

This comprehensive framework guarantees the recognition of the sufferings and victimisation, particularly of children and women, and the possibility of their participation in the process of justice and reconciliation. The participation of victims - families, children, adolescents and the community - in peace-building is a way of including them as agents for social transformation and not just as victims.

The creation of Government programs aiming at reintegrating children in their families and communities is essential, as well as granting reparation to children as a commitment on the part of the state to monitor, encourage and prioritize girls and boys in a context of social vulnerability. To truly re-establish rights, children involved in the conflict must first recognize themselves as victims of a decades-long phenomenon. The participation of children and their families in the country's political, social and cultural projects is the path to social transformation.

Peace as a fundamental right for all Colombians is an indispensable condition for the exercise of all other rights. The end of the conflict and the clarification of the causes, the narrative of the facts, the welcoming of the victims and the pact of non-repetition allow for the free debate of ideas and open the way for women, men, girls and boys to participate fully in the society. Since children are an important contingent of victims and have historically not been heard, their voices must be linked to the process of social construction and transformation that is taking place in the country,

starting with the educational strategies and pedagogical tools that are being organized in the schools.

7. Conclusions and Recommendations

Colombia has not yet developed a National Action Plan aligned with the proposals of Resolution 1325 of the National Security Council of the United Nations. For this reason, the main recommendation for the proper reintegration and restoration of rights through which the country must pass in post-conflict times, is to prioritize the organization and execution of the first Action Plan. 22 years after the Resolution, Colombia is implementing the National Action Plan Agenda to respond to the proposals of the United Nations Security Council. The plan is being designed in conjunction with more than 1,500 women who contributed ideas from their territories and weaved action and follow-up networks for the Women, Peace and Security Agenda. The plan should be inclusive and include a gender and intersectional approach.

Another recommendation is to monitor the processes leading to justice and reconciliation and guarantee enough resources for completing the work of the different mechanisms provided by the Peace Agreement to clarify the facts, the truth and guarantee due justice and reparation, in order to ensure that there will be no repetition.

In this context of transition, post conflict and implementation of peace agreements, some challenges and recommendations included in the final report of the Truth Commission (2022) need to be highlighted:

- Integral Reparation: to overcome the scenarios of exclusion, poverty, and historical inequality of the victim population.

- Return and Relocation: to guarantee the social and economic stabilization of victims, and to achieve the effective enjoyment of rights, particularly those of victims of forced displacement.
- Access to public goods and services and income-generating alternatives for the subjects of collective reparation.
- Recognizing exile and refuge as a serious violation of human rights and to establish specific measures for the assistance and integral reparation to be provided to the victims while they remain outside the national territory.

Recommendations:

- Prioritize the implementation of the National Action Plan to enhance equal and meaningful participation of women and girls in decision-making on peace and security; achieve sustainable peace and development opportunities and stop conflict-related violence against women, men, girls and boys.
- Monitor the processes leading to justice and reconciliation, ensuring that children are duly included.
- Allocate enough resources to the different mechanisms provided by the Peace Agreement to ascertain the facts, provide justice and reparation.

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This comprehensive study navigates the harrowing landscape of children entangled in the tumult of armed conflicts across regions spanning Africa, Asia, Europe and South America. Using a meticulous methodology that integrates both qualitative and quantitative research, the study illustrates the intricate challenges faced by children while advocating for their recognition as pivotal actors of peace, security and justice. The dual approach to data analysis forms the backbone of the research, offering a nuanced understanding through a comparative lens of international and local data. By delving into global statistics and juxtaposing them with locally sourced information, the study unveils not only overarching trends but also the unique contextual nuances that define the experiences of children in conflict zones. Integral to the study is the recognition of children as active agents of change in the pursuit of peace, security and justice. Aligned with the principles of the Convention on the Rights of the Child, the report advocates for empowering children through education, psychological well-being, and legal frameworks that amplify their voices. This transformative perspective underscores the urgency of breaking cycles of violence by investing in the resilience and agency of young individuals. The synthesis of quantitative and qualitative insights, coupled with the acknowledgment of children as active contributors to peace, positions this study as a compelling call for action for a world that safeguards the future of children.



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