

BRIEFING FOR THE HUMAN RIGHTS COMMITTEE, COUNTRY REPORT TASK FORCE, 138TH SESSION (26 JUNE 2023 - 28 JULY 2023), WITH RESPECT TO VIOLENCE AGAINST WOMEN IN: COLOMBIA *Submitted by Strategic Advocacy for Human Rights (SAHR), May 2023*



Strategic Advocacy
Human Rights

This thematic report¹ considers the legality of violence against women in Colombia, in particular in relation to sexual violence. In light of the obligation under international human rights treaties to prohibit all violence against women, the global commitment to ending violence against women and girls in the public and private spheres in the context of the 2030 Agenda for Sustainable Development, previous recommendations of the Committee to Colombia, the recommendations of the UN Secretary General's Study on Ending Violence Against Women, and those made to Colombia during the Universal Periodic Review in 2018 (the UPR Recommendations), it is our hope that the Committee will:

- raise the issue of violence against women in its List of Issues Prior to Reporting for Colombia, in particular asking what progress is being made on enforcing legislation to prohibit all violence against women in all settings; and
- in its concluding observations on Colombia's State Party Report, recommend that actions and measures are taken as a matter of priority to (a) increase prosecutions and reduce the high impunity rate for cases involving gender-based violence, and (b) reduce discriminatory stereotypes against women and LGBTI persons.

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¹ This report was compiled based on information that was publicly available in the English language only. It may not be complete and does not constitute legal advice.

1. INTRODUCTION

Strategic Advocacy for Human Rights (SAHR)² is a peer-led non-governmental organization by and for human right defenders, working to equip a movement of human rights defenders with the knowledge and tools to end gender-based violence through litigation, policy, and law reform.

We submit this written contribution for State parties under review for consideration by the Committee, reporting before the 138th Session (26 June 2023 - 28 July 2023).

This report highlights key legal inequalities that women face in Colombia in relation to violence against women, along with suggested questions to be posed to the State party. Our analysis benchmarks the legislation and practices against the UN Model Law on Rape³, published by the former UN Special Rapporteur on Violence Against Women, Ms. Dubravka Šimonović, to harmonise national criminal justice responses with accepted international standards.

The aim of this report is to aid and encourage the UN Human Rights Committee, the State, and stakeholders, to review national criminal laws and systems and practice with international standards on rape and sexual violence, particularly the UN Model Law on Rape that updates best practices based on the lived realities and recommendations of civil society and survivors.

We hope that the Committee will utilize this report as a key resource in the course of developing its list of issues for Colombia.

2. KEY ISSUES OF CONCERN

2.1 Violence against women in internal armed conflict

Whether Concluding Observations have been addressed

2.1.1 Despite the legislative and institutional measures taken by the State Party, Colombia still lacks critical judicial and execution capabilities to implement the Covenant. Police and local courts may lack appropriate gender-based approach and thus fails to provide effective remedy to victims in armed-conflict related abuses. In its 2022 Country Reports on Human Rights Practices, U.S. Department of State identified that, even though rape is prohibited by law in Colombia, it remained a serious problem and the government did not always enforce the law effectively.⁴

2.1.2 In 2020, the National Victims' Unit of Colombia recorded 239 cases of conflict-related sexual violence, of which 197 were committed against women and 15 were committed against girls.⁵ It is worth noting that these figures were recorded in conjunction of ongoing COVID-19 pandemic, a period when survivors and non-governmental organizations faced increase difficulties in accessing protection mechanism and referral pathways.⁶

² Website: <https://www.sa-hr.org/>. Email: connect@sa-hr.org

³ United Nations General Assembly, *A framework for legislation on rape (model rape law)*, 15 June 2021, available at <https://digitallibrary.un.org/record/3929055?ln=en> [accessed 5 May 2023] [A/HRC/47/26/Add.1](#)

⁴ U.S. Department of State. (2023, March 20). 2022 Country Reports on Human Rights Practices: Colombia. U.S. Department of State. <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/colombia/>.

⁵ United Nation, *Conflict-related sexual violence – Report of the Secretary General*, March 30, 2021.

⁶ *Ibid.*

- 2.1.3 The Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment has indicated that: “Rape constitutes torture when it is carried out by, at the instigation of, or with the consent or acquiescence of public officials.”⁷

Suggested Questions / Recommendations for the State Party

Suggested List of Questions / Recommendations for the State Party

- In view of the above, we suggest the Committee request the State Party to further explain what procedures are in place for the implementation of Act No. 1719 of 2014 and other measures taken to support the fight against sexual violence, including measures for the protection, care, and support of victims of sexual violence during the ongoing armed conflict.

2.2 Continuing violence against women; the prevalence of impunity; lack of access to justice

Concluding Observations

- 2.2.1 In the 2016 Concluding Observations, the Committee was concerned by (i) reports that “violence against women and sexual violence aimed primarily at women and girls continue to be serious problems” and (ii) reports that that many of these crimes go unpunished.”⁸
- 2.2.2 Accordingly, the Committee recommended that Colombia should “redouble its efforts to prevent and combat all acts of violence against women and acts of sexual violence, to punish persons who commit such acts and to offer assistance and full reparation to victims.”⁹

Whether Concluding Observations have been addressed

- 2.2.3 The CEDAW Committee reiterated in 2019 that despite legislative advances, concern persists about “the limited institutional capacity of the judiciary, in particular in rural areas, and the high level of impunity, in particular in cases related to femicide, sexual violence and violence against women human rights defenders, which disproportionately affect women from vulnerable groups, such as indigenous women, Colombian women of African descent, rural women, women with disabilities and lesbian, bisexual and transgender women.”¹⁰
- 2.2.4 According to OECD, factors affecting equal access to justice range from “limited availability of legal and justice services in some regions to lack of knowledge among women about their rights or the pathways to justice, especially among victims of

⁷ Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment, A/HRC/31/57, January 2016, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/000/97/PDF/G1600097.pdf?OpenElement>.

⁸ International Covenant on Civil and Political Rights, *Concluding Observations on the seventh periodic report of Colombia*, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/257/68/PDF/G1625768.pdf?OpenElement> [accessed 9 May 2023].

⁹ International Covenant on Civil and Political Rights, *Concluding Observations on the seventh periodic report of Colombia*, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/257/68/PDF/G1625768.pdf?OpenElement> [accessed 9 May 2023].

¹⁰ Committee on the Elimination of All Forms of Discrimination against Women, concluding observations on the ninth periodic report of Colombia, 14 March 2018, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fCO L%2fCO%2f9&Lang=es.

violence.”¹¹ OECD also noted that “uneven application of laws” continues to act as barriers to women’s legal empowerment, and “obstacles continue to hinder women’s political participation and access to justice at the local level.”¹²

- 2.2.5 According to Amnesty International, there have been consistent reports that the Attorney General’s Office “did not charge people in the cases they dealt with the crimes of sexual violence or sexual abuse, but rather with offences such as personal injury or other type of crime”, and in certain cases, prosecutors charge “sexual touching or harassment or forced nudity as the offence of abuse of power.”¹³
- 2.2.6 Another obstacle that victims of gender-based violence face in obtaining access to justice is the requirement to provide evidence on top of their testimonies.¹⁴ The standards adopted by the Inter-American Commission on Human Rights is that the testimony of a survivor of crimes of sexual violence has sufficient probative value, meaning that such testimony must be “the starting point of criminal investigations”, so that survivors are not required to provide graphic or documentary evidence to prove that sexual violence occurred.¹⁵ The Attorney General’s Office has not in practice followed these standards.
- 2.2.7 Furthermore, while reconciliation between the victim and the perpetrator is not allowed as part of a legal response, in practice public authorities oftentimes encourage or even pressure victims to reconcile, especially in cases of sexual violence within the family unit¹⁶, which is inconsistent with Article 19 of the Model Rape Law, which prohibits conciliation or mediation in cases of rape, both before and during legal proceedings, and mandatory alternative dispute resolution procedures in cases of violence against women, and particularly of rape and sexual violence.

Suggested Questions / Recommendations for the State Party

Suggested List of Questions / Recommendations for the State Party

- In view of the above, we suggest the Committee request the State Party to elaborate on the specific actions and measures adopted to prevent, combat, and punish acts of violence against women, including sexual violence, and to secure comprehensive reparation and proper protections for victims, with a detailed analysis on the impacts of such actions and measures. In particular, we suggest the Committee request the State Party to explain the action taken to ensure enforcement of law in practice to follow standards established under international laws ratified by the state, such as a victim-centered approach to investigation violence against women.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Amnesty International, Colombia: The police does not care for me: Sexual violence and other gender-based violence in the 2021 National Strike (2021), available at <https://www.amnesty.org/en/documents/amr23/6234/2022/en/> [accessed 9 May 2023].

¹⁵ *Ibid.*

¹⁶ UNCT in Colombia, Response to questionnaire on criminalization and prosecution of rape, available at <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2FDocuments%2FIssues%2FWomen%2FSR%2FRapeReport%2Fun%2Frc-colombia.docx%23%3A~%3Atext%3DLaw%25201719%2520of%25202014%252C%2520by%2CArticle%252025.&wdOrigin=BROWSELINK>, [accessed 12 May 2023].

2.3 Discrimination and violence based on sexual orientation or gender identity.

Whether Concluding Observations and UPR Recommendations have been addressed

2.3.1 In terms of Colombia's internal laws, we have noted a few potential deviations between the UN Model Rape Law and the relevant legislative provisions of Colombia, which could have impacts on the prosecution, punishment, and reparation rates:

- Article 13 of the UN Model Rape Law requires that the investigators / police officers issue a receipt of complaint to victims, to promptly record all allegations, and ensure the official report of the complaint is filed in all cases. We have not found any state law containing these requirements. Article 13 of the Law 1719 of 2014 only requires that the victims be issued a copy of the complaint, the legal medical examination, and any other document of interest to the victim.¹⁷ Receipt of complaint can be an important tool to track and hold the relevant investigators / police officers accountable.
- Article 14(a) of the UN Model Rape Law requires that prosecution of rape should be conducted ex officio. Article 15(a) of the UN Model Rape Law requires that that prosecutions of and/or judicial proceedings with respect to sexual violence cases be timely carried out without undue delay. We have not found any state law containing these requirements. Article 17 of the Law 1719 of 2014 only requires ex officio and prompt investigation.¹⁸
- Article 14(b) of the UN Model Rape Law requires that any prosecutor who discontinues a rape case should provide a formal and timely written explanation to the victim of the reasons why the case was dropped. We have not found any state law containing this requirement. Article 17 of the Law 1719 of 2014 only requires the prosecutor to investigate the reasons when a victim retracts a case.¹⁹

2.3.2 The Organisation for Economic Cooperation and Development (OECD) published a report on Gender Equality in Colombia – Access to Justice and Politics at the Local Level in 2020 (OECD Report)²⁰. The OECD Report noted the following:

- Colombia still faces challenges on the path to ending gender-based violence. For example, the figures on violence against women are still alarming. In 2018, 47 feminicides and 50 attempted feminicides were reported. According to the Colombian Institute of Forensic Medicine, 23,798 cases of sexual violence were reported in 2017, 85% of them against women (an increase of 11.2% over 2016).
- The OECD has identified three critical pillars to strengthen whole-of-government approaches to ending violence against women: Systems, Culture and Accountability and Enforcement. Colombia has notably made efforts within the Systems pillar, creating structures and systems to respond to violence against women, including holistic laws and policies addressing multiple forms of violence against women and gender inequality, and clear identification of the

¹⁷ Law 1719 of 2014, available at <https://evaw-global-database.unwomen.org/en/countries/americas/colombia/2014/ley-1719-del-18-de-junio-de-2014> [accessed 14 May 2023]. The law is only available in Spanish language. Summary is prepared based on a Google translation of the Spanish version.

¹⁸ *Ibid.*

¹⁹ *Ibid.*

²⁰ OECD, Gender Equality in Colombia, available at <https://www.oecd.org/gov/gender-equality-in-colombia-b956ef57-en.htm> [accessed 14 May 2023].

roles and responsibilities of governmental actors and relevant stakeholders in the implementation of these strategies. Yet, there is still space to improve in the Culture pillar regarding the survivor-centric culture surrounding responses to violence against women (i.e., capacity-building and co-ordination efforts and funding necessities such as shelters). Developments could also be done in the Accountability and Enforcement pillar regarding improving women's victims of violence access to justice, particularly strengthening the pathways.

2.3.3 In the context of the National Strike in 2021, Amnesty International noted reports of gender-based violence, including sexual violence, committed by the National Police's Mobile Anti-Riot Squad against girls, women and LGBTI people.²¹ According to Amnesty International, the allegations include "psychological violence, threats of sexual violence, violence based on prejudice against LGBTI people, groping and sexual harassment, forced nudity, gender discrimination, torture and rape", against "Afro-descendant women; Indigenous women; women human rights defenders, journalists, reporters and health brigade members; mothers accompanying the marches; and, in general, women who decided to protest or support young people in the streets", primarily in two situations, namely, "during action taken by the National Police to disperse demonstrations" and "during the detention of protesters following interventions in demonstrations."²²

2.3.4 The Inter-American Commission on Human Rights also noted following a 2021 visit to Colombia that "multiple reports of acts committed by security forces agents, indicating the use of gender-based violence as a mechanism of repression against women, girls, and LGBTI persons", which violence "was used against both persons found in the protest and against persons located in areas away from the protest."²³

Suggested List of Questions / Recommendations for the State Party

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- Please provide disaggregated statistical information on the following for each annual period from 2018 to 2022:
 - the number of gender-based violence / discrimination allegations received, indicating.
 - the number of gender-based violence / discrimination allegations being investigated (only including investigations initiated in the applicable year)
 - the number of complaints filed involving gender-based violence / discrimination.
 - the number of prosecutions initiated involving gender-based violence / discrimination.
 - the penalties imposed on those responsible, indicating the type and quantum of penalties.

²¹ Amnesty International, *Colombia: The police does not care for me: Sexual violence and other gender-based violence in the 2021 National Strike (2021)*, available at <https://www.amnesty.org/en/documents/amr23/6234/2022/en/> [accessed 9 May 2023].

²² *Ibid.*

²³ Inter-American Commission on Human Rights, *Observations and recommendations Working visit to Colombia*, June 2021, https://www.oas.org/en/iachr/reports/pdfs/ObservacionesVisita_CIDH_Colombia_ENG.pdf [accessed 15 May 2023].

- the measures of reparation provided to the victims., including the type and quantum of reparation.
- the reasons for allegations not resulting in judicial proceeding.
- qualitative and quantitative analysis of the high impunity rate (if applicable)
- Please explain the regulatory framework (including disciplinary measures) ensuring that all gender-based violence / discrimination allegations are correctly recorded and timely prosecuted (as opposed to investigated).
- Consider adopting some or all of the recommendations made by OECD in the OECD Report.

ANNEX – COMPARISON: UN MODEL LAW ON RAPE AND STATE LEGISLATIVE FRAMEWORK

In addition to the above observations, we annex a table comparing the State's law on rape and sexual violence with the UN Model Law on Rape. This table demonstrates the extent to which the State's law complies with internationally accepted standards and the articles of the ICCPR as above-mentioned.

UN Model Rape Law	Corresponding Legislative Provisions of State	Comments
A. Criminalization of rape		
Article 1. Definition of rape 16. A person (the perpetrator) commits rape when they: (a) engage in non-consensual vaginal, anal, or oral penetration of a sexual nature, however slight, of the body of another person (the victim) by any bodily part or object; or (b) cause non-consensual vaginal, anal, or oral penetration of a sexual nature, however slight, of the body of another person (the victim) by a third person; or (c) cause the victim to engage in the non-consensual vaginal, anal, or oral penetration of a sexual nature, however slight, of the body of the perpetrator or another person.	Article 205. Amended by Law 1236 of 2008, Article 1. Violent carnal access. Anyone who commits sexual intercourse with another person through violence shall be imprisoned for twelve (12) to twenty (20) years. Article 206. Amended by Law 1236 of 2008, Article 2. Violent sexual act. Anyone who performs in another person sexual act other than carnal access through violence, shall be imprisoned from eight (8) to sixteen (16) years. (Note: See Judgment C-743 of 2012, with regard to the underlined expression.). Article 207. Amended by Law 1236 of 2008, Article 3. Carnal access or sexual intercourse in person put in inability to resist. Anyone who performs carnal access to a person whom they have placed in a state of inability to resist or unconsciousness, or in conditions of psychic inferiority that prevent him from understanding the sexual relationship or giving his consent, shall be imprisoned for twelve (12) to twenty (20) years. If a sexual act other than carnal intercourse is performed, the penalty shall be eight (8) to sixteen (16) years. (Note: See Judgment C-743 of 2012, with regard to the underlined expression.). Article 212. Carnal Access. For the purposes of the conduct described in the previous chapters, carnal access shall mean penetration of the virile limb by anal, vaginal, or oral means, as well as vaginal or anal penetration of any other part of the human body or other object.	We note that under Colombian law, definition of rape (or “violent carnal access” as stated in Colombian law) deviates from the UN Model Rape Law in that it removes the “consent” element. Instead, it defines rape as “violent carnal access”. We note the definition may elevate the bar for proving a relevant crime and shift the burden of proof.
Article 2. On consent 17. Consent must be given voluntarily and must be genuine and result from the person’s free will,	We note that Colombian criminal law uses the concept of “violence” (see above) instead of voluntary consent.	

assessed in the context of the surrounding circumstances, and can be withdrawn at any moment. While consent need not be explicit in all cases, it cannot be inferred from: (a) silence by the victim; (b) non-resistance, verbal or physical, by the victim; (c) the victim's past sexual behavior; or (d) the victim's status, occupation, or relationship to the accused.	The definition of "violence" is extracted as below. Article 212A. Violence. For the purposes of the conduct described in the preceding chapters, violence shall mean: the use of force; the threat of use of force; physical or psychological coercion, such as that caused by fear of violence, intimidation; unlawful detention; psychological oppression; abuse of power; the use of coercive environments and similar circumstances that prevent the victim from giving his or her free consent.	
Article 3. Age of consent (a) A person is considered incapable of giving genuine consent when they are a person below the age of 16. (b) Consensual sexual relations between children younger than 16, or between a child younger than 18 years old and a child older than 14 and younger than 16 should not be criminalized.	<i>Nonspecific provision on consent found. But Colombian law has a statutory rape clause for anyone under 14 years old.</i> Article 138A. Abusive carnal access in a protected person under the age of fourteen. Anyone who, on the occasion and during the development of an armed conflict, carnally accedes to a protected person under fourteen (14) years of age, shall incur in prison from one hundred sixty (160) to three hundred twenty-four (324) months and a fine of six hundred sixty-six point sixty and six (666.66) to one thousand five hundred (1,500) current legal monthly minimum wages.	
Article 4. On the incapability of giving genuine consent A person is considered incapable of giving genuine consent: (a) when they are unconscious, asleep, or seriously intoxicated as a result of drugs or alcohol consumed voluntarily, involuntarily or unknowingly;		

(b) when the perpetrator is an adult, 18 years old or older and the victim is a child related to the perpetrator by blood, marriage, adoption, fostering or other analogous familial affiliation.		
Article 5. Use of force, threat, or coercion 19. Lack of consent is presumed where penetration was committed by force, or by threat of force or coercion. There is a broad range of coercive circumstances, including, but not limited to, circumstances in which: (a) the victim was subject to abuse, violence, duress, deceit, detention or psychological oppression or intimidation that contributed to the victim's subjugation or acquiescence; or (b) the victim was subject to a threat (expressed or implied) of present or future physical or non-physical harm to the victim or a third person.	Article 17 of the Constitution of Colombia adopted in 1991, and amended in 2013, includes the following provisions: Slavery, servitude, and the slave trade in all forms are prohibited. Violence against women is broadly defined in Article 2 of Law 1257 of 2008 as "any action or omission that causes death, harm or physical, sexual, psychological, economic or patrimonial suffering due to her condition as a woman, as well as threats of such acts, coercion or arbitrary deprivation of liberty, whether in the public or private sphere". Article 212A of the Colombian Criminal Code²⁴: For the purposes of the conduct described in the preceding chapters, violence shall be understood to mean: the use of force; the threat of the use of force; physical or psychological coercion, such as that caused by fear of violence, intimidation; illegal detention; psychological oppression; abuse of power; the use of coercive environments and similar circumstances that prevent the victim from giving free consent. Article 207 of the Colombian Criminal Code: sexual penetration or a sexual act with a person who is unable to resist such an act. In this type of crime, the inability to resist is defined as being incapacitated, unconscious or mentally disabled in such a way that it impairs the person's ability to understand the sexual act or give consent.	
Article 6. On presumed lack of consent 20. Lack of consent is presumed when:	Chapter II of Title IV of the Colombian Criminal Code criminalizes abusive sexual acts, protecting minors under the age of 14 from sexual penetration (article 208, thus establishing the age limit for consent at 14). Article 210. of the Colombian Criminal Code: Abusive carnal intercourse or sexual intercourse with inability to resist. Whoever carnally accesses a person in a state of unconsciousness, or who suffers from mental disorder	The circumstances where lack of consent is presumed prescribed under the Colombian Criminal Code are not extensive enough.

²⁴ http://normograma.legislacionarl.co/arl/compilacion/docs/ley_0599_2000.htm#132

(a) The victim was intoxicated as a result of drugs or alcohol consumed voluntarily, involuntarily or unknowingly; (b) When an illness, bodily injury, or other particular vulnerability has an impact of the victim's ability to consent; or (c) When the perpetrator is in a position of power, trust, influence, or dependency over the victim and may have taken advantage of that position to force participation. 21. Lack of consent is also presumed when the perpetrator abuses a relationship or position of power or authority over the victim. The positions and relationships listed below include, but are not limited to, situations in which the perpetrator is in a position of power or authority, influence, or dominance over the victim: (a) in a school, hospital, religious, correctional or care facility setting; (b) in a professional or occupational setting; (c) in a residential care facility, community home, voluntary home, children's home or orphanage; (d) in the context of providing the victim medical, psychological or psycho-social support or treatment; (e) in a guardian-ward relationship; (f) by acting as a member of law enforcement, worker, probation officer, sports coach, instructor, minister of religion, babysitter, child-minder or in	or who is unable to resist, will incur imprisonment of twelve (12) to twenty (20) years. If the access is not made, but sexual acts other than it, the penalty will be eight (8) to sixteen (16) years. Article 18. of Law 1713 of 2014 Recommendations for judicial officials in the treatment of the test. Without prejudice to the principles of evidentiary freedom, presumption of innocence, judicial autonomy and other principles provided for, among others, in Article 7 or the Code of Criminal Procedure, in cases where crimes involving sexual violence are investigated, the staff of judicial police, Legal Medicine, Public Prosecutor's Office, Prosecutor's Office, and Judiciary may observe the following recommendations in the collection, practice and assessment of evidence: 1. Consent may not be inferred from any words, gestures or conduct of the victim when the victim is not voluntary and free. 2. Consent cannot be inferred from the victim's silence or lack of resistance to sexual violence. 3. The Judge or Magistrate shall not admit evidence that promotes discrimination on the basis of religious, ethnic, ideological, political, or other grounds.	
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any other position of welfare in relation to the victim; or (g) by otherwise being generally involved and responsible for the care, training, or supervision of the victim.		
Article 7. Sentencing (a) States should ensure that sanctions for offences of rape are effective, proportionate, dissuasive, and commensurate with the gravity of the crimes. (b) States should develop sentencing guidelines to ensure consistency in sentencing outcomes. (c) States should not allow conditional sentences and/or community service or fines alone as sanctions. (d) The death penalty should never be imposed for rape	Article 83 of the Colombian Criminal Code states that the statute of limitations for each offense established under criminal law must be equivalent to the maximum prison sentence that the offense carries. This period cannot be less than 5 years or exceed 20 years. In the case of rape (violent sexual penetration, article 205), the prison sentence ranges from 8 to 15 years. As such, the statute of limitations for simple rape is 15 years (maximum of the prison sentence established by article 205). Additionally, according to article 83, sex crimes against children have a statute of limitations of 20 years, i.e., the maximum allowed by the law. Mitigating Circumstances for criminal behavior in general: • Article 55. Circumstances Of Lesser Penalty • Article 56 • Article 57. Anger Or Intense Pain.	
Article 8. Aggravating circumstances 22. The presence of aggravating factors increase the gravity and severity of rape and States should ensure that aggravating circumstances are taken into account and factored into penalties. 23. The following non-exhaustive list of circumstances should be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offence of rape:	Article 211. of the Colombian Criminal Code - Circumstances of punitive aggravation. <Amended by Law 1236 of 2008, Article 7> The penalties for the crimes described in the previous articles shall be increased from one third to one half when: 1. conduct is committed with the assistance of another or other persons. 2. The person responsible has any character, position or position that confers him/her particular authority over the victim or prompts her to place her trust in him.	

(a) the relationship between victim and perpetrator, when there is a power imbalance that makes the victim particularly vulnerable: (i.) the offence was committed against a former or current spouse or partner; (ii.) the offence was committed by a member of the family or a person cohabiting with the victim; (iii.) the perpetrator took advantage of any kind of relationship of trust, kinship, authority, or other unequal power relationship with the victim; (iv.) the perpetrator is an agent or contractor of the State, or has authorization, support, or acquiescence from one or more agents or contractors of the State; (b) conditions of the victim or context that make them particularly vulnerable to sexual violence: (i.) the offence was committed against a victim who for any reason is imprisoned or detained; (ii.) the offence was committed against a child or against an older person; (iii.) the offence was committed against or in the presence of relatives of the victim or any child; (iv.) the perpetrator took advantage of a person in a position of particular vulnerability, including but not limited to in times of armed conflict, political violence, or other social disturbance, during human trafficking or migration, labour exploitation, sexual exploitation, or natural disasters; (v.) the offence was committed with an additional discriminatory motive against a victim because of their race, caste, ethnicity, sexual orientation, gender identity, disability, age, migrant or refugee or other status; (vi.) the offence was committed against a pregnant person;	3. Contamination from sexually transmitted disease (STDs) occurs. 4. Carried out on a person aged under 14 years. 5. Carried out on a spouse or on the person whom one cohabits or has cohabited, or with the person with whom a child has been procreated. 6. Pregnancy occurs. 7. When the victim is an elderly person, or is physically, sensory, or mental handicapped. Article 216. of the Colombian Criminal Code - Circumstances of punitive aggravation. <Article modified by Article 10 of Law 1236 of 2008. > The penalties for the offences described in the preceding articles shall be increased from one third to one half, when the conduct: 1. It will be performed in person under fourteen (14) years of age. 2. It will be carried out in order to take the victim abroad. 3. It shall be carried out with respect to a relative up to the fourth degree of consanguinity, fourth degree of affinity or first civil, on a spouse or partner or permanent partner, or against any person who is permanently integrated into the domestic unit or taking advantage of the trust placed by the victim in the author or in one or more of the participants. For the purposes provided for in this article, affinity shall be derived from any form of marriage or free union. In 2014, Statute 1719 modified the Criminal Code, increasing prison sentences for crimes perpetrated against protected persons under 14 years of age and adding reproductive-sexual violence and other acts recognized	
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(c) the ways in which the offence is carried out: (i.) the offence was committed by two or more people acting together; (ii.) the offence, or related offences, were committed repeatedly; (iii.) the offence was preceded or accompanied by extreme levels of violence or threats of or attempts to cause extreme levels of violence; (iv.) the offence was committed with the use or threat of use of a weapon; (v.) the offence was committed including by causing the victim to take, use or be affected by drugs, alcohol, or other intoxicating substances to maintain control over the victim; (vi.) the perpetrator had previously been convicted of offences of a similar nature; (vii.) the offence was filmed or photographed by the perpetrator; (d) the consequences of rape to the victim: (i.) the offence resulted in severe physical or psychological harm or disability for the victim; (ii.) the offence resulted in death, pregnancy or the communication of a sexually transmitted infection or disease.	as war crimes and crimes against humanity under International Criminal Law²⁵: • Article 138A, Rape (abusive sexual penetration) against a protected person under age 14. · • Article 139A, violent sexual act (any sexual act different from rape) against a protected person under age 14. · • Article 139B, forced sterilization · • Article 139C, forced pregnancy · • Article 139D, forced nudity · • Article 139E, forced abortion · • Article 141A, sexual slavery against a protected person · • Article 141B, sex trafficking	
Article 9. Mitigating circumstances 24. States should not permit in rape cases the use of extenuating and mitigating circumstances that are based on culture, religion, customs, traditions,	The Colombian Criminal Code in its art. 55 and 56 contemplates mitigating circumstances applied generically at the time of sentencing, which are:	While the law prohibits any mitigating circumstances where girls, boys and adolescents are victims, we have not found anything confirming that it prohibits compensation as a mitigating circumstance in other sexual violence.

²⁵ <https://www.ohchr.org/sites/default/files/Documents/Issues/Women/SR/RapeReport/CSOs/100-colombia.pdf>

or so-called honour that are contrary to international human rights law in cases of rape. (a) States should ensure that the perpetrator cannot be exempt from punishment or subjected to reduced punishment by reaching any form of settlement (financial or otherwise) with the victim or the victim's family; (b) States should ensure that the perpetrator cannot be exempt from punishment or subjected to reduced punishment for subsequently marrying the victim and the law should not provide that the perpetrator is required to marry the victim. 25. Mitigating circumstances that should be prohibited include, but are not limited to: (a) if the perpetrator marries or desires to or attempts to reconcile with the victim. (b) the wish of the perpetrator, or the perpetrator's family or community, to compensate for the harm. (c) character or reputation of the perpetrator; (d) prior history of behaviour to insinuate blame on the part of the victim.	ARTICLE 55. CIRCUMSTANCES OF LESS PUNISHABILITY. They are circumstances of lesser punishment, provided that they have not been foreseen in another way: 6. Voluntarily repair the damage caused, even if not completely. Likewise, if the persons affected by the punishable act have been compensated. 10. Any circumstance of analogous significance to the above. ARTICLE 56. Whoever carries out the punishable conduct under the influence of profound situations of marginality, ignorance, or extreme poverty, insofar as they have directly influenced the execution of the punishable conduct and do not have the sufficient entity to exclude responsibility, will incur a penalty not greater than half the maximum, nor less than one sixth of the minimum of that indicated in the respective provision. In Colombia, according to the Childhood and Adolescence Code, Law 1098 of 2006 Art. 199, in cases where girls, boys and adolescents are victims of crimes such as homicide or personal injury under intentional means, crimes against sexual freedom, integrity and training, or kidnapping, no type of benefit can be applied. In accordance with the provisions of the Prosecutor's Office's Protocol for the Investigation of Sexual Violence, arguments such as anger and intense pain or the considerations of what happened as a "crime of passion" can never be considered as a just cause, a defense of responsibility or a valid argument to deny the intention of the aggressor in the commission of sexual crimes.	
Article 10. Withdrawal of parental rights 26. States should take legislative measures to allow for the withdrawal of parental rights of perpetrators in relation to the children conceived as a result of rape, taking into consideration their best interests:		

(a) Where a person is subject to a criminal proceeding for the crime of rape, parental rights to the child conceived as a result of the alleged rape will be suspended until a final decision is determined in the criminal process. (b) Where a person is convicted of the crime of rape, there should be a presumption against parental rights to a child conceived as a result of rape, taking into consideration the best interest of the child, while alimony and compensation should be granted irrespective of such withdrawal of parental rights. Incidents of violence against women should be taken into account when deciding on parental rights. (c) Where a person is convicted of the crime of rape, there should be a presumption against parental rights to any child conceived by that person, taking into consideration the best interest of the child, while alimony and compensation should be granted irrespective of such withdrawal of parental rights. These provisions are without prejudice to the child's right to enjoy any benefit accruing from their paternity.		
Article 11. Victim-centred approach a) A victim-centred approach places the victim at the centre of all responses, including by ensuring that they are kept informed about their rights, the legal process and progress of the case and are supported throughout the process, and free legal aid is available where appropriate;	Law 1719 of 2014 to guarantee access to justice for victims of sexual violence. Article 13. Rights and guarantees for victims of sexual violence. Victims of sexual violence have the right to: 1. That intimacy and privacy be preserved at all times, maintaining the confidentiality of the information about your name, residence, telephone, place of work or study, among others, including that of your family and	The articles cited here generally reflect the victim-centred approach adopted by the Model Rape Law, though in practice it is reported that the authorities fail to put survivors at the centre.²⁶

²⁶ Amnesty International, Colombia: The police does not care for me: Sexual violence and other gender-based violence in the 2021 National Strike (2021), available at <https://www.amnesty.org/en/documents/amr23/6234/2022/en/> [accessed 9 May 2023]

b) The number of interviews of the victim should be kept to a minimum and interviews carried out only where strictly necessary for the purposes of the criminal investigation; c) Examinations to collect medico-legal evidence are kept to a minimum and are carried out only where strictly necessary for the purposes of the criminal proceedings; d) Victims should be able to be accompanied by their legal representative(s) and support persons of their choice unless a reasoned decision has been made to the contrary.	close associates. This protection is inalienable for victims under 18 years of age. 4. Be served by people trained in Human Rights, and a differential approach. All the institutions involved in caring for victims of sexual violence will make budgetary, pedagogical, and administrative efforts to fulfill this obligation. 5. The right not to be confronted with the aggressor, not to be subjected to repetitive tests and to request that the judicial authorities refrain from ordering the taking of tests or exclude those already practiced that entail an unnecessary or disproportionate interference with their right to intimacy. 6. To be attended in accessible places that guarantee privacy, health, safety, and comfort. 8. To have the context in which the facts under investigation occurred without prejudice against the victim. 9. To have legal advice, support, and technical assistance in all procedural stages and from the moment the fact is known to the authorities. The interviews and proceedings that are carried out before the formulation of the accusation must be carried out in a safe place that generates confidence in the victim, and no official may prevent them from being accompanied by a lawyer, or a psychologist or psychologist. Waiting places must be guaranteed for victims isolated from the areas in which judicial proceedings take place, avoiding contact with the aggressor or his defense, and with the accompaniment of suitable personnel. 10. To be given equal opportunities from a differential approach, to testify as the other witnesses, and to adopt measures to facilitate said testimony in the criminal process. 11. To have their condition of special vulnerability considered, taking into account their age, disability, belonging to an ethnic group, belonging to discriminated populations or social or collective organizations that are the object of socio-political violence, in the adoption of prevention measures,	
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	protection, in guarantees for their participation in the judicial process and to determine their reparation. 12. Pregnant women who are victims of violent sexual intercourse during and during the armed conflict must be informed, advised, and cared for about the possibility of continuing or interrupting the pregnancy. Article 17. Obligation to carry out investigations within a reasonable time and under the impulse of judicial officials. In cases involving sexual violence, the prosecutor, judge, or magistrate must act with due diligence; they must make full use of their informal powers in the investigation to avoid impunity. The investigation must begin immediately upon knowledge of the facts and be carried out within a reasonable period of time. The impulse of the investigation is its own legal duty, this burden should not fall on the initiative of the victim, on their participation in the process, or on their withdrawal. In the event of retraction, it is the responsibility of the prosecutor in the case to corroborate the reasons that prompted this decision of the victim, especially those related to security conditions, protection measures and possible re-victimization situations. The prosecutor in the case must have within his group of criminal investigators trained personnel in sexual crimes, with whom he will adapt the methodological program of the investigation according to the characteristics of each case and taking into account the ethnic, age and socioeconomic characteristics of the victim. The actions carried out by judicial officials must respect at all times the dignity of victims of sexual violence and attend to their needs in such a way that they do not constitute acts of re-victimization. Code of Criminal Procedure Law 906 of 2004 Article 250. Procedure in case of injuries or victims of sexual assault. In the case of investigations relating to sexual freedom, bodily integrity, or any other offence where the practice of physical examination and	
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	examination of victims, such as blood extractions, is necessary, the judicial police shall require the assistance of the forensic expert in order to carry out the examination or examination. The examination or examination shall be carried out in an appropriate place, preferably at the Institute of Forensic Medicine and Sciences or, failing that, at a health facility.	
Article 12 – Child victims and witnesses of rape⁷ (a) Every child victim or witness of rape has the right to have his or her best interests given primary consideration. (b) Every child victim or witness of rape shall be treated according to the following general principles: (i.) A child victim or witness of crime shall be treated in a caring and sensitive manner that is respectful of his or her dignity throughout the legal proceedings, taking into account his or her personal situation and immediate and special needs, age, gender, disabilities if any and level of maturity. (ii.) Interference in the child’s private life shall be limited to the minimum necessary as defined by law in order to ensure high standards of evidence and a fair and equitable outcome of the proceedings. (iii.) The privacy of a child victim or witness shall be protected.	Code of Criminal Procedure Law 906 of 2004 Article 206A. Without prejudice to the procedure established in articles 192, 193, 194, 195, 196, 197, 198, 199 and 200 of Law 1098 of 2006, by which is issued by the Code on Children and Young Persons, when the victim in proceedings for offences under Title IV of the Criminal Code, as in articles 138, 139, 141, 188a, 188c, 188d of the same Code, is a minor, an interview recorded or fixed by any audiovisual or technical means in the terms of article 146, paragraph 1, of Law 906 of 2004 shall be conducted, in which case the following procedure shall be followed: d) The forensic interview of child or adolescent victims of sexual violence will be conducted by staff of the Technical Investigation Corps of the Attorney-General’s Office, trained in forensic interviews with children and adolescents, having been reviewed by the Family Ombudsman, without prejudice to his presence in the If the professionals referred to here are not present, the competent authority must take the necessary steps to ensure the intervention of a specialized interviewer. The competent entities will have the term of one year, to train the personnel in forensic interview. In the conduct of the proceedings, the minor may be accompanied by his legal representative or by a relative of legal age. e) The forensic interview shall be conducted in a Gesell Chamber or in a physical space equipped with equipment appropriate to the age and stage of development of the victim and shall be recorded or fixed in an audiovisual medium or, failing that, in a technical or written medium.	The Code of Criminal Procedure includes some provisions which reflect the principles adopted by the Model Rape Law that every child victim of rape has the right to have his or her best interests given primary consideration.

(iv.) Information that would tend to identify a child as a witness or victim shall not be published without the express permission of the court. (v.) A child victim or witness shall have the right to express his or her views, opinions, and beliefs freely, in his or her own words, and shall have the right to contribute to decisions affecting his or her life, including those taken in the course of the justice process. (c) A child victim or witness shall be assigned a lawyer by the State free of charge throughout the justice process in the following instances: (i.) At his or her request; (ii.) At the request of his or her parents or guardian; (iii.) At the request of the support person, if one has been designated; (iv.) Pursuant to an order of the court on its own motion, if the court considers the assignment of a lawyer to be in the best interests of the child. (d) If at any stage in the justice process the safety of a child victim or witness is deemed to be at risk, the competent authority shall arrange to have protective measures put in place for the child. Those measures may include the following: (i.) Avoiding direct contact between a child victim or witness and the accused at any point in the justice process;	f) Staff trained in forensic interviewing shall submit a detailed report of the interview conducted. This first report shall comply with the requirements laid down in Article 209 of this Code and concordant, to the extent applicable to it. The professional may be summoned to testify about the interview and the report made. Paragraph 1°. With a view to protecting the dignity of child and adolescent victims of sexual offences, forensic interviews shall be a material element of evidence to which access is given provided that they are strictly necessary and do not affect the rights of the child victim, In accordance with article 27 of the Code of Criminal Procedure. Paragraph 2°. During the investigation and investigation stage, a child or adolescent victim of offences against sexual freedom, integrity, and education, as defined in Title IV of the Criminal Code, as in articles 138, 139, 141, 188a, 188c, 188d of the same Code, will preferably be interviewed only once. A second interview may exceptionally be held, taking into account in any case the best interests of the child or adolescent.	
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(ii.) Requesting restraining orders from a competent court; (iii.) Requesting a pretrial detention order for the accused from a competent court, with “no contact” bail conditions; (iv.) Requesting an order from a competent court to place the accused under house arrest; (v.) Requesting protection for a child victim or witness by the police or other relevant agencies; (vi.) Making or requesting from competent authorities other protective measures that may be deemed appropriate.		
Article 13. Investigation (a) Investigators/police officers should not delay investigation nor refuse to record the crime or initiate an investigation solely based on delayed reporting of the crime;		As reproduced below, Article 17 of the Law 1719 of 2014 generally requires that investigations begin immediately upon knowledge of the facts. We have not found a statutory basis that permits delayed investigation on any ground.
(b) Investigators/police officers should promptly give the victim written acknowledgement of receipt of their complaint;	Law 1719 of 2014; Article 13-2 That [the victims] be issued a copy of the complaint, the legal medical examination, and any other document of interest to the victim.	The Colombian law cited here may not be precisely on point, but we cannot conclude that other Colombian law (such as the Police Disciplinary Statute (Law 2196 of January 18, 2022)) does not require police officers to issue a receipt of complaint to all victims (including but not limited to victims of sexual violence).
(c) Investigators/police officers should: promptly and effectively record and investigate all allegations/reports made	Law 1719 of 2014; Article 17. Obligation to carry out investigations within a reasonable time and under the impulse of judicial officials. In cases involving sexual violence, the	We have not found any provision expressly requiring the investigators / police officers to record all allegations and file all complaints for accountability purposes, or

by the victim or other witnesses/organizations, and ensure that the official report of the complaint is filed in all cases;	prosecutor, judge, or magistrate must act with due diligence; they must make full use of their informal powers in the investigation to avoid impunity. The investigation must begin immediately upon knowledge of the facts and be carried out within a reasonable period of time. The impulse of the investigation is its own legal duty, this burden should not fall on the initiative of the victim, on their participation in the process, or on their withdrawal. In the event of retraction, it is the responsibility of the prosecutor in the case to corroborate the reasons that prompted this decision of the victim, especially those related to security conditions, protection measures and possible re-victimization situations. The prosecutor in the case must have within his group of criminal investigators trained personnel in sexual crimes, with whom he will adapt the methodological program of the investigation according to the characteristics of each case and taking into account the ethnic, age and socioeconomic characteristics of the victim. The actions carried out by judicial officials must respect at all times the dignity of victims of sexual violence and attend to their needs in such a way that they do not constitute acts of re-victimization. Law 1719 of 2014; Article 31 – Unified system of information on sexual violation. In accordance with the provisions of article 9 of Law 1257 of 2008 and in article 3 of National Decree 164 of 2010, the Department National Statistics Office, in coordination with the Presidential Council for Women's Equity and the National Institute of Legal Medicine and Forensic Sciences, will advise the incorporation to the System of Unified Registry of Cases of Violence against Women contemplated in said norms, of a unique component of information, which allows knowing the dimension of sexual violence dealt with in this law, monitor risk factors of it, and provide elements of analysis to evaluate the measures adopted in prevention, care and protection. For the structuring of the single information component, the will unify, within a period of one (1) year, the registration and information systems	any disciplinary consequences if the recording / filing is not done. Article 31 of the Law of 1719 of 2014 provides for a unified system for collecting information on sexual violation. However, this system appears to be set up for monitoring / informational purposes only, as opposed to for accountability and traceability purposes. However, given the limited scope of our research, we cannot conclude that other Colombian law does not require police officers to record all allegations and file all complaints.
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	of the National Institute of Legal Medicine and Forensic Sciences, of the Ministry of Defense, the Office of the Attorney General of the Nation, the Judicial Branch, the Ministry of Health, of the Institutions Providers of Health Services, of the Health Promotion Companies, of the Attorney General's Office of the Nation and of the Ombudsman's Office, on sexual violence, especially with occasion of the armed conflict. Each entity involved will be obliged to provide all the collaboration, and to provide the relevant information. The single information system will account for cases of sexual violence registered by all entities specifying: 1. The place and date of occurrence of the events. 2. Characterization of the victims, specifying the sex, age, ethnic group, sexual orientation, gender identity or expression, disability, condition of forced displacement or victim of the armed conflict, belonging to a social organization, among others 3. Characterization of the alleged perpetrator specifying: sex, the belonging to an armed group and its identification, relationship, and other differential criteria. 4. Prevention, care and protection measures adopted. 5. Cases that are known by the judicial authorities if it has been filed complaint, provisional or definitive legal classification, stage of the process, and existence of rulings on criminal liability. Unified Registry of Cases of Violence against Women must first establish parameters of transparency, security and privacy of the victims, and accessibility. The information must be public and continuously updated through the web page determined by the 3 entity responsible of same, respecting the reservation on the identity of the victims.	
(d) Investigators/police officers should promptly respond to requests for assistance and protection, advise the victim of their rights, and support the victim in filing a	Law 1719 of 2014; Article 13. Rights and guarantees for victims of sexual violence. Victims of sexual violence have the right to: 9. To have legal advice, support, and technical assistance in all procedural stages and from the moment the fact is known to the authorities. The	

complaint and in accessing relevant services;	interviews and proceedings that are carried out before the formulation of the accusation must be carried out in a safe place that generates confidence in the victim, and no official may prevent them from being accompanied by a lawyer, or a psychologist or psychologist. Waiting places must be guaranteed for victims isolated from the areas in which judicial proceedings take place, avoiding contact with the aggressor or his defense, and with the accompaniment of suitable personnel. 7. To be protected against all forms of coercion, violence, or intimidation, directly or on their families or people in their custody. 12. Pregnant women who are victims of violent sexual intercourse during and during the armed conflict must be informed, advised, and cared for about the possibility of continuing or interrupting the pregnancy. Law 1719 of 2014; Article 22. Protection. (Google Translate) To ensure access to justice for victims of sexual violence to protect the rights of victims of sexual violence in the wake of armed conflict and ensure their access to justice and facilitate their participation in all stages of the process, the following rules: It is presumed that the risk of further attacks affecting their personal security and physical integrity, and the existence of disproportionate risks of sexual rape of Colombian women in the armed conflict as stated in Order 092 of 2008 of the Constitutional Court. Consequently, the adoption of interim protective measures may not be made conditional on risk studies by any of the authorities. In all of the cases, protection should incorporate an approach that harmonize with legislative developments and the principles and rules of international human rights law and international criminal law. In addition to the protective measures provided for in Articles 11, 12, 13, 17 and 18 of Law 1257 of 2008, and the attention measures established in articles 19 and 22 of the same law, psychosocial care must be provided victims of sexual violence if they decide to accept the care, until their full emotional recovery.	
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	Protection measures will always be extended to the family group and to persons dependent on the victim and those who, by virtue of the rights of the victim, enter a situation of risk. Where protection measures are adopted for the benefit of women human rights defenders, their implementation should contribute to the strengthening of their rights or participation, their organisational processes, and its work in defence of human rights. The application for protection to the competent authorities proceeds before the complaint of the fact of rape in sexual society. No official may coerce the victim to make a statement on the facts before a protective measure has been taken and that guarantees conditions of security and confidence to formulate a complaint. For this purpose, the General Treasury of the Nation, will have a mechanism to expedite for the victims to submit their request for protection before the formulation of the complaint, and adopt the provisional protection measure more attending to a differential approach, and applying the special and expeditious measures provided for in articles 17 and 18 of Law 1257 of 2008. Once the complaint has been made, the Public Prosecutor, the victim or his or her judicial representative. may request before the Judge of Control of Guarantees, the imposition of definitive protection measures for the time that is necessary, under a differential approach, to guarantee its security, respect for their privacy, their participation in the judicial process and prevention of secondary victimization, in accordance with articles 17 and 18 of Law 1257 of 2008, and articles 11 and 134 of Law 906 of 2004. This decision must be made within a term of seventy-two (72) hours. The protection measures adopted in application of Law 1257 of 2008, are not exclusive of other protection measures that proceed in application of the Program for the Protection of Victims and Witnesses of the Treasury General of the Nation, or of the Protection Program in charge of the Ministry of the Interior. Access to victim and witness protection programs of the Office of the Attorney General of the Nation; for victims of sexual violence due to	
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	armed conflict, may not be conditioned on the effectiveness or usefulness of the victim's participation, for the collection of evidentiary elements or for the identification of the perpetrator; it will be understood that the purpose of protection in these cases corresponds to the generation of conditions of security and confidence sufficient for the full exercise of the rights of the victim and to guarantee participation during the processing of the criminal process.	
(e) Investigators/police officers should conduct initial interviews in a gender-sensitive and trauma-informed manner and with due respect for the right to privacy.	Law 1719 of 2014; Article 13. Rights and guarantees for victims of sexual violence. Victims of sexual violence have the right to: 1. That intimacy and privacy be preserved at all times, maintaining the confidentiality of the information about your name, residence, telephone, place of work or study, among others, including that of your family and close associates. This protection is inalienable for victims under 18 years of age. 4. Be served by people trained in Human Rights, and a differential approach. All the institutions involved in caring for victims of sexual violence will make budgetary, pedagogical, and administrative efforts to fulfill this obligation. 6. To be attended in accessible places that guarantee privacy, health, safety, and comfort.	
(f) Investigators/police officers should conduct interviews of victims without unjustified delay after the rape complaint has been made to the competent investigative authority, in a language understood by the victim and with the support of an interpreter, if necessary;	Law 1719 of 2014; Article 17. Obligation to carry out investigations within a reasonable time and under the impulse of judicial officials. In cases involving sexual violence, the prosecutor, judge, or magistrate must act with due diligence; they must make full use of their informal powers in the investigation to avoid impunity. The investigation must begin immediately upon knowledge of the facts and be carried out within a reasonable period of time. The impulse of the investigation is its own legal duty, this burden should not fall on the initiative of the victim, on their participation in the process, or on their withdrawal. In the event of retraction, it is the responsibility of the prosecutor in the case to corroborate the reasons that prompted this	

	decision of the victim, especially those related to security conditions, protection measures and possible re-victimization situations.	
(g) Investigators should conduct risk assessments, considering the seriousness of the situation and the risk of repeated rape or lethal violence, including possession of firearms by the perpetrator and issue effective protection orders including ex parte protection orders or other measures to protect the victim and their family as necessary;	Article 310. Amended by Law 1760 of 2015, Article 3. Danger to the community. In order to assess whether the release of the accused represents a future danger to the security of the community, in addition to the gravity and manner of the punishable conduct and the sentence imposed, the judge must assess the following circumstances: 1. The continuation of the criminal activity or its probable association with criminal organizations. (Note: The expression indicated in bold was declared enforceable by the charges analyzed by the Constitutional Court in Judgment C-469 of 2016.). 2. The number and nature of the crimes charged against him. (Note: Numeral declared exequile for the charges analyzed by the Constitutional Court in Judgment C-469 of 2016.). 3. The fact that he is enjoying a substitute mechanism for the custodial sentence, for intentional or preterintentional crime. (Note: Numeral declared exequile by the charges analyzed by the Constitutional Court in Judgment C-469 of 2016.). 4. The existence of existing convictions for intentional or preterintentional crimes. (Note: Numeral declared exequile for the charges analyzed by the Constitutional Court in Judgment C-469 of 2016.). 5. When firearms or knives are used. (Note: Numeral declared exequile by the charges analyzed by the Constitutional Court in Judgment C-469 of 2016.). 6. When the punishment is for sexual abuse with a minor under 14 years of age. (Note: Number declared exequile for the charges	

(h) There should be a complaint mechanism accessible to victims who were mistreated by the police or if their case was mishandled.	Law 1719 of 2014; Article 21. Technical-Legal Committees of the General Prosecutor's Office of the Nation for the investigation of sexual violence. (Google Translate) Committees are created Technical-Legal for the investigation of Sexual Violence at the Office of the Attorney General of the Nation, how mechanisms of strategies of cases than because of their difficulty and situation of greater vulnerability of the victims. This Committee will have the objective of carrying out the analysis, monitoring and determination of research techniques and strategies with a gender and differential perspective. These Committees will be activated when so provided by the General Prosecutor's Office of the Nation, the Vice Attorney General of the Nation, or the Case Prioritization Committee or situations, or the National Office of Prosecutors, or the National Units of Prosecutor's Office, or the Sectional Directorates of the Prosecutor's Office, informally, as prioritization measure that, together with others, seeks not only to guarantee the effective progress of the investigation, but access to justice for the victims. The realization of these committees may be requested by the victim, his representative court, the Ombudsman's Office, or the organization that accompanies the victim. Those who make up the Committee must demonstrate experience and/or training in front of to the protection of the Human Rights of women, girls; children; adolescents, the gender and differential approach and the psychosocial perspective. The recommendations and technical guidelines issued by the Committee must be attended by the [●] in charge of the investigation and by the person performing le functions of judicial police, and forensic investigation. Law 1719 of 2014; Article 13; Paragraph 1. Public officials who, in the course of criminal proceedings or any other type of judicial or administrative action, comply with their obligations with respect to the guarantee of the rights of victims of sexual violence', shall be liable to the	This committee seems to be a forum for complaint as the committees may be requested by the victim. The exact function of these committees is to be advised by Colombian counsel. According to the Reply to List of Issues, there is a new Police Disciplinary Statute, that provides for the following: - set of constitutional, legal, and regulatory provisions (including principles and values, code of police ethics, police ethical foundations, among others) that must be assumed by all uniformed personnel; to perform the police service correctly. - strengthen the prompt attention of complaints by citizens in the event of a breach of human rights and the correct follow-up of due process. - create the System of Guarantees for the Formulation, Consultation and Citizen Monitoring, with access to the public, and the mandatory holding of semiannual public hearings to report progress and results. - the Special Delegate Inspector for Public Demonstration is created, in charge of the disciplinary investigation for citizen complaints against police procedures in the context of
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	competent Courts and Tribunals, and to the disciplinary authorities for such Behaviors.	violent acts that affect the right to public demonstration.
Article 14. Ex officio prosecution (a) The investigation and prosecution of rape should be conducted ex officio. The State has the obligation to carry out an effective investigation and prosecute the crime, which should not be wholly dependent on a report or accusation made by the victim and may continue even if the victim has withdrawn their statement;	Law 1719 of 2014; Article 17. The investigation must begin immediately upon knowledge of the facts and be carried out within a reasonable period of time. The impulse of the investigation is its own legal duty, this burden should not fall on the initiative of the victim, on their participation in the process, or on their withdrawal.	Nothing found on prosecution. It seems that investigations are conducted by the General Prosecutor's Office. Not clear if the office also prosecutes cases. We note that the response to the question "Is rape reported to the police prosecuted ex officio (public prosecution)?" is Yes. See the Questionnaire on criminalization and prosecution of rape prepared by the UNCT in Colombia (https://www.ohchr.org/Documents/Issues/Women/SR/Rape_Report/un/rc-colombia.docx).
(b) Any prosecutor who discontinues a rape case should provide a formal and timely written explanation to the victim of the reasons why the case was dropped.	Law 1719 of 2014; Article 17. In the event of retraction, it is the responsibility of the prosecutor in the case to corroborate the reasons that prompted this decision of the victim, especially those related to security conditions, protection measures and possible re-victimization situations.	The Colombian law cited here is different from the model law in that the model law focuses on cases dropped by the prosecutor, whereas the state law focuses on cases retracted by the victim.
Article 15. Timely and without undue delay (a) Investigations and judicial proceedings should be carried out in a timely manner without undue delay, while taking into consideration the rights of the victim during all stages of the criminal proceedings;	Law 1719 of 2014; Article 17. The investigation must begin immediately upon knowledge of the facts and be carried out within a reasonable period of time. The impulse of the investigation is its own legal duty, this burden should not fall on the initiative of the victim, on their participation in the process, or on their withdrawal.	Similar to prosecution, nothing found on the timeliness of judicial proceedings. We cannot conclude that other Colombian law does not contain relevant procedural requirements.

(b) All reports of rape should be taken seriously and investigated promptly, thoroughly, and impartially;	Law 1719 of 2014; Article 17. The investigation must begin immediately upon knowledge of the facts and be carried out within a reasonable period of time. The impulse of the investigation is its own legal duty, this burden should not fall on the initiative of the victim, on their participation in the process, or on their withdrawal.	Nothing specific found on thoroughness or impartiality.
(c) All evidence properly collected and decision on cases that should be prosecuted without any prejudicial stereotypical views of the victim or any other reason which would deny effective access to justice to victims.	Law 1719 of 2014; Article 13. Rights and guarantees for victims of sexual violence. Victims of sexual violence have the right to: 3. Not to be discriminated against on the basis of their past or their sexual behaviour or orientation, or for any other reason, respecting the principle of equality and non-discrimination, in any other field or momenta of attention, especially by justice operators and those involved in the judicial process. Law 1719 of 2014; Article 18 para. 2 In cases where offences involving sexual violence are investigated, the staff of judicial courts, forensic medicine, the Ministry of Public Prosecutions, the Public Prosecutor's Office, and the judiciary may preserve the following Recommendation in the collection, practice, and evaluation of evidence: The Judge [must not admit] evidence that leads to discrimination for religious, ethnic, ideological, political, or other reasons.	
Article 16. Evidentiary requirements, rape shield provisions 27. States should ensure an objective, gender-sensitive assessment of the evidence in rape cases: (a) Introduction of evidence regarding the victim's past sexual history or behaviour should be generally prohibited at all stages	Law 1719 of 2014; Article 13. Rights and guarantees for victims of sexual violence. Victims of sexual violence have the right to: 3. Not be discriminated against because of their past or their behavior or sexual orientation, or for any other reason, respecting the principle of equality and non-discrimination, in any area or time of care, especially by justice operators and intervening parties in the judicial process.	

of the legal process, including cross-examination; and should be permitted only when relevant and necessary;	8. To have the context in which the facts under investigation occurred without prejudice against the victim.	
(b) There should never be an absolute requirement that any specific piece of evidence be available for a prosecution to go ahead, such as medical evidence, which may not be available, particularly after a delay in reporting, or if there is a delay in starting the investigation;	Law 1719 of 2014; Article 19. Recommendations for conducting the investigation and assessment of evidence in cases of sexual violence. Without prejudice to the principles of probation, the presumption of innocence and judicial autonomy and other principles provided, among others, in article 7 of the Code of Criminal Procedure, the competent officials may take into account the following recommendations for the conducting the investigation and assessing the evidence in cases of sexual violence, without prejudice to the use of other criteria aimed at guaranteeing due diligence in the investigation and trial: 1. The determination of the occurrence of the act of sexual violence will not be conditioned to the existence of physical evidence. 2. The absence of traces of sperm, fluids, DNA, or lesions in the victim's body is not a sufficient reason to conclude that the conduct did not occur. 3. The use of a condom by the alleged aggressor does not allow the victim's consent to be inferred. 4. The finding of the entire hymen in the victim is not sufficient reason to conclude that the behaviour did not occur. 5. The context in which the criminal acts occurred and the patterns that explain their commission will be addressed, especially those that occur within the framework of the armed conflict. For this purpose, justice operators may go to psychological or anthropological expert opinions. 6. The testimony of the victim of sexual violence during the armed conflict, especially when it is a minor victim, will not be dismissed. 7. High-quality investigative techniques will be introduced to obtain evidence without degrading the victim and minimizing any intrusion into their privacy.	These are “recommendations” only and based on the English translation, it seems that it is not mandatory for the officials to follow these recommendations.

	Additionally, the Protocol for the Investigation of Sexual Violence of the Prosecutor's Office reaffirms the principle of freedom of evidence in its paragraph 266, indicating that any means of proof that contributes to the conviction of the judge about the occurrence of the facts, their circumstances and the individual responsibility of the accused may be used, provided the legality, relevance, suitability, authenticity and usefulness of the evidence are observed.	
(c) There should be no requirement for the testimony of the victim to be otherwise corroborated in order for that testimony to be considered credible, reliable, and sufficient as a basis for conviction, considered in the context of the particular case;		We have not found anything directly on point.
(d) Lack of evidence of resistance such as physical injuries to the body must never, in and of itself, be taken as proof of consent to the sexual act.	Law 1719 of 2014 – Article 18 para. 2 In cases where offences involving sexual violence are investigated, the staff of judicial courts, forensic medicine, the Ministry of Public Prosecutions, the Public Prosecutor's Office, and the judiciary may preserve the following Recommendation in the collection, practice, and evaluation of evidence: 1. Consent is not to be inferred from any word or conduct of the victim when it is not voluntary and free. 2. Consent may not be based on the victim's lack of resistance to sexual violence. 3. The Judge [must not admit] evidence that leads to discrimination for religious, ethnic, ideological, political, or other reasons.	These are "recommendations" only and based on the Google translation, it seems that it is not mandatory for the officials to follow these recommendations.
(e) No adverse inference shall be drawn from a delay of any length between the alleged commission of rape and the reporting thereof.		We have not found anything directly on point.

Article 17. Statutory Limitations (a) The prosecution of rape should not be subject to any period of limitation in any circumstances, whether carried out in times of peace or conflict. (b) If statutes of limitation are in place, in the case of child victims, statutes should allow sufficient time for the initiation of proceedings after the victim has reached the age of majority.	In accordance with article 83 of the Colombian Criminal Code, the statute of limitations for criminal action is a time equal to the maximum penalty set for each conduct, in no case may it be less than 5 years or more than 20 years. Therefore, in cases of violent carnal access the statute of limitations would be 20 years. However, there are other considerations: • The prescription corresponds to the maximum of the penalty established in the criminal type. (Art. 89, para. 6 of Law 599 of 2000.) • When sexual violence coincides with forced displacement and / or forced disappearance, torture or murder of a human rights defender, member of a trade union organization or journalist, the statute of limitations is 30 years. (Second paragraph, Article 89 of Law 599 of 2000; Law 1309 of 2009; Law 1426 of 2010; Law 1719 of 2014) • If sexual violence is attributed to a public servant in the exercise of his functions, or on the occasion of it, the statute of limitations is increased by one third. (Fifth paragraph, Article 89 of Law 599 of 2000.) • If the crime was initiated or consummated abroad, the term is increased by half. (Sixth paragraph, Article 89 of Law 599 of 2000.) • If the victim is a child, the statute of limitations is 20 years from the moment the victim reaches 18 years of age. (Article 1 of Law 1154 of 2007)	Under Colombian Criminal Code, the prosecution of rape is subject to a statutory limitation period, the length of which varies depending on the circumstances. This is less ideal than the position under the UN Model Rape Law (i.e., no limitation period for prosecution of rape).
Article 18. Jurisdiction and Cooperation between States 28. States should:		No specific provision under Colombia law on jurisdiction over offences of rape and cooperation between states.

i. Establish jurisdiction over offences of rape when the offence is committed: ii. in their territory; or iii. on board a ship flying their flag; or iv. on board an aircraft registered under their laws; or v. by one of their nationals. (a) Ensure that their jurisdiction is not subordinated to the condition that the acts of rape are criminalised in the territory where they were committed. (b) Establish jurisdiction over offences of rape when the offence is committed in the context of conflict, war crimes, crimes against humanity, genocide, widespread or systematic attack, national disturbances, or humanitarian crises. (c) States should endeavour to co-operate with each other, to the widest extent possible, for the purpose of preventing, investigating, and prosecuting all rape cases, protecting, and providing assistance to victims and providing mutual legal and other necessary assistance in criminal matters, extradition, and enforcement of relevant civil and criminal judgments by judicial authorities of other States, including protection orders.		
Article 19. Prohibition of mandatory reconciliation or mediation	No mandatory reconciliation or mediation provision under the law, but also no express prohibition on mandatory reconciliation or mediation under the law.	In practice, it is reported that public authorities often encourage or even pressure victims to reconcile, especially in

29. The law should expressly prohibit any form of mandatory conciliation or mediation in cases of rape, both before and during legal proceedings. (a) Cases of violence against women, and particularly of rape and sexual violence, should not be referred to mandatory alternative dispute resolution procedures. (b) Plea bargains should be strongly discouraged in cases of rape and especially when the offence was committed against a victim who was a child at the time of the crime.		cases of sexual violence within the family unit.²⁷
Article 20. Victim-centred protection measures 30. States should take all necessary legislative measures to ensure that the rights and interests of victims are protected at all stages of the investigation and judicial proceedings, in particular by: (a) Providing for the protection of victims, their family members, and witnesses from intimidation, retaliation, and secondary victimization, including through physical protection of victims and their family members where necessary; (b) Ensuring avoidance of contact between a victim and the alleged perpetrator(s) within premises where criminal investigations or trials are conducted, including by providing separate	Law 1719 of 2014 Article 13. Rights and guarantees for victims of sexual violence. Victims of sexual violence have the right to: 1. That intimacy and privacy be preserved at all times, maintaining the confidentiality of the information about your name, residence, telephone, place of work or study, among others, including that of your family and close associates. This protection is inalienable for victims under 18 years of age. 2. That they be issued a copy of the complaint, the legal medical examination, and any other document of interest to the victim. 3. Not be discriminated against because of their past or their behavior or sexual orientation, or for any other reason, respecting the principle of	

²⁷ Questionnaire on criminalization and prosecution of rape, United Nations Special Rapporteur on violence against women, its causes and consequences, Ms. Dubravka Šimonović, available at: <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2FDocuments%2FIssues%2FWomen%2FSR%2FRapeReport%2Fun%2Frc-colombia.docx%23%3A~%3Atext%3DLaw%25201719%2520of%25202014%252C%2520by%2CArticle%252025.&wdOrigin=BROWSELINK> [accessed 11 May 2023].

waiting areas, entrances and exits and staggered arrival and departure times; by permitting victims to give evidence remotely or through the use of communication technology in a place the victim deems safe; or by utilizing witness protection boxes or screens in courtrooms to avoid visual contact between the victim and the alleged perpetrator(s); (c) Protecting the privacy of victims and preventing public dissemination of any information that could lead to the identification of the victim including by prohibiting the media from identifying victims of rape before conclusion of the trial and without the victims' consent afterwards, privacy when reporting to the police, closure of the courtroom during proceedings and the like; (d) Providing victims with adequate and timely information, in a language they understand throughout the criminal justice process, on their rights and available support services, the progress of the investigation and legal proceedings, their role therein and the outcome of the case; (e) Enabling victims to exercise their right to legal aid, interpretation, and court support, including the right to be accompanied and represented in court by a specialized service or by any other independent support persons chosen by the victim. (f) Assessing the victim's specific needs to enable their effective participation in the criminal proceedings; and ensuring that child victims and victims with specific needs are afforded special support and protection measures to ensure they are able to participate as fully as possible in the proceedings at the same time as protecting their	equality and non-discrimination, in any area or time of care, especially by justice operators and intervening parties in the judicial process. 4. Be served by people trained in Human Rights, and a differential approach. All the institutions involved in caring for victims of sexual violence will make budgetary, pedagogical, and administrative efforts to fulfill this obligation. 5. The right not to be confronted with the aggressor, not to be subjected to repetitive tests and to request that the judicial authorities refrain from ordering the taking of tests or exclude those already practiced that entail an unnecessary or disproportionate interference with their right to intimacy. 6. To be attended in accessible places that guarantee privacy, health, safety, and comfort. 7. To be protected against all forms of coercion, violence, or intimidation, directly or on their families or people in their custody. 8. To have the context in which the facts under investigation occurred without prejudice against the victim. 9. To have legal advice, support, and technical assistance in all procedural stages and from the moment the fact is known to the authorities. The interviews and proceedings that are carried out before the formulation of the accusation must be carried out in a safe place that generates confidence in the victim, and no official may prevent them from being accompanied by a lawyer, or a psychologist. Waiting places must be guaranteed for victims isolated from the areas in which judicial proceedings take place, avoiding contact with the aggressor or his defense, and with the accompaniment of suitable personnel. 10. To be given equal opportunities from a differential approach, to testify as the other witnesses, and to adopt measures to facilitate said testimony in the criminal process. 11. To have their condition of special vulnerability considered, taking into account their age, disability, belonging to an ethnic group, belonging to	
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best interests. Such special measures may include but are not limited to: (i.) ensuring that interviews with the victim are conducted in their home or residence or in premises specially designed or adapted for that purpose by an interviewer of the same sex without undue delay; (ii.) ensuring the presence of parents or a person trusted by the child while recording a child's testimony, which could include representatives from specialist civil society organizations working to address or support victims of rape; and (iii.) in the case of victims with physical, psychological, mental, or intellectual impairment or disabilities, obtaining the assistance of a special educator, psychologist, or other person familiar with appropriate communication techniques for example braille, sign language or other electronic and information technology accessible to people with specific needs, before interviewing or recording the statement of the victim; (iv.) ensuring that interviews with the victim are carried out by or through professionals trained for that purpose; (v) ensuring interpretation and or translation services;	discriminated populations or social or collective organizations that are the object of socio-political violence, in the adoption of prevention measures, protection, in guarantees for their participation in the judicial process and to determine their reparation. 12. Pregnant women who are victims of violent sexual intercourse during and during the armed conflict must be informed, advised, and cared for about the possibility of continuing or interrupting the pregnancy.	
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(vi) ensuring psycho-social and legal support and covering travel expenses incurred. (g) Ensuring that protection orders are efficient, available, and easily accessible, could be issued ex part and that victims are not subjected to undue delays in their applications for protection orders and other protective measures and that all allegations of rape are heard in a timely and impartial manner.		
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