**Questionnaire on criminalization and prosecution of rape**

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**Response prepared by the UNCT in Colombia, in particular by: UNICEF, UN-Women, IOM and OHCHR, within the framework of the sub-group on gender-based violence**

**Definition and scope of criminal law provisions**

1. Please provide information on criminal law provision/s on rape (or analogous forms of serious sexual violence for those jurisdictions that do not have a rape classification) by providing full translated transcripts of the relevant articles of the Criminal code and the Criminal procedure code.

**Criminal Code: Law 599 of 2000 and Law 1236 of 2008 that modifies the typification of certain sexual abuse crimes**

**TITLE II**

CRIMES AGAINST PERSONS AND PROPERTY PROTECTED BY INTERNATIONAL HUMANITARIAN LAW

Paragraph. For the purposes of this article and the other norms of this title, it is understood that persons protected in accordance with international humanitarian law:

1. Members of the civilian population.

2. People who do not participate in hostilities and civilians in the power of the opposing party.

3. The wounded, sick or shipwrecked put out of combat.

4. The medical or religious personnel.

5. Journalists on mission or accredited war correspondents.

6. Combatants who have laid down their arms by capture, surrender or other similar cause.

7. Those who, before the start of hostilities, were considered stateless or refugees.

8. Any other person who has that condition by virtue of Geneva Conventions I, II, III and IV of 1949 and Additional Protocols I and II of 1977 and others that are ratified.

Article 138. **Violent carnal access in a protected person.** Anyone who, on the occasion and during the development of an armed conflict, carries out carnal access through violence against a protected person will incur in prison from ten (10) to eighteen (18) years and a fine of five hundred (500) to one thousand (1000) current legal monthly minimum wages.

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 139. **Violent sexual acts on a protected person.** Anyone who, on the occasion and during the development of an armed conflict, performs a sexual act other than carnal access, through violence against a protected person, will incur in prison from four (4) to nine (9) years and a fine of one hundred (100) to five hundred (500) current legal monthly minimum wages.

Article 139A. **Sexual acts with a protected person under the age of fourteen**. Anyone who, on the occasion and during the development of an armed conflict, performs various sexual acts of carnal access with a protected person under fourteen (14) years of age or in their presence, or induces them to sexual practices, will incur in prison of sixty-four (64) to one hundred sixty-two (162) months and a fine of one hundred thirty-three point thirty-three (133.33) to seven hundred fifty (750) current legal monthly minimum wages.

Article 139B. **Forced sterilization in a protected person.** Anyone who, during the armed conflict, through violence, deprives a protected person of the capacity for biological reproduction, shall incur in prison of sixty-four (64) to one hundred and sixty-two (162) months and a fine of one hundred thirty three point thirty three (133.33) to seven hundred fifty (750) current legal monthly minimum wages.

Paragraph. Forced sterilization shall not be understood as the deprivation of the capacity for biological reproduction that corresponds to the treatment needs consented to by the victim.

Article 139C**. Forced pregnancy in protected person**. Anyone who, on the occasion of the armed conflict, having left a protected person pregnant as a result of a conduct that constitutes violent, abusive carnal access or in a person rendered incapable of resisting, forces the person who has become pregnant to continue with the pregnancy, will incur in prison from one hundred and sixty (160) months to three hundred twenty-four (324) months and a fine of six hundred sixty-six point sixty-six (666.66) to one thousand five hundred (1,500) current legal monthly minimum wages.

Article 139D. **Forced nudity on a protected person.** Anyone who, on the occasion and during the development of the armed conflict, through violence, forces a protected person to undress totally or partially or to remain naked, will incur in prison of sixty-four (64) to one hundred and sixty-two (162) months and a fine of one hundred thirty-three point thirty-three (133.33) to seven hundred fifty (750) current legal monthly minimum wages.

Article 139E. **Forced abortion in a protected person**. Anyone who, during and during the armed conflict, interrupts or forces the pregnancy of a protected person to be interrupted by violence without their consent, will incur in prison from one hundred sixty (160) months to three hundred twenty-four (324) months and a fine of six hundred sixty-six point sixty-six (666.66) to one thousand five hundred (1,500) current legal monthly minimum wages.

Article 140. **Circumstances of aggravation.** The penalty provided for in the two previous articles will be aggravated in the same cases and in the same proportion indicated in article 211 of this code. (See below)

Article 141. **Forced prostitution of a protected person.** Anyone who, on the occasion and during the armed conflict, forces a protected person to provide sexual services, shall incur in prison for one hundred sixty (160) to three hundred twenty-four (324) months and a fine of six hundred sixty-six point sixty-six (666.66 ) to one thousand five hundred (1,500) current legal monthly minimum wages.

Article 141A. **Sexual slavery of a protected person.** Anyone who, on the occasion and during the armed conflict, exercises one of the attributes of the right to property through violence against a protected person to carry out one or more acts of a sexual nature, will incur in prison of one hundred and sixty (160) to three hundred twenty-four (324) months and a fine of six hundred sixty-six point sixty-six (666.66) to one thousand five hundred (1,500) current legal monthly minimum wages.

 Article 141B. **Trafficking in persons as a protected person for the purpose of sexual exploitation.** Anyone who, on the occasion and during the armed conflict, captures, transfers, welcomes or receives a protected person within the national territory or abroad, for the purpose of sexual exploitation, will incur in prison of one hundred fifty-six (156) to two hundred seventy-six (276) months and a fine of eight hundred (800) to one thousand five hundred (1,500) current legal monthly minimum wages.

For the purposes of this article, exploitation of a sexual nature shall be understood as obtaining economic gain or any other benefit for oneself or for another person, through the exploitation of the prostitution of others, sexual slavery, servile marriage, sexual tourism or any other form. of sexual exploitation.

**TITLE IV**

CRIMES AGAINST SEXUAL FREEDOM, INTEGRITY AND EDUCATION

 Chapter I

Of rape

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.).

Chapter II

Of abusive sexual acts

Article 208. Amended by Law 1236 of 2008, Article 4. **Abusive carnal access with a child under the age of fourteen.** Anyone who carnally accesses a person under the age of fourteen (14) years shall be liable to imprisonment for a term of twelve (12) to twenty (20) years.

Article 209. Amended by Law 1236 of 2008, article 5. **Sexual acts with minors under the age of fourteen.** Anyone who engages in sexual acts other than carnal intercourse with or in the presence of a person under the age of fourteen (14) years or induces sexual intercourse shall be liable to imprisonment of nine (9) to thirteen (13) years.

If the agent conducts any of the conduct described in this article with persons under the age of fourteen by virtual means, using global information networks, he shall incur the corresponding penalties reduced by one third.". (Note: Paragraph created by Law 670 of 2001, article 33 that amended article 303 of the previous Penal Code (Decree 100 of 1980). The transitional paragraph provided that once Law 599 of 2000 entered into force, the numbering of article 209).

Article 210. Amended by Law 1236 of 2008, Article 6. **Abusive carnal access or sexual act with unable to resist.** Anyone who carnally accesses a person in a state of unconsciousness, or who suffers from a mental disorder or who is incapable of resisting, shall be imprisoned from twelve (12) to twenty (20) years.

If the access is not carried out, but sexual acts diverse from it, the penalty will be eight (8) to sixteen (16) years. (Note: See Judgment C-743 of 2012, regarding the underlined expression.).

Article 210A. Added by Law 1257 of 2008, article 29**. Sexual harassment**. Anyone who, for his or her own benefit or that of a third party and using his or her manifest superiority or relations of authority or power, age, sex, employment, social, family or economic status, harasses, persecutes, harasses or harasses, physically or verbally, for sexual purposes not consented to, to another person, shall be imprisoned from one (1) to three (3) years.

 Chapter III

Provisions common to the previous chapters

Article 211. Amended by Law 1236 of 2008, Article 7. Circumstances of punitive aggravation. The penalties for the offences described in the preceding articles shall be increased from one third to one half when:

1. The conduct shall be committed with the assistance of one or more other persons.

2. The person responsible shall have any character, position or position which gives him particular authority over the victim or prompts him to place his trust in him.

3. There shall be contamination by sexually transmitted diseases.

4. To be carried out on a person under fourteen (14) years of age. (Note: This numeral was declared exequible for the charges analyzed by the Constitutional Court in Judgment C-521 of 2009.).

5. Numeral amended by Law 1257 of 2008, article 30. The conduct shall be performed on a relative up to the fourth degree of consanguinity, on a fourth degree of affinity or on a civil first degree, on a spouse or partner or on a permanent partner, or on any person permanently integrated into the domestic unit, or by taking advantage of the trust placed by the victim in the perpetrator or in one or more of the participants. For the purposes set forth in this article, affinity shall be derived from any form of marriage or free union.

6. Pregnancy shall occur.

7. If committed against persons in a situation of vulnerability due to their age, ethnicity, physical, mental or sensory disability, occupation or occupation.

8. If the act is committed with the intention of generating social control, fear or obedience in the community.

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.

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.

Chapter IV

Of sexual exploitation

Article 213. Amended by Law 1236 of 2008, Article 8. **Inducement to prostitution.** Anyone who, in the interest of profit or in order to satisfy the wishes of another, induces the carnal trade or prostitution of another person, shall be liable to imprisonment from ten (10) to twenty-two (22) years and a fine from sixty-six (66) to seven hundred and fifty (750) minimum legal monthly wages in force. (Note: This article was declared enforceable by the Constitutional Court in Judgment C-636 of 2009.).

Article 213A. Added by Law 1329 of 2009, article 2. **Procuring minors.** A person who for profit for himself or for a third party or to satisfy the sexual desires of another, organizes, facilitates or participates in any way in the carnal trade or sexual exploitation of another person under the age of 18 years, shall be imprisoned from fourteen (14) to twenty-five (25) and a fine of between sixty-seven (67) and seven hundred and fifty (750) minimum statutory monthly wages in force.

Article 214. Amended by Law 1236 of 2008, Article 9. **Restriction to prostitution**. Anyone who, in order to profit or to satisfy the wishes of another, compels any person to engage in carnal trade or prostitution, shall be liable to imprisonment of nine (9) to thirteen (13) years and a fine of sixty-six (66) to seven hundred and fifty (750) minimum legal monthly wages in force.

Article 215. Repealed by Law 747 of 2002, Article 4°. **Trafficking in persons.** Anyone who promotes, induces, restricts or facilitates the entry into or departure from the country of a person to engage in prostitution shall be liable to a term of imprisonment of between four (4) and six (6) years and a fine of between seventy-five (75) and seven hundred and fifty (750) times the minimum statutory monthly wage in force.

Article 216. Amended by Law 1236 of 2008, Article 10. **Circumstances of punitive aggravation.** The penalties for the offences described in the preceding articles shall be increased from one third to one half when the conduct:

1. It shall be performed on a person under the age of fourteen (14).

2. It shall be for the purpose of taking the victim abroad.

3. Shall be performed with respect to a relative up to the fourth degree of consanguinity, fourth degree of affinity or first degree of civil, with respect to a spouse or partner or permanent partner, or with respect to any person permanently integrated into the domestic unit, or by taking advantage of the trust placed by the victim in the perpetrator or in one or more of the participants. For the purposes set forth in this article, affinity shall be derived from any form of marriage or free union.

4. Where the victim is an elderly person or a person who is physically, sensorily or mentally impaired.

Numeral added by Law 1257 of 2008, article 31. It is committed on persons in a situation of vulnerability due to their age

5. Numeral added by Law 1719 of 2014, article 12. The conduct is committed as a form of retaliation, repression or silencing of persons who are part of social, community or political organizations or who work as leaders or human rights defenders.

Article 217. Amended by Law 1236 of 2008, Article 11. **Encouragement of Prostitution of Minors.** Anyone who allocates, leases, maintains, manages or finances a house or establishment for the practice of sexual acts involving minors shall be liable to imprisonment of between ten (10) and fourteen (14) years and a fine of between sixty-six (66) and seven hundred and fifty (750) minimum legal monthly wages in force.

The penalty shall be increased from one third to one half when the offender is a member of the victim’s family.

Article 217A. Added by Law 1329 of 2009, article 3. **Demand for commercial sexual exploitation of a person under 18 years of age.** Anyone who, directly or through a third person, requests or demands carnal access or sexual acts with a person under the age of 18, by payment or promise of payment in money, species or retribution of any kind, shall be liable for this act alone, in prison from fourteen (14) to twenty-five (25) years.

Paragraph. The consent given by the victim under 18 years of age shall not constitute grounds for exemption from criminal liability.

The penalty shall be increased by one third to one half:

1. If the conduct is carried out by a tourist or domestic or foreign traveller.

2. If the conduct constitutes marriage or cohabitation, servile or forced.

3. If the conduct is committed by a member of an illegal organized armed group.

4. If the conduct is committed on a person under fourteen (14) years of age.

5. The person responsible is a member of the victim’s family.

Article 218. Amended by Law 1336 of 2009, Article 24. **Pornography with persons under the age of 18.** Anyone who photographs, films, records, produces, disseminates, offers, sells, buys, possesses, carries, stores, transmits or exhibits, by any means, for personal use or exchange, actual depictions of sexual activity involving a person under the age of 18, shall be liable to imprisonment for 10 to 20 years and a fine of 150 to 1,500 times the minimum statutory monthly wage in force.

The same penalty shall apply to anyone who feeds child pornography to Internet databases, whether for profit or not.

The penalty shall be increased from one third to one half when the offender is a member of the victim’s family.

Article 219. Amended by Law 1336 of 2009, Article 23. **Sex tourism**. Anyone who directs, organizes or promotes tourism activities that include the sexual use of minors shall be imprisoned for four (4) to eight (8) years.

The penalty shall be increased by half when the conduct is performed with a child under twelve (12) years of age.

Article 219A. Amended by Law 1329 of 2009, Article 4. Use or facilitation of communication media to offer sexual activities with persons under 18 years of age. Anyone who uses or facilitates traditional mail, global information networks, telephony or any means of communication, to obtain, request, offer or facilitate contact or activity for sexual purposes with persons under 18 years of age, will incur a prison sentence. from ten (10) to fourteen (14) years and a fine of sixty-seven (67) to (750) current legal monthly minimum wages.

The penalties referred to in the previous paragraph shall be increased by up to half (1/2) when the conduct is carried out with minors under the age of fourteen (14).

Article 219B. **Failure to report.** Anyone who, by reason of his office, position or activity, has knowledge of the use of minors for the performance of any of the conduct provided for in this Chapter and fails to inform the competent administrative or judicial authorities of such acts, having the legal duty to do so, will incur a fine of ten (10) to fifty (50) minimum statutory monthly wages in force.

If the conduct is performed by a public servant, the loss of employment will also be imposed. (Note: See Law 679 of 2001, article 35).

Article 219C. Added by the Law 1918 of 2018, article 1. (this one declared conditionally exequible by the Constitutional Court in the Judgment C-407 of 2020, except the expression crossed out that is declared inexequible in the same Judgment.) **Disqualifications for sexual offences committed against minors:** Persons who have been convicted of offences against the sexual freedom, integrity and education of a person under the age of 18 in accordance with Title IV of this Act; shall be disqualified from holding positions, trades or professions that involve a direct and habitual relationship with minors.

**CODE OF CRIMINAL PROCEDURE Law 906 of 2004**

Publicity of the proceedings

Article 149. **Principle of publicity.** All hearings during the trial phase shall be held in public and no one may be denied access without a prior court decision. Even if maximum publicity is limited, the Office of the Prosecutor, the accused, the defence, the Public Prosecutor, the victim and their legal representation may not be excluded.

The judge may limit the publicity of all or part of the proceedings, after a private hearing with the interveners, in accordance with the following articles and without limiting the adversarial principle.

These measures must be subject to the principle of necessity, and if the causes that gave rise to this restriction cease to exist, the judge shall lift them ex officio or at the request of a party.

In no case may the suspect, accused person or accused person be presented as guilty. Nor may statements on the case be made to the media before sentencing, failing which appropriate penalties may be imposed.

Paragraph. Modified by Law 1959 of 2019, article 2. In proceedings relating to offences against sexual freedom and training, sexual violence and domestic violence, the judge may, at the request of any of the persons involved in the proceedings, order hearings to be closed to the public. Refusal of this request shall be made by reasoned order. At the request of any of the parties involved in the proceedings, the competent authority may decide to withhold identity in respect of the personal data of the victim, his or her descendants and those of any other person in his or her custody or custody.

Article 206A. Added by Law 1652 of 2013, article 2. (this one declared exequible by the charges analyzed by the Constitutional Court in Judgment C-177 of 2014.). Forensic interviews with children and adolescents who are victims of offences under Title IV of the Criminal Code, as well as articles 138, 139, 141, 188a, 188c and 188d, relating to sexual violence. 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.

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 concordants, 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.

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 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.

In any case, the written consent of the victim or of his or her legal representative must be obtained if he or she is a minor or incapable person and if he or she does not, explain to them the importance of the research and the likely consequences of the impossibility of carrying it out. If he persists in his refusal, the supervisory judge shall be called upon to determine the conditions within which the inspection must be carried out.

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.

Note, Article 250: With the exception of the section that was struck out that was declared inexequible, the rest of the article was declared exercisable by the Constitutional Court in Judgment C-822 of 2005, Order confirmed in Judgment C-1191 of 2005.

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 pretentional 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 preterintential 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

Article 314. Amended by Law 1142 of 2007, article 27 **Substitution of pre-trial detention**. Remand in custody may be replaced by that of the place of residence in the following cases:

1. Where, for the purpose of securing custody, detention in the place of residence is sufficient, which shall be substantiated by the person requesting the replacement and decided by the judge at the respective imposition hearing, in the light of the personal, working, family or social life of the accused.

2. When the accused person is over sixty-five (65) years of age, provided that his personality, the nature and manner of the offence make it advisable to place him in the place of residence. (Note: The expression indicated in bold was declared enforceable by the charges analyzed by the Constitutional Court in Judgment C-910 of 2012.).

3. When the accused is two (2) months or less short of delivery. He shall have the same right during the six (6) months following the date of birth.

4. When the accused or accused person is in a serious state due to illness, after the opinion of official doctors. (Note: The expression indicated in bold was declared conditionally exequible by the Constitutional Court in Judgment C-163 of 2019.).

The judge shall determine whether the accused or accused person shall remain in his place of residence, in a clinic or hospital.

5. Where the accused is a mother who is the head of the family of a minor child or who is permanently incapacitated, provided that she has been in his care. In her absence, the father who does his part will have the same benefit.

Detention in the place of residence involves the necessary permits for the necessary medical checks, the occurrence of childbirth, and to work in the hypothesis of paragraph 5.

In all events, the beneficiary shall sign an act in which he undertakes to remain in the place or places indicated, not to change his residence without prior authorization, to go to the authorities when required and, In addition, it may impose an obligation to submit to the electronic control and surveillance mechanisms or to a specific person or institution, as determined by the judge.

The enforcement of detention in the place of residence shall be carried out by the Inpec, which will carry out periodic monitoring of the observance of house arrest and report to the Prosecutor’s Office on its results so that if violations of the conditions imposed by the judge are detected, appropriate action can be taken.

Paragraph. Modified by Law 1944 of 2018, article 5. There shall be no replacement of pre-trial detention in a prison facility by house arrest if the charge relates to the following offences: Those within the jurisdiction of specialized circuit criminal judges or those acting in their stead,

1. Based on the wording of those provisions, is the provided definition of rape:
	1. Gender specific, covering women only **NO**
	2. Gender neutral, covering  all persons   **YES**
	3. Based on the lack of consent of victim **YES**
	4. Based on the use of force or threat  **YES**
	5. Some combination of the above.  **YES**
	6. Does it cover only vaginal rape?  **NO**
	7. Does it cover all forms of penetration? **YES**. If yes, please specify.

Penetration of the virile limb through the anal, vaginal or oral channels, as well as vaginal or anal penetration of any other part of the human body or other object.

* 1. Is marital rape in this provision explicitly included? **YES**
	2. Is the law silent on marital rape? **NO**
	3. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? **YES**
	4. Is marital rape excluded in the provisions, or is marital rape not considered as a crime?   **NO**
1. Are there any provisions excluding criminalization of the perpetrator if the victim and alleged perpetrator live together in a sexual relationship/have a sexual relationship/had a sexual relationship? If so, please submit it.

**No**

1. What is the legal age for sexual consent?

14 years of age

1. Are there provisions that differentiate for sexual activity between peers? If so, please provide them.

**No**

1. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.

In the country, conducts of sexual violence such as violent carnal access and violent sexual acts are established as punishable and are enshrined in Title IV of the Penal Code, as conducts that affect freedom, integrity and sexual formation.

Violent carnal access refers to a penetrative violation (of the penis or any other object); in some hole or concave places of the body, especially the vagina, the anus and the mouth, this is classified as violent and abusive.

* Violent carnal access refers to the use of violence and force, in addition to the lack of consent, for its perpetration, whoever perpetrates this crime will incur in prison from eight (8) to fifteen (15) years. (Art. 205, Law 599 of 2000).
* Abusive carnal access, meanwhile, is related to age and consent; if there is abusive carnal access (known as sexual abuse) with someone younger than 14 years of age the perpetrator will incur in prison from twelve (12) to twenty (20) years. (Art. 208, Law 599 of 2000); or if the conduct is carried out with a person in a state of unconsciousness, or who suffers from a mental disorder or who is incapable of resisting, they will incur in prison for twelve (12) to twenty (20) years. (Art. 210 Art. 205, Law 599 of 2000).

Unlike carnal access, violent sexual acts do not imply penetration and refer to behaviors where there is touching and manipulation of the intimate parts of the victims, in this case:

* If it is perpetrated against a person under fourteen (14) years of age or in their presence, or they are induced to sexual practices, the perpetrator will incur in prison from nine (9) to thirteen (13) years;
* If the victim is in a state of unconsciousness, suffers from mental disorders or illnesses, or is incapable of resisting, the penalty will be from eight (8) to sixteen (16) years. (Articles 209 and 210 of Law 599 of 2000)
* In relation to sexual harassment, article 210A of the aforementioned regulation establishes “He who for the benefit of himself or a third party and using his manifest superiority or authority or power relations, age, sex, work, social, family position or financially, persecutes, harasses or physically or verbally besieges, for non-consensual sexual purposes, another person, will incur in prison from one (1) to three (3) years. "
1. What does the legislation in your country provide in terms of reparation to the victim of rape and/or sexual violence after conviction of the perpetrator?

Law 1719 of 2014, by which some articles of Laws 599 of 2000, 906 of 2004 are modified and measures are adopted to guarantee access to justice for victims of sexual violence, especially sexual violence during the armed conflict, and other provisions are issued:

Article 25. **Reparation measures.** Victims of sexual violence have the right to comprehensive reparation. The judges must recognize and identify the direct and indirect victims, and individualize the damages, material and immaterial, individual and collective, caused by the acts of sexual violence, taking into account different criteria of age, ethnic group, sexual orientation, identity. or gender expression, disability condition, forced displacement condition or victim of the armed conflict, belonging to a social organization, leadership activity, among others.

The care and reparation of victims of sexual violence within the framework of the special criminal justice and peace process will be followed by the provisions of Law 975 of 2005, as amended by Law 1592 of 2012.

The reparation measures will be aimed at fully restoring the violated rights.

Reparation measures must include restitution, compensation, satisfaction, rehabilitation and guarantees of non-repetition by the person responsible for the crime.

Article 26. **Participation of the victims in the definition of the reparation measures.** In all the procedures to establish reparation measures, it will be guaranteed that the victims or their judicial representatives are heard in their claims about reparation measures and it will be advocated because the reparation responds to the characteristics of the case, such as the context of the conflict. armed, the age of the victims, their conditions of vulnerability, and the violence suffered. If the judge in his decision of reparation departs from the requests of the victim or his representatives, he must justify his decision, and in any case, he will guarantee comprehensive reparation.

Law 1448 of 2011, by which measures of attention, assistance and integral reparation are dictated to the victims of the internal armed conflict and other provisions:

ARTICLE 130. **TRAINING AND URBAN AND RURAL EMPLOYMENT PLANS.** The National Learning Service, SENA, will give priority and ease of access for young and adult victims, under the terms of this law, to their training and training programs technique.

The National Government within six (6) months following the promulgation of the present Law, through the Ministry of Social Protection and the National Learning Service (Sena), will design special programs and projects for the generation of rural employment and in order to support the self-sustainment of the victims, which will be implemented through the National Plan for Comprehensive Attention and Reparation to Victims.

ARTICLE 132.**ADMINISTRATIVE COMPENSATION**. The National Government will regulate within six (6) months following the promulgation of this Law, the procedure, procedure, mechanisms, amounts and other guidelines to grant compensation individual administratively to victims. This regulation shall determine, by establishing criteria and objectives and assessment tables, the ranges of amounts that will be delivered to the victims as administrative compensation depending on the victimizing act, as well as the procedure and guidelines necessary to guarantee that compensation contributes to overcoming the state of vulnerability in which find the victim and his family nucleus. Similarly, you will need to determine how the compensation awarded to the victims must be articulated before the issuance of the present law.

ARTICLE 136. The National Government, within six (6) months following the promulgation of this Law, must implement a **rehabilitation program** that must include both individual and collective measures that allow victims perform in their family, cultural, work and social environment and exercise their rights and basic freedoms individually and collectively.

Psychosocial support should be transversal to the reparations process and be prolonged in time according to the needs of the victims, their families and the community, taking into account the gender perspective and the specific cultural, religious and ethnic approaches. Likewise, it must integrate family members and, if possible, promote actions of positive discrimination in favor of women, children, the elderly and the disabled due to their high vulnerability and the risks to which they are exposed.

ARTICLE 139. **SATISFACTION MEASURES**. The National Government, through the National Plan for the Attention and Comprehensive Reparation to Victims, must carry out the actions tending to restore the dignity of the victim and spread the truth about what happened, according to the objectives of the entities that make up the National System of Attention and Reparation to Victims.

The satisfaction measures will be those actions that provide well-being and help alleviate the victim's pain. Satisfaction measures must be interpreted by way of example, which implies that others can be added to them:

a. Public recognition of the victim's character, their dignity, name and honor, before the

community and the offender;

b. Make the publications that are related to the previous literal.

c. Holding of commemorative events;

d. Conducting public acknowledgments;

e. Realization of public tributes;

f. Construction of public monuments with the perspective of repair and reconciliation;

g. Supporting the reconstruction of the social movements and social fabric of rural communities, especially women movements.

h. Public and complete dissemination of the victims' account of the fact that victimized them, provided it does not cause further unnecessary damage or create safety hazards;

i. Contribute to the search for the disappeared and collaborate to identify corpses and their subsequent burial, according to family and community traditions, through of the competent entities for this purpose;

j. Dissemination of the apologies and acceptances of responsibility made by the perpetrators;

k. Investigation, prosecution and punishment of those responsible for rights violations

humans.

l. Public recognition of the responsibility of the perpetrators of rights violations

humans.

ARTICLE 149. **GUARANTEES OF NON-REPETITION**. The Colombian State will adopt, among others, the following guarantees of non-repetition:

a). The demobilization and dismantling of armed groups outside the law;

b). The verification of the facts and the public and complete dissemination of the truth, insofar as does not cause further unnecessary harm to the victim, witnesses or others, nor does it create a danger to their safety;

c). The application of sanctions to those responsible for the violations

d). The prevention of violations, for which, it will offer special prevention measures to groups exposed to greater risk such as women, children and adolescents, older adults, social leaders, members of trade union organizations, human rights defenders and victims of forced displacement, that tend to overcome stereotypes that favor discrimination, especially against women and violence against them in the context of the armed conflict;

e). The creation of a social pedagogy that promotes the constitutional values ​​that foster reconciliation, in relation to the events that occurred, on historical truth;

f). Design and implementation of a general communications strategy on Rights Human and International Humanitarian Law, which must include a differential approach;

g). Design of a unique training and pedagogy strategy regarding respect for the Human Rights and International Humanitarian Law, which includes a differential approach, aimed at public officials in charge of law enforcement, as well as members of the Public Force. The strategy will include a zero tolerance policy for sexual violence in state entities;

i). Strengthening the effective participation of vulnerable and / or vulnerable populations, in their community, social and political settings, to contribute to the exercise and effective enjoyment of their cultural rights;

j). Dissemination of information on the rights of victims living abroad;

k). Strengthening the Early Warning System.

l). The reintegration of children and adolescents who have participated in the groups

armed outside the law;

m). Design and implementation of strategies, projects and policies for reconciliation, both at the social level and at the individual level;

n). The exercise of effective control by the civil authorities over the Public Forces;

o). The declaration of non-subsistence and / or termination of the contract of public officials convicted for rights violations.

p). The promotion of mechanisms designed to prevent and resolve social conflicts;

q). Design and implementation of pedagogy strategies for the legal empowerment of the

victims;

r). The repeal of rules or any administrative act that has allowed or allows the

occurrence of rights violations.

s). Formulation of national campaigns for the prevention and condemnation of violence against women, children and adolescents, due to the events that occurred in the context of the violations

**Aggravating and mitigating circumstances**

1. Does the law foresee aggravating circumstances when sentencing rape cases? If so, what are they? YES

The law considers aggravating circumstances the following:

1. The conduct shall be committed with the assistance of one or more other persons.

2. The person responsible shall have any character, position or position which gives him particular authority over the victim or prompts him to place his trust in him.

3. There shall be contamination by sexually transmitted diseases.

4. To be carried out on a person under fourteen (14) years of age.

5. The conduct shall be performed on a relative up to the fourth degree of consanguinity, on a fourth degree of affinity or on a civil first degree, on a spouse or partner or on a permanent partner, or on any person permanently integrated into the domestic unit, or by taking advantage of the trust placed by the victim in the perpetrator or in one or more of the participants. For the purposes set forth in this article, affinity shall be derived from any form of marriage or free union.

6. Pregnancy shall occur.

7. Where the victim is an elderly person or a person who is physically, sensory, or mentally impaired.

8. If committed against persons in a situation of vulnerability due to their age, ethnicity, physical, mental or sensory disability, occupation or occupation.

9. If the act is committed with the intention of generating social control, fear or obedience in the community.

10. The conduct is committed as a form of retaliation, repression or silencing of people who are part of social, community or political organizations or who act as leaders or defenders of Human Rights.

* 1. Is rape by more than one perpetrator an aggravating circumstance?  **YES**
	2. Is rape of a particularly vulnerable individual an aggravating circumstance, or the imbalance of power between alleged perpetrator and victims? (for example, doctor/patient; teacher/student; age difference) **YES**
	3. Is rape by spouse or intimate partner an aggravating circumstance? **YES**
1. Does the law foresee mitigating circumstances for the purposes of punishment? **YES** If yes, please specify.

The Colombian Criminal Code in its art. 55 and 56 contemplates mitigating circumstances applied generically at the time of sentencing, which are:

"ARTICLE 55. CIRCUMSTANCES OF LESS PUNISHABILITY. They are circumstances of lesser punishment, provided that they have not been foreseen in another way:

1. The lack of a criminal record.

2. Acting for noble or altruistic motives.

3. Acting in a state of emotion, excusable passion, or intense fear.

4. The influence of pressing personal or family circumstances in the execution of the punishable conduct.

5. Voluntarily seek after the conduct has been committed, annul or lessen its consequences.

6. Voluntarily repair the damage caused, even if not completely. Likewise, if the persons affected by the punishable act have been compensated.

7. Voluntarily present yourself to the authorities after having committed the punishable conduct or avoid the unjust unionization of third parties.

8. Indigence or lack of illustration, insofar as they have influenced the execution of the punishable conduct.

9. The mentally inferior conditions determined by age or organic circumstances, insofar as they have influenced the execution of the punishable conduct.

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.

1. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? **NO**  If so, at what stage and what are the consequences?
	1. Regardless of the law, is reconciliation permitted in practice? **YES** and what is the practice in this regard? In practice, public authorities oftentimes encourage or even pressure victims to reconcile, especially in cases of sexual violence within the family unit.
2. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator? **NO** If yes, please specify.
	1. if the perpetrator marries the victim of rape? **NO**
	2. if the perpetrator loses his “socially dangerous” character or reconciles with the victim? **NO**

**Prosecution**

1. Is rape reported to the police prosecuted ex officio (public prosecution)? **YES**
2. Is rape reported to the police prosecuted ex parte (private prosecution)? **NO**
3. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of women? **NO**
4. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of children? **NO**
5. Please provide information on the statute of limitations for prosecuting rape.

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)

- If sexual violence constitutes a war crime, crime against humanity or an act of genocide, the criminal action is imprescriptible. (5 Article 89, para. 6 of Law 599 of 2000.)

- If sexual violence manifests as a continuing crime, the statute of limitations is counted from the date on which its execution ends.

1. Are there provisions allowing a child who was the victim of rape and to report it after reaching adulthood?   **YES**

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)

1. Are there mandatory requirements for proof of rape, such a medical evidence or the need for witnesses?  **NO** If yes, please specify.

Law 1719 of 2014 to guarantee access to justice for victims of sexual violence enunciates a series of recommendations that establish that the investigation of cases of sexual violence cannot be based solely on the existence of certain kinds of evidence (such as traces of fluids or lesions in the victim’s body):

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 behavior 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.

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.

1. Are there rape shield provisions aimed at preventing judges and defense lawyers from exposing a woman’s sexual history during trial? **YES**
2. Are there procedural criminal law provisions aimed to avoid re-victimizations during the prosecution and court hearings? **YES**. If yes, please specify.

Law 1719 of 2014 to guarantee access to justice for victims of sexual violence provides certain requirements to ensure victims are not re-victimized in the course of judicial proceedings:

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 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 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, 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.

**War and/or conflict**

1. Is rape criminalized as a war crime or crime against humanity? **YES**
2. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? **NO**
3. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? **YES**
4. Has the Rome Statute of the International Criminal Court (ICC) been ratified? **YES**

**Data**

1. Please provide data on the number of cases of rape that were reported, prosecuted and sanctioned, for the past two to five years.

• According to the National Institute of Legal Medicine and Forensic Sciences (INMLCF), between 2013 and 2018 the number of cases reported for alleged sexual offenses increased from 20,739 (Rate of 44.01 per 100,000 inhabitants) to 26,065 cases (Rate of 52.30 per 100,000 inhabitants). This means that between 2013 and 2018 the rate per 100,000 inhabitants increased by 8.7 points[[1]](#footnote-1).

Specifically, for 2018, of the 26,065 cases where information on the victim's age is available, 87.45% equivalent to 22,794 cases corresponds to the population of children and adolescents. The highest rate per hundred thousand inhabitants (307.50) is in the group of 10 to 13 years, which exceeds almost six times the national rate 52.30[[2]](#footnote-2).

During 2018, 26,065 medical-legal examinations were carried out for alleged sexual offenses. With women and girls being the most affected, 85.5% (22,309 cases), for every man who is a victim of an alleged sexual crime, there are six women and girls victims[[3]](#footnote-3).

During 2019, 26,158 medical-legal examinations were carried out for alleged sexual offenses. With women and girls being the most affected 86% (22,523 cases)[[4]](#footnote-4).

According to the National Registry of Information for the Victims Unit, as of January 1, 1985 and November 30, 2020, in Colombia 32,869 people are registered as victims of crimes against freedom and sexual integrity during the armed conflict, of which 29,905 were women, 2,458 men, and 501 LGBTI[[5]](#footnote-5).

The Attorney General's Office of the Nation in 2018 filed charges in 23.2% of cases of sexual violence known by them. The conviction rate (on charges) is 44%[[6]](#footnote-6).

Between January and November (2020) the Office of the Attorney General reported a total of 132 alleged cases of Conflict-Related Sexual Violence: out of the 132 cases, 121 are in the inquiry phase, one in preliminary investigation, four are under investigation, and six in trial[[7]](#footnote-7).

**Other**

1. Please explain any particular and additional barriers to the reporting and prosecution of rape and to the accountability of perpetrators in your legal and social context not covered by the above.

During the criminal process, women who are victims of sexual violence in Colombia face barriers, among which are:

* The lack of protection make victims refrain from denouncing. Protection measures have a very limited scope and lack a gender approach. There’s a lack of adequate measures to protect victims of sexual violence, especially when they occur in the context of the armed conflict, and the delays between the request for protection and the implementation of the measures are large. Additionally, many victims do not trust public authorities, which exacerbates their concerns. Oftentimes, they fear re-victimization during the judicial process (as a consequence of a lack of legal and psychosocial support in many of the cases) or assume that they will not be believed because they do not have evidence and / or witnesses. In addition to this, the economic and emotional implications of the judicial process also create barriers for victims to access justice.
* On a community level, victims may face stigmatization due to the normalization of gender-based violence in certain contexts, along with familial, affective or social relations with the aggressor. In cases when they’ve given birth to daughters and sons resulting from the violations, they may refuse to report them for fear they will find out.
* Linguistic, socioeconomic, territorial and cultural barriers, because some indigenous victims do not speak Spanish, are far from the population centers and / or lack the resources to mobilize autonomously, due to the implications it may have in their communities.
* Persistence of stereotypes around sex, gender, sexual orientations, gender identities, ethnic identities and disability status amongst public officials may cause re-victimization and judicial sentences that lack gender approach, lack of differentiated approach and poor quality of attention services. Certain preconceptions prevalent amongst judicial authorities may interfere with the precision of the criminal type, erratic appraisals regarding the seriousness of the crimes, inadequate assessment and analysis of evidence.
* Lack of investigation and insufficient speed of investigations (unjustified delays). For instance, the Monitoring Taskforce for Constitutional Court orders 092 of 2008 and 009 of 2015 (both rulings that exhorted the Colombian Government to adopt measures to guarantee the rights of women survivors of sexual violence during the armed conflict, including their access to justice) found that in 2020, out of 634 cases of sexual violence featured in the reserved annexes of said orders, 97% of the cases remain in impunity[[8]](#footnote-8).
* Lack of suitability of many of the authorities to investigate the facts, as cases are assigned to prosecutors who lack capacities to apply a gender perspective. The authorities that investigate the complaints are those that are in the places where the events occurred, that is, in the contexts of insecurity, interference and probable pressure or infiltration by the armed actors and the perpetrators.
* Absence of conditions that promote the confidentiality, privacy and security of the victims during the process.
* Barriers to access forensic examinations (distance, delays longer than a year, negligence).
* Insufficient information and pedagogy on sexual and reproductive rights with a focus on prevention and care of sexual violence to health operators who are part of the chain before the judicial process.
* The impact of institutional strategies on effective procedural progress and on overcoming impunity is not evident.
1. https://www.medicinalegal.gov.co/documents/20143/386932/Forensis+2018.pdf/be4816a4-3da3-1ff0-2779-e7b5e3962d60. [↑](#footnote-ref-1)
2. https://www.medicinalegal.gov.co/documents/20143/386932/Forensis+2018.pdf/be4816a4-3da3-1ff0-2779-e7b5e3962d60. [↑](#footnote-ref-2)
3. https://www.medicinalegal.gov.co/documents/20143/386932/Forensis+2018.pdf/be4816a4-3da3-1ff0-2779-e7b5e3962d60. [↑](#footnote-ref-3)
4. https://www.medicinalegal.gov.co/cifras-estadisticas/forensis [↑](#footnote-ref-4)
5. https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394 [↑](#footnote-ref-5)
6. https://www.fiscalia.gov.co/colombia/wp-content/uploads/Informe-de-gestion-v-22-11-2018-PDF2.pdf [↑](#footnote-ref-6)
7. Information provided by the Attorney General's Office to the UNCT for the follow-up report to Security Council Resolution 1820. [↑](#footnote-ref-7)
8. Monitoring Taskforce for Constitutional Court orders 092 of 2008 and 009 of 2015 (2020). “Seventh monitoring report for Order 092 of 2008 and Second monitoring report for order 009 of 2015”. https://www.sismamujer.org/wp-content/uploads/2019/07/CAJAR-SISMA-SEPTIMO-WEB-14-10-2020.pdf [↑](#footnote-ref-8)