



From innovative methodologies for investigating and documenting sexual violence, to legal reforms and CSO-led support initiatives, Latin American countries are having success in improving access to justice for women victims of sexual violence.

ACCESS TO JUSTICE FOR SURVIVORS OF SEXUAL VIOLENCE IN CONFLICTS: THREE LATIN AMERICAN APPROACHES

SUMMARY

What progress has been achieved in Latin America in the struggle for justice for women victims of sexual violence in contexts of conflict? In what ways have judicial institutions and grassroots organisations in Latin America learned from experiences in other regions of the world? What are the key features of more integral approaches to access to justice? This Brief responds to these questions by presenting three different experiences from Colombia, Guatemala and Peru, where innovations in research and documentation, development of legal frameworks and victim support are helping to expose the magnitude and impacts of gender violence on women during armed conflict. In turn, this is paving the way for more appropriate prevention and redress measures that restore dignity to women. This Brief also discusses the contextual factors underpinning these Latin American approaches, as well as key lessons that may be useful for other contexts.

SEXUAL VIOLENCE AND CONFLICT IN LATIN AMERICA AND BEYOND

In Latin America, as in other parts of the world, crimes of sexual violence perpetrated against women during armed conflicts form part of a war logic which posits women's bodies as symbolic war trophies and sites for territorial battles fought out between male actors and their enemies. Recent advances in legal systems in Latin America and other regions of the world reflect the understanding that acts of violence against women are not merely an indirect consequence of war or isolated incidents, but rather they are forms of institutional and socio-cultural violence that in times of conflict express mechanisms of domination, subordination,

KEY

LESSONS LEARNED

Truth commissions and other institutional processes mandated to collect evidence about crimes committed during armed conflicts require specific methodologies that reveal the different forms of violence suffered by specific population groups, including, but not limited to, women.

A gender approach to identifying the causes and consequences of violence during armed conflicts transforms classic definitions of reparation, not as a return to conditions prior to the human rights violations, but as a transformation of those socio-cultural conditions which permit acts of violence against women to continue.



extermination and humiliation of the enemy.¹ In addition, armed conflict tends to exacerbate existing patterns of gender discrimination that generate inequalities between men and women, and in particular for marginalised indigenous, ethnic and racial groups.

Despite this, reports by national and international human rights institutions, truth commissions and grassroots organisations point out that acts of sexual violence are the least denounced and most difficult to identify crimes, given, in part, the personal, family, community and national implications associated with bringing these cases to light. And yet, shedding light on the causes and consequences of sexual violence, as well as effective investigation and sanctioning of the perpetrators, is central to processes of transitional justice.

Recently developed international standards and laws mark important milestones for advancing calls for justice by victims of sexual violence in contexts of armed conflict. According to the [Rome Statute of the International Criminal Court](#), war crimes include rape, forced prostitution, forced pregnancy, forced sterilisation and any other comparable forms of serious sexual violence. Over the past twenty years the [International Criminal Court](#) (ICC) has made significant advances towards recognising human rights violations associated with sexual violence and their potential relationship to war crimes and crimes against humanity. Of particular relevance are the trials brought against people responsible for genocide and other violations of international humanitarian law in Yugoslavia and Rwanda.²

In various countries in Latin America, these international legal standards and laws have had an important impact on the struggle for justice of women victims of sexual violence during armed conflicts. In countries such as Guatemala and Peru, for example, decades of civil wars have resulted in the murder of more than 250,000 and 70,000 people respectively.³ In Colombia, tens of thousands of people have been killed and more than 3 million internally displaced by armed conflicts that still wage on today. These countries have successfully established truth commissions and implemented judicial reforms in order to move away from armed conflict toward negotiated conditions of peace, as part of broader processes

of transitional justice. Notwithstanding, victim advocacy organisations and human rights institutions insist that while these state-sponsored initiatives are vitally important, they fall short of providing adequate justice and reparation. Concerted efforts are also required to build a collective memory, expose crimes of sexual violence and provide support services for victims such as medical assistance and counseling.

THE LATIN AMERICAN EXPERIENCE: THREE DIVERSE APPROACHES

In Latin America, existing international legal standards have been adapted to particular national contexts. To do this, countries across the region are implementing a range of innovative strategies in an effort to improve justice and reparation for women victims of sexual violence. In this Brief, we focus on three key experiences from Colombia, Guatemala and Peru. All three countries have undergone brutal internal armed conflicts (in the case of Colombia, the conflict continues), and have since implemented a series of both institutional and non-institutional measures to address and redress sexual violence in these contexts. In this Brief we analyse the following three developments in particular:

1. Research and documentation methodologies for identifying the particular ways in which women were affected by the armed conflict in Peru
2. A ruling by the Constitutional Court in Colombia that has paved the way for public programmes to prevent the re-victimisation of women
3. A bottom-up approach to victim support services in Guatemala

These case studies have been selected based on a review of a wide range of international and national human rights reports, academic research documents and official documents presented by truth commissions and other judicial branches. The authors of this Brief also consulted feminist human rights experts during the Seminar on Women, Violence and Justice organised by the Mexican civil society organisation [Fundar](#) (authors of this Brief).

¹ Inter-American Commission on Human Rights (IACHR). 2006. [Access to Justice for Women Victims of Sexual Violence in Mesoamerica](#). IACHR, Organization of American States, Washington, DC.

² For more information on how the ICC is dealing with war crimes that took place during the conflicts in the Balkans in the 1990's and in Rwanda during 1994, see the [International Criminal Court Tribunal for Former Yugoslavia](#) and prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda.

³ On the internal armed conflict and processes of transitional justice, refer to the [Center for Justice and Accountability](#) and its background documents on [Colombia](#), [Guatemala](#) and [Peru](#).



Making Sexual Violence in Conflict Visible: Research and Documentation Methodologies in Peru

During the twenty year period between 1980 and 2000, armed conflict prevailed in Peru as national armed forces battled with political-military organisations, primarily the Shining Path (*Sendero Luminoso*) and the Tupac Amaru Revolutionary Movement (MRTA). In 2001, a Truth and Reconciliation Commission (TRC) was created to investigate the causes and consequences of acts of violence committed during the armed conflict, including an estimated 70,000 assassinations. Based on the findings of this investigation, the TRC issued recommendations for institutional reforms, as well as strategies for justice and reparations.

The TRC investigations focused on assassinations and torture, forced disappearance, violations of collective rights of indigenous people and other grave human rights violations. Despite the fact that sexual and gender violence did not figure explicitly in the list of human rights violations, the TRC interpreted its mandate to include these acts under “other grave human rights violations”. A central challenge to its investigation, though, was how to identify acts of violence against women, particularly when initial statistical evidence suggested that men were by and large the main victims, with women representing a much smaller percentage.

The gender team of the TRC designed a special methodology which required a double approach: first, to identify the gender aspects of the general violence; and second, to guide the investigation of specific acts of sexual violence against women. In terms of the first approach, the TRC team documented women’s experiences and collective histories by gathering testimonies from the victims, their families and also from third parties. The TRC also built upon the investigations on sexual violence conducted by the Commission for Historical Clarification in Guatemala and the Commission for Truth and Reconciliation in South Africa, by conducting a specific public hearing to collect women’s testimonies and register patterns of sexual violence. During similar types of thematic audiences previously held in Guatemala and South Africa, women tended to view themselves as the wives, mothers and sisters of the male victims or protagonists, and lessen the impacts that the armed conflict had on their lives and bodies. To address this challenge, Peru’s TRC opted to work with women and men victims to highlight the importance of documenting and identifying cases of sexual violence as serious human rights violations, as well as offer basic psychological

support for victims of sexual violence.⁴ This preparatory work generated the conditions necessary for women victims to agree to present testimonies of acts of sexual violence perpetrated against them and family members.

In terms of documenting specific cases of sexual violence, the TRC faced several methodological challenges, the first being that acts of sexual violence constituted only 1.53% of the total number of cases. The TRC built into its methodology measures aimed at documenting the factors that silence these cases of sexual violence. One evident cause is the fear and shame associated with narrating acts of sexual violence, primarily rape. A second factor relates to the language used to talk about rape and other forms of sexual violence. When giving their testimonies women often did not clearly state what happened out of fear or shame. Thus these acts were expressed in alternative language and terms that needed to be understood and then incorporated into the classification of events by the TRC team. Lastly, sexual violence frequently forms part of a chain of human rights violations. Though the statistical evidence is low, testimonies collected in Peru illustrated that rape was often committed alongside extrajudicial assassinations, forced disappearances and forced displacement. However, these cases tended to be registered in terms of these latter violations, rather than in terms of the rape committed. By identifying this tendency, the TRC was able to better document the cases of sexual violence and include them in the final report.

Through these innovative evidence-gathering techniques, the TRC final report identified as one of its primary findings the differential impact that the conflict had on women, mainly in the form of sexual violence. The report concluded that sexual violence was systematically perpetrated by state agents and formed part of massacres and extrajudicial assassinations, military operatives and forced disappearances. Three quarters of the victims were Quechua speakers and 83% lived in rural areas.

By detailing the particular ways that women were victims of the violence, the TRC report was able to demonstrate the degree to which acts of sexual violence formed part of the massive, yet selective use of violence as part of armed conflict, particularly as it was concentrated in those zones where the most impoverished and ethnically discriminated sectors of society lived. In this sense, the TRC report was able to demonstrate how sexual violence during Peru’s armed conflict constituted crimes against humanity.

⁴ Truth and Reconciliation Commission. 2003. *Final Report: Volume 6, Chapter 1, Section 1.5: Sexual Violence Against Women (Violencia Sexual Contra la Mujer)*. Truth and Reconciliation Commission, Lima.



Preventing Re-victimisation in Colombia: Court Ruling

Colombia has the longest on-going internal armed conflict in the continent. For more than 40 years, armed conflict has continued between state forces, paramilitaries and guerrillas. In the last twenty years alone, an estimated 20,000 people have lost their lives. Despite more than 26 peace processes having been initiated, peace accords are yet to be reached between leftist guerrilla organisations, the largest being the *Fuerzas Armadas Revolucionarias de Colombia* (Revolutionary Armed Forces of Colombia - FARC), and the Colombian government.

The 2001 UN report [Violence Against Women, its Causes and Consequences: Mission to Colombia](#) declared that multiple armed actors, including state armed forces, paramilitary groups and guerrilla forces, have systematically perpetrated sexual violence against women during Colombia's half century civil war.⁵ More recently, human rights organisations such as the country's ombudsman office (*Defensoría del Pueblo*) have shown that a fifth of the 3 million forced displacements in Colombia were caused by sexual violence perpetrated against women or their family members.⁶ The organisation [Corporación Humanas](#) has characterised different contexts in which these crimes take place, including direct attacks against a targeted population, as part of exerting territorial control over a specific region and its population, when victims are subjected to kidnappings or held against their will, or when sexual aggressions form part of the actions of the rank and file of the armed group.

However, recent rulings and judicial decrees (*autos* in Spanish) by the Constitutional Court of Colombia have created new impetus for investigating and sanctioning sexual violence. Perhaps the most significant is Judicial Decree 092/2008 that seeks to transform the situation of the displaced population and recognises that forced displacement has had a disproportionate impact on women. It acknowledges that violence linked to armed conflict affects women in a differential manner, given that women's vulnerability to the conflict and psychological suffering during it are often distinct from that of men.⁷ This ruling incorporates international legal standards such as the [Convention on the Elimination of All Forms of Discrimination Against Women](#) (CEDAW) and the [Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women](#) (Belem Do Para) as well as the Rome Statute of the ICC described above.

According to the decree, the risks faced specifically by women include sexual violence, sexual exploitation, sexual abuse and conditions of slavery. Likewise, the decree recognises that these specific risks and vulnerabilities are exacerbated in situations where women, particularly indigenous and Afro-Colombian women, are forcibly displaced by the armed conflict. Finally, the court affirmed that sexual violence perpetrated against women during the conflict represents a systematic and massive violation of their rights.

In response, the constitutional court ordered the implementation of various mechanisms including the creation of thirteen programmes to specifically address gaps in public policy, to investigate forced displacement from a gender perspective and to provide the National Prosecutor's Office with the necessary information to try those responsible for the numerous crimes of sexual violence linked to forced displacement. The decree stressed the importance of preventative measures, as well as access to psychological assistance as an integral strategy to avoid re-victimisation. In addition, the court specified that the design and implementation of various programmes must be carried out with active citizen participation. This has opened up a space where civil society organisations can influence public policies and initiatives.

Integral Victim Support in Guatemala

During Guatemala's internal armed conflict (1960 – 1996), more than 200,000 people, the majority indigenous Mayans, were assassinated and thousands more disappeared. During the one year dictatorship of Efraín Ríos Montt in 1982, scorched earth counterinsurgency operatives were responsible for 18,000 extrajudicial assassinations. Despite the 1997 signing of peace accords in Guatemala and the almost two decades of processes of transitional justice, very few women survivors have denounced acts of sexual violence and brought their cases to court. In fact, both the Commission for Historical Clarification⁸ and the [Inter-Diocese Project for the Recuperation of Historical Memory](#) (REMHI) failed to register the vast majority of sexual violence committed during the civil war.⁹ In such contexts where few cases are brought to light and even fewer are investigated and perpetrators sentenced, there is a need for interventions that transcend strictly legal spheres, and in particular from organisations and institutions that offer psychosocial support.

⁵ UN Economic and Social Council (ECOSOC). 2001. [Violence Against Women, its Causes and Consequences: Mission to Colombia](#). UN ECOSOC, Geneva.

⁶ Mantilla Falcón, J., Uprimny Yepes, R. 2008. Violencia de Género y Justicia Constitucional en Colombia (Gender Violence and Constitutional Justice in Colombia) In: Uprimny Yepes, R., Guzmán Rodríguez, D. E. [¿Justicia Desigual? Género y Derechos de las Víctimas en Colombia \(Unequal Justice? Gender and Victim's Rights in Colombia\)](#). UNIFEM, Bogotá.

⁷ [Corte Constitucional, Auto 092/2008](#) (original text, only available in Spanish).

⁸ Guatemala's Truth and Reconciliation Commission. See its final report here: [Guatemalan Commission for Historical Clarification](#) (CEH). 1999. Guatemala: Memory of Silence: Report of the Commission for Historical Clarifications. CEH, Guatemala City.

⁹ Amnesty International. 2009. [Justice and Impunity: Guatemala's Historical Clarification Commission 10 Years On](#). Amnesty International, London.



One of the central challenges associated with trials and reparations in cases of sexual violence is that many women resist publicly testifying. Those women who do decide to initiate legal proceedings often find themselves caught in bureaucratic loopholes and ineffective legal processes that create significant obstacles to proving the occurrence and impacts of acts of sexual violence. In light of these challenges, organisations in Guatemala, such as the [Team of Community Studies and Psychosocial Action \(El Equipo de Estudios Comunitarios y Acción Psicosocial - ECAP\)](#) and the National Union of Guatemalan Women (*La Unión Nacional de Mujeres Guatemaltecas - UNAMG*), developed collaborative initiatives designed to support and accompany women victims, document collective memories, and promote access to justice and fair reparations.

These interventions seek to gather information on the social, cultural and psychological impacts of the armed conflict so as to support women victims in defining what justice means to them, restore dignity to women survivors, strengthen solidarity networks and re-construct social and psychological strength as part of a collective.

A central aspect of the work of ECAP and UNAMG involves training women on human rights issues so that they recognise the ways that rape and other forms of sexual violence form part of patriarchal structures and struggle for ways that resituate these traumatic events in their lives and create new references to process and understand what they experienced. Between 2005 and 2007, the two organisations ran support groups and training workshops with Mayan women from the three regions most heavily affected by the civil war: Alta Verapaz, Huehuetenango and Chimaltenango. The participants were women members of Chuj, Mam, Kanjobal, Q'eqch'í and Kaqchiquel indigenous communities aged between 30 and 70 years old. For many of the women participants, the acts of sexual violence perpetrated against them were kept secret, despite a general awareness at the community or family level.¹⁰

The organisations designed a series of methodological tools to build trust and help women to explain the violence perpetrated against them. The first step consists of an interview in an environment chosen by the victim, where representatives of the organisations explain the psychosocial support services offered, as well as their objectives. Subsequent measures include inviting women to participate in individual art and music therapy and relaxation sessions to help address years of accumulated trauma.



Figure 1: Indigenous Ixil woman testifying during the trial of Guatemalan ex-dictator Rios Montt
Source: La Verdad de Tamaulipas. [Narran Mujeres Ixil Terror de Rios Montt \(Ixil Women Narrate the Terror of Rios Montt\)](#). Online publication, accessed 20 June 2013.

Other services include inviting women to participate in support groups with other victims of similar experiences. This has helped women to identify the physical, emotional and social impacts of sexual violence on themselves and on others, as well as value the resources and strength that each woman is able to draw on to confront traumatic memories. The support groups establish solidarity ties between women and provide a safe space where they can discuss their experiences. This is particularly important given that the majority of women survivors live the trauma in solitude, often receiving very little support from family and community members. Lastly, a series of home visits permit the two organisations to identify which social networks the women participate in and which family and community challenges they face.

The combination of these integral forms of psychosocial support enable the victims to observe themselves outside of the pain and violence they have been subjected to and thus take actions to transform the conditions in which that trauma continues to reside. At the same time, this approach can create collective civil society spaces that can then intervene in struggles against impunity and for access to justice and reparations. The types of psychosocial support services provided by ECAP and UNAMG help to create the conditions in which women victims are able to verbalise what they have experienced with dignity, an essential first step to demand justice and reparation.

This type of psychosocial support for women was crucial in helping victims to decide to present public testimonies as part of criminal trials. Recently, during the trial of the ex-dictator José Efraín Ríos Montt in April 2013, Ixil women, victims of multiple acts of sexual torture between 1982 and 1983, covered their faces with shawls as they publicly narrated their experiences for the first time in more than thirty years. Their testimonies played a crucial role in Ríos Montt's sentencing by the Guatemalan National Court for genocide against the Ixil people during the country's civil war.¹¹

¹⁰ ECAP. 2009. [Mujeres Rompiendo el Silencio: Intervención Psicosocial con Sobrevivientes de Violaciones Sexuales Durante el Conflicto Armado en Guatemala \(Women Breaking the Silence: Psychosocial Interventions with Survivors of Sexual Violence During the Armed Conflict in Guatemala\)](#). ECAP, Colonia Bran.

¹¹ The case represents the first time a public official has been tried for genocide in a national tribunal. On 11th May 2013, the Guatemalan National Court found Ríos Montt guilty of genocide and sentenced him to 80 years in prison. A high court revoked the sentence a week later.

CONTEXTUAL FACTORS

ENABLING THE SUCCESSFUL LATIN AMERICAN RESPONSES



The developments in processes of transitional justice in Colombia, Guatemala and Peru presented in this Brief highlight interesting innovations that are enabling Latin American countries to build more effective institutional and grassroots processes that support women victims of sexual violence in accessing justice and fair reparation. What are some of the key contextual factors that have made this possible?

International law provides an important basis for the development of interventions that respond to specific country contexts, including understanding acts of sexual violence perpetrated during armed conflicts as crimes against humanity and genocide.

Active citizen participation, particularly from victims and support organisations, has played a central role in pushing through groundbreaking initiatives described here, including legal reforms, establishing integral approaches to justice and reparation and exposing gender violence as part of truth commission investigations.

Integral approaches to psychosocial support for women victims are a fundamental first step for women who choose to testify about their experiences in court. This includes bottom-up efforts by grassroots and non-governmental organisations as well as legal reforms that incorporate such services as part of multi-dimensional reparation processes.

LESSONS LEARNED

- 1 Truth commissions and other institutional processes mandated to clarify the events occurring during armed conflicts require methodologies that can identify the different forms of violence perpetrated against specific population groups, including, but not limited to, women. The case of Peru's success shows how such investigative techniques should prioritise ways of identifying the factors that cause gender violence to go uncovered in order to develop methods that enable women to verbalise and testify about their experiences. Training for women and men to understand the importance of exposing gender dimensions of armed conflict violence, as well as integral psychosocial support services, is key.
- 2 Latin America's experiences show how recognising that armed conflict differentially impacts specific sectors of society permits the unearthing of those crimes that are most difficult to identify and document, and that without such a perspective, many crimes perpetrated against women may remain invisible, hence limiting victims' access to justice and reparation.
- 3 Citizen participation is key, both when recognised as part of judicial reforms, as the case of Colombia illustrates, as well as when victims are closely accompanied by non-governmental organisations, as in Guatemala. Such participation permits not only identifying the scope and impact of crimes of sexual violence, but also plays a key role in designing population-specific reparations that respond to the particular ways in which women victims are impacted by armed conflicts.
- 4 Advances in terms of legal reforms and truth commissions, while effective in locating the differential effects of war conflicts and important accompaniment work with victims, do not necessarily translate into profound reparations and the sentencing of those guilty of committing the crimes. In Latin America and beyond, approaches should recognise that such challenges stem from broader flaws in national justice systems and the lack of political will of key branches of government.
- 5 As implemented in the region, a gender approach to identifying the causes and consequences of violence during armed conflicts can highlight the ways that violence against women exists independently of armed conflicts. This has direct impacts in the definitions of reparations for victims of gender violence, understood not in terms of a return to prior socio-cultural conditions, but rather as a necessary transformation of those conditions in order to address the structural roots of violence against women.

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To learn more about these cases and about Latin American approaches to gender violence in armed conflict, contact the author, Mariana Mora, PhD, Researcher in Fundar's Human Rights and Citizen Security Area, at mmora@fundar.org.mx.

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