



# Forest Peoples Programme

1c Fosseyway Business Centre, Stratford Road, Moreton-in-Marsh GL56 9NQ, UK

tel: +44 (0)1608 652893 fax: +44 01608 652878 info@forestpeoples.org  
www.forestpeoples.org

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Open letter to the Colombian authorities

Dear Sirs and Madams:

**Superior Council of Judicature-Secretariat**

**Francisco Barbosa, Attorney General**

**Fernando Aguirre, Director of Indigenous Affairs, Ministry of the Interior**

**John Henry Arango Alzate, Director of Human Rights and International Humanitarian Law, Ministry of Defence**

**Subject: FPP condemns acts of sexual violence against indigenous girls by agents of the State and rejects all forms of impunity**

In the last week, six cases of sexual violence against indigenous girls by members of the Colombian Army were reported. On 22 June 2020, the Embera-Katio indigenous authority of Gito Dokabú Reserve publicly denounced events associated with the kidnapping, rape, and abandonment of an 11-year-old girl from this Reserve. The crime is reported to have involved at least seven soldiers from the Army's San Mateo Battalion, in the department of Risaralda.

One week later, the media published an investigation into the case of an indigenous girl of the Nukak ethnic group who was kidnapped for four days and taken to a military base in the department of Guaviare, in September 2019. During that time, she was raped by at least two soldiers and deprived of food and drink. This attack was made public on Monday 30 June, but it was known to the authorities for more than nine months, during which time those responsible have not been punished for the events and they continue in the Army's ranks. The Public Ombudsman's Office (*Defensoría del Pueblo*) has documented four other cases of gender-based violence against other Nukak girls by members of the Military Forces.

These are not isolated cases. In a communication regarding the most recent cases, the National Indigenous Organisation of Colombia recalls that since 2008, the Constitutional Court has recognised that "*sexual violence against women is a common, widespread, systematic and invisible practice within the context of the Colombian armed conflict, as is sexual exploitation and abuse by all the illegal armed groups involved, and – in some cases – by individual agents of the armed forces.*"

Between 1996 and 2016, ONIC's Observatory for the Rights of Indigenous Peoples recorded 164 cases of sexual violence against indigenous people perpetrated by armed actors, 50 of which were attributed to members of the military. At a press conference on 1 July 2019, the commander of the Armed Forces acknowledged that since 2016 they have investigated 118 members of the security forces for alleged abusive and violent sexual acts against minors alone.

The Office of the Attorney General indicated that 40 cases of sexual violence against indigenous minors are now entering the trial phase and nine more are being investigated. Although the figures are alarming, it is clear that only a minority of the cases are being recorded; this phenomenon is far more serious, structural and frequent than the statistics indicate. As pointed out by the Constitutional Court, it is an invisible practice, which translates into under-reporting, among other reasons due to the vulnerability of the victims, and the historical discrimination against indigenous girls and women that translates into a re-victimisation of them when they dare to report the crime. The lack of reporting is also influenced by a lack of confidence in a timely and adequate response by State authorities.

The recent incidents affecting indigenous girls are an example of the failure of State authorities to deal with cases of sexual violence, not only to prevent these crimes and offences, but also in terms of their

obligation to provide comprehensive protection and reparation to the victims and their families. Indeed, it seems that the Colombian authorities do not take the victims' culture, age and gender into consideration when adapting evidence collection procedures and care. This is demonstrated by the fact that one of the victims in Guaviare, who does not speak Spanish, was obliged to repeat her statement several times, in front of men, and was even taken to the battalion where she was raped to make a reconstruction of the events. Despite this re-victimisation during her statement, nine months later there are still no sanctions against those responsible.

The Embera indigenous girl was initially placed in a home of the Colombian Family Welfare Institute (*Instituto Colombiano de Bienestar Familiar*) depriving her of the possibility of facing this difficult situation with her family, her community and traditional healers in accordance with the Embera's culture and world view. It was only because of pressure from the community and indigenous organisations that she was reunited with her family a few days later.

Likewise, it was due to pressure from her family, the Indigenous Guard and authorities that those responsible were removed from the military base and brought to justice. However, after the capture, the Office of the Attorney General decided to make criminal offence charges that did not necessarily recognise the violent nature of the offenders conduct (abusive, physical penetration of a person under the age of 14), and whose differential sentencing was determined by the alleged consent of the victim, which implies a certain degree of benefits for those sentenced compared to the sentence due for violent and aggravated physical penetration of an under-age victim. The judgement also does not make reference to other possible crimes that could have been committed through the cruel treatment and illegal detainment of the victim. The judge also decided to release the accused despite the seriousness of the events.

As a result of a lack of attention by the Colombian authorities, those responsible have not been handed over to be tried by the special indigenous jurisdiction despite calls made by the national indigenous organisation ONIC.

But re-victimisation is not only due to the actions by the judicial authorities. Civil society organisations have reported that members of the army take photos and videos of people who have decided to stand up and march in front of the Battalions, intimidating the demonstrators who exercise their right to peaceful protest. At the same time, members of parliament belonging to the same political party as the government (*Centro Democrático*) and journalists have echoed the racist and misogynistic speeches that always question the victims rather than the perpetrators. They downplay the responsibility of the armed forces, presenting these as isolated cases. This discourse evidences and reinforces the discriminatory existing stereotypes of indigenous women, who constitute the first link in the violence that often ends in rape and feminicide.

Meanwhile, in-depth discussions are made invisible. Little is said about the underlying causes linked to the current military doctrine and structural racism that allows these types of events to happen and impunity to persist. The lawyer for Arhuaco women victims of sexual violence, Dunen Kaneyba, recalls that "[t]his is also generated by the idea that indigenous women are easy, they are no one, they are 'ignorant' and to that extent they want to use their bodies. This is something that the conflict reinforced, but it has to do with colonisation." The impunity of these acts reinforces the certainty among the perpetrators that they can violate the bodies of indigenous women without any consequences.

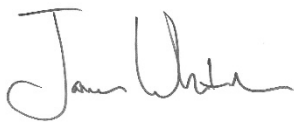
The rape of women and girls has an enormous impact on an indigenous community, as it is a repeated practice stemming from the presence of military bases or camps in their territory, whose occupants perpetuate sexual violence as an expression of colonial discrimination rooted in the military forces with impunity. How does the rape of one or more of the girls affect the indigenous community as a whole? What happens to the bonds and relationships of a community when several of its women and girls are raped by armed actors? How can indigenous girls and women move peacefully through their territory and exercise their cultural practices when there is a constant threat of being kidnapped, raped and subsequently abandoned to their fate by members of the armed forces? What impact does the presence of military bases in the territories have on the exercise of indigenous autonomy?

Forest Peoples Programme condemns all acts of sexual violence against members of indigenous communities, especially against girls, and calls on:

- States and the international community to condemn this type of act and evaluate the support that the Colombian Army receives from international cooperation, despite the fact that its military doctrine still permits widespread serious and unpunished human rights violations, including sexual abuse.

- The Colombian judicial authorities resolve jurisdictional conflicts in response to the ONIC's request that those responsible must be handed over to the special indigenous jurisdiction, and in no case be tried by the military criminal justice system, emphasising that any form of impunity must be rejected, in compliance with the State's obligations to ensure proportionate and appropriate sanctions for all persons responsible for crimes of this magnitude.
- The adoption of measures to tackle the underlying causes of this kind of violence. These measures should:
  - Include the prohibition and social sanctioning of racist and misogynist discourses that attempt to blame the victims and not the perpetrators of sexual violence
  - Allow the necessary revision of the current military doctrine, with a view to adopting a different one that includes preventive and protective measures to avoid and punish cases of gender-based violence, with special emphasis on the protection of indigenous women and girls
  - Ensure that investigation and sanctioning take place for all reported cases
  - Identify institutional responsibilities in those cases that are being investigated
  - Provide reparation for damages caused to the victims, their families, and the indigenous communities to which they belong.
- The Colombian authorities to make progress in developing protocols for intercultural care for these cases with a differential approach to age, ethnicity and gender.

Sincerely,



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James Whitehead  
Director  
Forest Peoples Programme

**CC**

United Nations Special Rapporteur on the Rights of Indigenous Peoples

United Nations Special Rapporteur on Violence against Women

Special Rapporteur on contemporary forms of racism

UN Committee on the Elimination of Discrimination against Women (UN CEDAW)

UN Committee on the Elimination of All Forms of Racial Discrimination (UN-CERD)

United Nations High Commissioner for Human Rights - Committee on the Rights of the Child

of the United Nations High Commissioner for Human Rights

United Nations High Commissioner for Human Rights - Working Group on Discrimination against Women and Girls

UN Women Geneva

Inter-American Commission on Human Rights