

Colombia

# Women of the World:

## Laws and Policies Affecting Their Reproductive Lives



Latin America and the Caribbean

The Center for Reproductive Law and Policy  
DEMUS, Estudio para la Defensa de los Derechos de la Mujer

In collaboration with partners in

Argentina

Bolivia

Brazil

Colombia

El Salvador

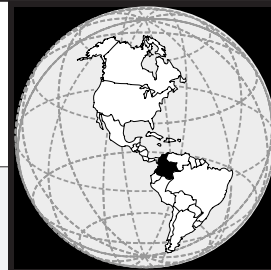
Guatemala

Jamaica

México

Perú

# Colombia



## Statistics

### GENERAL

#### *Population*

- Colombia's total population is 36 million,<sup>1</sup> of which 52% are women.<sup>2</sup> The population growth rate is approximately 1.8% annually;<sup>3</sup> life expectancy at birth is 69.7 years.<sup>4</sup> The median age of the population is 21 years.<sup>5</sup>
- In 1995, 71% of the population lived in urban areas.

#### *Territory*

- Colombia's territory covers an area of 1,139,000 square kilometers.<sup>6</sup>

#### *Economy*

- In 1994, the World Bank estimated Colombia's gross national product ("GNP") per capita to be \$1,670 for the period from 1985 to 1994.<sup>7</sup> From 1985 to 1994, the GNP grew at an estimated 2.4%.<sup>8</sup>
- From 1990 to 1994, the gross domestic product grew at an estimated 4.3%.<sup>9</sup>
- In 1990, the government implemented an economic reform program aimed at accelerating the opening of the economy.<sup>10</sup>

#### *Employment*

- Women make up approximately 42.6% of the work force.<sup>11</sup> In 1992, 62% of employed women worked in the informal sector.<sup>12</sup>
- In 1991, women's participation by economic sector was estimated to be 21.8% in agriculture; 31.4% in industry; and 43.9% in service.<sup>13</sup>
- The difference in wages paid to men and women varies from 10% to 30%.<sup>14</sup>
- Women constitute approximately 55.2% of the total unemployed population.<sup>15</sup>

### WOMEN'S STATUS

- The average life expectancy at birth is estimated to be 70 years;<sup>16</sup> it is 72.26 years for women and 69.24 years for men.<sup>17</sup>
- The illiteracy rate for women in 1992 was 5.5%.<sup>18</sup>
- One-third of all women who live with their partners have been victims of verbal abuse.<sup>19</sup> One of every five women has been the victim of physical abuse,<sup>20</sup> while 6% have been victims of sexual violence.<sup>21</sup>

### ADOLESCENTS

- In 1995, approximately 34% of the population was under the age of 15.<sup>22</sup>
- The median age at first marriage in 1995 was 21.4 years.<sup>23</sup>
- The median age at first childbirth was 22.1 years.<sup>24</sup>
- In 1995, only 11% of women between the ages of 14 and 19 used contraceptives.<sup>25</sup>
- Also in 1995, 14% of women between the ages of 14 and 19 were mothers.<sup>26</sup>
- In Colombia, violence particularly affects women between the ages of 15 and 24: In 1991, external injuries, accidents, homicides, etc., were the leading cause of death among women in this age group.<sup>27</sup>

### MATERNAL HEALTH

- In 1994, the fertility rate was 2.6 children per woman.<sup>28</sup>
- From 1989 to 1994, the maternal mortality rate was 107 per every 100,000 live births.<sup>29</sup>
- In 1994, the infant mortality rate was 20 per 1,000 live births.<sup>30</sup>
- Of pregnant women, 82.6% receive prenatal care from a physician, nurse, physician's assistant, or other health care worker.<sup>31</sup>

■ Of childbirths, 84.6% are attended by a physician, nurse, physician's assistant, or health care worker.<sup>32</sup>

■ In 1991, 37% of female deaths were directly related to complications during pregnancy, while 25% were due to toxemia during pregnancy.<sup>33</sup>

#### CONTRACEPTION AND ABORTION

■ In 1995, 99.9% of women who lived with their partners were familiar with at least one modern method of contraception.<sup>34</sup> Of these, 72% presently use contraception.<sup>35</sup>

■ Of women living with their partners who use contraception, 12.9% use the pill, 11.1% use the intrauterine device, 2.5% use injections, 1.4% use vaginal methods, 4.3% use condoms, and 25.7% use sterilization.<sup>36</sup>

■ It is estimated that 450,000 abortions occur annually.<sup>37</sup> Complications resulting from the conditions in which abortions are performed was the second cause of maternal mortality from 1980 to 1990.<sup>38</sup>

#### HIV/AIDS AND STIS

■ In 1994, the total number of individuals infected with HIV/AIDS or sexually transmitted infections in Colombia was 4.1 per million,<sup>39</sup> of whom 3.4 per million were women and 36.9 per million were men.<sup>40</sup>

■ Of the total cases of AIDS reported in 1992, 2,855 were men, while 212 were women.<sup>41</sup>

■ In 1993, 2,855 cases of HIV and 3,304 cases of AIDS were reported.<sup>42</sup>

#### ENDNOTES

1. PROFAMILIA, ENCUESTA NACIONAL DE DEMOGRAFÍA Y SALUD [NATIONAL DEMOGRAPHIC AND HEALTH SURVEY], at 6 (1995).

2. *Id.*, at xxvii.

3. *Id.*, at 7.

4. *Id.*

5. UNITED NATIONS POPULATION FUND, PROGRAMME REVIEW AND STRATEGY DEVELOPMENT REPORT-COLOMBIA, UN Doc. E/850/1993, at vi (1993).

6. THE WORLD BANK, WORLD DEVELOPMENT REPORT 1996: FROM PLAN TO MARKET, at 188 (1996).

7. *Id.*

8. *Id.*

9. *Id.*, at 208.

10. PRESIDENTIAL COUNCIL FOR SOCIAL POLICY (PNR), INFORME NACIONAL DE COLOMBIA [NATIONAL REPORT FROM COLOMBIA], PREPARED FOR THE FOURTH INTERNATIONAL CONFERENCE ON WOMEN, at 14 (1995).

11. *Id.*, at 30.

12. NATIONAL COUNCIL OF ECONOMIC AND SOCIAL POLICY-CONPES, EL SAÍTO SOCIAL, POLÍTICA DE PARTICIPACIÓN Y EQUIDAD PARA LA MUJER [THE SOCIAL GAP, PARTICIPATION AND EQUITY POLICY FOR WOMEN], at 2 (1994).

13. *Id.*

14. *Id.*, at 37.

15. *Presentación conjunto de los informes periódicos segundo y tercero, revisados, de los Estados-partes, Colombia* [Combined presentation of the revised versions of the second and third periodic reports of States Parties, Colombia], UN Doc. CEDAW/C/COL/2-3/Rev 1; *supra* note 9 at 39.

16. WORLD DEVELOPMENT REPORT, *supra* note 6, at 188.

17. *Combined presentation*, *supra* note 13, at 5.

18. NATIONAL REPORT FROM COLOMBIA, *supra* note 9 at 23. In 1964, the illiteracy rate was 28.9%. *Id.*

19. DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at xxxi.

20. *Id.*

21. *Id.*

22. *Id.*, at xxvii.

23. *Id.*, at xxxiii.

24. *Id.*

25. *Id.*, at 47.

26. *Id.*, at 40.

27. PRESIDENCY OF THE REPUBLIC OF COLOMBIA, COLOMBIA PAGA SU DEUDA A LAS MUJERES. INFORME NACIONAL DEL GOBIERNO DE COLOMBIA. CUARTA CONFERENCIA

MUNDIAL SOBRE LA MUJER [COLOMBIA PAYS ITS DEBT TO WOMEN. NATIONAL REPORT OF THE COLOMBIAN GOVERNMENT. FOURTH INTERNATIONAL CONFERENCE ON WOMEN], at 24 (1995).

28. WORLD DEVELOPMENT REPORT, *supra* note 6, at 198.

29. *Id.*

30. *Id.*

31. DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at xxxiii.

32. *Id.*

33. PARTICIPATION AND EQUALITY POLICY, *supra* note 14, at 3.

34. *Id.*

35. *Id.*

36. *Id.*

37. *Combined presentation*, *supra* note 13, at 46.

38. *Id.*

39. NATIONAL REPORT FROM COLOMBIA, *supra* note 9 at 30.

40. *Id.*

41. *Combined presentation*, *supra* note 13, at 47.

42. *Id.*

Colombia is located in the northwest of the South American continent and has access to both the Atlantic and the Pacific oceans. The country's topography is highly diverse, consisting of coastal regions, island territories, the eastern plains, a section of the Andes Mountains and part of the Amazon jungle.<sup>1</sup> Approximately 58% of the population is mestizo, 20% is Caucasian and 14% is mulatto.<sup>2</sup> Although Spanish is the official language, the languages and dialects of the different ethnic groups are also official languages of their regions.<sup>3</sup> In the fifteenth century, Spain colonized what is now Colombia, and governed the region for nearly 300 years.<sup>4</sup> Colombia declared its independence from Spain on July 20, 1819.<sup>5</sup>

Colombia is one of the few countries in Latin America that has not been regularly governed by military dictatorships. However, the country's political history is marked by a legacy of violence, exacerbated by guerrilla warfare and drug trafficking.<sup>6</sup> Violence especially affects women.<sup>7</sup> The majority of victims of forced migrations caused by rural violence are female heads of household.<sup>8</sup>

In 1990, Colombia adopted an economic reform policy intended to accelerate the opening of the economy and to guarantee a self-sustaining process of economic growth.<sup>9</sup> The Colombian government is attempting to facilitate industrial modernization and to create new mechanisms to promote private investment by opening the economy and promoting competition. The Constitution of Colombia was reformed in 1991.

## I. Setting the Stage: the Legal and Political Framework

The legal and political systems constitute the framework for exercising rights and designing policies that affect women's reproductive lives. In order to understand the process through which laws are made, interpreted, modified and implemented, as well as the process through which reproductive health and population policies are adopted, it is necessary to comprehend the basis and structure of this framework.

### A. THE STRUCTURE OF NATIONAL GOVERNMENT

The current Constitution of Colombia (the "Constitution") establishes that "Colombia is a 'social democracy' based on the rule of law. It is organized as a unitary republic, is decentralized into autonomous territorial entities, and is democratic, participatory, and pluralist."<sup>10</sup> The fundamental objectives of the state are: "to serve the community, to promote the general welfare, to guarantee that the principles, rights and duties set forth in the Constitution are upheld, to facilitate the participation of all

citizens in the decisions that affect their lives and the economic, political, administrative and cultural life of the nation."<sup>11</sup> Likewise, the state must guarantee peaceful coexistence and a just legal order.<sup>12</sup>

Governmental authorities have a constitutional mandate to protect the lives, honor, properties, beliefs, and other rights of all people, as well as to ensure the fulfillment of the social obligations of the state and of private citizens.<sup>13</sup> The people exercise sovereignty directly or through their representatives via certain mechanisms of democratic participation, specifically, the right to vote, the plebiscite, the referendum, the open forum, the legislative initiative, and impeachment.<sup>14</sup>

The Constitution recognizes and protects the ethnic and cultural diversity of Colombia.<sup>15</sup> To carry out this constitutional mandate, the government has developed policies and enacted legislation aimed at protecting and fostering the recognition of Afro-Colombian and indigenous communities.<sup>16</sup>

The Colombian government is divided into three branches: the executive branch, the legislative branch, and the judicial branch. Also part of the government are other "controlling authorities" that oversee the proper functioning of the government and electoral bodies that oversee elections.<sup>17</sup>

### *Executive Branch*

The president of the republic is the head of the executive branch and is charged with approving, promulgating, obeying, and enforcing the law.<sup>18</sup> The president is the head of state, the head of the government, and the highest administrative authority.<sup>19</sup> The president exercises regulatory power by enacting regulations, decrees, and ordinances to implement laws. The president also oversees Colombia's foreign relations and is charged with maintaining peace and order throughout the country.<sup>20</sup> State and municipal governments are part of the executive branch.<sup>21</sup> The president is elected for a period of four years by direct universal suffrage.<sup>22</sup> The president appoints ministers and heads of administrative departments, who direct state policy within their specific sectors or ministries.<sup>23</sup> The Constitution regulates relations between the executive, legislative, and judicial branches.<sup>24</sup> The Congress may authorize the president to enact decrees that have the force of law for a period of up to six months.<sup>25</sup>

### *Legislative Branch*

The legislative branch consists of the Congress of the Republic, whose principal functions are: "to amend the Constitution, to enact laws, and to exercise political control over the government and public administration."<sup>26</sup> Congress consists of two chambers, the Senate and the House of Representatives.<sup>27</sup> The Senate has one hundred members elected nationally, and two additional members elected from special electoral districts

formed by the country's indigenous communities.<sup>28</sup> The House of Representatives is elected from territorial and special electoral districts.<sup>29</sup> Senators and members of the House of Representatives are elected for a four-year period and directly represent the people.<sup>30</sup>

Congress interprets, amends, and repeals laws and codes within all legislative areas, and also approves the government's development and public investment plans.<sup>31</sup> Members of Congress, the executive branch, and some entities of the judicial branch and the Attorney General's Office may introduce legislative proposals.<sup>32</sup> Citizens also have the right to propose legislation or to propose constitutional amendments.<sup>33</sup> Once both chambers have passed legislation,<sup>34</sup> it must then be approved by the president.<sup>35</sup>

### **Judicial Branch**

The Colombian judicial system is derived from Roman law.<sup>36</sup> In issuing their decisions, judges rely principally on statutory law.<sup>37</sup> The judicial branch consists of the Constitutional Court,<sup>38</sup> the Supreme Court of Justice,<sup>39</sup> the Council of State,<sup>40</sup> the Superior Council of the Judiciary,<sup>41</sup> the Attorney General's Office,<sup>42</sup> and the courts.<sup>43</sup> The Constitutional Court decides cases initiated by citizens that challenge the constitutionality of laws and decree-laws. It also decides the constitutionality of international treaties and related implementing legislation.<sup>44</sup> The Supreme Court is the highest court of civil and penal law. One of its most important functions is as a final court of cassation and appeal.<sup>45</sup> The Council of State is the highest court in the administrative law system; its jurisdiction consists of the review of administrative decisions. Some of the Council of State's most important functions are to consider challenges to the constitutionality of decrees promulgated by the government that do not fall under the Constitutional Court's jurisdiction and to act as the highest consultative body to the government in administrative matters.<sup>46</sup> The Superior Council of the Judiciary fulfills essentially administrative functions within the judicial branch. It is charged with overseeing the career advancement of judicial branch officials; proposing candidates to be appointed as judicial officials and remitting these proposals to the corresponding entities; evaluating and sanctioning cases of unprofessional conduct on the part of judicial branch officials and lawyers; and deciding cases of conflict of jurisdiction that occur between the different courts.<sup>47</sup>

The attorney general is responsible for investigating crimes and bringing charges against those accused of committing a crime; assuring the appearance of the defendant before the court; and protecting witnesses and victims during the legal process.<sup>48</sup> The Constitution also authorizes the creation of justices of the peace to promote the equitable resolution of

conflicts.<sup>49</sup> Likewise, the authorities of indigenous communities can administer justice within their territorial jurisdiction according to their tradition and customary law.<sup>50</sup>

The "controlling authorities" are autonomous government entities and are independent from the other branches of government.<sup>51</sup> The Department of the Public Prosecutor and the National Comptroller's Office are the controlling authorities in Colombia.<sup>52</sup> The Department of the Public Prosecutor is composed of the following entities: the prosecutor general, the ombudsman, the assistant prosecutors and agents of the Department of the Public Prosecutor who appear before the judicial authorities, and the municipal prosecutors.<sup>53</sup> The main function of the Department of the Public Prosecutor is to protect and enforce human rights, to safeguard the public interest, to oversee the official conduct of public officials, and to intervene in actions before judicial or administrative bodies in defense of the law, the national patrimony, or human rights.<sup>54</sup> The ombudsman promotes human rights, makes recommendations to the authorities and to private individuals in cases of human rights violations, assists the prosecutor general in preparing a report on the human rights situation in Colombia, and files petitions before the Constitutional Court regarding all laws directly involving human rights.<sup>55</sup>

### **B. STRUCTURE OF TERRITORIAL DIVISIONS**

Colombia is divided into 32 departments, which are subdivided into districts, municipalities, and indigenous territories.<sup>56</sup> These territorial entities are autonomous — they develop and manage their own interests,<sup>57</sup> and their officials are elected by popular vote.<sup>58</sup> They also enjoy autonomy in the administration of their finances and they receive a share of the national budget.<sup>59</sup> A popularly elected administrative agency, known as a departmental assembly,<sup>60</sup> exists in each department to direct the operations and services provided by the departmental government.<sup>61</sup> The governor, who is popularly elected, is the head of departmental administration.<sup>62</sup> The governor is charged with upholding national and departmental laws, coordinating the department's administrative activities, and promoting the development of the department.<sup>63</sup>

Municipalities are the basic entity of the government's political and administrative division.<sup>64</sup> The municipality provides certain public services as proscribed by law, builds public works projects necessary to foster local development, and promotes community participation and the social and cultural development of the community.<sup>65</sup> Each municipality has a popularly elected administrative body, known as the City Council, which is charged with regulating the municipality's operations and the services provided by the municipal government.<sup>66</sup> The mayor, who is popularly elected, is the head of the



municipal government.<sup>67</sup> The mayor must uphold the Constitution and the national laws at the municipal level, ensure peace and order, and oversee the services provided by the municipal government.<sup>68</sup>

### C. SOURCES OF LAW

#### *Domestic sources of law*

The laws that affect the legal status of women, including their rights, derive from a variety of sources. In the Colombian legal system, the Constitution prevails over all other sources of law.<sup>69</sup> In the case of incompatibility between the Constitution and a law or other legal norm, the Constitution prevails.<sup>70</sup> Legislation is the principal source of law, and auxiliary sources include equity, “jurisprudence” (principles established by several prior court decisions on the same legal issue), the general principles of law, and the established opinion of well known and respected scholars.<sup>71</sup> No law can be retroactively applied except when it favors a defendant.<sup>72</sup>

#### *International sources of law*

Several international human rights treaties recognize and promote specific reproductive rights. Governments that adhere to such treaties are legally obligated to protect and promote these rights.

International treaties that have been ratified by Congress become part of national legislation in Colombia.<sup>73</sup> If a treaty so provides, the president may provisionally implement treaties dealing with economic and trade issues with international organizations.<sup>74</sup> Once these treaties become effective, they must be sent to Congress for ratification. If Congress does not ratify the treaty, its implementation must be suspended.<sup>75</sup> Once Congress ratifies a treaty, the government sends it to the Constitutional Court for approval. If approved, the government can exchange diplomatic notes confirming ratification; if the Constitutional Court does not approve, the treaty cannot be ratified.<sup>76</sup> The Constitution specifically provides that international treaties and conventions dealing with human rights that have been ratified by Congress prevail over all other laws.<sup>77</sup> It also states that the rights protected by the Constitution must be interpreted in accordance with the human rights treaties ratified by the Colombian government.<sup>78</sup>

Colombia is a member-state of the United Nations and of the Organization of American States. As such, it is a party to most international treaties dealing with the protection of human rights,<sup>79</sup> including those that protect the rights of women in the universal and Inter-American systems. Thus Colombia is a party to: the Convention on the Elimination of All Forms of Discrimination Against Women;<sup>80</sup> the Convention on the Political Rights of Women;<sup>81</sup> and the

Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women.<sup>82</sup>

## II. Examining Reproductive Health and Rights

In Colombia, issues related to the reproductive health of women fall within the scope of the country’s national health policies. To understand reproductive rights in Colombia, it is therefore necessary to analyze the nation’s laws as well as its health programs.

### A. HEALTH LAWS AND POLICIES

#### *Objectives of the health policy*

The situation of women’s health in Colombia has improved substantially over the past decades.<sup>83</sup> Some of the factors that have produced these changes are improved living standards, increased educational levels, greater intervals between births, and improved health-care-service delivery.<sup>84</sup> For example, the life expectancy at birth for women increased from 52 years in the 1950s to 72 years in the 1990s.<sup>85</sup>

As of 1991, the Colombian Constitution recognized health as a public service and mandated that the government guarantee all individuals equal access to health services.<sup>86</sup> The government is also required to manage, direct, and regulate the provision of health services in accordance with the principles of efficiency, universality, and solidarity.<sup>87</sup> Health service delivery is decentralized by levels of treatment provided by national and local public and private health care entities. It also includes community involvement.<sup>88</sup>

The Ministry of Health directs the national health system. It formulates policies, plans, programs, and projects that define the activities and allocate the resources of the health system. It is also responsible for formulating scientific and administrative regulations.<sup>89</sup>

In Colombia, the government is required to provide social security (health insurance) to all its citizens “directed, coordinated and supervised by the government.”<sup>90</sup> Based on this constitutional mandate, Congress passed Law No. 100 in 1993, which delineates the characteristics of the national social security system. It includes provisions that guarantee that by the year 2000, health care will be provided for all citizens, even those who cannot pay for it.<sup>91</sup> The social security system provides for health services, including disability benefits and retirement benefits. There are two systems affiliated with the social security system: the contributory system, to which salaried workers have access, and the subsidized system, which provides coverage to the poorest segment of the population.<sup>92</sup> Both public and private entities provide health care services.<sup>93</sup>

Government or private pension funds cover disability and retirement benefits, in accordance with the option chosen by the beneficiary.<sup>94</sup>

The social security system provides services through these programs: the Compulsory Health Plan (the "Compulsory Plan"),<sup>95</sup> the Primary Health Care Plan (the "Primary Plan"),<sup>96</sup> and the Compulsory Health Plan of the Subsidized Regime (the "Subsidized Plan").<sup>97</sup> The Compulsory Plan provides health services to all families, particularly maternal health care.<sup>98</sup> In addition to these services, pregnant women and mothers of children under one year covered by the Compulsory Plan also receive a food subsidy.<sup>99</sup> The Compulsory Plan also mandates the creation of educational programs for women dealing with comprehensive health and sex education, with special emphasis on women in rural areas and adolescents.<sup>100</sup> The Subsidized Plan provides health services for those individuals who cannot afford to pay for them and who need to be incorporated into the Compulsory Plan.<sup>101</sup> The Ministry of Health created the Primary Plan to complement the coverage provided by the Compulsory Plan.<sup>102</sup> It also provides coverage for family planning services and the treatment of transmissible diseases like AIDS.<sup>103</sup> Primary health care provision under this program is free of charge and mandatory.<sup>104</sup> The Subsidized Plan includes health care services for those who cannot pay for them and yet must be covered by the Compulsory Plan. It also includes programs promoting health for women of childbearing age through family planning services, reproductive health counseling, Pap smear testing, breast examinations, and programs to treat sexually transmissible infections ("STIs").<sup>105</sup>

The Maternal and Child Health Care Plan was created as part of the subsidized social security system to incorporate the most vulnerable groups of the population into the subsidized regime. The program, which treats pregnant women and children under the age of one year, includes, among other services, treatment during pregnancy, childbirth, and the postnatal period. It also includes family planning services, reproductive health counseling, and health care for children in their first year.<sup>106</sup>

#### **Infrastructure of health services**

According to 1996 statistics, 97% of the Colombian population has access to primary health care.<sup>107</sup> The coverage provided by the public health system was only 39% in 1992.<sup>108</sup> Between 1990 and 1995, 80% of pregnant women received prenatal care coverage from either public or mixed (private and public) health care establishments,<sup>109</sup> while 3% were attended by a nurse and 17% received no prenatal attention.<sup>110</sup> Seventy-seven percent of births were attended by medical personnel in 1995.<sup>111</sup> According to another source, 77% of births were

attended by a physician, 10% by a nurse, 8.5% by a midwife, and 6.6% were not attended by any health care provider.<sup>112</sup> Despite the fact that the levels of coverage and of human resources in health care are relatively high, the quality of services remains poor. Moreover, resources continue to be concentrated in certain areas of the country, which means that a significant portion of the low-income population lacks access to these services.<sup>113</sup>

#### **Cost of health services**

In Colombia, public expenditures on health care have increased during the past few decades.<sup>114</sup> In 1996, health expenditures were 2.41% of the Gross Domestic Product (GDP), the highest percentage in the last sixteen years.<sup>115</sup>

In 1993, the law creating the new social security system<sup>116</sup> established sliding scales for subsidies, methods of payment by installments, health services packages for women, and other subsidized forms of payment, with preference given to primary health care services.<sup>117</sup> The paying affiliates of the social security system finance the services they receive through their health insurance fees.<sup>118</sup> The affiliates of the subsidized regime receive special treatment, as part of the strategy to offer the most disadvantaged sectors of the population social security system health coverage. In this way, Law No. 100 of 1993 provides that under the subsidized regime, the provision of services of the Primary Plan<sup>119</sup> will be mandatory, free of charge, and covered by the state.<sup>120</sup> The government will only partially subsidize the primary health care services not included in the Primary Plan. Those on the Subsidized Plan pay only 50% of the amount paid for these services in the contributory system. Higher level services will be incorporated gradually, with the support of the fees paid by contributors from 1993 on.<sup>121</sup>

#### **Regulation of health care providers**

The Code of Medical Ethics regulates the medical profession.<sup>122</sup> Specifically, this code establishes the principles governing the medical profession and the professional conduct of health care providers in Colombia.<sup>123</sup> It also regulates physician patient relations;<sup>124</sup> medical prescriptions, clinical histories, and patient confidentiality;<sup>125</sup> as well as relationships between physicians and medical institutions, society, and the government.<sup>126</sup>

In addition, the Code of Medical Ethics regulates supervising entities and the disciplinary regime applicable to the medical profession.<sup>127</sup> It recognizes the Medical Federation as a consultative body of the national government, and it was responsible for the creation of the National Tribunal of Medical Ethics.<sup>128</sup> The latter is empowered to deal with the ethical and professional complaints brought against individual medical providers.<sup>129</sup> These disciplinary processes may result in imposing of the penalties provided by the Code of Ethics.<sup>130</sup>

These penalties are private warnings, reprimands (including [i] written and private reprimands, [ii] written and public reprimands; [iii] verbal and public reprimands), suspension from the practice of medicine for up to six months; and suspension from the practice of medicine for up to five years.<sup>131</sup>

The Penal Code also establishes penalties for the following criminal acts committed by health care providers in the exercise of their profession: manslaughter,<sup>132</sup> injuries caused by negligence,<sup>133</sup> the performance of an abortion,<sup>134</sup> and the performance of an abortion without the patient's prior consent.<sup>135</sup>

#### ***Patients' rights***

The Code of Medical Ethics establishes that the physician is obligated to maintain confidentiality regarding the patient's medical information and history,<sup>136</sup> as well as to obtain the patient's consent before administering any treatment or performing any procedure.<sup>137</sup> In addition, the code regulates the rights of patients in their relationship with the physician.<sup>138</sup> Furthermore, patients must give their informed and voluntary consent in advance of the performance of irreversible contraceptive procedures.<sup>139</sup> This regulation also mandates that any establishment that seeks to provide fertility regulation services is part of the medical profession and must therefore abide by the ethical norms established by that profession.<sup>140</sup>

Additional regulations establish the means through which members of the local community can participate in health service delivery. Such regulations seek to assist service users in the exercise of their rights and in their participation in the management of existing health plans and programs.<sup>141</sup> They mandate that healthcare establishments provide service-users with regular information and care.<sup>142</sup> They also propose the creation of associations of service users.<sup>143</sup> These associations report on the quality of the services provided, respond to the complaints of service users, and supervise and control the performance of health care establishments.<sup>144</sup> The law also provides for community control of health care provision through oversight committees,<sup>145</sup> comprising citizens and institutions at the community level, to oversee health service delivery.<sup>146</sup>

Health care institutions must also create hospital ethics committees.<sup>147</sup> These committees must develop prevention programs for individual and family health care; develop programs intended to build a culture of public service;<sup>148</sup> promote respect and awareness of health rights among service users;<sup>149</sup> receive and channel the observations of the oversight committees on the quality of and access to health services;<sup>150</sup> and channel concerns and complaints about health services to the proper authorities.<sup>151</sup> Patients are protected against medical negligence by criminal law, which establishes sanctions for negligent injuries caused by a physician. In some cases, the physician may be suspended from the practice of medicine.<sup>152</sup>

## B. POPULATION AND FAMILY PLANNING

### ***Population laws and policies***

Colombian law recognizes the right of couples and/or individuals to make informed decisions about the number and timing of children.<sup>153</sup> The Ministry of Health and the Ministry of the Environment have the joint responsibility of formulating the National Population Policy ("NPP"),<sup>154</sup> promoting and coordinating programs aimed at population control,<sup>155</sup> and evaluating national demographic statistics.<sup>156</sup> The government prepared a policy guideline on sustainable population growth as part of its legal mandate.<sup>157</sup> This document serves to highlight the most important and strategic aspects of the interrelationship between population growth and the development process. In 1995, the government issued a diagnostic evaluation to serve as a basis for the formulation of the NPP.<sup>158</sup>

Given the rapid decrease in the birth rate and in population growth in Colombia, the government has never adopted a population policy per se.<sup>159</sup> Various social policies have, however, addressed population issues.<sup>160</sup> The National Planning Office<sup>161</sup> has played a significant role in incorporating population issues into the Colombian government's planning and development strategies.<sup>162</sup>

### ***Reproductive health and family planning laws and policies***

Over the past decade, the Colombian government has sought to promote the recognition of women as the principal beneficiaries of development plans and policies. This is part of an effort to go beyond previous programs, which were limited to promoting the participation of women primarily as a means to improving the living conditions of the family.<sup>163</sup>

In 1992, the Ministry of Health launched its policy initiative Health for Women, Women for Health,<sup>164</sup> which focuses on the role of women as central decision makers and the primary providers of health care.<sup>165</sup> The policy's objectives include improving women's quality of life; decreasing inequalities between men's and women's access to health services; and strengthening the role of women in the health sector by promoting their participation in decision making.<sup>166</sup> The program seeks to foster autonomy and self-care for women in terms of their bodies, their sexuality, and their overall health.<sup>167</sup> Within the context of its National Development Plan for the period from 1994 to 1998, known as The Social Leap Forward,<sup>168</sup> the current government recently enacted the Participation and Equality Policy for Women.<sup>169</sup> The objectives of the Participation and Equality Policy for Women are to foster respect for the issue of the treatment of women's health issues; to promote comprehensive treatment of women's health through programs that respond to their specific needs; and to promote a greater role for women by encouraging their participation in the



design, implementation, and evaluation of health policies.<sup>170</sup> In this context, the Ministry of Health is committed to carrying out a series of reforms in the institutional,<sup>171</sup> legislative,<sup>172</sup> and cultural<sup>173</sup> arenas. The specific commitments of the Ministry of Health are to “strengthen, coordinate and supervise those policies that promote the comprehensive health and human development of women and girls; develop a program of prevention, detection and treatment of preventable STIs; and implement promotional and educational programs to foster greater male participation in issues of sexual and reproductive health.”<sup>174</sup>

As a component of the Participation and Equality Policy for Women, the government established the Comprehensive Health Program for Women based on the earlier experience of the policy initiative, Health for Women, Women for Health.<sup>175</sup> One of the primary goals of the Comprehensive Health Program for Women is to link low-income women to the subsidized health system in an equitable manner. It also aims to encourage self-employed women workers and domestic employees to become contributors to the social security system.<sup>176</sup> Another goal of the Comprehensive Health Program for Women is to encourage contributors to take out family coverage within the social security system for their spouses, permanent partners, and children.<sup>177</sup> It also provides that the government must take the necessary steps to reduce unwanted pregnancies, abortions, maternal and perinatal mortality, morbidity and mortality due to breast and cervical cancer, and the transmission of STIs and HIV/AIDS.<sup>178</sup> The National Office for Women's Equality coordinates and supervises these policies and programs. The office also plans, coordinates, and oversees the general policy on women in Colombia.<sup>179</sup>

In terms of population and family planning policies, one of the main objectives of the Ministry of Health is to increase the prevalence of contraceptive methods and family planning counseling. Its specific goal in this regard is to increase the impact of state health care providers on the rate of total contraceptive prevalence: from 30% in 1994 to 60% by the year 2000. This would bring the total level of public and private impact on the rate of contraceptive prevalence to between 70 and 72% by the year 2000.<sup>180</sup>

#### **Government delivery of family planning services**

The Colombian government has provided family planning services for many years, and family planning is incorporated in its health policies.<sup>181</sup> In 1993, the government provided only 20% of all available family planning services.<sup>182</sup> The Ministry of Health provides 53% of IUDs, 25.2% of contraceptive pills, 25.2% of sterilizations, and 7% of condoms.<sup>183</sup> These services are offered in hospitals, health centers, and a network of health clinics in rural and urban areas.<sup>184</sup> Public family planning ser-

vices provided in accordance with the Comprehensive Health Program for Women seek to make contraceptive methods available to both the male and female populations. Among its other goals are abortion prevention and management and the adjustment of fees for reproductive health care to the socioeconomic conditions of the service-users.<sup>185</sup> The policy reforms promoted by the Comprehensive Health Program for Women emphasize the legal obligation of service providers to inform service-users of their family planning options as part of the counseling process.<sup>186</sup> Family planning services are a component of the primary health care program,<sup>187</sup> and every health center and hospital must provide family planning services to low-income individuals.<sup>188</sup> In practice, the private sector, through organizations such as Profamilia, provides most family planning services.<sup>189</sup>

In addition, the subsidized regime of the social security system establishes that women of childbearing age have the right to receive family planning services, reproductive health counseling, Pap smear testing, and breast examinations.<sup>190</sup> The subsidized regime's Maternal and Infant Health Care Plan includes prenatal, birth, and postnatal care as well as family planning services.<sup>191</sup> It also mandates the creation of a reproductive health counseling center to implement the provision of these services.<sup>192</sup>

### C. CONTRACEPTION

#### **Prevalence of contraceptives**

Nearly all Colombian women are knowledgeable about modern contraceptive methods.<sup>193</sup> In 1995, the fertility rate was 2.6 children per woman.<sup>194</sup> Sixty-nine percent of women of childbearing age have used family planning methods at least once in their lives.<sup>195</sup> The most widely known methods are: the birth control pill, the condom, female sterilization, and the intrauterine device (“IUD”).<sup>196</sup> Sterilization is the most commonly used method among women in a stable relationship;<sup>197</sup> the pill and the IUD are also common methods, with average uses of 12% and 11%, respectively.<sup>198</sup> In 1995, 72% of women living with a partner stated they used some contraceptive method, a significant increase from previous estimates.<sup>199</sup> The contraceptive prevalence rate is greater among women with higher educational levels who reside in urban areas.<sup>200</sup> In Colombia, the private sector plays an important role in supplying contraceptive methods; nearly three-fourths of all women who use family planning services obtain them from private sector sources.<sup>201</sup> Pharmacies are the principal supply source for the pill, injections, condoms, and barrier methods.<sup>202</sup>

### ***Legal status of contraception***

The only legal prohibition against contraceptive methods in Colombian law is the prohibition against abortion as a method of family planning.<sup>203</sup> The National Food and Drug Administration (“NFDA”) is charged with ensuring quality control over pharmaceutical products.<sup>204</sup> This entity implements policies formulated by the Ministry of Health that deal with the safety and quality control of drugs and contraceptive devices such as condoms and diaphragms.<sup>205</sup> Generally, the NFDA is charged with proposing, developing, disseminating, and updating scientific norms and standards that are applicable to inspection, safety, and control procedures.<sup>206</sup> It is also responsible for granting licenses and recording registrations for the operation of a health facility<sup>207</sup> of and for authorizing advertisements that promote specific pharmaceutical products.<sup>208</sup> The law that regulates the functions of the NFDA also outlines the conditions for the production, processing, bottling, sale, import, export, and marketing of these products, as well as the process of granting operating licenses for health product manufacturers.<sup>209</sup>

### ***Regulation of information on contraception***

Dissemination of information about condoms and diaphragms, whether it be for scientific or advertising purposes, is subject to the conditions established for obtaining a health license, as well as to other relevant technical regulations and laws. No express authorization is required, however, from the Ministry of Health or the NFDA before distributing such information.<sup>210</sup> Contraceptive methods considered drugs may only be advertised or promoted in scientific or technical publications directed at medical professionals.<sup>211</sup>

### ***Sterilization***

In Colombia, the Ministry of Health regulates surgical sterilization.<sup>212</sup> The ministry’s regulations mandate that those who elect irreversible methods of contraception must provide clearly documented voluntary and informed consent.<sup>213</sup> The individual may consent only after a health professional gives a full explanation of the desired surgical procedure. This explanation must include the procedure’s possible side-effects, the risks and benefits of the procedure, the availability of alternative contraceptive methods, the precise purpose of the operation and its irreversibility.<sup>214</sup> The median age of those seeking sterilization is 30.6.<sup>215</sup>

## **D. ABORTION**

### ***Legal status of abortion***

Abortion is illegal in Colombia and is categorized by the Penal Code as a crime against life and personal integrity.<sup>216</sup> The Constitution recognizes the right to life as an inviolable fundamental

right, but it does not specify at what point in the development of the fetus this right becomes applicable.<sup>217</sup> However, the Constitutional Court determined in a recent case before it that human life is protected from the moment of conception.<sup>218</sup>

Criminal law penalizes a woman who induces her own abortion as well as the person who performs the abortion with the woman’s consent.<sup>219</sup> It also criminalizes the behavior of any person who performs an abortion without the woman’s consent or on a woman younger than 14.<sup>220</sup> The penalty is less severe in cases of abortion when the pregnancy was the result of rape, incest, or nonconsensual artificial insemination.<sup>221</sup> The law also penalizes any person who causes injuries to a woman resulting in a miscarriage.<sup>222</sup>

Despite the illegality of abortion, there are approximately 450,000 induced abortions in Colombia each year.<sup>223</sup> In addition, statistics show that complications resulting from the conditions under which illegal abortions are performed was the second-leading cause of maternal mortality between 1980 and 1990.<sup>224</sup>

### ***Penalties***

A woman who induces her own abortion or who consents to its performance by another person is liable to imprisonment for one to three years.<sup>225</sup> The same penalty applies to any person who performs an abortion with the woman’s consent.<sup>226</sup> Any person who performs an abortion without the woman’s consent or on a minor under 14 years of age is liable for three to ten years of imprisonment.<sup>227</sup> A woman whose pregnancy was the result of rape, incest, or nonconsensual artificial insemination and who induces her own abortion is liable to imprisonment for four months to one year.<sup>228</sup> The same penalty is applicable to any person who performs an abortion on a woman who became pregnant under these circumstances.<sup>229</sup>

## **E. HIV/AIDS AND SEXUALLY TRANSMISSIBLE INFECTIONS (STIs)**

It is essential to examine the issue of HIV/AIDS within the framework of reproductive rights insofar as the two areas are interrelated from both medical and public health standpoints. Furthermore, a comprehensive evaluation of laws and policies affecting reproductive health in Colombia must examine all the dimensions and implications of HIV/AIDS and STIs. As of 1994, there were 85 cases of HIV/AIDS for every one million inhabitants in Colombia.<sup>230</sup>

### ***Laws on HIV/AIDS and STIs***

The laws presently governing official HIV/AIDS<sup>231</sup> policies regulate health establishments, preventive treatments, research, and the rights and duties of persons infected with HIV/AIDS.<sup>232</sup> The law mandates that health establishments promote and implement activities aimed at providing public

health care personnel with information, training, and education to keep them abreast of scientific and technological advances, thus ensuring the proper treatment of HIV/AIDS.<sup>233</sup> The law also provides that these activities be directed at prevention as the most important means of controlling HIV infection.<sup>234</sup> The Ministry of Health is responsible for promoting HIV/AIDS research.<sup>235</sup> When such research involves human subjects, particularly AIDS patients, it must be consistent with the provisions of the Helsinki Declaration of the International Medical Association.<sup>236</sup> Colombian law also requires all government institutions, organizations, departments, areas, and ministries, especially the ministries of Communications, Health, and Education, to promote educational campaigns related to HIV/AIDS.<sup>237</sup>

With respect to the rights of HIV/AIDS victims, the law provides that public and private health establishments must provide comprehensive treatment to such persons as well as to any person at risk of contracting HIV/AIDS.<sup>238</sup> This treatment must be provided with respect for the dignity of the patient, without any discrimination and in accordance with the technical and administrative regulations and the standards of epidemiological control issued by the Ministry of Health.<sup>239</sup> The law also states that criminal charges may be brought against a person who, after having been informed that he or she is infected with HIV, deliberately engages in practices that might expose other persons to infection, or donates blood, semen, organs, or other body parts, for the crime of “propagating an epidemic” or for violating health regulations as established in the Penal Code.<sup>240</sup>

Employees are not required to inform their employers that they are HIV-positive.<sup>241</sup> Moreover, prisoners cannot be forced to have an HIV test except when such a test will serve as probative evidence in a criminal trial or by order of the competent health authorities.<sup>242</sup>

#### ***Policies on prevention and treatment of HIV/AIDS and STIs***

In 1993, Colombia issued an interministerial policy on HIV/AIDS control and prevention based on strategies of health promotion, HIV/AIDS prevention, epidemiological monitoring, and the reduction of the social and economic impact of HIV/AIDS.<sup>243</sup>

The “Inter-ministerial Medium-Term Plan to Control and Prevent STIs and HIV/AIDS” (the “STI and HIV/AIDS Plan”) is a government plan for the structuring and implementation of programs within the different ministries.<sup>244</sup> The National AIDS Council<sup>245</sup> and the National Executive Committee on the Control and Prevention of HIV/AIDS<sup>246</sup> are the principal government bodies charged with implementing the STIs and HIV/AIDS Plan.

The STIs and HIV/AIDS Plan was created pursuant to the constitutional mandate establishing the government’s duty to provide comprehensive health care to the population, to preserve the health of each individual and of the population as a whole, and to strengthen the mechanisms of community participation and intervention.<sup>247</sup> The objective of the HIV/AIDS Plan is “to foster awareness among the individual, the family, and society at large regarding the different forms of transmission of HIV/AIDS and other sexually transmissible infections; to promote values, attitudes and conduct that will ensure the exercise of responsible sexual behavior; to strengthen and develop programs aimed at preventing and controlling HIV/AIDS and other STIs and reducing their social and economic impact.”<sup>248</sup> The activities developed under this plan must be coordinated among the various ministries and follow the applicable criteria and policy governing such coordination,<sup>249</sup> particularly those related to decentralization.<sup>250</sup> The activities also must seek to promote regional and local autonomy in the design, implementation, and evaluation of the plans, programs, and projects related to STIs and HIV/AIDS.<sup>251</sup> The plan emphasizes the following strategies: the promotion of sexual health; the prevention of transmission of infection through sexual contact, pregnancy, transfusions of blood and blood derivatives, and organ transplants or other invasive procedures. It also emphasizes the following: the prevention of transmission through syringes and needles, epidemiological control and research on STIs/HIV/AIDS, and the reduction of the social and economic impact of the illness through the monitoring and evaluation of its development.<sup>252</sup>

In keeping with the above strategies, the STI and HIV/AIDS Plan includes the following subprograms: sexual health promotion,<sup>253</sup> the provision of materials and infrastructure for regional blood banks and laboratories,<sup>254</sup> epidemiological control and research,<sup>255</sup> and the reduction of the economic impact of HIV/AIDS infection.<sup>256</sup>

The subprogram on sexual health promotion seeks to develop intervention strategies, such as regional and local programs designed to prevent STIs/HIV/AIDS. These are directed at specific groups of the population, including men and women of childbearing age, adolescents who attend school as well as those who do not, teachers, and health care personnel. These intervention strategies seek to improve the quality of information, educational, and training services.<sup>257</sup> The objective of the subprogram on the provision of materials and infrastructure for regional blood banks and laboratories is to improve the infrastructure of the regional referral laboratories and the blood banks in the departments’ capital cities. The six state laboratories that act as referral laboratories for the regional networks of epidemiological control have priority.<sup>258</sup> The

subprogram on epidemiological control and research seeks to strengthen, at the regional level, the notification process and the active identification of cases and to improve the flow of information about how the HIV virus behaves.<sup>259</sup> Finally, the subprogram on the economic impact of the disease aims to make the appropriate adjustments in those health services that respond to the HIV/AIDS epidemic, with special emphasis on the comprehensive care of HIV/AIDS victims. It also seeks to prioritize the needs of individuals from the poorest sectors of society, including those who receive benefits from the subsidized social security regime.<sup>260</sup>

### III. Understanding the Exercise Of Reproductive Rights:

#### *Women's legal status*

Women's health and reproductive rights cannot be fully evaluated without investigating women's legal and social status. Not only do laws relating to women's legal status reflect societal attitudes that affect reproductive rights, but such laws often have a direct impact on women's ability to exercise their reproductive rights. The legal context of family and couple relations, a woman's educational level, and access to economic resources and protection from the legal system determine women's ability to make choices about their reproductive health care needs and to exercise their right to obtain health care services. While the situation of Colombian women has improved significantly over the past 40 years,<sup>261</sup> they — especially rural women — continue to predominate in the poorest segment of the population.<sup>262</sup> Moreover, women have been the most affected by the internal displacements generated by political violence in Colombia.<sup>263</sup>

The constitutionally recognized principle of equality establishes equal rights, freedoms, and opportunities for all people, without discrimination based on sex, race, national or family origin, language, religion, or political or philosophical opinion.<sup>264</sup> The government is responsible for creating the conditions that make such equality realizable and effective. It must also adopt affirmative measures that favor groups that are excluded and discriminated against.<sup>265</sup> Similarly, the government must ensure equal participation in the political process and the public's right to exercise and control political power<sup>266</sup> and the elimination of all forms of discrimination against women.<sup>267</sup> Moreover, the government must protect and support women during pregnancy and after childbirth, as well as women heads of household.<sup>268</sup> The following section describes the laws and policies regulating those areas of women's lives that directly affect their health.

#### A. RIGHTS WITHIN MARRIAGE

##### *Marriage law*

The Constitution states that the basic unit of society is the family. The family is formed by the free decision of a man and a woman to marry or by the responsible decision of a man and a woman to establish a family.<sup>269</sup> The Constitution provides that family relations are based on the equal rights and duties of both spouses, who have the right to make voluntary and informed decisions regarding the number of children to have.<sup>270</sup> It also establishes that civil law regulates marriage, its forms, the minimum age and capacity required for marriage, the rights and duties of spouses, and laws regarding separation and the dissolution of marriages.<sup>271</sup> Colombian civil law gives legal effect to marriages performed by religious authorities,<sup>272</sup> and it recognizes the cessation of the legal rights and duties of such a religious marriage by divorce.<sup>273</sup>

Civil law<sup>274</sup> provides that marriage is a solemn contract in which a man and a woman unite with the objective of living together, procreating, and giving each other aid.<sup>275</sup> A marriage becomes legal when the two persons express their mutual and voluntary consent to marry before a competent authority.<sup>276</sup> The minimum age required for marriage is 18.<sup>277</sup> A woman may decide whether or not to adopt her husband's surname.<sup>278</sup> Spouses are obligated to be faithful and to aid and assist one another.<sup>279</sup>

Both spouses have the joint right to administer the household,<sup>280</sup> the authority to choose their place of residence, and the duty of contributing to the household economy according to their abilities.<sup>281</sup> The mother and father share parental authority<sup>282</sup> over their children,<sup>283</sup> and either parent can act as the legal representative of his or her children.<sup>284</sup>

Civil law establishes equality between spouses, and the full legal capacity of a married woman to manage her property and the couple's jointly owned property, to enter into contracts, and to access the courts.<sup>285</sup> In 1996, Congress passed a law that requires the signature of both spouses when transferring immovable property pertaining to the family domicile.<sup>286</sup>

Colombia prohibits polygamy. The Penal Code defines bigamy<sup>287</sup> as a crime against the family, punishable by one to four years' imprisonment.<sup>288</sup>

##### *Regulation of domestic partnerships*

Law No. 54 of 1990 formally recognized a form of legal union, *union de hecho* or domestic partnership, which it defines as a stable union between an unmarried man and an unmarried woman who form a permanent household together.<sup>289</sup> The law states that, for legal purposes, the man and woman who form part of a domestic partnership are "permanent companions."<sup>290</sup> A domestic partnership exists once the two



unmarried individuals have lived together for more than two years and as long as no impediment exists that would prevent either of the companions from marrying.<sup>291</sup> Any property or capital derived from work belongs jointly to both permanent companions.<sup>292</sup> The joint ownership of property by permanent companions may be dissolved for the following reasons: the death of one or both companions, marriage by one or both companions to a third person, a notarized document affirming the mutual consent of both companions to dissolve the union, or judicial decree.<sup>293</sup> Labor laws provide that a permanent companion has the right to the retirement or disability pension of the other as well as to death benefits payable upon an employee's death, provided the permanent companions lived together for at least two years or had one or more children together.<sup>294</sup> At the same time, the permanent companion of the employee or pensioner is also entitled to health care benefits from whichever entity is the provider, provided the permanent companions have lived together at least two years.<sup>295</sup> The liquidation of joint property in domestic partnership is governed by the Civil Code provisions applicable to marriage.<sup>296</sup> In 1992, the Constitutional Court recognized domestic work as a contribution to the joint property in domestic partnerships.<sup>297</sup>

#### ***Divorce and custody law***

Civil marriage in Colombia terminates upon the death of one of the spouses or by a judicial decree of divorce.<sup>298</sup> The legal rights and duties of a religious marriage also cease upon legal divorce.<sup>299</sup> Grounds for divorce include adultery; failure to fulfill one's duty as a spouse or as a mother or father; cruel treatment; the habitual and unjustified use of alcohol or drugs; a grave and incurable illness that endangers the physical or mental well-being of the other spouse; conduct on the part of a spouse that corrupts or perverts the other spouse or one of their children; physical separation of the spouses for more than two years; and the mutual consent of both spouses before an authorized judge.<sup>300</sup> The divorce decree determines alimony and child support, the former spouses' residence arrangements, custody of their children, and visitation rights.<sup>301</sup> Once the divorce has been granted, the marriage is dissolved as is any joint ownership of property which then must be liquidated according to the law.<sup>302</sup> Each spouse receives one-half of any remaining property.<sup>303</sup> The "innocent" spouse may repossess any gifts made during their marriage to the "guilty" spouse.<sup>304</sup>

A judge grants custody and parental authority over the children.<sup>305</sup> The judge also determines the amount of child support<sup>306</sup> and alimony.<sup>307</sup> The Penal Code establishes penalties for parents who fail to pay alimony or child support.<sup>308</sup> Colombian law includes several provisions regarding the

amount of child support and the type of civil legal procedures that must be followed to enforce this obligation.<sup>309</sup>

#### **B. ECONOMIC AND SOCIAL RIGHTS**

##### ***Property rights***

The Colombian Constitution establishes that all persons enjoy the same rights, which must be respected without any discrimination whatsoever.<sup>310</sup> It recognizes the right to private property for all.<sup>311</sup> Colombian civil law provides that a woman does not require her spouse's authorization or permission from a judge to administer and dispose of her personal belongings and of those jointly owned with her husband.<sup>312</sup> However, only 37.5% of women heads of household own property, in contrast with 53% of households headed by men.<sup>313</sup>

No legal restrictions or discriminatory provisions against women exist in Colombia's inheritance and succession laws.<sup>314</sup> In general, the grounds for disinheritance include serious injury against the testator and, in the case of a minor descendant, when he or she marries without the testator's consent.<sup>315</sup>

##### ***Labor rights***

Unemployment in Colombia is higher for women than for men.<sup>316</sup> While the average unemployment rate in 1992 was 8.4% for men, it was 13.5% for women.<sup>317</sup> Of all those who were unemployed in 1992, 58% were women, of which 84% were from low-income sectors.<sup>318</sup> Women also receive lower pay than men: women's pay was 32.7% less than men's pay in 1984, and 29.5% less in 1992.<sup>319</sup> Moreover, while women have increasingly joined the work force in Colombia — currently women are 43% of the economically active population — the formal sector employs a relatively small proportion of the female work force. Thus, women, particularly low-income women, tend to be more active in the informal sector than in the formal sector.<sup>320</sup> The Colombian Constitution provides that work is a right and a social duty that enjoys government protection.<sup>321</sup> At the same time, one of the fundamental principles of labor law is the special protection bestowed on women and maternity.<sup>322</sup> The Constitution guarantees the right of all persons to social security, with preference granted to women heads of household, pregnant women and women who are breast-feeding.<sup>323</sup> Colombia is a party to several international treaties that protect women in the workplace, such as Convention No. 100 of the International Labor Organization, the Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value;<sup>324</sup> and Convention No. 111 of the International Labor Organization, the Convention Concerning Discrimination in Respect of Employment and Occupation.<sup>325</sup>

Colombian law protects pregnant women. No employee can be terminated for being pregnant or for breast-feeding.<sup>326</sup> The law presumes that an employee was terminated because of pregnancy or breast-feeding when this dismissal occurs without official authorization during the woman's pregnancy or in the three months following childbirth.<sup>327</sup> If such a termination occurs, it is null and void, and the woman must be reinstated to her employment following the maternity leave to which she is entitled.<sup>328</sup> Since 1994, the practice of forcing women to submit to a pregnancy test before being hired has been prohibited, except when the work to be undertaken is categorized as involving high-risk activities.<sup>329</sup> An employer is obligated to relocate an employee who becomes pregnant to a position that will not expose her to substances that present a risk for her pregnancy.<sup>330</sup>

A pregnant employee also has the right to a postnatal maternity leave of twelve weeks, during which she receives the same salary as at the time her leave began.<sup>331</sup> A woman who adopts a child under the age of 7 also receives a maternity leave under the same conditions, and the date of adoption is equivalent to the date of birth.<sup>332</sup> An employee who uses her maternity leave before childbirth may reduce her leave to eleven weeks and give the remaining week to her husband or permanent companion so that he may accompany her at the moment of childbirth and immediately after delivery.<sup>333</sup> During the first six months, the employer must allow a woman who has returned from her maternity leave to take two thirty-minute breaks during the workday to breast-feed her child, without discounting any pay from her salary.<sup>334</sup>

An employee who miscarries or whose baby dies during or after premature delivery has the right to a two- to four-week leave of absence, to be paid at the salary she was receiving at the time her leave began.<sup>335</sup> If a premature delivery occurs and the infant survives, the same provisions on maternity leave described above apply.<sup>336</sup>

Colombian labor law prohibits the employment of minors and women of any age in activities that involve contact with substances that are potentially harmful to their health. It also prohibits assigning pregnant women to shifts longer than five hours.<sup>337</sup>

#### **Access to credit**

There are no laws in Colombia that restrict women's access to credit. However, some government programs promoting access to credit have noted that the fact that only 26.4% of women have been granted loans suggests the existence of discriminatory practices against women.<sup>338</sup> To counteract these practices, the Colombian government passed a law aimed specifically at making credit more accessible to women heads of household and to their families.<sup>339</sup> This law mandates that

government credit agencies, as well as credit agencies in which the government participates, create special programs providing credit and technical assistance with the objective of assisting women heads of household.<sup>340</sup>

#### **Access to education**

The illiteracy rate among women in Colombia has declined from 29% in 1964 to 11.6% in 1993.<sup>341</sup> School enrollment is evenly distributed by sex at almost all levels. The percentage of women in higher education (post-secondary school) has increased dramatically, from 18.4% in 1960<sup>342</sup> to 51.7% today.<sup>343</sup> For the period between 1989 and 1991, women represented 50% of primary school enrollment and 49.2% of high school enrollment.<sup>344</sup> For the population above age 24, on average, men and women have completed almost the same number of school years: 5.8 years for women and 6.0 years for men.<sup>345</sup> Rural women have less access to education than urban women.<sup>346</sup>

Women were first granted access to higher education in Colombia in 1933.<sup>347</sup> The Constitution establishes that education is a right and a public service designed to provide access to knowledge, science, technology, and other cultural goods and values.<sup>348</sup> The government, society, and family are responsible for education, which is compulsory for children between the ages of 5 and 15. Education is free of charge in public schools.<sup>349</sup>

The Colombian government is currently implementing a project entitled Education for Equality whose main objective is to modify the educational system so that it does not foster socialization patterns that reinforce inequity between the sexes and gender stereotypes.<sup>350</sup> It also seeks to promote equal access to education for boys and girls, and to identify the factors that limit girls' access to education.<sup>351</sup>

#### **Women's bureaus**

During the past decade, the government has designed and carried out several programs aimed at issuing policies and establishing governmental entities that promote women's rights.<sup>352</sup> The National Office for Women's Equality<sup>353</sup> ("NOWE") was created in 1995 to oversee the planning, monitoring, and permanent coordination of government activities promoting equality and participation for women.<sup>354</sup> NOWE is a permanent body under the control of the Presidency of the Republic. It has administrative autonomy and an independent budget.<sup>355</sup> NOWE has assumed responsibility for the Presidential Program for Youth, Women and the Family (PPYWF), which implemented women's policies from 1990 to 1994.

Another entity created to implement the mandate of the Equality and Participation Policy for Women (EPPW) is the Ministerial Network, which brings together women working at different managerial levels of ministries, other administrative

agencies, and the vice-presidency.<sup>356</sup> The Ministerial Network evaluates the extent to which women working in the public sector are being promoted to managerial positions.<sup>357</sup> The Colombian government is planning the creation of a consultative group comprised of nongovernmental organizations (“NGOs”) and women’s organizations. It is also planning a Congressional Network to promote the passage of laws favoring women.<sup>358</sup>

The Territorial Network, comprising women’s bureaus in the departmental and municipal governments, was created with the aim of implementing the EPPW at the territorial level. As of 1995, women’s bureaus were created in seven departmental governments and twelve municipal governments.<sup>359</sup> Departmental and local women’s bureaus come under the control of their respective governors and mayors.<sup>360</sup>

### C. RIGHT TO PHYSICAL INTEGRITY

#### **Rape**

In Colombia, 5.3% of women of childbearing age have stated that they have been forced to have sexual relations.<sup>361</sup> Of this percentage, 3.1% are adolescents; 3.2% are women who have separated from their husbands; 5.4% are married women; and 3.0% are single.<sup>362</sup> In the majority of cases, the victim knew the offender: Forty-four percent of women say the offender was her husband or current partner; 20% say the offender was a neighbor or friend; 14% say the offender was a stranger; 14% say he was a relative; 2% say it was an employer or coworker; and 7% were categorized as “others.”<sup>363</sup> The median age at which a woman is first raped is 18.7 years.<sup>364</sup> Rape statistics vary only slightly by area: six percent of women in urban and 4% in rural areas report having been raped.<sup>365</sup> In 1995, the Institute for Legal Medicine collected evidence for 11,970 sexual crimes.<sup>366</sup>

Colombian law was recently modified<sup>367</sup> to increase the penalties for rape and to change the classification of crimes considered attacks against “sexual freedom and human dignity.”<sup>368</sup> Penal law classifies these crimes in three categories: rape,<sup>369</sup> abusive “sexual acts,”<sup>370</sup> and “statutory rape.”<sup>371</sup> The law divides rape into three subcategories. These are “violent carnal access” (which carries a penalty of eight to twenty years’ imprisonment);<sup>372</sup> a “violent sexual act” (which carries a penalty of four to eight years’ imprisonment);<sup>373</sup> and a sexual act with a person who is incapable of resisting (which carries a penalty of four to ten years’ imprisonment).<sup>374</sup> An “abusive sex act” includes abusive “carnal access” with a person who is incapable of resisting and carries a penalty of three to ten years of imprisonment.<sup>375</sup> The offender is liable for harsher penalties for these crimes if one of the following aggravating circumstances is present: more than one person participated in the crime;<sup>376</sup> the offender has some degree of authority over the victim;<sup>377</sup>

the victim becomes pregnant as a result of the rape;<sup>378</sup> the victim contracts a venereal disease; or the victim is under the age of 10.<sup>379</sup> The section on adolescents will further examine the crimes of “violent carnal access” with a minor under 14 years of age and statutory rape, which is, by definition, committed against adolescents and minors.

Law No. 360 of 1997 repealed the provision in the Penal Code establishing that an offender could be exculpated from liability for such crimes if he married the victim.<sup>380</sup> Another positive legislation development is that in 1996, rape within marriage became a criminal offense.<sup>381</sup>

#### **Domestic violence**

Statistics from 1995 reveal that 33% of women living with a partner were the victims of verbal abuse by their partners; 19% were physically abused;<sup>382</sup> and 6% were sexually abused.<sup>383</sup> While many women said they were aware of the existence of institutions where they could file a complaint against their partners, only 27% had reported domestic abuse to the authorities.<sup>384</sup> In 1995, the Institute of Legal Medicine handled 42,963 cases of injury caused by domestic violence.<sup>385</sup>

The Colombian Constitution provides that domestic violence in any form is destructive of family harmony and unity and will be punished according to the law.<sup>386</sup> Following this constitutional mandate, Congress enacted Law No. 294 in 1996, whose objective is to penalize and provide a remedy for domestic violence. Congress also ratified the Inter-American Convention on the Prevention, Sanction and Eradication of Violence Against Women, which is now incorporated into Colombian domestic law.<sup>387</sup>

The law described above, which implements the constitutional mandate to provide comprehensive treatment for different types of domestic violence,<sup>388</sup> provides that physical, psychological, or sexual abuse against a family member is a crime.<sup>389</sup> A person who inflicts physical or psychological injury on a family member is punished in accordance with the penalty established in the Penal Code for personal injury, plus an additional one-third of half the penalty because the situation involves domestic violence.<sup>390</sup> This law also establishes the penalties applicable to a person who uses unjustified force to restrain the freedom of movement of an adult family member.<sup>391</sup> In addition, the legislation establishes mechanisms for the provisional and permanent protection of abused persons with the objective of ending the abuse and preventing and punishing domestic violence.<sup>392</sup> This law empowers the Colombian Institute of Family Welfare<sup>393</sup> to develop programs to prevent and remedy domestic violence.<sup>394</sup> It also provides resources to state and city governments to establish Family Violence Prevention Councils to study the problem of domestic



violence and to promote activities designed to prevent and treat domestic violence.<sup>395</sup> The National Development Plan establishes that the government must improve the training of law-enforcement personnel who deal with domestic issues and of the justices of the peace in dealing with the problem of violence against women.<sup>396</sup>

### **Sexual harassment**

In Colombia there are no laws or regulations that specifically deal with the issue of sexual harassment.

## **IV. Focusing on the Rights of a Special Group: Adolescents**

The needs of adolescents are often unrecognized or neglected. Given that 34% of Colombia's population is under 15 years of age,<sup>397</sup> it is particularly important to meet the reproductive health needs of this group. The effort to address adolescent rights, including reproductive health, is important for women's right to self-determination, as well as for their general health.

The rights of adolescents are contained in the Constitution in the section dealing with social, economic, and cultural rights.<sup>398</sup> The Constitution states that young people have the right to protection and comprehensive education<sup>399</sup> and mandates that the government must promote the participation of young people in public and private institutions charged with their protection, education, and advancement of youth.<sup>400</sup> General laws on children's rights also protect the rights of adolescents.<sup>401</sup> The Constitution provides that children have the following fundamental rights: the rights to life; physical integrity; health, education, and culture; recreation; and the right to freely express their opinions.<sup>402</sup> Constitutional protection exists for children who have been abandoned, physically or psychologically abused, sexually abused, or exploited for their labor.<sup>403</sup> Colombia has passed legislation specifically aimed at protecting minor children, and it has ratified the Convention on the Rights of the Child.<sup>404</sup> Despite these legal protections, however, statistics reveal that violence particularly affects adolescents, especially young women between the ages of 15 and 24.<sup>405</sup>

### **A. REPRODUCTIVE HEALTH**

Approximately one of every ten women in Colombia states that her first sexual relationship took place before the age of 15.<sup>406</sup> One-third of women state that it took place before the age of 18, and slightly more than half say it took place before the age of 20.<sup>407</sup> Only 11% of women between the ages of 14 and 19 currently use a contraceptive method.<sup>408</sup> In Colombia, 14% of women between the ages of 14 and 19 are mothers.<sup>409</sup> The

median age of women at first childbirth is directly related to their educational level.<sup>410</sup> Women who have no education have their first child at a median age of 19, while women with a high school education have their first child at a median age of 23.<sup>411</sup> Early pregnancy is part of a cultural pattern in some regions in Colombia. In large cities, however, early pregnancies are generally unwanted, and they often involve single mothers abandoned by their partner.<sup>412</sup> Many of these pregnancies are terminated by expensive illegal abortions practiced in unsanitary conditions.<sup>413</sup>

The Health for Women, Women for Health Program targets in particular women between the ages of 15 and 49, especially adolescent women.<sup>414</sup> As part of the Participation and Equality Policy for Women, the government has proposed including the prevention of abortion and unwanted pregnancies through the design and implementation of appropriate family planning programs.<sup>415</sup>

### **B. MARRIAGE AND ADOLESCENTS**

The median age at first marriage for Colombian women in 1995 was 21.4 years.<sup>416</sup> This median age differs considerably, however, according to educational levels. More-educated women between the ages of 30 and 34 married ten years later on average than less-educated women of the same age group.<sup>417</sup> A woman's place of residence is another factor affecting the median age at first marriage. The median age of marriage for urban women is 22, while it is 20 for rural women.<sup>418</sup>

The legal minimum age for marriage is 18.<sup>419</sup> However, men over the age of 14 and women over the age of 12 may marry with the consent of their parents.<sup>420</sup> Marriages in which either partner is under these respective ages are null and void,<sup>421</sup> unless its validity has not been questioned within three months after the minors reach puberty, or when the woman, even if she is underage, is pregnant.<sup>42</sup>

### **C. SEXUAL OFFENSES AGAINST MINORS**

Of Colombian women between the ages of 14 and 19, 31% have been raped; of those the average age is 14.<sup>423</sup> Within this age group, 31% have been raped.<sup>424</sup> The rapists in such cases are principally: boyfriends, friends, or neighbors (39%); relatives (26%); strangers (16%); and others (10%).<sup>425</sup> The median age of adolescents who are raped is lower for those with lower levels of education. The median age for women who have no education is 13, while it is 17 for women who have completed some higher education.<sup>426</sup>

The penal law for crimes against "freedom and human dignity"<sup>427</sup> provides that a person convicted of "carnal access" with a person under the age of 14 is liable to four to ten years' imprisonment.<sup>428</sup> An offender who uses violence to obtain "carnal access" to a person under the age of 12 is liable to twenty to



forty years of imprisonment.<sup>429</sup> An offender who carries out a “sex act” other than intercourse with a person under the age of 14 is liable to two to five years of imprisonment.<sup>430</sup> The Penal Code also classifies statutory rape, which is the use of deception to obtain “carnal access” or another sex act with a person between the ages of 14 and 18, as a crime:<sup>431</sup> an offender who uses deception to obtain “carnal access” is liable to one to five years of imprisonment;<sup>432</sup> an offender who uses deception to carry out a “sex act” is liable to six months to two years’ imprisonment.<sup>433</sup> Also, Colombian penal law considers incest to be a crime against the family.<sup>434</sup> Incest consists of “carnal access” or any other sex act with a direct descendant or ascendant, adoptive parent or adopted child, or brother or sister.<sup>435</sup> The penalty for perpetrating such a crime is six months’ to four years’ imprisonment.<sup>436</sup> Other sexual crimes under Colombian penal law include “fostering the prostitution of minors”<sup>437</sup> and “fostering the use of minors in pornography.”<sup>438</sup> Offenders are liable to two to six years’ imprisonment and four to ten years’ imprisonment, respectively.<sup>439</sup>

#### D. SEXUAL EDUCATION AND ADOLESCENTS

The Ministry of Education has enacted a regulation regarding the compulsory nature of sex education.<sup>440</sup> This regulation provides that, with the beginning of the academic year in 1994, establishments throughout the country that offer programs of preschool, primary, high school, and vocational education must incorporate mandatory sex education programs as essential components of public education.<sup>441</sup> Pursuant to this mandate, the Ministry of Education designed the National Plan on Sex Education (“NPSE”), whose objectives include fostering changes in the values and behavior relating to sexuality;<sup>442</sup> reformulating the traditional definition of gender roles;<sup>443</sup> encouraging changes in the traditional family structure with the aim of promoting greater equality in the relationships between parents and children and between spouses;<sup>444</sup> and ensuring that men and women make voluntary and informed decisions about when they want to have children and that they know how to use birth control methods properly.<sup>445</sup>

The NPSEs further goals are that, by the end of high school, students understand their own sexual behavior and that of others;<sup>446</sup> that they recognize that they are endowed with sexual rights and duties and that they must respect others’ similar rights on an equal basis;<sup>447</sup> that they assume responsibility for procreation;<sup>448</sup> that they are able to recognize the difficulties presented by unwanted pregnancy at any age;<sup>449</sup> and that they have basic knowledge about how to prevent the transmission of HIV/AIDS and other STIs.<sup>450</sup>

With the aim of providing methodological tools to the National Program on Sex Education, the Ministry of

Education has published a series of eleven texts to be incorporated into the curriculum at the preschool, primary, and high school levels.<sup>451</sup> These texts include themes relating to personal identity, recognition of others, tolerance, reciprocity, life, tenderness, dialogue, love and sex, responsibility, and creativity. All these issues then form part of the curriculum starting from the first through the eleventh grades.<sup>452</sup>

## ENDNOTES

1. PROFAMILIA, ENCUESTA NACIONAL DE DEMOGRAFÍA Y SALUD [NATIONAL DEMOGRAPHIC AND HEALTH SURVEY], at 6 (1995).
2. THE WORLD ALMANAC AND BOOK OF FACTS 1997, at 754 (1996).
3. COLOMBIA CONSTITUTION, in force as of July 4, 1991, art. 10. (hereinafter COLOM. CONST.)
4. THE WORLD ALMANAC, *supra* note 2, at 754.
5. *Id.*
6. *Presentación conjunto de los informes periódicos segundo y tercero, revisados, de los Estados-partes, Colombia* [Combined presentation of the revised versions of the second and third periodic reports of States Parties, Colombia], U.N. Doc.CEDAW/C/COL/2-3/Rev.1, at 6. The homicide rate, which was at 4.3 per 1,000 inhabitants in 1985, rose to 7.3 per 1,000 in 1990. The total number of homicides and other violent crimes went from 77,064 in 1985 to 86,153 in 1990. In addition, politically motivated crimes affected 83,531 people between 1988 and September 1991. *Id.*
7. PRESIDENCY OF THE REPUBLIC OF COLOMBIA, COLOMBIA PAGA SU DEUDA A LAS MUJERES. INFORME NACIONAL DEL GOBIERNO DE COLOMBIA. CUARTA CONFERENCIA MUNDIAL SOBRE LA MUJER [NATIONAL REPORT FROM COLOMBIA. NATIONAL REPORT OF THE COLOMBIAN GOVERNMENT. FOURTH WORLD CONFERENCE ON WOMEN], at 23-24 (1995).
8. *Consejería Presidencial para la Política Social- PNR- Informe nacional del Gobierno de Colombia- preparado para la IV Conferencia Mundial sobre la Mujer en Beijing, China* [Presidential Council for Social Policy- PNR- National Report of the Colombian Government- prepared for the IV Conference on Women in Beijing, China] at 14 (1995).
9. *Id.*
10. COLOM. CONST., *supra* note 3 art. 1.
11. *Id.*, art. 2.
12. *Id.*
13. *Id.* Article 100 establishes that foreigners and Colombian citizens enjoy the same civil rights and guarantees, which may only be limited in cases specified by law. Political rights, however, are reserved for Colombian citizens.
14. *Id.*, arts. 3 and 103.
15. *Id.*, art. 7.
16. These legal initiatives include, among others: Law No. 70, 1993, which establishes a general framework for the recognition of the right to collective property of Afro-Colombian communities and the protection of the cultural identity and social and economic development of these communities. Other mechanisms designed to protect these communities include, Decree No. 555, 1992, which created the Special Commission for Afro-Colombian Communities; Decree No. 1386, 1994, which set up a fund for indigenous reservations; and Law No. 715, 1992, which created the National Committee on Indigenous Rights.
17. COLOM. CONST., *supra* note 3, art. 113.
18. *Id.*, art. 189.
19. *Id.*, art. 115.
20. *Id.*
21. *Id.*, art. 115.
22. *Id.*, art. 190.
23. *Id.*, art. 189.
24. *Id.*, arts. 200 and 201.
25. *Id.*, art. 150, §10. These are known as decree-laws. This power must be expressly requested by the executive and its authorization approved by an absolute majority of votes in both houses. This power may not be granted to enact codes, statutory laws, or organic laws or to create taxes.
26. *Id.*, art. 114. The specific functions of Congress are described in arts. 150 to 152 of the Constitution.
27. *Id.*
28. *Id.*, art. 171.
29. *Id.*, art. 176.
30. *Id.*, arts. 132 and 133.
31. *Id.*, art. 150. The development plan is that which sets out the aims and objectives of the government's policies. The public investment plan sets out the budgets for the principal public investment programs and projects.
32. *Id.*, arts. 154 and 156. Some entities of the judicial branch and the Attorney General's Office have the power to propose legislation on subjects related to their functions. They are the Constitutional Court, the Council of State, the Prosecutor General, and the National Comptroller.
33. *Id.*, art. 155.
34. *Id.*, art. 145. Congress, whether in plenary session or either chamber, may not hold sessions or deliberate with less than a quarter of its members present. Decisions require a majority of votes of the House or Senate, except where the Constitution provides otherwise.
35. *Id.*, art. 165.
36. Continental European law is drawn directly from Roman law. This system was codified during the time of the Roman Empire. The *Compilation of Justinian* and his other works, such as the *Institutes, Codex, Digests, and Novellae*, etc., are collectively referred to as *Corpus Juris Civilis* to distinguish the civil system from English Common Law and Canon Law. See BLACK'S LAW DICTIONARY, at 168 (6th ed. 1991).
37. COLOM. CONST., *supra* note 3 art. 230.
38. *Id.*, arts. 239-245.
39. *Id.*, arts. 234-235.
40. *Id.*, arts. 236-238.
41. *Id.*, arts. 254-257.
42. *Id.*, arts. 249-253.
43. *Id.*, art. 116. Other entities exercising judicial functions include the military court system; the Congress in certain cases; and some administrative authorities. In addition, private citizens may be temporarily invested with the power of administering justice as conciliators or arbiters.
44. *Id.*, arts. 239-245.
45. *Id.*, arts. 234-235. "Cassation is the power given to the highest court of a country [...] to decide on challenges against final judgments of lower courts by either affirming or reversing them." PEDRO FLORES POLQ, DICTIONARY OF LEGAL TERMS, at 411 (2nd ed. 1987).
46. *Id.*, arts. 236-238.
47. *Id.*, arts. 254-257.
48. *Id.*, arts. 249 and 253.
49. *Id.*, art. 247. Such officials are intended to enable local communities to administer justice. They primarily deal with minor infractions and family law matters. Law 23, passed in 1991, regulates "Conciliation with Equity," which implements these objectives.
50. *Id.*, art. 246.
51. *Id.*, art. 113.
52. *Id.*, art. 117.
53. See *Id.*, arts. 275-282.
54. *Id.*, art. 277.
55. Law No. 24, 1993, art. 9. This law defines the organization and functions of the Ombudsman's Office.
56. COLOM. CONST., *supra* note 3 art. 286.
57. *Id.*, art. 287.
58. *Id.* See also *Id.*, art. 303.
59. *Id.*, art. 287.
60. *Id.*, art. 299.
61. *Id.*, art. 300. The departmental assembly also enacts laws related to planning and to economic and social development; creates departmental taxes; determines the structure of the state's civil service; and establishes rules governing the police. *Id.*
62. *Id.*, art. 305.
63. *Id.*
64. *Id.*, art. 311.
65. *Id.*
66. *Id.*, art. 312.
67. *Id.*, art. 314.
68. *Id.*
69. *Id.*, art. 4.
70. *Id.*
71. *Id.*, art. 230. In effect, the nature of auxiliary sources of law, including jurisprudence and the principles of law and judicial doctrine, are reflected in the judgments of the highest courts of the Colombian judicial system. To see how these sources are employed, see the judgment of the Constitutional Court C-013, 1997, p. 9 in which the court cites principles of previous judgments in order to justify a decision.
72. *Id.*, art. 29.
73. *Id.*, art. 224.
74. *Id.*
75. *Id.*
76. *Id.* art. 241, no. 10.
77. *Id.*, art. 93. These rights cannot be altered even when states of emergency are in force. The state of emergency is a mechanism that gives the president exceptional powers in the case of an external threat (state of foreign war), disturbances of peace and order (state of internal unrest), and disturbances of the economic order (state of economic emergency). Colombian governments have systematically used this mechanism (known as a state of siege under the 1886 Constitution) in order to restrict and suspend constitutional rights.
78. *Id.*

79. Colombia is a party to the following universal treaties: International Covenant on Economic, Social and Cultural Rights, *adopted* Dec. 16, 1966, 993 U.N.T.S. 3 (*entry into force* Sept. 3, 1976) (ratified by Colombia on Oct. 29, 1969); International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171 (*entry into force* Mar. 23, 1976) (ratified by Colombia on Oct. 29, 1969); International Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Mar. 7, 1966, 660 U.N.T.S. 195 (*entry into force* Jan. 4, 1969) (ratified by Colombia on Sept. 2, 1981); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *concluded* Dec. 10, 1984, S. Treaty Doc. 100-20, 23 I.L.M. 1027(1984), as *modified* 24 I.L.M. 535 (*entry into force* June 26, 1987) (ratified by Colombia on Dec. 8, 1987); Convention on the Rights of the Child, *opened for signature* Nov. 20, 1989, 28 I.L.M. 1448 (*entry into force* Sept. 2, 1990) (ratified by Colombia on Jan. 28, 1991); 80. Convention on the Elimination of All Forms of Discrimination Against Women, *opened for signature* Mar. 1, 1980, 1249 U.N.T.S. 13 (*entry into force* Sept. 3, 1981) (ratified by Colombia on Jan. 19, 1982).
81. Convention on the Political Rights of Women, *opened for signature* Dec. 20, 1952, G.A. Res. 640(VII) U.N. GAOR (*entry into force* Jul. 7, 1954) (ratified by Colombia on Aug. 5, 1986).
82. Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, *adopted* Jun. 9, 1994, 33 I.L.M. 1534 (*entry into force* Mar. 5, 1995) (incorporated into Colombian legislation via Law No. 248, 1995).
83. MINISTRY OF HEALTH, SALUD PARA LAS MUJERES, MUJERES PARA LA SALUD [HEALTH FOR WOMEN, WOMEN FOR HEALTH] (1992).
84. *Id.*
85. NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 22.
86. COLOM. CONST., *supra* note 3 art. 49
87. *Id.*
88. *Id.* The regulations relating to territorial health entities provide that the state assemblies and the municipal councils must regulate the operations and the provision of services by such entities within their respective jurisdictions. Law No. 60,1993.
89. Decree Law No. 1292 of 1994 (restructuring the Ministry of Health).
90. *Id.*, art. 48. The same article provides that the provision of these services should be based on the principles of efficiency, universality, and solidarity.
91. NATIONAL REPORT OF COLOMBIA, *supra* note 8, at 55. The choice between the government and private health system is voluntary.
92. *Id.*
93. Law No. 100 of 1993, bk. II, art. 162, 1.
94. *Id.*
95. *Id.*, art. 162.
96. *Id.*, art. 165.
97. *Id.* See also Decree Nos. 1298 and 1895, of 1994, which regulate the subsidized regime of the social security system in health matters.
98. *Id.*, arts. 162 and 166.
99. *Id.*, art. 166.
100. *Id.*, at ¶ 2.
101. *Id.*, art. 162. The regulations for the Subsidized Plan can be found in Decree No. 1895, 1994, arts. 1-3.
102. *Id.*, art. 166
103. *Id.*, art. 165
104. *Id.*
105. *Id.*, art. 11.
106. *Id.*, art. 12.
107. UNITED NATIONS POPULATION FUND, RESOURCE REQUIREMENTS FOR POPULATION AND REPRODUCTIVE HEALTH PROGRAMS: COUNTRY PROFILES FOR POPULATION ASSISTANCE, U.N. Doc.E/500/1996, at 158 (1996). This indicator is consistent with the goals established by the United Nations Population Fund.
108. *Id.*, at 22.
109. DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at 101.
110. *Id.*
111. *Id.*, at xxx.
112. Profamilia, *Porque se mueren las Mujeres en Colombia* [Why Women Die in Colombia], 14(28) PROFAMILIA, PLANIFICACION, POBLACION Y DESARROLLO [PLANNING, POPULATION AND DEVELOPMENT] 18-19 (1996).
113. *Combined presentation, supra* note 6, at 48-49
114. Departamento Público de Planeación [Department of Public Planning], source DNP-UDS-DIOGS, based in Office of the Controller, Ministry of the Interior, "Gasto Público Central en Salud," (visited July 20, 1997), <<http://dnp.gov.co/sisd-0202.htm>>.
115. *Id.*
116. For further information on the functioning of the health system in Colombia, and of the provisions of Law No. 100 of 1993, see the section on Objectives of the Health Policy, above.
117. "The National Board of Social Security for Health will design a program such that its beneficiaries shall enter the Compulsory Plan of the contributory system in a progressive manner before the year 2001." Law No. 100 of 1993, art. 162.
118. *Id.*
119. See the description of the Primary Plan in the section on Objectives of the Health Policy, above.
120. Law No. 100 of 1993, art. 165.
121. *Id.*, art. 162.
122. Law No. 23, 1981. See also Res. 711, June 30, 1982, which establishes the Tribunal of Medical Ethics.
123. Law No. 23, 1981, art. 1.
124. *Id.*, arts. 3-26.
125. *Id.*, arts. 33-41.
126. *Id.*, arts. 42-54.
127. *Id.*, arts. 62-94.
128. *Id.*, arts. 62-73.
129. *Id.*, art. 74.
130. *Id.*, art. 83.
131. *Id.*
132. COLOMBIA PENAL CODE, *supra* note 132 Decree No.100, art. 329 (1991)[hereinafter PENAL CODE].
133. *Id.*, art. 340; *supra* note 123, art. 1. According to Colombian penal law, there are two kinds of injuries caused by negligence: *lesiones culposas* and *lesiones preterintencionales*, which are distinguished by the degree of negligence involved.
134. PENAL CODE, *supra* note 132 art. 343.
135. *Id.*, art. 344.
136. Law No.23, *supra* note 123, art. 1.
137. *Id.*, art. 5.
138. *Id.*, arts. 4-26.
139. MINISTRY OF HEALTH, Res. No. 08514, 1984, art. 2, § 4.
140. *Id.*, art. 2, § 2.
141. Decree No. 1757, 1994, art. 1.
142. *Id.*, arts. 3-6 and 9-14.
143. *Id.*
144. *Id.*, art. 14.
145. In Colombia, *veedurias* are organizations, in this case of citizens, charged with supervising public-health-service delivery and the performance of health care officials.
146. Decree No. 1757, *supra* note 142, art. 20.
147. *Id.*, art. 15.
148. *Id.*, art. 16, § 1.
149. *Id.*, at §§ 2 and 3.
150. *Id.*, at § 5.
151. *Id.*, at § 6.
152. *Id.*, art. 340, partially modified by Law No. 23, 1991.
153. COLOM. CONST., *supra* note 3 art. 42; MINISTRY OF HEALTH, Res. No. 08514, 1984. See the preamble of this regulation.
154. Law No. 99, 1993, art. 5.
155. *Id.*
156. *Id.*
157. NATIONAL PLANNING DEPARTMENT, NATIONAL ENVIRONMENTAL POLICY: SOCIAL LEAP TOWARD SUSTAINABLE DEVELOPMENT, Doc. CONPES 2750, at 17 (Dec. 21, 1994).
158. THE WOMEN'S HOUSE CORPORATION, DERECHOS SEXUALES Y REPRODUCTIVOS. LEYES Y POLITICAS, COLOMBIA [SEXUAL AND REPRODUCTIVE RIGHTS. LAWS AND POLICIES, COLOMBIA], at 46 (1996).
159. COUNTRY PROFILES, *supra* note 115, at 158.
160. *Id.*
161. The National Planning Office is the governmental entity under the President's direction charged with producing all plans and programs related to Colombia's development. Among its objectives are to promote decentralization and the modernization of the government and to support governmental entities in the formulation and evaluation of their development programs. National Planning Office, *Mission and Objectives of the NPO* (visited July 28, 1997), <<http://dnp.dnp.gov.co/perfil/fundac.htm>>
162. *Id.*
163. HEALTH FOR WOMEN, *supra* note 80; See also, COLOM. CONST., *supra* note 3 arts. 42 and 43.
164. The Ministry of Health oversees the National Health System. This mandate is found in

Decree No. 1292, 1994, which restructures the Ministry of Health.

165. HEALTH FOR WOMEN, *supra* note 80, at 30.

166. *Id.*

167. *Id.* This program seeks to reorient previous policies directed at women with the aim of institutionalizing them and improving the quality and coverage of the health system as well as strengthening women's role in promoting and understanding her health. In addition, the program outlines policies and programs aimed at promoting women's health and addressing the need for improved preventive measures and attention related to women's health. The target population of this program is women heads of family, women aged 15-49 working women, and older women;

168. NATIONAL DEVELOPMENT PLAN, THE SOCIAL LEAP FORWARD (1994), Law No.188, 1995.

169. NATIONAL DEVELOPMENT PLAN, *The Social Leap Forward, Political Participation and Equality for Women*, Decree No. 2726 (Aug. 30, 1994).

170. MINISTRY OF THE ENVIRONMENT, APOYO INSTITUCIONAL A LA POLÍTICA DE EQUIDAD Y PARTICIPACIÓN DE LA MUJER-EPAM [INSTITUTIONAL SUPPORT OF THE POLICY OF EQUITY AND PARTICIPATION FOR WOMEN], at 28.

171. PERMANENT MISSION OF COLOMBIA TO THE UNITED NATIONS, REVISIÓN DESPUÉS DE LA CONFERENCIA DE BEIJING. IMPLEMENTANDO EL CONTRATO CON LAS MUJERES DEL MUNDO: DE LAS PALABRAS A LA ACCIÓN [REVIEW AFTER THE BEIJING CONFERENCE. IMPLEMENTING THE CONTRACT WITH THE WOMEN OF THE WORLD: FROM WORDS TO ACTION], at 4 (1996).

172. *Id.* I

173. *Id.* In terms of educational and cultural arenas, the Ministry of Health is committed to developing programs to promote value changes that will foster more equitable gender relations; creating and financing organizations of support services for battered women and children; organizing educational and training campaigns; designing strategies to foster self-esteem and autonomy among women and female children; and incorporating the theme of gender equity in the health sciences curriculum at both the undergraduate and postgraduate level.

174. *Id.*

175. NATIONAL COUNCIL OF ECONOMIC AND SOCIAL POLICY-CONPES, POLÍTICA DE PARTICIPACIÓN Y EQUIDAD PARA LA MUJER [PARTICIPATION AND EQUITY POLICY FOR WOMEN], Doc. No. 2726, at 5 (1994); See also GENDER UNIT-CA, MINISTRY OF THE ENVIRONMENT, APOYO INSTITUCIONAL DE LA POLÍTICA DE EQUIDAD Y PARTICIPACIÓN DE LA MUJER-EPAM [INSTITUTIONAL SUPPORT OF THE POLICY OF EQUITY AND PARTICIPATION FOR WOMEN], at 28 (1995).

176. *Id.*

177. *Id.*

178. *Id.*, at 5. The same document indicates that in carrying out these steps, the government must undertake aggressive health education campaigns, improve service provision, and design programs created especially for women, including family planning services, reproductive health, and the early detection of illnesses that primarily affect women.

179. Regulatory Decree No. 1440, 1995. This office does not, however, implement policies. Its role is to promote, coordinate and provide assistance and technical support to national and territorial entities. It is a permanent institution that has administrative autonomy and its own assets. For more information on this office, see the section on Women's Bureaus below.

180. United Nations Population Fund, Programme Review and Strategy Development Report-Colombia, *supra* note 187 at 23 (1993).

181. *Id.*

182. *Id.*

183. *Id.*, at 23.

184. *Id.*, at 22.

185. HEALTH FOR WOMEN, *supra* note 80, at 45.

186. *Id.*

187. UNITED NATIONS POPULATION FUND, PROGRAM REVIEW AND STRATEGY DEVELOPMENT REPORT, *supra* note , at 23.

188. *Id.*

189. *Id.*, at 22-23. Profamilia is a private institution created in 1965 with the objective of informing people about available contraceptive methods and making them easily available. It has 47 clinics for women, 8 for men, and 11 youth centers located in 35 Colombian cities. See DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at 7.

190. Decree No. 1895, 1995, art. 11.

191. *Id.*, art. 12.

192. *Id.*

193. DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at xxvii.

194. COUNTRY PROFILES, *supra* note 115, at 158.

195. Demographic and Health Survey, *supra* note 1 at 45. Sixty-two percent of women have

used some modern method of contraception, while 44% have used a traditional method.

196. *Id.*

197. *Id.*, at 46.

198. *Id.*

199. *Id.*, at xxix. The contraceptive prevalence was 64% in 1986 and 66% in 1990.

200. *Id.*

201. *Id.*

202. *Id.*

203. See PENAL CODE, *supra* note 132 art. 343.

204. Decree No. 1290, 1994. In addition, Decree No. 677, 1995, partially regulates registrations and licenses, quality control, and the safety of drugs, pharmaceutical products made of natural ingredients, and other products, including condoms and diaphragms.

205. Decree No. 1290, 1994, art. 4.

206. *Id.*, art. 2.

207. *Id.*, art. 4.

208. *Id.*

209. *Id.*; See also Decree No. 677, 1995, art. 6.

210. Decree No. 677, 1995, art. 88.

211. *Id.*, at art. 79.

212. MINISTRY OF HEALTH, Res. 08514, 1984.

213. *Id.*, art. 2, § 4.

214. *Id.*

215. DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at 52.

216. PENAL CODE, *supra* note 132 art. 343.

217. COLOM. CONST., *supra* note 3 art 11.

218. Judgment No. C-013/97, Constitutional Court (Jan. 23, 1997).

219. PENAL CODE, *supra* note 132 art. 343.

220. *Id.*, art. 344.

221. *Id.*, art. 345.

222. *Id.*, art. 338. In January 1997, the Constitutional Court of Colombia found this law to be constitutional and declared that life is protected from the moment of conception. See Judgment No. C-013/97, Constitutional Court (Jan. 23, 1997).

223. Joint Statement, *supra* note 6, at 46.

224. *Id.*

225. PENAL CODE, *supra* note 132 art. 343.

226. *Id.*

227. *Id.*, art. 344.

228. *Id.*, art. 345.

229. *Id.*

230. MINISTRY OF HEALTH, PROGRAMA NACIONAL DE PREVENCIÓN Y CONTROL DE LAS ETS-VIH/SIDA [NATIONAL PROGRAM TO PREVENT STIs AND HIV/AIDS], at 25 (1995).

231. Decree No. 559, 1991.

232. *Id.*

233. *Id.*, art. 9.

234. *Id.*, art. 11.

235. *Id.*, art. 30.

236. *Id.*, art. 29.

237. *Id.*, arts. 13, 16-18.

238. *Id.*, art. 31. In addition, art. 8 establishes that health professional and health establishments cannot deny services to persons infected with HIV/AIDS. If this occurs, the law provides that a penalty will be imposed.

239. *Id.*

240. *Id.*, art. 53. Any person convicted of such a crime must be held in an institution that can assure his or her proper health, psychological, and psychiatric care. Any institution that fails to observe this law will be subject to penalties ranging from the imposition of fines to the suspension or loss of the institution's license to provide health services.

241. *Id.*, art. 35.

242. *Id.*, art. 38.

243. NATIONAL PROGRAM TO PREVENT STIs AND HIV/AIDS, *supra* note 216, at 1.

244. *Id.*, at 1.

245. Decree Law No. 559, 1991, art. 41.

246. *Id.*, art. 46.

247. NATIONAL PROGRAM TO PREVENT STIs AND HIV/AIDS, *supra* note 216, at 1.

248. *Id.*, at 3. The specific objectives of the STI and HIV/AIDS Plan include: promoting greater awareness among the population of issues related to STIs and HIV/AIDS; reducing morbidity and mortality due to STIs and HIV/AIDS; decreasing the risk of infection of HIV and other STIs; guaranteeing respect for persons who are infected with HIV/AIDS or



other STIs and protecting their rights; and strengthening services such as treatment and counseling for persons infected with STIs and HIV/AIDS. *Id.*

249 *Id.*, at 4. In this respect, the Inter-ministerial Plan must seek to minimize the duplication of efforts, optimize the use of financial resources, and foster coordination and unification of the operational criteria of the programs carried out by the different ministries, by public or private establishments, and by churches.

250. *Id.* The decentralization process seeks to promote regional and local autonomy in the design, implementation, and evaluation of the plans, programs, and projects related to the problem of STIs/HIV/AIDS. It also seeks to promote maximum efficiency in the use of technical, human, and financial resources according to the needs and priorities of the activities to be carried out by the public sector, the private sector, and the churches at the national, regional, and local level. The decentralization process in Colombia is in accordance with the model of self-management).

251. *Id.*

252. *Id.*, at 7.

253. *Id.*, at 8.

254. *Id.*, at 28.

255. *Id.*

256. *Id.*, at 29.

257. *Id.*, at 8.

258. *Id.*, at 28.

259. *Id.*

260. *Id.*, at 29.

261. PARTICIPATION AND EQUITY POLICY, *supra* note 110, at 1. See especially the indicators on life expectancy and access to education, health services, and the labor market. *Id.*

262. See *Combined presentation, supra* note 6, at 2 and 62. Rural women predominate at the lowest levels of income. According to the indicators measuring poverty through basic unmet needs, 35.7% households in the rural sector live in extreme poverty, of which 15.2% are female-headed households. Of the total rural communities, 3.9% have piped water, 58% have access to transportation routes, 38% have electricity, and 4.5% have access to health clinics.

263. PRESIDENTIAL COUNCIL FOR SOCIAL POLICY (PNR), INFORME NACIONAL DE COLOMBIA [NATIONAL REPORT FROM COLOMBIA], PREPARED FOR THE FOURTH INTERNATIONAL CONFERENCE ON WOMEN, at 32 (1995). According to conservative estimates, the number of internal refugees in 1989 was 300,000, of which 70% were women. Displacement affects women in the following ways: the majority of displaced families are headed by women; women are the most affected psychologically by displacement; women become responsible for the economic survival of the family; displaced women have greater difficulty organizing; and they are more vulnerable to sexual assault. *Id.*

264. COLOM. CONST., *supra* note 3 art. 13. See also art. 5.

265. *Id.*

266. *Id.*, at art. 40. In this Article, the Constitution also states: "The authorities must guarantee the adequate and effective participation of women at the decision-making levels of public administration." Despite this constitutional mandate, women's access to political power remains very limited. See NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 25-26.

267. COLOM. CONST., *supra* note 3 art. 42.

268. *Id.*, arts. 42 and 43.

269. *Id.*, at art. 42.

270. *Id.*

271. *Id.*

272. Law No.25, 1992, art. 1. The religious denomination under which a marriage is celebrated must have entered into a formal agreement or international treaty with the Colombian government. Such denomination must attain juridical personality and be registered as a religious entity with the Ministry of Government.

273. *Id.*, at art. 5.

274. CIVIL CODE, bk. I, tit. IV.

275. *Id.*, art. 113.

276. *Id.*, art. 115.

277. *Id.*, art. 116.

278. Decree Law No. 999, 1988, eliminated the legal requirement that a woman use her husband's surname, preceded by the word *de* (of) on her citizenship documents.

279. CIVIL CODE, art. 176.

280. CIVIL CODE, art. 177.

281. *Id.*, art. 179.

282. Parental authority denotes the series of rights recognized by law that parents have over their minor children. See *Id.*, art. 288.

283. *Id.*

284. *Id.*, art. 306.

285. Law No.28, 1932, and Decree No.2820, 1974.

286. Law No.258, 1996.

287. PENAL CODE, *supra* note 132 art. 260. Bigamy is defined as a crime committed by a person who, being already legally married, marries another person or by a single person who knowingly marries a person who is legally married.

288. *Id.*

289. Law No.54, 1990, art. 1.

290. *Id.*

291. *Id.*, art. 3.

292. *Id.*

293. *Id.*, art. 5.

294. Law No. 100 of 1993, art. 47. See also DIRECCION NACIONAL DE EQUIDAD PARA LAS MUJERES, LOS DERECHOS DE LA MUJER EN COLOMBIA [THE RIGHTS OF WOMEN IN COLOMBIA] 134 (Mar. 1997).

295. Law No. 100 of 1993, art. 236.

296. *Id.*, art. 8. These provisions are contained in Book 4, Title XXII, chapters 1 to 4 of the Civil Code.

297. *Combined presentation, supra* note 6, at 68.

298. Law No.25, 1992, art. 5.

299. *Id.*

300. CIVIL CODE, art. 154, modified by Law No.25, 1992, art. 6.

301. Law No.25 1992, art. 9.

302. The regulations on the dissolution of joint ownership of property of spouses is found in CIVIL CODE, bk. 4, tit. XXII, chs. I-IV.

303. CIVIL CODE, art. 1830.

304. *Id.*, art. 162.

305. *Id.*, arts. 161 and 151.

306. *Id.*, art. 151 and 411. Child support is considered to be the minimum amount required for the sustenance, shelter, clothing, medical assistance, recreation, and comprehensive education of an individual. Alimony is granted in some cases using similar guidelines.

307. *Id.*, art. 161 and 411.

308. PENAL CODE, *supra* note 132 art. 263. In other words, when a person is required to pay alimony or child support but fails to pay it without just cause.

309. Decree No. 2727, 1989.

310. COLOM. CONST., *supra* note 3 art.13.

311. *Id.*, at art. 58.

312. CIVIL CODE, art. 181. Law No. 258 of 1996 contains certain exceptions related to property intended for the family's home.

313. PARTICIPATION AND EQUITY POLICY, *supra* note 110, at 2.

314. See CIVIL CODE, bk. 3, especially ch. III.

315. CIVIL CODE, art. 1266.

316. PARTICIPATION AND EQUITY POLICY, *supra* note 110, at 2.

317. *Id.*

318. *Id.*

319. *Id.*

320. MINISTRY OF HEALTH, LA DIRECCION SEXUAL Y REPRODUCTIVA DE LA MUJER EN EL MARCO DEL DESARROLLO HUMANO [THE SEXUAL AND REPRODUCTIVE STATUS OF WOMEN WITHIN THE FRAMEWORK OF HUMAN DEVELOPMENT], at 3 (1996).

321. COLOM. CONST., *supra* note 3 art. 25.

322. *Id.*, art. 53.

323. *Id.*, art. 48; Law No. 100, 1993.

324. Convention No. 100 of the International Labor Organization, Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, *adopted* Jun. 29, 1951, (visited Dec. 8, 1997) <<http://iloex.ilo.ch:1567/public/english/50normes/infleg/iloeng/conve.htm>>, (*entry into force* May 23) (Incorporated into Colombian law through Law No. 54, 1962).

325. Convention No. 111 of the International Labor Organization, Convention Concerning Discrimination in Respect of Employment and Occupation, *adopted* Jun. 25, 1958, (visited Dec. 8, 1997) <<http://iloex.ilo.ch:1567/public/english/50normes/infleg/iloeng/conve.htm>>, (*entry into force* Jun. 15, 1960) (incorporated into Colombian law through Law No. 22, 1967). Colombia has also ratified Convention No. 3 of the International Labor Organization, Convention Concerning the Employment of Women before and after Childbirth, *adopted* Nov. 28, 1919, (visited Dec. 8, 1997) <<http://iloex.ilo.ch:1567/public/english/50normes/infleg/iloeng/conve.htm>>, (*entry into force* Jun. 13, 1921) (incorporated into Colombian law through Law No. 129, 1931); and Convention No. 4 of the International Labor Organization, Convention Concerning Employment of Women during the Night,

- adopted Nov. 28, 1919 (visited Dec. 8, 1997) <<http://ilolex.ilo.ch:1567/public/english/50normes/infleg/iloeng/conve.htm>> (entry into force, Jun. 13, 1921) (incorporated into Colombian law through Law No.129, 1931).
326. LABOR CODE (Law No. 50 of 1990), art. 239.
327. *Id.* In order to terminate a woman during pregnancy or in the three months following childbirth, the employer must receive authorization from the labor inspector or the mayor. See also arts. 240 and 241.
328. *Id.*, arts. 240 and 241.
329. Res. No. 4050, 1994, art. 2.
330. *Id.*, art. 3.
331. LABOR CODE, art. 236.
332. *Id.*
333. *Id.*
334. *Id.*, art. 238.
335. *Id.*, art. 237.
336. *Id.*
337. Res. No. 02400, May 1979.
338. A study carried out by the Comprehensive Rural Development Fund (DRI), a rural development organization, found that only 26.4% of women affiliated with DRI have taken out a loan. Rural women's access to loans has been limited because they often lack property titles or long-term lease agreements that are required as guarantees for a loan. See *supra* note 6, at 61.
339. Law No. 82, 1993. Article 43 of the Colombian Constitution mandates special protection to women heads of household.
340. *Id.*, art. 15. In addition to providing credit, this law seeks to facilitate the access of women heads of household to education, social security, and housing. Within the Colombian legal system, this law is considered to be analogous to an affirmative action program. NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 45.
341. NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 21.
342. *Combined presentation, supra* note 6, at 26.
343. *Id.*
344. *Id.*
345. NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 21.
346. See *Combined presentation, supra* note 6, at 61. Rural women completed an average of 3.2 years of education in 1990, while urban women completed an average of 5.8 years. Comparing the educational levels of rural and urban women reveals the following differences: 13.9% of rural women have no education (6.3% of urban women have no education); 40.2% have completed some primary school (compared with 60% of urban women); 12.9% have completed at least one year of high school (compared with 35% of urban women); and 0.5% have completed some higher education (compared with 7.5% of urban women).
347. NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 11.
348. COLOM. CONST., *supra* note 3 art. 67.
349. *Id.*
350. INSTITUTIONAL SUPPORT, *supra* note 106, at 27.
351. *Id.*
352. *Id.*, at 14. These policies are Política para la Mujer Rural [Rural Women's Policy], (1984); Política Integral Para las Mujeres Colombianas [Comprehensive Policy for Colombian Women], (1992); Salud para las Mujeres, Mujeres para la Salud [Health for Women, Women for Health], (1992); Política para el Desarrollo de la Mujer [Development Policy for Women], (1992); and Política de Equidad y Participación de la Mujer-EPAM [Equality and Participation Policy for Women], (1994).
353. The National Office for Women's Equity was created by Law No. 188, 1995, and Regulating Decree No. 1440, 1995.
354. NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 10.
355. *Id.*
356. NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 39.
357. *Id.*
358. NATIONAL REPORT FROM COLOMBIA, *supra* note 8. The "Congressional Network" is composed of congresswomen interested in enacting laws and policies favoring women.
359. *Id.* See also NATIONAL REPORT FROM COLOMBIA, *supra* note 244, at 56.
360. *Id.*
361. Profamilia, *Violación a las Mujeres en Colombia [The Rape of Women in Colombia]*, 14(27) PROFAMILIA, PLANIFICACION, POBLACION Y DESARROLLO [PLANNING, POPULATION AND DEVELOPMENT] 45 (1996).
362. *Id.*, at 46.
363. *Id.* "Others" include the woman's prior husband or partner, the father of her child, her godfather, a tenant, and other persons known to her. *Id.*
364. *Id.*
365. *Id.*, at 49.
366. DIRECCIÓN NACIONAL DE EQUIDAD PARA LAS MUJERES, LOS DERECHOS DE LA MUJER EN COLOMBIA [RIGHTS OF WOMEN IN COLOMBIA], *supra* note 294 at 47.
367. On February 7, 1997, the Colombian Congress passed Law No. 360, 1997.
368. Previously, such crimes were classified as crimes "against freedom and sexual decency." See PENAL CODE, *supra* note 132 bk. II, tit. XI.
369. PENAL CODE, *supra* note 132 arts. 298-300, modified by Law No. 360, 1997, arts. 2-4.
370. *Id.*, arts. 303-305, modified by Law No. 360, 1997, art. 204.
371. *Id.*, arts. 301 and 302. Statutory rape is classified as a crime involving carnal access or other sexual acts with a person under the age of 18 through the use of deceit. For a more detailed description, see the section on adolescents below.
372. Law No. 360, 1997, art. 2. In penal law, "carnal access" is a sexual act that includes the realization of coitus.
373. *Id.*, art. 3. A sexual act is defined as all acts of a sexual nature other than carnal access.
374. *Id.*, art. 4.
375. *Id.*, art. 6. Abusive carnal access is the rape of an individual who is unconscious, who suffers from a psychological impediment, or who is otherwise incapable of resisting.
376. PENAL CODE, *supra* note 132 art. 306.
377. *Id.*
378. *Id.*
379. *Id.*
380. *Id.*, art. 8.
381. Law No. 294, 1996, art. 25. The penalty for this crime is six months to one year of imprisonment. A criminal trial takes place only when the victim brings a lawsuit against the offender.
382. DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at 157.
383. *Id.*, at xxxi.
384. *Id.* See also *Id.*, at 157. This percentage is higher than in 1990, when only 11% of women reported that they had been physically abused.
385. DIRECCIÓN NACIONAL DE EQUIDAD PARA LAS MUJERES, LOS DERECHOS DE LA MUJER EN COLOMBIA [RIGHTS OF WOMEN IN COLOMBIA], *supra* note 294, at 47.
386. COLOM. CONST., *supra* note 3 art. 42.
387. Law No. 248, 1995.
388. See Law No.294, 1996, art. 1.
389. *Id.*, art. 22.
390. *Id.*, art. 23; Articles 331-341 of the Penal Code define different types of injuries as crimes and establish penalties according to the degree of severity of the injuries inflicted.
391. This crime is called "abuse through the restriction of physical freedom," and is classified in Law No. 294, 1996, art. 24.
392. *Id.*, arts. 4-5.
393. The Colombian Institute of Family Welfare is the entity charged with protecting the family. Specifically, it devises programs aimed at abused children and abused mothers with limited economic means. It also provides foster care for children under five. See NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 34.
394. *Id.*, arts. 28-29.
395. *Id.*, art. 28.
396. NATIONAL DEVELOPMENT PLAN, EL SALTO SOCIAL [THE SOCIAL LEAP FORWARD] (1994).
397. PROFAMILIA, National Inquiry on Population and Health 1995, at xxxi.
398. COLOM. CONST., *supra* note 3 ch. II.
399. *Id.*, art. 45.
400. *Id.*
401. See COLOM. CONST., *supra* note 3 art. 44; Law No. 12, 1991; and the Code of Minors, Special Decree No. 2737, 1989.
402. COLOM. CONST., *supra* note 3 art. 44. The Constitution also states that children born both in and out of wedlock, and those conceived naturally or by artificial means have equal rights and duties. *Id.*, art. 42.
403. *Id.*
404. Law No. 12 of 1991 incorporates the Convention on the Rights of the Child into Colombian law. See *id.*, arts. 17, 24, and 26.
405. NATIONAL REPORT FROM COLOMBIA, *supra* note 8, at 6.
406. DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at 68.
407. *Id.* Notably, of the 80% of women of childbearing age who have had sexual relations at some point in their lives, 30% are under the age of 20. *Id.*, at 73.
408. *Id.*, at 47.
409. *Id.*, at 40.

410. *Id.* Thirty percent of women under the age of 20 who have no education or who only finished primary school already have at least one child, compared with only 7% among women with higher education. *Id.*
411. *Id.*, at 39.
412. *Id.*
413. *Id.*
414. HEALTH FOR WOMEN, *supra* note 80, at 35.
415. PARTICIPATION AND EQUITY POLICY, *supra* note 110, at 6.
416. DEMOGRAPHIC AND HEALTH SURVEY, *supra* note 1, at 70.
417. *Id.*
418. *Id.*, at 71.
419. CIVIL CODE, art. 116, modified by Decree No. 2820, 1974, art. 2.
420. *Id.*, art. 117.
421. *Id.*, art. 140.
422. *Id.*, art. 143.
423. *The Rape of Women in Colombia*, *supra* note 340, at 46.
424. *Id.*
425. *Id.*
426. *Id.*, at 49.
427. PENAL CODE, *supra* note 132 tit. XI.
428. PENAL CODE, *supra* note 132 art. 303, modified by Law No. 360, 1997, art. 5.
429. *Id.*, art. 290, modified by Law No. 360, 1997, art. 2.
430. *Id.*, art. 305, modified by Law No. 360, 1997, art. 7.
431. *Id.*, arts. 301 and 302.
432. *Id.*, art. 301.
433. *Id.*, art. 302.
434. *Id.*, tit. IX.
435. *Id.*, art. 259.
436. *Id.*
437. *Id.*, art. 312, modified by Law No. 360, 1997, art. 12.
438. *Id.*, art. 312 A, modified by Law No. 360, 1997, Art. 13.
439. *Id.*, arts. 312 and 312 bis.
440. Res. No. 03353, July 2, 1993, which establishes the creation of institutionalized sex education programs in the national educational curriculum.
441. *Id.*
442. MINISTRY OF EDUCATION, PROYECTO NACIONAL DE EDUCACIÓN SEXUAL [NATIONAL PROJECT ON SEX EDUCATION], at 1 (1993).
443. *Id.*
444. *Id.*
445. *Id.*
446. Res. No. 03353, 1993, art. 2.
447. *Id.*
448. *Id.*
449. *Id.*
450. *Id.*
451. NATIONAL PROJECT ON SEX EDUCATION, *supra* note 418, at 4-5.
452. *Id.*