

August 8, 2019

# The War in Catatumbo

Abuses by Armed Groups Against Civilians Including Venezuelan Exiles in Northeastern Colombia

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## Summary

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he 2016 peace accord between the Colombian government and the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, FARC) presented a landmark opportunity to halt the serious abuses and atrocities associated with a decades-long armed conflict.

Yet in practice, the government does not exercise effective control over all territory in particular areas reclaimed from the FARC, contributing to violence and abuse against civilians. Armed groups other than the FARC have also stepped into the breach, warring for control over land and engaging in illegal activities.

In Catatumbo, in Northeastern Colombia, the National Liberation Army (*Ejército de Liberación Nacional*, ELN) and the Popular Liberation Army (*Ejército Popular de Liberación*, EPL) have, since early 2018, engaged in a brutal fight for territory. Former FARC members who mobilized into a new armed group also operate in the area. Armed groups have committed a range of abuses against civilians, including killings, disappearances, sexual violence, child recruitment, and forced displacement. There are also reports that they are planting antipersonnel mines. They have also sought to control the local population through threats, including those directed at community leaders and human rights defenders, some of whom have been killed.

Desperate and often undocumented Venezuelans who cross the border to Colombia in search of food, medicine, and work are exposed to abuses committed in the context of Colombia's ongoing armed conflict. At least 25,000 Venezuelans live in Catatumbo, according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA).

This report is based on research in Catatumbo in April 2019. We interviewed more than 80 people, including abuse victims, their relatives, community leaders, church representatives, human rights officials, local authorities, judicial officials, and members of humanitarian and human rights organizations working in the area. Some interviews were conducted in Cúcuta, the capital of North Santander province, and by telephone. We also reviewed official reports and statistics, publications by nongovernmental and international organizations, and written testimony given to government officials by almost 500 victims of abuses committed in the context of the armed conflicts.

Government figures show that more than 40,000 people in Catatumbo have been displaced from their homes since 2017, the majority during 2018. While fighting between the ELN and the EPL caused most of the displacement in 2018, fighting between these groups and the Colombian armed forces appears to be the main cause in 2019. Some displacement appears to amount to forced displacement under the laws of war. In some cases, armed groups have threatened people for allegedly cooperating with competing armed groups or the government, causing them to flee. People have also fled after having been threatened for refusing to join an armed group.

The operations of armed groups are contributing to an increase in homicide rates in Catatumbo. Official statistics indicate that the number of killings more than doubled, from 112 in 2015—the year the FARC agreed to a ceasefire as part of its peace negotiations—to 231 in 2018. In eight cases reviewed by Human Rights Watch, alleged members of armed groups killed civilians after accusing them of cooperating with other groups or the Colombian armed forces, or for refusing to join their

ranks. Nine human rights defenders and community leaders have been among those killed by armed groups since 2017, according to investigations by Colombia's Attorney General's Office and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The region is one of Colombia's most deadly for those who step forward to speak for their communities.

Armed groups have been implicated in kidnappings and disappearances. In 13 incidents involving 17 victims reviewed by Human Rights Watch, occurring between March 2018 and March 2019, armed groups have abducted victims, including to interrogate them about their alleged cooperation with other groups, force them to obey the group's demands (for example, to refrain from seeking investigation of a relative's murder), or for ransom. Some victims were held for hours; others for several days.

Armed groups in Catatumbo commit rape and other sexual violence. From January 2017 through May 2019, 37 people were victims of "crimes against sexual integrity" related to the armed conflict, according to Colombia's Victims' Unit. These crimes include rape and other sexual crimes, such as sexual assault.



A barricaded police station in Convención, Catatumbo, April 13, 2019. © 2019 Human Rights Watch

Armed groups are also responsible for recruitment of children as young as 12 years old. Children are sometimes forced to join after an armed group threatens to kill them or their families. On other occasions, they are offered pay. Human Rights Watch has reviewed testimony in a dozen cases in

which families fled their towns or neighborhoods after someone threatened or attempted to recruit a child. This recruitment compounds other rights abuses experienced by both Colombian and Venezuelan children, including limitations on access to education due to labor in coca fields.

Armed groups are also reportedly planting landmines in rural areas of Catatumbo. Four people have died and 65 have been injured by antipersonnel landmines in Catatumbo since 2017, although it is uncertain whether these incidents were caused by newly planted landmines or landmines from previous conflict periods.

While the numbers used to describe the scale of abuses in this report are very serious, the total number of abuses is likely higher, due to underreporting linked to fear of retaliation for exposing abuses, as well as additional barriers faced by victims of sexual violence and Venezuelan victims.

Many Venezuelans are fleeing a devastating humanitarian, political, economic, and human rights crisis at home. Limited immigration controls by Colombian authorities in areas where armed groups control illegal crossings, as well as jobs that pay better than in Venezuela, attract many of them to the Catatumbo borderlands. They have been among those forcibly displaced, killed, and subject to child recruitment by armed groups. Some Venezuelans have also been subject to sexual abuse; others have disappeared. The extent of abuses suffered by Venezuelans caught up in the conflict in Catatumbo is difficult to measure, given that many are not aware of reporting procedures or fear deportation if they file complaints to Colombian authorities. In practice, Venezuelans have had limited access to services provided by the Colombian government to victims of the armed conflicts.

The Colombian government is not meeting its obligations to protect and vindicate the rights of civilians who are victims of the conflict between armed groups in Catatumbo and who are suffering serious abuses by the armed groups. Colombia is party to multiple human rights treaties that impose international obligations to provide effective protections for those human rights central to guarantees of security, including the rights to life, to physical integrity, to personal liberty and security, and to the peaceful enjoyment of one's possessions. In addition, the government must seek to hold perpetrators of human rights abuses accountable and guarantee the rights of victims, including their right to an effective remedy and reparation.

The Attorney General's Office has, so far, largely failed to ensure justice for serious abuses committed by armed groups. As of April 2019, there were more than 770 cases related to murders committed in Catatumbo since 2017. There have been convictions in only 61 cases. And only two members of armed groups are among those convicted for murder, according to the office. The office has not charged, let alone convicted, anyone for "threats," child recruitment, or "enforced disappearances." Two members of armed groups have been charged according to the office, but, thus far, no one has been convicted for forced displacement; 483 cases remain pending.

A key shortcoming is the limited number of officials in Catatumbo charged with investigating and prosecuting crimes. In addition, security risks undermine the ability of prosecutors and investigators to visit rural areas to investigate crimes and to obtain testimony from witnesses and victims' family members, who also fear retaliation for cooperating with investigations.

When it comes to the prevention of abuses, Colombian law provides that authorities must carry out a “rapid” response to prevent potential abuses identified by the Human Rights Ombudsperson’s Office in what are called “early alerts.”

National, provincial, and municipal authorities, however, have failed to adequately respond to these alerts. Moreover, the individual protection schemes provided by the Colombian government to community leaders and human rights defenders at risk in Catatumbo are insufficient to ensure their adequate protection. A pilot project announced in June 2018 to address deficiencies in these schemes by providing group protection to several community leaders in El Tarra, one of Catatumbo’s municipalities, has yet to be implemented.

Assistance to the displaced, provided for under Colombian law, has been slow and insufficient, according to humanitarian workers. Hundreds have lived in temporary shelters improvised by communities; some shelters lacked furniture or running water.

Residents, human rights officials, and humanitarian actors indicate that government soldiers have engaged in abusive behavior, especially after the deployment, in October 2018, of a “rapid response” force to the area. They, at times, stigmatize civilians, accusing them of being complicit with guerrilla groups. Soldiers routinely stop civilians passing through military checkpoints and ask for information about their communities, which exposes them to retaliation by armed groups. In one incident in April 2019, an army soldier killed a demobilized FARC member.

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## Recommendations

### To the Administration of President Iván Duque

#### To prevent abuses, protect people at risk, and support accountability:

- Guarantee effective protection of community leaders in Catatumbo, including by prioritizing plans to protect communities and organizations at risk (often called “collective protection plans” in Colombia).
- Ensure that the National Police and armed forces design and implement an effective strategy in Catatumbo to protect local residents from armed groups, that respects international human rights and humanitarian law.
- Prioritize the design and implementation of a plan to prevent child recruitment by armed groups, including by strengthening access to education for Colombian and Venezuelan children in Catatumbo.

- Design and implement a plan to remove antipersonnel mines in Catatumbo, starting by ensuring areas surrounding schools are safe.
- Provide greater support to prosecutors investigating crimes committed in rural Catatumbo, including by increasing the amount of time military helicopters devote to transporting prosecutors investigating crimes to locations they cannot reach by land given security considerations.
- Endorse the Safe Schools Declaration, which is an international political commitment to strengthening the prevention of, and response to, attacks on students, teachers, and schools during armed conflict.
- Ensure that government agencies carry out a rapid, sufficient, and coordinated response to prevent the risks of international human rights and humanitarian law violations identified by the Human Rights Ombudsperson's Office in its "early alerts."

**To assist victims of forced displacement and other abuses:**

- Seek further international humanitarian support to address the needs of the civilian population of Catatumbo through a comprehensive plan to provide support to individuals impacted by the armed conflicts in Catatumbo, with a focus on populations at high risk for abuse or exploitation, including—but not limited to—Venezuelans displaced outside of their country.
- Work with municipal and provincial governments to ensure that displaced people are promptly assisted by the national government when local governments' capacity is surpassed, as required under Colombian law.
- Work with local mayors to increase the budget for the municipal human rights offices known as "personerías."

**To protect the rights of Venezuelans fleeing from the crisis in their country:**

- Carry out a comprehensive assessment to determine the total number of Venezuelans living in Catatumbo and their needs.
- Ensure all Venezuelans have legal status in Colombia so that they can work lawfully, including in safer parts of Colombia, and need not fear deportation if they report abuses.

## **To the Attorney General:**

- Increase the number of investigators and prosecutors in Catatumbo working on cases of forced displacement, “enforced disappearance,” sexual violence, child recruitment, threats to human rights defenders, and other serious abuses related to the armed conflicts.
- Take steps to overcome barriers to reporting sexual violence and abuse, including by ensuring access to specially trained investigators and prosecutors, and having private and confidential spaces to make complaints.
- Ensure protection for all investigators and prosecutors working in Catatumbo.
- Work with competent authorities to ensure that judicial authorities can safely access crime scenes and preserve material evidence that is critical for prosecutions.

## **To Mayors in the Catatumbo Region:**

- Provide adequate shelter in Catatumbo for displaced people and victims of sexual violence and ensure that shelters protect victims and provide dignified living conditions, and that victims of sexual violence can seek shelter with family members and are not isolated from support networks.
- Increase the budget for the municipal human rights offices known as “personerías.”

## **To Humanitarian Actors Working in Catatumbo:**

- Design, fund, and implement a comprehensive humanitarian plan that takes into account and seeks to address the needs of the population in Catatumbo who are suffering the consequences of the armed conflicts, with a focus on reaching populations at high risk of abuse or exploitation, including—but not limited to—Venezuelans displaced outside of their country.



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## Methodology

In researching this report, Human Rights Watch conducted more than 80 interviews with a wide range of actors. These included Venezuelans who had recently fled their country and were living in Catatumbo, abuse victims, their relatives, and other residents of rural and urban areas of Catatumbo, as well as judicial officials, human rights officers, local authorities, community leaders, church representatives, and members of humanitarian and human rights organizations. Due to security concerns, we did not speak with members of armed groups.

Most of the interviews were conducted in Catatumbo during a visit in April 2019. Some interviews were conducted in Cúcuta or by telephone. All interviews were conducted in Spanish.

In our research, we also reviewed testimony taken by public officials in Catatumbo from almost 500 people describing cases of abuse that occurred there since 2017 in the context of the armed conflicts. We also drew on official statistics and consulted a wide range of other sources and documents, including official reports, publications by international, nongovernmental and humanitarian organizations, and news articles. In addition, we sent information requests to the Ministry of Interior, the Attorney General's Office, the National Police, and two army units operating in Catatumbo. Neither the National Police nor the army units had responded at the time of writing. The responses we received are reflected in the report.

Many interviewees feared reprisals and spoke with us on the condition that we withhold their names and other identifying information. Details about individuals, as well as interview dates and locations, have been withheld when requested or when Human Rights Watch believed the information could place someone at risk. All such details are on file with the organization.

Interviews with victims, their relatives, or witnesses were conducted in confidential settings. We informed all participants of the purpose of the interview, its voluntary nature, and how the information would be used. Each participant orally consented to be interviewed.

Human Rights Watch did not make any payments or offer other incentives to interviewees. Care was taken with victims of trauma to minimize the risk that recounting their experiences could further traumatize them. Where appropriate, Human Rights Watch provided contact information for organizations offering legal, social, or counseling services, or linked those organizations with survivors.

In this report, the term “disappearance” refers to cases containing the elements of the offense of “enforced disappearance” under Colombian law, which provides that anyone can be criminally liable for an “enforced disappearance,” irrespective of whether the person is a private individual, a participant in an armed conflict, a state agent, or someone acting with the support or acquiescence of state agents.

The term “FARC dissident group” is used to refer to a group calling itself the “FARC 33rd Front.” More generally the term may be used to include groups that were created or led by former FARC guerrillas after the group’s demobilization. These groups include fighters who either rejected the demobilization or who, after demobilizing, chose for whatever reason to be part of another armed group. (Some people in Colombia prefer to use the term “FARC dissident group” to refer only to groups that rejected the demobilization.) The report refers to the “FARC 33rd Front” as an armed group. “FARC 33rd Front” does not, however, according to available information, appear to have the minimum level of organization required under international humanitarian law to be considered a party to an armed conflict.

All translations from the original Spanish to English are by Human Rights Watch unless specified otherwise.

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## Background

### The Catatumbo Region

**N**ortheastern Colombia’s Catatumbo region, in the province of North Santander, borders Venezuela. Its 11 municipalities—Ábrego, Convención, El Carmen, El Tarra, Hacarí, La Playa, Ocaña, San Calixto, Sardinata, Teorama, and Tibú—have a population of roughly 295,000 people. Almost a fourth of them live in Ocaña, the largest municipality.<sup>[1]</sup> Roughly half live in rural areas.<sup>[2]</sup>

A large part of the population suffers from poverty and lack of economic opportunities. In all municipalities but Ocaña, more than 45 percent of the people faced unmet basic needs as of 2011, the year the most recent government figures are available.<sup>[3]</sup> More than 15 percent lived in extreme poverty.<sup>[4]</sup>



A motorcycle loaded with oil containers in Catatumbo, April 12, 2019. Illegal transportation of oil is one of the primary activities in the Catatumbo region. © 2019 Human Rights Watch

Weak governance deepens poverty.<sup>[5]</sup> With 92 percent of the region's land lacking formal titles, many peasants work in fields they do not own.<sup>[6]</sup> Inadequate roads in rural areas make it hard for peasants to sell their products.<sup>[7]</sup>

Catatumbo is an important source of coca, the raw material used to produce cocaine. The United Nations Office on Drugs and Crime (UNODC) reported that in 2017 roughly 28,200 acres were producing coca in North Santander.<sup>[8]</sup> Of all Colombian municipalities, Catatumbo's Tibú had the second highest acreage of coca cultivation.<sup>[9]</sup>

Some areas of Catatumbo, particularly in Tibú, are also an important source of oil for Colombia.<sup>[10]</sup> The National Liberation Army (ELN) has repeatedly attacked oil infrastructure in the region, at times causing spillage into rivers and other sources of water.<sup>[11]</sup>

## **Armed Conflicts and Violence in Catatumbo**

Three armed groups in Catatumbo are fighting to control territory and illegal activities in the area. Armed confrontation between groups and the Colombian armed forces has also taken place. The following sections briefly describe the three armed groups and insecurity in the region.

The International Committee of the Red Cross (ICRC) concluded in December 2018 that the conflicts between the ELN and the Colombian government, between the EPL and the Colombian government, and between the ELN and the EPL were non-international armed conflicts.<sup>[12]</sup> The ICRC has not made a public determination as to whether the FARC dissident group operating in Catatumbo is a party to an armed conflict. Its small size and limited level of organization, as described below, suggest that, according to available information, the group does not fulfill the requirements under international humanitarian law to be a party to the non-international armed conflicts in Colombia.

### **National Liberation Army (Ejército de Liberación Nacional, ELN)**

The ELN guerrillas have operated in Colombia since 1964. They are a left-wing group, with an affinity for liberation theology.<sup>[13]</sup>

In February 2017, after two years of exploratory negotiations, the group initiated formal peace talks with the administration of then-President Juan Manuel Santos. In January 2019, shortly after the ELN took responsibility for a car-bomb attack at a police academy in Bogotá, President Iván Duque ended the peace talks.<sup>[14]</sup>

ELN guerrillas have been active in Catatumbo since the 1970s.<sup>[15]</sup> The group's Northeast War Front now operates in the area and is reported to have at least 400 men in Catatumbo.<sup>[16]</sup> The ELN is widely perceived as the strongest armed group in Catatumbo.<sup>[17]</sup>

### **Popular Liberation Army (Ejército Popular de Liberación, EPL)**

The EPL group, often called the “Pelusos,” is a holdout from a guerrilla that demobilized in the 1990s. Roughly 80 percent of the guerrillas (some 2,500 people) demobilized under an accord with the Colombian government. A fraction rejected the agreement.<sup>[18]</sup>

The group is thought to have arrived in Catatumbo in the mid-1990s.<sup>[19]</sup> The EPL's leader for years was Victor Ramón Navarro, known as “Megateo,” who reportedly led the drug trade in Catatumbo until he was killed in October 2015.<sup>[20]</sup>

EPL fighters are currently dispersed in different areas of Catatumbo, as well as in Cúcuta and Puerto Santander, farther south.<sup>[21]</sup> The group is estimated to have around 200 fighters in North Santander.<sup>[22]</sup>

## **FARC Dissident Group**

Until the 2016 peace accord, the main FARC units operating in Catatumbo were the 33rd Front (*Frente 33*), the Catatumbo company, and two smaller units (known as “mobile columns”) that had some degree of autonomy from the 33rd Front (called “Bari Resistance” and “Arturo Ruiz”).<sup>[23]</sup>

After the accord, a large majority of the region’s FARC fighters demobilized.<sup>[24]</sup> They moved to Caño Indio, in Tibú, designated in the peace accord as a place for disarming—a Transitional Local Zone for Normalization (Zona Veredal Transitoria de Normalización, ZVTN).<sup>[25]</sup> There, they handed in their weapons to the United Nations (UN) mission in Colombia.

But in early 2018, a group of former FARC members, mostly from the 33rd Front, created a new armed group.<sup>[26]</sup> This group calls itself the “FARC 33rd Front,” including in pamphlets and graffiti.<sup>[27]</sup> Several interviewees told us some fighters rearmed in part because of poor conditions in the demobilization zone. The Caño Indio zone lacked electricity and sanitation, and humanitarian actors we interviewed said the FARC fighters felt inadequately protected from armed attacks by other groups.<sup>[28]</sup>

The FARC dissident group now operates in such municipalities as Tibú, El Tarra, Sardinata and Convención and is reported to have at least 70 fighters.<sup>[29]</sup> The group seeks to control the areas formerly occupied by the FARC.<sup>[30]</sup> Some knowledgeable sources indicate that its level of organization appears to be limited and the group has a weak chain of command.<sup>[31]</sup> The group operates in some areas where the ELN is also present, but they have not engaged in fighting—a fact that, according to some interviewees, suggests that the two groups may be coordinating activities to some extent.<sup>[32]</sup> Interviewees expressed concern that the group appears to be strengthening its level of organization and could eventually engage in fighting with the ELN over control of drug trafficking routes.<sup>[33]</sup>

## **The Current Conflicts and Violence**

Before the FARC’s demobilization, the three groups (FARC, ELN, and EPL) had reportedly coexisted in a largely peaceful way, with disputes settled through dialogue among commanders.<sup>[34]</sup>

But demobilization of the FARC left a vacuum. Tensions escalated over control of former FARC territory and the drug trafficking routes to Venezuela.<sup>[35]</sup> The EPL began moving toward areas of El Carmen, Convención, and Teorama that were occupied by ELN.<sup>[36]</sup> Analysts have explained the EPL move as arising, in part, from lack of political expertise among the commanders who stepped up after Megateo's death.<sup>[37]</sup>

In March 2018, the EPL published a statement threatening to “confront the [ELN] no matter what.”<sup>[38]</sup> The ELN responded a few days later, publishing a statement accusing the EPL of having “declared war.”<sup>[39]</sup> Analysts indicate that the ELN brought fighters from Arauca, to the south, and Bolívar, to the west.<sup>[40]</sup> The intense fighting between the ELN and EPL in the following months forced thousands of Catatumbo residents from their homes.<sup>[41]</sup>

In April 2018, the EPL declared an “armed strike” in Catatumbo. It forbade “movement of any type of vehicle” and mandated the closing of “[government] entities, businesses, [and] any type of activities,” starting on April 15. “Those who do not comply with these recommendations will suffer the consequences,” the group said.<sup>[42]</sup> The strike limited people's access to food.<sup>[43]</sup> The day before it ended, on April 30, the EPL released a video saying it was “willing to [participate in a] dialogue to find a way around the differences between the two guerrilla groups.”<sup>[44]</sup>

The ELN was able to defeat the EPL, forcing it to leave the contested territories.<sup>[45]</sup> Confrontations between the two groups decreased in early 2019. Yet the ELN, EPL, and FARC dissident group continued to engage in abuses. And violence and armed confrontation between the groups and the Colombian armed forces displaced hundreds of civilians in the early months of 2019.<sup>[46]</sup>

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## Abuses by Armed Groups

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armed groups in Catatumbo have engaged in a wide range of abuses, including forced displacement, killings, disappearances, kidnappings, sexual violence, child recruitment, and use of antipersonnel landmines. They have also threatened and, in some cases, killed, human rights defenders and community leaders, and have sought to exert control over communities through threats.

The statistics and cases detailed below are only indicative of a minimum level of abuses, given that many incidents are never reported, particularly given fear of retaliation by armed groups, according to a number of sources.<sup>[47]</sup> As described further below, victims of sexual violence and Venezuelans in Catatumbo face additional barriers to reporting abuses.

## **Forced Displacement, Threats, and Social Control**

Government figures report more than 40,000 people have been displaced since 2017; most were displaced in 2018.<sup>[48]</sup>

The majority are fleeing fighting between armed groups, according to a judicial authority, officials of humanitarian organizations, and the Human Rights Ombudsperson's Office.<sup>[49]</sup> While fighting between the ELN and the EPL led to the majority of displacement in 2018, fighting between these groups and the Colombian armed forces appears to be the main cause in 2019.<sup>[50]</sup>

Colombian law defines "mass displacement" as the displacement of 50 or more people or 10 or more families in a single incident through the use of "violence." In 2019, there were four "mass displacements" in the municipalities of Teorama, San Calixto, El Tarra, Hacarí, and Playa de Belén affecting over 800 people.<sup>[51]</sup>

Some displacement appears to constitute forced displacement under international law, which is when, in a conflict, a population is either ordered to leave for reasons not permitted by laws of war or is expelled or forced to leave as a result of coercive acts.<sup>[52]</sup>

In 16 cases reported in testimony reviewed by Human Rights Watch, armed groups have threatened people for allegedly cooperating with competing armed groups or with the government, causing them to flee.<sup>[53]</sup> People have also faced threats if they refuse to cooperate or to join a group's ranks. Human Rights Watch reviewed victims' testimony in 14 cases in which families fled because an armed group was pressing an adult family member to join.<sup>[54]</sup> In four cases, victims said that armed groups burned their belongings or crops after they refused to cooperate with the group.<sup>[55]</sup>

The armed groups also exercise social control and threaten people who disobey them, in a context of limited presence of Colombian government authorities in the area. Human Rights Watch interviewed a community leader who said ELN guerrillas had repeatedly summoned him and other leaders to meetings. At the meetings, commanders told the leaders they had to ensure that strangers

did not enter their communities.<sup>[56]</sup> Human Rights Watch's review of testimony taken by government officials indicates that the ELN often calls community leaders in rural areas to meetings to coerce them into following certain rules.<sup>[57]</sup>

Human rights defenders and community leaders have also been directly threatened by armed groups, leading to an increase in threats against human rights defenders and community leaders in Catatumbo since 2018, according to a judicial authority interviewed by Human Rights Watch.<sup>[58]</sup> The community leader referred to above, for example, told us that he "feared for his life" if he did not attend the meetings.<sup>[59]</sup> According to investigations by the Attorney General's Office and OHCHR in Colombia, armed groups have killed nine human rights defenders or community leaders in Catatumbo since 2017 (see below).<sup>[60]</sup> The most common threat is death, and it may be conveyed in person, through social media or digital platforms, or via pamphlet. In most cases, the threats appear to be issued by armed groups operating in the area. The groups typically demand that civilians stop supporting programs to replace coca crops with food crops or accuse them of cooperating with another armed group.<sup>[61]</sup>

For example, one community leader in Catatumbo told Human Rights Watch that members of the FARC dissident group showed up at her house in November 2018 and asked her to tell them what was happening in her community. She had to sign a document with that information, which would be given to "a comrade," they told her. ELN members stopped her son on the street and told him "your mother is a bitch and an army informant" and threatened to kill her and all her family, she said. In a separate incident, she told us, members of an "armed group" said to her husband that if he loved her, he should take her away because they would kill her.<sup>[62]</sup>

Armed groups regulate access of Venezuelans and people from other parts of Colombia to rural hamlets in Catatumbo. A community leader and humanitarian and human rights officials told Human Rights Watch that the groups require Venezuelans to obtain a "recommendation" from a local.<sup>[63]</sup> That sponsor faces retaliation if the foreigner engages in crime. In April 2017, the EPL released a pamphlet saying that "people from other areas are not allowed" without a "recommendation from someone in the area." The pamphlet added that people "who do not have someone who can be held to account for them have to leave the zone."<sup>[64]</sup> Human Rights Watch reviewed testimony in three cases in which armed groups asked Colombians to leave the hamlet because they were not originally from there.<sup>[65]</sup>

## Unlawful Killings

The number of unlawful killings has increased in Catatumbo. With 231 people killed in 2018, the annual rate was almost 79 per 100,000 people, roughly three times the national rate.<sup>[66]</sup> Catatumbo witnessed more than twice as many killings in 2018 as in 2015, the year the FARC agreed to a ceasefire as part of its peace negotiations with the government. That year, 112 people were killed in Catatumbo.<sup>[67]</sup> Preliminary data shows 114 people killed from January through June of 2019.<sup>[68]</sup>



The increase in killings is driven in large part by the conflict in the region between the ELN and the EPL, according to judicial authorities, representatives from several humanitarian organizations operating in Catatumbo, human rights officials, and the Human Rights Ombudsperson's Office.<sup>[69]</sup> According to OCHA, 109 people it considered civilians were killed by armed groups in Catatumbo in 2018, up from 43 in 2017.<sup>[70]</sup> OCHA told Human Rights Watch that 77 people it considered civilians were killed by armed groups between January and July 2019.<sup>[71]</sup>

This is consistent with Human Rights Watch's review of testimony by victims' relatives and witnesses, as well as interviews with victims' relatives concerning 23 incidents from December 2017 to April 2019 involving the deaths of 38 individuals, who were civilians according to witnesses and their relatives. In eight cases, alleged members of armed groups killed civilians after accusing them of cooperating with opposing armed groups or the army, or because they refused to cooperate with, or join, the group. In three cases, eight people who appeared to be civilians were killed in crossfire during confrontation between armed groups.<sup>[72]</sup> Human Rights Watch also reviewed testimony of six cases in which twelve civilians were injured after being caught in crossfire.<sup>[73]</sup> Armed groups were identified by witnesses and survivors because of their armbands or because the fighters stated the group to which they belonged.

Armed groups have also killed human rights defenders and community leaders. OHCHR has documented 14 cases of human rights defenders—a term it uses in Colombia to include community leaders seeking to promote or protect rights—killed since 2017 in Catatumbo, making it one of the regions in Colombia most affected by such killings.<sup>[74]</sup> According to investigations of the Attorney General's Office and OHCHR, the EPL appears to be responsible for six of these cases and the ELN for three.<sup>[75]</sup>

On July 30, 2018, armed men killed 10 people in the urban area of El Tarra. Around 3 p.m., the perpetrators appeared at a bar and shot indiscriminately at the people there.<sup>[76]</sup> They did not identify to which armed group they belonged, Vladimir Quintero, a survivor, told the press.<sup>[77]</sup> Those killed included Frederman Quintero, a community leader and Vladimir's brother, and at least two demobilized FARC guerrilla fighters.<sup>[78]</sup> According to three testimonies reviewed by Human Rights Watch, armed men appeared in El Tarra the day after the massacre and told residents that they had to leave the area.<sup>[79]</sup> In November 2018, the Attorney General's Office announced that three men belonging to the EPL had been arrested for the massacre and sent to pre-trial detention.<sup>[80]</sup>

On February 2, 2019, Vladimir Quintero, the survivor who had shared his testimony in the media, was found dead in Cúcuta.<sup>[81]</sup> In April, the Attorney General's Office announced that a man apparently linked to the murder had been arrested, charged, and sent to pre-trial detention.<sup>[82]</sup>

**Daniel Felipe Hernández García** (pseudonym), 21, a peasant who was completing his military service, left his mother's house in Campo Dos, Tibú, around 9 a.m. on January 10, 2019, to meet a man who wanted to buy his motorbike. He told his mother he would come back for lunch, she told Human Rights Watch, yet he did not return. At 8 p.m., his mother received a call from a friend who told her that Hernández García had been killed. The friend had received photos of him, bleeding, with his hands tied behind his back, on a dirt road. He forwarded them to Hernández García's mother. She said a prosecutor told her that evidence pointed to the ELN guerrillas.<sup>[83]</sup>

## Disappearances and Kidnappings

Armed groups have disappeared and kidnapped civilians in Catatumbo. Under Colombian law, private actors as well as state actors can be held accountable for what it terms “enforced disappearances.” The Attorney General’s Office told Human Rights Watch that, as of April 2019, prosecutors had pending investigations into 189 cases of alleged “enforced disappearances” committed in the region since 2017.<sup>[84]</sup>

The number of reported cases of people who have gone missing in Catatumbo has increased in recent years. According to Colombia’s National Institute of Legal Medicine, the reported number of missing people increased from 11 in 2016 to 16 in 2017 and 24 in 2018.<sup>[85]</sup> Two people were reported missing in the first three months of 2019.<sup>[86]</sup> Colombia’s Victims’ Unit reported seven people missing in 2017 and another six in 2018 linked to Colombia’s armed conflict.<sup>[87]</sup>

A judicial authority and a human rights official told Human Rights Watch that the increase in these cases is linked to actions by armed groups.<sup>[88]</sup> Similarly, the Human Rights Ombudsperson’s Office has reported on a case in which people who allegedly belonged to the ELN kidnapped one person in San Calixto on March 31, 2018.<sup>[89]</sup>

Human Rights Watch reviewed testimony by victims and relatives of victims taken by government officials regarding eleven incidents and conducted interviews with victims’ relatives regarding two other incidents from March 2018 to March 2019 involving a total of 17 victims. In two cases, armed groups appeared to take victims to interrogate them about their alleged cooperation with opposing groups. In six cases, civilians were kidnapped as a way of forcing them to obey the group’s wishes (for example, to refrain from investigating a relative’s murder) or to pay ransom. Some victims were held for hours; others for several days, while in four cases, victims had remained missing from one week to three years at the time their relatives provided testimony to authorities or were interviewed by Human Rights Watch.<sup>[90]</sup>

**Juan Pérez, Jorge Trujillo, and Orlando Castellanos** (pseudonyms), went missing in March 2019, relatives of two of them told Human Rights Watch.<sup>[91]</sup> The three men were last seen in a rural area of Catatumbo, chatting with two other men, whom they agreed to drive to Cúcuta. Armed groups are the only ones in the area with capacity to kidnap or disappear people, the relatives told us. Searching for the missing men, the relatives went to a road leading to an illegal crossing to Venezuela where they knew the ELN and the FARC dissident group had established checkpoints. They asked the guerrilla fighters about the men who had gone missing. An ELN fighter said the guerillas would ask their commander about it. They had not provided information by the time we interviewed the relatives in early April. The relatives of only one of the disappeared men had filed a criminal complaint. The others told Human Rights Watch they were worried that the ELN or FARC dissident group would retaliate against them or against their missing relatives, if they were still alive. “The less you look around and the less you ask questions, the more chances you have of surviving in this region,” one of them said.

On January 26, 2016, **Henry Pérez Ramírez**, a 46-year-old community leader, went missing after heading out to check his crops early in the morning, his wife, Elibeth Murcia Castro, told Human Rights Watch. Days before his disappearance, a man who later told her about the conversation had overheard Pérez Ramírez speaking on the phone with a member of the FARC, she said. The FARC member had asked him questions about where the Colombian armed forces were operating and had requested a meeting on January 26. Murcia Castro said Pérez Ramírez had previously received threats from the FARC member. She and her family desperately looked for him, and she filed complaints with judicial authorities and the Human Rights Ombudsperson's Office, but his whereabouts remained unknown at the time of writing. "What I want the most is to find him," she told us. "And not to be like this, with this uncertainty, not knowing if he's alive or if he's dead."<sup>[92]</sup>

## Sexual Violence

According to a local prosecutor and a humanitarian actor working on cases of sexual violence in Catatumbo, most sexual crimes committed there appear to be related to violence within families—a serious issue the government should address—but armed groups in Catatumbo also commit rape and other sexual abuses.<sup>[93]</sup> However, this distinction can obscure the complicated power dynamics that drive this form of violence. A humanitarian actor working in the area said that it is also sometimes difficult to separate intra-family violence from actions by armed groups in an area where these groups exercise so much power.<sup>[94]</sup>

Colombia's Victims' Unit recorded that 37 people in Catatumbo were victims of "crimes against sexual integrity" (including rape and other sexual crimes) related to the armed conflict between January 2017 and May 2019.<sup>[95]</sup>

One afternoon in early 2017, members of the EPL ordered **Carolina Vega** (pseudonym) to attend a meeting, saying one of her family members was at risk. When she arrived, she said, four men and a woman wearing EPL insignia on their clothes threw her to the floor and started beating her. She fought back, hitting one of them, she said, and in response, the four men sexually assaulted her. They let her go, and days later, Vega ran into the woman who had witnessed the abuse. The woman told her that the men had done the same to her before she joined the EPL. Vega was too afraid to see a doctor. The men eventually showed up at her house, ordering her to leave and not report the crime. Months later, she fled to a nearby city. Nearly two years later, she mustered the courage to report the sexual abuse.<sup>[96]</sup>

**Beatriz López** (pseudonym), was raped in mid-2017. That day, she was at her job as a cook for agricultural laborers. Her husband was working on the same farm. At around 5 p.m., a group of uniformed men, their faces hidden under balaclavas, arrived, shouting why "the fuck" hadn't the residents left if they had been "warned." They asked if others were present. Lopez's husband said no, to protect the other workers. The guerillas did not believe him and sent men to look. Four, who had the ELN logo on their clothes, stayed with López and her husband. Two hauled her to a room and sexually assaulted her. The others dragged her husband in and made him watch. López lost consciousness and woke up two hours later in her husband's arms, as he fled. They fled to a nearby city, and she only reported the incident in 2019. Until then, she said, the shame and psychological trauma kept her from seeking out authorities.<sup>[97]</sup>

In another case, a 16-year-old girl was sexually abused by members of one armed group who wanted to retaliate against her brother, who belonged to another group, according to a humanitarian actor working in the area.<sup>[98]</sup> There are also reports that armed groups abuse girls in their ranks (see next section). Human Rights Watch did not document additional cases.

While underreporting likely affects the range of abuses documented in this report, a number of specific factors contribute to significant underreporting of sexual violence.

In a 2012 report on gender-based violence in Colombia, Human Rights Watch identified a range of obstacles displaced women and girls faced when seeking justice after gender-based violence, including mistreatment by authorities, evidentiary challenges, poor referrals, women's economic barriers, and fear of reporting.<sup>[99]</sup>

A humanitarian actor said that some victims in Catatumbo fear retaliation if they report the crimes, or fear that the state response would be inadequate. She explained that no municipality in North Santander has shelters for victims of sexual violence, that women fear staying in their location after filing complaints but have insufficient funds for transportation elsewhere, and that government-provided psychological support to victims is very limited. Forensic evaluations are carried out in Ocaña, which may be several hours away, and victims can rarely afford to travel there.<sup>[100]</sup>



Graffiti on the wall of a brothel in Convención in the Catatumbo region, where most women working were Venezuelan exiles. The EPL (Popular Liberation Army) is one of the armed groups operating in the area. © 2019 Human Rights Watch

Armed groups also threaten and intimidate sex workers, a majority of whom in at least three municipalities are Venezuelans, according to Human Rights Watch interviews with local officials.<sup>[101]</sup> Sex work is not criminalized in Colombia.<sup>[102]</sup> The names of armed groups are scrawled in big graffiti on the walls of two brothels in the Convención municipality. The Human Rights Ombudsperson's Office has reported that armed groups threaten sex

workers with retaliation if a guerilla contracts a sexually transmitted disease.<sup>[103]</sup> On April 11, 2017, the EPL released a pamphlet saying that "sex workers are not allowed in the region."<sup>[104]</sup> Similarly, a local official told Human Rights Watch that the FARC dissident group "forbade" sex work in Hacarí.<sup>[105]</sup>

OCHA has expressed concern that sex work is happening in clandestine locations which makes it harder to verify that the rights, health, and conditions for sex workers are being respected and raises the prospect that possible human and sexual trafficking operations are taking place.<sup>[106]</sup>

## Recruitment and Use of Children by Armed Groups

Armed groups in Catatumbo recruit Colombian and Venezuelan children.<sup>[107]</sup> Colombia's Victims' Unit reported a total of 14 children recruited by armed groups in Catatumbo in 2017 and 2018.<sup>[108]</sup> Similarly, the Attorney General's Office told Human Rights Watch that, as of April 2019, prosecutors had pending investigations into 17 cases of child recruitment committed in Catatumbo since 2017.<sup>[109]</sup>

Group members ask children as young as 12 to join, often offering pay. They threaten to kill them or their families if they decline, according to victims' relatives, the Human Rights Ombudsperson's Office, and officials of humanitarian organizations operating in the area.<sup>[110]</sup> In March 2019, for example, ELN fighters visited a rural school in Catatumbo to try to convince children to join their ranks.<sup>[111]</sup> Groups use children for a range of tasks, including as informants regarding what is going on in the communities, as well as fighters.<sup>[112]</sup> Credible sources indicate that girls in the groups' ranks are at times subject to sexual abuse.<sup>[113]</sup> Residents indicate that poverty and lack of economic opportunities make children vulnerable to recruitment.<sup>[114]</sup>

Children who are not in school are at heightened risk of recruitment, according to humanitarian actors working in the area.<sup>[115]</sup> This recruitment compounds other rights abuses experienced by children, including limitations on access to education due to labor in coca fields. Many children work in the coca fields,<sup>[116]</sup> and some move around with their families to work in various fields, which makes it hard for them to attend school.<sup>[117]</sup>

**Nidia Martínez** (pseudonym), 50, told us that some members of her family started running errands for soldiers of the Colombian army when subsisting off their land in rural Catatumbo became too difficult. Soon, they started receiving threats from armed groups, she said. When Martínez's son was 15, members of one "guerrilla" offered to give him firearms and a motorcycle if he worked for them. He spent three months doing so, until his father found him and, as an excuse to bring him home, said his mother was dying. Two years later, she said, members of an "armed group" warned her son that neither he nor his family should interact with soldiers. In a separate incident, they stopped Martínez's husband one night on the street and threatened to kill him. When Human Rights Watch interviewed Martínez and her daughter, Martínez said she was seeking advice from Colombian authorities because they feared for their lives and wanted to leave the area.<sup>[118]</sup>

Human Rights Watch reviewed testimony taken by Colombian government officials in 12 additional cases in which families fled their towns or neighborhoods after an armed group threatened or attempted to recruit one of their children.<sup>[119]</sup> The following are testimonies from some of the families:

**Lucía** (pseudonym):

My daughter is 12 years old and is attending eighth grade. In mid-2018, a man that is always around in [my city] started to send her gifts. People said the man belonged to the ELN armed group. [One day in early] 2019, we went to visit my grandfather, who was sick. On the way, two men approached us and took us by force. They were armed. They took us in a white van, approximately one hour away. We didn't know where we were going. They took us to a ranch, where they left us in a small room.... I asked why we were there, and [one of them] said they were going to take my daughter with them.... My daughter fainted.... [An hour later], they took us and left us by the road. Their order was that we had to leave our town or they would kill us, or kill me and recruit my daughter.<sup>[120]</sup>

**Dalila** (pseudonym):

My house is located between two mountain ridges where guerrilla groups operate. They are often fighting amongst themselves, and the walls of my house are full of holes from the shootouts. I am afraid of the confrontations; one doesn't have tranquility to eat, or even walk around, because the area is full of landmines. [One day in early] 2018, three men arrived at my house. They were armed and wearing uniforms, but I don't know to which group they belonged. They told me that they were going to take my oldest children, who are 17 and 14. I told them they would have to kill me first... They said I had a few hours to leave my land. I sent my two sons to [another municipality] with my sister.<sup>[121]</sup>

## Use of Antipersonnel Landmines

The ELN and EPL are planting landmines in rural areas of Catatumbo, according to local residents, human rights officials, and several humanitarian organizations operating in the area.<sup>[122]</sup>

According to government statistics, 4 people have died and 65 have been injured by antipersonnel landmines in Catatumbo since 2017.<sup>[123]</sup> It is unclear whether the incidents were caused by landmines planted years earlier by the FARC or recently by the ELN and the EPL.<sup>[124]</sup> At least one incident documented by Human Rights Watch appears to be related to more recently planted landmines given that there had been no incidents in the area previously.<sup>[125]</sup>

The armed forces removed at least 92 explosive devices and destroyed 55 landmines between October 2018 and April 2019. However, demining activities in the area are limited given security risks due to the escalation of the armed conflicts.<sup>[126]</sup>

**Alejandro Rodríguez** (pseudonym), 34, is a primary teacher at a school serving rural populations in Catatumbo. Around 1 p.m. on February 5, 2019, Rodríguez left the school grounds to look for a soccer ball that one of his students had kicked. It had landed about 15 meters away from where the students were playing. Rodríguez stepped on something that exploded. He told us he thinks it was a landmine. Neighbors helped him get to the nearest town, several hours away. When we interviewed him in April, he had moved to an urban area and was receiving medical treatment, having lost his foot. Rodríguez said nobody had visited the area in the two months since the incident to see if there were other landmines near the school. In his rural community, he heard shots nearly every day and children feared going to school, he told Human Rights Watch. “Those who are part of the conflict do not suffer what we, as farmers..., suffer,” he said. “We are the ones paying for a conflict that they started.”<sup>[127]</sup>

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# Venezuelans in Catatumbo

## Venezuelan Migration to Colombia

According to the United Nations High Commissioner for Refugees (UNHCR) more than 4 million Venezuelans have fled their country in recent years.<sup>[128]</sup>

By official counts, as of July 2019, roughly 1.4 million Venezuelans had fled to Colombia.<sup>[129]</sup> The number may be much higher, given that many use the more than 300 irregular crossings along Colombia's border.<sup>[130]</sup> The number of people that do not go through official checkpoints increased when Venezuelan authorities closed the border in February 2019.<sup>[131]</sup> Between March and June, Venezuelan authorities only allowed those with permits to attend school in Colombia or those holding certificates of medical need to cross.<sup>[132]</sup> In early June, Venezuelan authorities opened the border and, as of July, were allowing anyone to leave the country.<sup>[133]</sup>

The Colombian government has adopted a series of measures to provide arriving Venezuelans access to health care for urgent needs and to enroll Venezuelan children in schools.<sup>[134]</sup> Other initiatives, in coordination with UN agencies and local humanitarian groups, provide meals, vaccination, and shelter.





A Venezuelan man holds out his hands to show injuries caused by his work in coca fields, Tibú, April 11, 2019. © 2019 Human Rights Watch

The Colombian government created a special permit that allows Venezuelan citizens who entered the country legally but overstayed their visas to regularize their status and gain work permits and access to basic public services.<sup>[135]</sup> In total, Colombian authorities have granted this permit to over 590,000 Venezuelans since July 2017.<sup>[136]</sup> These permits allow children to enroll in schools.<sup>[137]</sup> The many undocumented Venezuelans who do not have the permit face an array of difficulties, including fear of deportation if they report being victims of abuse and lack of access to non-emergency health care.<sup>[138]</sup> (According to official statistics, thousands of Venezuelans arrive in Colombia daily, and 840 Venezuelans were formally deported in all 2018 and 200 in the first half of 2019.)<sup>[139]</sup>

## Venezuelan Migration to Catatumbo

Limited immigration controls by Colombian authorities in areas where armed groups control illegal crossings, as well as jobs that pay better than in Venezuela, attract many Venezuelans to the Catatumbo borderlands.<sup>[140]</sup> It is impossible to know the exact number of Venezuelans living in Catatumbo, given that state presence is limited and armed groups are exercising immigration controls at illegal crossings throughout some parts of Catatumbo.<sup>[141]</sup> Colombian authorities counted only 9,106 Venezuelans in Catatumbo in

June 2018, but they did not survey all rural areas—where most Venezuelans live<sup>[142]</sup>—and they surveyed during the “armed strike,” in which the EPL ordered a halt to all business and activities.<sup>[143]</sup> As of April 2019, OCHA estimated at least 25,000 Venezuelans were living in Catatumbo.<sup>[144]</sup>



A group of Venezuelans wait for lunch at a soup kitchen operated by a Catholic church, with support from the UN World Food Programme, in Tibú, April 11, 2019. The soup kitchen feeds 400 Venezuelans per day. © 2019 Human Rights Watch

Venezuelans are living in all major urban areas of Catatumbo, including Tibú, Ocaña, El Tarra, Ábrego, Convención, and Sardinata.<sup>[145]</sup>

In these areas, many, including women and children, live in precarious conditions. Some sleep on the streets or in overcrowded buildings, sometimes without access to electricity and running water.<sup>[146]</sup> A soup kitchen organized by a Catholic priest in Tibú feeds 400 Venezuelans a day with the support of the World Food Programme.<sup>[147]</sup>

A Colombian official told Human Rights Watch that in mid-August the government would carry out a meeting in Catatumbo with national, regional and local actors, as well as representatives of international humanitarian bodies, to address the situation in the region, which, he said, “deserves special attention.”<sup>[148]</sup>

## Venezuelans at Risk

Venezuelans displaced from their country or migrating to Catatumbo have been caught up in the conflict. They have been among those forcibly displaced, killed, and subject to child recruitment by armed groups. Some Venezuelans have also been subject to sexual abuse; others have disappeared.

Venezuelans fear deportation if they report abuses and, as described in the next section, have had difficulty accessing government services, making them particularly vulnerable to abuses. Venezuelan's limited knowledge about Colombia's armed conflicts, together with the conditions in which they live and the needs that drive them to migrate, makes them more vulnerable to recruitment by armed groups in the area.<sup>[149]</sup>

In 2018, 19 Venezuelans were killed in Catatumbo, the Colombian National Police reported, up from 5 in 2017 and none in 2016.<sup>[150]</sup> Preliminary data show 16 Venezuelans killed from January through June 2019.<sup>[151]</sup> As of April 2019, the Attorney General's Office was investigating the murder of 47 Venezuelans committed in Catatumbo since 2017.<sup>[152]</sup> The statistics by the National Police and the Attorney General's Office are not specific to conflict-related deaths.

OCHA told Human Rights Watch that five Venezuelans were killed in violence linked to armed groups in 2018, up from one in 2017.<sup>[153]</sup> According to OCHA, 15 Venezuelans were killed by armed groups between January and July 2019.<sup>[154]</sup>

OCHA has received reports of sexual violence and abuse against Venezuelan women and girls.<sup>[155]</sup> Humanitarian actors and a human rights official have reported sexual exploitation of Venezuelan girls.<sup>[156]</sup> According to a humanitarian body, Venezuelan girls between 12 and 15 years old engage in relationships in which sex is exchanged for 5,000 Colombian pesos (less than US\$2).<sup>[157]</sup> Venezuelan victims of sexual abuse have told OCHA they did not report incidents to Colombian authorities for fear of retaliation by perpetrators and of deportation by Colombian authorities.<sup>[158]</sup>

Venezuelans have also been the victims of other abuses committed by armed groups. As of April 2019, the Attorney General's Office was investigating the alleged enforced disappearances of 10 Venezuelans that have occurred since 2017.<sup>[159]</sup> And another 100 Venezuelans were victims of "forced displacement," according to a humanitarian organization working in Catatumbo.<sup>[160]</sup>

As noted above, migrant Venezuelan children in Catatumbo who are not in school are at heightened risk of recruitment by armed groups. Several sources told Human Rights Watch that Venezuelan children had allegedly been recruited by armed groups, and the Human Rights Ombudsperson's Office reported one case in which a 14-year-old Venezuelan girl had been recruited by the EPL.<sup>[161]</sup> As of April 2019, the Attorney General's Office was investigating one case involving the recruitment of a Venezuelan child.<sup>[162]</sup>

In Catatumbo, Venezuelan and Colombian children work in coca fields, which can be a barrier to attending school. Venezuelans who want to study face additional difficulties such as limited capacity in schools, lack of funding for school materials, and having to attend schools that are several hours from home.<sup>[163]</sup>

**Enrique Pérez** (pseudonym), 14, arrived with his mother in Catatumbo in February 2019, having left Trujillo state in Venezuela because, he said, his parents could no longer feed the family adequately. Some days, they only had one meal per day, and sometimes he could only eat one every other day. He had been a student in Venezuela but dropped out when he arrived in Colombia to work in the coca fields. He works from 5 a.m. to noon, and then again between 1 and 4 p.m., under the blazing sun. At times, Venezuelans work only for a plate of food, he said. He told Human Rights Watch that he works alongside Colombian and Venezuelan children as young as eight, and that he would love to go back to school but must work.<sup>[164]</sup>

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## Inadequate Protection and Accountability

### Accountability

**T**he Attorney General's Office has, so far, largely failed to ensure justice for the serious abuses committed by armed groups in Catatumbo that have been reported to authorities. There are hundreds of cases currently under investigation, but these have only rarely led to prosecutions and convictions against members of armed groups.

The Attorney General's Office reported to Human Rights Watch that, as of April 2019, it had 776 cases concerning murders committed in Catatumbo since January 2017.<sup>[165]</sup> Prosecutors had charged people in 184 cases and also secured convictions in 61.<sup>[166]</sup> Charges have been brought against only two members of armed groups, however, both individuals belonging to the EPL.<sup>[167]</sup> According to the Attorney General's Office, its records have a "significant under-registration" (i.e., limited

information) on the location where crimes were committed, as well as alleged perpetrators and victims. The office had not charged, let alone convicted, anyone for child recruitment, “threats” or “enforced disappearances” committed since January 2017.<sup>[168]</sup> Ten people, including two members of armed groups, had been charged, but no one had been convicted, in over 480 cases of “forced displacement.”<sup>[169]</sup>

A key obstacle is the limited number of officials in Catatumbo charged with investigating and prosecuting all crimes. For example, in Tibú, there are three prosecutors—one of them handles 2,400 cases and the other two over 600 each.<sup>[170]</sup> They work with only three police investigators, an insufficient number to handle the investigations, according to a judicial authority we interviewed.<sup>[171]</sup> In Sardinata, there is only one prosecutor.<sup>[172]</sup> Prosecutors in Tibú and Sardinata have no members of the Technical Investigation Unit (*Cuerpo Técnico de Investigaciones*, CTI)—the body charged with providing investigative and forensic support to prosecutors in criminal cases—to assist them.<sup>[173]</sup>

Three of the thirteen prosecutors in Ocaña investigate crimes related to the conflict, but only crimes committed in some Catatumbo municipalities.<sup>[174]</sup> They work with more than 30 police or CTI investigators, who are supposed to cover crimes committed in most rural areas of Catatumbo.<sup>[175]</sup> But due to security concerns they rarely travel outside of Ocaña.<sup>[176]</sup>

Other cases are handled by prosecutors in Cúcuta, where there are more police and CTI investigators, but they also have a large volume of cases. For instance, a prosecutor who handles cases of forced displacement and disappearances in North Santander has more than 1,000 cases in his portfolio. Two other prosecutors dealing with extortion and kidnappings, including cases related to the conflict, in North Santander handle 350 cases each.<sup>[177]</sup> Other cases have been transferred to national and human rights prosecutors.<sup>[178]</sup>

Another prosecutor who handles all cases of threats against human rights defenders and community leaders in the region has 460 cases that occurred since 2014. In part due to difficulties in carrying out investigations into these threats, there have been no indictments or convictions.<sup>[179]</sup>

Justice officials face serious security risks in Catatumbo, which make it very difficult to visit rural areas to investigate crimes.<sup>[180]</sup> At times, they require support and helicopter transportation by Colombia’s armed forces, which is expensive and occurs sporadically.<sup>[181]</sup> On May 14, 2019, a group of officials from the courthouse in Tibú were attacked as they were visiting rural Tibú to carry out investigations. An unidentified armed group threw an explosive at their car. The judge was hurt, and his secretary and a passerby were killed.<sup>[182]</sup>

Security risks often undercut pursuit of any serious criminal investigation. Several residents, justice officials, and officials of humanitarian organizations in Catatumbo told Human Rights Watch that, often, forensic experts do not participate in the removal of corpses. Instead, employees of funeral establishments take the bodies without following the procedures required to preserve a crime scene.<sup>[183]</sup> Sometimes, family members take the corpses and bury them, and investigators do not have

access to the body.<sup>[184]</sup> Several judicial authorities reported that witnesses or family members generally fear retaliation for cooperating with investigations.<sup>[185]</sup> Two of these authorities said this leaves them with limited evidence to investigate crimes.<sup>[186]</sup>

In addition, underreporting of crimes is common due to fear of retaliation, including among survivors of gender-based violence, as described above.<sup>[187]</sup> Venezuelan victims of crimes face the added fear of deportation. Despite allegations of sexual abuse against Venezuelan women in Catatumbo, none of the 300 investigations into sexual crimes in one prosecutor's office had been brought by Venezuelan victims.<sup>[188]</sup>

## Prevention of Abuses

Under international human rights law, states have obligations to take measures to prevent or deter abuses of rights committed by private actors such as armed groups as well as to provide access to effective remedies when rights are harmed. Measures that should be taken include appropriate preventive operational measures to prevent loss of life or interference with personal security or bodily integrity that are commensurate to an identified and anticipated risk.

Under Colombian law, the Human Rights Ombudsperson's Office is required to issue "early alerts" when it identifies "risks and threats" to human rights or the risk of potential international humanitarian law violations.<sup>[189]</sup> When an early alert is issued, municipal, provincial, and national authorities are required to carry out a "rapid" response to prevent abuses.<sup>[190]</sup> The response is coordinated by the Ministry of Interior, including through a high-level Inter-Agency Commission where recommendations are issued to relevant government offices.<sup>[191]</sup>

The Human Rights Ombudsperson's Office has issued five early alerts on Catatumbo since January 2018.<sup>[192]</sup> However, the response by government authorities has often been inadequate, according to several sources interviewed by Human Rights Watch.<sup>[193]</sup> For example, it took the National Protection Unit (*Unidad Nacional de Protección*, UNP)—a national body charged with protecting people at risk—more than eight months to initiate the process to grant protection schemes to indigenous Bari community leaders that the Human Rights Ombudsperson's Office had identified, in January 2018, as potentially at risk.<sup>[194]</sup>

Authorities at times also fail to carry out a coordinated response to prevent abuses, according to the Human Rights Ombudsperson's Office and humanitarian actors.<sup>[195]</sup> According to the Human Rights Ombudsperson's Office, the response is often limited to "sending messages" to other government agencies and does not "have any impact to mitigate the conditions of vulnerability or the risk faced by the population."<sup>[196]</sup>

Authorities are required to report to the Human Rights Ombudsperson's Office what actions they have taken to address the risks identified in "early alerts."<sup>[197]</sup> Yet authorities do not always respond. When, in January 2018, the Human Rights Ombudsperson's Office issued an early alert regarding the

situation in three municipalities in Catatumbo, the Attorney General's Office, one of the mayor's offices, and governor's office did not respond to information requests sent by the Human Rights Ombudsperson's Office.<sup>[198]</sup>

In other cases, authorities respond that they are carrying out national plans or policies established before the early alert, but without any apparent change to these plans or policies based on the Human Rights Ombudsperson's Office's assessment provided in the early alert or other details that appear to provide a specific response to the circumstances contained in the alert.<sup>[199]</sup> For example, in response to the January 2018 alert, the army described pre-existing national military plans and mentioned the number of captures and killings in combat in the region. It did not clarify when these had occurred, nor whether they had taken place in the areas included in the early alert.<sup>[200]</sup>

## **Protection of Community Leaders and Human Rights Defenders**

As mentioned above, the number of human rights defenders and community leaders killed since 2017 in Catatumbo is among the highest in Colombia.

Many community leaders and human rights defenders in Catatumbo have individual protection measures provided by the UNP. These measures include cellphones, bulletproof vests, and, in extreme circumstances, bodyguards.<sup>[201]</sup>

Yet these individual protection schemes are insufficient to ensure adequate protection of community leaders in Catatumbo. In some cases, community leaders are unwilling to go back to their communities with their protection schemes because they think it will draw attention and expose them to more danger.<sup>[202]</sup> Moreover, while these schemes are provided as reaction to threats, it appears that only one of the fourteen community leaders and human rights defenders killed in Catatumbo since 2017 had previously reported threats or requested an individual protection scheme.<sup>[203]</sup>

In part to address this shortcoming, in April 2018, the Colombian government signed a decree creating protection programs that would ensure collective protection for communities and rights groups at risk.<sup>[204]</sup> In June 2018, the government announced that it would establish four pilot plans, including one in El Tarra.<sup>[205]</sup>

The pilot program in El Tarra, however, has yet to be implemented. In February 2019, the Interior Ministry told Human Rights Watch that they had "identified actions" to pursue the pilot project.<sup>[206]</sup> Yet, these had not been put in place as of June.<sup>[207]</sup>

## Assistance to Displaced Populations

Under Colombia's Victims' Law, municipal governments must provide victims of forced displacement with humanitarian assistance, including decent shelter and food, as soon as they ask to be registered as victims.<sup>[208]</sup> Colombian law also requires the government to provide temporary housing, transportation, and food to victims of sexual violence who request it.<sup>[209]</sup>

According to humanitarian and human rights actors, however, government assistance is often slow and insufficient.<sup>[210]</sup> According to OCHA, municipal government institutions are “overwhelmed” and need support to deal with displaced populations.<sup>[211]</sup> Humanitarian and human rights actors working in the area explained that some municipalities run out of funds to provide support to victims of displacement, early in the year.<sup>[212]</sup>

Under Colombian law, if municipal governments are unable to offer aid, the provincial or national governments must assist.<sup>[213]</sup> Yet human rights officials and humanitarian workers in the area told Human Rights Watch that the provincial and national governments often respond slowly.<sup>[214]</sup> For example, it took the national government over a month to provide food to some of the people forcefully displaced in March 2018.<sup>[215]</sup>

In addition to local authorities running out of funding early in the year, humanitarian actors reported that communities improvised temporary shelters to respond to specific waves of displacement. For example, at least 224 people were displaced to Teorama on February 27, 2019, where some lived in a meeting room without furniture.<sup>[216]</sup> After clashes between the ELN and Colombian armed forces on January 23 and 24, at least 145 people, including children, relocated to El Tarra, where they lived in a school without running water.<sup>[217]</sup> In other instances, displaced populations informally set up “humanitarian shelters” where they slept in tents.<sup>[218]</sup> The poor conditions and difficulty in accessing humanitarian aid in their new locations pushes some displaced people to return to their homes despite insufficient security guarantees.<sup>[219]</sup>

A key gap is that local human rights offices in Catatumbo where victims can report abuses in order to access assistance and reparations programs—called “*personerías*” in Colombia—are understaffed.<sup>[220]</sup> All *personerías* in Catatumbo, with the exception of the one in Ocaña, only have two employees—the head of the office and one assistant. Not every office has staff trained to interview victims of sexual or gender-based violence and several officials told Human Rights Watch that the *personerías* often struggle to take the reports of victims.<sup>[221]</sup>

The Venezuelan population, which is not always aware of mechanisms provided by the Colombian government to displaced populations, is in an even more precarious situation.<sup>[222]</sup> OCHA has reported that the “lack of complaints filed by Venezuelan immigrants” makes an adequate response by authorities and humanitarian organizations “impossible.”<sup>[223]</sup>



Moreover, Venezuelans were initially denied the possibility of reporting abuses to *personerías*. When the conflict between the ELN and the EPL started, many officials denied displaced Venezuelans the right to report the abuses they suffered because they thought they were not covered by Colombia's Victims' Law.<sup>[224]</sup> Later, since approximately August 2018, *personerías* started allowing Venezuelan victims to report abuses.<sup>[225]</sup> While the country's Victims' Unit, which assesses complaints recorded by the *personerías* and other offices, had also repeatedly turned down complaints by Venezuelans, holding that they were not entitled to the reparations and assistance programs afforded to victims of abuses by armed groups in the country, that situation changed in mid-2019. By July 2019, the Victims' Unit was accepting complaints from Venezuelans, appearing to acknowledge that they are entitled to reparations and assistance under the Victims Law.<sup>[226]</sup> Indeed, the law grants these rights to "people" who suffered abuses "connected to the armed conflict," without making any explicit distinction based on nationality.<sup>[227]</sup>

Given the serious shortcomings in governance, humanitarian organizations in Catatumbo play a key role in assisting victims. Yet the budget for the local coordination team in North Santander providing support to victims of Colombia's armed conflicts has decreased substantially from US\$5.3 million in 2016 to roughly US\$2.2 million in 2018.<sup>[228]</sup> Several humanitarian actors interviewed by Human Rights Watch have noted that international humanitarian aid for Venezuelans at the border is increasing but there is no clear recognition by the Colombian government or international humanitarian agencies that victims of Colombia's armed conflicts also need increased aid to address their deteriorating humanitarian situation.<sup>[229]</sup>

## Police and Military Response

Under Colombian law, the responsibility to protect the population rests primarily with the National Police, while the armed forces are largely charged with combating armed groups.<sup>[230]</sup>

In October 2018, the Colombian government launched the "Force of Rapid Deployment 3" (*Fuerza de Despliegue Rápido No. 3*, FUDRA) to increase the number of military officers in Catatumbo by 5,600.<sup>[231]</sup> The new force was added to the 30th Brigade of the army, the 30th engineer battalion "José Alberto Salazar Arana," and the Vulcano Task Force, a special military unit that has operated in Catatumbo since 2011 and has 4,000 officers.<sup>[232]</sup>

As of May 2018, there were approximately 800 police in Catatumbo.<sup>[233]</sup> Their presence, however, is limited to urban areas, and even in urban areas, they are often confined to their stations.<sup>[234]</sup> When Human Rights Watch visited Convención, for example, most policemen appeared to be barricaded in the police station and did not patrol urban areas of the town.<sup>[235]</sup>

Residents, human rights officials, and humanitarian actors have reported abusive behavior by members of the military in Catatumbo. A number of sources indicated that soldiers have, at times, accused civilians, without evidence, of being complicit with armed groups.<sup>[236]</sup> For example, one resident told Human Rights Watch that he attended a meeting in which an army officer accused a human rights official of being a "chess piece of the guerrilla" without providing any evidence.<sup>[237]</sup>

Soldiers often stop civilians when they go through military checkpoints. They require civilians to show their IDs, take photographs of them, ask about developments in their communities, and ask who the community leaders are, according to human rights officials and humanitarian and rights groups working in the area.<sup>[238]</sup>

One community leader told Human Rights Watch that civilians are often left in an impossible situation: if they meet with members of the military at their request, they risk being seen as informants by the armed groups, and if they refuse to meet with the military for that reason, they risk being perceived as collaborating with the armed groups.<sup>[239]</sup>

On April 22, 2019, an army soldier killed Dimar Torres, a demobilized FARC member, in Convención. Initially, Defense Minister Guillermo Botero said that Torres had been killed accidentally during a “tussle” after he tried to rob a sergeant’s rifle.<sup>[240]</sup> On April 28, however, a group of Colombian senators visited the area to interview residents. They concluded that the death “was not accidental” and reported “evidence of a pit and testimonies that suggest the intention of hiding—disappearing—the body.”<sup>[241]</sup> That same day, the Vulcano Task Force commander, Gen. Diego Luis Villegas Muñoz, “apologized” during a public event in Convención for what he described as a “murder by members of the armed forces.”<sup>[242]</sup> Later that day, the Attorney General announced that his office was bringing charges against a sergeant allegedly responsible for the murder.<sup>[243]</sup> On May 17, the Attorney General’s Office announced that it would investigate a colonel for “cover-up.”<sup>[244]</sup>

Many residents do not trust security forces due to their record in Catatumbo.<sup>[245]</sup> In the late 1990s and early 2000s, paramilitary groups expanded their control throughout areas of Catatumbo with support of the Colombian armed forces.<sup>[246]</sup> The paramilitaries committed numerous massacres and other abuses. Later, between 2006 and 2008, soldiers in Catatumbo engaged in extrajudicial executions known as “false positives,” in which troops lured civilians to remote locations under false promises, killed them, placed weapons on their lifeless bodies, and reported them as enemy combatants killed in action.<sup>[247]</sup> In fact, Gen. Villegas, the current head of the Vulcano Task Force, is facing a criminal investigation for a “false positive” case committed in the province of Antioquia in 2008.<sup>[248]</sup>

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## Applicable Legal Frameworks

Colombia is party to multiple human rights treaties that impose international obligations to protect those human rights central to guarantees of security, including the rights to life, to physical integrity, to personal liberty and security, and to the peaceful enjoyment of one's possessions.<sup>[249]</sup> Colombian authorities have obligations to provide effective protection for these rights. In addition, they must seek to hold perpetrators of human rights abuses accountable and guarantee the rights of victims, including their right to an effective remedy and reparation.<sup>[250]</sup>

In 2009, the Inter-American Commission on Human Rights, in its "Report on Citizen Security and Human Rights," reminded OAS member states, including Colombia, that:

Member States have a duty to protect and ensure the human rights at stake in the area of citizen security through plans and programs aimed at prevention, deterrence and, where necessary, measures of lawful suppression of acts of violence and crime, based on the guidelines and within the boundaries set by the standards and principles on human rights within the universal and regional human rights systems.<sup>[251]</sup>

In the region of Catatumbo, international humanitarian law (the laws of war), also applies to the hostilities between armed groups that are sufficiently organized, with effective command structures, to be parties to the conflict. The International Committee of the Red Cross has found that the intensity of the hostilities and the groups' level of organization show that the ELN and the EPL are parties to non-international armed conflicts in Colombia.<sup>[252]</sup> Similarly, the Colombian Defense Ministry considers both groups to be "organized armed groups," covered by international humanitarian law.<sup>[253]</sup>

The government of President Duque has at times denied the existence of armed conflicts in Colombia.<sup>[254]</sup> It has argued that the ELN in particular cannot be considered a party to the armed conflict because its members seek to "obtain illegal benefits" and are "not political."<sup>[255]</sup> However, the motivation of an armed group is irrelevant when deciding whether a situation constitutes an armed conflict.<sup>[256]</sup>

All parties to an armed conflict, whether state forces or non-government groups, are bound by applicable standards of international humanitarian law.<sup>[257]</sup>

Individuals who commit serious violations of the laws of war intentionally or recklessly are responsible for war crimes.<sup>[258]</sup> International law obligates states to investigate, prosecute, and punish war crimes.<sup>[259]</sup> Commanders who knew or should have known about violations but failed to stop them or punish those responsible may be liable as a matter of command responsibility.<sup>[260]</sup>

One of the most basic rules of international humanitarian law is that parties to a conflict must distinguish between combatants and civilians and should not intentionally target civilians or other persons not taking direct part in hostilities. The use of antipersonnel landmines, which do not discriminate between civilians and combatants, is considered indiscriminate and prohibited by the 1997 Mine Ban Treaty, to which Colombia is a party.<sup>[261]</sup> Summary executions are illegal under any circumstances according to both international humanitarian and human rights law. “Willful killing” is a war crime under the Rome Statute.<sup>[262]</sup> While civilian deaths occurring during hostilities between armed groups in a non-international armed conflict are not necessarily always violations of international humanitarian law, they can be prosecuted as unlawful homicides under national law, as part of the government’s obligations to protect and vindicate the right to life.

The abduction of civilians during an armed conflict, commonly referred to as “kidnappings” in Colombia, is a violation of international humanitarian law, and may also amount to an “enforced disappearance” under Colombian law. The definition of “enforced disappearance” in Colombian criminal law and interpreted by Colombia’s Constitutional Court contains two elements. These are the deprivation of liberty of a person by any means, followed by hiding them, and a lack of information about the whereabouts of the person, or the refusal to recognize their deprivation of liberty or give information about the person’s whereabouts. Under Colombian law, anyone can be criminally liable for an “enforced disappearance,” irrespective of whether the person is a private individual, a participant in an armed conflict, a state agent, or someone acting with the support or acquiescence of state agents.<sup>[263]</sup>

Detaining someone to compel another party to take action to obtain their release is hostage-taking, which is a war crime.<sup>[264]</sup>

Rape and any other form of sexual violence which take place in a non-international conflict are also serious violations of international human rights and humanitarian law, and they are specifically listed as war crimes under the Rome Statute.<sup>[265]</sup>

International humanitarian law forbids armed groups from displacing civilian populations, unless the security of the civilians involved, or imperative military reasons demand it.<sup>[266]</sup>

Forced displacement of civilian populations violates both international humanitarian law and human rights protections. The UN Guiding Principles on Internal Displacement, which provide authoritative standards for the obligations of governments relating to forced displacement, explicitly provide that “all authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.” The prohibition of arbitrary displacement includes displacement “in situations of armed conflict,

unless the security of the civilians involved or imperative military reasons so demand.” In the event of forced displacement, the Principles provide that the authorities should ensure displaced people “at a minimum” have safe access to essential food and potable water, basic shelter and housing, appropriate clothing, and essential medical services and sanitation.<sup>[267]</sup> Under Colombian law, municipal governments are obligated to provide victims with humanitarian assistance, including food aid, as soon as they ask to be officially registered as displaced.<sup>[268]</sup>

The recruitment and use of children under the age of 15 years as soldiers, and their participation in active hostilities, is prohibited under international humanitarian law and listed as a war crime in the Rome Statute for the ICC.<sup>[269]</sup> The Convention on the Rights of the Child and the Additional Protocols to the 1949 Geneva Conventions prohibit any recruitment or use in armed conflict of children under the age of 15.<sup>[270]</sup> In 2000, the United Nations adopted an Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, raising the minimum age for forced recruitment, conscription, or direct participation in hostilities to age 18.<sup>[271]</sup> The protocol also obliges nongovernmental armed groups to refrain from any recruitment or use of children under age 18. As of July 2019, 168 governments, including Colombia, were party to the Optional Protocol.<sup>[272]</sup> Colombia is also a party to the Worst Forms of Child Labor Convention, adopted by the International Labour Organization in 1999, which prohibits the forced recruitment of children under the age of 18 for use in armed conflict as one of the worst forms of child labor.<sup>[273]</sup>

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## Acknowledgments

**T**his report was researched and written by research staff from the Americas Division of Human Rights Watch. It was reviewed and edited by José Miguel Vivanco, Americas executive director; Margaret Knox, senior editor/researcher; Liz Evenson, acting senior legal advisor; Joseph Saunders, deputy program director; Amanda Klasing, acting co-director of the Women’s Rights Division; Margaret Wurth, senior researcher of the Women’s Rights Division; Mark Hiznay, associate director of the Arms Division; and Jo Becker, advocacy director of the Children’s Rights Division.

Americas Division associates Megan Monteleone and Vira Tarnavska contributed to the report production. Americas Division research assistant Ángel Zapata and interns Virtudes Chiaraluce and Trent Kannegieter provided valuable research support. The report was prepared for publication by Fitzroy Hepkins, administrative manager; and José Martínez, senior administration coordinator. It was translated into Spanish by Gabriela Haymes.

Human Rights Watch would like to thank the numerous individuals who contributed to this report. We are very grateful for the support provided by the Human Rights Ombudsperson's Office, as well as by other individuals who asked not to be identified.

Human Rights Watch is deeply grateful to the victims and their family members who, despite often incredibly difficult circumstances, shared their testimonies with us.

**Region / Country Americas, Colombia**