







**Alternative Report to the Committee  
on the Rights of the Child – 2013**



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## Informe Alternativo al Informe del Estado colombiano sobre el cumplimiento de la Convención de los derechos del niño 2013

El presente Informe Alternativo ha sido posible gracias al apoyo de las copartes de la plataforma de organizaciones sociales y populares por el protagonismo de niños, niñas y jóvenes, las organizaciones aliadas, los consultores regionales y especialmente a los niños, niñas y adolescentes a través de su participación en donde manifestaron sus opiniones, saberes y experiencias con relación al cumplimiento de sus derechos.

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Con el apoyo de : Icco & Kierniactie, Fundación War Child, terre des hommes Alemania (2013)



#### DISEÑO Y DIAGRAMACIÓN

Rocío Paola Neme Neiva

#### IMPRESIÓN

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## INTRODUCTION

On the 12th of June 2006, during the Examination of the Reports presented by the State Parties under Article 44 of the Convention on the Rights of the Child, the Committee approved the final observations on Colombia. Even though the observations highlighted important progress made in the protection and guaranteeing of the rights of children in the country, it also includes an extensive description of the lack of effective measures that guarantee the full enjoyment of these rights, and thus urges the State to comply with its international obligations in this area.

Since then, the socio-political context of Colombia has undergone huge transformations and unfortunately children haven't been sheltered from the effects of these changes. Similarly, the worsening of the armed conflict and the decisions made by the previous and current governments that have been in charge of the country have combined repressive measures with transitional justice, while ignoring the causes of the war, corruption in institutions, drug trafficking and the disproportionate use of force by police and military authorities. In addition, assassinations and persecutions of human rights defenders, the criminalization of young people and their demonstrations, the co-opting of legislative, judicial and executive entities by armed groups, the incursion of multinational companies for the exploitation of environmental resources, as well as other factors, have affected the growth of this generation of children and adolescents. This complex reality has significantly reduced the possibility that the population under the age of 18 can exercise their rights and enjoying dignified living conditions.

Even though in December 2011 the Colombian State presented the four and fifth periodic reports to the Committee, praising the actions developed by their governments to support children and adolescents and highlighted the implementation of the recommendations handed down by this organism five years earlier, these mea-

asures haven't been sufficient to guarantee their rights, which is why this Alternative Report is included below. This report aims to demonstrate a different perspective of the situation of children in Colombia with the goal of providing an additional instrument to the Committee that they can then use to carry out observations and monitor the grave situation faced by children in the country.

This document is the product of joint action developed by a group of grassroots social organizations and collective spaces that are participants in the Support Committee for the Construction of the Alternative Report to the UN Committee on the Rights of the Child, 2006 – 2010<sup>1</sup>, that for more than the past two years has assumed the joint commitment of constructing alternative viewpoints and elevating a dissident voice regarding the application of the Convention on the Rights of the Child (CRC) and its Optional Protocols. These viewpoints are brought before the UN Committee on the Rights of the Child, and especially to other interested parties at national and international levels, representing an additional contribution to the integrated compliance of the rights of children, that in Colombia are ignored and violated in a generalized manner. The current text is complemented by a Report prepared by children in a participatory manner, in which children express the visions that they have regarding the implementation of the Convention on the Rights of the Child based on their own experiences and the recommendations of the Committee in their country.

1 The Support Committee is made up of Corporación Cactus, the Colombian Lawyers Commission, the José Alvear Restrepo Lawyers Collective, Humanidad Vigente Corporación Jurídica, Terre des hommes Germany, the Coalition against the Involvement of Children and Young People in the Colombian Armed Conflict – COALICO – and the Colombian Platform of Social and Community Organizations for the Importance of Children and Young People.

# 1. GENERAL MEASURES OF APPLICATION

## 1.1 Legislation and National Action Plan

The Colombian State has recognized through its domestic legal rulings the prevalence of the rights of people under the age of 18 compared to the rest of the population.<sup>2</sup> Similarly, it has ratified the majority of the international instruments for the protection of the rights of children and adolescents, which constitute fundamental tools for the demanding their rights, in particular when this is done using appropriate legal channels. However, Colombia still hasn't ratified the Optional Protocol on the Convention on the Rights of the Child regarding a ruling on communication, presenting various obstacles for the appropriate implementation of these legal instruments and the country still hasn't effectively included the principle of the superior interest of the child in its decision making processes and public policies.

One of the advances made that has been most cited by the Colombian State during the evaluation period were the reforms made to the Children's Code of 1989<sup>3</sup> through Law 1098 of 2006<sup>4</sup>, which includes the System of Responsibility for Adolescents (SRPA). However, during the last two years different initiatives have been developed to modify what this original legal framework, with the goal of increasing sanctions, lowering the minimum age of criminal responsibility from 14 to 12 years of age and toughening up the punishments given to adolescents that break the law.<sup>5</sup>

<sup>2</sup> Article 44 of the Political Constitution of Colombia.

<sup>3</sup> Decree 2737 of 1989

<sup>4</sup> Childhood and Adolescence Code.

<sup>5</sup> Among others it is important to highlight: i) the legislative initiative from the Green Party Senator Gilma Jiménez (Proposed Law 153 of 2010) that aimed to toughen sentences for adolescents that commit serious crimes such as homicides, sexual abuse, armed robbery, kidnappings

This has been accompanied by a strong campaign of stigmatization and criminalization of children and adolescents, particularly those that come from highly marginal sectors, those that are socially excluded and children and adolescents belonging to ethnic minorities.

As a result, Law 1453 of 2011 that modified the Childhood and Adolescence Code widened the role of the national police to supervise the internal control of specialised assistance centres where adolescents are detained and jailed. Added to this situation are the changes that have been made in the definition of the “crimes” that are the reasons given for detaining children and adolescents. This goes against the educational nature that a juvenile justice system should have according to international standards, which are focused on re-socialization and guardianship instead of prioritizing a primarily punitive system.<sup>6</sup>

Within the National Development Plan (2010-2014)<sup>7</sup>, which provides the public policy guidelines and details the government’s plan for a four year period, there is a lack of measures that relate to reducing the involvement of children and adolescents in civilian/military activities, an absence of concrete dispositions to prevent the crime of recruitment in the first years of life and a lack of awareness that this practice is a war crime<sup>8</sup>. These omissions avoid a large number of the issues that Colombia faces in terms of the legal framework of the United Nations<sup>9</sup>. In addition, the country hasn’t complied with the series of orders that are designed to help it rectify the de-

and extortions; ii) the proposal from 2010 of the ex-mayor of Medellín Alonso Salazar to treat children under the age of 14, as adults; and iii) the proposal from the ex-mayor of Cali to establish extended military service for children that break the law, which would mean converting barracks into reform schools. In addition, the ex-Minister of the Interior Germán Vargas Lleras stated that “the law guarantees the rights of minors (under the age of 18) and guarantees their rights so much that they became easy prey for the criminal gangs (Semana Magazine, 15th of September 2010).

- 6 Coalition against the Involvement of Children and Young People in the Colombian Armed Conflict – COALICO. Declaration to the United Nations Human Rights Council. 19th period of sessions from the 27th of February to the 23rd of March 2012. Resolution 16/12 Rights of the Child: Annual debate on the topic of children and the administration of justice. In: [http://coalico.org/multimedia2/incidencia\\_politica\\_y\\_comunicaciones/c\\_Incidencia%20Internacional/1\\_declaracion\\_al\\_CDH\\_naciones\\_unidas\\_marzo\\_2012.swf](http://coalico.org/multimedia2/incidencia_politica_y_comunicaciones/c_Incidencia%20Internacional/1_declaracion_al_CDH_naciones_unidas_marzo_2012.swf)
- 7 Approved in Law 1450 of 2011.
- 8 Colombian Lawyers’ Commission. *Colombia: perspectives on human rights and humanitarian law 2010-2014*, March, 2011 In: [http://www.coljuristas.org/documentos/libros\\_e\\_informes/colombia\\_perspectivas\\_en\\_ddhh\\_2010-2014.html](http://www.coljuristas.org/documentos/libros_e_informes/colombia_perspectivas_en_ddhh_2010-2014.html)
- 9 United Nations, Human Rights Committee. *Final observations from the Human Rights Committee, Colombia*. 4th of August 2010. Doc. CCPR/C/COL/CO/6, paragraph 24; United Nations, Economic, Social and Cultural Rights Committee. *Final observations from the Economic, Social and Cultural Rights Committee*. Colombia, 7th of June 2010, Doc. E/C.12/COL/CO/5, paragraph. 16; United Nations, Committee on the Rights of the Child, *Final observations*, Colombia: 21st of June, Doc. CRC/C/OPAC/COL/CO/1, paragraphs. 27 y 42.

clared unconstitutional state in relation to its internally displaced population<sup>10</sup>, and also doesn't comprehensively apply international recommendations for this area<sup>11</sup>.

Similarly, the National Action Plan for Childhood and Adolescence 2009-2019 doesn't present any significant advances in terms of the correction of social inequalities that children face beginning from when they are born, the democratization of opportunities and compliance with the proposed twelve basic conditions<sup>12</sup>, nor does it make any progress in correcting the lack of institutional cooperation among the entities involved in their provision of assistance and guaranteeing of children's rights, which seriously affects the enjoyment of said rights.

## 1.2 Coordination and resources for children

The Colombian State significantly increased financial resources of the Colombian Family Welfare Institute (ICBF) with the goal of strengthening it and thus guaranteeing a comprehensive implementation of actions across the national territory<sup>13</sup>. However, the management of resources by the entity have been evaluated after investigations by the entities of control. This management has been found to be unfavourable and inefficient, and a number of congressmen and women have reported incidents of corruption within the Institution. According to Representative Ángela Robledo, the ex-director of the ICBF made decisions regarding 80% of the budget, which affected the transparency of the entity and increased transaction costs, favouring the conformation of monopolies that weakened the 33 regional centres of the ICBF as there was a loss of capacity in decision making and administrative processes<sup>14</sup>. In addition, Representative Robledo reported multiple irregularities among operators<sup>15</sup>

10 Constitutional Court. Ruling T 025 of 2004. M.P Manuel José Cepeda Espinosa

11 55% of the internally displaced population in Colombia are under the age of 18.

12 Refers to access to education, health, food, housing and dignified living conditions.

13 The ICBF has a budget of almost 4 billion pesos (2 billion dollars).

14 Office of the Representative Ángela Robledo. *Director converted the ICBF into a "monster" contractor: Ángela Robledo*. Source:, November 11, 2011. En: <http://www.angelarobledo.com/Home/Comunicaciones/tabid/430/ctl/ReadAngelaRobledo/mid/1141/ArticleId/2008/language/es-CO/Default.aspx>

15 The operators or contractors are contracted by the ICBF and other government entities so that they carry out mission-based functions.

of the ICBF in terms of the working conditions of their staff, especially those that worked in food distribution<sup>16</sup>.

The Office of the Inspector General of Colombia (Procuraduría General de la Nación) has indicated that *"the alleged inconsistencies regarding the School Nutrition (PAE) and Senior Citizen (PNAAM) contracts are cause for concern because they put at risk the fundamental rights to nutritional health and as a result, the lives of children and senior citizens that are beneficiaries of the program...it is not understood how the ICBF, since 2006, has only hired the same operators, however in the audit reports there are continual instances of in compliance that affect the function of these mechanisms."*<sup>17</sup>

Similarly, the Office of the Comptroller General (Contraloría General de la Nación) opened a fiscal enquiry against the ICBF after finding that 53.5% of the ICBF's assets present inconsistencies and limitations<sup>18</sup>.

Discussing the responsibilities of the departmental and municipal authorities to be aware of these issues and to be aware of these issues, because in their budgets they allocate resources to the area of child development, the Office of the Inspector General of Colombia concluded that *"due to the way in which the investment plans are prepared (in the Development Plans) it is impossible to determine the amount of resources allocated to childhood and adolescence. Around a third of the investment plans don't specify where the resources that they are going to invest in the social areas related to children and families are coming from"*<sup>19</sup>. Similarly they have identified that *"there is an evident need to strengthen planning processes and make public decisions at the local level with systematic and participative processes for the monitoring and evaluation of results."*<sup>20</sup>

16 Congreso visible.org. ICBF exploits workers from school cafeterias, December 6th 2010. In: <http://www.congresovisible.org/agora/post/icbf-explota-a-trabajadoras-de-comedores-escolares/2903/>

17 Delegated Inspector General for the Rights of Children, Adolescents and Family. *Oversight report for the contracting processes of the Colombian Family Welfare Institute*. Bogotá, August 2011. In: [http://www.procuraduria.gov.co/porta/media/file/porta\\_doc\\_interes/17\\_Informe%20de%20Vigilancia%20del%20ICBF.pdf](http://www.procuraduria.gov.co/porta/media/file/porta_doc_interes/17_Informe%20de%20Vigilancia%20del%20ICBF.pdf)

18 Website of the El Tiempo newspaper. *The Inspector General will investigate the ICBF regarding millionaire money transfers*. September 21st, 2011. En: <http://m.eltiempo.com/justicia/la-contralora-indagar-al-icbf-por-millonarios-giros/10403967>. Consulted on the 19th of December, 2013

19 Inspector General of the Nation. *Children, adolescents and healthy environments in the Departmental and Municipal Development Plans. A view of local planning in favour of the rights of Colombian children and adolescents*. Bogotá, March 2005. In: [https://mail-attachment.googleusercontent.com/attachment/u/0/?ui=2&ik=5870756807&view=att&th=140ac49623434dcc&attid=0.1&disp=inline&safe=1&zw&saduie=AG9B\\_P-jT-vKkEiOv6gn6ZtsGpXt&sadet=1384275539672&sads=vpfnfPrv6bUy6mkKkJ7yPYeD5k](https://mail-attachment.googleusercontent.com/attachment/u/0/?ui=2&ik=5870756807&view=att&th=140ac49623434dcc&attid=0.1&disp=inline&safe=1&zw&saduie=AG9B_P-jT-vKkEiOv6gn6ZtsGpXt&sadet=1384275539672&sads=vpfnfPrv6bUy6mkKkJ7yPYeD5k)

20 Ibid.

In the same way, the lack of institutional coordination continues to create obstacles for the appropriate development of actions that entities should be carrying out in relation to the protection of children and adolescents, as well as through the provision of services and resources to implement the recommendations made by the Ombudsman's Offices that protect children's rights.<sup>21</sup>

### 1.3 International and civil society cooperation

The global mandate of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Colombia has been questioned on various occasions by the national government, which in 2013 only extended its stay in the country for an additional year<sup>22</sup>. Public servants have strongly criticised the activities of the United Nations that put at risk the work they do in the country. During the open debate on children and the armed conflict that was held by the United Nations Security Council on the 12th of July 2011, the government made statements<sup>23</sup> that

- 21 "In 2009, the government formed an inter-institutional working group with the purpose of discussing the need to have objective criteria for the evaluation of risks in the framework of the Inter-Institutional Committee for Early Warning Alerts (CIAT), to develop links with other competent entities in the implementation of recommendations from the SAT (Early Warning System from the Ombudsman's Office) and to establish a binding mechanism for the requests made to these entities. Afterwards Decree 2780 of 2010 was issued and since then the CIAT stopped being known as the Intersectorial Commission for Early Warning Alerts. However, these measures haven't contributed to improve the effectiveness of the preventative response from the authorities, due to the fact that these authorities haven't tackled the problem of the CIAT lacking independence. This directly impacts on the fact that the meticulous work of analysing the risks associated with the violations of human rights developed by the SAT hasn't occurred with the CIAT". Colombian Lawyers Commission, Monitoring Report on the Recommendations of the Special Rapporteur on Extra-Judicial, Arbitrary or Summary Executions. February 16th of 2012. In: [http://www.coljuristas.org/documentos/libros\\_e\\_informes/inf\\_2012\\_n1.html](http://www.coljuristas.org/documentos/libros_e_informes/inf_2012_n1.html)  
During 2011, 50 high-risk situations were identified by the SAT from the Ombudsman's Office, corresponding to 20 risk reports (5 focused risk reports, 6 reports on intermediate risks and 9 reports on imminent risks) and 30 monitoring notes. Of the total number of situations in which risks were identified, the Inter-institutional Committee on Early Warning Alerts (CIAT) evaluated and authenticated 31 cases that they had declared as high risk. 19th Report from the Ombudsman's Office to the Congress of the Republic of Colombia, 2012. Page 185. In: [http://www.defensoria.org/red/anexos/pdf/02/19\\_informe\\_congreso\\_1.pdf](http://www.defensoria.org/red/anexos/pdf/02/19_informe_congreso_1.pdf)
- 22 During a public speech President Santos referred to the visit of a representative from this office, Navy Pillay, and stated: "I'm going to discuss with her whether it's really worth it to extend this mandate, or if it is extended that it would only be for a very short time, because Colombia has advanced enough to be able to say: we don't need any more United Nations human rights offices in our country". *El mundo.com newspaper*, 13th of July 2013, in: [http://www.elmundo.com/movil/noticia\\_detalle.php?idx=219849&](http://www.elmundo.com/movil/noticia_detalle.php?idx=219849&). Consulted on the 19th of December, 2013
- 23 See in: Open debate on children and armed conflict in the United Nations Security Council, New York, 12th of July 2011. See in: <http://www.cancilleria.gov.co/sites/default/files/ONU/LosNinos12julio2011.pdf>.

were reiterated in 2013, referring to the supposed intentions of the United Nations of engaging in dialogue with guerrilla groups without the consent of the government. This doesn't correspond to the reality of the situation and puts in danger the monitoring and reporting activities that are carried out by the Special Country Team to comply with Resolution 1612 of the United Nations Security Council regarding the serious violations of human rights and international humanitarian law that continue to be committed against children in Colombia<sup>24</sup>.

Additionally, it is important to highlight that despite the recommendations of the Committee that the rights of children and young people are taken into account in the execution of all of the collaborative activities that are designed to end the armed conflict, these have been disregarded by the transitional justice legal framework that has recently been approved.

In this way, Law 1448 of 2011 doesn't stipulate effective participation for children and adolescents in its design or regulations and doesn't specifically include violations such as recruitment<sup>25</sup>. In addition it does not recognise as victims those that have been involved with or affected by the armed groups that have arisen after the demobilization of the paramilitary groups, which the government has called Criminal Groups at the Service of Drug Traffickers (Bacrim). These groups have had a severely detrimental effect on the rights of the population under the age of 18<sup>26</sup>.

24 In addition, in October 2011 in an interview with the media, again the Foreign Minister referred to the United Nations and the Organization of American States (OEA) affirming that: "*The United Nations and all of these organization are here to support the countries and their institutions. I am convinced of that. If one doesn't help countries then they can never improve. The United Nations is successful and the OEA is successful when they leave a country, not when they stay. If they stay it's because they haven't been able to leave safely.*" See : <http://www.noticiascaracol.com/nacion/video-242334-entrevista-de-maria-angela-holguin-la-alianza-informativa-segunda-parte>

25 Paragraph 2 from Article 3 of Law 1448 establishes that it will not include children and adolescents that have left the illegal armed groups as part of the law, which means that it doesn't necessarily facilitate their leaving the armed group. In all cases, they have been victims of one of the most serious violations of human rights, which is recruitment.

26 The High Commission of the United Nations has registered the situation of recruitment and use of children by these paramilitary groups, stating that there is "*a particular concern for the generalized use of children and adolescents in all type of activities, including acts of murder and sexual violence carried out against women and children*". Similarly, the High Commission has indicated that "*these illegal armed groups are present in the majority of the departments of the country and demonstrate a high capacity for recruitment, including children and adolescents*". United Nations, Report from the High Commission of the United Nations for Human Rights on the situation in Colombia, 3rd of February 2011, Doc. n.º A/HRC/16/22, paragraph. 35.



In addition, the reforms<sup>27</sup> to Law 975 of 2005 that replaces identification of the effects experienced by victims as part of the reparation process has resulted in a step backwards in the guaranteeing of the rights of children and adolescents. It has also limited compensation obtained through administrative mechanisms, impeding victims' access to justice. The "legal framework for peace"<sup>28</sup> is based on a lack of awareness of the obligations that the Colombian State has in investigating, judging and punishing those responsible for violations of human rights and international humanitarian law. In addition, it is important to highlight that a year since the beginning of the peace dialogues between the FARC-EP and the government, the issues that relate to the children's rights still haven't been included in the negotiations and require a crosscutting and differential approach<sup>29</sup>.

Cooperation with civil society and its active participation in the promotion of the rights of children has been threatened by continual attacks on their activities. According to the "We are Defenders" campaign, during the last 21 months there were 619 reports of aggression against human rights defenders, of which 121 were murders<sup>30</sup>. It is known that some of these attacks have been directed against members of organisations that promote the rights of children, and particularly those that have reported an increase in the recruitment of children in the country and corruption in public entities, above all in Meta, Putumayo and Bogotá. In 2009, information from the UN Special Country Team was stolen and as a result put at risk the victims identified in the report. As of the writing of this report the investigation to prosecute those responsible for this theft hasn't produced any satisfactory results.

27 Through Law 1592 of 2012

28 Legislative Act 01 of 2012

29 This is highlighted in the global report of 2013 of the Secretary General of United Nations, which states that "on the 26th of August 2012, the government and the FARC-EP entered into a general agreement in Havana for the termination of the conflict and the construction of a stable and long-lasting peace, in the presence of representatives from Cuba and Norway that acted as guarantors. The question of children and armed conflicts was not included in the program" Report from the Secretary General on Children and Armed Conflicts. Document A/67/845-S/2013/245, paragraph 180.

30 We are Defenders Program. Human Rights Defenders + deaths – heroes, 20th of November 2013. In: <http://www.somosdefensores.org/index.php/extensions/68-ultimo-informe-siaddhh/420-defensores-as-de-ddhh-en-colombia-muertos-heroes>

## 1.4 The compilation of data and training on the Convention and diffusion of this data

Decree 4100 of 2011<sup>31</sup> establishes the creation of information systems that allow for the monitoring, follow-up and evaluation of the human rights and international humanitarian law situation in Colombia and Decree 4800 of 2011<sup>32</sup> requires government entities to share the information necessary for the prevention of human rights and international humanitarian law violations in a harmonic and coordinated manner<sup>33</sup>. However, these entities lack unified information systems and permanent communication between them, as well as solid bases for differentiated data. This doesn't allow for the carrying out of appropriate diagnostics regarding the situation of the violation of the rights of children and adolescents and as a result, limits the adoption of measures that would eliminate their impacts and causes.

The diffusion of the Convention on the Rights of the Child by the Colombian State continues to be limited. A survey applied for the purposes of this report demonstrated that 56.1% of those surveyed stated that they weren't aware of the CRC.<sup>34</sup> In accordance with the information provided in the report by the government, the activities of the diffusion of the CRC are very precarious. For example, only 75 community mothers received training in the program "*Colombia grows in its compliance with its human rights obligations for early childhood*". In terms of the publicity for the Childhood and Adolescence Code, only 1,000 copies of the information booklet covering this law were printed.

<sup>31</sup> For this reason the National System of Human Rights and International Humanitarian Law was created and organised by the Intersectorial Commission of Human Rights and International Humanitarian Law, which includes other regulations.

<sup>32</sup> Regulated by Law 1448 of 2011, known as the Victims' Law.

<sup>33</sup> Article 9, Decree 4800 of 2011.

<sup>34</sup> This lack of knowledge is higher among children and adolescents that live outside of the capital cities and administrative centres, as is the case of the departments of Santander and Norte de Santander in which the lack of knowledge of the CRC reached 60. However, what's more concerning is that in Arauca it reached 90%. According to the minority that are aware of the CRC, when they were asked about the source of their knowledge, the majority stated it came from their family and the media, while only a minimal proportion stated that they learnt about it at school or thanks to a government program.

## 2. GENERAL PRINCIPLES

### 2.1 Non-discrimination

The Colombian State has adopted important measures against discrimination through ratifying the main international instruments in this area<sup>35</sup> and through issuing Law 1482 of 2011 that reforms the Penal Code and protects the rights of people, communities and groups that are subject to acts of racism or discrimination, as well as converting these actions into crimes. However, there are still many difficulties in providing dignified living conditions to these populations. In general, according to an independent expert on issues related to minorities in the country, *"there is the existence of a generalized structural discrimination, among other things, in the provision of access to quality education, employment, housing and justice, as well as opportunities for effective participation in economic and political life"*<sup>36</sup>.

Violence and poverty aggravate the situation of discrimination against populations that have historically suffered from exclusion and suffer the effects of exclusion disproportionately compared to the rest of society. This also included multiple expressions of discrimination by public officials, including the Attorney General of the Nation and some congressmen and women, that constantly attack the rights of the LGTBI population and the sexual and reproductive rights of women and girls<sup>37</sup>, and

<sup>35</sup> Including the International Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of all Forms of Discrimination against Women and the Inter-American Convention to Prevent, Punish and Eradicate Violence against Women "*Convención de Belém do Pará*".

<sup>36</sup> United Nations, Report from the Independent Expert on Questions on Minorities, Mrs Gay McDougall about her mission to Colombia. A/ HRC/16/45/Add.1 Paragraph 18

<sup>37</sup> The Inspector General of the Nation has begun a campaign so that the orders of the Constitutional Court regarding the voluntary interruption of pregnancy and to marriage between homosexual couples aren't implemented.

have made offensive comments regarding afro-descendant communities<sup>38</sup> through employing stereotypes that perpetuate violence against them. These comments haven't received appropriate consequences that send a message regarding the severe level of social rejection caused by these actions of public officials.

## 2.2 Superior interest of children

Despite the fact that constitutional protection exists, prioritising the rights of children and adolescents compared to the rest of the population, the superior interest of children is not a principle that guides the actions of public authorities in decision making processes or in the design of public policies. For example, children that are victims of recruitment and use by illegal armed groups that have arisen since the demobilization of the paramilitary groups aren't considered victims of the armed conflict and therefore are not subjects of administrative and legal measures that support the reestablishment and reparation of their rights. On the contrary, they are treated as delinquent adolescents and are subject to the consequences of being classified as a criminal. In this way, the national government has prioritized the classification of the armed groups and not the rights of children and adolescents involved in the actions of these groups, which is a violation of the human rights of children that are victims of the armed conflict. This is the reason why the Secretary General of the United Nations recommended in his last report that *"...the children that have been separated from groups that the government considers criminal groups should not be transferred to the criminal justice system. On the contrary they should be treated as victims and enjoy the same protection and assistance in their rehabilitation and reintegration as the children that have left guerrilla groups."*<sup>39</sup>

38 In May 2012, the Antioquia representative Rodrigo Mesa stated in the debate in the Assembly of Antioquia that *"the money that you spend on Chocó is like putting perfume into a corn roll"*, rejecting possible investments in the border regions between his department and Chocó. The Councillor Jorge Durán Silva indicated in August 2012 that the chamber in which debates occur *"shouldn't be open to anyone if they aren't an official or advisor to the councillors, this is becoming like a chimpanzees' tea party (a racist remark regarding the presence of afro-colombians)"* and in May 2013 called lesbians "sluts".

39 Report from the Secretary General on Children and Armed Conflicts. Document A/67/845-S/2013/245, paragraph. 74

## 2.3. Right to life

The violations of the right to life of children and adolescents have increased in the last few years. In 2011, 1,177 children and adolescents were victims of homicides<sup>40</sup> and in 2012 there was an increase in domestic violence in which the majority of fatal victims were women, representing 78.86% of victims, following by children representing 14.86%<sup>41</sup> of all victims. In addition, committing suicide, which constitutes a form of violent death that has a particular impact on this population, has a high percentage among this population at a national level. The National Institute of Legal Medicine and Forensic Science reported during the year 2011 that there were a total of 109 suicides<sup>42</sup> of children and young people and in 2012 there were 198 cases<sup>43</sup>.

There is a particular concern regarding the increase of suicide among indigenous children and adolescents, particularly among the Embera indigenous community.<sup>44</sup> There are incidents of boys and particularly girls from this community aged between 7 and 8 years hanging themselves to end their lives. According to experts, this phenomenon is due to the change in social context that is occurring in the Colombian Pacific region where they live, which has become one of the most violent regions of Colombia<sup>45</sup>. According to information from the Ministry of Health and Social Protection, the mortality rate for children under the age of 5 during 2009 and 2010 in indigenous populations is around 45<sup>46</sup> for every 1,000 live births, which is significantly higher than the rate expected for 2015 according to the Millennium Development Goals, which is 18.98. The average national rate in 2009 was 24.29 for each 1,000 live births<sup>47</sup>.

40 Ombudsman's Office. 19th Report from the Ombudsman to the Congress of the Republic.

41 National Institute of Legal Medicine and Forensic Sciences. Forensis 2012. Page 129

42 National Institute of Legal Medicine and Forensic Science, Monthly Statistical Report, National Reference Centre against Violence (December 2011, January 2012):

43 National Institute of Legal Medicine and Forensic Science. Forensis 2012. Page 329

44 In the last decade there have been 34 cases of suicide amongst indigenous people in Chocó and Antioquia.

45 This was stated by Efraín Jaramillo, anthropologist from the Jenzerá Collective. In: Colombia a gap is opening regarding the suicide rate among indigenous adolescents. <http://servindi.org/actualidad/72548>. For more information, see the investigation "Teen suicide in indigenous communities. Three case studies". Unicef 2012. En: [http://www.unicef.org/lac/Suicidio\\_Adolescente\\_en\\_Pueblos\\_IndigenasI.pdf](http://www.unicef.org/lac/Suicidio_Adolescente_en_Pueblos_IndigenasI.pdf).

46 Of the total indigenous population in 2005, 45.88%: 638.937 people were between 0 and 18 years of age.

47 Source: Vital statistics (EEVV) from the National Administrative Department of Statistics (DANE). Information taken from the Recommendations for the guaranteeing of indigenous children's rights in Colombia from the Committee for the Monitoring of the Situation of Indigenous Children in Colombia.

Socio-political violence<sup>48</sup> continues to be one of the major causes of the loss of lives of children and adolescents. The CCJ registered that at least 398 children lost their lives for this reason between January 2006 and June 2010<sup>49</sup>. Of the 343 children that were victims of homicide, 23 initially disappeared and their bodies were later found while 55 disappeared and their bodies still haven't been found (for a total of 78 children that were forcibly disappeared during the period).

In identifying the alleged generic author of these violations (270), 78.89% were attributed as being the responsibility of the State: 32.22% due to the direct perpetration of government agents (87 victims) and 46.67% (126 victims) due to the tolerance or support of violations committed by paramilitary groups. The guerrilla are responsible for 21.11% of the violations (57 victims). Of the total number of victims in which the gender is known (339), 103 were females. This is to say that for every 100 boys, approximately 43 girls suffered the same violation<sup>50</sup>. For those victims that it was possible to establish the social group (124 children), 50.81% (63 children) were indigenous, 30.65% (38 children) were from rural populations, 10.48% were from marginalized social classes, 5.65% (7 children) were victims of forced displacement and 2.43% (3 children) belonged to other social sectors.

During the first semester of 2013, the Coalition against the Involvement of Children and Young People in the Armed Conflict in Colombia (COALICO) reported 113 cases of the killing of children and adolescents in the context of the armed conflict.<sup>51</sup>

It is surprising that despite the fact that the paramilitaries are the armed group that has the greatest number of victims, actions haven't been carried out to dismantle these groups because after the demobilization process of 2005 their ex-

48 Socio-political violence is understood as the events that include attempts on lives, physical integrity and personal freedom produced by the abuse of authority by government agents that is motivated by political beliefs, discrimination against people that are socially marginalized or caused by the internal armed conflict.

49 During this same period 15 children were registered as dying in combat, which means that they were recruited by armed groups. Of these children, 10 were recruited by guerrilla groups, 1 by a paramilitary group and for 4 of the children it is unknown which armed group recruited them.

50 This indicator of gender is known as the femininity index and is related to the number of females for every 100 males when it is assumed that the genders share a particular condition, reflecting the composition or pattern of gender among the population, which in this case is the suffering of a particular violation of their human rights. The formula for this calculation is the following:  $\text{Femininity Index} = \frac{\text{No. of females}}{\text{No. of males}} \times 100$

51 Coalition against the Involvement of Children and Young People in the Colombian Armed Conflict – COALICO –. Monitoring newsletter N° 10. June 2013. In: <http://www.coalico.org/images/stories/boletin10-coalico.pdf>

istence has been denied, even when their behavioural patterns of human rights violations, collaboration with government agents and close involvement in politics have persisted.<sup>52</sup>

The INML and the ICBF have started a project that aims to reconstruct the historical memory of the conflict in the country through the study of 5,000 bodies of children that have been buried without identification or knowing what happened to them. The goal is find out who they were – their names and surnames, who killed them, when and why.<sup>53</sup> It is hoped that this study will effectively eliminate impunity for this type of crime in which criminal investigations and successful prosecutions of those responsible are significantly reduced.

## 2.4 Respect for the opinions of children

The capacity of Colombian children to develop their own judgement is perceived with scepticism by the adult population. This cultural conception has the consequence that the mechanisms for recognising the right to expression of children and adolescents are limited due to a lack of spaces that result in a real impact on national public policies.

As a result, even though the report from the Colombian government describes various participation spaces, these are just formal mechanisms that discourage different forms of expressing the identity and opinions of adolescents and young people. For example, the *"Rights in Schools"* program is designed to modify the Peaceful Coexistence manuals in schools so that they follow the national norms,

<sup>52</sup> The Ombudsman's Office has requested that the Ministry of Defence "respond, taking into account that these illegal armed groups, with the inappropriate name of Bacrim, have an armed organizational structure and hierarchy and have the capacity to recruit and train members of their illegal armed group, the skill to coordinate military style operations and to exercise control over a territory. All of these conditions are established in Common Article 3 of the Four Geneva Conventions of 1949 and Article 1 of Additional Protocol II of 1977. This is why the Ministry needs to respond as to why they consider these groups simple criminal groups or networks that are at the service of drug trafficking and place the responsibility of tackling them with the police". Ombudsman's Office, Communication to the Ministry of Defence, 7th of November 2012, page 5. The Office of the United Nations High Commissioner for Human Rights and the Secretary General in their reports on Colombia.

<sup>53</sup> El Tiempo newspaper, electronic edition. Colombia, looking for the traces of 5,000 children, July 13th, 2013. In: [http://www.eltiempo.com/justicia/ARTICULO-WEB-NEW\\_NOTA\\_INTERIOR-12928303.html](http://www.eltiempo.com/justicia/ARTICULO-WEB-NEW_NOTA_INTERIOR-12928303.html). Consulted on the 19th of November, 2013.

primarily the Law for Childhood and Adolescence. However, it is concerning that this program is implemented by the National Police in a range of schools in Cundinamarca and is based on processes that stigmatize and criminalize forms of expression by what are known as the “urban youth tribes”. This approach doesn’t recognise appropriate processes of identity, culture and expression that children and adolescents use.

In addition, children repeatedly state that their participation in the school boards and governing councils for educational centres isn’t effective because in general their proposals aren’t implemented.

Finally, the participation of children and adolescents has been completely ignored in important issues such as the implementation of the Victims’ Law, which didn’t include their opinion or provide adequate spaces to identify the needs of this population in order to appropriately implement measures of reparation and the reconstruction of historical memory.



## 3. RIGHTS AND CIVIL LIBERTIES

### 3.1 Birth Registration

According to the birth registration information available at a national level<sup>54</sup>, 3.5% of the population under the age of 5 lack birth records due to conflict situations, internal displacement or living in distant and remote regions. In some departments the sub-registration of births is higher than the national average and is concentrated among indigenous, afro-descendent and excluded populations that face barriers to accessing appropriate identification, as well as diverse socio-cultural obstacles. The highest percentages of children not being registered are in rural zones (5.4%) and the Caribbean region (5.7%). The departments with the highest levels of non-registration of children's births are: Chocó (9.8%), Vichada (9.4%), Córdoba (8.4%), La Guajira (8.0%), Guainía (7.3%) and Caquetá (6.7%), with all of these departments having high levels of indigenous populations.<sup>55</sup>

The Ombudsman's Office has highlighted the extent of the obstacles that afro-descendent and indigenous populations face in registering births, and as a result these children are excluded from national government assistance programs that are necessary to guarantee the effective fulfilment of their rights.<sup>56</sup>

54 National Survey on Demographics and Health (ENDS) 2010, cited by the study on civil records made by UNICEF in partnership with Opción Legal.

55 Recommendations for the guarantee of the rights of indigenous children in Colombia. Committee for Monitoring the Situation of Indigenous Children in Colombia, 2012, page 17.

56 Ombudsman's Office, 19th Report to the Congress of the Republic, page 196 in: [http://www.defensoria.org.co/red/anexos/pdf/02/19\\_informe\\_congreso\\_1.pdf](http://www.defensoria.org.co/red/anexos/pdf/02/19_informe_congreso_1.pdf)

## 3.2 Torture

During 2010, at least 143 acts of torture were committed in Colombia. For every 100 men that were subject to torture, approximately 11 women were also victims of this act of violence. 33 of the victims were children<sup>57</sup>. Among the cases in which the alleged authors were known<sup>58</sup>, in 98.11% of the cases responsibility was attributed to the State: 57.55% of the cases were perpetrated by government agents; and 40.57% were a result of tolerance or support provided to violations committed by paramilitary groups. The guerrilla was responsible for 1.89% of the cases<sup>59</sup>. In 2011, police forces were involved in serious acts of torture and the killing of a child in the street by covering him in petrol and setting him alight, causing his death<sup>60</sup>.

During the period evaluated by this report there were concerns regarding overcrowding and complaints from prisoners about torture and other cruel, inhumane or degrading punishments given in jails. Children are also the victims of these practices through their arbitrary detention in jails. UNHCR urged the government to ratify the Optional Protocol of the Convention against Torture<sup>61</sup>.

<sup>57</sup> In 77 cases the age of the victims was known.

<sup>58</sup> 106 cases.

<sup>59</sup> Data taken from the Report for the Universal Periodic Exam. May, 2013. In: [http://www.coljuristas.org/documentos/libros\\_e\\_informes/examen\\_periodico\\_universal\\_2012.pdf](http://www.coljuristas.org/documentos/libros_e_informes/examen_periodico_universal_2012.pdf)

<sup>60</sup> The Police Officers Carlos Danilo Posada and Carlos Augusto Díaz poured gasoline over a boy when they found him sleeping under a bridge in the northeast of Bogotá. The events occurred on the 7th of February, 2011.

<sup>61</sup> This tool would oblige the State to implement a system of regular visits to prisons by independent and complementary entities at national and international levels and would contribute to the prevention of torture and other cruel, inhumane and degrading punishments, which occur within prisons in the country. Document: A/HRC/19/21/Add.3 Paragraph. 118, Section d.

## 4. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### 4.1 Alternative assistance and adoption

Colombia is among the top seven countries in the world that has provided children for international adoption in the last few years. On average the country adopts out 1,800 children annually. Currently, it has the highest level of international adoption in Latin America, overtaken only by Haiti in 2010 due to the earthquake that occurred there.<sup>62</sup>

In accordance with the proposals of a debate on political control involving the Colombian Family Welfare Institute in the Seventh Commission of the Chamber of Representatives in 2012, the privatization of the adoption policy implemented by institutions authorized to grant adoptions is the reason why foreign, wealthy families are prioritized in this area. This is because these families make donations of between 20 and 50 million pesos (USD\$10,000 to USD\$25,000) to the organisations as part of adopting the children. Given this situation, these institutions don't seek out the extended families so that children can remain with their relatives, don't prioritize applications from Colombian families to adopt children and take advantage of the situation of poverty faced by the children's families. This results in a lack of possibilities for these families to appeal the processes that have taken away their custody of their children, contravening the obligations of the State in this area.<sup>63</sup>

62 This is according to the statistics from the Special Commission of The Hague, 2010, as well as estimates based on data coming from receptor countries regarding the origin of children adopted internationally. Taken from "Colombia hands over its most precious resources: its children. For a debate on adoptions". Ángela Robledo. In: <http://www.angelarobledo.com/Documentos/tabid/434/ctl/ReadAngelaRobledo/mid/1155/ArticleId/2102/language/en-US/Default.aspx>

63 "Colombia hands over its most precious resources: its children. For a debate on adoptions". Ángela Robledo. In: <http://www.angelarobledo.com/Documentos/tabid/434/ctl/ReadAngelaRobledo/mid/1155/ArticleId/2102/language/en-US/Default.aspx>

The Delegate of the Inspector General for the Defence of the Rights of Children prepared an oversight report of the adoption programs in the country in which they advised of the negligence of the Colombian Family Welfare Institute in monitoring these programs. This control organism affirmed that over a period of five years the ICBF didn't carry out any supervision visit to the institutions that are authorized to process adoptions<sup>64</sup>.

## 4.2 Violence, abuse, neglect and mistreatment

The sexual violence and mistreatment of children continues to be one of the biggest obstacles faced by this population. The National Federation of Paediatricians and the Network Against Child Mistreatment has reported that in Colombia there are 30,000 cases of mistreatment and sexual abuse against children and adolescents reported annually. This implies that there has been an increase of 40% in these crimes in 2012. Of this figure, approximately 17,000 cases correspond to sexual abuse and 13,000 to mistreatment by adults, especially parents, relatives and family friends of the victims<sup>65</sup>. ICBF registered 16,457 cases of child mistreatment between January 2012 and January 2013 in the country.<sup>66</sup>

In terms of sexual abuse, the National Institute of Legal Medicine and Forensic Science reported that they carried out 21,506 medical-legal exams for alleged sexual offences in 2012. Of these, 85.7% (18,431) were applied to children and adolescents. Girls aged between 10 and 14 years of age (39.6%) were most affected, and among boys the age group most affected by these crimes were between 5 and 9 years (39.3%).<sup>67</sup>

64 "ICBF is negligent in its adoptions: Inspector General". El Nuevo Siglo newspaper. In: <http://www.elnuevosiglo.com.co/articulos/12-2012-icbf-es-negligente-en-adopciones-procuradur%C3%ADa.html>

65 "In Colombia there are 30,000 cases of sexual abuse and mistreatment of minors each year". Caracol Radio. In: <http://www.caracol.com.co/noticias/actualidad/en-colombia-ocurren-30000-casos-de-abuso-sexual-y-maltrato-a-menores-cada-ano/20121120/nota/1798196.aspx>

66 "Mistreatment of children, a difficult problem to control". La Patria newspaper. En: <http://www.lapatria.com/en-domingo/maltrato-infantil-problema-dificil-de-controlar-29745>

67 INML. Forensis 2012. Page 288

The occurrence of this violation of human rights as part of the armed conflict continues to be habitual, extensive, systematic and invisible.<sup>68</sup> The National Indigenous Organization of Colombia (ONIC) reported that between 2003 and 2011 there were 13 cases of sexual violence against indigenous females carried out in the context of the armed conflict (the large majority of victims being girls aged between 11 and 16 years of age). In 6 cases, the alleged perpetrators were soldiers from the national army<sup>69</sup>.

Despite the dimension of the problem and the legislative progress made in this area<sup>70</sup>, impunity for these crimes is still widespread. The Special Representative of the Secretary General on Sexual Violence stated during their visit to the country in 2012 that despite the fact that Colombia has a complex and well-developed legal framework for gender equality, there are enormous difficulties faced by women and girls to effectively access justice and impunity persists in the large majority of cases.

Even though all of the armed groups involved in the confrontations commit these acts of sexual violence, the national armed forces is the group that is attributed as being responsible for the majority of these acts<sup>71</sup>, followed by the post-demobilization illegal armed groups that have been accused of "*committing acts of sexual violence and creating prostitution networks that traffic women and commit them to sexual slavery. In some occasions this occurs with the collaboration of some members of the National Police, particularly in Medellin*"<sup>72</sup>.

The Secretary General of the United Nations demonstrated his concern regarding this matter because the victims of these post-demobilization groups do not receive adequate assistance. This is because "*the government doesn't recognise these illegal armed groups that have formed after the demobilization process as actors in*

68 This was recognised by the Constitutional Court in Ruling 092 of 2008.

69 Cited in the monitoring report on Resolution 1325 in Colombia in the National Indigenous Organization – ONIC – Women, Families and Generation Council: Indigenous females, invisible victims of the armed conflict in Colombia presented to the Representative of the Secretary General of the United Nations in May, 2012.

70 Since 2008 Law 1257 supports the raising of awareness, prevention and punishment of all forms of violence against women.

71 Institute of Legal Medicine and Forensic Science, "Forensis 2011", Colombia, 2011, p. 213-214. See Table 1, Legal-medical exams for alleged sexual crimes, according to age and gender.

72 General Assembly of the United Nations. Annual report of the United Nations High Commission for Human Rights regarding the human rights situation in Colombia, A/HRC/13/72, paragraph. 44.

*the armed conflict...the victims of the acts of sexual violence committed by members of these groups face serious obstacles in accessing the benefits included in the Victims' Law (1448 of 2011)"<sup>73</sup>.*

It is important to mention that in addition to facing difficulties in accessing their right to justice, the women and girls that are victims of sexual violence committed within the context of the armed conflict also face obstacles to demand their rights in the areas of comprehensive assistance, protection and reparation. This is because there is no national system for providing appropriate health and psychosocial accompaniment for these victims and there is a lack of suitable mechanisms to provide reparation for these crimes.<sup>74</sup>

73 United Nations Security Council. Report of the Secretary General of the UN Security Council on Children and Armed Conflict. A/67/845-S/2013/245. Paragraph. 176.

74 A look at the rights of women in Colombia. Alternative Report presented to the UN CEDAW Committee – 2013.

## 5. BASIC HEALTH AND WELFARE

### 5.1 Children with disabilities

The UN Convention on the Rights of Individuals with Disabilities, adopted by the General Assembly of the United Nations in 2006, was approved by Colombia through Law 1346 of 2009. While the country has made a significant effort to implement this Convention through its public policies and to guarantee the rights of this population, those affected have had to frequently use legal mechanisms to enjoy the benefits of the Convention, above all through the “writ for the protection of fundamental rights”, known in Colombia as a “tutela”.

“Tutelas” are used in many cases because of significant delays in making public and private buildings accessible for this population. These include schools and hospitals that don’t have the appropriate conditions so that children with physical disabilities can enter these buildings and remain in them comfortably.

The lack of inclusive spaces has affected the basic rights of these children. According to the National Administrative Department of Statistics – DANE – more than 67,000 children and adolescents with disabilities or with a disease don’t have access to education. This is because in the case of those who have physical limitations they don’t have the means to transport themselves to schools – or the schools aren’t adapted for their conditions – while others have to remain in a hospital, which results in these children and adolescents being obliged to drop out of the education system.<sup>75</sup>

<sup>75</sup> “67.000 sick or disable children can’t study”. El Tiempo newspaper, 15th of November 2011. In: [http://www.eltiempo.com/vida-de-hoy/educacion/ARTICULO-WEB-NEW\\_NOTA\\_INTERIOR-10766525.html](http://www.eltiempo.com/vida-de-hoy/educacion/ARTICULO-WEB-NEW_NOTA_INTERIOR-10766525.html)

The Anti-Personnel Mines and Unexploded Ordnance continue to be a significant cause of mutilation and harmful physical and psychological effects on children that suffer some type of permanent disability after being victims of these explosions. The Action against Mines program launched by the national government registered that in the period from 1990 to November 2013, 1,058 victims of these devices used in the conflict were under the age of 18. Of these children, 22% (234) were girls and adolescent females and 77% (814) were boys and adolescent males. Regarding the other 1%, no information is available. Of the total number of child victims, 830 (79%) were injured in the accidents and 228 (21%) died. Between January and November 2013, 43 children were injured as a consequence of Anti-Personnel Mines (11 girls and 32 boys). 10 children died as a result of these accidents.<sup>76</sup>

In the framework of the Universal Periodic Exam of 2013, Guatemala recommended that Colombia should ratify the Optional Protocol of the Convention on the Rights of People with Disabilities and Algeria invited Colombia to reinforce its measures for the promotion of rights of people with disabilities and guarantee their integration into general society.

## 5.2 Living Conditions

The GINI index for Colombia in 2012 was at 0.539 while in 2011 it reached 0.548. Colombia occupies 19th place in the world for countries with the worst wealth distribution. According to the DANE, despite the improvements in the index scores at a national level, the figures in 2012 increased in the rural zones in which poverty affects more than half of the population. The percentage of Colombians living below the poverty line increased to 46.8% (from 46.11% in 2011), while the percentage of the population living in extreme poverty reached 22.8% compared to 21.1% in 2011.<sup>77</sup>

<sup>76</sup> In: <http://www.accioncontraminas.gov.co/Paginas/victimas.aspx>

<sup>77</sup> "Poverty in Colombia reached 32.7% last year". Portafolio.com. April 18th of 2013. In: <http://www.portafolio.co/economia/cifras-pobreza-y-desigualdad-colombia-2012>.



This situation is particularly serious for children given the inequality that they face is reflected in their access to education, timely services and quality in health services (good nutrition and even potable water). Among the poorest children and adolescents, those that live with the highest levels of poverty are indigenous. According to a study conducted by Save the Children, an indigenous child in Colombia has a 1.5 times higher likelihood of dying than Colombian children from another population group. For every 100 non-indigenous children that graduate from high school, only 20 indigenous children graduate. The dropout rate among indigenous children is 60 times higher among indigenous and afro-descendent children<sup>78</sup>.

The Colombian State still hasn't made significant progress to guarantee the right to nutritional security. For example: i) in 2010, 42.7% of homes suffered from nutritional insecurity, which is 1.9 percentage points more than the figure from 2005<sup>79</sup>; ii) the public policy for Nutritional Security continues to not have an Action Plan, a situation that has occurred since its formulation in 2008; iii) the current government opposed a legislative act for the constitutional incorporation of the right to adequate nutrition<sup>80</sup>; and iv) the internal production of food has been strongly discouraged since the previous government<sup>81</sup>.

Regarding access to potable water and basic hygiene, especially in the poorest sectors<sup>82</sup> there is a concerning situation. "*More than 97,000 children under 4 years*

78 "Colombia is the third most unequal country for children, according to study el" El Tiempo newspaper. November 1st, 2012. In: [http://www.eltiempo.com/vida-de-hoy/educacion/ARTICULO-WEB-NEW\\_NOTA\\_INTERIOR-12349268.html](http://www.eltiempo.com/vida-de-hoy/educacion/ARTICULO-WEB-NEW_NOTA_INTERIOR-12349268.html)

79 ICBF. National Survey on the Nutritional Situation in Colombia, 2005. Bogotá. 2005. p: 335; ICBF. National Survey on the Nutritional Situation in Colombia 2010. Bogotá. 2001. p: 382.

80 Legislative Act No. 002/11 Senate - 142/11 Chamber "Establishing the fundamental right to nutritional security", associated with the Legislative Act No. 010/11 Senate "Including Title II, Chapter, Article 13 and Chapter II, Articles 45, 46 and 49 from the Political Constitution of Colombia".

81 Morales González, Juan Carlos. Rural and nutritional factors in Uribe's government. In: Colombian Platform for Human Rights, Democracy and Development: Continuity or a curse? Democratic Security insists and hope resists. From the series *The Authoritarian Curse*. Antropos Editorial, Bogotá, 2009, page 121.

82 In Colombia there are 14.4 million people that live at high or medium-high risk of a lack of water, and more than 20 million people are in a situation of high or very high vulnerability of not having sufficient water in the future. Only 52% of municipalities have a 24 hours a day water supply. More than 9 million people don't have access to running water and more than 13.5 million people don't have access to a sewage system. It is estimated that more than 970,000 children aged 0 to 4 don't have access to running water and only 40% of housing has access to running water and sewage systems at the same time. In 222 municipalities the coverage of running water in the rural sector is no

*of age don't have access to running water. The provision of public services has been delegated to private companies*<sup>83</sup>. The law regarding potable water and basic hygiene doesn't comply with the conditions laid out in the country's Constitution or with international agreements<sup>84</sup>. The places with the lowest coverage are work camps, places in which homeless people are housed and shelters for internally displaced persons. The coverage<sup>85</sup> for the rural, indigenous, afro-indigenous and afro-descendent populations is below the national average<sup>86</sup>.

### 5.3 Medical and sanitary services

The Constitutional Court in Ruling T-760 of 2008 reiterated that in Colombia, health is a fundamental right that should be guaranteed for all people. However, the monitoring of the orders included in this ruling has demonstrated their in-compliance and lack of political will from the government to implement them.<sup>87</sup>

During the evaluation period there was a worryingly high level of refusal by health care organisations (EPSs) to adequately attend to children and provide them with

greater than 30% and 593 municipalities don't have more than 30% coverage for sewage systems. Only 17 municipalities of the 1,123 in the country have reached optimal coverage for running water and sewage systems together. (In: Ombudsman's Office, "Diagnostic of the compliance of the human right to water in Colombia", Bogotá 2011. See the main results in: [http://www.defensoria.org.co/red/?\\_item=0301&\\_secc=03&ts=2&n=594](http://www.defensoria.org.co/red/?_item=0301&_secc=03&ts=2&n=594))

- 83 This has resulted in a social crisis with an imminent risk to the ecological and systematic base of the water cycle and is a latent threat to the right to life. The model of private concessions in the running water and sewage systems has demonstrated in practice that it isn't efficient or effective, restricts access to water under commercial criteria and doesn't contribute any significant benefit to the care of the components of the water cycle. The current model for water management doesn't include differential approaches and doesn't recognise its use in rural economies as a form of subsistence (In: Ombudsman's Office, "Diagnostic of the compliance of the human right to water in Colombia", Bogotá 2011. See the main results in: [http://www.defensoria.org.co/red/?\\_item=0301&\\_secc=03&ts=2&n=594](http://www.defensoria.org.co/red/?_item=0301&_secc=03&ts=2&n=594))
- 84 This does not take into account the American Convention on Human Rights of San José de Costa Rica, Article 3 of the Universal Declaration of Human Rights, the agreements of the International Trade Organization and especially those that refer to the indigenous communities and their right to land, territory, health and education. It also doesn't consider the regulations from the Convention on the Elimination of all Forms of Discrimination against Women and the Convention on the Rights of the Child. (In: Constructing Territoriality Project - Geneve Tiers Monde - Enda América Latina-Colombia-. Report presented in December 2011, Geneve- Confédération Suisse).
- 85 Ombudsman's Office, "Diagnostic of the compliance of the human right to water in Colombia", Bogotá 2011. See the main results in: [http://www.defensoria.org.co/red/?\\_item=0301&\\_secc=03&ts=2&n=594](http://www.defensoria.org.co/red/?_item=0301&_secc=03&ts=2&n=594)
- 86 Information taken from the Universal Periodic Exam of Colombia. May 2013. Report on the situation of human rights and humanitarian law in Colombia, 2008 – 2012. In: [http://www.coljuristas.org/documentos/documento.php?id\\_doc=352&idioma=es&grupo=4](http://www.coljuristas.org/documentos/documento.php?id_doc=352&idioma=es&grupo=4)
- 87 Constitutional Court of Colombia. Monitoring of compliance with the Ruling T-760 of 2008. In: <http://www.assosalud.com/wp-content/uploads/2012/08/Seguimiento-a-la-Sentencia-T-760-de-2008.pdf>

medicines and the procedures required to support their health condition, which is why they have to resort to the mechanism of the “tutela” in order to demand the fulfilment of their rights. Even though the judges often support their requests and rule in their favour, these services and medicines don’t materialize and in some occasions this has resulted in the death of children and adolescents.

Despite the special constitutional protection that they enjoy, seriously ill children have been denied entry and medical attention by hospitals, forcing them to visit various health centres without obtaining the medical care that they require. This has resulted in a worsening of their health or in some cases their death. This occurs within a context of extensive privatization of the health care system. In this system health is guaranteed as a right, however it constitutes a service associated with the acquisition power of individuals and families.

Currently, reforms to the health system are being promoted, which have been the object of multiple criticisms due to the fact that they deepen the problems associated with the current system. This is because they are based on a model in which the government pays those who have the power to define the service networks (doctors, clinics and hospitals) with which they wish to work. This means that the health care providers will conduct all of the hiring and tenders, they will have their own centres and clinics and have even more autonomy despite the fact that inefficiencies in their provision of services have been observed and effectively guaranteeing the access to health continues to be perceived as a business.<sup>88</sup>

88 “This health reform is not going to benefit the people”. El Espectador newspaper. October 31st, 2013. In: <http://www.elespectador.com/noticias/actualidad/esta-reforma-salud-no-va-beneficiar-gente-articulo-455701>

## 5.4 Health of adolescents

The Colombian State has a favourable legal framework for the exercising of sexual and reproductive rights. These include Ruling C-355 of 2006 from the Constitutional Court that makes the voluntary interruption of pregnancy possible in the case of three particular events. However, there are still important obstacles that impede the exercising of rights due to the lack of consistent, coherent and comprehensive public policies for sexual and reproductive education. This education contributes to the prevention of teenage pregnancies, sexually transmitted diseases, unwanted pregnancies, unsafe abortions and forced prostitution, among others.

“The influence of religious actors and beliefs impede advances in comprehensive policies in the areas of health and sexual and reproductive rights, in accordance with the commitments assumed by Colombia through agreements, conferences and international conventions. This area is also governed by the commitments assumed by Colombia in its laws and national jurisprudence approved in this area”<sup>89</sup>.

According to the Alternative Report presented to CEDAW in 2013, it is estimated that 6 out of 10 health institutions in Colombia have the capacity to provide post-abortion services but don't; approximately 9 out of 10 of these institutions don't offer legal abortion services.<sup>90</sup> Between May 2010 and June 2012, 387 cases were reported in which there were obstacles or unjustified denials of the provision of services.

“The Inspector General of the Nation has abstained from complying with various orders handed down by the Constitutional Court. His office has censored mass campaigns for the promotion of sexual and reproductive rights; they have censored, hidden or intentionally distorted the information related to health, including sexual education and associated information. They have twisted the content of the rulings given by the Constitutional Court relating to sexual and reproductive rights, especially regarding abortion. The Delegated Inspector General for the Defence of Children's, Adolescents' and Families' Rights has expressly requested that the Na-

<sup>89</sup> Taken from “A view on the rights of women in Colombia. Alternative report presented to the UN CEDAW Committee, 2013”.

<sup>90</sup> Guttmacher Institute and Fundación Oriéntame. Non-planned pregnancies and induced abortions in Colombia: causes and consequences, Bogotá, 2011, pages 6 – 18.

tional Health Superintendent recall flyers providing information on the voluntary interruption of pregnancy<sup>91</sup>, designed for health service providers, administrative entities of benefit plans and territorial entities, and has questioned the rulings of the Constitutional Court in the area of voluntary interruptions of pregnancies<sup>92</sup>.

## 5.5 Environmental Health

Colombia faces large challenges in the area of environmental health that are caused by: the indiscriminate use of pesticides, plagues and other substances for the eradication of illegal crops such as glyphosate, as well as an increase in extractive mining and the construction of megaprojects that contaminate water sources and put the health and lives of the local population in danger, as well as their nutritional security.

The government continues to grant mining concessions<sup>93</sup> despite the fact that the General Inspector General of the Nation has advised that there are a series of complex challenges regarding the limited advances made in this area which should be resolved before reactivating titles to mines. One of these challenges is related to the environmental implications of large-scale gold and coal mining relative to the generation of large quantities of residues, the disappearance and contamination of water bodies and the atmosphere, as well as the loss of soil and biodiversity.<sup>94</sup>

For this control organism, “a development model based on the extraction of minerals and hydrocarbons can cause an even stronger impact due to the contamination of water and soils, in particular in the mountainous zones of the Andes, putting at risk not just this area’s biodiversity, but also nutritional security in the area,

91 “1.250 petitions against legal abortions” El Espectador newspaper, 27th of June, 2013 In: [http://www.elespectador.com/noticias/actualidad/vivir/ar\\_titulo-430542-1250-peticiones-contra-el-aborto-legal](http://www.elespectador.com/noticias/actualidad/vivir/ar_titulo-430542-1250-peticiones-contra-el-aborto-legal)], CARACOL RADIO, [www.caracol.com.co](http://www.caracol.com.co) Supersalud will not withdraw their flyer on abortion despite more than 1,200 petitions against it, 28th of June, 2013. <http://www.caracol.com.co/noticias/actualidad/supersalud-no-revocara-circular-del-aborto-pese-a-mas-de-1200-derechos-de-peticion/20130628/nota/1924435.aspx>

92 Taken from “A view on the rights of women in Colombia. Alternative report presented to the UN CEDAW Committee, 2013”.

93 According to the Ministry of Mines and Energy, more than 19,000 mining concessions have been granted up to 2013.

94 See “Mining in Colombia. Fundamentals to overcome the extractive model”

given that that toxic chemicals used in the process remain in the environment for a long period of time (tens of thousands of years)”.

This situation has been made more complex by a degree of flexibility in environmental regulations that haven't been adjusted to prevent, mitigate, correct or compensate the impacts generated by mining and these types of megaprojects.

## 5.6 HIV/AIDS

The Ministry of Health and Social Protection affirmed that in Colombia there are 4,200 new cases of HIV diagnosed each year. A study on the magnitude of the problem in the country, conducted in 2009, stated that the prevalence of cases of HIV was at 0.22%.<sup>95</sup>

The most affected population is aged between 20 and 39 years (52.7%), presenting a gradual increase of the number of cases reported in recent years. The data by population groups shows that the prevalence in pregnant women is less than 1% while among men that have sexual relations with men it is at 5%. Only 60% of pregnant mothers take the exam in the country.

Despite an increase in the number of people infected, of the total number of patients that require medication, only 71% receive it. The form of infection that is most dominant in the country is through being sexually transmitted due to not using a prophylactic. In this regard it is concerning that the sexual education classes in the educational institutions aren't being implemented by staff that are qualified in this area but in general are delivered by teachers that due to their moral or religious leanings don't encourage the use of contraceptive and barrier methods, with the condom representing a fundamental mechanism to reduce the levels of infection for this disease.

The Ministry of Health has included the provision of prophylactics for vulnerable people or those that have HIV/SIDA as an additional preventative measure.

95 "This is the situation of HIV-AIDS in Colombia. *Semana Magazine*. April 24th 2012. In: <http://www.semana.com/vida-moderna/articulo/este-panorama-del-vih-sida-colombia/256926-3>

## 6. EDUCATION, RECREATION AND CULTURAL ACTIVITIES

UNDP'S National Human Development Report (2011) indicates that "in relation to the gaps between urban and rural populations in the Millennium Development Goals, the rates of net coverage in secondary education in remote rural areas are 2.7 times less than in urban centres. The long distances that children and adolescents still have to cover to reach their schools and the cost of entering and remaining in the education system compared with the income received from working result in the trend of a high dropout rate among middle school students, that according to the theory of human capital, perpetuate the poverty cycle."

According to the report on the compliance with the National Development Plan 2010 – 2014 titled "Prosperity for all", the State provided education to 402,183 vulnerable children, giving priority to the vulnerable population groups such as indigenous afro-descendent groups. This data is not broken down by gender and other variables that would provide information about the number of males and females being attended to, and the figures also don't include a differential ethnic approach.

The National Ministry of Education reports that in 2012, 155,280 females and 196,725 dropped out of formal education. The reasons for students dropping out is different between the genders: the girls and female adolescents are obliged to abandon their studies in order to carry out domestic chores, care for family members or because they are pregnant; the boys and male adolescents abandon their studies because often they are attracted to earning money working in agriculture and other unskilled jobs. It is also important to note that girls and female adolescents that have been victims of violence are more vulnerable and therefore are "susceptible to dropping out". In general in the cases of children, the causes are

due to other reasons from their regional contexts: the internal armed conflict, forced recruitment, participation in illegal armed groups, the economic benefit of working or survival.<sup>96</sup>

According to figures from the National Ministry of Education, the cause of 50% of female adolescents for dropping out of their studies was because they were pregnant.<sup>97</sup>

Many children from the country at the early childhood level are attended to by the “Community Mothers” program, a program that involves women from the community receiving a number of infants in their homes and providing them with some basic education as well as care and meals while their own mothers are working.

The National Strategy for Comprehensive Early Childhood Care (“De Cero a Siempre” or From Zero to Forever”), created by President Santos’ government in 2011 has brought with it very few favourable consequences for these women. This is because instead of strengthening their work or recognising their rights as workers it has focused on placing new education and age requirements that are very difficult for them to meet.

The Constitutional Court, through Ruling T-628 of 2012, stated for the first time that the payment that these Community Mothers receive constitutes a discriminatory practice, and, as a consequence, recognised their right to the minimum salary and ordered the government to design and adopt, with participation from the Community Mothers, the necessary measures to institute this new level of payment. In April 2013 the Government created a subsidy so that women that stop working as Community Mothers and don’t meet the requirements can access a pension. The value of the subsidy, that isn’t a pension, is insufficient, as it is only half<sup>98</sup> of the current legal minimum wage.<sup>99</sup>

In Colombia there are more and more teachers that are victims of death threats. These teachers are obliged to seek special protection and in extreme cases have to apply for transfers from their places of work.

96 Taken from “A view on the rights of women in Colombia. Alternative report presented to the UN CEDAW Committee, 2013”.

97 Taken from “A view on the rights of women in Colombia. Alternative report presented to the UN CEDAW Committee, 2013”.

98 Approximately 160 dollars

99 Taken from “A view on the rights of women in Colombia. Alternative report presented to the UN CEDAW Committee, 2013”.



In Bogotá, 14 teachers each month have to be relocated due to death threats and there are even special mechanisms to facilitate these transfers. According to teachers' associations, there are more than 2,000 teachers that have been threatened across the country, with intimidation being the main threat. The associations also report that the government is removing protective measures for teachers.<sup>100</sup>

The National Ministry of Education reported that during the past year, 600 educators around the country requested a transfer due to feeling that they were at risk of being killed in their workplace. FECODE assured that there were more than 3,000 teachers that declared that they were being threatened. According to the report from the Ministry, Magdalena is the department with the highest number of cases of teachers being threatened with 66, followed by Córdoba with 60, Guajira with 51 and Putumayo with 38.

The armed groups continue to carry out attacks on schools. COALICO has reported 72 cases between 2012 and the first half of 2013. This, combined with other risk factors associated with the war, is a cause of students dropping out.

Despite the observations of the Committee and other national and international organisms that protect human rights, the armed forces persist in conducting civilian-military campaigns in schools and educational centres, putting at risk the children that participate in them.

In this area, the Secretary General of the United Nations Security Council in 2012 indicated that "while the Childhood and Adolescence Code prohibits the use of children and adolescents in military activities, psychological operations, civilian-military campaigns and other actions, the Armed Forces of Colombia continued to use children in civilian-military campaigns and maintained specific program such as the Lancitas Club that has the objective of improving relationships between the army and the local community".<sup>101</sup>

In addition, it is important to highlight that "incidents have been documented that are related to the use of minors for intelligence operations by members of the Armed Forces of Colombia in contravention of the Criminal Code of Colombia and

<sup>100</sup> <http://www.elespectador.com/noticias/nacional/articulo-374822-mas-de-2-mil-maestros-han-denunciado-amenazas-de-muerte-2012>

<sup>101</sup> Op. cit. Report from the Secretary General on Children and the Armed Conflict in Colombia, 2012, paragraph 24.

the Childhood and Adolescence Code (Law 1098) and directives from the National Ministry of Defence.<sup>102</sup>

“According to a review of official sources from the Armed Forces of Colombia, city councils, governments, government institutions and reports obtained by COALICO’s Observatory for Children and Armed Conflict, it was evidenced that between June 2010 and November 2011 there were 129 civilian-military actions conducted by the Armed Forces in 32 departments in the country. The activities were carried out in medical centres, educational institutions and town squares with the participation of children and adolescents. Some of these activities involved the Special Group for Psychological Operations (GEOS) that has the objective “to implement specific campaigns of psychological actions in support of tactical, strategic or consolidating operations”<sup>103</sup>. These campaigns have been called *Campaigns to Support Development*.

<sup>102</sup> Op. cit. Report from the Secretary General on Children and the Armed Conflict in Colombia, 2012, paragraph 22.

<sup>103</sup> COALICO. Putchipú Newsletter N° 24, December 2011.

## 7. SPECIAL PROTECTION MEASURES

### 7.1 Internally displaced children

Due to the mass and continued violation of the rights of thousands of people that had been forcibly displaced in Colombia and the institutional inefficiency in tackling this situation, on the 22nd of January 2004 the Constitutional Court declared as unconstitutional the living conditions of the internally displaced population and ordered the national authorities and territories to implement corrective measures so that the victims of this phenomenon could improve their realities<sup>104</sup>.

The measures adopted by the appropriate authorities as a response to the orders given by the highest constitutional tribunal highlighted the lack of a specific public policy for assistance in its different components and the limited progress made in the adoption of approaches that respond to the particular needs of subjects requiring special constitutional protection, such as children and adolescents. This population is severely affected by the act of displacement, given that they are different to the wider displaced population in the specific nature of their vulnerability, protection and assistance needs and the opportunities that they require to rebuild dignified life plans. As a result there is an evident need to adopt a differential approach recognising that displacement causes different effects depending on the age and gender of the victims<sup>105</sup>.

<sup>104</sup> Constitutional Court, Ruling T-025 of 2004. M.P. Manuel José Cepeda Espinosa.

<sup>105</sup> The Constitutional Court declared in Ruling 218 of 2006 (i) that "as a result of the findings in the characterization of the displaced population and the lack of awareness that occurred in the formulation of policy regarding the subjects with special constitutional protection and rights, among other causes included since Ruling T-025 of 2004 was handed down by the Court, it hasn't been demonstrated that the public policy for providing assistance to victims of displacement has been formulated or applied while observing the specific criteria that comes from

In this context, and in the framework of improving the unconstitutional situation that was declared, on the 6th of October 2008 the Constitutional Court issued Ruling 251 that referred to the protection of the fundamental rights of children and adolescents that have been internally displaced due to the internal armed conflict. This ruling urged the authorities to adopt the measures required in order to provide appropriate attention to the population under the age of 18 that have been victims of this severe mistreatment, a situation that has compromised the enjoyment of all of their rights.

Official and unofficial sources have both affirmed that children and adolescents represent more than half of the internally displaced population and that they constitute *"the weakest and most defenceless victims from this population, who at the same time are strongly hit by crimes and difficult living conditions that are completely out of their control and beyond their responsibility. This situation also affects their capacity to resist and respond to these events, which has transcendental consequences for their lives and negatively impacts on their processes of individual development"*<sup>106</sup>.

The Court has monitored compliance with these orders, has been aware of the inefficiency of public policy to attend to the displaced population in an adequate manner and has continued to rule that there is still an unconstitutional state in this area.

Forced displacement continues to occur at a mass level in the country, seriously affecting the population under the age of 18. According to COALICO, between 2011 and 2013 7,758 have been affected by multi-family or mass displacements.

*the mandate guaranteeing the rights of especially vulnerable subjects..."; and (iii) that "in the reports it doesn't show that assistance programs developed by different authorities that make up the system provide special attention to the particular needs of the elderly, children and single mothers that represent the population in need of assistance. As a result, these subjects requiring special constitutional protection are severely affected by their displacement, especially given the magnitude of the risks that they are exposed to – for example, risks to their health and lives, of becoming involved in drug trafficking and prostitution, of being forcibly recruited by illegal armed groups, of children suffering malnutrition, or in the case of women and children of suffering violations of their sexual and reproductive rights. While all internally displaced persons share the violation of their constitutional rights, these three population groups are different to other IDPs in the specific nature of their vulnerability, their protection and assistance needs, the possibilities that they have to rebuild their plans for a dignified life. From this situation it is clear that there is a need to adopt a differential and specific approach that recognises that forced displacement has distinct effects depending on the age and gender of the victim".*

<sup>106</sup> Constitutional Court. Ruling 251 of 2008. M.P. Manuel José Cepeda Espinosa

## 7.2 Children in armed conflict and violent situations

The recruitment and use of children by members of armed groups in Colombia is a generalized and systematic practice<sup>107</sup> that has adopted certain dynamics to meet the demands of the war.

The emergence of the conflict in schools, permanent threats and even the promises of minimal subsistence conditions form the scenario in which hundreds of children on a daily basis are compelled to become involved with the groups of armed combatants. The children engage in activities that, as described in the Constitutional Court, *"aren't just in themselves violating their fundamental rights, but also involve additional risks that can affect their physical integrity and lives."*<sup>108</sup>

It has been calculated that on occasions the population under the age of 18 that are members of the illegal armed groups can represent around 20 to 30 % in some guerrilla and paramilitary armed units<sup>109</sup> and that their ages range between 7 and 17 years, with an average age of entry to the groups that dropped in just four years from 13.8 years to 12.8<sup>110</sup>, even though some cases have been registered of involvement of children from the ages of 3 and up.<sup>111</sup>

According to the most recent Report of the Secretary General of the United Nations on Children and Armed Conflict in Colombia, the multiple violations of the rights of children through their recruitment by illegal armed groups occurs in at least 23 of the 32 departments in the country.<sup>112</sup>

This problem responds to structural gaps from the Colombian State that don't guarantee the effective enjoyment of the fundamental rights of children and ado-

<sup>107</sup> This is recognised in the Report from the Secretary General on Children and the Armed Conflict in Colombia, Document S/2012/171, 6th of March 2012. United Nations Security Council. paragraph 14.

<sup>108</sup> Constitutional Court. Ruling 251 of 2008. M.P. Manuel José Cepeda Espinosa.

<sup>109</sup> Human Rights Watch, You will learn not to cry. Child soldiers in Colombia, September 2003, p. 15 and 16.

<sup>110</sup> Ombudsman's Office, Bulletin No. 9, November 2006, Ombudsman's Report. Characterization of children and adolescents that have left illegal armed groups, p. 32.

<sup>111</sup> According to the ICBF, 24% of children attended to in the Specialized Program for Children and Adolescents that leave Illegal Armed Groups stated that they became involved with the armed groups between the ages of 3 and 12 years of age. The other 76% stated that they joined the groups between the ages of 13 and 18, representing the highest levels in 15 years. In: [http://www.icbf.gov.co/portal/page/portal/Descargas1/Prensa1/Com\\_Desvinculados\\_220413-A.pdf](http://www.icbf.gov.co/portal/page/portal/Descargas1/Prensa1/Com_Desvinculados_220413-A.pdf)

<sup>112</sup> Op. cit. Report from the Secretary General on children and the armed conflict in Colombia, 2012, paragraphs 15 and 16.

lescents, which has worsened due to the persistence of the armed conflict. Studies on the children and adolescents that have left the illegal armed groups conclude that in order to understand their motivations for entering the ranks of these groups, it is necessary to focus on the particular situation of each child and the economic and family reasons that reflect the social and economic exclusion suffered by the population under the age of 18 in the country<sup>113</sup>.

It has been documented that when these children and adolescents form part of the armed groups they participate in three distinct types of activities as part of their involvement: (a) combat or military activities; (b) tactical support to the combatants; and (c) support to meet the primary needs of the combatants<sup>114</sup>.

However, the girls and female adolescents carry out specific activities and suffer the effects of recruitment and use differently to that of the boys and male adolescents and in a more serious manner. According to the Constitutional Court the girl and female adolescent combatants in Colombia suffer serious violence and sexual exploitation, which has become a weapon of war practiced by all of the groups that participate in the armed conflict. This violence *"includes in a repeated and systematic manner: (i) rape; (ii) forced reproductive planning – through distinct methods, but mainly through the placement of intra-uterine devices and the use of other contraceptive methods against their will and without information regarding the consequences of the implant and as an "order" that has to be complied with; (iii) sexual slavery and exploitation; (iv) forced prostitution; (v) sexual abuse; (vi) sexual slavery practiced by chiefs or commanders; (vii) forced pregnancy; (viii) forced abortion; and (ix) the passing on of sexually transmitted diseases."*<sup>115</sup>

As can be observed, this serious violation of human rights has a direct relationship with the occurrence of other violations such as sexual violence and forced displacement, which constitutes one of their main causes. Many families have been obliged to flee in order to avoid their children being recruited or because after they

<sup>113</sup> Ombudsman's Office, "Characterization of children and adolescents that have left illegal armed groups: Social and productive insertion using a human rights-based approach". November 2006, Bulletin No. 9.

<sup>114</sup> Constitutional Court. Ruling 251 of 2008. M.P. Manuel José Cepeda Espinosa

<sup>115</sup> Constitutional Court. Ruling 092 of 2008. M.P. Manuel José Cepeda Espinosa

have been recruited they are threatened and have to leave the zones where the armed groups have control<sup>116</sup>. In addition, during the displacement and due to the vulnerability of the families, the armed groups take advantage of this situation to use and recruit children and adolescents.

Both the guerrilla as well as the paramilitary groups, and even the armed forces, are responsible for this violation in that children are regularly used as informants, assistants, combatants and, especially in the case of girls, as sexual slaves. The methods of involvement vary according to the group, the age, and the zone – whether it is rural or urban – among other factors. Currently, diverse sources such as the Ombudsman’s Office and the Colombian Family Welfare Institute report that this problem has increased and mainly affects the population in rural or marginalized urban zones, where the armed groups that take part in the hostilities have a greater presence.

In terms of the acts of involving children and adolescents in the conflict by **guerrilla groups**, the Secretary General of the United Nations indicated that it was registered between 2009 and August 2011 that the FARC-EP recruited and threatened to recruit or use children in 121 municipalities across 22 departments along the Caribbean and Pacific Coasts, around the border zones and in the central region of the country. There is information that the ELN was responsible for recruitment and use in 55 municipalities from eight departments along the Venezuelan border and in the departments along the two coasts<sup>117</sup>.

The Justice and Peace Unit from the Attorney General’s Office affirms that the FARC-EP guerrilla carried out this practice in 31 departments in the country. The only place that didn’t have any reports regarding this crime is in the island department of San Andrés and Providencia<sup>118</sup>.

In terms of the **paramilitary groups**, despite the process of demobilization that occurred in 2005, these groups continue to exercise social, political and economic

<sup>116</sup> Constitutional Court. Ruling 251 of 2008. M.P. Manuel José Cepeda Espinosa

<sup>117</sup> Op. cit. Report from the Secretary General on Children and the Armed Conflict in Colombia, 2012, paragraph 16.

<sup>118</sup> “FARC should respond for the recruitment of minors”. El Espectador newspaper. Electronic edition. 22nd of September 2013. In: <http://www.elespectador.com/noticias/paz/farc-deben-responder-reclutamiento-de-menores-articulo-448048>

control in a range of zones in the country, as well as engaging in the act of recruiting children. In relation to these groups, the Inter-American Human Rights Commission *"has received information in their field visits of numerous victims of the conflict that reside in zones where the demobilized groups are present, indicating that they continue to receive threats and are victims of acts of violence, intimidation and territorial control"*.<sup>119</sup>

Regarding this trend, in his last report on the situation of children affected by the armed conflict, the Secretary General of the United Nations indicated that as a result of the illegal armed groups that were formed after the demobilization of the paramilitary groups, there are incidents of recruitment and use of children and adolescents or threats of these actions in 128 municipalities from 23 departments, particularly in en Antioquia, Atlántico, Bolívar, Caldas, Cauca, Cesar, Chocó, Córdoba, Cundinamarca, La Guajira, Magdalena, Meta, Nariño, Norte de Santander, Putumayo, Sucre and Valle del Cauca.<sup>120</sup>

The Office of the United Nations High Commissioner for Human Rights has demonstrated their concern regarding the continued expansion and violence caused by these armed groups that *"are present in the majority of the departments of the country and demonstrate a high capacity for recruitment, including children and adolescents, and use criminal and illegal structures to support their activities."*<sup>121</sup>

The situation of children having their rights violated through being recruited and used by groups led by former paramilitary commanders that didn't demobilize is extremely concerning, as is a similar situation with the paramilitary groups that have reformed. This was highlighted by the Mission to Support the Peace Process in Colombia (Mapp/OEA) in their ninth report.<sup>122</sup> These groups, however, are considered by the government to be criminal groups and not actors in the armed conflict,

<sup>119</sup> Report on the implementation of the Justice and Peace Law: initial stages of the demobilization process for the AUC and first legal reports, OEA/Ser.L/V/II.129, Doc. 6, 2nd of October 2007, paragraph 91.

<sup>120</sup> Op. cit. Report from the Secretary General on Children and the Armed Conflict in Colombia, 2012, paragraph 20.

<sup>121</sup> General Assembly of the United Nations, Report from the UN High Commission for Human Rights on the Human Rights Situation in Colombia, document A/HRC/19/21/Add.3, 31st of January 2012, paragraph 39.

<sup>122</sup> Mapp/OEA, "Ninth quarterly report of the Secretary General to the Permanent Council regarding the Mission to support the peace process in Colombia", Document CP/doc. 4176/07, July 2007, paragraph 28, In: [www.mapp-oea.org](http://www.mapp-oea.org)



which is why there is no guarantee that the children that leave combat are going to be handed over by the illegal armed groups that they belong to. They also won't be protected by the special program for children that have left the groups, which is directed by the Colombian Family Welfare Institute (ICBF), and won't receive any form of reparation due to their condition as victims.

Regarding the **armed forces**, there are reports of direct cases of irregular recruitment, but there is specific evidence of two forms of indirect involvement of children and adolescents: the use of children as part of intelligence gathering activities and in the implementation of civilian-military campaigns.

Another form of using children and adolescents by the armed forces is related to the treatment of children that have left illegal armed groups. Despite the existence of the obligation to refer these children to the appropriate authorities within 36 hours of being identified by government agents (Decree 128 of 2003), according to information from the Ombudsman's Office only 12.2% of the children that are part of the assistance program provided by the ICBF have directly arrived through referrals from government agents, 32.6% through police stations and 58.9% from military barracks. This is an extremely serious situation as there is a large quantity of reports that these children – especially those coming from the guerrilla groups – have remained in military facilities for periods longer than 36 hours and have *"received pressure to provide information to members of the public forces, as well as to participate in operations and to identify members of the group that they were members of"*.<sup>123</sup>

123 Op. cit. "Characterization of children and adolescents that have left illegal armed groups: Social and productive insertion using a human rights-based approach". p. 24.



## CONCLUSIONS

Colombia has a wide legal framework that adheres to international standards in the area of protecting the rights of children and adolescents, however this hasn't been sufficient to effectively guarantee the exercising of these rights.

The majority of the recommendations formulated by the Committee in 2006 to the State haven't been sufficiently implemented and the response from the government doesn't seem to have incorporated the superior interest of the child as a fundamental element and motive for their actions.

Public policies aren't directed at building a country in which the adequate development and growth of future generations of Colombian children is an objective of governments and society, and the public policies that do exist often seem to ignore children's particular needs through the inclusion of a differential approach without context-specific content.

Indigenous and afro-descendant children face additional obstacles in accessing education, health, housing, etc., and the armed conflict worsens the factors of discrimination that the population under the age of 18 usually face, particularly for girls and female adolescents.



## RECOMMENDATIONS

According to the situation previously described, and with the objective that it can comply with the obligations contained in the Convention, we suggest to the Committee on the Rights of the Child that the following recommendations are made:

*To the Colombian State:*

1. Include the educational elements that the juvenile justice system should contain according to international standards directed at reintegration, mentoring and rehabilitation.
2. The resources destined for children should receive special protection from the State, which is why the control organisms should carry out their functions with particular diligence when dealing with resources for this area.
3. The general mandate of the United Nations should be extended by the largest period of time possible and the government authorities should harmonically collaborate so that in partnership they can carry out effective actions that result in guaranteeing the human rights of all children in Colombia.
4. Actions should be focused on the protection of the organizations that defend human rights and their members, including efforts to destigmatize their work.
5. Review, evaluate and adjust the public policy for the prevention of the involvement of children and adolescents in the armed conflict and other forms of violence. In addition, the government should broaden protection measures at the national level

to cover the departmental and local levels, especially in the area of implementing the institutional response mechanisms that take into account the specific needs of each context so that they are clear, adjustable, unobstructed and suitable. This should also involve a budget allocation from the national government to guarantee the implementation of these policies in the regions that are most affected.

6. Widen the response capacity for emergency cases and redefine the exclusively military and police measures. While these can be considered necessary they aren't sufficient. This response capacity should include the protection of children and adolescents and their families in the cases of threats and risks, the possibility of transferring them to safe sites that guarantee the restitution of their rights as well as mechanisms for pedagogical assistance, psychosocial support and socio-economic reestablishment.
7. Strengthen the information systems for the permanent monitoring of the effects of the armed conflict and other violence on children and adolescents that activate alert systems and the implementation of comprehensive mechanisms to provide suitable, immediate and efficient responses. These are made in line with the recommendations made to Colombia by international human rights protection organisms, as is the particular case with the reports and conclusions issued for the country based on the application of the Monitoring and Reporting Mechanism (MRM) of the UN Security Council Resolution 1612.
8. Urge the appropriate institutions to design, implement and monitor the programs detailed in Ruling 251 of 2008 in the framework of the protection of fundamental rights of children and adolescents that are victims of intra and inter-urban forced displacement.
9. Advocate, at a national level, for actions by legal institutions to achieve improved progress in the investigation and prosecution of perpetrators of the violations of the rights of children and adolescents, with the goal of combatting impunity in these situations.

10. Strengthen, through the Colombian Family Welfare Institute (ICBF), the assistance, response and guaranteeing of the rights of children and adolescents using the National Family Welfare System.
11. Advocate with the Intersectorial Commission so that it guarantees the construction and operation of mechanisms that prevent the use and recruitment of children and adolescents in the framework of the armed conflict.
12. Maintain an open attitude to a negotiated exit from the armed conflict by the participating groups, which includes aspects from the agenda for the peace talks such as stopping the serious violations of the rights of children and adolescents, the possibilities of reducing the impact of the conflict on this population and the suspension of actions by armed actors that put the personal security and integrity of children and adolescents at risk.
13. Design protocols and mechanisms for the actions, assistance and protection of administrative and teaching staff from educational institutions that are at risk due to the actions of the armed groups, in such a way that they can continue with their educational work without any type of risk to their life or personal integrity. In the cases where it isn't possible to reduce the risk and protection measures and it is necessary to support the removal of those affected, appropriate support should be provided so that they can abandon the zone where they are being threatened, implementing the necessary contingency measures so that students don't have their academic activities or school calendar affected. These measures also include preventative actions that reduce the involvement of children and adolescents in the armed conflict and violence.
14. Promote training processes for public officials in the area of human rights, international humanitarian law and public administration with a differential approach for children and adolescents in order to improve the assistance provided and protect the rights of children and adolescents.

### *To the Public Ministries and Control Organisms*

15. Oversee and promote actions from public institutions that support the compliance of their roles in the framework of providing assistance and responses to cases of children and adolescents that are victims of the armed conflict and other violence.

### *To the Educational Institutions*

16. Incorporate a component of prevention and response in the institutional education plans to address the issue of the involvement of children and adolescents in the armed conflict and other violence.
17. Hold awareness raising sessions and training in human rights and international humanitarian law with an emphasis on the prevention and protection of the involvement of children and adolescents in the armed conflict and other violence, directed at the different sectors of the educational community.

### *To the Armed Groups*

18. Hand over all of the children and adolescents that are involved in their armed structures.
19. Avoid the involvement of new children and adolescents in their armed structures that are recruited and / or used to achieve the groups' objectives.
20. Avoid the involvement, occupation or disturbance of any type of school, health centre, hospital, recreational space or other public space, taking into account principles of International Humanitarian Law and the superior interest of children.

### *To Civil Society*

21. Promote actions for the defence of the rights of children and young people that recognise their needs and differences of age, ethnicity and gender.



22. Share and publicise the experiences and initiatives in the area of preventing the involvement of children and adolescents in the armed conflict and other violence that have been developed in the community, as well as the results obtained, the lessons learnt and the ways that they have found to move forward with the work of protecting children and adolescents despite the presence of armed actors and the risks involved.
23. Maintain, with support from the international community, the implementation of actions for the prevention of the involvement of children and adolescents in the armed conflict and other violence, based on local and community capacities and resources.

#### *To the Communities*

24. Provide a space to address the situations of children and adolescents in collective participation spaces, especially those that have been affected by the armed conflict and other violence, in such a way that the community measures are part of their political agendas and become a visible area of action.

#### *To the families*

25. Reassume their roles as the main defender and guarantor of the rights of children and adolescents, seeking the best way in which the family can act as a figure of authority, company and support.
26. Assume the responsibility as caregivers in the formation of children and adolescents, becoming involved in their developmental process. For example, in the area of education, the family should be an important part of the educational community that children and adolescents belong to. Another form of being involved is accompanying and participating in their games. Providing children and adolescents with an opportunity to express their opinions to the rest of the family will contribute

to their development as social and political subjects motivated to seek ways of living that go beyond violence.

27. Be aware of and activate the legal mechanisms available for the protection of children and adolescents in situations where the family is stretched beyond their capacities as the primary protector of children, which implies exhausting all internal resources in the first instance.

#### *To children and young people*

28. A permanent task of children and adolescents is to learn and ask about their rights, to give opinions about them and demand them based on respect for others. Challenges for children and adolescents include taking advantage of the spaces for the constructive use of free time that exist in their immediate surroundings, to read, to go to school when it is possible, to reflect on information they receive and always look beyond what they are initially told.

#### *To the group of organisations and individuals that work for the rights of children and adolescents and coordinate actions to support these rights.*

29. Develop coordinated actions among the different institutions that have as a mandate the promotion, defence and protection of the rights of children and adolescents with the goal of not duplicating efforts, optimizing resources and providing feedback on practices that are based on benefiting, empowering and facilitating the participation of children and adolescents. Providing assistance to and preventing situations evidenced throughout this report isn't the work of just one organisation or sector. Coordinated actions will depend on the effective reduction of threats and risks against children and adolescents caused by the armed conflict and violence that exist in the country.