



CONSIDERATIONS OF THE COLOMBIAN STATE
IN REGARD TO THE REPORT ON COLOMBIA
PREPARED BY THE UNITED NATIONS SECRETARY GENERAL

In compliance with the Monitoring and Reporting Mechanism
Contained within Security Council Resolution 1612 (2005)
Bogotá D.C., September 30, 2009

1. The Colombian State wishes to express its gratitude to the United Nations System, the Secretary General, the Office of the Special Representative of the Secretary General for Children and Armed Conflict, the different agencies present in Colombia and the members of the Task Force for their permanent willingness to undertake constructive dialogue and their efforts involved in the preparatory process for the Secretary General's Report, in compliance with the Monitoring and Reporting Mechanism contained in Security Council Resolution 1612 (2005), for the period January - December, 2008.
2. The voluntary acceptance by the Colombian State, in December 2008, of the implementation of this Mechanism, is a reflection of its unequivocal commitment to children and their rights, and of its full conviction that such Mechanism constitutes, within the framework of a constructive spirit of cooperation, an opportunity to strengthen the capacities of the institutions that undertake efforts aimed at guaranteeing the rights of children affected by violence.
3. The provisions contained in Resolution 1612 and in the Mechanism that implements it, even before voluntary acceptance, have contributed to the mobilization of Colombian society against the violations of children's rights in the midst of the situation of violence and, more specifically, against the recruitment and use of children by illegal armed groups. The recognition of the problem, as well as the accompaniment of the agencies that are part of the United Nations System, have allowed the Colombian State to bolster its leadership in an articulated and systematic effort, where authorities at the local and national levels participate, complemented by public and private initiatives and the collaboration of members of the international community, civil society and non governmental organizations.
4. The Government has approached the implementation of the Monitoring and Reporting Mechanism on the basic premise that only through an objective



diagnosis of the Colombian reality and a comprehensive understanding of the different origins and expressions of the situation of violence, will it be possible to contribute to, and have a positive impact on, the achievement of greater levels of well-being for children in the country. Hence, the Government appreciates the acknowledgements contained in the Report related to the positive actions and accomplishments led by the State, in addition to the indications related to the challenges that still persist regarding the six grave violations referred to in the Monitoring and Reporting Mechanism.

On the number of children engaged in illegal armed groups

5. In the last six years, nearly 52,000 members of illegal armed groups have been demobilized in Colombia. The total number of members of those groups has gone from approximately 60,000 people to less than 8,000, in accordance with reports by national authorities. Any estimative on the number of recruited children must be based on this new reality.

6. The Colombian State has undertaken the task of collecting data, reports, denunciations and existing records with regard to the six grave violations referred to in the provisions of Resolution 1612 and, to this end, it is conducting efforts with the aim of consolidating a rigorous measurement, based on factual data, which allows to quantify the impact of the factors under analysis. Notwithstanding, measuring the recruitment and use of children by illegal armed groups and/or by criminal gangs, is a complex test. It is worthwhile to note that 80% of the recruitment cases that have come to be known by the State correspond to situations wherein the boy or girl is separated from the group and assisted by the specialized protection program of the Colombian Institute of Family Welfare (ICBF).

7. According to testimonies of those who have withdrawn from illegal armed groups under multiple circumstances, the State has received information that other children remained within such groups. On the other hand, there is difficulty in having families inform about the children's engagement in illegal armed groups, on some occasions voluntarily, as well as about those situations where children are used by organized crime, in particular because they fear that if they report such recruitment, the illegal armed group might take retaliatory actions against them. Such situations hinder the development of prevention programs and policies.

8. Within the framework of this process, the National Government has been able to establish that 3,800 cases of children separated from illegal armed groups, certified by the Committee to Abandon Arms, have been referred to the Prosecutor's Office, for the respective legal proceedings as victims of the crime of illegal recruitment. The Government expects that these investigations will result in



indictments before criminal judges for their exemplary sanction. Likewise, the Government has requested the National Commission for Reparation and Reconciliation that the 562 disengaged persons under 18 years of age currently protected by the special program of the Colombian Institute of Family Welfare (ICBF) be redressed as victims, within an administrative proceeding that has been designed for such purpose, and that their cases continue being subject of attention on the part of the judicial authorities.

Institutional Progress

9. The Secretary General's Report refers to the progress made by the Colombian State institutions to comply with their constitutional and legal obligations of guaranteeing the protection and effective enjoyment of children's rights within the national territory. Such recognitions strengthen even more the State's will to continue to advance towards the achievement of full enforcement of such rights.

10. As a complement to the improvements noted in the Report, the Government of Colombia wishes to refer to the initiation of an organized process in search of those children that, in accordance with information offered by non governmental organizations and United Nations agencies, were not handed over for the protection of the State during the demobilization process that took place within the Justice and Peace Law framework. Their situation vis-à-vis, that of the other children that were handed over to the State, was seemingly marked by inequality. This process is being conducted under the leadership of the Office of the High Presidential Counselor for Economic and Social Reintegration of Armed Persons and Groups, with the support of other institutions that take part in the Inter-sectorial Commission for the prevention of recruitment and use of children by illegal armed groups, which is presided by the Vice President of the Republic.

Analysis of the situation in Colombia

11. The National Government wishes to reiterate its appreciation for the efforts made by those who participated in the preparation of the Secretary General's Report, while seeking to reflect the complex Colombian reality in an objective manner. Notwithstanding, it is necessary to make certain clarifications that may contribute to enrich the analysis.

12. The government positively acknowledges the inclusion of paragraph 2 in the report, wherein it is indicated that according to the preamble paragraph eight in Resolution 1612 (2005), such Report does not intend to make a legal



determination on whether the situation in Colombia constitutes an armed conflict within the context of the Geneva Conventions and their Additional Protocols, nor does it pre-judge the legal status of the illegal armed groups that operate in Colombia. The language used throughout the document, however, including in the section of *Recommendations*, especially those contained in paragraph 94, is not coherent with such premise. The Colombian Government expects that any conclusion or recommendation adopted by the Security Council Working Group be consistent with preamble paragraph eight in Resolution 1612 (2005).

Responsibility of the Colombian State

13. The Colombian State is aware of its primary responsibility concerning the protection of children in its territory, and of the challenges that still persist. Likewise, it acknowledges the need to continue strengthening institutional capacities in order to attain assurances of the full enjoyment of all rights by all children. Within such perspective, the Colombian State values the explicit way in which the Report refers to the difficulties posed by illegal armed groups and criminal gangs that are financed by drug-trafficking. In the same sense, the National Government values the advocacy by the Secretary General for the aforementioned groups to put an end to all actions that hinder children's rights in Colombia.

14. As stated by the Secretary General, the illegal armed groups, through their illicit activities, prevent the full exercise of children's rights in Colombia. Such groups direct their deliberately violent and criminal acts against childhood population by perpetrating the six grave violations monitored by the Monitoring Mechanism: recruiting children; subjecting them to acts of sexual violence; attacking schools and hospitals; abductions; killing and maiming by the use of anti-personnel mines and attacking humanitarian missions, thus impeding access to humanitarian aid.

15. The Colombian State has not only decisively pursued those responsible for such criminal acts, but it has denounced them before international instances, in the understanding that such acts must be condemned by the society as a whole as well as by the international community. Not only have Colombian citizens emphatically rejected the criminal and deliberately violent actions of illegal armed groups; countries such as the United States of America and the member states of the European Union, supported by an adequate understanding of the terrorist nature of such groups, have condemned the violent acts perpetrated by them against the population.



16. The repudiation of the Colombian people to the violent actions by illegal armed groups was made evident in the massive demonstrations that took place on February 4 and July 20, 2008. Such expressions, mentioned in the Report, are not only a clear display of the Colombian citizens' rejection to the practices conducted by such groups; they illustrate the illegitimacy of the political discourse used by such groups in an intent to justify their criminal actions.

17. In Colombia there is no justification for violence under the assumption of political purposes, nor is there any endorsement to violence exercised under any pretext. As stated in the Report, Colombia is a democratic State. In fact, Colombian democracy is one of the longest-standing in Latin America and the strength and independence of its institutions are acknowledged worldwide. Colombia has an advanced legal structure derived from its political Constitution within the framework of which the guarantees for the full exercise of rights have been formulated. Hence, the State ensures mechanisms that effectively provide for ample and diverse participation, through which all political trends may freely exercise their civil and political rights.

18. In correspondence with the above, the Colombian Government wishes to recall its permanent commitment to opening to domestic and international scrutiny on all its acts, as a consequence, since 2002, there has been a standing invitation to all representatives of special procedures and conventional and extra-conventional mechanisms, both of the United Nations system and the Inter-American Human Rights System; the Colombian State voluntarily submitted itself to the Universal Periodic Review within the framework of the United Nations Human Rights Council, and voluntarily accepted the commitments resulting from the majority of the recommendations made; lastly, the Colombian State voluntarily accepted, as previously mentioned, the application of the Monitoring and Reporting Mechanism contained in Security Council Resolution 1612. By the same token, both national and international non-governmental organizations and civil society organizations working in the defense of Human Rights have full guarantees to perform their tasks and have access to the national territory, with no restriction.

19. This being so, and considering the criminal actions that are repeatedly committed by illegal armed groups against the population in general and children in particular, the Colombian State is committed to investigate, capture, and penalize those responsible for the perpetration of criminal acts on whom all the weight of the law should fall.

20. The Colombian Government has a policy of zero tolerance with regard to all forms of criminality; it has a strong policy aimed at the protection of all its citizens, exercised through the Democratic Security policy based on the Rule of Law and



through its democratic institutions exercising their functions. In a parallel effort, the Colombian Government has shown, with verifiable facts, that it is willing to undertake dialogue with illegal armed groups in search of reconciliation options, but it demands that such dialogue be conducted with cessation of armed actions by such groups and with the true willingness of reaching agreements. It is not acceptable for the Government or the Colombian society that an eventual process of dialogue be used by illegal armed groups, as in former occasions, to mislead people with promises, while new attacks against the population and its legitimate institutions are prepared. Unfortunately, the illegal armed groups persist in violence instead of accepting the option offered to them.

21. Taking the above into account and the fact that, as also mentioned in the Report, the illegal armed groups “*assumed*”, more than a decade ago, the commitment of not recruiting children, but up to this date they have not shown their intention to honor such commitments, it becomes evident that such groups are not interested in protecting the children’s rights in Colombia, and have not responsibly taken on the obligations they voluntarily accepted. Under such conditions, the eventual preparation of action plans that do not take into account the context of the Colombian reality could end in an effort with no results. Therefore, the Colombian government wishes to reiterate that the initiatives conducive to guaranteeing the protection of children and the full enjoyment of their rights, must be channeled in a concerted and constructive manner, in permanent consultation with the national authorities, in order to prevent frustration as has occurred in previous occasions. In this way, the terms and procedures agreed upon between the Colombian Government and the Office of the Special Representative of the Secretary General for Children and Armed Conflict would be fulfilled within the framework of the voluntary acceptance for the application of the Monitoring and Reporting Mechanism.

22. Colombia positively values the fact that the international community demands from the armed groups that persist in their illegal activity serious manifestations of their will to demobilize, including concrete demonstrations, such as the release of children from their ranks, as well as of all kidnapped persons.

Situation of organized crime in Colombia: Criminal Gangs

23. It is necessary for the Colombian State to clarify that organized criminal gangs qualified by the Report as “*new illegal armed groups*” are not homogenous, nor are they structured as military organizations. Their motivation is drug-trafficking and organized crime.



24. In that sense, the Secretary General of the Organization of American States has referred to this topic upon submitting the Eleventh Quarterly Report to the OAS Permanent Council on the Mission to Support the Peace Process in Colombia (Washington D.C. June 24, 2008):

“Let this be an opportunity to highlight what was stated in the report with regard to criminal gangs, the criminal activities of which have been a matter of concern. It is clear, both for the MAPP/OAS, and for the Colombian Government, that these groups have a criminal profile and that they are closely linked with drug-trafficking activities. It is clear that these criminal groups do not have any relation whatsoever with the paramilitary action, which has disappeared from the Colombian scope”¹.

25. The Mentioned Eleventh Quarterly Report to the Permanent Council on the Mission to Support the Peace Process in Colombia (June 24, 2008) also states:

“For the MAPP/OAS, the dismantling of the armed component has meant a clear weakening of paramilitarism. Notwithstanding, in certain regions this phenomenon has taken a criminal dimension, without counter-insurgent connotations, in function of the illegal drug market. The articulation with drug-trafficking sectors is frequent, and in certain regions these factions have even established relations with the guerrilla. (At the border of the Departments of Cauca and Nariño, they have established links with the ELN, and in South of Bolívar, with the FARC). Such dynamics poses a complex scenario for Colombia”².

26. To tackle the described situation, the State as a whole is committed to decisively combat organized crime in the form of criminal gangs, and it can show promising results.

Public Force

27. Reports on homicides allegedly perpetrated by members of the Public Force out of combat, including children, were a central issue during 2008. The National Government, headed by the President, the Vice President and the Ministry of Defense acted with celerity in making drastic decisions that led to the removal of a considerable number of public force members and immediately referred all such cases to be investigated by ordinary justice through the Prosecutor General's Office, and applied additional control measures to prevent the occurrence of new facts of this nature. Colombia, therefore, wishes to emphasize that as of October 2008 it has considerably decreased the number of reports on this type of cases,

¹ Original text in Spanish

² Original text in Spanish



and that efforts have been doubled not only to prevent this from happening again, but to facilitate the investigation and exemplary sanction of those found liable in the reported cases.

28. On the other hand, it is worthwhile pointing out that the civic-military campaigns conducted by the Colombian Public Force contribute to strengthening the relations between the civil population and the State, are not contrary to the distinction principle, and do not make civilians licit targets in the light of International Humanitarian Law. Therefore, they constitute a tool that the State expects to continue using.

29. As acknowledged by the Office of the High Commissioner of the United Nations for Human Rights in her 2008 annual report, the Colombian Public Force has made significant progress in the implementation of a culture for the respect of Human Rights. Violations of children's rights that regrettably took place during the period mentioned in the Report, perpetrated by members of the Public Force, constitute isolated facts that the Colombian State is absolutely committed to investigate and penalize.

Final Consideration

30. The Colombian State wishes to reiterate its commitment to make all necessary efforts to guarantee full effectiveness of Human Rights for all inhabitants within its territory, and especially to guarantee the full enjoyment of children's rights. Likewise, Colombia wishes to reaffirm the open spirit with which it voluntarily accepted the application of the Monitoring and Reporting Mechanism. The National Government understands that the work carried out by the Task Force and by the different agencies of the United Nations System present in the territory, as well as by the Office of the Special Representative of the Secretary General for Children and Armed Conflict, are inspired in a constructive spirit of cooperation that will offer opportunities for the Colombian State to continue strengthening its institutional capabilities and its efforts towards the achievement of better living conditions for children.

31. Based on this constructive spirit, the Colombian State expects that the conclusions to be agreed upon by the Working Group of the Security Council regarding the first report on the implementation of the Mechanism, expressly include the need for a permanent consultation process between the National Government and the United Nations country Task Force, with regard to additional steps to be undertaken within the framework of the application of those recommendations that the National Government decides to accept.