



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations: Colombia

1. The Committee considered the third periodic report of Colombia (CRC/C/129/Add.6) at its 1147th and 1149th meetings (see CRC/C/SR.1147 and CRC/C/SR.1149), held on 26 May 2006, and adopted at the 1157th meeting, held on 2 June 2006, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's third periodic report, the detailed written replies to its list of issues (CRC/C/COL/Q/3) and the frank and open dialogue with a high-level, cross-sectional delegation, which enabled the Committee to have a clear understanding of the situation of children in the State party.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee notes with appreciation:

- (a) The destruction of landmines belonging to the army in 2004;
- (b) Initiatives to combat child labour and the implementation of National Action Plans with ILO-IPEC;
- (c) Decisions of the Constitutional Court on the responsibility to attend to the displaced population (T-025 of 2004) and the partial decriminalization of abortion (C-355 of 2006);

(d) Legislation to counteract sexual exploitation, pornography and sexual tourism with children by the adoption of Law 679 in 2001;

(e) The presence of and collaboration with OHCHR in Colombia.

4. The Committee also wishes to welcome the ratification of:

(a) The Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict on 25 June 2005, and on the sale of children, child prostitution and child pornography on 11 November 2003;

(b) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime on 4 August 2004;

(c) ILO Conventions No. 138 (1973) concerning the Minimum Age for Admission to Employment and No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, respectively, on 2 February 2001 and on 28 January 2005; and

(d) The Rome Statute of the International Criminal Court, on 5 August 2002.

C. Factors and difficulties impeding the implementation of the Convention

5. The Committee notes that poverty, unequal distribution of resources and the long-standing internal armed conflict in Colombia have negatively affected the implementation of the rights guaranteed in the Convention.

D. Main subjects of concern and recommendations

1. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

The Committee's previous recommendations

6. The Committee notes that some concerns and recommendations (CRC/C/15/Add.137 of 16 October 2000) made upon the consideration of the State party's second periodic report (CRC/C/70/Add.5) have been addressed. However, it regrets that several of its concerns and recommendations have been insufficiently or only partly addressed, including those related to children's rights and the peace process, legislation, data collection, financial resources, non-discrimination, the right to life, birth registration, freedom from torture, physical and sexual abuse of children within and outside the family, regional disparities in access to health care, reproductive health, limited access to education, especially affecting Afro-Colombian and indigenous children, children affected by armed conflict, internally displaced children, sexual exploitation and trafficking.

7. **The Committee urges the State party to take all necessary measures to address those recommendations from the concluding observations of the second periodic report that have not yet been implemented or sufficiently implemented and to provide adequate follow-up to the recommendations contained in the present concluding observations on the third periodic report.**

Legislation and implementation

8. The Committee welcomes the incorporation of numerous articles on child rights into the Constitution, which also affirms that international instruments ratified by Colombia prevail over domestic legislation. The Committee regrets, however, that the reform of the inadequate Minors' Code of 1989 has not yet been completed despite 10 years of debate and numerous calls by United Nations entities for amendments in order to bring national legislation in line with the obligations undertaken by the ratification of the Convention of the Rights of the Child. In particular, the Committee notes that the draft law to reform the Minors' Code currently under consideration in the Congress, needs to adequately address the following four areas of concern in order to be in conformity with the Convention: juvenile justice, adoption, work and protection against abuse of children.

9. **The Committee reiterates its concern in this regard and recommends that the State party promptly complete the process of reform of the Minors' Code in order to provide effective protection of the rights of all children in Colombia, taking into account the following four areas of concern in order to bring them into conformity with the Convention: juvenile justice, adoption, work and protection against abuse of children.**

10. Furthermore, the Committee is concerned that the domestic violence law of 2004, which fails to incorporate sexual abuse on the grounds that it constitutes physical abuse and as such is already covered in the Criminal Code, will have serious implications for the welfare and protection of Colombian children as it disregards the serious nature of sexual abuse and its impact on victims.

11. **The Committee recommends that the State party reinstate sexual violence as part of domestic violence legislation in accordance with international legal obligations, including article 19 of the Convention on the Rights of the Child.**

National Plan of Action

12. The Committee takes note of the ongoing development of a National Plan of Action.

13. **The Committee recommends that the State party adopt a National Plan of Action for children in consultation with a civil society and all sectors involved in the promotion and protection of children's rights, with the aim of implementing the principles and provisions of the Convention, and taking into account, inter alia, the Plan of Action "A world fit for children" adopted by the General Assembly special session in May 2002. The Committee also recommends that adequate resources be allocated both at national and local levels for the implementation of the National Plan of Action.**

Coordination

14. The Committee, while recognizing increased efforts to seek cooperation with departmental and municipal authorities, is concerned that the Colombian Institute for Family Welfare (Instituto Colombiano de Bienestar Familiar, or ICBF) lacks stable and sufficient resources, as well as regional and municipal presences in order to effectively coordinate prevention activities and comprehensive protection of children's rights.

15. **The Committee recommends that the State party provide stable and adequate financial and human resources in order for the Colombian Institute for Family Welfare (ICBF) to comprehensively coordinate children's rights and in order to establish its presence throughout the country.**

16. The Committee is concerned that departmental and municipal authorities fail to shoulder their responsibility to include and prioritize resources for children in their policy and budget planning.

17. **The Committee notes that departmental and municipal authorities should ensure that due consideration is given to their responsibilities and that adequate resources be allocated for children's issues in their budgets. The Committee suggests that departmental and municipal authorities request technical cooperation from UNICEF in order to strengthen their capacity to integrate a child rights perspective in their administration.**

Independent monitoring

18. The Committee notes that the national human rights institution, the *Defensoría del Pueblo*, has a unit for children's rights and sustains regional offices in all 32 departments. However, the Committee is concerned that large parts of the country, especially rural areas with high percentages of Afro-Colombian, indigenous and displaced populations, lack the presence of civilian authorities, notably the *Defensoría del Pueblo*, in order to effectively monitor children's human rights situation.

19. **The Committee values the role played by national human rights institutions and, in light of its general comment No. 2 (2002) on national human rights institutions and the Paris Principles (General Assembly resolution 48/134, annex), requests that the State party provide adequate resources to effectively carry out its mandate and to extend its representation nationwide, including to the most vulnerable areas, in order to ensure that all children have effective remedies in case of violations of their rights.**

Resources for children

20. The Committee regrets the lack of clear information on budget allocations and is concerned that one of the major causes of poverty in Colombia is the unequal distribution of State funds, which severely impacts on the well-being of children, in particular affecting those from more vulnerable sectors of society. In particular, the Committee is deeply concerned over the declining expenditure for education, health and welfare services, all essential to the realization of the right of the child.

21. **The Committee strongly recommends that the State party, in accordance with article 4 of the Convention, increase budget allocations for the implementation of the rights recognized in the Convention, ensure a more balanced distribution of resources throughout the country and prioritize budgetary allocations to ensure implementation of the economic, social and cultural rights of all children, including those belonging to financially disadvantaged groups, such as Afro-Colombian and indigenous children.**

International cooperation

22. The Committee welcomes the presence and mandate of OHCHR in Colombia and notes the commitment of the State party to further implementation of the recommendations of OHCHR and the intention, asserted by the State party during the session, to extend the mandate.

23. **The Committee encourages the State party to further the implementation of the recommendations issued by OHCHR and strongly recommends that the comprehensive mandate of OHCHR in Colombia be extended for an additional four years.**

24. The Committee recognizes the international cooperation that Colombia is receiving in a number of initiatives to end the armed conflict. However it notes that certain components of such support fail to take into account the impact it has on children.

25. **The Committee recommends that the State party consider the rights of the child in the development of all cooperation activities seeking to end the armed conflict.**

Data collection

26. While the Committee welcomes the statistical data and information provided in the report and the written replies, it is concerned that disaggregated data is lacking, in particular regarding vulnerable groups and disparities between urban and rural areas. The absence of such information is a serious obstacle in order to identify the challenges remaining and the remedial measures required.

27. **The Committee recommends that the State party continue to strengthen its efforts to develop a comprehensive system of collection of data on the implementation of the Convention. The data should cover all children below the age of 18 years and be disaggregated by groups of children who are in need of special protection, including female, displaced, Afro-Colombian and indigenous children.**

Training/dissemination of the Convention

28. The Committee is concerned that the State party has undertaken insufficient measures to disseminate information about the content of the Convention to the general public and in particular to children themselves. Training for professionals working in child rights-related fields, on the duties and responsibilities stemming from the Convention, remains seriously lacking.

29. **The Committee recommends that the State party strengthen its efforts to disseminate the Convention throughout the country and to raise public awareness, in particular among children themselves and parents, about its principles and provisions. Cooperation with civil society organizations, academic centres, media and NGOs should be developed for this purpose.**

30. **Furthermore, the Committee encourages the State party to strengthen its efforts to provide adequate and systematic training and/or sensitization about children's rights of professional groups working with and for children, in particular law-enforcement officials, as well as parliamentarians, judges, lawyers, health personnel, teachers, school administrators and others as required. The Committee encourages the State party to seek technical assistance from UNICEF and the Inter-American Institute for the Child for the training of professionals.**

Cooperation with civil society

31. The Committee is concerned that the role of civil society and in particular of NGOs is rather limited in the promotion and implementation of the Convention on the Rights of the Child. The Committee considers that the State party does not take fully into account the importance of an active and diverse civil society. In addition, the Committee regrets that the work of human rights advocates has been impugned by senior officials.

32. **The Committee recommends that the State party encourage the active and systematic involvement of civil society, including NGOs, in the promotion and implementation of children's rights, including, inter alia, their participation in the follow-up to the concluding observations of the Committee. The Committee urges the State party to respect and encourage the autonomy and diversity of NGOs in the promotion of the rights of children.**

2. Definition of the child (art. 1 of the Convention)

33. The Committee is concerned that the minimum age for marriage is too low and discriminatory, as it is set at 12 years for girls and 14 years for boys. Child marriages and early pregnancies have a serious detrimental effect on the health, education and development of the girl child.

34. **The Committee recommends that the State party reform its legislation and practice to increase the minimum age for marriage either with or without parental consent to an internationally acceptable age, for both girls and boys, in accordance with general comment No. 4 on adolescent health and development in the context of the Convention on the Rights of the Child (CRC/GC/2003/4).**

3. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

35. The Committee is deeply concerned that widespread discrimination exists towards certain vulnerable groups, such as displaced children, Afro-Colombian and indigenous children and children living in rural and remote areas. Their ability to access education and health facilities is severely reduced by the disproportionate allocation of resources. The Committee is concerned that such vulnerable groups are at greater risk of recruitment by the armed forces as well as of commercial and sexual exploitation, internal displacement and trafficking. The Committee is further concerned that the rights of girls and women continue to be violated.

36. **The Committee recommends that the State party increase its efforts to ensure implementation of existing laws guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on gender, ethnic, religious or any grounds and against all vulnerable groups throughout the country.**

37. **The Committee also requests that specific information be included, in the next periodic report, on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to provide special protection to vulnerable groups including girls, indigenous and Afro-Colombian children and to follow up on the Declaration and Programme of Action adopted at the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, also taking into account general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).**

Best interests of the child

38. The Committee is concerned that current legislation and policy fail to take into account the principle of the best interests of the child.

39. **The Committee recommends that the State party fully incorporate the principle of the best interests of the child in all programmes, policies, judicial and administrative procedures, and in particular in the reform of the Minors' Code and the development of a National Plan of Action.**

Right to life

40. The Committee expresses grave concern at the continuously high incidence of children victims of extrajudicial killings, homicides and massacres as a consequence of the armed conflict. Children continue to be victims of disappearances and social cleansing, in particular due to their stigmatization as displaced. The Committee is concerned over ongoing killing of hundreds of children in the areas of Ciudad Bolívar and Soacha, on the outskirts of Bogotá. Finally, the Committee notes that the links between public officials and members of illegal armed groups, in particular the paramilitaries, have yet to be severed.

41. **The Committee urges the State party to take, as a matter of priority, effective measures and action to protect the civilian population from all forms of violations, especially those affecting children, and reminds the State party that failure to act and prevent such violations may incur responsibility. Furthermore, the Committee urges the State party to put an end to links between public officials and members of illegal armed groups, in particular the paramilitaries, as these still exist.**

42. The Committee notes that despite setting up an early warning system to prevent serious human rights violations, the State party has failed to take effective preventive action, resulting in the loss of life of civilians, including children.

43. **The Committee urges the State party to take effective preventive measures, following the identification of risk situations in the early warning system, in order to prevent the loss of life due to omission by the authorities to act.**

44. The Committee is concerned over numerous instances of violence by the regular military forces whereby children have been killed, including cases where children have been falsely reported as killed in combat by the army. Finally, the Committee notes with concern the unbroken pattern of impunity and the continuous tendency to refer serious violation of human rights to the military justice system.

45. **The Committee urges the State party to break the legacy of impunity and urgently conduct criminal investigations of human rights violations in cases whereby children have lost their lives and ensure that the perpetrators are brought to justice as a matter of the highest priority. Furthermore, the Committee requests that the State party respect its international legal obligations in relation to fair trials and ensure that all investigations are carried out independently and impartially.**

Respect for the views of the child

46. The Committee notes that the views of children are inadequately taken into account in the family, schools and other institutions.

47. **The Committee recommends that the State party promote, facilitate and implement in practice, within the family, schools, the community level, in institutions as well as in judicial and administrative procedures, the principle of respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention.**

4. Civil rights and freedoms (arts. 7, 8, 113-17 and 37 (a) of the Convention)

Birth registration

48. The Committee notes the efforts undertaken together with various United Nations agencies in order to improve the rate of birth registration, however it is concerned that 20 per cent of all Colombian children continue to lack birth registration, especially in rural areas and among Afro-Colombian and indigenous populations.

49. The Committee reiterates its previous recommendation (CRC/C/15/Add.137, para. 37) urging the State party to prioritize the immediate registration of the births of all children, and to promote and facilitate the registration of those children who were not registered at birth, in the light of article 7 of the Convention. The Committee recommends that the State party modernize and ensure the proper operation of the Registrar's Office, including by providing it with the necessary resources in order to cover rural areas. The Committee encourages the State party to continue cooperation with United Nations agencies in order to improve birth registration.

Torture

50. The Committee is seriously concerned that children continue to be victims of torture, cruel and degrading treatment. The Committee notes that, although members of illegal armed groups bear primary responsibility, State agents, including members of the military, are also implicated. The Committee is especially concerned over the situation in rural areas where children are at risk as a consequence of the ongoing internal armed conflict. In particular, the Committee expresses concern regarding the increasing number of girls who are subjected to sexual violence and is disturbed by numerous reports of rapes committed by members of the military. The Committee is also concerned about other forms of torture and cruel, inhuman and degrading treatment by law-enforcement officials, including in detention facilities, and also over abuses in institutional care.

51. The Committee urges the State party to take effective measures to protect children from torture and other cruel, inhuman or degrading treatment. The Committee emphasizes the urgent need to investigate and sanction all reported cases, committed by the military, law-enforcement officials or any person acting in an official capacity, in order to break the pervasive cycle of impunity of serious human rights violations. The Committee recommends that the State party ensure that all child victims of torture, cruel and degrading treatment are provided access to physical and psychological recovery and social reintegration as well as compensation, giving due consideration to the obligations enshrined in articles 38 and 39 of the Convention.

5. Family environment and alternative care

(arts. 5; 18, paras. 1-2; 9-11; 19-21; 25; 27, para. 4; and 39 of the Convention)

Family support

52. The Committee expresses concern over the lack of resources and support for vulnerable children in areas where the Colombian Institute for Family Welfare (ICBF) has no presence, resulting in children being at higher risk of exploitation, abuse and separation from their parents.

53. The Committee recommends that the State party provide further support to families in order to prevent separation of children, e.g. in the form of counselling, parenting and financial allowances.

Alternative care

54. The Committee takes note of the efforts undertaken in order to increase alternative-care placements in family settings, however the Committee remains concerned about the high number of children institutionalized for extensive periods of time.

55. **The Committee recommends that the State party promote foster care as a form of alternative care and suggests that institutionalization be used only as a measure of last resort, taking into account the best interests of the child. Furthermore, the Committee recommends proper resource allocation, functioning and monitoring of the care institutions, including those run by NGOs, and foster care as well as a periodic review of placement in conformity with article 25 of the Convention and the recommendations issued after the general day of discussion in 2005 on children without parental care.**

Adoption

56. The Committee is concerned over the large number of intercountry adoptions and that only half of these adoptions are administered by the Colombian Institute for Family Welfare (ICBF). The Committee is particularly concerned that the practice of private “Adoption Houses” increases the risk of profit-making in conjunction with adoptions and contravenes article 21 of the Convention.

57. **The Committee recommends that the State party ensure that all intercountry adoptions be administered through a central authority as stipulated in article 21 of the Convention and in accordance with the Hague Convention No. 33 on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993, to which Colombia is a party. Also, the Committee recommends that the State party seek to prioritize domestic adoptions.**

Violence, abuse, neglect and maltreatment

58. The Committee is concerned that, despite government efforts such as the programme *Haz Paz (Make Peace)* set up to counter intrafamily violence, reports of violence against children, especially girls, in the family environment indicate an escalating trend. The Committee is particularly concerned over the lack of statistics, the limited number of investigations and sanctions in relation to such cases.

59. **The Committee urges the State party to:**

(a) **Reinforce mechanisms for monitoring the number of cases and the extent of violence, sexual abuse, neglect, maltreatment or exploitation considered by article 19, including within the family, schools, in institutional or other care;**

(b) **Ensure that professionals working with children (including teachers, social workers, medical professionals, members of the police and the judiciary) receive training on their obligation to report and take appropriate action in suspected cases of domestic violence affecting children;**

(c) Strengthen support for victims of violence, abuse, neglect and maltreatment in order to ensure their access to adequate services for recovery, counselling and other forms of reintegration;

(d) Support national coverage of the toll-free child helpline service, Teléfono Amigo, in order to be able to reach out to children in remote areas throughout the country.

60. In the context of the Secretary-General's in-depth study on the question of violence against children (E/CN.4/2005/75) and the related questionnaire to Governments, the Committee acknowledges with appreciation the written replies of the State party and its participation in the Regional Consultation for Latin America held in Argentina between 30 May and 1 June 2005. The Committee recommends that the State party use the outcome of this regional consultation in order to take action, in partnership with civil society, to ensure the protection of every child from all forms of physical or mental violence, and to generate momentum for concrete and, where appropriate, time-bound actions to prevent and respond to such violence and abuse.

Corporal punishment

61. The Committee regrets the lack of statistics on the number of reported cases and is concerned that corporal punishment continues to occur in the school, the home and in institutions.

62. The Committee recommends that the State party enforce legislation explicitly prohibiting all forms of corporal punishment of children in all settings, including the home. The State party should also conduct awareness-raising and public education campaigns against corporal punishment and promote non-violent, participatory methods of childrearing and education, while taking due account of the general comment No. 8 of the Committee on the Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (2006).

6. Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, paras. 1-3 of the Convention)

Children with disabilities

63. The Committee is concerned that the resources available for children with disabilities are inadequate. In particular, the Committee regrets the lack of information on recovery and rehabilitation measures available to children who have been the victims of landmines.

64. The Committee recommends that the State party, taking into account the recommendations adopted by the Committee on its day of general discussion on the rights of children with disabilities (see CRC/C/69):

(a) Ensure implementation of the Standard Rules for Equalizing the Possibilities for Persons with Disabilities, adopted by the General Assembly on 23 December 1993;

(b) Pursue efforts to ensure that children with disabilities may exercise their right to education to the maximum extent possible;

(c) Undertake greater efforts to make available the necessary professional (i.e. disability specialists) and financial resources, especially at the local level and to promote and expand community-based rehabilitation programmes, including parent support groups, in particular taking into account children who have been victims of landmines.

Standard of living

65. The Committee is seriously concerned over the growing gaps in the standard of living and the increasing number of children living in poverty or extreme poverty, also evidenced through the rising Gini coefficient, an international standard used to measure levels of inequality. The Committee is concerned over the high percentage of the population that lacks access to basic services and is particularly concerned over the vast discrepancy in the coverage of clean and running water as well as sewage systems in urban compared to rural areas. The inequalities in the standard of living present a serious obstacle to the equal enjoyment of the rights in the Convention.

66. The Committee recommends that the State party prioritize and allocate sufficient funds in order to counteract the increasing inequality and effectively reduce the discrepancies in the standard of living, inter alia, between urban and rural areas. The Committee highlights the need to strengthen the capacity of departmental and municipal authorities to provide basic services. In particular, increased access to clean running water and sewage disposal should be a priority in rural areas.

Health and medical services

67. The Committee is concerned over the low levels and fluctuations in the public expenditure for health and is especially concerned over the limited access to the health-care system as approximately 40 per cent of the population remains uninsured. The Committee is concerned that young children constitute a substantial group among those who lack access to basic medical facilities.

68. In particular, the Committee is concerned that:

(a) Access to health and health services is unequal, especially in rural and remote areas of the country;

(b) The rates of maternal, infant and under-five mortality, despite some improvements, continue to be high, considering the level of development, and indicate strong regional disparities;

(c) Malnutrition continues to affect a large proportion of the displaced, the Afro-Colombian and indigenous populations;

(d) Despite considerable efforts to raise vaccination rates, the coverage remains unequal due to regional discrepancies;

- (e) Mental health services are generally inadequate;
- (f) The rate of breastfeeding is low.

69. The Committee recommends that the State party:

- (a) As a matter of priority increase public expenditure assigned for the health sector and ensure that its distribution takes into account disadvantaged population groups and regions;
- (b) Ensure that all children are adequately insured in order to have access to health services, in accordance with article 24;
- (c) Take all possible measures to improve access to health services and strengthen its efforts to urgently tackle infant, child and maternal mortality throughout the country by the provision of quality care and facilities;
- (d) Continue to address the problem of malnutrition and low vaccination rates, with special emphasis on rural and remote areas and among the displaced, the Afro-Colombian and the indigenous populations;
- (e) Increase resources for mental health services;
- (f) Increase awareness and encourage support for breastfeeding programmes.

Adolescent health

70. The Committee takes note of the ruling by the Constitutional Court on 10 May 2006 to liberalize the criminalization of abortion in certain cases, which is likely to lower the maternal mortality rates among adolescent girls. Nevertheless, the Committee is seriously concerned over the high and increasing rate of teenage pregnancies and at the lack of adequate and accessible sexual and reproductive health services, also due to inadequate allocation of resources in these sectors. In addition to causing risks to physical and mental health, the incidence of adolescent pregnancies also limits the personal development of the individual, has a detrimental affect on young women's ability to sustain themselves financially and creates a poverty trap with overall negative effects for society. Furthermore, the Committee is concerned over the rate of adolescent suicides.

71. The Committee recommends that the State party promote and ensure access to reproductive health services for all adolescents, including sex and reproductive health education in schools as well as youth-sensitive and confidential counselling and health-care services, taking into due account the Committee's general comment No. 4 on adolescent health and development in the context of the Convention (CRC/GC/2003/4). Given the ruling of the Constitutional Court on 11 May 2006 to allow abortions in certain cases, the Committee encourages the State party to ensure that safe medical facilities are available for such instances. Furthermore, the Committee recommends that an appropriate strategy dedicate adequate resources to awareness-raising, counselling services and other measures in order to prevent adolescent suicides.

Environmental health

72. The Committee, while acknowledging the State party's legitimate priority to combat narcotics, is concerned about environmental health problems arising from the usage of the substance glyphosate in aerial fumigation campaigns against coca plantations (which form part of Plan Colombia), as these affect the health of vulnerable groups, including children.

73. **The Committee recommends that the State party carry out independent, rights-based environmental and social-impact assessments of the sprayings in different regions of the country and ensure that, when affected, prior consultation is carried out with indigenous communities and that all precautions be taken to avoid harmful impact of the health of children.**

HIV/AIDS

74. The Committee is concerned over the increase of vertical transmission of HIV/AIDS from mother to child and the insufficient resources dedicated to prevention of HIV/AIDS among children.

75. **The Committee recommends that the State party:**

- (a) **Strengthen its measures to prevent mother-to-child transmission, inter alia, through awareness-raising campaigns among adolescents, in particular among those belonging to vulnerable groups such as the internally displaced and street children;**
- (b) **Provide antiretroviral treatment to all HIV/AIDS-positive children, develop child-friendly counselling services and expand the coverage of HIV tests for pregnant women;**
- (c) **Ensure the provision of adequate financial and human resources for the effective implementation of a strategic national plan against HIV/AIDS, taking into account the Committee's general comment No. 3 on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37);**
- (d) **Seek further technical assistance from, inter alia, the United Nations Joint Programme on HIV/AIDS (UNAIDS) and UNICEF.**

7. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

76. The Committee notes that free education for nine years in school is enshrined as a constitutional right, however, with the reservation that costs be levied upon those who can afford to pay. In practice this provision has created a discriminatory educational system marked by arbitrary fees and social exclusion. The Committee continues to have a number of serious concerns with regards to the implementation of the right to education, including the following:

- (a) Budget allocations remain insufficient and unequally distributed between the private and public sector;

- (b) A rights-based National Strategy of Education remains lacking;
- (c) The quality of education remains low in the public system and disadvantages vulnerable groups in society;
- (d) The persistence of hidden costs for administrative fees and costs for uniforms, materials and transport. This is demonstrated in a high and increasing dropout rate among vulnerable groups in society, in particular in rural areas;
- (e) The policy of *etnoeducación* (bilingual education) for indigenous communities lacks coverage and is often done without sufficient consultation with the communities;
- (f) Female students suffer discrimination and termination of their schooling as a consequence of early pregnancies and marriages. Schools continue to apply expulsion on the grounds of pregnancy despite a Constitutional Court ruling that such gender-based discrimination constitutes an infringement on the right to education;
- (g) Statistics are still lacking on the coverage, dropout and completion rates according to urban/rural areas, ethnicity and sex;
- (h) The high numbers of teachers killed, on average three each month, in the areas affected by the internal armed conflict, constitutes a serious impediment to the realization of the right to education;
- (i) The recurrent usage of schools by State armed forces and establishment of military bases near schools creates military targets for illegal armed groups, making it impossible for children to receive education;
- (j) The participation of children in military training activities and school study visits to military bases, in the context of the ongoing internal armed conflict, compromises the humanitarian law principle of distinction of the civilian population and puts children at risk of retaliation by members of illegal armed groups;
- (k) The inclusion of human rights education in school curricula remains insufficient.

77. The Committee urges that national legislation be amended to clearly reflect the right to free primary education and also recommends the State party to:

- (a) Devote more resources to education in the national budget and to substantially increase the percentage of funds for the public sector;**
- (b) Develop a rights-based national strategy of education;**
- (c) Focus on an overall improvement of the quality of education provided, in particular in rural areas;**
- (d) Increase efforts to eliminate the discrimination in access to education by monitoring the effective abolition of enrolment fees and other costs in order to counteract high dropout and low completion rates. The Committee recommends the use of proactive**

measures, such as additional support to compensate for hidden costs, in order to combat the pervasive discrimination and social exclusion which affects vulnerable groups, such as children in rural areas, internally displaced, Afro-Colombian and indigenous children;

(e) Provide further resources and conduct prior consultations with indigenous communities in order to design and effectively provide them with bilingual and culturally sensitive education;

(f) Effectively monitor discrimination against female students who are expelled due to pregnancy and to sanction educational institutions that fail to comply;

(g) Compile statistics disaggregated by urban/rural areas, ethnicity and sex in order to monitor the impact of anti-discrimination measures;

(h) Provide protection for teachers by including them in the protection scheme of the Ministry of Interior and to investigate and punish cases of teachers who have been murdered;

(i) Cease immediately the occupation and usage of schools or the nearby establishment of military bases by State armed forces and further provide training on the principle of distinction and the protection of the civilian population in training of the police and military;

(j) Refrain from involving children in any military activities, including study visits to military bases or military events at schools, as such involvement, given the ongoing internal conflict, compromises the humanitarian law principle of distinction of the civilian population and places the children at risk of retaliation by members of illegal armed groups;

(k) Invest further resources in incorporating human rights education in school curricula in order to encourage awareness of rights and values which promote a culture of peace;

(l) Finally, the Committee recommends that the State party take due account of the recommendations of the Special Rapporteur on the right to education, in her 2003 mission report to the Commission on Human Rights (E/CN.4/2004/45/Add.2).

8. Special protection measures (arts. 22; 30; 38; 39; 40; 37 (b)-(d); and 32-36 of the Convention)

Displaced children

78. The Committee takes note of the State party's intention to increase resources for assistance to internally displaced children, however expresses grave concern of the very high number of children who continue to be displaced annually in Colombia. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), Colombia has the largest internally displaced population in the world, estimated in 2005 according to official figures at 1.7 million people and at more than 3 million according to non-official sources. The Committee shares the concern expressed by the Constitutional Court (T-025 of 2004) over the lack of

targeted attention and assistance available for displaced children, especially since it is estimated that children constitute more than half of the displaced population. In addition, the Committee is concerned that inadequate attention is paid to the physical protection of internally displaced children and their need for psychosocial assistance in order to overcome the trauma of displacement.

79. **The Committee recommends that the State party:**

- (a) **Substantially increase the resources allocated for internally displaced persons and implement targeted programmes for children in order to provide them with adequate access to food, shelter, education and health services. In this respect the Committee recommends that the State party further strengthen its cooperation with UNHCR and fully adhere to the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2) and Constitutional Court decision T-025 of 2004;**
- (b) **Pay additional attention to the psychosocial assistance required by children who have been displaced and provide further protection for girls against gender-based violence;**
- (c) **Distribute humanitarian assistance by civilian authorities in order to maintain the principle of distinction and not to increase the vulnerability of the displaced population and those at risk of displacement by exposing them to subsequent retaliation by members of illegal armed groups.**

Children in armed conflict

80. The Committee, while welcoming the ratification of the Optional Protocol to the Convention on the involvement of children in armed conflict, is seriously concerned over the grave consequences the internal armed conflict has on children in Colombia, causing them serious physical and mental injury and denying them the enjoyment of their most basic rights. The Committee notes as positive the development of educational kits distributed to schools in high-risk conflict areas by the army, as well as certain efforts to improve the reintegration and recovery of demobilized child soldiers. However, the Committee considers that considerable measures for demobilized and captured child soldiers are still lacking. In particular, the Committee is concerned over:

- (a) Large-scale recruitment of children by illegal armed groups for combat purposes and also as sex slaves;
- (b) Interrogation of captured and demobilized child soldiers and delays by the military in handing them over to civilian authorities in compliance with the time frame of maximum 36 hours stipulated in the national legislation;
- (c) The use of children by the army for intelligence purposes;
- (d) Inadequate social reintegration, rehabilitation and reparations available for demobilized child soldiers;

(e) The number of children who have become victims of landmines;

(f) The failure of the current legal framework for the ongoing negotiation with the paramilitaries to take into account the basic principles of truth, justice and reparations for the victims;

(g) General lack of adequate transparency in consideration of aspects relating to children in the negotiations with illegal armed groups, resulting in continuous impunity for those responsible for recruitment of child soldiers.

81. In order to improve the situation of children in the context of the ongoing internal armed conflict, the Committee recommends that the State party:

(a) Adequately monitor the compliance with the provisions of the Protocol to the Convention on the involvement of children in armed conflict, to which Colombia is a party and pay special attention, in accordance with the Protocol, to measures aiming at the prevention of recruitment and involvement of children by armed groups;

(b) Issue clear instruction and training to members of the military not to submit captured and demobilized child soldiers to interrogation and ensure that they be handed over to civilian authorities within the 36-hour timeline;

(c) Never use children for military intelligence purposes, as it places them at risk of being victims of retaliation by illegal armed groups;

(d) Substantially increase the resources for social reintegration, rehabilitation and reparations available to demobilized child soldiers as well as for child victims of landmines. Additional resources should be sought from international donors and technical assistance requested from OHCHR and UNICEF;

(e) Undertake necessary and targeted measures to locate and remove landmines;

(f) Take due account of the victimization of former child soldiers in peace negotiations with illegal armed groups as well as their accountability for such war crimes. Legal advice should be sought from OHCHR on how to integrate minimum human rights standards and a child rights perspective in the legal framework of peace negotiations, with special attention to the basic principles of truth, justice and reparations for the victims;

(g) Consider withdrawal of its reservation for a seven-year period to the Statute of the International Criminal Court on the jurisdiction of war crimes, which at present blocks accountability for those responsible for the recruitment of child soldiers and the planting of landmines.

Economic exploitation, including child labour

82. The Committee, while welcoming the initiatives of the State party, including a National Plan of Action for 2003-2006 to combat economic exploitation, with technical support from ILO, expresses concern at the high number of children who are victims of economic exploitation which according to official estimates surpasses 1.5 million children. In particular, the

Committee is alarmed over the high number of children exposed to dangerous and/or degrading work such as agricultural labour in coca plantations and mining. The Committee regrets that the current legislation gives insufficient protection for children victims of economic exploitation.

83. **The Committee recommends the State party to:**

- (a) Continue and reinforce the efforts, including by adequate budget allocations, to combat economic exploitation through the effective implementation of the National Action Plan, in collaboration with ILO and UNICEF;
- (b) As a matter of urgency reform the Minors' Code of 1989 in order to give adequate legal protection against child labour, taking into account article 32 of the Convention, and ILO Conventions No. 138 and No. 182;
- (c) Ensure that the Colombian Institute for Family Welfare (ICBF) conduct outreach activities in order to improve the life of children victims of economic exploitation.

Street children

84. The Committee is concerned at the very high number of street children in the State party, which according to official estimates were more than 10,000 in Bogotá in 2001, due to socio-economic factors, the internal armed conflict as well as abuse and violence in the family. The Committee is concerned over the vulnerability of these children to youth gangs but is particularly disturbed by threats posed by social cleansing.

85. **The Committee recommends that the State party:**

- (a) Take effective measures to prevent social cleansing and other violence directed at street children;
- (b) Carry out a comprehensive study to assess the scope, nature and causes of the presence of street children and youth gangs (*pandillas*) in the country in order to develop a policy for prevention;
- (c) Provide street children with recovery and social reintegration services, taking into account their views in accordance with article 12, in particular by proactive outreach activities of the ICBF, taking due account of gender aspects, and provide them with adequate nutrition, housing, necessary health care and educational opportunities;
- (d) Develop a policy for family reunification where possible and in the best interests of the child;
- (e) Seek technical assistance from, inter alia, UNICEF.

Sexual exploitation and trafficking

86. The Committee welcomes the measures taken by the State party to combat the problem of sexual exploitation and trafficking of children, including the reinforcement of the Penal Code by Law No. 679 of 2001 criminalizing sexual exploitation, sex tourism with minors, child

pornography, with specific provisions regarding Internet providers, and Law No. 747 of 2002 banning trafficking of minors. However, the Committee is concerned over the high and rising number of children who are victims of sexual exploitation and trafficking, and over information indicating that they risk being criminalized. It further notes with concern the increased risk of sexual exploitation and trafficking faced by children of vulnerable groups, such as the internally displaced and children living in poverty. Furthermore, unequal law enforcement and lack of effective implementation of anti-trafficking measures in the State party give cause for serious concern.

87. **The Committee recommends that the State party:**

(a) **Undertake further in-depth studies on the sexual exploitation of children in order to assess its scope and root causes and enable effective monitoring and measures to prevent, combat and eliminate it;**

(b) **Include adequate reference to child labour in the reformed Minors' Code and implement a national plan of action against sexual exploitation and trafficking of children, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congress against Commercial Sexual Exploitation of Children;**

(c) **Provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children and in particular ensure that they are not criminalized;**

(d) **Take the necessary and effective implementation of measures and ensures equal enforcement of the law to avoid impunity;**

(e) **Train law-enforcement officials, social workers and prosecutors on how to receive, monitor, investigate and prosecute cases, in a child-sensitive manner that respects the privacy of the victim;**

(f) **Seek further technical assistance from among others, UNICEF and ILO-IPEC (International Programme for the Elimination of Child Labour).**

Drug abuse

88. The Committee is concerned over the high incidence of alcohol and drug abuse, especially among street children. Furthermore, the Committee is seriously concerned over the manufacture and the export of drugs from Colombia, which affects children who are pickers of coca leaves (*raspachines*), as well as children forced or lured into trafficking drugs, including within their bodies (*mulas*).

89. **The Committee recommends that the State party take effective preventive measures to counteract the high incidence of drug abuse among children and ensure rehabilitation, counselling and other recovery assistance.**

Administration of juvenile justice

90. While the Committee is concerned over the rapidly rising number of children prosecuted in the regular justice system, the high number of children deprived of liberty and the detention of children in facilities which fail to comply with international standards and separation of children from adults. Furthermore, the Committee notes the lack of recovery and social reintegration programmes for children.

91. The Committee reiterates its previous recommendation that the State party bring the system of juvenile justice fully in line with the Convention, in particular articles 37, 40 and 39, and with other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System and the recommendations of the Committee made at its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238). In this regard, the Committee recommends that the State party in particular:

- (a) Ensure that the minimum age of criminal responsibility is set in accordance with internationally established standards;
- (b) Ensure that deprivation of liberty is used only as a measure of last resort. When used as last resort the facilities should comply with international standards;
- (c) Take all necessary measures to ensure that every person below 18 deprived of his or her liberty be separated from adults, in accordance with article 37 (c) of the Convention;
- (d) Establish an independent child-sensitive and accessible system for the reception and processing of complaints by children and investigate, prosecute and punish cases of mistreatment committed by law-enforcement personnel and prisons guards;
- (e) Ensure that children deprived of their liberty remain in regular contact with their families while in the juvenile justice system, notably by informing parents when their child is detained;
- (f) Be guided in this respect by the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (Economic and Social Council resolution 2005/20);
- (g) Provide training for penitentiary staff on children's rights and special needs;
- (h) Request further technical assistance in the area of juvenile justice and police training from, inter alia, OHCHR and UNICEF.

Deprivation of liberty

92. The Committee is concerned that the practice of individual and mass arbitrary detentions, which escalated in 2003 and 2004, has affected the privacy and integrity of children as they have been stigmatized as a consequence of the detention of their family members. In addition, the Committee is concerned that the general practice of law-enforcement agents to publicly display images in media of arrested persons contravenes the principle of presumption of innocence.

93. **The Committee urges the State party to cease the conduct of arbitrary detentions as a matter of urgency as it seriously impacts on the safety and integrity of children. Furthermore, investigations should be carried out promptly while ensuring that the principles relating to the presumption of innocence and the right to a fair trial are guaranteed.**

Children belonging to indigenous and minority groups

94. The Committee welcomes the legal steps taken to recognize ethnic diversity, autonomy and collective land rights of minorities, in particular the Afro-Colombian and indigenous peoples. However, it notes that in practice the above groups confront serious challenges and threats to the enjoyment of their rights. Both the regular armed forces and the armed groups distinct from the State armed forces block vital supplies of food and medicines, resulting in high levels of malnutrition and disease. In particular, the Committee is concerned over the threats against indigenous leaders, the over-representation of ethnic minority children among those displaced, victims of landmines and those forcefully recruited by illegal armed groups. The Committee is also concerned that among children of ethnic minorities, birth registration rates are low and access to basic health services is lacking. Despite an established programme for bilingual education (*etnoeducación*) the coverage is limited and illiteracy rates high. The Committee is concerned that, despite affirmative legal provision, children of ethnic minorities are victims of social exclusion and racial discrimination. Additionally, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people highlighted in his 2004 mission report on Colombia (E/CN.4/2005/88/Add.2) that several indigenous peoples in Amazonia are facing extinction.

95. **The Committee recommends that the State party:**

- (a) Devote considerable attention to securing the physical integrity of all community members, including children. Such measures should be conducted in consultation with Afro-Colombian and indigenous leaders;**
- (b) Provide positively differentiated assistance for displaced children of ethnic minorities;**
- (c) Take affirmative measures to ensure that children of ethnic minorities gain de facto enjoyment of their rights, in particular in the area of health and education;**

(d) Take due account of the recommendations adopted by the Committee after its day of general discussion in September 2003 on the rights of indigenous children and pay particular attention to the recommendation by OHCHR and those presented by the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people in his 2004 mission report.

9. Optional Protocols to the Convention on the Rights of the Child

96. The Committee encourages the submission of the initial reports of Colombia under both Optional Protocols in a timely manner, and if possible, at the same time, to facilitate the review process.

10. Follow-up and dissemination

Follow-up

97. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations, *inter alia*, by transmitting them to the members of relevant ministries, the Congress and to departmental governments, for appropriate consideration and further action.

Dissemination

98. The Committee further recommends that the third periodic report and written replies submitted by the State party and related recommendations (concluding observations) adopted by the Committee be made widely available in the relevant languages (such as those of indigenous peoples), including through Internet (but not exclusively), to the public at large, civil society organizations, youth groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

11. Next report

99. The Committee invites the State party to submit a consolidated fourth and fifth periodic report, by 26 August 2011 (that is, 18 months before the due date of the fifth report). This is an exceptional measure due to the large number of reports received by the Committee every year and the consequent delay between the date of submission of a State party's report and its consideration by the Committee. This report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.
