REPORT ON THE SITUATION OF THE CHILDREN'S RIGHTS IN COLOMBIA PRESENTED TO THE HUMAN RIGHTS COUNCIL FOR THE THIRD SESSION OF THE UNIVERSAL PERIODIC REVIEW TO BE CARRIED OUT IN GENEVA FROM THE 1st TO THE 12th OF DECEMBER, 2008.

REVIEW PERIOD: 2003 -2007

- 1. Since 2005 a group of organizations that are part of the Colombian civil society have joined efforts to establish a permanent follow up strategy to the execution of the Childhood and Adolescence Rights, starting from the formulation and implementation of law policies on the part of the Colombian State. A first outcome for this process was the presentation of the complementary report to the report of the Colombian State before the Children's Rights Committee, titled "Colombia in debt with its childhood." Continuing this process, in the face of the possibility of offering contributions for the third universal periodic review of Human rights, to be carried out in Geneva in December 2008, with the conviction that the country still lack bigger efforts in accordance with its development level to advance in the recognition and full validity of the Children and Adolescents Rights, we have taken as base the recommendations given by the Children Rights Committee to the Colombian State, starting from the report 1.998-2003, to offer a general overview on the current application in the country of such recommendations.
- 2. As the Children Rights Committee affirms in its recommendations, the effective enjoyment of the childhood rights in Colombia is limited by the inequity, the unequal distribution of resources, the poverty, the unresolved internal armed conflict, and the regional disparities
- 3. The Committee expressed its concern as for the insufficient application of the previous recommendations; similar situation took place with the new recommendations, which were not even diffused by the Colombian State as it is its duty.
- 4. The committee is worried about the fact that to the social expense allocated to childhood is getting lower and lower, what hinders their rights' exercise. This situation has not changed.
- 5. The Committee observed the lack of information related to the childhood in the country, especially the info that provides information on the vulnerable groups and of the regional disparities in the rural and urban aspects. It recommended the Colombian State to develop an information system that facilitates the rights' gathering, processing, analysis, diffusion and monitoring work. This system has not been developed yet.
- 6. The Committee recommended the issuing of the Childhood and Adolescence Law, situation that was fortunately given, being constituted in an advance for the country. Currently, the big challenge is its full implementation and to avoid that it becomes only an agreement of good intentions.
- 7. In respect of **THE RIGHT TO IDENTITY**, in 2006, the Ombudsman Office and the General Attorney's Office announced that out of 940.000 births a year, 150.000 children are not registered and that near 20 for every 100 Colombian children lack

civil registration, hindering this way the access to their rights' protection and guarantee on the part of the State.

Throughout the country there is a significant number of children that have not been inscribed in the civil registration when being born or that having been inscribed by their parents their registration is still incomplete due to the modernization and automation process of the National Registry; and in several places in the country, there isn't the technology to carry out the online registry or the registrations that are still on paper haven't been transcribed to the national database. An unascertained number of children are not in the registration databases at national level; that is to say that they don't exist for the country and therefore they are not just being harmed in their right to identity, but also in their right to health, education and others, extending it to all the social services that require civil registration.

Based on the National Survey of Demography and Health, the civil registration coverage reached 90.2%, in 2005, what represents a significant increase relative to the 73.6% coverage in 2000. However, there are big geographical disparities since 6.6% of the children in the urban areas and 16.6% in the rural areas are not registered yet. In accordance with the National Survey of Demography and Health 2005, the higher registration reports are in the Departments of San Andrés and Providencia (98.4%), Quindío (98%) and Cundinamarca (97.6%) and the lowest reports in the Departments of Chocó (78.1%), La Guajira (78.9%), Magdalena (76.8%), Córdoba (77.7%), Cauca (81.4%), Atlántico (88.5%), Sucre (87.6%) and Caquetá (89.5%). The highest proportion of children younger than 5 years of age without registration is in the country's coastal areas. In these areas, between 10% and 14% of children, in that age range, have not been registered yet¹.

In order to be able to determine the fulfillment of what the Convention on civil registration requests for children younger than a year, it is difficult to determine what percentage of the population, which is being covered with the measures to guarantee this right, corresponds to children younger than a year; since the registrations of these processes have been established, in general, for a population's age range younger than five years.

Another situation that is taking place is that the legal frame requires that the children should be registered in the place where they are born, what makes difficult the possibility to carry it out by those people who have been displaced due to violence or any other situation. Besides, these people lack the economic resources to do it. This makes the administrative and legal frame not very flexible and they are not being facilitators in the face of the social reality and dynamics described before, affecting the children in their recognition as citizens and also the access to their rights.

It is vital to achieve the National Registry administrative processes and activities' decentralization, improvement and flexibility and to achieve an adaptation of the laws in the face of what was previously outlined. It is also important to coordinate the promotion and spreading actions (registration campaigns), especially in rural areas and national marginal sectors, with the support of the civil society organizations. Apart from this situation, the administrative process continues being short.

- 8. As for **THE RIGHT TO HEALTH**, the country has had a decrease in the maternal, neonatal, and child mortality indicators. Nevertheless, dramatic differences remain among regions; the Departments of Guainía and Chocó with 40 and 32.8 respectively for every 1000 born alive have rates that double the national average. The first mortality causes continue being the prenatal difficulties followed by congenital anomalies, sharp breathing infections (ARI), and the diarrheic diseases (ADD). On the other hand, the National Survey of Demography and Health² shows that nearly 19% of the adolescents between 10 and 19 years have been pregnant. This figure ascends to 30% in marginal areas. 16% are mothers and 4% are expecting a child. The high percentage of population without basic services, neither supply of drinking water and sewer system alarmed the Committee. These situations show the violation of rights and the population's exposure risk to unhealthiness, especially in the rural areas (according to the census 2005, 13,5% of the houses don't have aqueduct and 23,1% doesn't have sewer system). It is necessary for the government to make an effort to increase the coverage of the basic public services, to decrease the pregnancy levels in girls and adolescents, to improve the coverage of health services in promotion and prevention, as well as in attention and rehabilitation keeping in mind that there are more than 10.000 deaths per year in children younger than 1 year of age due to avoidable causes. In this respect, it is fundamental that the State develops and implements the integral health system for the childhood and the adolescence established in the article 27 of the new Childhood and Adolescence Code.
- 9. With regard to **THE RIGHT TO FOOD**, based on the results of the last three National Surveys of Demography and Health 1995, 2000 and 2005, it is observed that the evolution of the nutritional condition of children younger than 5 years of age related to the recovery from *Sharp Malnutrition*, understood as weight-for-length/stature for which the official assistance programs are mainly responsible don't show significant improvements in the indicators behavior. Likewise, *Global Malnutrition*, understood as weight-for-age in children younger than 5 years of age, shows that after a light decrease of 8.4% to 6.7% it increased again to 7%. Although *chronic malnutrition* has been having a light decrease, it has a worrying level of 12,4% with a clear difference between the urban and the rural area (17,1%, in front of 9,5%). The nutritional condition of the ethnic minorities, in particular of the native communities, is critical. During 2007, there were hundreds of deaths due to malnutrition in these communities, situation that was denounced by the press, but to which State didn't take the responsibility.

On the other hand, *this right doesn't evolve positively*, because if one takes as base the children that were younger than 5 years and that when being evaluated in the National Survey of Demography and Health in 1995 was found that 15% had malnutrition and delay in their growth, that is to say that 15 for every 100 children have shorter stature of what is expected for their age³, and then we observe how after 10 years (2005), these children that were between 10 and 17 years, evaluated in the Survey of Nutritional Condition – ENSIN 2005, didn't improve their condition since 16.2% had a delay in growth. In other words, besides the fact that the situation didn't improve with the time, the chronic malnutrition got worse in 1.2% of the population. Concerning breastfeeding, the indicator (as protective factor against malnutrition) decreases from 2.3 months in 2000 to 2.2 months in 2005; and the

tendency is to go lower bringing to light a situation of nutritional risk for the children younger than a year who are in a situation of poverty and vulnerability.

10. In respect of THE RIGHT TO EDUCATION, starting from the educational progress report⁵ in Colombia, it is considered that a little more than a million children and adolescents are not attending school, mainly the poorest and those who live in rural areas. Besides, 7 for every 100 people older than 15 years of age don't know how to read or write; and the Colombians have 8,3 years average education what means that many have not finished high school. As well as failure, school desertion is high in 1st and 6th grade (8% and 7%, respectively), aspect that has a lot to do with the low quality of education along with the inappropriate methodologies, the provision of knowledge that isn't relevant or pertinent what generates failure and desertion for which the students leave the institutions. Also, according to a study carried out by UNESCO and the World Bank, 8 for every 10 children that enter 1st grade reach 5th grade. According to the Survey of Quality of Life 2003, there are two main causes for which the children and youths don't attend educational institutions: the lack of money and the fact that education is not relevant in the measure that it doesn't respond to the expectations they, their families, and the communities have. This last cause is seen among the population between 12 and 17 years of age, especially. The General Attorney's office Report revealed that there are diverse factors that affect the universal access to education for all children in school age: 1) the effectiveness decrease of the educational coverage; this is shown in the fact that only 77,4% of the population in school age is registered in basic and tertiary educational institutions. Out of the registered students, 9,1% doesn't pass the levels of the corresponding grades, what means that the educational coverage effective rate is of 68.3%⁶. 2) The high costs of education. In the year 2003, the school registration, monthly fee, uniforms, transportation, books and supplies oscillated between 392.326 pesos (USD \$153) a year for the students in stratum 1 and 946.793 pesos (USD \$369) for the social stratum 2 in secondary education. 3) The high desertion levels, the nonattendance and the students in extra age, especially the children in displacement situation⁷. In the face of this fact, the committee showed its concern in connection with the inadequacies in the expense allocated to education, to the inequity between the public and private sector, and that the educational system in Colombia is not based on the human rights' logic, the inequality of the educational system, the deficiency of the public sector and the low quality. It recommended the resources to be increased for education, to increase the budget assigned to the public sector, to adopt an approach to rights in the educational practice, and to invest in improving the quality of education in all the national institutions.

In what has to do with the access to education in the first childhood, the country's advance has been very slow. Out of the three years of preschool education established in the General Law of Education only the grade zero (kindergarten) is being offered, which corresponds to children between 5 and 6 years, with a gross coverage rate of 86% 8 and a net coverage rate of 63,2%. In what corresponds to initial education and care programs aimed at children younger than 5 years of age, these are assisted by the ICBF (Colombian Institute of Family Welfare) in programs that as the State Report showed to the Children Rights Committee have decreased their coverage during the last years and their quality has been seriously questioned. The State should make a significant effort to increase the coverage and to improve

the quality of the initial education programs in the country. According to the *Report of Educational Progress in Colombia -There are advances, but also challenges-*⁹, to increase coverage in preschool it will be necessary to coordinate the efforts of the health, social protection (family well-being) and education sectors. This way, it will be possible to guarantee the children's integral development. It will also be necessary to seek that the kindergartens and welfare homes ¹⁰ include pedagogic activities that contribute to develop in the children knowledge and competencies that favor the decrease of the school failure in the first years of primary education.

- 11. RIGHT TO HAVE A FAMILY. With regard to THE ABANDONMENT AND **THE ADOPTIONS**, between 2000 and 2006, adoption processes were carried out with a total of 15.353 families, out of which 7.445 were Colombian. In the same period, a total of 15.353 children were given in adoption, out of which 10.857 were younger than 6 years of age¹¹. By 2007, it is recognized that 38.000 children older than 7 years of age are under protection measure; out of them, 25.000 are boarder in protection institutions and 14.000 are assisted in social-family modalities. As for this aspect, the Committee pointed out its concern when observing the high number of Children and Adolescents that remain during long periods in the institutions. It recommends adoption to be promoted as a way for alternative attention and that the entering of Children and Adolescents to the institutions becomes a last resource measure, keeping in mind the child's superior interest. It is worrying the number of international adoptions and the fact that only half of these are granted by the ICBF and the other half is carried out by private institutions. Colombia as signatory country of the Hague Convention should give priority to the national adoptions and that the process should be administered by a central authority according to the Convention.
- 12. In respect of the RIGHT TO PROTECTION. In spite of the important subregister, it can be pointed out that during the year 2007, a total of 77.745 accusations for violence were registered, out of which 13.913 correspond to abuse events to children, that is to say the equivalent to 18% of the total of cases 12. Institutions such as the Ombudsman Office and the General Attorney's office have also pointed out that in Colombia the father's presence is very limited to the point that for the year 2003, 60,000 accusations were received for alimentary nonattendance. For the year 2004, the Nation General Office registered 27.729 processes (of alimentary nonattendance and violence); and from January to November 2005, it received 73.009 accusations (same observation). According to the data from the Colombian Institute of Forensic Medicine and Sciences, there were 20.273 cases of sexual violence in 2007. Out of these, 85 percent (15.353 cases) were related to children younger than 18 years of age. The survey of Profamilia in 2005 reveals that 47% of the women declare that they hit their children and that physical punishment is necessary to educate them and that 34% slap them; it also pointed out that 42% of the women declare that their partners hit the children and 22% slap them. A study (2004) carried out in Bogotá, Cali and Medellín by the CISALVA institute of Cali points out that 27% of the people consider that hitting is necessary to punish children and that in the last month 62% of those interviewed yelled at their children, 27% slapped them and 17% used an object to hit them. In this sense, the Committee recommended the State to reinforce the mechanisms to control the cases of violence, abuse, sexual abuse, negligence or exploitation at home, in the educational environments, in the institutions and in the communities, and to guarantee the

- victims' access to support programs and psychosocial recovery and other reintegration methods.
- 13. Concerning **SEXUAL AND COMMERCIAL EXPLOITATION**, as it was reported in the complementary report presented to the CRC, there are 35.000 exploited children and adolescents, although it is very difficult to establish the exact number. NGOs that study the topic consider that there are many more linked to exploitation in prostitution, sexual tourism (only in the city of Cartagena there are more than 1000 girls used in sexual tourism), child pornography, slaved with sexual purposes (Colombia is the second country in the world in persons trafficking), servile marriages and the sexual use of children and adolescents by the armed actors. In 2006, the National Action Plan for the Prevention and Eradication of the Commercial Sexual Exploitation of Children and Adolescents 2006-2011 was formulated, but it has not been assigned enough resources for its execution for what, at the moment, the Plan is practically inoperative.
- 14. With regard to CHILD LABOR, according to the reports of the National Administrative Department of Statistics -DANE- from 2001 to 2005 there has been a decrease in the child labor rate. However, UNICEF reports that in Colombia more than 2.500.000 children works. Out of this total 1.700.000 are adolescents between 12 and 17 years and 800.000 are children between 6 and 11 years. 80% works in the informal sector. 323.000 children are working in domestic service. Between 20% and 25% of the child laborers carry out high risk occupations. This percentage ascends to 70% in the agricultural sector. Approximately 50% of the child laborers between 12 and 13 years don't receive a direct income, but they have another sort of remuneration. When they earn a wage, those younger than 18 years of age earn between 25% and 80% of the monthly minimum legal wage. Only 23% of the child laborers are affiliated to the social security system, a great percentage of them as indirect beneficiaries through some relative's affiliation. In front of this situation, the Committee expressed its concern as for the dimension of the problem and for the risk many children that carry out dangerous or degrading works face. In 2008, the National Strategy to Prevent and Eradicate the Worse Child Working Methods and Protect the Youth Laborer 2008-2015 was formulated in order to take an important step in the process the country has been adopting in terms of assuming the problem in an integral way. However, it is still necessary to carry out bigger efforts at social level to be able to decrease the economic, social and cultural risk factors that make children and adolescents work.
- 15. **CHILDHOOD'S AFFECTATION DUE TO THE ARMED CONFLICT**. The internal armed conflict affects children in diverse ways: as victims of landmines when they work or play outside their homes or when they go to school or when they return from it¹³; the forced displacement due to the armed conflict¹⁴, kidnapping¹⁵ and the linking of children to the conflict.
 - a) Annually, there is an average of three victims a day due to the **LANDMINES** and the abandoned ammunition without exploding, out of which a high percentage are civilians ¹⁶. According to Human Right Watch, the registered number of annual wounded and deaths taking place because of landmines have multiplied in the last years in Colombia; being this one of those having higher indexes of victims in the world a year. It starts mainly

from two guerilla groups, the FARC and the ELN, that also make use of other weapons such as gas cylinders bombs. The use of these devices in the war leaves hundreds of mutilated, blind, deaf or dead civilians a year; among which children are also affected. Besides, the children in combat zones live the permanent fear of being victims, restricting the possibility of going outside the house or going to study, because the fields are sowed with this type of devices. The effects of the lands mines in children go from lesions for life, lost of limbs and organs, splinters in the body and decrease or loss of their productive capacity to death. ¹⁷.

For all the above-mentioned, we declare the urgency of taking into account the recommendations given by Human Rights Watch to the armed groups of ceasing the use and the production of this type of weapons and gas cylinders, to destroy the landmines that are already stored, to point out and to fence the mined places, and to provide information to international organizations such as the International Red Cross, on the mined places what would allow the development of plans for mines destruction and demining. On the other hand, the Colombian government should review the survivors' rights legal frame and reform the law to meet their needs as for maintenance, opportune and regular provision and substitution of prosthesis, financial and psychosocial support for the adaptation process to the disability, including the non-separation from parents, reason why resources should be provided so that these can be with them in the rehabilitation processes. Besides, the decrease of the quantity procedures and the wide and complete communication as for how to have access to the help provided by the State. The training and promotion of preventive information adapted to the different life cycles in a friendly way what would allow children and adolescents to know and to manage the topic in the preventive environment; especially in areas where landmines have already been detected or where their existence is known.

b) According to government records there are 2.414.269 people in **FORCED DISPLACEMENT** situation, out of those 35.6% (860.779) are children between 0 and 17 years: 187.878 children from 0 to 6 years, 378.895 children from 7 to 12 years, and 294.006 children from 13 to 17 years old 18. Other non-state information sources such as the Episcopal Conference or the Consultancy for Human Rights and Displacement (CODHES) coincide in affirming that the number of people eradicated from their homes exceeds 3.000.000. According to UNHCR, Colombia is the second country in the world with the highest quantity of people in displacement situation. According to these sources, the percentage of children and adolescents is almost of 50%. In accordance with the National Verification Survey of the Displaced Population's Rights, carried out by the Commission of Forced Displacement Public Policy established that 16,3% of the children younger than 8 years of age don't have all the vaccinations according to their age. Out of the 12 year-old or older people in displacement situation only 27,8% consents to sexual and reproductive health programs. The children in displacement face situations that affect in a reiterated way their school life. According to a study carried out by the National Ministry of Education, only 114.044 children who live in forced displacement are registered in the education system. If this figure is compared with the total population from 5 to 17 years of age that live in forced displacement situation, this means that 74,5% of the displaced children don't have access to education. Between 1999 and 2002, 410.000 students in primary education (7,52%) and 360.000 students in secondary education (9,59%) dropped out school. The impact of the forced displacement in the school desertion and extra age situation rates became a permanent characteristic since 2000. The children have bigger difficulties to consent to the educational system due to the family mobility, the lack of the necessary economic resources to cover the basic educational costs, the lack of school certificates, the bad quality of education in their regions, the denial of places in the educational institutions in the reception areas, and the fact that many children have to work to contribute to the family income.

The average number of people in a room only to sleep in the homes of the displaced people is of 3,3, higher to the criterion of critical overcrowding, equivalent to 3 people per room. The children in displacement situation have even bigger nutritional problems. According to a study carried out by the WFP¹⁹ in 2005, the lack of food in the displaced homes was of 57%, causing that 23% of the children younger than six years of age are below the nutritional minimum average. In the face of this critical situation the committee declares its serious concern for the great quantity of children that year after year are being displaced from their land of origin. It supports the decision of the Constitutional Court that demands the State to fulfill its responsibilities with this population²⁰ and it emphasizes the need for the Colombian State to implement differentiated prevention and attention policies to guarantee the effective exercise of the rights to children and adolescents in displacement situation. In this sense, it recommended to increase the resources allocated to the displaced population and the development of specific programs for the rights' exercise of the children and adolescents in this situation.

- c) As for the **KIDNAPPING** phenomenon in Colombia, it is alarming. The country has become a place where the widest number of kidnappings is carried out in the world. According to figures from Amnesty International, it indicated in their last annual report that the total of kidnappings in Colombia in 2005, including children, was of 751, compared to 1.402 in 2004. In general terms, in accordance with the same figures, 43% of the minors were kidnapped by common delinquency; in second place by the ELN (National Liberation Army); in the third place by the FARC (Revolutionary Armed Forces); the fourth place corresponds to non-established groups and the fifth one to the United Self-Defenses (AUC).
- d) CHILDREN AND ADOLESCENTS LINKED TO THE ARMED CONFLICT, a recent report²¹ informs that the children and adolescents use and recruitment has increased on the part of the different irregular armed actors. The demand of children to avoid security controls and to transport information and essential goods for their survival seem to register a sustained increase especially in urban areas. The age average for children and adolescents to enter the irregular armed groups is of 13 years. The armed

groups prefer to link children and adolescents coming from native groups because they register the highest averages in continuance. The study reports that most of the children and adolescents, before their linking to the armed conflict, didn't have opportunities to develop, they had low access opportunities to the earth, study or money being the work their only development perspective. Most of the youths that have been demobilized in Colombia have done it risking their lives, since leaving the armed group is seen as an act of 'betrayal' and it is punished with death.

It is important to emphasize that the demobilized *United Self-Defenses of* Colombia-AUC didn't send the youths under 18 years of age, taking away from them the opportunity to receive the benefits of the special reintegration programs in order to avoid a possible trial in the future by the International Criminal Court. In the face of this situation, the Committee recommended the State to take measures to avoid the recruitment of children by armed groups and to provide training to the police and to the armed forces so that they respect the due process in the event of captures of youths younger than 18 years. It requests to create effective mechanisms to avoid their presence in military intelligence actions and more resources to assign to the social reintegration programs for the child victims of the armed conflict. It declares the need to integrate the rights approach in the peace process negotiations, aspect that wasn't wide and sufficiently kept in mind in the peace process with the Self-Defenses, and to implement the principle of the child superior interest to the mechanisms of truth, justice and reparation for the restitution of the children and adolescents victims of the war.

e) CHILDREN AND ADOLESCENT OFFENDERS OF THE CRIMINAL

LAW. From 1993 to 2006, approximately from 15.000 to 55.000 children and young lawbreakers were reported every year in Colombia, although it is difficult to define a standard figure, since the figures of the Minor Police and the Minor Tribunals (Superior Council of Judicature) show a strong numeric difference. With the new Childhood and Adolescence Code related to the Criminal Law, a new system is established to assume the infractions committed by minors. However, there is a big concern in this transition process because it is necessary, according to what a study carried out by the Nation General Attorney's Office and the Foundation Antonio Restrepo Barco say, to carry out an entire process of professionals' training, verification of the institutions and their professionals' suitability, and the diversification of the pedagogic models that impact the psychosocial recovery of the judged young offenders. This same study outlines that the recidivism indexes exceed 50%, which makes necessary to identify the reasons why this happens and the need to have suitable registrations and monitoring processes to the topic, so that in the same way, it is possible to approach work effective strategies. In this matter, it is also necessary that the State approaches a bigger investment and attention to the topic, mainly keeping in mind that this system will be totally implemented in 2009, what requires a serious economic investment and of real attention to the topic as it is conceived by the spirit of the current Code.

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