



Coalición contra la vinculación
de niños, niñas y jóvenes al
conflicto armado en Colombia



COALITION TO STOP THE
USE OF CHILD SOLDIERS

Armed Conflict in Colombia Report **FRONTIERS: CHILDHOOD AT THE BORDERLINE**



Photo: Fundación Dos Mundos. The other traces of the war. Luis Alfonso Benavides.

A report by the *Coalición contra la vinculación de niños, niñas y jóvenes en el conflicto armado en Colombia* and the Coalition to Stop the Use of Child Soldiers

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**THE COLOMBIAN CONFLICT
FRONTIERS: CHILDHOOD AT THE BORDERLINE**

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INTRODUCTION

For over forty years Colombia has been undergoing an internal armed conflict that has led to deeper inequality and poverty for the most vulnerable groups in the country. On average, the conflict has resulted in the loss of 4,500 lives per year, mainly civilians, and caused three million people to be forcibly displaced and hundreds of thousands to seek refuge in neighbouring countries or other continents. The effects have not only been felt on Colombian territory; the lives of hundreds of thousands of people in neighbouring countries, such as Ecuador and Venezuela, have also been affected. Children and young people in all three countries have been severely affected by the armed struggle being waged by the insurgency and the counterinsurgency, especially in terms of the opportunities they have to study, access health care and food security, grow up in a family that protects and supports them and make plans to live their lives in peace and harmony with their communities.

The purpose of this document, which has been produced by the Coalition to Stop the Use of Child Soldiers and the *Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia (Coalico – Coalition against the involvement of children and young people in the armed conflict in Colombia)*, is to describe the experiences of boys, girls and young people from Colombia, Ecuador and Venezuela with regard to the Colombian armed conflict, warn of the increasingly varied methods of recruitment and involvement being used in border areas by the armed groups operating in the region and draw attention to other types of exploitation associated with areas where conflict exists, such as prostitution and the use of child labour in illicit activities. We hope that, by focusing on the border problems, we will make the relevant authorities from the three countries and all agencies working with children and young people who are at risk of being recruited or attracted to such groups wake up to the fact that they need to take urgent steps to re-evaluate national plans and priorities so that this issue is given the programmatic and political priority it so desperately requires.

The document has six parts. The first three parts deal with the national situation in Colombia, Ecuador and Venezuela, the existing national legislation on the recruitment of minors under 18 years of age and the current practice in each country with regard to this phenomenon. The fourth part looks in particular at the links between internal displacement, refuge, the border situation and joining armed groups. The fifth focuses on the specific policies and programs that are being developed in each country to face up to the problems described above and the last section describes the challenges that still need to be confronted and provides a list of recommendations addressed to all the relevant actors.

The report was compiled by Michael Bochenek, from Human Rights Watch, Andrés Vázquez and Claudia Ricca from the Coalition to Stop the Use of Child Soldiers, and the *Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia (Coalico)*. It was produced with the support of non-governmental organizations (NGOs) in Colombia, Venezuela and Ecuador. In Colombia, four researchers (three from NGOs who are members of Coalico and one from an international NGO) visited communities in Bogotá, Cartagena and Barrancabermeja which have received displaced people in July and August 2004, followed by several follow-up visits in the period until December 2004. In Ecuador, a team of six people (three from Ecuadorian NGOs, one from a Colombian NGO and one from an international NGO) visited the provinces of Esmeraldas, Sucumbios and Carchi, the three provinces which border Colombia, in March 2005. In Venezuela, a team of three people (one each from a Colombian NGO, a Venezuelan NGO and an international NGO) visited the states of Alto Apure, Táchira and Zulia in April and May 2005.

The teams conducted over 250 individual interviews with refugees and displaced persons, members of receiving communities, teachers, social workers, local officials and protection officers from the United Nations High Commissioner for Refugees (UNHCR) and representatives of local and international NGOs. The interviews were semi-structured, using a list of questions developed in workshops carried out in Colombia and Ecuador prior to the missions.

COLOMBIA

Background

There are 16,800,000 children in Colombia, accounting for 41.5 per cent of the country's total population.¹ According to the *Contraloría General de la República*, Officer of the Comptroller General of the Republic, 52 per cent of income is concentrated in 20 per cent of homes.² It has become more difficult in recent years for the Colombian population to realize their economic, social and cultural rights because the government agenda has been taken up with the "fight against terrorism" to the detriment of social expenditure. The total population living below the poverty line rose from 23 per cent in 2000 to 31 per cent in 2003. The Comptroller General's Office warned that "the exclusion of Colombian children is extremely apparent: 24 per cent of the population living below the poverty line is under 10 years of age, 13.5 per cent of children under five suffer from chronic malnutrition and, among other things, 18.3 per cent have no access to the school system (...)".³

Within the framework of the internal armed struggle that is characterized by armed confrontation between the security forces, paramilitary groups and armed opposition groups, all parties have been directly or indirectly responsible for thousands of extrajudicial executions, enforced disappearances, cases of torture, threats and kidnappings. In the past 20 years, over 70,000 people, mainly non-combatant civilians, have lost their lives and over three million have been internally displaced. The paramilitaries, often acting in conjunction with the security forces, have been responsible for the vast majority of *hors de combat* and political killings, "disappearances" and cases of torture while armed opposition groups have been responsible for the majority of kidnappings and cases of political hostage-taking. The security forces have also been said to be responsible for extrajudicial executions, "disappearances" and arbitrary detentions in recent years.⁴

Since Álvaro Uribe came to power in 2002, the Government has repeatedly denied that there is an armed conflict going on in the country, thereby calling into question the application of international humanitarian law and the principles of distinction between civilians and combatants.⁵ However, the Ministry of Foreign Affairs, the *Instituto Colombiano de Bienestar Familiar (ICBF)*, Colombian Institute of Family Welfare, and other government bodies that were involved in drafting the Third Report to the Committee on the Rights of the Child recognized that "[t]he most critical problem in Colombia today is the internal armed conflict. Dealing with this conflict requires a multifaceted approach and recognition of the diverse causes and factors that complicate the problem".⁶

¹ Defensoría del Pueblo, *Informe sobre los derechos humanos de la niñez en Colombia durante el año 2001*, Bogotá, March 2002.

² Comisión Económica para América Latina y el Caribe (CEPAL), *Panorama social de América Latina, 2000-2001* and Contraloría General de la República, *Evaluación de la Política Social 2003*, Bogotá, 2004.

³ Contraloría General de la República, *Colombia - Entre la exclusión y el desarrollo*, Bogotá, 2002.

⁴ See Amnesty International, *Colombia: Reporting, Campaigning and Serving Without Fear: The Rights of Journalists, Election Candidates and Elected Officials*, AMR 23/001/2006, 9 February 2006, <http://web.amnesty.org>; Human Rights Watch, *Colombia: Displaced and Discarded - The Plight of Internally Displaced Persons in Bogotá and Cartagena*, Vol. 17, No. 4(B), October 2005, <http://www.hrw.org>; Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia y Humanidad Vigente, *Informe de la Comisión de verificación sobre la situación de niñas y niños en Arauca*, September 2004, <http://www.coalico.org>.

⁵ This was said by President Uribe in a meeting with human rights NGOs in Bogotá on 11 June 2003. He repeated it at a ceremony to swear in several contingents of peasant soldiers on 16 June 2003 and emphasized it in a speech to the Inter-American Court of Human Rights on 19 June 2003 and, more recently, in a speech at a forum entitled "The Sustainability of the Democratic Security Policy" (*"Sostenibilidad de la Política de Seguridad Democrática"*) on 23 February 2005.

⁶ *Third Periodic Report by Colombia to the Committee on the Rights of the Child*, May 2004, Bogotá. In <http://www.ohchr.org/english/bodies/crc/crcs42.htm>.

The Democratic Security Policy

Government strategy on the armed conflict, as formulated in the so-called “Democratic Security Policy”, involves civilians in the conflict and transfers responsibility for guaranteeing security to citizens. The Government says that “citizens will have a key role to play in the gathering information” and wants to incorporate 100,000 young people into the “peasant soldiers” military program who, after only three months of military training, would go on to undertake combat tasks.⁷

As a result of this policy, there has been an increase in the tendency to inform on or harass civilians, breaches of the principle of distinction, restrictions on the movement of communities, mass arrests, raids and voluntary searches.

Under the current policy of militarizing civilian life, the idea that those who are not with the authorities are against them has been reinforced and social methods of non-violent resistance, such as *Comunidades de Paz*, Peace Communities, have been attacked.⁸ Far from restoring individual and collective security to citizens, this policy has managed to victimize the whole civilian population.

In the specific case of children, the Government has set up programs that put the safety of children and young people at risk and disregard the principle of distinction by involving the civilian population in military activities. Campaigns to get children and young people to join in their activities and programs such as “*Soldados por un día*”, “Soldiers for a Day”, seek to attract them and familiarize them with the dynamics of war and obtain information from them about their relatives and communities. It is also common for members of the armed forces to be present in key places for children, such as schools and childcare centres, where they stir up very serious social conflict, including sexual violence, drug-taking, informing on and threatening young people and teachers, among other things.

Internal displacement

With an overall total of over 3.7 million displaced people, Colombia continues to face the greatest displacement crisis in the world, after Sudan, with the rate of forced displacement increasing between 2003 and 2005, according to the *Consultoría para los Derechos Humanos y el Desplazamiento (CODHES)*, Consultancy on Human Rights and Displacement. Although government statistics for those years are lower, they reflect the same trend.⁹

Forced displacement, coinciding with actions by the security forces, armed opposition groups and paramilitary forces to control territory that is of strategic military or economic importance, continues to be one of the most dramatic violations of human rights and breaches of international humanitarian law.¹⁰

Statistics on the number of displaced vary considerably. All the authorities and bodies studying the issue agree that cases of forced displacement reached their peak in 2002. However, while CODHES put the number of people who were forced to leave their homes that year at 412,500, 20 per cent more than in 2001,¹¹ the *Red de Solidaridad Social*, Social Solidarity Network, reported that 423,231 people were recorded in the Uniform Registration System (*Sistema Único*

⁷ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alternativo al Comité de los Derechos del Niño*, September 2005.

⁸ Comisión Colombiana de Juristas, *En contravía de las recomendaciones internacionales. ¿Seguridad Democrática?, derechos humanos y derecho humanitario en Colombia: agosto de 2002 a agosto de 2004*. December 2004, <http://www.coljuristas.org>.

⁹ Human Rights Watch, “Colombia”, *Human Rights Watch World Report 2007*.

¹⁰ Comisión Colombiana de Juristas, *Desplazamiento, vida, vivienda y tierras*, 21 October 2005, <http://www.acnur.org/pais/docs/1028.pdf> (consulted on 14 March 2006).

¹¹ CODHES, *Comportamiento del Desplazamiento 1985 - 3er trimestre 2005*. http://www.codhes.org/cifra/GraficoTendencias1985_2005.jpg (consulted on 24 February 2006)

de Registro) as displaced in 2002.¹² In a report published in February 2006, the Colombian Bishop's Conference and CODHES said that over the past ten years the number of people internally displaced within Colombia had reached three million.¹³

The risk of children becoming involved in armed groups participating in the hostilities is one of the reasons why families and whole communities become displaced.¹⁴ Another reason is the action being taken by the security forces in the fight against coca cultivation, under the so-called Plan Colombia (and recently in the context of the *Plan Patriota*, Patriot Plan, for fighting the guerrillas), including the spraying of crops grown for illicit purposes, and its consequences for the spreading of insurgent and paramilitary action to other areas of Colombia.¹⁵

Public policies have not resulted in effective action to prevent and protect those who have been, or are at risk of being, displaced. The response never transcends the emergency stage and measures to aid the socio-economic and cultural recovery of the victims have not been put forward. According to official reports by the *Procuraduría General de la Nación*, Procurator General's Office, and the *Defensoría del Pueblo*, Ombudsman's Office, by March 2005 emergency humanitarian aid had only been given to 30 per cent of the displaced population and immediate assistance had only reached 4.41 per cent.¹⁶

With regard to this issue, the Committee on the Rights of the Child said the following in its Concluding Observations:

*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.*¹⁷

Peace negotiations and demobilization

In December 2002, the largest paramilitary group in Colombia, the *Autodefensas Unidas de Colombia* (AUC), Self-Defence Forces of Colombia, declared a unilateral ceasefire. The Government immediately announced plans to negotiate with the paramilitary groups, who, acting jointly with the armed forces, had been found responsible for several cases of human rights violations. This caused concern among various groups within civil society and the international community because of the risk that such a process would open the way for some of the most serious crimes under international law to go unpunished.¹⁸

¹² Human Rights Watch, *Colombia – Displaced and Discarded*, *op. cit.*

¹³ Conferencia Episcopal Colombiana and CODHES, *Desafíos para construir nación - El país ante el desplazamiento, el conflicto armado y la crisis humanitaria, 1995-2005*, 10 February 2006, <http://www.disaster-info.net/desplazados/informes/rut/desafios/desafiosparaconstruir.pdf>, consulted on 24 February 2006.

¹⁴ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe para el Representante Especial del Secretario General para la cuestión de los niños en los conflictos armados*, June 2004.

¹⁵ US Department of State, *Support for Plan Colombia*, <http://www.state.gov/p/wha/rt/plncol/>, and Amnesty International, *Report 2005*, <http://web.amnesty.org/>

¹⁶ Procuraduría General de la Nación (Colombia), *Procuraduría advierte sobre incumplimiento en atención de población desplazada*, 12 March 2005, <http://www.procuraduria.gov.co> (consulted on 24 February 2006).

¹⁷ Committee on the Rights of the Child, *Concluding Observations on Colombia*, UN document CRC/C/COL/CO/3, 8 June 2006, para. 78.

¹⁸ Amnesty International, *Report 2003* and *Report 2004*.

The demobilization of paramilitary groups was carried out under regulations laid down in Decree 128 of 2003, pursuant to Law 782 of 2002, which stated that any combatant who, at the time of demobilization, was not facing criminal prosecution or serving a prison sentence would not have to face justice. At the end of July 2005, President Uribe approved Law 975 of 2005, the purpose of which was to regulate the legal benefits granted to demobilized combatants who were facing prosecution or serving sentences for serious violations of human rights and international humanitarian law.

Between the start of negotiations and September 2005, almost 11,400 paramilitaries were demobilized, with the final total expected to be about 18,000.¹⁹ The international community had said that the process was being “conducted in a superficial manner, without the proper safeguards to ensure that the structure of these complex organizations is effectively taken apart and that those responsible for atrocities are brought to justice”.²⁰

In February 2006, negotiations aimed at bringing about the disarmament of the *Ejército de Liberación Nacional (ELN)*, National Liberation Army, an armed opposition group believed to have hundreds of child soldiers within its ranks²¹, were restarted in Havana, Cuba. In mid-October 2006, the Government officially announced its intention to enter into a formal peace process with this group.²² As for the *Fuerzas Armadas Revolucionarias de Colombia (FARC)*, Revolutionary Armed Forces of Colombia, in October 2006, just as it looked as though peace talks between them and the Government were to be re-opened, with an initial agreement having been reached²³, the government broke off negotiations following the explosion of a car bomb.²⁴

Relevant legislation

Under Law 418 of 1997, the recruitment of children by the armed forces or armed groups is punishable by up to five years’ imprisonment.²⁵ However, in practice, no members of the armed forces, police or State security bodies has been prosecuted pursuant to this law.²⁶ In 2003, the *Fiscalía General*, Attorney General’s Office, investigated only four cases of the recruitment of children by members of the FARC and ELN.²⁷ The Justice and Peace Law benefits members of armed groups who seek demobilization even if such groups have recruited and used minors under 18 in their ranks.

The laws and regulations on the involvement of children in armed conflict sometimes contradict each other. Decree 128 of 2003 says that children cannot be used for activities related to intelligence work (article 22) while at the same time saying that they can be financially rewarded for supplying information (article 9).²⁸ Law 782 of 2002 states that a child can only be recognized

¹⁹ According to official figures, between 2002 and September 2005, 2,592 individual paramilitaries had been demobilized and 8,798 had done so in groups. There are many questionmarks about the figures and documented cases showing that some of those concerned were common criminals and drugs traffickers pretending to be paramilitaries. In connection with this, see United Nations Development Program (UNDP), “No cuadran cifras sobre las autodefensas”, *Hechos del Callejón*, Year 1, Number 7, September 2005, p.6.

²⁰ Human Rights Watch, *Colombia: Demobilization Scheme Ensures Injustice*, 18 January 2005.

²¹ Human Rights Watch, *You’ll Learn Not To Cry – Child Combatants in Colombia*, September 2003.

²² BBC Mundo, *Colombia: negociación con el ELN*, 26 October 2006, <http://news.bbc.co.uk> (consulted on 13 November 2006).

²³ Vocento/VMT, *Las FARC reiteran su disposición a una negociación de paz y establecen ocho condiciones en un nuevo comunicado*, 2 October 2006, <http://noticias.ya.com/mundo/> (consulted on 13 November 2006).

²⁴ El Tiempo, *Uribe arrecia críticas contra Farc y pide a comunidad internacional exigir liberación de plagiados*, 21 October 2006, <http://www.eltiempo.com> (consulted 13 October 2006).

²⁵ Art. 14, Law 418 of 1997, <http://www.mindefensa.gov.co> (consulted on 24 February 2006).

²⁶ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Niños, niñas, jóvenes y conflicto armado: análisis jurídico de la legislación internacional y colombiana*, 2002.

²⁷ Oficina del Fiscal General, *Boletines Nº 47, 135 and 307*, January-September 2003, <http://www.fiscalia.gov.co> (press articles, bulletins).

²⁸ Decree 128, 22 January 2003, <http://www.laleycolombiana.com>.

as belonging to an armed group by the spokesperson of the group in question or as a result of evidence provided by the child (article 53), even though providing such evidence may involve children being used in intelligence work. However, members of armed groups are not prepared to provide this kind of evidence since it could lead to them being prosecuted for war crimes if the children are under 15 years of age.²⁹

Law 782, on the other hand, defines children involved in the activities of armed groups as victims of the armed conflict, rather than combatants (article 15). Under Decree 128, only those who have voluntarily left an armed opposition or paramilitary group, and not those captured by the armed forces, are allowed to benefit from Demobilization, Disarmament and Reintegration (DDR) programs.³⁰

According to Decree 128 of 2003, demobilized children should be handed over to the ICBF within 36 hours of leaving an armed group (article 22). Reports from both official and non-governmental sources dating from 2003 indicate that sometimes children remain in military custody to be questioned for longer than 36 hours.³¹

In March 2005, the Constitutional Court handed down Judgment 203 revoking Article 19, paragraph 2, of Law 782 of 2002 which allowed the prosecution of minors involved in armed groups.³² At the time of writing, Congress was debating a bill on childhood and adolescence which would make it possible for demobilized minors accused of having committed serious human rights violations while being involved with an armed group to be face prosecution.³³

The individual or mass demobilization of armed groups (which has so far only been applied to paramilitary groups) is governed by the controversial Justice and Peace Law (Law 975 of 2005) which entered into force in July 2005. It contains no effective mechanisms for bringing about the genuine demobilization and dismantling of armed groups. It also fails to comply with international standards on truth, justice and reparation for victims.³⁴ It is estimated that only 300 or 400 people will be prosecuted under the Justice and Peace Law, in other words, 2.2 per cent of the paramilitaries waiting to be demobilized who are already undergoing criminal prosecution or serving sentences for serious crimes.³⁵ As a result of this law, human rights violations and breaches of international humanitarian law committed by those being demobilized who are not currently undergoing prosecution will effectively be left uninvestigated and unpunished.

Article 17 of the Justice and Peace Law states that demobilized individuals should remain at the disposal of the relevant judge "...who, within the subsequent thirty-six (36) hours, shall, at the request of the prosecutor dealing with the case, arrange and hold a hearing for charges to be brought".³⁶ Article 18 of the same Law also says that the courts have 60 days to investigate any charges brought against the demobilized individual and to present them at the relevant hearing.³⁷ Human rights bodies have criticized these provisions on the grounds that the time period is too

²⁹ Information from the *Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia*, March 2004.

³⁰ Decree 128, *op. cit.*

³¹ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alterno, op. cit.*

³² Corte Constitucional de Colombia, *Sentencia C-203/05*, 8 March 2005, http://www.secretariassenado.gov.co/leyes/SC203_05.HTM

³³ Interview with Mario Suescún, Advisor, Ombudsman's Office, 8 February 2006.

³⁴ Human Rights Watch, *Recommendations With Respect To The Regulatory Decree For Law 975 Of 2005*, November 2005 (consulted on 24 February 2006). See also the Inter-American Commission on Human Rights, *IACHR issues statement regarding the adoption of the "Law of Justice and Peace" in Colombia*, 15 July 2005; Office of the United Nations High Commissioner for Human Rights in Colombia, *Consideraciones sobre la ley de "Justicia y Paz"*, 26 June 2005; and Amnesty International, *Colombia: President Uribe must not ratify impunity law*, 13 July 2005.

³⁵ *El Tiempo*, *16 magistrados van a juzgar a los 'paras'*, 17 July 2005.

³⁶ Art. 17, Diario Oficial 45,980, *Ley 975*, 25/07/2005, <http://www.dhcolombia.info/>.

³⁷ Art. 18, Diario Oficial 45,980, *Ley 975*, 25/07/2005, *op. cit.*

short for any type of investigation to be carried out, testimonies and evidence to be gathered and charges to be brought against the alleged perpetrators.³⁸

Article 64 of the Justice and Peace Law is of great concern because it states that “[the] handing over of minors by members of outlawed armed groups shall not be grounds for losing the benefits referred to in this law and Law 782 of 2002”.³⁹ This article is not only in breach of both national (see below) and international legislation that makes the recruitment of minors punishable as a serious violation of human rights but also leaves aside the question of State responsibility for the actions of paramilitary groups.⁴⁰

Initially, in the 1980s, Colombia refused to consider adopting the Protocols to the Geneva Conventions but, during the 1990s, it adopted both Protocols I and II without reservations. In addition, in 1998 a permanent office of the United Nations High Commissioner for Human Rights was opened in Colombia, the purpose of which, among others, is to report on breaches of international humanitarian law.⁴¹

However, as Human Rights Watch pointed out in its report on international humanitarian law in Colombia: "... there continues to be, at best, a profound lack of understanding of the laws of war among combatants. At worst, as one European humanitarian group concluded after visiting the Urabá region of Antioquia, 'the actors involved in the conflict [have no] willingness to respect international humanitarian law, a theme all invoke lightly solely for political benefit'".⁴²

Recruitment and involvement

It is estimated that between 11,000 and 14,000 children of both sexes are involved in the armed conflict in Colombia.⁴³ Most of them are used, among other things, in combat, logistical and intelligence work, to make explosives and to recruit other children. They can be killed for trying to escape, disobeying orders or being unable to do what they have been ordered to do. They are also exposed to other violations of their rights, such as torture, abuse and sexual slavery, forced contraception, prolonged detention, separation from their families and breaches of their rights to education, recreation and the free development of personality.⁴⁴

Children become involved in the armed groups participating in the hostilities mainly as a result of 'pressures' of one kind or another, such as the absence of viable work or study options, the failure of the State to address social and economic problems, the lack of a clear public policy to protect the rights of children who are at risk and being subjected to constant pressure and threats from armed groups.

Although Colombian law states that the armed forces cannot recruit people under 18, there are reports that children and young people are indirectly involved with the State security forces. In this connection, the United Nations Committee on the Rights of the Child expressed concern in its Concluding Observations on Colombia at "[t]he use of children by the army for intelligence purposes".⁴⁵

³⁸ Human Rights Watch, *Bill Leaves Paramilitary Structures Intact*, 15 June 2005.

³⁹ Art. 64, Diario Oficial 45,980, *Ley 975*, 25/07/2005, *op. cit.*

⁴⁰ The Rome Statute that established the International Criminal Court defines the recruitment of minors under 15 as a war crime, Art. 2(b)(xxvi), <http://www.icc-cpi.int>.

⁴¹ Human Rights Watch, *War without Quarter: Colombia and International Humanitarian Law*, 1998.

⁴² Human Rights Watch, *War without Quarter*, *op. cit.*

⁴³ Human Rights Watch, *Colombia: Armed Groups Send Children To War*, 22 February 2005; UNICEF, *Panorama: Colombia*, <http://www.unicef.org> (consulted on 24 February 2006).

⁴⁴ Coalition to Stop the Use of Child Soldiers, *Child Soldiers – Global Report 2004*, chapter on Colombia, <http://www.child-soldiers.org>.

⁴⁵ Committee on the Rights of the Child, *Concluding Observations on Colombia*, *op. cit.*, para. 80.c.

Children and young people are encouraged to participate in activities organized by the armed forces, such as the “Soldiers for a day” [“*Soldados por un día*”] program in which they are taken to military facilities and dressed in camouflage uniforms. In the context of such programs they are urged to report relatives or friends who are involved in armed opposition groups. Despite the fact that the *Procuraduría General de la Nación*, Procurator General’s Office, asked for these kinds of program to be halted, they are still being run, albeit with some changes, in the departments of Chocó, Bolívar and Cauca, among others.⁴⁶

Despite being protected under international humanitarian law, schools are regularly attacked and occupied by armed groups. School buildings are used as trenches and living quarters, mines are placed around them and schoolteachers are killed and threatened. As a consequence, pupils and students suffer psychosocial damage and some end up leaving.⁴⁷

*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. [...] 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.*⁴⁸

In several different parts of the country, the armed forces are also still educating children, thereby seriously endangering their personal safety and disregarding their right to receive a civilian education.

Displacement – fear of recruitment

In most cases, Colombian families affected by the armed conflict move elsewhere within the country in search of a place where they will not be subjected to threats and pressure from armed groups. According to an employee of a European NGO, many families say that they moved because “they were going to recruit our child”; displacement for this reasons occurs most frequently in the departments of Meta, Caquetá and Putumayo.⁴⁹

That was the case for Carmela who left Valle del Cauca in 2000 when she was 12. “My Dad took me away from that village because the guerrillas wanted to take me. All I remember is that my Dad said they needed people. I’m the oldest and that’s why they were going to take me. That’s why we all escaped to Bogotá,” she said. She now lives in Altos de Cazucá with her father, mother and two brothers.⁵⁰ Eduardo, one of her brothers, added, “They forced us off the farm because they came and asked for my sister. They threatened us, saying that they were going to take my sister away. We had to go”.⁵¹

Jorge, a young man of 20, also had to leave his village in César five years ago because the armed group operating in that area was threatening to recruit him. “[The] conflict between the paramilitaries and the guerrillas affected civilians. Both groups were recruiting young people. Young people were going with them voluntarily. They offered them money. It was a peasant area... with no employment at all. For many, the offer of money was a good opportunity.” His 17-year-old brother had received such an offer from one of the groups. “But they take you by force, you know. That’s why we decided to leave, to escape the possibility of being recruited”.⁵²

⁴⁶ Coalición Colombia y Humanidad Vigente, *Informe de la Comisión de verificación*, *op. cit.*

⁴⁷ Coalición Colombia y Humanidad Vigente, *Informe de la Comisión de verificación*, *op. cit.*

⁴⁸ Committee on the Rights of the Child, *Concluding Observations on Colombia*, *op. cit.*, para. 76.i.j.

⁴⁹ Confidential communication, Bogotá, July 2004.

⁵⁰ Interview with Carmela E., Soacha, Cundinamarca, 30 July 2004.

⁵¹ Interview with Eduardo E., Soacha, Cundinamarca, 30 July 2004.

⁵² Interview with Jorge C., Soacha, Cundinamarca, 30 July 2004.

Isabel, in Altos Cazucá, said that her family had left “because Tolima became dangerous, because children of 13 or 14 could be taken”.⁵³

According to reports received by Esmeralda Rodríguez, a lawyer and teacher working in Cazucá, one family fled Tolima in 2002 to prevent their children from being recruited: “their 17-year-old son had been recruited by the paramilitaries. The family also had sons of 16 and 15. To prevent the other boys from being taken by the armed group, the family left their land and came to the city”.⁵⁴

According to an employee of the NGO “Profamilia” in Cartagena, in 2002 “a man living with his three sons was forced to flee because they were going to take his sons. The oldest was 20 and the youngest 14. They came from Río Negro, in Santander”.⁵⁵

Edmond, aged 13, told how, in August 2004, they had left “Córdoba because the guerrillas were taking children away. They were picking them up to go with them, the ones who were 12. I was 11 when we left. My parents were afraid for my sister. They might have taken her because she was the oldest”.⁵⁶

Demobilization and reintegration

Under the law, demobilized children have to be handed over to the ICBF within 36 hours. However, in the context of the democratic security strategy, young people who have been demobilized are often used militarily as informers or to help with operations on the ground.⁵⁷ In some cases they have been held in military battalions or police stations together with adults, on the grounds that there was insufficient infrastructure or security elsewhere.⁵⁸ In this connection, the Committee on the Rights of the Child recommended that the Colombian State:

*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; [and] Never use children for military intelligence purposes, as it places them at risk of being victims of retaliation by illegal armed groups.*⁵⁹

In 2004, the *Procuraduría General de la Nación*, Procurator General’s Office, issued Directive No. 13 reiterating that members of the armed forces should comply with the 36-hour deadline for handing over children to the ICBF and that they should not subject them to “any kind of questioning, whether it be called an interview, a ‘getting-to-know-each-other’ meeting (*acercamiento*) or intelligence activity”.⁶⁰ Despite this, according to the 2005 report of the United Nations High Commissioner for Human Rights, the practice is still going on.⁶¹

⁵³ Interview with Isabel R., Altos de Cazucá, 3 August 2004.

⁵⁴ Interview with lawyer and teacher Esmeralda Rodríguez, Altos de Cazucá, 3 August 2004.

⁵⁵ Interview with an employee of Profamilia, Cartagena, 9 August 2004.

⁵⁶ Interview with Edmond P., Cartagena, 9 August 2004.

⁵⁷ Rubio, Rocío, *Reinserción para quién y para dónde: experiencia y retos en procesos anteriores en Colombia*, paper given at a seminar/workshop entitled *Desmovilización, reinserción e impunidad: oportunidad y riesgo para los actores externos*, November 2004.

⁵⁸ Coalición Colombia y Humanidad Vigente, *Informe de la Comisión de verificación*, *op. cit.*

⁵⁹ Committee on the Rights of the Child, *Concluding Observations on Colombia*, *op. cit.*, paras. 81 (b) and (c).

⁶⁰ Procuraduría General de la Nación, Directive No. 13 of 2 July 2004, “Establishing standards relating to the conduct to be followed by public servants dealing with the demobilization of minors from outlawed armed groups”, <http://www.procuraduria.gov.co>

⁶¹ UNHCHR, Report of the United Nations High Commissioner on Human Rights on the situation of human rights in Colombia, E/CN.4/2005/10, 28 February 2005, http://ap.ohchr.org/documents/alldocs.aspx?doc_id=10620

Of the members of paramilitary groups who have laid down their arms over the past few months, not many have been children or young people, despite the fact that about 20 per cent of the AUC are believed to be under 18.⁶² Some observers have pointed out that this is because young people are being demobilized “by the back door”, in other words, they are being allowed to go home before the mass demobilizations start.⁶³ In doing so the commanders responsible for recruiting children by force are trying to escape criminal responsibility for this crime against humanity. “No one knows what’s happening with these kids. They are invisible”.⁶⁴ This has serious consequences for the children involved because their rights are not being restored and they are not receiving any psychosocial care.

Some young people were handed over to the ICBF a few days before the mass demobilization, thereby avoiding the media. In December 2005, 14 young people who had been demobilized by the AUC arrived at a reception centre in Bogotá, “with two million [Colombian pesos] in their pockets and a mobile phone each... a present from their commander for demobilizing”.⁶⁵

In its monitoring report on the demobilization and reintegration policies, the *Procuraduría General de la Nación*, Procurator General’s Office, said that, between August 2005 and January 2006, 185 children and teenagers were reported by the ICBF to have been handed over by the AUC, 87 more than reported by the Ministry of Defence, showing that the handover of children and teenagers is minimal by comparison with the overall total of those used in the armed conflict and with the total number of demobilized adults.⁶⁶

In this respect, it is a matter of concern that the High Commissioner for Peace, who is responsible for the negotiation process with the paramilitaries groups, does not have the demobilization of people under 18 on his agenda since, according to his office, it falls outside his jurisdiction.⁶⁷

On the other hand, some 2,770 children under 18, amounting to about 20 per cent of the total number believed to be involved with the different actors in the conflict, were looked after by the ICBF between 1999 and February 2006.⁶⁸

On reaching 18, young people are no longer cared for by the ICBF and, in theory, pass into the care of the reintegration program run by the Ministry of the Interior. In practice, there is no mechanism to ensure their transition from one program to the other and there is no systematic monitoring of the situation of young people who have left the ICBF programs.⁶⁹

Another frequent criticism is that young people leave the program expecting to go on receiving help from others: “The real problem with the program is that it is not producing young people who are civically literate. They come from military institutions in which you have to do and not think. Then they come to an institution that gives them benefits but not tools to enable them to be self-sufficient”.⁷⁰ The lack of clarity about how they are going to survive upon leaving the ICBF care program means that many young people consider getting involved in the armed conflict again. One demobilized child told how the army offered him work on leaving the ICBF program: “They

⁶² Human Rights Watch, *You’ll Learn Not To Cry*, *op. cit.*

⁶³ Confidential testimonies, Bogotá and Medellín, 6-10 February 2006.

⁶⁴ Interview with Mario Suescún, Advisor, Ombudsman’s Office, Bogotá, 7 February 2006.

⁶⁵ Confidential testimony, Bogotá, 7 February 2006.

⁶⁶ Procuraduría General de la Nación, *Seguimiento a políticas públicas de desmovilización y reinserción*, June 2006, Vol. II, p.391.

⁶⁷ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alternativo*, *op. cit.*

⁶⁸ Instituto Colombiano de Bienestar Familiar (ICBF), *Niños, niñas y adolescentes desvinculados de los grupos armados irregulares*, PowerPoint presentation, February 2006.

⁶⁹ Interview with José Luis Campo, Benposta, Bogotá, 6 February 2006; interview with Mario Suescún, Advisor, Ombudsman’s Office, Bogotá, 7 February 2006.

⁷⁰ Interview with José Luis Campo, Benposta, Bogotá, 6 February 2006.

promised me that if I worked with them, they would pay me a million pesos per head for every guerrilla I killed. I'm an explosives specialist so I can work laying mines and other explosives".⁷¹

ECUADOR

Background

Ecuador shares its 586-kilometer northern border with Colombia, where the Ecuadorian provinces of Esmeraldas, Carchi and Sucumbíos are located.

According to data from the United Nations Development Program (UNDP), the wealthiest 10 per cent of the population account for 46 per cent of national income while the poorest 10 per cent earn under 1 per cent.⁷² These social disparities have had a variety of retrograde effects, such as reducing national savings capacity, restricting the internal market and increasing poverty.

There are general shortcomings in the provision of health, education, social welfare and housing for people with few financial resources, a group that includes most of the peasant population and those living in the border areas. According to the *Observatorio de la Política Fiscal*, Fiscal Policy Observatory, Ecuador "...devotes few resources to social expenditure and those that it does are partly used incompetently and are of poor quality. In 2004, the 10 per cent of the FEIREP [*Fondo de Estabilización, Inversión Social y Productiva y Reducción del Endeudamiento Público*, Fund for Stabilization, Social and Productive Investment and Reduction of Public Debt] earmarked for education and health amounted to \$63 million (dollars). However, only \$40 million was allocated...".⁷³

There are problems concerning access to education, such as matriculation and the lack of equal opportunities, related to both income and ethnic factors. About 500,000 children in the country as a whole have no access to schooling and some sectors of the population are beginning to acknowledge that discrimination exists against Colombians living in Ecuador as far as access to education is concerned. According to the *Servicio Jesuita a Refugiados (SJR)*, Jesuit Refugee Service, some 200,000 Colombian children and young people have sought refuge in Ecuador but 60 per cent of them have been unable to get a place in an educational establishment because of bureaucratic problems or lack of suitability.⁷⁴

The loss and destruction of food crops caused by the spraying of coca crops on the northern border has led to a decline in employment in that area. Both in the city and the countryside this mainly affects workers with few qualifications, including young people. "We used to live well before, with good food and a profitable economy because production was good. After the spraying, the air, the water, the fish, the soil and the people became contaminated. And many people have migrated. In a school where we had 77 pupils and were going to ask for a new teacher, the number of children has gone down to 42. About 18 young people have gone to other provinces and 11 have gone to Spain".⁷⁵

⁷¹ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alternativo*, op. cit.

⁷² Consejo Nacional de Iglesias, Encuentro Nacional Ecuador, 2-3 March 2005, http://www.clai.org.ec/programas/fes/informe_franklin/ecuador.htm.

⁷³ "FEIREP y Gasto Social" (Editorial), *OJO - Boletín del Observatorio de Política Fiscal*, No. 19, February 2005, <http://www.observatoriofiscal.org>.

⁷⁴ Arroyo, María Belén, "Está naciendo un conflicto...", *Vistazo* (Ecuador), 6 January 2006, p.22, <http://www.vistazo.com>.

⁷⁵ Confidential testimony, San Pedro del Cóndor, *Comité Andino de Servicios – Ecuador (CAS-Ecuador)*, part of the International Mission on the Ecuadorian border with Colombia, June 2005.

Internal displacement and refuge in border areas

On the northern border, clashes between the Colombian Army and armed opposition groups in Putumayo (Colombia) are a constant threat to the stability of the region and the border populations. Ecuador has built up its military presence on the border, creating a 20-kilometre-wide exclusion zone, but has maintained its policy of not intervening in the neighbouring country's conflict.

At the beginning of 2006, an "armed strike" (*"paro armado"*) by the FARC in the department of Putumayo (forbidding people to move around using any means or route) forced Ecuador to step up controls along the common frontier. Police patrols were deployed along the road linking Nueva Loja and the International Bridge (also known as San Miguel Bridge) and at several strategic points such as La Parroquia de General Farfán.⁷⁶

Ecuador is a country of emigrants and immigrants. In recent years, at the same time as there has been mass emigration from Ecuador to Europe and the United States, a process of mass immigration has been taking place from neighbouring countries, especially Colombia. The number of refugees, asylum-seekers and people fleeing the Colombian conflict has soared, with estimates putting it at over 500,000.⁷⁷

In 2002, thousands of Ecuadorian settlers who had been living in the border region for three or four decades embarked on an exodus towards other provinces causing an abrupt change in land ownership. Kléver Bravo, the main notary in Lago Agrio, as well as Sucumbíos Chamber of Commerce, estimated that between 40 and 50 per cent of the land in the border area of Sucumbíos province now belongs to Colombian citizens.⁷⁸

In 2000, the *Ley para la promoción e inversión y participación ciudadana*, Promotion, Investment and Citizen Participation Law, which was part of the *Ley de modernización del Estado (Trole 1 and 2)*, State Modernization Law, lifted the ban on foreigners acquiring land within 50 km of the borders or beaches.⁷⁹ A direct consequence of this new regulation has been, for example, that in the border area of Sucumbíos, 50 per cent of farms now belong to Colombian citizens who have virtually displaced the native Ecuadorian peasants from Loja, Manabí and other provinces. In the province of Sucumbíos alone, communities displaced in this way average 54 per cent of the population.⁸⁰

National security policy

Although there are no particular internal security problems within Ecuador itself, recent years have seen the arrival of crop-spraying aircraft escorted by helicopters, military aircraft or land forces, as well as fighting in the border provinces of Esmeraldas, Carchi and Sucumbíos.

On 28 January 2006, Colombian military aircraft violated Ecuadorian air space during an operation against the FARC, resulting in a diplomatic incident between the two countries and a

⁷⁶ El Comercio, *El Paro armado de las FARC causa estragos en Ecuador. El control militar se redobla*, 10 January 2006, <http://www.elcomercio.com>.

⁷⁷ See Ramírez, Franklin and Jacques Paúl Ramírez, *La estampida migratoria ecuatoriana: Crisis, redes, trasnacionales y repertorios de acción migratoria*, Quito, Abya Yala, 2005, <http://www.abayala.org>.

⁷⁸ Coalición Ecuador, Working Session on Young People and Armed Conflict, Ecuador, February 2005.

⁷⁹ National Congress, Title 23, *Ley para la promoción e inversión y participación ciudadana* (Decree Law No. 2000-1), Executive Decree No. 690, 18 August 2000, <http://www.dlh.lahora.com.ec/paginas/judicial/PAGINAS/Ltrolell.htm>

⁸⁰ Foodfirst Information and Action Network, *Observaciones de la Misión Internacional a la frontera ecuatoriana con Colombia sobre fumigaciones*, 22 June 2005, <http://www.gloobal.info/iepala/gloobal/fichas/ficha.php?id=1105&entidad=Informes&html=1>.

harsh exchange of accusations⁸¹. In September 2005, Ecuador had asked the UN to examine the impact of crop-spraying in the border area on the environment.⁸²

The Colombian and Ecuadorian populations living in border towns suffer serious discrimination in cities such as Quito, Guayaquil and Cuenca. This, combined with the non-existence of prevention policies and other factors, such as an inadequate justice system, growing unemployment, the arrival of new criminal gangs from abroad and the increase in the number of private security forces, could help to create an explosive social situation that would be hard to control.⁸³

Relevant legislation

The *Código de la Niñez y de la Adolescencia (Ley No. 100)*, Childhood and Adolescence Code (Law No. 100), of 3 January 2003 draws its inspiration from the doctrine of comprehensive protection, sees children as citizens and contains specific regulations on their rights, child violence, sexual exploitation and child labour, among other things.⁸⁴ Under the Code, foreigners have the same rights and guarantees as Ecuadorians, subject to whatever restrictions may be laid down in the Constitution and the laws of the country.⁸⁵

However, under the law anyone who might be deemed to present a danger to national security is not permitted to request asylum or refuge in Ecuador.⁸⁶ This encompasses, almost exclusively, anyone who has been directly involved in the internal armed conflict, even if they have been forcibly recruited as combatants.

Enforcement of this rule means that young people who were involved in the conflict in Colombia and are seeking refuge lose their right to asylum because they do not identify themselves as ex-combatants for fear of being deported. As a consequence of this provision, Ecuador has failed in its duty to establish public policies and programs to address the psychosocial needs of these demobilized children and young people from Colombia who have sought refuge on their territory as well as those of their own citizens who get involved in the conflict because of the lack of employment opportunities in the country.

United Nations agencies in Ecuador have suggested that those under 18 should be excluded from the bilateral treaty so that they can apply for asylum as well as gain access to programs of psychosocial care for children and young people.⁸⁷

Recruitment and involvement

Communities in the province of Carchi reported that in 2004 several children had crossed into Colombian territory to work as *raspachines* (people who harvest coca leaves, the first stage in obtaining cocaine). One of the children is known to have been recruited by a Colombian armed group.⁸⁸

⁸¹ BBC Mundo, *Ecuador/Colombia: crece disputa*, 10 February 2006.

⁸² BBC Mundo, *Tensión entre Quito y Bogotá*, 31 January 2006.

⁸³ Revista Vanguardia (Ecuador), *Previsiones 2006*, 27 December 2005, p.7, <http://www.revistavanguardia.com>; interview with Elsy Cipriani, Servicio Jesuita a los Refugiados – Ecuador (SJR-Ecuador), February 2005.

⁸⁴ See <http://www.cnna.gov.ec/>

⁸⁵ Art. 15, *Código de la Niñez y de la Adolescencia*, Law No. 100, 3 January 2003, <http://www.cnna.gov.ec/>.

⁸⁶ Interview with Pablo de la Vega, *Centro de Derechos Humanos Segundo Montes Mozo SJ*, Segundo Montes Mozo SJ Human Rights Centre, 18 February 2005. See Ruling 003/04 by the *Consejo Consultivo de Política Migratoria*, Migratory Policy Consultative Council, requiring Colombian citizens to provide their criminal record (2004), <http://www.acnur.org/biblioteca/pdf/2548.pdf>

⁸⁷ Communication with UNICEF and UNHCR, Quito, 9 and 10 January 2006.

⁸⁸ Information from CAS-Ecuador, International Mission on the Ecuadorian border with Colombia, June 2005.

According to the testimony of a woman from San Lorenzo, in Esmeraldas province, two children aged 16 and 14 went to work for the armed groups in Colombia in 2004: "I don't know what they were planning to do. They went off to Colombia, in other words, to join the guerrillas. I spoke to one of them and asked him what he was doing. 'I want to join the guerrillas', he said". The woman said that she also knew two other lads of 17 and 18 who had left in 2002: "They killed them... first one and then the other... They cut out their tongues and ripped out their [intestines]" because they tried to return home to Ecuador.⁸⁹

Luis, a young man from San Lorenzo, said that "the guerrillas come here, not the paramilitaries," and that "the work you get [offered] is to be part of the guerrillas like them".⁹⁰ Among the reasons given for joining these groups is that "they hear you can have a good time over there, carry weapons... kill people, earn money, that's why the children go".⁹¹

In April 2004, the team working for the *Pastoral Fronteriza de Lago Agrio*, Lago Agrio Border Pastoral Service, in Sucumbíos province, said that one of the main concerns for families is that many of the young people who cross the border literally "disappear". That same month UNHCR staff said they received regular reports from teenagers saying that they are initially taken on as *raspachines* and then recruited as combatants.⁹²

Since 2002, UNHCR has been saying that all the actors in the Colombian conflict recruit children and adolescents in the border areas.⁹³ In Ecuadorian border communities, including General Farfán, also known as "La Punta", there have been reports of checks being carried out to identify potential young people who are paid to join up.⁹⁴

There have also been complaints that the Ecuadorian Army is using homes, communal buildings and schools belonging to the Awá indigenous group in Carchi in order to patrol and monitor the area. On one occasion, a community was able to stop Ecuadorian soldiers from laying mines in a field near a school. In 2004 soldiers also occupied another school for ten months and tried to use the children as informers.⁹⁵

VENEZUELA

Background

According to the Venezuelan NGO PROVEA, while some progress has been made recently in Venezuela, mainly in the area of social rights, there is concern about the major shortcomings at institutional level when it comes to preventing human rights violations, investigating and punishing those responsible and creating the comprehensive conditions required for rights to be enjoyed and exercised. In its most recent annual report, PROVEA highlighted the lack of political will on the part of State bodies and institutions, as well as their inefficiency and tendency to improvise, when it comes to devising and implementing consistent, coherent and comprehensive policies that are geared towards improving the human rights situation in the country.⁹⁶

Despite the marked increase in economic growth Venezuela has enjoyed as a result of the increase in oil prices on the international market, increased public expenditure and a reduction in the level of political conflict, human rights organizations have warned about the militarization of various aspects of political life in the country, including the consolidation of the "*Unidad Cívica*

⁸⁹ Interview with Mrs Nena, San Lorenzo, Ecuador, 11 March 2005.

⁹⁰ Interview with Luís G., San Lorenzo, Ecuador, 12 March 2005.

⁹¹ Interview with Mrs Nena, *op. cit.*

⁹² Interview with members of UNHCR, April 2004.

⁹³ BBC Mundo, *Grupos armados 'reclutan' niños*, 21 May 2002.

⁹⁴ Coalición Ecuador, visits to the border in 2005 and 2006.

⁹⁵ Information from CAS-Ecuador, 9 January 2006.

⁹⁶ Provea (Venezuela), *Informe Anual 2005-2006*, <http://www.derechos.org.ve>.

Militar”, civic-military unit, and “the incorporation of the people into national defence through the military reserve”.⁹⁷

The Colombian-Venezuelan border extends for 2,219 km through mountains in the north, plains in the centre and jungle in the south. Continuous incursions from armed groups remain a source of military tension between the two countries.

For example, in September 2004, five Venezuelan soldiers and an engineer from an oil company were killed in an ambush by members of a Colombian armed opposition group in El Amparo, Apure State, the area bordering Arauca (Colombia).⁹⁸ In an earlier incident on 3 September 2003, a Venezuelan soldier had been wounded in a clash between Venezuelan soldiers and Colombian paramilitaries in Táchira State (Venezuela).⁹⁹

Officers from the Venezuelan Army admit that it is still difficult to safeguard the border against incursions by Colombian armed groups, particularly in parts of Apure, due to the uneven terrain, the lack of passable roads and the dozens of rivers that cross the area. They also say that these groups have networks of informants in Venezuela who are involved in kidnappings and smuggling. Shopkeepers and landowners in the area admit that they are often subjected to extortion by such groups.¹⁰⁰

In May 2004, President Hugo Chávez announced the arrest of over 100 alleged Colombian paramilitaries in Caracas, accused of conspiring against the Venezuelan Government.¹⁰¹ They included eight children and a pregnant girl.¹⁰²

According to the UNHCR, a growing number of refugees and asylum-seekers who have sought refuge in Venezuela are beginning to move to Venezuelan cities, especially Caracas and Maracaibo, because of the lack of security and economic difficulties that exist in the border areas.¹⁰³

Relevant legislation

The *Ley Orgánica de Protección al Niño y al Adolescente (LOPNA)*, Organic Law on the Protection of Children and Adolescents, which entered into force on 1 April 2000, makes several offences involving breaches of the rights of children and adolescents punishable, namely, Art. 226 on breaches of the right to education, Art. 231 on the illegal transportation of children or adolescents, Arts. 238, 239 and 257 on accepting or profiting from the work of children and adolescents, Art. 255 on forced labour, Art. 261 on supplying weapons, munitions and explosives, Art. 265 on the recruitment of minors into criminal groups, Art. 266 of the trafficking of children and adolescents, Art. 268 on unlawful imprisonment and Art. 272 on the abduction and holding of children or adolescents.¹⁰⁴

Although forced recruitment is not explicitly made an offence in the Organic Law and to the extent that such action constitutes a breach of the rights of children and adolescents, it would be possible to prosecute members of armed opposition and paramilitary groups for it by applying other articles of the law in question.¹⁰⁵

⁹⁷ Provea (Venezuela), *Informe Anual 2004-2005*.

⁹⁸ BBC Mundo, *Venezuela/Colombia: se complican relaciones*, 20 September 2004.

⁹⁹ El Universal (Venezuela), *Herido soldado venezolano en enfrentamiento con paramilitares*, 5 September 2003, <http://buscador.eluniversal.com/>.

¹⁰⁰ ABC News, “*After Killings, Venezuela Moves to Secure Border*”, 13 December 2004.

¹⁰¹ El Universal (Venezuela), *Familiares solicitan libertad de presuntos paramilitares*, 10 May 2005.

¹⁰² El Universal (Venezuela), *Gobierno deportará nueve menores colombianos*, 25 May 2004.

¹⁰³ Reuters AlertNet, *More Colombians fleeing to Venezuela's cities, says UNHCR*, 30 March 2005.

¹⁰⁴ Ley Orgánica de Protección del Niño y del Adolescente, 1 April 2000, http://www.cndna.gov.ve/Legales/lopna_contenido.htm (consulted on 27 February 2006).

¹⁰⁵ Machado, Jesús, *Informe sobre reclutamiento forzoso en El Nula, Venezuela*, 28 March 2005 (unpublished).

Recruitment and involvement

Given the severe lack of security for many of the inhabitants and human rights researchers living in the border areas, it is difficult to obtain reliable information on the recruitment of children and young people in those areas. Jesús Ramos, Executive Secretary of the *Comisión de Justicia y Paz*, Justice and Peace Commission, in Maracaibo, made observations about the difficulties in obtaining specific information about the presence of armed actors in Venezuela, saying that it “is presumed, said but not proved”.¹⁰⁶ Given these difficulties, the information contained in this report originates from the area around Alto Apure, on the border with Arauca, Colombia.

Armed groups reportedly have broad control of the area of El Nula, Alto Apure, to the extent that they have begun to dispense justice. In April 2005, researchers from the Regional Coalition to Stop the Use of Child Soldiers collected testimonies concerning several Venezuelan children aged between 12 and 18 who were involved in, or had been recruited by, Colombian armed opposition groups.¹⁰⁷

Human rights defenders have also reported the existence in the area of Alto Apure of the *Fuerzas Bolivarianas de Liberación (FBL)*, Bolivarian Liberation Forces, a Venezuelan paramilitary group whose explicit aim is “to defend the sovereignty of Venezuela” against Colombian armed groups, and which is recruiting young people in the area.¹⁰⁸ A member of the community in El Nula explained that the FBL “said in some communiqués that they agree with the political system in the country and are opposed to extortion and kidnapping... In Apure, their presence is very evident. If they agree with the country’s political system, why do they use weapons?, why have they taken to the hills?”.¹⁰⁹ Some of the boys interviewed for this report in May 2005 spoke about the FBL. Francisco, aged 15, said he had seen “the *boliches* [nickname for members of the FBL]... they ask for money... to scare people”.¹¹⁰

According to NGOs working in Alto Apure, the absence of official care and security agencies and the prevailing impunity for crimes of any kind have fostered the recruitment of children. Given the lack of care, some may feel obliged to join one of the armed opposition groups for their own protection.¹¹¹ Another powerful reason is financial: young people are offered considerable sums of money to join these groups.

Reports indicate that the FBL use very aggressive practices to recruit minors under 18. These include recruiting 12-year-olds, constantly monitoring educational establishments to identify potential victims and syphoning off funds earmarked for feeding schoolchildren to pay for their own activities. In March 2005, information was received about the alleged involvement in the FBL of current teaching staff and other members of the schools supervisory structure in El Nula.¹¹² A priest from Guasualito reported two cases of recruitment by the FBL to international NGOs, one a young man of 16 or 17 and the other a boy of 12 or 13.¹¹³ 16-year-old Sergio told how the FBL had tried to take a 17-year-old friend of his, “It happened about a month ago. He didn’t go with them, he fled”.¹¹⁴

There was no indication that it was a policy of the central command of the *Ejército de Liberación Nacional (ELN)*, National Liberation Army, to recruit children and young people in the area but there have been some isolated cases. All armed opposition groups recruit young people of both

¹⁰⁶ Interview with Diacono Jesús Montoya, Executive Secretary, Comisión de Justicia y Paz, Maracaibo, Venezuela, 29 April 2005.

¹⁰⁷ Visit by the Regional Coalition to Alto Apure, April 2005.

¹⁰⁸ BBC Mundo, *Convivir con la guerrilla*, 26 January 2005.

¹⁰⁹ Interview, El Nula, Apure, Venezuela, 5 May 2005.

¹¹⁰ Interview with Francisco V., El Nula, Apure, Venezuela, 5 May 2005.

¹¹¹ SJR-Venezuela, *Informe sobre reclutamiento forzoso*, op. cit.

¹¹² Confidential information, Alto Apure, 2005.

¹¹³ Interview with priest, Guasualito, Apure, Venezuela, 3 May 2005.

¹¹⁴ Interview with Sergio H., El Nula, Apure, Venezuela, 5 May 2005.

sexes and their efforts are focused both on young people who have completed their studies and those who have not.

Armed groups often visit hamlets (communities) and identify young people to be recruited and this has forced whole family groups to resort to internal displacement for fear that their sons or daughters will be recruited. This is a “recent and still hidden” phenomenon, as the SJR pointed out:

*The capture of militants on Venezuelan soil has to do with a strategy to prevent Colombian personnel with more experience of the war from getting distracted. Also, by becoming more discreet, thereby giving them greater security cover, [they hope] to allay suspicions about what they are up to. Thus their activities on Venezuelan soil would be assured.*¹¹⁵

Children and young people who are involved in armed groups that have a presence in the area are trained and used as combatants and undertake other tasks, including recruiting people of a similar age to them in educational establishments.

FRONTIERS, DISPLACEMENT AND REFUGE

Introduction

The Colombian armed conflict is gradually having a much stronger impact on neighbouring countries. According to the UNDP, children and young people make up between 48 and 55 per cent of the displaced population.¹¹⁶

In 2002, the US Committee for Refugees and Immigrants (USCRI) estimated that around 140,000 Colombians were living as refugees or in similar circumstances in neighbouring countries, including approximately 35,000 in Ecuador, between 50,000 and 75,000 in Venezuela and some 30,000 in countries such as Costa Rica and Panama.¹¹⁷ Requests for asylum in Ecuador rose from 413 in 2000 to 20,000 in 2003.¹¹⁸ For the first three months of 2002 alone, there were over 500 asylum requests in Venezuela.¹¹⁹

Over the past five years, there has been a sharp increase in the number of Colombians taking refuge and seeking asylum in neighbouring countries. In February 2006, UNHCR said that, apart from the 2.1 million displaced people inside Colombia, there were a further 250,000 Colombians in Ecuador, 200,000 in Venezuela, 40,000 in Panama and 20,000 in Costa Rica.¹²⁰

Although it is hard to determine the exact total of Colombian refugees, around 65 per cent of them are believed to be women and children.¹²¹

However, the vast majority of Colombians do not have formal refugee status for fear that they will fail to satisfy the criteria established to determine whether they are victims of individual

¹¹⁵ SJR-Venezuela, *Informe sobre reclutamiento forzoso*, op. cit.

¹¹⁶ Un estudio detallado en *Informe de Desarrollo Humano en Colombia 2003: “El conflicto, callejón con salida”* PNUD, Bogotá, Colombia, 2003, en www.pnud.org.co/indh2003.

¹¹⁷ USCRI, *World Refugee Survey 2002 Country Report*, <http://www.refugees.org>.

¹¹⁸ UNHCR News, *Ecuador: Surge in Colombian asylum-seekers in Ecuador*, 9 May 2003, and *El ACNUR busca fondos para poder acoger en Ecuador a miles de refugiados colombianos*, 7 November 2003.

¹¹⁹ UNHCR News, *Venezuela appeals for UNHCR's aid in case of mass influx of Colombian refugees*, 14 March 2002, <http://www.acnur.org/>.

¹²⁰ La Patria (Bolivia), *ACNUR solicita fondos para Ecuador*, 9 February 2006, <http://www.lapatriaenlinea.com>.

¹²¹ See Nubia Pedraza Palacios and UNIFEM-Colombia, *Género, Desplazamiento Y Refugio - Frontera Colombia y Venezuela*, December 2005, <http://www.acnur.org/pais/docs/1226.pdf>.

persecution and be forced to return to Colombia, or because they are afraid they will be killed by Colombian armed groups operating in border areas.¹²²

The UNHCR has reported the recruitment of minors under 18 by Colombian armed groups in the border areas of Ecuador, Panama and Venezuela.¹²³ In 2002 in Venezuela, the UNHCR warned that, as the conflict in Colombia worsened, the number of children and young people recruited by armed opposition groups was increasing. It also warned of the serious consequences this could have for the protection of refugees and asylum-seekers, especially children.¹²⁴

Ecuador

Refugees and residents

The UNHCR believes that there are currently 250,000 Colombians living in Ecuador.¹²⁵ More and more Colombians are going there to escape the violence or because of the spraying of the coca plantations or, in some cases, because they are hoping to improve their financial situation.

Between 2000 and 2005, Ecuador received 36,665 asylum requests and granted refugee status to 11,492 people, almost all Colombians, although many Colombians living in Ecuador did not request asylum "because they lacked the necessary information or out of fear".¹²⁶

According to the *Pastoral del Migrante de Tulcán*, Tulcán Migrants' Pastoral Service, one of the main problems is registering, whether it be through fear or because they do not have all the documents required when requesting asylum: "For every family [that requests asylum], there are two that don't".¹²⁷

The Ecuadorian Government has asked for more cooperation from Colombia in this regard. At the end of 2004, President Álvaro Uribe offered to set in motion a return plan to give those who want to the opportunity to return to their country but, by the end of 2005, this had still not become a reality.¹²⁸

According to human rights organizations in Ecuador, "since the end of 2001 [...] there has been a contrast between Ecuadorian legislation on refugee matters, which is progressive and advanced by comparison with neighbouring countries, and the discourse and practice of some Ecuadorian authorities. [...] The refugee law has been interpreted restrictively by officials responsible for determining refugee status and the authorities responsible for monitoring the situation have committed abuses of power when dealing with Colombians seeking refuge".¹²⁹

Organizations of immigrants, the displaced and refugees said that "...we have noticed that, as a result of the national policies being pursued by the political and military authorities of Ecuador and Colombia, the damage caused by the war is spilling over into our territory and the towns on the border, resulting in very serious harm to people and the environment and their right to a democratic and decent life".¹³⁰ This has even led indigenous communities, such as the Huaorani Nation, in the province of Sucumbíos, Ecuadorian Amazon, to decide to look closely at the

¹²² Watchlist on Children and Armed Conflict, *Colombia: la guerra en los niños y las niñas*, 2004, http://www.womenscommission.org/pdf/co_wl_esp.pdf.

¹²³ BBC Mundo, "Grupos armados reclutan niños", 21 May 2002.

¹²⁴ UNHCR News, *Colombia: UNHCR concerned about child soldiers in Colombia*, 21 May 2002.

¹²⁵ UNHCR News, *Colombians flee to Ecuador to escape upsurge in violence*, 15 November 2005.

¹²⁶ La Patria (Bolivia), *ACNUR solicita fondos para Ecuador*, op. cit.

¹²⁷ Interview with Pastoral del Migrante de Tulcán, 22 April 2004.

¹²⁸ El Universo, *El Plan Retorno de Uribe aún no se ejecuta*, 23 October 2005, <http://www.eluniverso.com>.

¹²⁹ Centro de Documentación en Derechos Humanos "Segundo Montes Mozo SJ" (Ecuador), December 2004.

¹³⁰ Conclusions, *Primer Encuentro Nacional de Emigrantes, Inmigrantes, Desplazados, Refugiados y sus Familiares*, Cuenca, Ecuador, 16-18 March 2005.

question of the protection of their environment, warning “that the indigenous inhabitants take no responsibility for the safety of strangers”.¹³¹

In February 2005, the Ecuadorian State suggested setting up a development assistance plan for refugees and the communities who take them in, together with the UNHCR. At the time of writing, no official information had been received about its implementation.¹³²

The dynamics of refuge

The dynamics of refuge in the border provinces vary depending on the problems that need to be addressed. For example, in Sucumbíos crop-spraying and internal displacement within Ecuador resulting from the loss of animals and crops and fear of the conflict has had a severe impact.

In Esmeraldas, the issues that have to be faced are overpopulation and poverty. For example, in Palma Real 900 families have to share 250 homes and fear of having contact with people from Colombia has led to the closure of social programs.

In Carchi, where there are a large number of families crossing the border, some people seek asylum, others only cross the border into Ecuador when there are clashes or fighting going on while others flee the violence of the armed groups but do not register or file complaints for security reasons.¹³³

Fear is another of the risk factors that determines the type of lives young people lead in the border area. In 2005, a group of young people, including some Colombians, said that “they told us that if we said anything, they would find out”. In Mataje (Esmeraldas), there is an agreement not to supply information. The International Mission on the Ecuadorian border with Colombia reported that, when they were interviewing children, a teenager was giving out 5 or 10 cent coins to those present to silence them so that they would not say what was happening in that community. A teacher from Sucumbíos (Ecuador) said that “they’re like ghosts, they’re everywhere, the guerrillas, Colombian soldiers, and Ecuadorian ones, it’s frightening”.¹³⁴

The control the actors in the Colombian armed conflict manage to exert is such that the security forces from the neighbouring countries are unable to cope with it. The communities of Maldonado and Chical (Ecuador) live side by side with armed groups on a daily basis. In Maldonado a teenage girl was kidnapped for recruitment by one of them because of a debt owed by her father.¹³⁵ Fear of talking about what is happening, distrust of anyone who is not from the community and the authorities’ refusal to acknowledge the direct consequences the armed conflict in Colombia is having on the community, and especially young people, are becoming determining factors when it comes to obtaining reliable information and following up on it.

The young people living in border areas feel that they do not have enough opportunities to participate [in society] and that they are being criminalized simply for being young. “We live under suspicion” and “The conflict turns us all into suspects” were some of the comments heard at the *Casa de la Juventud de Tulcán*, Tulcán Youth Centre (Ecuador).¹³⁶ The same young people said that they believe the lack of attention paid to them by the Ecuadorian Government is pushing them into the conflict: “It (the conflict) seems to be growing and swallowing up young people who

¹³¹ El Comercio, *Los sabios huao, a favor de la selva*, 11 January 2006.

¹³² Meeting with the Northern Border Inter-Agency Working Group of the United Nations System in Ecuador, Quito, Ecuador, 24 February 2005.

¹³³ Interview with Francisco López Bermúdez, Auditoría Democrática Andina, Quito, 23 April 2004; interview with Lina Cahuasquí, CAS Ecuador, Quito, 23 April 2004. See also CODHES, *Plan Colombia: Contraproductos y crisis humanitaria. Fumigaciones y desplazamiento en la frontera con Ecuador*, 2003, <http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/645cf07815d5a2b2c1256dce0047765e>

¹³⁴ Foodfirst Information, *Observaciones de la Misión Internacional*, op. cit.

¹³⁵ Confidential interview with representatives of the community of Maldonado, Carchi-Ecuador, February 2005.

¹³⁶ Interview with young Colombians, Tulcán, 25 February 2005.

have nothing to do”, said one of those interviewed, a young Ecuadorian who had been involved in smuggling weapons for a Colombian armed opposition group.

Schools at risk

Colombian children and young people who are refugees in Ecuador face discrimination because they are refugees. Although CLADEM-Ecuador, a women’s network, says that most refugee children face the same limitations in Ecuador as most Ecuadorian children, mainly those stemming from poverty,¹³⁷ the testimonies contained in this report show that the situation for the two groups is different. Edwin, a young Colombian refugee living in Solanda, south of Quito, told the magazine *Vistazo* about the discrimination he and his four Colombian friends faced at school on a daily basis: “They call me a guerrilla. My fellow students make fun [of me]”.¹³⁸

Some communities who have taken in refugees have also been affected by the uneven response delivered by international aid agencies: “...attention is paid to the schools where there are Colombian children but, if there aren’t any, Ecuadorian children are left unprotected”.¹³⁹

In 2005, the authorities in Sucumbíos reported that 13 schools on the border had closed, that more and more children were leaving school and that there were fewer professional teachers available. In Maldonado (Carchi), many of the ten urban and rural schools lack teachers and their duties are being taken up by military personnel, with one of the schools located next to a military camp.¹⁴⁰

Former Colombian child soldiers in Ecuador

Ecuador has no official records of Colombian children and young people who used to be involved in the armed conflict in Colombia. However, most organizations dealing with children and adolescents agree that there could be dozens of ex-combatant minors and hundreds more who cross the border when faced with the definite threat of recruitment.¹⁴¹

Only a very few demobilized Colombian children are known to have benefited from reception programs in Ecuador. At least three children or teenagers who sought refuge in Ecuador were able to receive benefits because they arrived without being accompanied by their parents or another relative.¹⁴² The reason that most Colombian young people do not say that they were combatants is that they are afraid of not being accepted as refugees or of being seen as criminals or delinquents: “The media already victimize and criminalize young people, especially if they are Colombians. Imagine if they also ended up admitting they had actively participated in the conflict”.¹⁴³

Venezuela

Refugees and residents

When children cross into neighbouring countries with their families to escape recruitment, the specific issue of the recruitment of children and young people sometimes gets lost among the broader issue of the fear of recruitment experienced by the family group as a whole. Although the *Comisión de Justicia y Paz*, Justice and Peace Commission, in Maracaibo has no specific information about the recruitment of children, it said that “the recruitment of adults is a [proven]

¹³⁷ Cladem-Ecuador, *Informe alternativo a la Convención sobre los derechos del niño, Periodo 1996-2002*, November 2004, see www.crin.org (consulted on 27 February 2006).

¹³⁸ Arroyo, María Belén, *Está naciendo un conflicto...*, *op. cit.*

¹³⁹ Foodfirst Information, *Observaciones de la Misión Internacional*, *op. cit.*

¹⁴⁰ Foodfirst Information, *Observaciones de la Misión Internacional*, *op. cit.*

¹⁴¹ Interview with Simone Schwartz, UNHCR Ecuador, 10 January 2006.

¹⁴² Interview with Erika Guerrero, UNHCR Ecuador, 23 April 2004.

¹⁴³ Interview with a social worker from Tulcán (Ecuador), 25 February 2005.

factor in almost 90 per cent of the cases we have. They say they had to flee because they did not want to join up. A large percentage come to avoid being incorporated into the ranks of the paramilitaries".¹⁴⁴

According to Dennis Mairena, Program Assistant at the UNHCR office, in Táchira, Venezuela, "a woman with three or four children – the youngest was 8 and the oldest under 15 – was... afraid of recruitment. The family came to Venezuela in 2004." Another case known to the UNHCR was of a young man of 16 or 17 who had fled Colombia with his grandmother in January 2005 for fear of being recruited.¹⁴⁵

The SJR office in Guasdalito (Apure) also told of cases of families who had fled Colombia to prevent their children from being recruited. "Some families have told us that, when their children reach the age of nine or ten, they leave for fear the FARC will take the children away from them".¹⁴⁶

The Cáritas office in San Cristóbal (Táchira) said that "families do not always say they left for that reason to start with. You realize later that they left to keep a young person of 17 or 18 safe, they left because they were going to recruit them".¹⁴⁷ It is often not seen as the main reason, even though cases were described where attempts had been made to recruit several members of the same family before they left. In one case in particular, a mother of five children had fled her farm after two of them had been recruited.¹⁴⁸

The dynamics of refuge and internal displacement

Even after taking refuge in the neighbouring country, the Colombian population remains at risk of recruitment by armed opposition groups. According to testimonies collected by a human rights NGO in a suburb of El Nula, Alto Apure, two Colombian brothers aged 14 and 16 who had requested asylum joined the FARC because, with both parents ill, their family was suffering financially and they had been offered a generous monthly sum of money to do so. According to the SJR, Colombian children sometimes join the irregular forces with the full knowledge of their families, who usually say that their children are absent from their homes (in Venezuela) because they have gone to study in Colombia.

Fear of being caught up with armed groups or subjected to reprisals on the Venezuelan side was what caused a young Colombian refugee of 17 who had arrived in 2003 to leave the area in July 2004 to avoid recruitment, "He left Machiques [Zulia] because he was at risk. He moved further inside the country because he said the guerrillas around here wanted to recruit him".¹⁴⁹

Fearing that their sons and daughters will be recruited, several fathers and mothers have started to remove them from their usual place of residence and send them to other educational establishments. According to the SJR, in some cases young people were missing out on schooling and had to live outside the basic family unit. They also said that several fathers and mothers started to move their children under 18 outside of El Nula (Alto Apure) on discovering that they were on a list of teenagers to be recruited. Other reports say that families also prefer not to send their children to school for fear that they will become involved with the armed groups participating in the hostilities.

¹⁴⁴ Interview with Naiti Rodríguez, Protection Coordinator, Refugee Care Program, Comisión de Justicia y Paz, Maracaibo, Venezuela, 29 April 2005.

¹⁴⁵ Interview with Dennis Mairena, Program Assistant, UNHCR, Guasdalito, Apure, Venezuela, 2 May 2005.

¹⁴⁶ Interview with SJR, Guasdalito, Apure, Venezuela, 2 May 2005.

¹⁴⁷ Interview with Adriana Ovalles, responsible for registration, Cáritas, San Cristóbal, Táchira, Venezuela, 26 April 2005.

¹⁴⁸ Interview with Germán Graterol, Projects Coordinator, Cáritas, San Cristóbal, Táchira, Venezuela, 26 April 2005.

¹⁴⁹ Interview with Cáritas, Machiques, Zulia, Venezuela, 28 April 2005.

Apart from being directly involved in armed opposition groups, many young people in the area are involved in trafficking fuel. Several claim that they do so out of necessity.¹⁵⁰ The price of fuel in Venezuela is much lower than in Colombia, resulting in it being smuggled from the former to the latter. There is a growing fear that by being involved in this kind of work, young people will be more susceptible to being recruited and used by armed opposition groups.

CARE PROGRAMS

Public policy on children involved in the armed conflict or displaced within Colombia

One of the main activities developed by the Colombian Government in connection with public policy on children is the setting up of 175 *Observatorios de Niñez*, Childhood Observatories, throughout Colombia. However, according to human rights organizations, the work of such observatories is limited to reflection and academic debate on the situation of children and does not involve programs of action to improve the situation of children and young people affected by the conflict.¹⁵¹

A large number of State, private and non-profit-making agencies and organizations promised to participate in the Observatories in principle but what they do and the way in which initiatives originating from different sectors are coordinated is unclear. It is also unclear how the right for children to be involved in designing public policy is assured “in a country in which children and young people are stigmatized and marginalized”.¹⁵²

In the course of discussions about the introduction of the *Ley de Infancia y Adolescencia*, Law on Childhood and Adolescence, in 2004, several organizations asked the First Senate Committee to organize a broad national debate so that those who had not been invited to do so before could give their views about the bill. They also made a special request for the invitation to extend to children who “paradoxically, have been deemed capable of answering for their actions in the courts but not of being able to express their views as people with legal rights”.¹⁵³

The issue of preventing recruitment has been climbing higher up the public agenda although some activities related to it have resulted in indirect involvement in the conflict. For example, the army, through the “Campaign against the Recruitment of Minors” initiated by the Ministry of Defence as part of a program entitled “*Actúa Colombia contra el terrorismo*”, “Colombia Takes Action Against Terrorism”, donates writing and other implements to schools with limited financial resources in areas inhabited by people affected by the violence and tries to persuade the children not to join the ranks of the insurgency but to carry on “supporting the Armed Forces”.¹⁵⁴ With regard to this, the Committee on the Rights of Child said that this kind of humanitarian aid should be delivered by civilians so that the civilian population is not put at risk.¹⁵⁵

As well as breaching the principles of international humanitarian law by involving the State security forces in schools, the Colombian State, by carrying out recreation programs and media campaigns of this kind, is failing in its responsibility as a State to prevent involvement in the

¹⁵⁰ Interview with Daniel R., El Nula, Apure, Venezuela, 5 May 2005.

¹⁵¹ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alterno, op. cit.*, p.16.

¹⁵² Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alterno, op. cit.*, p.16.

¹⁵³ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alterno, op. cit.*, p.17.

¹⁵⁴ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alterno, op. cit.*, p.69.

¹⁵⁵ Committee on the Rights of the Child, *Concluding Observations on Colombia, op. cit.*, para. 79(c).

conflict. For many observers, many questionmarks remain about the adequacy of these initiatives and their appropriateness and efficacy.¹⁵⁶

Although some aspects of the system of care provided to demobilized children by the ICBF have improved, such as strengthening the methods used for teaching and providing information, as well as administrative management and international cooperation, the *Procuraduría General*, Procurator-General's Office, has said that there are still serious difficulties with the system, including the fact that young people are unclear about their situation and immediate future, the percentage of young people who do not complete the program (25 per cent) and the existence of over 380 legal proceedings against them in the *Juzgados de Menores*, Youth Courts.

The few concrete results obtained with regard to demobilized children bear no comparison to the large amounts of funding provided for these programs by international aid donors. Between 1999 and February 2006, the ICBF Care Program for demobilized young people catered for just under 20 per cent of the total number of children believed to be in armed groups.¹⁵⁷

As far as public policy on addressing the needs of the displaced is concerned, in February 2004, the Constitutional Court, in its ruling T-025, described forced displacement as an "unconstitutional state of affairs" and said that the State had failed in its duty to protect the thousands of people who are suffering a wide-range of ongoing violations of their human rights as a result of it.¹⁵⁸

Despite the orders given to the Government by the Court, no effective action has been taken to prevent forced displacement, provide protection and comprehensive reparation for the victims and ensure that they can enjoy their economic, social and cultural rights. Care continues to be focused on welfare measures that do not apply to everyone, as well as on return programs carried out against the will of those concerned and despite the fact that there is no security and they are unable to make a decent living.¹⁵⁹ According to an assessment by the UNHCR, a very large proportion of the members of communities involved in 28 return programs had to move again or were in danger of having to do so.¹⁶⁰

Public policy on access to education for displaced children and young people has been largely focused on providing school places in the communities which take them in and there are not enough places to meet the demand. Although children and young people are taught to read and write, they are not given the necessary guidance and training to help them deal with the upheaval and trauma resulting from displacement or to be able to develop new ways of life¹⁶¹.

Public policy on refugee children in Ecuador

Ecuador has no public policies especially designed for refugee children and so far the latter have been treated in the same way as Ecuadorian children. According to UNICEF, despite the efforts made by Ecuador, it rates poorly as far as compliance with the rights of children in general are concerned.¹⁶²

¹⁵⁶ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alterno*, op. cit., p. 70.

¹⁵⁷ ICBF, *Niños, niñas y adolescentes desvinculados*, op. cit.

¹⁵⁸ Constitutional Court, *Sentencia T-025*, 22 January 2004, <http://www.acnur.org/>.

¹⁵⁹ Comisión Colombiana de Juristas, *Medidas Especiales de Protección*.

¹⁶⁰ El Tiempo, *ACNUR pide replantear política de desplazados*, 16 December 2004.

¹⁶¹ Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia, *Informe Alterno*, op. cit., p.60.

¹⁶² UNICEF, *Estado Mundial de la infancia 2005*, www.unicef.org.

According to the report submitted by the Ecuadorian Government to the Committee on the Rights of the Child in 2005, over 38 per cent of the population was under 18 and between 2000 and 2004 refugee status had been granted to 8,481 children aged between 0 and 14.¹⁶³

Article 21 of the *Ley de la Juventud*, Youth Law (Law No. 2001-49 of 16 October 2001), provides for the establishment of a *Consejo Nacional de Políticas de la Juventud*, National Council on Youth Policies, and establishes a *Sistema Nacional de Promoción de la Juventud*, National System for the Promotion of Youth, accompanied by initiatives such as *Casas de la Juventud*, Youth Centres, and the *Plan de Empleo Juvenil*, Youth Employment Plan.¹⁶⁴

The *Consejo Nacional de la Niñez y Adolescencia*, National Council for Children and Adolescents, which was set up in 2004, directs the *Sistema Nacional Descentralizado de Protección Integral de la Niñez y Adolescencia*, National Decentralized System of Comprehensive Protection for Children and Adolescents, “an inter-connected and coordinated group of public and private organizations, bodies and services that designs, implements, monitors and evaluates public policies, plans, programs and actions to ensure the comprehensive protection of children and adolescents”, among other things¹⁶⁵. The National Council is also responsible for monitoring implementation of the *Plan Decenal de Protección Integral a la Niñez y Adolescencia*, Ten-Year Plan for the Comprehensive Protection of Children and Adolescents, drawn up in accordance with the commitments made by Ecuador at the Special Session on Children held by the UN in 2002.¹⁶⁶ The President of the CNAA is the main authority responsible for “compliance with international instruments and the relevant provisions of law”.¹⁶⁷

Although, at the time of writing, the methodology for implementing the Ten-Year Plan had not been made public, a first step in that direction was the Cooperation Agreement established with the *Asociación de Municipalidades Ecuatorianas*, Association of Ecuadorian Town Councils, in which the latter undertook to work jointly with the CNAA in implementing the Ten-Year Plan in their areas.¹⁶⁸

In 2004, in order to meet its international responsibilities with regard to refugee and children, the Ecuadorian Government, together with the UNHCR, organized a “*Seminario sobre Tratamiento de Grupos Especiales: Género y Menores No Acompañados*”, “Seminar on the Treatment of Special Groups: Gender and Unaccompanied Minors”, in which many NGOs and State agencies participated. The aim of the seminar was to establish theoretical tools and practices for dealing with such cases and provide a space in which policies designed to protect these groups can be promoted.¹⁶⁹ One of the priorities for future work established at the meeting was to raise awareness of rights among the refugee population, including access to public services, and to set up teams inside the organizations working with refugees to support unaccompanied minors.¹⁷⁰

Despite the recent establishment of a special policy to address the needs of children and adolescents, Ecuadorian officials and members of human rights organizations interviewed for this report in 2005 believed that too little was being done too late and that the economic and social situation in the border area was creating an atmosphere in which soon any attempt at containment would be fruitless:

¹⁶³ Committee on the Rights of the Child, *Respuestas escritas del Gobierno del Ecuador relativas a la lista de preguntas (CRC/C/Q/ECU/2) formuladas por el Comité en relación con el examen del segundo y el tercer informes periódicos del Ecuador (CRC/C/65/Add.28)*, UN document CRC/C/RESP/86, 2 May 2005.

¹⁶⁴ See <http://www.ilo.org/public/spanish/region/ampro/cinterfor/temas/youth/legisl/ecu/vi/>

¹⁶⁵ Consejo Nacional de la Niñez y Adolescencia (CNAA), *Sistema Nacional Descentralizado...*, <http://www.cnaa.gov.ec/>.

¹⁶⁶ CNAA, *Plan Decenal...*, *op. cit.*

¹⁶⁷ CNAA, *Autoridad Central*, *op. cit.*

¹⁶⁸ CNAA, *Cantones que cuentan con Juntas Cantonales de Protección de Derechos*, *op. cit.*

¹⁶⁹ Boletín PRODH-BICE-011, Quito, 29 December 2004

¹⁷⁰ Boletín PRODH-BICE-011, *op. cit.*

*This is a breeding ground for all kinds of problems. Especially with youth. We don't have the capacity to help them with much at all. Our young people already prefer to cross [into Colombia] to do whatever kind of work they can because they get more money... producing drugs, smuggling weapons, buying food, some even join up. Here you earn two dollars at most in the countryside. The families don't ask questions and they accept the money. We are all guilty.*¹⁷¹

Public policy on refugee children in Venezuela

The *Consejo Nacional de Derechos del Niño y del Adolescente (CNDNA)*, National Council on the Rights of Children and Adolescents, is the body responsible for issuing policies and guidelines related to childhood and adolescence at national level and for managing the *Plan Estratégico Nacional para la Protección Integral de Niños, Niñas y Adolescentes*, National Strategic Plan for the Comprehensive Protection of Children and Adolescents, for the period 2000-2006. One of the goals of the Strategic Plan is to establish a Child and Adolescent Protection System (established under the *Ley Orgánica para la protección del niño y el adolescente*, Organic Law for the Protection of Children and Adolescents, in 1999) for the whole country and to monitor compliance with the goals agreed by Venezuela with regard to children at the World Summit.¹⁷²

The Child and Adolescent Protection System consists of a group of bodies, protection programs, penalties, services and care bodies, including the National Council and the *Consejos Estadales y Municipales de Derechos*, State and Municipal Rights Councils, the *Consejos de Protección del Niño y del Adolescente*, Child and Adolescent Protection Councils (at municipal level) and the *Defensorías del Niño y del Adolescente*, Ombudsman's Offices for Children and Adolescents.¹⁷³

However, according to human rights monitors, the State's failure to have a strong institutional presence in the border areas means that in practice these public policies on children are inoperable.¹⁷⁴

There do not appear to be any specific public policies for refugee children, although the *Ley Orgánica sobre refugiados o refugiadas, asilados o asiladas*, Organic Law on Refugees and Asylum-seekers, of 3 October 2001 establishes asylum procedures and the rights and responsibilities of both the State and refugees in Venezuela.¹⁷⁵ Regulations stemming from this law were issued in 2003.¹⁷⁶ Venezuela is not a State Party to the 1951 Convention relating to the Status of Refugees but is a party to the 1967 Protocol.¹⁷⁷

CONCLUSIONS AND RECOMMENDATIONS

Conclusions

The impact and consequences of the Colombian conflict are increasingly being felt in the border areas and nearby regions and include the mass displacement and refuge of thousands of people trying to escape the fighting, threats, and the recruitment of children and young people by the armed groups involved in the hostilities.

¹⁷¹ Interview with a government official in Tulcán (Ecuador), February 2005.

¹⁷² Consejo Nacional de Derechos del Niño y del Adolescente (Venezuela), *Plan Estratégico*, http://www.cndna.gov.ve/QuienesSomos/plan_estrategico.htm.

¹⁷³ UNICEF Venezuela, *Marco Legal Nacional*, El Sistema de Protección del Niño y del Adolescente, <http://www.unicef.org/venezuela/frame-completo-vzla.htm>.

¹⁷⁴ SJR-Venezuela, *Informe sobre reclutamiento forzoso*, op. cit.

¹⁷⁵ UNHCR, *Ley Orgánica sobre refugiados o refugiadas, asilados o asiladas*, <http://www.acnur.org>.

¹⁷⁶ UNHCR, *Reglamento de la Ley Orgánica sobre refugiados o refugiadas y asilados o asiladas*.

¹⁷⁷ UNHCR, *States Parties to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol*, <http://www.unhcr.org/cgi-bin/tehis/vtx/home?page=protect&id=3c0762ea4>

The agencies and organizations from civil society working to defend the rights of the refugees and displaced have been raising the alarm for several years about the devastating effects of the fighting and State policies, such as the spraying of crops grown for illicit purposes, which give rise to mass displacement. The impact has also begun to be felt in areas further away from the borders inside Ecuador and Venezuela and is having a domino effect that is difficult to restrain.

There is no doubt that the armed conflict is the main cause of internal displacement within Colombia and cross-border displacement to Ecuador and Venezuela. Although, over the past ten years, it has been armed opposition groups and paramilitaries who have been mainly responsible for forcing people away, in recent years trends seem to indicate “the prevalence of paramilitary groups in driving people away”.¹⁷⁸

The Colombian Government strategy of demobilizing the paramilitaries and introducing legislation to consolidate it (the Justice and Peace Law) has left the door open for members of paramilitary groups to be recycled and has failed to totally dismantle such groups.¹⁷⁹ It has also ensured that serious human rights violations, including the recruitment of minors under 18, remain unpunished. The democratic security policy of the Colombian State has not led to substantial progress; on the contrary, it has had a severe negative impact on communities situated in areas of strategic importance for armed groups.

The programs of care for demobilized children and young people in Colombia still have serious shortcomings as far as the monitoring of cases once young people reach the age of majority is concerned. One in four of them do not complete the ICBF program and many return to the armed struggle, although it is difficult to arrive at an approximate figure for those who do so. It is a challenge for the government to implement such demobilization policies while the war is still going on, something that has not been done on that scale in any other international armed conflict.

The response of the Colombian Government to the problem of demobilized minors under 18 has been predominantly bureaucratic and has focused mainly on the provision of welfare. It has not focused on promoting new opportunities and ways of living, involving coherent policies on care, protection and monitoring that genuinely encourage change in young people who are directly affected by the conflict, despite the fact that substantial funding from international aid donors is available for such work. The recycling of combatants under 18 has also become a reality.

The Governments of Ecuador and Venezuela, for their part, have still not publicly acknowledged the true extent of the impact of the armed conflict on their respective countries and inhabitants. They have also been ineffective in designing and implementing clear public policies that can meet the needs of the people living in border areas. These include psychosocial care, health and education and the consequences of exposing children and young people to other forms of exploitation that feed off of armed conflict and government inaction, such as trafficking in sex, arms and drugs and sexual and work-related slavery.

These two countries have also not conducted investigations or opened criminal prosecutions in connection with the recruitment of minors under 18 on their territory by members of national or foreign armed groups, despite the fact that both are parties to the Optional Protocol of the Convention on the Rights of the Child on the involvement of children in armed conflict.

There is little monitoring and reporting being done on the situation of children and young people in border areas who are at risk of being recruited by armed groups participating in the hostilities and the work that is being done is poorly coordinated. International agencies and national NGOs working in those areas have few resources to devote to following up on complaints from the local

¹⁷⁸ Molano Bravo, Alfredo, *Desplazados: tres millones y medio*, 5 February 2006, <http://www.codhes.org>

¹⁷⁹ Amnesty International, *Colombia: Medellín exposes fatal flaws in government's paramilitary demobilization strategy*, 1 September 2005, <http://news.amnesty.org/index/ENGAMR230252005>

population about these issues and the presence of the State on both sides of the borders is inadequate and mainly military in nature.

Greater sustained monitoring of the situation of children and adolescents at risk of being recruited or returning to the armed conflict both in border areas and inside Colombia needs to be done as a matter of urgency and agencies working for the protection and promotion of the rights of the child in the three countries should work together in a coordinated way to draw attention to this serious issue.

Recommendations

The Coalition to Stop the Use of Child Soldiers and the *Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia* are submitting the following recommendations to the Governments of Colombia, Ecuador and Venezuela, as well as to the armed groups involved in the hostilities, communities, social organizations and children and young people, in the hope that they will help to solve the problems described in this document and ensure that all children and young people in the countries in question can enjoy their rights in full.

To the Government of Colombia:

1. Ensure consistent and coordinated implementation, within national, departmental and municipal development plans, of a policy on children so that the rights of children contained in the Convention on the Rights of the Child, its Optional Protocols and other relevant standards are genuinely guaranteed.
2. Substantially increase the resources allocated to those who have been internally displaced and implement specific programs for children in order to provide them with adequate access to food, housing, education and medical services.¹⁸⁰
3. Demand that paramilitary groups hand over all child members as a necessary condition for continuing negotiations with them and allowing them to benefit from the provisions of the Justice and Peace Law.
4. Demand that armed opposition groups hand over all child members unconditionally.
5. Stop children and young people from becoming directly involved in the armed conflict as a result of civic-military campaigns such as, in particular, the "Soldiers for a Day" program, among others, or as a result of payment or unlawful coercion to get children to act as informers for the security forces.
6. Immediately order the State armed forces to stop occupying and using schools or setting up military bases nearby and increase training in the principle of distinction and protection of the civilian population for the police and armed forces.¹⁸¹
7. Halt the aerial spraying of crops believed to be destined for illicit use, bearing in mind the negative effects this has on the local population, including posing serious risks to their health and the enjoyment of a safe environment.
8. Take account of the observations made by the *Procuraduría General de la Nación*, Procurator-General's Office, as well as various non-governmental organizations, with regard to the shortcomings in the child demobilization program run by the ICBF.
9. Comply with the requirements of existing legislation, in particular the order that all members of the armed forces should hand over to the ICBF within 36 hours any children

¹⁸⁰ Committee on the Rights of the Child, *Concluding Observations on Colombia, op. cit.*, para. 79(a).

¹⁸¹ Committee on the Rights of the Child, *Concluding Observations on Colombia, op. cit.*, para. 77(i).

- who have been demobilized from the armed conflict, whether they have been captured or handed themselves in voluntarily.
10. Take administrative and political measures to allow bodies such as the *Fiscalía General de la Nación*, Attorney-General's Office, to seriously start punishing the offence of forced recruitment of children as established under criminal law, bearing in mind that total impunity exists in this regard.
 11. Impartially investigate the commission of such offences and prevent any legal framework developed in connection with the demobilization of armed groups from seeking to pardon such acts.

To the Government of Ecuador:

1. Demand that all armed opposition groups operating on Ecuadorian soil unconditionally hand over all children within their ranks.
2. Ensure that there is no formal or informal discrimination in the implementation of refugee and asylum procedures, particularly with regard to minors under 18.
3. Incorporate programs of psychosocial care into the areas of schooling and health in order to ensure the integration of the refugees and internally displaced living in the country because of the Colombian armed conflict, especially children and young people.
4. In compliance with Law 100/03, ensure that all Ecuadorian and non-Ecuadorian children living temporarily or permanently in the country are effectively included in care, integration and health programs (including psychosocial health), especially all those who have been directly or indirectly affected by the armed conflict.
5. Ensure that both the civilian authorities and the armed forces indiscriminately protect all inhabitants of border areas and all potential asylum-seekers or refugees, especially women and children, thereby guaranteeing their lives and safety.
6. Make sure that the armed forces and security forces protect health and educational establishments and refrain from using them as targets or military bases. Severely punish such practices.
7. Ensure that the national plan for children and adolescents drawn up by the *Consejo Nacional de la Niñez y Adolescencia*, National Council for Children and Adolescents, includes a program to bring laws and regulations into line with the Optional Protocol of the Convention on the Rights of the Child on the involvement of children in armed conflict, including models for the prevention of recruitment and provision of psychosocial care.

To the Government of Venezuela:

1. Demand that all armed opposition groups operating on Venezuelan soil unconditionally hand over all children within their ranks.
2. Ensure effective compliance with the provisions of the *Ley Orgánica de Protección a la Niñez y la Adolescencia (LOPNA)*, Organic Law on the Protection of Children and Adolescents, in order to ensure that children and adolescents can fully enjoy their rights.
3. Incorporate programs of psychosocial care into the areas of schooling and health in order to ensure the integration of the refugees and internally displaced living in the country because of the Colombian armed conflict.

4. Design public policies focusing on the care of children and adolescents that address the issues of education, health, the socio-economic situation, leisure and group activities in order to reduce the level of 'voluntary' involvement in armed groups.
5. Organize awareness-raising and information campaigns targeted at civil society and children and teenagers on the negative consequences their recruitment and use in armed conflict, whether direct or indirect, has on the overall development of minors under 18.
6. Develop a policy that seeks to demobilize and reintegrate children and teenagers who are involved in armed groups.
7. Punish the forced recruitment of any minor under 18, as established in international standards signed by Venezuela, including the Optional Protocol of the Convention on the Rights of the Child on the involvement of children in armed conflict.

To the armed groups:

1. Refrain from incorporating minors under 18 into their ranks (including by kidnapping them) or using them to participate, directly or indirectly, in armed conflict and any situation of internal violence.
2. To the FARC: stop incorporating children into their ranks and comply with the offer they made to the Special Representative of the United Nations Secretary General on children in armed conflict not to recruit children under 15.
3. To the ELN: halt all involvement of children in their ranks and comply with "The Puerta del Cielo Agreement" in which they agreed not to recruit minors under 16, and to include this issue on the agenda of the current talks with the State.
4. To Colombian paramilitary groups: halt all involvement of children in their ranks and promise to hand over all children who are involved with them within the framework of the negotiations taking place with the Colombian Government.
5. Immediately demobilize all children and young people under 18 who are in their ranks or involved with the group in any role or capacity and hand them over to the relevant authorities dealing with minors.

To communities in Colombia, Ecuador and Venezuela:

1. Organize themselves to prevent the kidnapping of children and young people by armed groups and the pressures put on them to get involved.
2. Openly discuss the issue of the involvement of children in the armed conflict so that people become convinced that it is ethically unacceptable for children and adolescents to participate in the armed conflict.
3. Organize campaigns to publicize the involvement of children in the armed conflict in border areas.
4. Ensure that all cases of the involvement of children and adolescents in armed groups are documented in an active, prompt, thorough and accurate way.
5. Discuss and prepare themselves for the reintegration of children and adolescents who have been demobilized from armed groups participating in the hostilities.

To all children and young people, assisted by community managers (*gestores comunitarios*):

1. Hold information and training sessions with children and young people from groups that are likely to be recruited, including looking at the reasons why getting involved in the conflict in any way is in total breach of their rights.
2. Create spaces in which children and teenagers have ample opportunities to exchange views about the issue of involvement in armed groups and the various ways in which it can be prevented.
3. Develop sustained solidarity actions to help other teenagers to rebuild their lives, including working sessions in which they can draw up their own life plans and visualize the most appropriate means of achieving them.
4. Train children and young people to be able to identify the discourse and ploys that may be used by armed groups to try to recruit them.
5. Develop minimum security measures for children and young people who are at risk of being recruited into armed groups when they are out in the street or leave their usual place of residence.

To the UN and other international organizations:

1. Monitor the recruitment and use of minors under 18 in Colombia, Ecuador and Venezuela and inform each government independently of their findings. Issue periodic reports on the situation of children affected by the armed conflict in order to raise the visibility of the issue and influence public policy.
2. Raise the issue of the involvement of children and young people in the armed conflict with the government authorities in each country.
3. Support local groups and NGOs that are working directly on cases of children and young people who are involved in armed groups.
4. Strengthen the special team for Colombia established under the UN monitoring and reporting mechanism set up under Security Council Resolution 1612 and which started functioning in November 2004;
5. To the United Nations Security Council: include Colombia on the list of countries that have to submit specific reports in the context of the monitoring and reporting mechanism set up under Resolution 1612, so that measures for protecting children and young people from the devastating effects of the armed conflict are adopted.