
COLOMBIA

Republic of Colombia

Population: 45.6 million (16.8 million under 18)

Government armed forces: 208,600

Compulsory recruitment age: 18

Voluntary recruitment age: 18

Voting age: 18

Optional Protocol: ratified 25 May 2005

Other treaties ratified (see glossary):

CRC, GC AP I and II, ICC, ILO 138, ILO 182

Children were both forcibly and voluntarily recruited and used by the two armed opposition groups, the FARC and the ELN. They were used as combatants, to lay mines and explosives and to carry out other military tasks. Girls were subjected to sexual abuse, including rape and forced abortion. Some children reportedly remained with paramilitary groups which had failed to demobilize fully. Government forces used captured and surrendered child soldiers to gather intelligence on opposition forces.

Context

The armed conflict which had so far lasted 40 years continued between government forces and the opposition Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia, FARC) and the National Liberation Army (Ejército de Liberación Nacional, ELN), accompanied by widespread human rights abuses and breaches of international humanitarian law (IHL), including abuses against children.¹ The government, headed by President Alvaro Uribe Vélez, continued to pursue its democratic security policy, announced in June 2003, which involved civilians in the conflict, particularly in gathering information.² The government reported a decline from 2002 to 2007 in murders and “massacres” (defined as the killing of more than three people at the same time and in the same place).³ However, the number of enforced disappearances increased from 2004 to 2005, and the level of IHL violations was relatively constant in 2005 and 2006. Reports of hostage-taking declined during the same period.⁴

Government efforts to resume peace talks and discuss the release of hostages with the FARC were stalled after the president blamed the group for a car bomb explosion at a Bogotá military college in October 2006.⁵ Government and FARC forces attacked each other throughout

the remainder of 2006 and periodically in 2007. Eleven FARC hostages were shot and killed in June 2007.⁶ Peace talks with the ELN, initiated in December 2005, had produced no tangible results by October 2007.⁷

More than 31,000 adult members of Colombia's largest paramilitary group, the United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia, AUC), were demobilized between 2003 and 2006, although some units had not fully disbanded.⁸ The army-backed AUC was responsible for widespread human rights abuses and child recruitment before 2003.⁹ The 2005 Justice and Peace Law, providing the legal framework for demobilization, was widely criticized for failing to comply with international law, raising fears that AUC members would not be held accountable for abuses and other criminal acts.¹⁰ The law allowed paramilitaries not to provide information on offences they had committed, not to turn over illegally obtained assets and not to disclose information about their groups' criminal activities.¹¹ Article 64 stated 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”.¹²

From early 2006 the UN and civil society groups in Colombia increasingly warned of the rearming of demobilized paramilitary units, the continued existence of groups not involved in the AUC demobilization and the merging of some former paramilitary units with criminal organizations, often involved in drug trafficking. Evidence was also emerging of new armed groups and criminal organizations establishing business relations over drugs with elements of the FARC and the ELN. Some of the groups reportedly operated along similar lines to the AUC, including involvement in counter-insurgency operations and efforts to control territory.¹³

Internal armed conflict continued to have a devastating impact on civilians. They were victims of extrajudicial executions, enforced disappearance, death threats, anti-personnel mines, indiscriminate attacks and forcible displacement in large numbers.¹⁴ Children formed a high proportion of the victims, in part because fighting forces at times operated in and near schools and other places where children were likely to gather. In one case, in March 2006, army troops took up positions in a village school near Puerto Asís, Putumayo, causing 30 village families to leave their homes after the FARC announced that it would attack the site.¹⁵ In June 2006 the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons observed that “the armed forces had installed their headquarters in the middle of the village [of Toribo, Cauca], next to a primary-school, and had erected posts in the central square of town immediately next to a playground and a church centre”.¹⁶

Government

National recruitment legislation and practice

The minimum age for recruitment to the armed forces was 18, established by Law 418 of 1997 for conscription and Law 548 of 1999 for voluntary recruitment.¹⁷ However, the government's 2005 declaration on ratification of the Optional Protocol signalled an apparent exception to recruitment legislation. The declaration stated that "minors in age" could be recruited with the consent of their parents.¹⁸ The recruitment of children into illegal armed groups was an offence under the criminal code, with prison sentences of between six and ten years, in addition to the possibility of fines.¹⁹ Law 418 of 1997 also prohibited the recruitment of children by armed forces or armed groups, with a penalty of up to five years' imprisonment (Article 14).

Laws on membership of armed groups and the use of children for intelligence-gathering appeared to be contradictory. The Childhood and Adolescence Code expressly prohibited the use of demobilized children for intelligence-gathering activities.²⁰ However, Decree 128 of 2003 stated that children could be used for activities related to intelligence work (Article 22), and could be financially rewarded for supplying information (Article 9). Law 782 of 2002 stated that a child could only be recognized 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 could involve children being used in intelligence work.

Laws and implementing regulations on demobilization treated children recruited by illegal armed groups primarily as victims of violence requiring special care and protection. Law 782 of 2002 defined children involved in armed groups as victims of the armed conflict rather than as combatants (Article 15). In March 2005 the Constitutional Court handed down Judgment 203 which revoked another provision of Law 782 which allowed the prosecution of minors involved in armed groups (Article 19).²¹ However, under the Childhood and Adolescence Code, prosecution for membership of, or for acts committed during membership of, an armed group could be waived for all but the most serious acts – those "which may constitute grave breaches of international humanitarian law, crimes against humanity or genocide under the Rome Statute".²²

Child recruitment and deployment

Government security forces did not officially recruit under-18s, but continued to use captured children for intelligence-gathering, despite the legal prohibition of the practice. The

Ombudsman's Office reported that in Cauca a child demobilized from the FARC was used as an informant during a military operation and was later killed at the age of 19 while in combat with the FARC.²³ Captured children continued to be held by security forces for longer than the 36-hour period provided for by law, after which they had to be placed in the care of the Colombian Institute of Family Welfare (Instituto Colombiano de Bienestar Familiar, ICBF).²⁴ Children who had left armed groups told the Ombudsman's Office that they were kept in police stations and army bases for longer periods and were pressured to give information about the groups they had left.²⁵ The UN Committee on the Rights of the Child expressed concern about these practices, which placed children at serious risk of reprisals by armed groups.²⁶

Sixteen-year-olds could enter air force training programs and 17-year-olds could train with the national army as non-commissioned officers in the infantry. Students could also enrol as cadets in military secondary-schools, where they carried out "special" military service from years 4 to 6, including 1,300 hours of military training and participation in military exercises.²⁷

Government programs such as "soldiers for a day" (*soldados por un día*) and "peasant soldiers" (*soldados campesinos*) aimed to familiarize children with the "war dynamic".²⁸ The UN Special Rapporteur on the right to freedom of opinion and expression was among those who observed that the programs "militarize the countryside" and "ultimately endanger entire villages, exposing them to the retaliation of the guerrillas".²⁹

Armed groups

Children were recruited and used by the opposition FARC and ELN and various other armed groups, mostly operating in urban areas, including some paramilitaries who had failed to demobilize.³⁰ Recruitment of children by the FARC and ELN extended to areas of Ecuador and Venezuela near the Colombian border.³¹

Revolutionary Armed Forces of Colombia (FARC)

Children were forcibly recruited by the FARC or joined up for lack of alternatives in a context of rural poverty. They acted as combatants, laid explosives, ferried supplies, carried messages and served as guides. Girls were subjected to sexual abuse including rape and forced abortions.³² Child recruitment by the FARC was recorded in at least eight departments, including Arauca, Cauca and Putumayo.³³

National Liberation Army (ELN)

The ELN pledged in 1998 to stop child recruitment, on signing the Puerta del Cielo

accord in Germany.³⁴ The UN High Commissioner for Human Rights continued to receive some reports of recruitment of children by the ELN in Arauca and other parts of the country.³⁵ More than 50 children demobilized in 2005 and 2006 said that they had been in the ranks of the ELN. Two girls aged 14 and 15 were reported to have been forcibly recruited in Nariño in December 2006.³⁶

Paramilitary and other armed groups

Children were believed to remain with the AUC and other partially demobilized paramilitary groups, such as the Peasant Self-Defence Forces of Casanare and the Cacique Pipinta Front.³⁷ The Ombudsman's Office reported that more than 200 children in the AUC ranks had not been demobilized in 2006.³⁸

Disarmament, demobilization and reintegration (DDR)

The rules and practices governing demobilization were unclear. Law 782 of 2002 stated that children surrendering to the armed forces should be placed in the care of the ICBF within 36 hours. Decree 128 stated that only those who voluntarily left an armed opposition or paramilitary group were allowed to benefit from the government-run DDR program. However, since child soldiers were required to identify themselves as members of an armed group under Law 782, those who escaped or were discharged, and those afraid to reveal their identity, were unable to receive assistance. In practice the majority of FARC and ELN child soldiers entering the DDR program had surrendered to the security forces and been handed over to the ICBF.³⁹ Some 3,300 former child soldiers, mostly from the FARC, had taken part in the government's DDR program since its inception in November 1999.⁴⁰

Some 300 children were formally released by the AUC and handed over to the authorities during the demobilization process which began in 2003. However, the majority of AUC child soldiers left the groups informally and made their way to the ICBF on their own, thus failing to meet the requirements of the collective demobilization process. Concerns were expressed that many former AUC child soldiers consequently received no demobilization or reintegration support.⁴¹

The DDR program was run by the ICBF, working in partnership with a number of international and national organizations that provided direct services, care and support. Returning children initially received medical attention and counselling at a "transition home". They were then transferred to specialized institutional care centres for adolescents up to the age of 18 for nine to 12 months in preparation for "reintegration".⁴² The program initially envisaged that children would be

reunited with their families or placed in a foster home. In practice security concerns and the risk of re-recruitment made it impossible for many child soldiers to return to their families in areas affected by the armed conflict. Foster care presented a major challenge, with families fearful of being targeted by the armed groups. The stigmatization of child soldiers, frequently perceived as violent and threatening, meant that families were reluctant to receive former child soldiers. Those leaving the specialized care centres moved either to youth homes or youth protection facilities for those with special protection problems. While efforts continued to strengthen fostering and family-based care, approximately 60 per cent of those entering the DDR program were in institutional care in 2007.⁴³

Child soldiers from the FARC and ELN, many of whom came from rural areas and enlisted voluntarily for economic reasons, experienced particular difficulties adapting to life in the cities where the centres were located. They were separated from family, friends and community support systems, and faced the additional challenge of stigmatization by the population. Child soldiers demobilizing from the AUC presented greater psychological and behavioural problems, including drug addiction.⁴⁴

Developments

The Committee on the Rights of the Child considered Colombia's Third Periodic Report on the Convention on the Rights of the Child in June 2006. In its concluding observations the Committee called on the government to take effective measures to prevent the recruitment and involvement of children in armed groups. It urged the government to issue clear instructions and training to the armed forces to ensure that captured child soldiers were no longer interrogated or used for intelligence gathering and were handed over to civilian authorities within 36 hours. The Committee further urged the government to increase substantially resources for social reintegration, rehabilitation and reparations for returning child soldiers. It asked the government to consider withdrawing its reservation under Article 124 of the Rome Statute of the International Criminal Court (ICC). The reservation allowed a country not to submit cases of those accused of war crimes to the ICC for seven years. Once this period was over, only war crimes committed after the seven-year moratorium could be submitted to the ICC. The Committee expressed concern that the current position blocked accountability for those responsible for the recruitment of child soldiers and the planting of landmines.⁴⁵

At a February 2007 ministerial meeting in Paris, Colombia and 58 other states endorsed the Paris Commitments to protect children from unlawful recruitment or use by armed

forces or armed groups and the Paris Principles and guidelines on children associated with armed forces or armed groups. The documents reaffirmed international standards and operational principles for protecting and assisting child soldiers and followed a wide-ranging global consultation jointly sponsored by the French government and UNICEF.

The FARC and the ELN were listed as recruiting and using child soldiers in the UN Secretary-General's annual reports on children and armed conflict between 2002 and 2007. Paramilitary groups were listed for child recruitment and use between 2003 and 2005, with the exception of two listed up to 2007.

- 1 Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, UN Doc. E/CN.4/2006/9, 16 May 2006.
- 2 International Crisis Group (ICG), "Tougher challenges ahead for Colombia's Uribe", Latin America Briefing No. 11, 20 October 2006.
- 3 Programa Presidencial de Derechos Humanos y Derecho Internacional Humanitaria, Vicepresidencia de la República, "Indicadores de situación y resultados operacionales de la Fuerza Pública (comparativo 2006-2007)" and "Situación de derechos humanos y derecho internacional humanitaria," December 2004, 2005, 2006, www.derechoshumanos.gov.co.
- 4 International Committee of the Red Cross (ICRC), "Colombia: Humanitarian Situation Remains of Concern", 1 February 2006; ICRC, "Colombia", *Annual Report 2006*, www.icrc.org.
- 5 "Colombia's president vows to defeat rebels," *New York Times*, 3 November 2006, www.nytimes.com.
- 6 Simon Romero, "Colombian rebels blamed for hostage deaths," *New York Times*, 28 June 2007, www.nytimes.com.
- 7 ICG, "Colombia: moving forward with the ELN?", Latin America Briefing No. 16, 11 October 2007.
- 8 Alto Comisionado para la Paz, "Cuadros Resumen: Areas Despejadas 2003-2006: 31.671 demobilizados", www.altocomisionadoparalapaz.gov.co.
- 9 Human Rights Watch (HRW), *You'll Learn not to Cry: Child combatants in Colombia*, September 2003.
- 10 Amnesty International (AI), *Colombia: Justice and Peace Law Will Guarantee Impunity for Human Rights Abusers*, 26 April 2005.
- 11 *Sentencia C-370/2006*, Corte Constitucional de Colombia, 18 May 2006; HRW, "Smoke and mirrors: Colombia's demobilization of paramilitary groups", August 2005.
- 12 Article 64, *Diario Oficial 45,980*, Ley 975, 25 July 2005.
- 13 Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, UN Doc. A/HRC/4/48, 5 March 2007; ICG, "Colombia's new armed groups", 10 May 2007, www.icg.org.
- 14 See, for example, Human Rights Council, 4th sess., provisional agenda item 2, Report of the United Nations High Commissioner for Human Rights, above note 13; HRW, "Maiming the people: guerrilla use of antipersonnel landmines and other indiscriminate weapons in Colombia", July 2007.
- 15 Human Rights Council, above note 14.
- 16 Report of the Representative of the Secretary-General on the human rights of internally displaced persons, Walter Kälin, Addendum: Mission to Colombia, UN Doc. A/HRC/4/38/Add.3, 24 January 2007.
- 17 Law No. 418 of 1997 and Law No. 548, <http://www.secretariasenado.gov.co/leyes>.
- 18 Declaration on accession to the Optional Protocol, www2.ohchr.org.
- 19 Law No. 599 of 24 July 2000, 'por la cual se expide el Código Penal', Art. 162 (illicit recruitment).
- 20 Código de la Infancia y la Adolescencia, Article 176.
- 21 *Sentencia C-203/05*, Corte Constitucional de Colombia, 8 March 2005, www.secretariasenado.gov.co.
- 22 Código de la Infancia y la Adolescencia, Article 175. This article largely took the approach of Law 418 of 1997 and legislation extending it.
- 23 Report of the Secretary-General on children and armed conflict, UN Doc. A/62/608/S/2007/757, 21 December 2007.
- 24 Law 782 of 2002.
- 25 Defensoría del Pueblo, *Caracterización de los niños, niñas y adolescentes desvinculados de los grupos armados ilegales: Inserción social y productiva desde un enfoque de derechos humanos*, Bogotá, 2006, www.saliendodelcallejon.pnud.org.co.
- 26 UN Committee on the Rights of the Child, Consideration of report submitted by Colombia, Concluding observations, UN Doc. CRC/C/COL/CO/3, 8 June 2006.
- 27 See, for example, Colegio Militar Simón Bolívar, "Reseña histórica", www.colegiomilitarsimonbolivar.com/; Colegio Militar José María Córdoba, "Información general", www.colmiljosemariacordoba.edu.co.
- 28 Informe alterno a la Representante Especial del Secretario General para la cuestión de los niños y los conflictos armados, Situación de derechos humanos y derecho humanitario de la niñez 2005-2006, Bogotá, 2007, www.coalico.org.

- 29 UN Economic and Social Council, Commission on Human Rights, 61st sess., provisional agenda item 11(c), Civil and Political Rights, Including the Question of Freedom of Expression: Report of the Special Rapporteur on the right to freedom of opinion and expression, Ambeyi Ligabo, Addendum: Mission to Colombia, UN Doc. E/CN.4/2005/64/Add.3, 26 November 2004.
- 30 Report of the Secretary-General on children and armed conflict, UN Doc. A/61/529-S2006/826, 26 October 2006.
- 31 Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado de Colombia and Coalition to Stop the Use of Child Soldiers, *Frontiers: Children at the Borderline*, February 2007.
- 32 Report of the UN High Commissioner for Human Rights on the situation of human rights in Colombia, UN Doc. E/CN.4/2005/10, 28 February 2005; Special Rapporteur on the Rights of Women of the Inter-American Commission on Human Rights (IACHR), “Violence and Discrimination against Women in the armed conflict in Colombia”, OEA/Ser.L/V/II, Doc. 67, 18 October 2006; Defensoría del Pueblo and UNICEF, “La niñez y sus derechos, Caracterización de las niñas, niños, adolescentes desvinculados de los grupos armados ilegales”, November 2006.
- 33 Report of the UN High Commissioner for Human Rights, above note 1; Report of the UN High Commissioner for Human Rights, above note 13.
- 34 Acuerdo del Puerto del Cielo con el ELN, 15 July 1998, www.ciponline.org.
- 35 Report of the UN High Commissioner for Human Rights, above note 1.
- 36 Report of the Secretary-General, above note 30.
- 37 Report of the Secretary-General on children and armed conflict, UN Doc. A/62-S/2007/757, 21 December 2007; “Smoke and mirrors”, above note 11.
- 38 Defensoría del Pueblo, *Defensoría Delegada para los Derechos de la Niñez, la Juventud y la Mujer, Caracterización de las niñas, niños y adolescentes desvinculados de los grupos armados ilegales: Inserción social y productiva desde un enfoque de derechos humanos*, Bogotá, 2006, www.saliendodelcallejon.pnud.org.co.
- 39 Y Care International, *Overcoming Lost Childhoods, Lessons Learned from the Rehabilitation and Reintegration of Former Child Soldiers in Colombia*, 2007, www.ycareinternational.org.
- 40 Informe alterno, above note 28; Procuraduría General de la Nación, *Seguimiento a políticas públicas de desmovilización y reinserción*, Bogotá, June 2006, Vol. II.
- 41 Report of the Secretary-General, above note 37; Report of the UN High Commissioner for Human Rights, above note 13.
- 42 Instituto Colombiano de Bienestar Familiar, “Programa de Atención a Jóvenes Desvinculados y Amenazados por el Conflicto Armado”, www.bienestarfamiliar.gov.co.
- 43 Y Care International, above note 39.
- 44 Ibid.
- 45 Concluding observations, above note 26.