

ALTERNATIVE REPORT ON COLOMBIA PRESENTED TO THE CHILDREN'S RIGHTS COMMITTEE

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The Situation Of Colombia's Children At The Beginning Of The 21st Century

GDP growth 1999: -5%
GDP per capita 1999: \$1880
Gini index, concentration of income, 1999: 0.589
Unemployment (December 1999): 18.5%
Unemployment among the young and poor: 60%
Population of Colombia: 42 million
Urban population: 75%
Child Population: 41%
Children living in poverty/low-income families: 68%
Children living in poverty – UBN: 30%
Children with malnutrition: 3.5 million
No. Of children dying from violent causes (daily): 12
Mortality among the under-1s: 28 per thousand births
Children exploited at work: 4 million
Children sexually exploited: 1.1 million
Children victims of forced displacement: 1.4 million
Children victims of abuse: 60%
Children with no access to education: 38%
Poor children with no access to health services: 63%
Overcrowding in juvenile re-education centers: 330%
Existence of a system for following up recommendations: NO

There is generalised, systematic and growing violation of the rights of children in Colombia. During the period 1993 to 1998 recommendations of the Committee for Children's Rights were not applied, and no follow-up agency was created. This evidences of the lack of commitment of the government to the validity, enforcement and promotion of children's rights. This situation occurs in a context of inequality, exclusion and lack of social justice.

There are no clear policies for the implementation of rights; and there are a specific

programmes to provide care for children which change with the changing priorities of successive governments, and no government has offered a serious commitment to our children.

In the previous administration, under Ernesto Samper, a project known as "The Pact For Children" was drawn up, on the basis of a diagnosis of the situation of children in 1996. The pact proposed a series of programmes for attention to children in especially difficult circumstances, and set some specific goals for 1998 and 2000 to overcome these situations.

The programme, or at least the wording of the programme, was positive for Colombian children, it is framed in the context of the now discredited doctrine of irregular situations, and its proposals are addressed only to the groups subject to such situations, there being no clear policies for all children, and for Integrated protection of their rights. Finally, the pact remained only an idea, and a substantial investment in media advertising, publications, and ceremonial acts, since children obtain no benefit from it, and the ambitious goals set to remain as far away as ever.

Under the present administration of Andres Pastrana, there has been a an evident lack of attention to the enforcement of a children's rights. The only pronouncements made by the government on the subject appear in the Development Plan, Law 508-99, in which there is no clear intention to implement policies to apply the Convention. The development plan does not contain alternatives for endemic problems affecting Colombia's children, and indeed, there is a tone almost of dismissal of this reality.

Colombia is passing through one of the most unsettling periods of economic crisis in its recent history, and the least-favoured sectors have been the main victims. The unemployment rate has reached 18.5% , and this is reflected in an increased lack of satisfaction of the rights of children in such sectors - the majority - since the lower level of family income effects the possibility of survival and access to services of health, education, etc. Government action to face this crisis has been addressed to be strengthening of the stronger economic sectors, and has disregarded the most vulnerable sectors including children.

This situation has meant that social unrest has been expressed through protests such as present marches, or the seizure of state installations, etc., with an important presence of children, despite which such demonstrations are repressed or disregarded by the State authorities. Recently, the U'wa indigenous community mounted a peaceful protest action against the lack of respect on the part of the State for their ancestral territories which had been recognised by the State, and this action was violently repressed by the army and police, and during the ensuing rout, three indigenous boys of 9 and 10 years old and one girl of 4 months were drowned in a river.

Of the child Corporation, 41% or 5.9 million, are living in poverty; and 15.6 cent, or 2.2 million, a living in absolute poverty. This proportion also depends on the situation of the family and 26.7% of households are living in poverty, and 10.4% in absolute poverty, which means that the boys and girls in these poor homes are more exposed to problems of health, malnutrition, abuse, abandonment, and in particular sexual and labour exploitation.

1 . Follow-up to 1995 recommendations

1.1 First recommendation

There is no government entity or inter-Institutional body responsible for permanent supervision of compliance with the Convention, and no control Agency has been created. No dispassionate analysis has been made of the real situation of Columbia's boys and girls.

The situation of children in Colombia has worsened in recent years, and the gap between the provisions of law and the realities of life grows wider.

1.2 Second recommendation

There is no State agency to centralise information and effort to defend children's rights. The family welfare agency I C B F concerns itself only with those declared abandoned all in danger of being so, and then inadequately. Existing information on the general status of children's rights and on especially vulnerable groups is not complete, in some cases it is not uniform and in general it exists due to private or non-government initiative. This means that efforts in favour of children are dispersed, relatively ineffective, and difficult to evaluate.

1.3 Third recommendation

The priority interest of children has not been applied in public policy on the young. The priority for social expenditure in education and health has not been converted into welfare for children.

The Constitution (article 350) states that social spending shall have priority over any other budget allocation, but contrary to this the State, in the Development Plan, decided to double the defence budget and to cut back on social spending and subsidies for the poorest and most vulnerable groups. Thus, the budget for the army increased from \$980,000 million to \$2 billion, financed with foreign loans and through general cuts in other sectors of the Plan, and cut back on those sectors favouring the most vulnerable groups such as children.

1.4 Fourth recommendation

According to information from the Defender's Office, an average of 12 children die every day in Colombia: five are murdered, three die in traffic accidents, one commits suicide and three more die in other accidents. The majority of the victims are from the poor sectors. There are no exact figures, but the media are constantly reporting abuse, murder, torture, sale, kidnap and disappearances.

There are 16,722,000 children in Colombia, representing 41% of the population. Of this total, some 4 million work, over 6 million live in poverty, and half live in absolute poverty. Of the approximately 700,000 children born every year, half are condemned to live their lives in poverty, and 34,000 die before their first birthday. Such situations seriously affect the survival of children, and none the less there are no permanent, integral and systematic policies to guarantee survival, for children who in addition to poverty, disease and exploitation, continue to be the victims of torture, murder, and physical abuse, for which the army and police in particular are responsible.

The level of impunity in Colombia is 97% and in the case of violation of human rights it is 100%, although \$4 billion per day is spent in the administration of justice. In cases of

violation of human rights of children, the situation is even more serious: investigation of crimes such as murder, sexual abuse, and the abuse of children, produce no positive results in finding those responsible or imposing severe penalties, and this increases the vulnerability of those children.

The military criminal-justice system is one of the most important factors in maintaining impunity. Despite a pronouncement by the Constitutional Court in Finding 358-97, stating that the violations of human rights may not be tried by the military criminal-justice system, and that the Human Rights Commission of the United Nations and other international or organisations have recommended that Colombia abolish that system, it continues. Violations of civil and political rights of children are still being tried by the military courts, and there is no guarantee of any relevant punishment for those responsible, nor the right to the truth nor to reparations for the victims.

1.5 Fifth recommendation

The Justice system for juvenile offenders is characterised by violations of guarantees of due process, the treatment is degrading, the specialist training of justice officers is inadequate. The Family Defenders do not operate as figures who defend the interests of children.

In the context of the crisis in the prison system, young offenders are often detained in at police stations or in a military barracks together with adults (men and women) in deplorable and sub-human conditions for days on end, and cruel, inhuman and degrading treatment is given to them in the rehabilitation centres. The lack of interest displayed like justice officers at the time of taking a relevant evidence to determine age is one of the reasons why this occurs.

1.6 Sixth recommendation

Although the Committee recommended in February 1995 that Colombia should ratify ILO Convention 138, it only did this in November 1999. There are no proper procedures for the reception of denunciations, for investigation or for punishment of those responsible for the economic exploitation suffered by some 2.5 million boys and girls. The adoption of the Convention there is no guarantee of compliance, in the absence of a proper policy to improve the conditions of children at work, and meet the minimum requirements of the Convention.

1.7 Seventh recommendation

The deep social disparities in Colombia are evidenced in the level of opportunity of access to education which is very inequitably distributed not only from one income group to another, but from one region to another. Only two out of three children aged 12-17 in the poorest groups have access to education, in contrast to 88% of the richest who have access; of children aged 3-5, four out of five children in the 40% richest groups attend pre-school, while only one in two of all children in the 40% poorest groups have access to this level of service. The teachers' union FECODE calculates that there are some 4 million children at present outside the education system.

Average schooling in rural areas for the population over five years of age is 3.2 years, and in urban areas, up 6.8 years. In the seven largest cities, it was 7.5 years in 1997. Almost all the offer of pre-school places is concentrated in urban areas.

Coverage of the primary system in the major cities is wider, in contrast to some provinces,

especially those who on the Caribbean and Pacific coasts, in rural areas, and in the poorer towns, where both coverage and promotion of primary education is well below the national average; the coverage of the secondary education system is still inequitable, since the offer of secondary places in rural areas is almost non-existent. Secondary education is much more extensive in the more developed provinces and towns, but is concentrated in serving middle to high-income families.

1.8 Eighth recommendation

There have been government campaigns to reduce social and family violence, but these efforts have been sporadic, and the emphasis is on major advertising expenditure, and symbolic acts, with a consequent lack of continuity, or mechanisms for follow-up of their effect.

It is estimated that 20% of adolescents are pregnant or have already had children, and of those one third have completed primary education. Abortion has been the third cause of maternal mortality and the second cause of hospital admissions, and for every hundred people under 19, 45 have had experience of an abortion. There is only one State agency which has developed programmes for sexual and reproductive education for adolescents, and its coverage is minimal.

1.9 Ninth recommendation

In the last 10 years, there has been no evidence of a change of attitude by a public servants with regard to the priority importance of children's rights. The forces of law and order continue to act on the offensive against the civil population, and in particular against children will have been the victims of the violation of their civil and political rights. It is therefore evident that there has been no special emphasis on the part of the government in the formation and sensitisation of its representatives with regard to children's rights.

1.10 Tenth recommendation

The role of the NGOs in the promotion and defence of children's rights in Colombia has been a leading one, by contrast with that of the State which frequently seeks their support. However, this is not seen as a search for support and co-ordination and, but an act of total delegation of the responsibilities which are the primary duty of the State to the NGOs. This is against the interests of the children, because the NGOs in most cases do not have a sufficient resources to meet expectations.

In Colombia, there is no social movement of or for children. Conditions have not been promoted for this to happen, in order that children could really exercise their rights to participation. The symbolic expressions such as the Children's Movement for Peace have no echo in society, are limited to an occasional mass demonstrations, but are not part of a really dynamic process to improve public policy for the children of Colombia.

1.11 Eleventh recommendation

The access to information which could confirm compliance with this recommendation is difficult, due to the absence of any agency centralising this information and information on initiatives in favour of children.

1.12 Twelfth recommendation

The production of two reports which the State has presented to this Committee has been centralised in the hands of the Ministry of Foreign Affairs, and access to the report is only available only upon express request. There was no opportunity for society to participate,

nor for children or organisations involved in the subject to play a part. The reports have been limited to presenting government programmes, which have not been made a reality.

The Minutes of the Committee's meetings and its recommendations, have not been publicised, and this is in detriment of the actions of society, which should be demanding compliance.

2. PRINCIPAL AREAS OF CONCERN

2.1 The right to life and the validity of social economic and cultural rights of children in Colombia.

The welfare system - ICBF - for children is inefficient, the State has delegated the responsibility for the care of the young with working mothers or abandoned children aged 0-5 with families, with the participation of private-sector, the family co-operative, NGOs from the private sector, and municipal government.

The homes created by ICBF to attend to children under seven have a coverage of less than 0.2% . The physical conditions, nutrition and health and hygiene of these homes are not adequate to guarantee integrated and optimum care. Also, there is be encouragement for the exploitation of the community mothers providing the service as a free labour.

Protection of children. In its third report on Colombia, the Inter-American Commission on Human Rights states that "importance studies by NGOs made recently on the protection of children have arrived at the conclusion that in Colombia there is no organised family welfare system, and the programmes of agencies in the sector are not very effective since in addition they are not co-ordinated among themselves. The conclusion has been that there are no policies and procedures for care, especially directed at children. And only a analysis has also been made of the situation of the justice system when involving cases of minors, and the conclusions, after studies of the Commissioners, Offices of the Defender, and the courts¹, show that there is evident chaos in the family jurisdiction, and urgent reforms are needed in it."

2.3 Child victims of political and armed conflict in Colombia

2.3 .1 Assaults on the life and physical integrity of children are part of the continuous and indiscriminate attacks by the army and the air force on civil populations. The village of Santa Domingo, Department of Arauca, on 13th December, 1990 was the victim of indiscriminate bombing with air-force helicopters and high technology aircraft donated by the United States for the struggle against drug-trafficking. They paid no attention to the local inhabitants who were waving white clothes as flags to show that they were a civil population, and 19 people were killed including two girls and five boys between 4 and 10 years old, a youth of 17, and 25 people were seriously injured, including five girls and four boys. The military authority authorities informed the media that there had been an "intense combat", and that the dead were a guerrillas. 14 months later, no punitive action has been taken.

In Colombia, an internal war has developed with fatal dynamics, leaving countless victims,

¹ OAS, Third Report of the Inter-American Commission on Human Rights in Colombia. Approved at sessions on 26 February 1999, Chapter XIII Children's Rights

amongst which the children are the worst sufferers since they are the victims of homicide, disappearance, torture, violation, kidnap, and involvement with the agents of conflict.

2.3 .2 The direct involvement of children in armed conflict. When Colombia ratified the Convention on Children's Rights in 1991, it noted a safeguard with respect to Article 38, increasing the age of military service to 18. However, Law 48-93 allows children over 15 to be recruited into the armed forces. Many children have died in combat, in the course of their mandatory military service, others have killed themselves under the pressure of military discipline, but no figures have been disclosed in this regard.

In recent years, many children have taken part in armed confrontation. The armed forces report that in 1995 57,609 young people were recruited, of whom 4,756 were under 18. In May 1998, there were total of 3,445 members of the armed forces aged 15 and 16. In the face of generalised protest by the parents of these child-soldiers, Congress approved more for under 18 in 1997, allowing voluntary enlistment from the age of 15. On 23 December last year, Law 48-99 was passed, to increase the age for military service to 18.

If it is indeed deplorable that the guerrillas recruit children into their ranks, it is equally deplorable that the army adopts a double standard, since on one hand they energetically denounce the recruitment by the guerrillas, and on the other they have no compunction in murdering child-guerrillas in combat, when their lives could have been spared. Recently, the army killed several child-guerrillas in combat with the F A R C, close to Bogota.

2.3.3 The paramilitary groups recruit boys and girls into their ranks, in exchange for payments to their families, according to a report by the People's Defender in 1996 "in part of the Middle Magdalena Valley, and in a group of 20 paramilitaries, 10 are children. The children were no more than eight years old, and can be seen patrolling in the area." This practice is a way in which the State involves children in conflict, if we remember that the Inter-American Commission of Human Rights, in its third report of Colombia, stated "paramilitary action is attributable to the Colombian state, and compromises the State's responsibility to the international community".

2.3 .4 The army have adopted the deplorable practice of using captured children, or children who leave the guerrilla ranks, as informers, keeping them for several days in met military installations to extract information from them concerning the guerrillas, and then present them to the media to provided by be "dressed up" versions of their stories. At the same time, the use civil children as informers, messengers or spies, and even oblige them to wear it military uniform. Many of these services are obtained through emotional blackmail, with an idealisation of military life, and gifts of objects or money. In May 1997, three adolescence were captured by the army in Barrancabermeja, and forced to wear military uniforms, and masks, to accompany the army on patrol and point out people as guerrillas or sympathisers of the guerrillas.

2.3 .5 The army, contrary to its none-deliberative character, intervenes in social matters which are not part of its responsibility, in order to be seen in a favourable light in the conflict. By the use of broadcasting stations across the country, publications of comic strips, television transmissions, documentaries and dramatised programmes presented during child viewing times, they feed hate and warlike values to children. As a consequence, the children have options in recreation which are opportunities for justifying violence, clearly proscribed by the Inter-American Convention on Human Rights, and the Convention on Children's Rights.

In a rural area close to Neiva, one child killed another while they were watching a TV series entitled "Men of Honour", and imitated the characters in the series with a firearm which they found at home. The series is produced by the Ministry of Defence, and it represents the in Colombian armed conflict, where the members of the army appearing as "men of honour", despite the fact that in the series they commit murder, induce the civil population to commit crimes, along with the defenders of human rights, and they even use children as informers and involve them in combat.

2.3 6 or the army and the police have recruited children for civic promotion, in their So-called "Civic-the military" campaigns, putting them in positions of prominence in a war zones, in uniform, and thus exposing them to attack. The police recruit children from as young as seven, as "little patrolman", to take part in activities related with the police. The army admits and that during 1999 it spent more than \$10 billion in a undertaking 160 Civic-the military actions addressed to 2 million people, in which there were 195 schools, with a total child population of 15,000.

The army is entitled to organise a civic promotion programmes, with parades of war propaganda, military circuses, usually held in zones of intense conflict. Boys and girls as young as five are used in these events, in programmes such as "the girls of steel", a "boys of steel", "little lead soldiers" etc.. The children receive military instruction, and that indicated in the culture of war. On 13th June, 1998, the ELN captured 15 women, among them 11 girls aged 13-17, in the course of civic activities to support the army's 14th Brigade in Segovia, Antioquia; they were subsequently released.

2.3.7 The army and the police have intervened in basic education schools in marginal areas to perform activities of military strategy and the "psychological action" for the civil population, including academic education, military instruction, and the establishment of basis for security activities. In Bogota, in the popular district of Ciudad Bolivar, ten years ago, three schools containing approximately 2400 children, had been taken over by the army, which administered the schools, gave classes, and remained on the premises in uniform, using their arms, a serious offence against international humanitarian law, and exposing the children to attack because the area had a guerrilla presence. Only through intensive pressure by the committee and a legal action for restoration of rights was the army eventually forced to leave.

2.3 8. Education for war is institutionalised through the military schools. Law 48-93, Article 62, allows the existence of military schools for a primary and secondary education, in which children receive both academic education and military instruction, with an administrative system organised in hierarchies and chains of command, regulated by the Ministry of Defence. Generally, the children who complete secondary education in the schools then join the army.

2.4 Children as victims of displacement

In Colombia, 20 people under 19 are displaced every hour, according to statistics provided by CODHES, and 75% of the displaced our children are boys and girls. Since 1995, they have been almost 2 million internal displaced as a result of the violence. Displacement materialises a systematic violation of human rights.

The forced displacement of individuals and communities in Colombia is a military and

political strategy to clear away communities, and then repopulate the area, or to release areas which are rich in natural resources in favour of the economic interest of local or multinational companies. In the face of this practice, the State has acted little and infrequently, offering minimum humanitarian assistance to individuals and communities, on a specific basis, such that displacement is perpetuated, and the right to return is not effective.

In 1997, Law 387 was issued, but provided no solution to the problem. It offers no framework to prevent or attack the causes of displacement, it lacks means of protection for the rights of victims, or policies to guarantee the integrated protection of children, the worst affected.

2.5 Street children, and social intolerance

Many children, as result of abuse in the family at home, or the rigours of extreme poverty, I expelled onto the street, and have become an element of "ugliness" on the streets of the cities for the rest of society. The children thus expelled onto the street are the victims of permanent physical, psychological and sexual abuse.

There are no exact figures, and name, family, origin, or even circumstances of death of a young body on the street are unknown. Indeed, the deaths many of the children murdered on the street are not officially recorded, and the corpses are not examined by the forensic medicine Department - it is left to their friends on the street to pick them up.

In the City of Pereira, "social cleansing" action against street children has been intensive, and at the end of 1998, a common grave was found containing the bodies of some 60 children.

2.5.1 The "social cleansing" of juvenile offenders, and the criminal law. The capacity of the State to face the problem of juvenile delinquency and resocialisation is very weak. State response is either one of omission - the structural origins of the problem are not attacked - or repression - with the theory that by accusing the offenders and putting them in jail, the situation will be solved. This authoritarian vision of the problem, promoted by the State itself, extends to many sectors of society, who see force as the best response.

The doctrine of irregular situations, which underlies the provisions of law for them treatment of adolescent offenders against the Criminal Law, through the special juvenile courts, contained in Decree 2737-89 "Minor's Code" now in force, describes juvenile offenders as "minors" who are in an irregular situation, which makes them the object of a individual treatment" which far from re-educating them, as the letter of the law in the Code vainly demands, plays the role, according to the words of Emilio Garcia-Mendez, of *"exorcising the deficiencies of social policy..."*²

The authorities, especially the police, are convinced that children are effectively "Minors", and this implies that guarantees can - or indeed must - be ignored, and cause the minors are to be retained for hours or days, subjected to physical violence, and obliged to undertake household chores in the police stations. The same authorities believe that the fact that a person under 18 cannot be held responsible for criminal action is a problem, since they consider that such people are delinquents who should receive harsher

² Garcia-Mendez, Emilio "Derecho de la Infancia-Adolescencia en America Latina

treatment, and as a consequence of this logic, that it is better to apply more radical and effective "Justice" to put an end to the problem - by putting an end to their lives.

The State does not offer conditions of life, education, culture or a future for these adolescents, and so they are forced to seek options for survival on the street, and in crime. They are the object of permanent harassment, placed on blacklists, and killed on the street-corners of low-income districts of the major cities. Although in many cases the death of these young people has been shown to be the result of the actions or omissions of the police, the most immediate response has been the rejection of the existence of these "social cleansing" or "death squad" groups, and to attribute the death to "gang warfare or revenge".

On 3 May 1995, three adolescents aged 15, 17 and 16 years were tortured by the police, with plastic bags put over their heads, or having their fingers pricked with knives, in the interest of obtaining a "confession" of the deeds of which they were accused. When one member of one of their families expressed distress, a policeman said, "keep your tears for when we have killed them". These youths were then transferred to the I C B F Lili Training and re-education centre, where, in a simulated escape, the co-ordinator, teaching staff and agents of the juvenile police irregularly delivered two unnamed individuals, whose bodies were found two days later with evident signs of torture. Currently, the criminal investigation has involved personnel of the Institution, and Juvenile Police officers Co-authors, but of the material authors of this appalling crime and those who planned it, are living in impunity.

A number of cases have been reported, in which the authorities, especially the police and the security force DAS, are the intellectual and material authors of criminal action. 24.4% of reports of "social cleansing" in Bogota, hold the police responsible. The investigations against the police officers do not provide any specific relief from impunity. The State, through its investigatory agencies and system of punishment, does not design or implement specific strategies and policies to detect and punish those responsible for the planning and execution of "social cleansing" activities.

2.6 Children as victims of abuse

According to a study by the Procurator's Office, in 1996, 60% of Colombian children were physically, psychologically, or socially abused. The network for the care and prevention of child abuse reports that in 1996, there were 6 million children suffering abuse, including child workers. And of these, 850,000 who are subject to severe abuse. Most are aged between 5 and 14.

Law 294-95 has been announced as a major effort to punish violence in the family, but the procedures contained in it do not respond to the needs of the victim, since the process, although apparently summary, is not, and the punishment to the offender often means further damage to the victim. Although the law provides for a psychological care as one of the measures for the victims of abuse, it is evident that the State does not have the capacity to offer the service. The law is therefore important since it seeks to punish, but it does not contain any systematic action for prevention of abuse or early warning.

2.7 Juvenile offenders.

In Colombia, there are some 32,400 active processes, in which persons under 18 are accused of having committed, or having participated in, a criminal act; and in many cases

they have done so due to their economic or social situation or pressure of an adult.

In 1996, 11,688 children were arrested, and having committed crimes such as theft (51.2%) assault or attempted murder (18%) drug offences (8.3%) personal freedom and sexual decency (3.9%) and other offences (18.6%). Of this total, 66% were aged 15-17, 13% were 15, 22.6% were 16, and 30.4% were 17.

There are 34 re-education centres for juvenile offenders in the country, and in 1996 it was found that there was overcrowding of 330% , according to information supplied by 69% of the juvenile courts. This situation is largely due to the fact that courts prefer to impose measures of confinement, as a rule rather than an exception, contrary to the Minors' Code, Article 203.

"Institutional by the location" is effectively a deprivation of liberty, effected with out guarantees, and in conditions of clear violation of human rights, since adolescents are subjected to cruel, inhuman and degrading treatment, such as confinement in the disgraceful little cells ironically known as "reflection rooms", and the imposition of corporal punishment.

Some of these centres lack decent conditions to offer to adolescents, such as the non-existence or inadequacy of medical services; and the formation and training of educators is deficient.

There are 233 and a juvenile and general family courts in Colombia, and although 26 new courts were opened in 1996, the slowness of process is still evident. The inter-disciplinary team required by it than law is not available in the courts. Process in this jurisdiction is contrary to due process, since it ignores guarantees of appeal.

For the defence of the rights and interests of adolescents, there are 445 Family Defender's, that is, or one for every 65 offenders, which means that there cannot be any guarantee of the right to defence. Recently, a finding of the Constitutional Court ordered that every juvenile offender should have a proper defence counsel selected by himself or supplied by the State. This is an admirable instruction, but there is no structure to guarantee ex officio defence for all offenders, most of whom are of reduced means, and are not able to pay the cost of a private lawyer.

2.8 Children at work

According to the Ministry of Education, 1,425,400 children are at work. On the basis of this figure in February of this year, the Ministry has launched a plan to eradicate child work, which attempts to disengage children from the worst forms of employment. However, the figure given refers only to children aged 12-17, and inexplicably excludes the large number of children of an lower ages, or who have been working since they were very young, many in situations of risk.

The official information is contradictory, since National Planning Department estimated in 1997 that at least 2,447,900 children aged 9-17 were at work, of whom only 1.2% had minimum guarantees and conditions of employment, and 850,000 were the subject of severe abuse, working in a risk occupations such as flower-growing where they are exposed to toxic substances without protection; or mining, where they are exposed to toxic gases, dust, and the risk of collapse.

The 80% of young people engaged in from work can be categorised as follows: it is 7.5% are aged 10-11, it 2.1% are aged 12-14, and they are engaged in farming. 39.3% of women in rural areas age 12-14 on engaged in services and 37,4% in farming Other children are engaged in the extraction of gold, coal, stone, lime, and other minerals. The girls are typically engaged in domestic work, looking after animals or younger siblings, or in craftwork.

The participation of children aged 12-14 in rural areas is rising, since it is closely linked to poverty in the countryside, and a migration of adults to the cities; the participation of children in rural work is higher of the boys in all work is higher than that of girls, 40.8% of those aged 10-12 are engaged in secondary activities and household chores, 56.9% aged 12 to 14 and 72.6% of those aged 15-17 are engaged in such work.

In the cities, work is typically informal, independent, and with an indirect form of remuneration - street sellers, collection of refuse for recycling, car-washing, construction for the boys, and essentially domestic work for the girls.

In 1995, 50.1% of boys aged 10-11, 39% of those aged 12-13, and 74% aged 14-17 are under were labourers or employees, while among the girls, 59.7% aged 10-11 and 48.2% aged 12-14 were domestic servants. Work for the family was being done by almost half the children, and over 30% of the adolescents, all unpaid. Less than 20% of the women were engaged in domestic service, while around 40% were unpaid family workers, and about 30% were paid a salary.³

Some studies estimate that more than two-thirds of children aged 12-15 and then something more than half of young people aged 16-17 work longer hours than those authorised by the law. On the farms, more than 75% of children aged 12-13 work longer hours than permitted by law. In these rural areas, approximately 50% of boys and girls aged 12-13 are working excessive hours, and this proportion increases for the group aged 14-15.

2.8.2 Salaries and benefits. It is difficult to establish the pay received by children for their work, due to the informal nature of their employment, its precarious status, and verbal forms of hiring. However, CENSAT⁴ studies state that children earn this than the legal minimum, do not receive mandatory benefits, and very few have medical assistance. It is estimated that 13% of the young in cities and only 8% of those at work in rural areas, have access to social security.

2.9 Children as victims of sexual exploitation

In the area of the sexual exploitation of children, it is very difficult to produce an even approximate figure for minors engaged as sexual workers, and the unlawful nature of their activities and their clandestine practice do not allow any calculation of the number of children involved in this "trade". However, it is estimated that a total of some 21,000 minors around the country of the victims of this problem.

³ Action Plan for the Eradication of Child Labour and Protection of Young Workers, Ministry of Labour, Bogota, August 1996

⁴ CENSAT – “Agua Viva”, a proposal for an indicative plan for social and labour epidemiology for young workers. Hildebrando Velez, Bogota 20.01.97

Some studies have been conducted in different parts of the country, to detect the magnitude of the problem, and the serious situation faced by the minors engaged in it.

In an investigation undertaken by the Bogota Chamber of Commerce,⁵ it was shown that in 1993, and only in the centre of Bogota, there were almost 3000 child prostitutes, three times the number established two years previously. Another study in 1994, by the same Chamber of Commerce⁶, detected the presence of at least 200 young men engaged as sexual workers in a shopping mall in Bogota.

Children begin sexual work at a young ages, before reaching their 10th birthday. Thus, a 5% of girls are engaged in such work at that age, and 17.1% of the boys. The majority of these minors have low levels of education, and have not completed secondary-school: 25.7% of the boys and 15% of the girls have not done so. This in itself is a limiting factor in the search for new alternatives of life, and obliges them to remain practising the same "profession".

Usually, the prostitutes do not carry personal identity documents. In Bogota, it was established that 60.5% of the girls, and 46% of the boys had no such documents, that is say for the State they do not exist, and the right of children to have a name and a nationality is ignored.

The problems entailed in this phenomenon are the more acute in the area of health, with the contagion and propagation of sexually-transmitted diseases, and AIDS, in addition to excessive use of drugs. Ignorance of this subject of protection or contraception, or lack of understanding of the same, is common: and in addition there is the fact that clients, who'll are in the dominant position and have the money, pay extra for contraceptives not to be used. 10% of the population with AIDS are children aged 10-18.

2 10 DOMESTIC LEGISLATION

Colombian legislation on children's rights is contradictory. On the one hand, the Constitution contains the rights of children in accordance with the Convention, and states that these rights have priority over all others; and it authorises anyone to demand compliance, and punishes those responsible for violations. On the other hand, there is still the Minors Code, which despite introducing new principles which might be seen as guarantees, is in all respects a reflection of the doctrine of irregular situation. In addition to the negative character of legislation, the lack of its application makes the situation of children even more serious.

During the preceding administration, there was a process started to issue a new Children's Code. Several government agencies and non-government organisations in different parts of the country took part, and the result was a proposal which introduced major changes in to current legislation in areas such as adolescents in conflict with the criminal law, social security, measures of protection, armed conflict, forced displacement, child abuse, all of which were approached in a manner more closely identified with the Convention. The proposal was delivered to the government, which introduced changes which were clearly counter to the postulates of the Convention. The proposal was then delivered to Congress

⁵ Bogota Chamber of Commerce La prostitución infantil y Adolescentes en el Centro de Bogota, Bogota December 1993

⁶ idem "Pirobos" – Trabajadores sexuales en el centro de Bogota, Bogota May 1995

with the changes included; and Congress shelved it.

Since then, the matter of reform or issue of the new Code has not been discussed again, and the present government has shown no interest in leading or promoting a debate on it. Indeed, the marginal comments or proposals for legislation in the Development Plan are designed to perpetuate the current situation.

The role of the Constitutional Court in the interpretation of children's rights in the constitution has been very important, since it has defined their scope in detail, and has declared that the State is responsible for compliance. None the less, instructions of the court have not been carried out correctly, and this widens the gap between law and practice even further, as a reality in Colombian life.

3. RECOMMENDATIONS

In order to apply the Convention on children's rights, and correct the difficult situation of Colombia's children, the State must at least:

3.1 Observe international treaties and accords in matters of human rights, in particular those rights related to children.

3.2 Immediately apply the Constitution, which defines a social state of law, in particular Articles 44 and 50 referring to the rights of boys and girls.

3.3 Competent agencies should be created and equipped with effective mechanisms to undertake investigations leading to the identification and punishment of those responsible for violations of civil, political, economic, social and cultural rights of children. As a result of these processes, at local and international levels, violators should be punished, and comprehensive reparations made for damage caused to society, victims, and their families.

3.4 A Children's Code should be issued in accordance with the Convention, the Constitution, and the doctrine of Integrated protection. The process of formulation and approval should involve the democratic participation of social organisations and popular sectors involved engaged in and interested in the subject.

3.5 The present system of juvenile courts should be dismantled. The administration of Justice for children should not be part of the judicial system. Child offenders should be covered by the welfare systems programmes, in accordance with the principles of Article 40 of the Convention.

3.6 There should be legislation emanating from the Constitution, and referring to children's rights, and their materialisation in public policy, programmes and projects, with sufficient funding and other resources budgeted, under rigorous supervision, to avoid diversion or misappropriation.

3.7 An Institutional network should be created to provide universal guarantees for children's rights, equality of opportunity and conditions of quality and access, with regard to protection (education and health, housing and public services, food and nutrition, recreation), the right to the benefits of development and political participation.

3.4 Effective measures must be taken to guarantee the right to life of the children. This implies guarantees of personal safety and conditions to live a dignified life.

3.5 Coherent and permanent policies should be defined and implemented to protect child victims of armed conflict: integrated attention, supplied immediately and permanently for the victims of forced displacement; the penalisation of crimes committed against children in armed conflict should be in the hands of the civil courts; appropriate plans for the Integrated protection of children are disengaged from conflict, making their reinsertion into society possible, with guarantees; and suspension of all activities of indirect involvement of children in armed conflict.

3.6 The welfare system should be reformed, optimised, humanised and universalised to provide full protection to all children in a situation of abandonment, or at risk of the same, permitting the participation of society, with guarantees.

3.7 There should be permanent formation and dissemination of the rights of children, intended to help society absorb a culture which accepts the priority of those rights, and in this framework, intensive programmes should be addressed to specific sectors, such as a public servants responsible for providing services to children, the media, and the members of the forces of law and order.

3.9 There should be guarantees that cases of violations of human rights committed against children should be tried by appropriate civil tribunals, which would impose severe penalties, and ensure that victims obtain individual reparations, along with society as a whole, and that these judicial decisions will be widely disseminated.

3.10 A system of supervision, with wide participation by NGOs, should be created to secure compliance of the State's commitment to the Convention of Children's Rights. This should be supported by a system of follow-up and evaluation of results, with published, true, prompt and continuous information, broken down by gender, age-groups, ethnic groups, and levels (National, departmental, and local)

NGOs signing:

- HUMANIDAD VIGENTE CORPORACION JURIDICA
- CORPORACION MUJER, FAMILIA Y COMUNIDAD
- COMITÉ REGIONAL PARA LA DEFENSA DE LOS DERECHOS HUMANOS – CREDHOS-
- CORPORACION COLECTIVO DE ABOGADOS “JOSE ALVEAR RESTREPO”
- ASOCIACION CAMPESINA DE DESPLAZADOS DE YONDO
- ASOCIACION DE DESPLAZADOS DE BARRANCABERMEJA
- ASOCIACION CAMPESINA DEL VALLE DEL RIO CIMITARRA
- Servicio a la Defensa de la Niñez –SEDEN-
- ASOCIACION SOCIAL COMUNIDAD Y VIDA
- CORPORACION JUAN BOSCO
- BENPOSTA
- CORPORACION SEMBRAR
- ASOCIACION DISTRITAL DE EDUCADORES -ADE- Bogotá
- Asociación para la investigación social y participativa TALLER DE VIDA

- Corporación para la Reconstrucción Social y Económica de la Población Desplazada del Nororiente REDES
- JUSTICIA Y PAZ DE LA FAMILIA FRANCISCANA
- FUNDACION DIALOGO MUJER
- ASOCIACION DE JOVENES Y ESTUDIANTES DE ARAUCA –ASOJER-
- COMISION INTERCONGREGACIONAL DE JUSTICIA Y PAZ
- Fundación de Apoyo Comunitario -FUNDAC-
- Corporación Mujeres de Bosa
- Fundación de Desarrollo Comunitario -FUNDECOM-
- ASOCIACIÓN EL TRIUNFO
- ASOCIACIÓN GOTICAS DO ROCIO