



安全理事会

Distr.: General
21 December 2012
Chinese
Original: English

儿童与武装冲突问题工作组

关于哥伦比亚境内儿童与武装冲突情况的结论

1. 儿童与武装冲突问题工作组在其 2012 年 5 月 31 日第 33 次会议上审议了秘书长关于哥伦比亚境内儿童与武装冲突的第二次报告(S/2012/171)，报告述期为 2009 年 1 月至 2011 年 8 月，儿童与武装冲突问题秘书长特别代表介绍了这份报告。哥伦比亚政府派驻联合国的代表在工作组发了言。
2. 工作组成员欢迎秘书长根据安全理事会第 1612(2005)号决议提交报告，表示注意到其中的分析和建议。
3. 工作组成员重申，武装冲突各方必须遵守其关于武装冲突中保护儿童的国际义务，包括 1949 年日内瓦四公约共同第 3 条及其第二附加议定书、《儿童权利公约》和《儿童权利公约关于儿童卷入武装冲突问题的任择议定书》所载义务。
4. 成员们对武装团体、主要是哥伦比亚武装革命军和民族解放军继续侵害和虐待儿童深表关切。
5. 成员们欢迎哥伦比亚政府采取步骤确保保护儿童，特别是设计和落实关于防止非法武装团体招募和使用儿童的公共政策(见 CONPES 3673)、监察员公署预警系统以及防止非法武装团体招募和使用儿童部门间委员会的工作，并强调必须加强以受害者为中心的方法。成员们敦促联合国与政府进一步合作。
6. 工作组成员鼓励哥伦比亚政府进一步加强当前开展的各项努力，通过调查案件和起诉行为人，打击武装冲突中侵害和虐待儿童行为有罪不罚现象，并坚持全力促使过去与武装团体有关联的儿童重返社会和恢复正常生活。
7. 哥伦比亚代表发了言。工作组成员例外同意一名工作组成员的请求，在不妨碍工作组审议其他儿童和武装冲突情况的前提下，将其发言附于本结论之后(见附件)。



8. 另在本次会议上，工作组以遵守可适用国际法和安理会有关决议，包括第 1612(2005)、1882(2009)和 1998(2011)号决议为前提并根据上述国际法和安理会决议，同意采取直接采取下述行动。

工作组主席发表的公开声明

9. 工作组商定向秘书长关于儿童与武装冲突的报告(见 A/66/782-S/2012/261)附件二所列哥伦比亚武装冲突各方发表一份公开声明，同时回顾第 1612(2005)号决议不谋求对秘书长报告所述局势是否属于日内瓦四公约及其附加议定书范畴内的武装冲突作出任何法律裁决，也不妨碍卷入这些局势的非缔约国的法律地位：

(a) 提请它们注意：安全理事会收到秘书长关于哥伦比亚境内儿童与武装冲突的报告(S/2012/171)，该报告详细阐明哥伦比亚武装冲突中违反可适用国际法侵害和虐待儿童的行为；

(b) 强烈谴责哥伦比亚武装革命军和民族解放军继续在哥伦比亚境内实施所有六种严重侵害儿童行为，包括招募和使用儿童、杀人和残害行为、强奸和其他性暴力、绑架、袭击学校和(或)医院以及拒绝给予人道主义准入，促请它们立即停止这些侵害和虐待行为，并敦促它们恪守国际人道主义法，遵守安全理事会关于儿童与武装冲突的各项决议，并落实哥伦比亚儿童与武装冲突问题工作组先前得出的结论(S/AC. 51/2010/3)；

(c) 要求这些武装团体：

(一) 立即停止招募和使用儿童，并让所有儿童无条件退役；

(二) 停止强奸做法和针对儿童、特别是针对与这些武装团体有关联的女孩的其他形式的性暴力行为；

(三) 立即停止有碍儿童安全接受教育和获得保健服务的行动，包括违反可适用国际法对学校 and (或)医院及相关受保护人的攻击和威胁攻击行为；

(四) 给予不受阻碍和安全的人道主义准入，不禁止货物和人员自由流通；在这方面，敦促它们充分履行可适用国际人道主义法为其规定的义务，并尊重向受武装冲突影响的儿童提供援助和保护的各人道主义组织成员所开展的工作；

(五) 停止违反可适用国际法使用杀伤人员地雷和其他爆炸装置，清除未爆弹药以免儿童被炸死和致残，并提供所有必要信息协助排雷；

(六) 立即释放所有被绑架儿童，协助他们与家庭团圆和重返社区，并采取一切必要措施杜绝一切绑架行为；

(d) 促请秘书长关于儿童与武装冲突的年度报告(A/66/782-S/2012/261)附件二所列武装团体,履行国际人道主义法规定适用于它们、并经安全理事会第1612(2005)号决议重申的武装冲突中保护儿童义务,并鼓励联合国和哥伦比亚政府共同努力,确定还可采取哪些措施处理这些团体侵害儿童的行为;

(e) 强调根据安全理事会第1539(2004)、1612(2005)、1882(2009)和1998(2011)号决议编写和全面执行经联合国国家工作队核证的监测和报告行动计划,是武装冲突当事方从秘书长关于儿童与武装冲突的年度报告附件所列名单除名的一个重要步骤,深为遗憾在有效和有系统地促使儿童脱离哥伦比亚境内武装团体方面进展有限,强调指出联合国各实体在哥伦比亚监测和报告机制框架内为确保保护儿童而与武装团体开展的任何对话,都必须符合联合国哥伦比亚国家监测和报告任务组的职权范围,与哥伦比亚政府密切磋商并征得哥伦比亚政府的同意。

向安全理事会提出的建议

10. 工作组向安全理事会提出以下建议:

给哥伦比亚政府的信

(a) 回顾哥伦比亚儿童与武装冲突问题工作组先前得出的结论(S/AC.51/2010/3);

(b) 赞扬政府在预防和应对违反可适用国际法招募和使用儿童方面取得进展,包括制定了关于防止非法武装团体招募和使用儿童的框架文件(CONPES 3673),并敦促政府继续加强其保护儿童举措的协调、影响和可持续性,特别是全面执行与受武装冲突影响的儿童、包括与非洲裔哥伦比亚儿童和土著儿童有关的政策;

(c) 欢迎政府为响应脱离武装团体的儿童的需要所开展的活动,包括努力协助家庭团圆,以及向所有儿童提供保护、照料和重返社会支助,鼓励政府通过确保主要把受影响的儿童视为受害者而非肇事者,进一步加强这些努力;

(d) 注意到政府为打击有罪不罚现象所作的努力,着重指出必须将武装冲突中所有侵害和虐待儿童行为绳之以法,敦促政府进一步加大这方面的工作力度,包括及时、严格和有系统地进行调查和起诉,并鼓励切实保护儿童受害者和证人并提供适当赔偿;

(e) 赞扬政府努力采用和实行性暴力和性剥削零容忍政策,确保哥伦比亚军队执行该政策,并指出应大力防止武装冲突中的这些行为,而且在发生这些行为时,必须及时采取措施,调查、起诉和惩处被判定犯罪人,同时保护受害者;

(f) 赞赏地注意到哥伦比亚现行立法禁止使用儿童收集军事情报，并规定将脱离武装团体的儿童至迟于受国家监护 36 小时内移送民政儿童保护部门，促请政府确保哥伦比亚军队严格遵守这些规定；

(g) 确认哥伦比亚现行立法禁止儿童参与军民活动，敦促政府继续确保哥伦比亚军队充分遵守这项立法，避免儿童参与任何军民活动；

(h) 邀请政府继续确保有关国家当局适当及时回应哥伦比亚监察员公署预警系统发布的风险报告，以防止武装冲突中严重侵害儿童行为；

(i) 欢迎政府为适当关注儿童受害者和开展雷患风险教育，特别是针对受影响最严重地区的儿童及其家庭的雷患风险教育而实施的综合地雷行动方案，强调指出必须加强当前在这方面的各项努力，并进一步鼓励政府继续确保根据可适用国际法开展人道主义排雷行动；

(j) 敦促政府在武装冲突中预防儿童流离失所和保护流离失所儿童综合办法框架内，通过实施“Mis derechos primero”计划等旨在消除流离失所根源的各项方案，加强各项努力；

(k) 促请政府继续履行《儿童权利公约》为其规定的各项义务，在这方面，回顾哥伦比亚问题工作组先前的结论(S/AC.51/2010/3)所载有关建议；

(l) 强调指出政府与监测和报告机制共同主席必须经常交流信息，政府与秘书长儿童与武装冲突问题特别代表也要继续沟通，以防止武装冲突中的侵害儿童行为，确保对已实施的侵害儿童行为及时采取有效对策，并利用联合国系统提供的能力建设支助；

(m) 认为保护儿童的最佳途径是实现和平，因此敦促政府努力和化解冲突，并将专门旨在保护儿童的各项规定纳入未来达成的任何协定。

工作组的直接行动

11. 工作组还商定由主席发函给：

世界银行和捐助方

邀请各捐助方为包括预防行动在内的旨在保护受武装冲突影响儿童的国家方案和举措提供更多支助，并支持联合国机构和非政府组织开展与加强国家能力建设和相关国家机构及其方案有关的保护儿童努力和举措。

附件 *

Statement by Fernando Alzate, Deputy Permanent Representative of Colombia to the United Nations

Presentation of the report of the Secretary-General on children and armed conflict in Colombia to the Working Group on Children and Armed Conflict (S/2012/171)

New York, 31 May 2012

Mr. Chairman,

Members of the Security Council Working Group,

Madam Special Representative of the Secretary-General for Children and Armed Conflict,

Director of Emergency Programs of the United Nations Children's Fund.

I would like to thank Ambassador Peter Wittig, in his capacity as Chairman of the Security Council Working Group, for convening this meeting and for giving us the opportunity to present the comments of the Government of Colombia to the report on children and armed conflict in Colombia (S/2012/171). In addition to this statement, Colombia will deliver a document with its observations on specific aspects of this report and would kindly request the Chair to circulate it among the members of the Working Group.

The Special Representative of the Secretary-General made a presentation of the report. In this context, we value the recognition made to the robust public policy framework existing in Colombia aimed at guaranteeing children the enjoyment of their rights and achieve their full development, as reflected in the National Development Plan of President Juan Manuel Santos.

Mr. Chairman,

Our Public Policy for the Prevention of Recruitment and Use of Children by illegal armed groups and criminal bands (CONPES 3673 of 2010) starts from the premise that the more guarantees, effective enjoyment and protective environments of their rights, the lower the risk of recruitment and use of children by the referred groups.

The set of programmes, projects and strategies executed at different Government levels strive to protect the living space of children; to counter forms of violence and exploitation exerted in their families, communities and society; to guarantee an appropriate, assertive, pertinent and efficient institutional offer at the national and territorial level; and to promote their recognition as bearers of rights in the referred environments.

* 未经正式编辑并仅以交件语文印发。

We reaffirm the commitment of the Government of Colombia in achieving a decisive impact with permanent solutions to confront the challenges posed by our political and security situation, through the consolidation of the rule of law in all the national territory. This imperative corresponds to our constitutional and legal mandate and it is the resolute will of the Government and the people of Colombia not to cease in the fulfillment of this responsibility. The accompaniment of robust security strategies is essential to reach all corners of the national territory, and in particular remote rural areas, in order to deliver public services in areas such as health, justice and education, among others.

In addition, the Ministry of Foreign Affairs established the programme “Comprehensive prevention plan: children with opportunities”, aimed at preventing and fighting against child recruitment. The objective is to generate protective environments and spaces that guarantee the development of children in a safe manner, by supporting educational, sports and cultural initiatives in their free time, contributing in this manner to the prevention of child recruitment by illegal armed groups in the municipalities with the highest risk of recruitment. To mobilize resources, contacts have been made with private-sector companies interested in pursuing social responsibility programmes. We also work with partners that have taken special interest in this initiative, some of which are members of this Council.

Mr. Chairman,

Colombia voluntarily accepted to participate in the monitoring and reporting mechanism with the purpose of promoting lasting solutions to the problems that children face because of the internal armed conflict.

In our interactions on the question of children and armed conflict, we have put special emphasis on the fact that when considering the situation in Colombia the members of the Working Group and the United Nations balance their analysis with objectivity, reasonableness and historic and context perspectives. We believe in national capacity-building as the axis of international cooperation, and we would like to see that the mechanism that we accepted voluntarily would deepen efforts and actions in that sense.

Our experience shows that an approach focused exclusively in naming and shaming, in United Nations parlance, is a one-size-fits-all mechanism that does not contribute to the objective and central motivation of the national Government to protect children against the abuses perpetrated by illegal armed groups.

We consider it convenient to have a more fluid and constant relation with the task force and to be able to share substantive information that will allow us to clarify situations or deepen the efficacy of the Government actions. For the above reasons, it is indispensable that the information on situations of risk or complaints be communicated to the Government as soon as possible, in order to take the necessary measures to guarantee the protection of children. In this the Government's will is clear, manifest and decisive.

The best interest of the child demands that cooperation be enhanced as well as the capacity to respond by the State institutions in favor of children. This cannot be achieved if the flow of information is limited under considerations of confidentiality and neutrality.

We have also insisted that it is just natural that the Government can verify through its participation in the task force that the data contained in the report of the Secretary-General on the situation of children and armed conflict in Colombia be timely, objective, precise and reliable, as provided for in Security Council resolution 1612 (2005) and related resolutions.

We trust that the members of the Working Group shall take these considerations into account in due course.

Mr. Chairman,

Concerning the analysis presented in the report on the political and security situation in the country, it is important to make a precision that Colombia, according to its international commitments, continues to fight decisively the complex challenges posed by the world drug problem. Even though this problem and other forms of crime are perpetrated by illegal armed groups such as FARC and ELN, it is important to underline that other criminal bands involved in the illicit drug business should not be subject to consideration under the framework of resolution 1612 (2005).

The framework of the monitoring and reporting mechanism goes beyond the mandates of the Security Council when it starts documenting actions perpetrated by organizations characterized as criminal bands under the Palermo Convention on Transnational Organized Crime. These bands are not parties to the armed conflict, according to the Geneva Conventions, its Additional Protocols thereto and other relevant instruments of the international humanitarian law. As acknowledged by the Secretary-General of the Organization of American States, the objective of these bands is purely economic and not counterinsurgent.

Should the framework of resolution 1612 (2005) be extended to organized criminal bands, the monitoring and reporting mechanism would have to be applied in a universal manner in countless situations and geographic areas around the world.

Demanding that the instruments created by the United Nations act in strict compliance with their mandate does not limit the scope of protection of the rights that we are bound to defend as a country and as a Government, nor does it diminish our clear will to do it and to defend the rights of the children. On the contrary, this demand seeks to preserve the credibility of the Organization, the trust of its members in it, the coordination of multilateral actions, so as to avoid duplicity of functions, and international legality.

The Government of Colombia is committed to the investigation and punishment of those responsible for criminal actions conducted by these bands against children in Colombia.

Mr. Chairman,

From the Secretary-General's report on children and armed conflict in Colombia it is clear that the challenges that Colombia continues to face in this area originate in the persistent violations perpetrated by FARC and ELN. We have been reminded of this today in Mrs. Coomaraswamy's presentation.

For FARC and ELN, the grave violations included in the report are simply strategies of war: the recruitment and use of children; the attacks on towns, schools and hospitals; the use of anti-personnel mines that kill and maim; the threats against teachers and medical staff; the sexual violence, in particular in the case of girls recruited; the abductions. Concerning this latter violation, we take note that despite the fact that the report documents abductions by the parties listed in annex II, it does not make any recommendation in this regard.

The report also mentions cases in which the actions of the public force when combating illegal armed groups have resulted in situations of risk or in the death of children. These are regrettable cases that our security forces try to avoid to the maximum extent. Our responsibility as a Government is to reach, with the State institutions, all the national territory to consolidate the rule of law and to guarantee the human rights of all Colombians with emphasis on the protection of children and youth against illegal recruitment.

It is fundamental for Colombia that the United Nations and the members of the Working Group have the certainty that the Government keeps a zero-tolerance policy to human rights violations. The violations allegedly perpetrated by members of the public force are isolated and individual. They do not represent a policy of the State and do not respond to military instructions.

The existence of institutions that are more robust every day has allowed us to advance in the realizations of the rights of all citizens. This includes the strict application of the mechanisms to punish those who from the State could incur in individual actions that affect those rights.

Mr. Chairman,

As mentioned before, Colombia voluntarily accepted the monitoring and reporting mechanism. Some time ago, the Government agreed with the Office of the Special Representative of the Secretary-General on the terms of reference for the implementation of the mechanism in all the national territory, which include specific conditions for the establishment of dialogues between the United Nations and illegal armed groups.

We reiterate that signing plans of actions with the parties included in the annexes is an option that is clearly inadequate for the situation in Colombia and that any contact by the United Nations with FARC or ELN may only take place with the authorization of the national Government. This condition originates in the need to centralize any peace negotiation initiative, due to previous experiences; and it is based in the principle of

national sovereignty, which being comprised in the Charter of the United Nations, must be respected in the implementation of the monitoring and reporting mechanism.

Governments are the ones who best know the circumstances on the ground, the conflict, its history, its development and variables. Thus, they must be taken into account when pursuing alternatives and ways to put an end to the grave violations subject to the monitoring and reporting by the mechanism.

This mechanism should consult the positions of the Governments and have them participate in its internal implementation, through an efficient consultation process, to adopt timely actions in favor of children and youth with the purpose of strengthening the institutional capacity of the State to tackle these problems.

Mr. Chairman,

The observations and recommendations contained in the report are being analysed and studied by the different agencies concerned with the protection and rehabilitation of children and youth. In applying the recommendations of the Working Group we will take into account those that are adequate to the national context and that contribute to improve the situation of children and adolescents affected by armed conflict.

The report highlights some of the activities of the Intersectoral Commission for the Prevention of Recruitment and Use of Children. This Commission, in particular its technical secretariat, has received valuable support by the United Nations, which we appreciate.

One of the recommendations of the report emphasizes that the separation of children from armed groups should be a matter of utmost priority in any dialogue with illegal armed groups. In this respect, I would like to reiterate, as stated by the President of the Republic, Dr. Juan Manuel Santos, and as it is documented in the report under consideration, that a precondition for any eventual peace process with FARC and/or ELN is that these groups abandon the recruitment of children and that they release the children in their ranks.

Colombia values highly the interaction with the representatives of the members of the Working Group and we appreciate the opportunity that we have been afforded to exchange ideas and to present our views on this topic, which is a priority for the national Government.

Everyone here wants to put an end to the recruitment of children and wants to strengthen the existing capacities to protect children and adolescents affected by armed conflict. Colombia believes that the best way to achieve this is through cooperation and remains committed to this work, within the framework of the principles and purposes of the Charter of the United Nations, ratified by all of us.

Thank you.