



# General Assembly

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## Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

### **Written statement\* submitted by Defence for Children International (DCI), a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[24 August 2012]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **The administration of justice in Colombia, in particular of children in contact with the law in the context of armed conflict\*\***

Defence for Children International- DCI Colombia, on behalf of the Coalition against the involvement of boys, girls and youth to the armed conflict in Colombia (Coalico) acknowledges and values the significance of the decision taken by the Human Rights Council (HRC) in favour of boys, girls and youth around the world when it established that as part of the sessions carried out by the HRC, a day per year must be spent on discussing the issue of children's rights and the effects particular situations have on them. With this declaration, Coalico wishes to share with those participating in the discussion some aspects of concern in terms of the current situation related to the administration of justice for boys, girls and youth in Colombia, particularly in the context of armed conflict. We also want to acknowledge the importance of the mandate given by the UN to the Special Representative of the Secretary General on Children and Armed conflicts.

After 15 years of discussions amongst government bodies, NGOs and international bodies, Colombia modified and adapted the Code of the Child (Decree 2737 of 1989) to the national legislation, to the international Human Rights regulations and to the regulations established in the Convention of the Rights of the Child. As a result, it approved the Code for Infancy and Adolescence (Law 1098 of 2006), setting out a section in Book II corresponding to the Juvenile Responsibility System (JRS).

In the past two years, actions have been undertaken in the country in order to change what had already been done in the JRS, due to the participation of some adolescents and youths in criminal events in major cities around the country. Their participation has been magnified by the media and has brought about the stigmatization and criminalisation of youth from grassroots sectors and ethnic minorities. Likewise, laws have been proposed to increase convictions and lower the minimum age of Criminal Responsibility of Adolescents from 14 years of age to 12. In this way, Law 1453 of 2011 (Citizen Safety Law) modified the Child and Adolescent Code whereby the National Police are allowed to perform internal controls in the specialized assistance centres where adolescents are imprisoned, toughening prison sentences and demanding that those who turn 21 and have not completed their sentence imposed by the Juvenile Responsibility System stay in such centres. Apart from this, infractions committed by youngsters have been turned into criminal offenses that result in their imprisonment.

The above situation overlooks the educational nature- which is the essence of juvenile criminal justice under the perspective of international standards aimed at guardianship, rehabilitation and bringing youngsters back into social life- as it prioritizes a merely punitive nature. Such measures violate international regulations on justice for adolescents ratified by the State and go against the principles of the higher interest of the child and their comprehensive protection.

In relation to criminal responsibility, lowering the age for legal responsibility does not guarantee the reduction of crime nor does it improve citizen safety per se; it does not reduce

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\*\* NGOs without consultative status, also share the views expressed in this statement: La Coalición contra la vinculación de niños, niñas y jóvenes al conflicto armado en Colombia (Coalico); Benposta Nación de Muchachos; Corporación Casa Amazonía; Corporación Paz y Democracia; Corporación Vínculos; Defensa de los niños y las niñas internacional – DNI Colombia; Fundación Creciendo Unidos; Fundación para la Educación y el Desarrollo –Fedes; Justapaz; Servicio Jesuita a Refugiados; Taller de Vida.

delinquency either, as in some cases delinquency goes on to be a factor that increases crime and, in particular, it increases the involvement of younger children in the various forms of criminal behaviour, given that the age limit established by law does not apply to such behaviour. In this same line, it is necessary to consider the principle of opportunity, the restorative measures and those of the judicial actions of processes for minors, as measures for imprisonment are the last resource to be taken given the consequences it entails for the life project of adolescents. Such measures end up being yet another violation of their rights.

It is expected that the efforts made by the Colombian State are aimed at changing those social, economic, political and cultural situations which influence boys, girls and adolescents in a way that they end up being involved in illegal acts; at strengthening prevention policies for juvenile criminality and at keeping the educational purpose of juvenile criminal law, its specifications and its difference when compared to the adult criminal system. This policy should be focused on socio-educational processes that can facilitate social inclusion and participation.

In order to guarantee juvenile criminal justice systems, it is necessary to uphold the international principles established in the Convention on the Rights of the Child- and other human rights treaties related to children and adolescents - which privilege the prevalence of rights and calls on governments to contemplate the minimum age of 14 years (ideally, 16) and to keep the maximum in the range of 18 to 21.

Various international bodies, such as the Committee on the Rights of the Child, have noted that in this scenario the situation of indigenous and African-descendant boys, girls and youth is of particular concern, given the vulnerability they experience because of the fact that they live in areas where illegal armed actors and other criminal structures operate, so they can be easily linked to the dynamics of the armed conflict and to various forms of violence. Such bodies have brought attention to the violation of the rights of this population.

Coalico requests attention on the situations mentioned above, and considers a specific reference to it in the next Universal Periodic Review on the human rights situation in Colombia.

In view of the contents of this declaration, Coalico allows itself to recommend the honourable Human Rights Council to ask the Colombian State to:

- Create a specialized unit attached to Ministry of Justice, independent from the National Prison System Institute (INPEC) in charge of managing, supervising and following up the JRS.
- Allocate a budget item aimed at strengthening the JRS, which includes the allocation of specific resources to provide training to justice operators, particularly public prosecutors delegated to the system, in order to improve their capacity to intervene in legal procedures, the application of measures to restore rights and sanctions to adolescents contemplated in the Infancy and Adolescent Law, as well as the proper application of the principle of opportunity. Such training must keep in mind the differential approach that must be given to children and adolescents.
- Include a guideline, clearly aimed at preventing juvenile delinquency, in their criminal policy.
- Carry out specialized studies that can account for the socio-legal aspect that can provide explanations and place actions in the correct prevention track, taking as a starting point the particularities of the various contexts in which Colombian boys, girls and youth live.

- Implement a unified information system run by a specialized body headed by the ministries of Education, Health and Justice that can account for the evolution of the statistic development of the situation of adolescents facing problems with the criminal law. This information system should also guide the design, application, follow-up, and evaluation of a cross-sector public policy that comprehensive responds to the effective exercise of the rights of boys, girls and youth.

The Coalition would like to give a special thanks to the Special Representative of the Secretary General on Children and Armed conflicts, for her work in defending the rights of children in contact with the law in the context of armed conflict.

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