

Practical Application of the CAC Accountability Framework

Case Example: Colombia

October 2015

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Introduction

Note to reader: The information presented in this case example is intended to illustrate the practical application of Conflict Dynamics International's Children in Armed Conflict Accountability Framework in the context of Colombia. It is not intended to provide a comprehensive review of the state of accountability for serious violations of international law committed against children in armed conflict in Colombia.

This case example is a complementary resource to the *Children in Armed Conflict Accountability Framework: A Framework for Advancing Accountability for Serious Violations against Children in Armed Conflict* ("CAC Accountability Framework").¹ It demonstrates the practical application of the CAC Accountability Framework in Colombia.² This is the second in a series of case examples³ by Conflict Dynamics International to demonstrate how individuals and organizations working in child protection, justice, peacebuilding, and other fields⁴ can apply the CAC Accountability Framework in a specific context.

Definition and structure of CAC accountability:⁵ Children in armed conflict (CAC) accountability refers to the prevention and remedy of serious violations of international law committed against children in armed conflict. This includes both judicial and nonjudicial actions that may take place at any point in a conflict cycle and at different levels of intervention. The definition and structure of CAC accountability are underpinned by international as well as relevant national laws and norms, and build on the roles and responsibilities of State, non-State, and other actors. CAC accountability consists of four interrelated components (see Figure 1):

- **assigning responsibility** for violations through gathering, analyzing, and/or publicly releasing information about perpetrators;
- **enforcing laws and norms** through sanctions, prosecutions, and/or imposing other (legitimate) consequences on perpetrators;
- **reforming systems** by negotiating, developing, adapting, implementing, and/or raising awareness of relevant institutions, laws, policies, and/or standards;⁶
- **empowering children** and their communities by involving those affected in accountability processes and decisions (appropriately reflecting differences in gender and age) and ensuring that they benefit from tangible remedies and redress.

Guidance for developing strategic approaches to CAC accountability:⁷ This case example demonstrates the practical application of the Framework’s step-by-step methodology in Colombia, which draws on the CAC accountability definition and structure to provide support for identifying opportunities and challenges related to CAC accountability and for developing and prioritizing options for implementation (see Figure 2).

Figure 1 : Components of CAC accountability

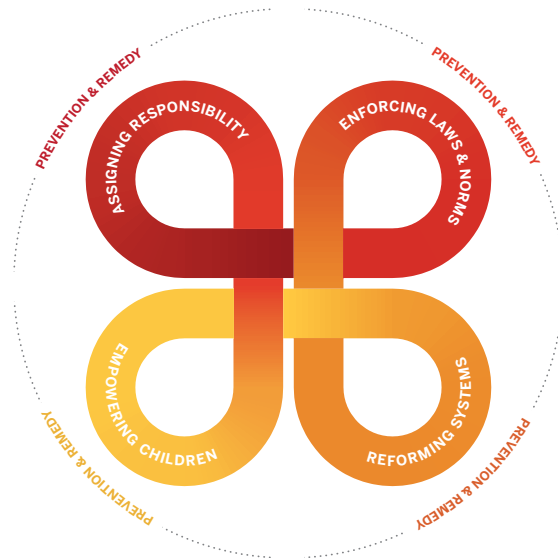
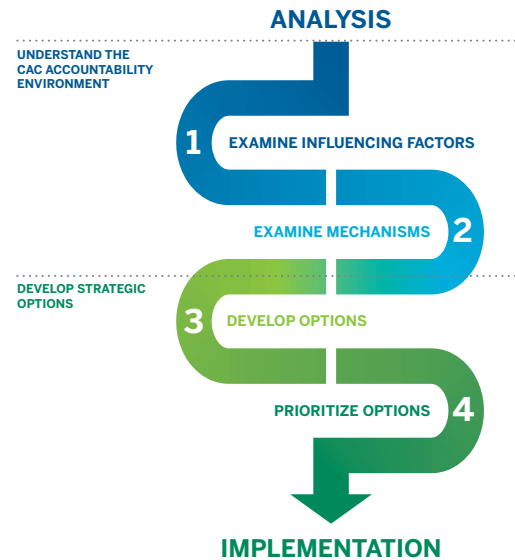


Figure 2 : Guidance for developing strategic approaches for CAC accountability



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Understanding the CAC accountability environment in Colombia

Colombia has been in a situation of internal armed conflict since the 1960s, when left-wing guerrilla groups, primarily the Fuerzas Armadas Revolucionarias de Colombia - Ejército del Pueblo (FARC-EP) and Ejército de Liberación Nacional (ELN), took up arms against the government. In response, right-wing paramilitaries emerged, and many subsequently organized under an umbrella group known as the Autodefensas Unidas de Colombia (AUC). Over the decades, parties to armed conflict have vied for control of local resources. Criminal networks and the illicit drug trade have further fueled the conflict and exacerbated conflict-related violence.⁸

Since the start of the conflict, all parties to armed conflict have been responsible for serious violations against the civilian population. Children remain at risk from ongoing fighting and widespread criminal violence. Violations include killing and maiming, sexual violence (primarily against girls), attacks against schools, enforced disappearances, forced displacement, and torture, among others. Reports of new recruitment of children by non-State armed groups and involvement of children in civic-military activities organized by government armed forces continue.⁹

Between 2003 and 2006, the government undertook a collective demobilization process for the AUC paramilitaries. The Justice and Peace Law (Law 975/2005) offered AUC members reduced sentences and reintegration assistance in exchange for giving up their arms and contributing to the truth and reparations process.¹⁰ While more than 30,000 AUC members were demobilized, the process was flawed and contributed to the formation of post-demobilization and other armed groups, which in some cases have similar leaders, members, and characteristics to the former groups.¹¹ Many children formerly associated with paramilitary groups did not benefit from the demobilization process. Some of these children are now associated with post-demobilization groups, criminal gangs, and/or are living in otherwise unsafe conditions. The whereabouts of others remain uncertain.

In 2011, newly elected President Juan Manuel Santos (re-elected in 2014) formally recognized the existence of an internal armed conflict, marking a political shift from the policies of his predecessors. Since November 2012, peace talks have been underway between the government and the FARC-EP. As part of this process, the government has set up several transitional justice mechanisms, including the Legal Framework for Peace (Legislative Act 1/2012), a constitutional amendment that provides the basis for developing and establishing transitional justice laws and mechanisms if peace talks are successfully concluded.¹²

A broad range of mechanisms have been set up in Colombia to address human rights abuses, including violations against children in armed conflict. In some instances, these initiatives have led to modest results for children, including progress on assigning responsibility and developing prevention programs. Between 1999 and 2014, there have been 193 convictions for child recruitment in Colombia.¹³ However, impunity is still prevalent. Furthermore, victims, witnesses, human rights defenders, judges, and journalists routinely face intimidation, threats, and violence from parties to the conflict.¹⁴

2.1 Influencing factors¹⁵

There are various contextual factors that influence CAC accountability outcomes in Colombia. Some factors have a positive enabling influence, some have a negative, constraining influence, and others have a mixed or uncertain influence on CAC accountability. For example, the government regards all post-demobilization groups as criminal groups. This broad categorization negatively influences CAC accountability because children associated with these groups are not eligible for formal demobilization and reparations programs that could support their recovery and build resilience.¹⁶ Moreover, some cases of children associated with post-demobilization groups have been referred to the Office of the Attorney General for prosecution rather than the State-run program for children separated from armed groups.¹⁷

Table 1 presents some additional influencing factors identified by individuals interviewed as part of the research underpinning this case example. The factors are categorized by the four components of CAC accountability. This list is not comprehensive; it is intended to provide a starting point for developing and analyzing a more detailed list of influencing factors.

Table 1 : Examples of influencing factors in Colombia categorized by the four components of CAC accountability

Component	Examples of Influencing Factors
Assigning responsibility	<ul style="list-style-type: none"> Active and well organized civil society reporting on child rights violations (e.g., shadow reports to the Committee on the Rights of the Child, multiple human rights observatories), as well as the presence of the Monitoring and Reporting Mechanism Country Task Force in Colombia (“MRM Task Force”)¹⁸ (see Section 2.2.1 – Functionality of mechanisms). Government’s categorization of all post-demobilization groups as criminal gangs. Low reporting of child rights violations, due in part to high levels of intimidation, threats and violence against victims and witnesses, according to interviewee.
Enforcing laws and norms	<ul style="list-style-type: none"> Low convictions of AUC members under the Justice and Peace Law and reduced or dismissed sentences for those convicted.¹⁹ Extradition to the United States on charges of drug trafficking and other criminal activities of demobilized paramilitary combatants — including top AUC leaders — who had applied for benefits under the Justice and Peace Law.²⁰ Preliminary examination and ongoing monitoring of the situation in Colombia by the International Criminal Court.²¹ Law guaranteeing access to justice for victims of sexual violence related to the armed conflict.²² Limited presence of State institutions (e.g., local authorities, police, etc.) in some remote areas.²³

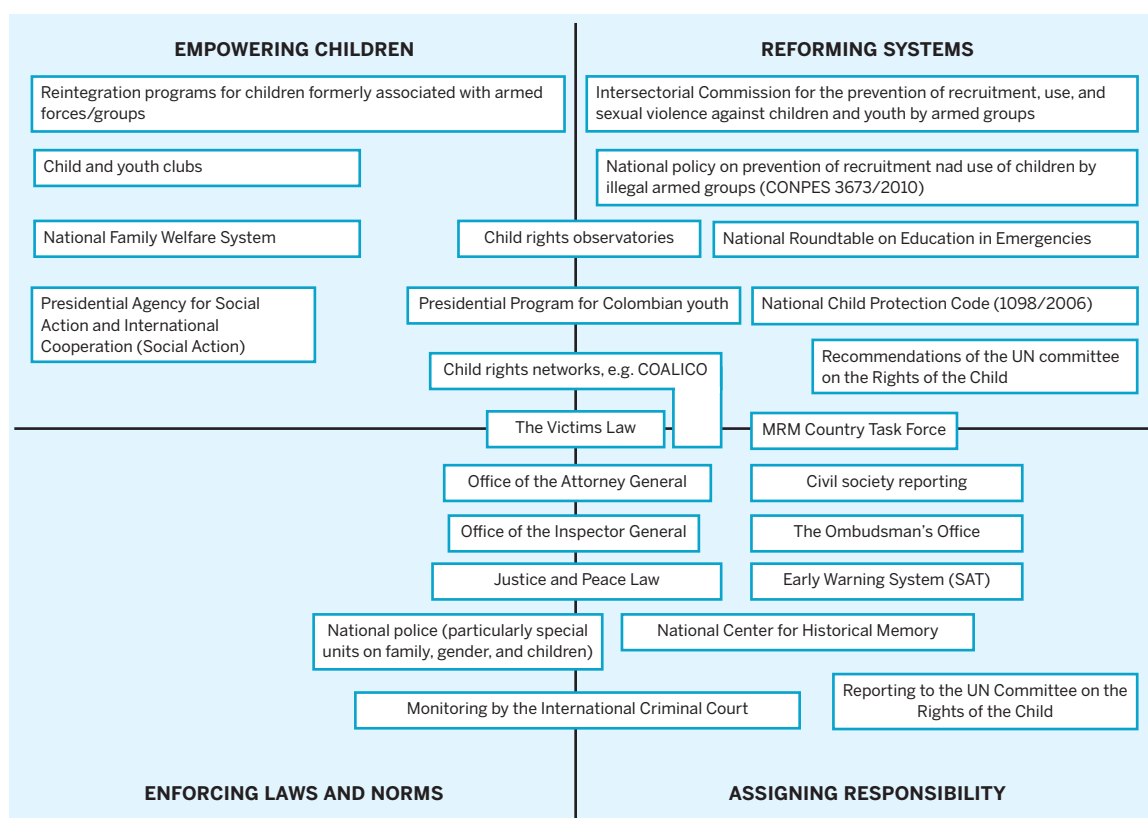
Reforming systems	<ul style="list-style-type: none"> • Ongoing peace negotiations between the government and FARC-EP. • The announcement by the FARC-EP about its decision to raise the recruitment age to 17 years.²⁴ • Large number of laws, institutions, policies, and systems created to address issues related to CAC violations and accountability (see Section 2.2.2 - Level of activity). • The government's prohibition of dialogue with non-State armed groups, which inhibits the ability of the MRM Task Force to negotiate action plans to address grave violations against children in armed conflict. • Limited resources and capacity of the State to implement the Victims and Land Restitution Law (1448/2011) ("Victims Law"), which grants administrative reparations to victims of the conflict.²⁵
Empowering children	<ul style="list-style-type: none"> • Humanitarian needs due to persistent armed conflict and drug-related violence in many parts of the country.²⁶ • Children and adolescents interviewed for this case example generally perceive accountability mechanisms as difficult to access and/or ineffective. They also describe varying quality of programs that facilitate child and youth participation in decision making. • Afro-Colombian and indigenous communities disproportionately affected by ongoing hostilities and violence.²⁷

2.2 CAC accountability mechanisms²⁸

There is an extensive range of national and international accountability mechanisms in Colombia. These include mechanisms that focus on all victims of armed conflict, as well those that specifically focus on children affected by armed conflict. Conducting a mapping exercise can help individuals or organizations working on CAC accountability and related fields identify and analyze relevant mechanisms.

Map 1 highlights a number of accountability mechanisms in Colombia identified by interviewees and categorizes them by the four components of CAC accountability. This map and the subsequent analysis are not intended to be comprehensive, but rather provide an illustration of how to identify and understand opportunities and challenges related to CAC accountability mechanisms operating in Colombia.

Map 1 : Sample Map of CAC accountability mechanisms in Colombia



2.2.1 Functionality of mechanisms

Example: Challenges of the MRM Task Force

While serious violations continue to be committed against children, the documentation of these cases remains a challenge for the MRM Task Force in Colombia.²⁹ Some interviewees attributed the lack of reported cases to the Task Force's limited representation in conflict-affected areas. For example, UNICEF, which has a mandate to follow up and respond to cases and also chairs the Task Force at the national level, has limited field presence due to resource and other constraints. Additionally, documentation, verification, and follow-up are hindered by high staff turnover rates within the Task Force. Finally, the government's prohibition of dialogue with non-State armed groups inhibits the ability of the MRM Task Force to negotiate action plans to address grave violations against children in armed conflict.

Interviewees explained that communities in areas where fighting is ongoing remain concerned about the potential risks associated with reporting cases, particularly given the high levels of threats, intimidation, and violence against victims and witnesses. Additionally, some interviewees noted that the lack of responses by State institutions and other agencies to reported violations likely dissuades communities from sharing information.

2.2.2 Level of activity

Example: High level of activity in reforming systems

The Government of Colombia has created various laws, policies, and institutions with mandates to prevent and redress serious violations against civilians, including children. Such advances have led to some positive outcomes, such as developing prevention programs and assigning responsibility. However, some interviewees noted that reforms tend to address problems in a fragmented manner, which can lead to inefficiencies, inconsistency, and incomplete implementation. For example, interviewees explained that the sheer number of mechanisms related to CAC accountability often leads to a sense of confusion among children and affected communities, as well as organizations working on these issues, as to which programs, laws, and systems are available and applicable.

In one attempt to address this issue, the State has worked to consolidate efforts and reduce fragmentation related to reparations for victims of armed conflict with the Victims Law. This law established a single regulatory framework for the provision of assistance, care, and reparations to all eligible victims of armed conflict, including children.³⁰ Among other measures, it created a committee to monitor the design and implementation of the law. The Monitoring Committee for Law 1448/2011 has issued annual reports since its establishment, which review progress toward meeting commitments, including financial procedures, diagnosis of the needs of the victims, and other aspects.³¹ The process under this law is set up to take into account the gender, age, type of violation suffered, and ethnicity (due to increased vulnerability) of eligible victims while determining reparations.³² While this type of reform indicates clear efforts toward increased efficiency and reduction of fragmentation, interviewees and others expressed concern about the financial ability of the State to meet its reparations goals, the level of trust and participation of victims in the system, and other aspects, such as attention to non-monetary aspects of reparations. This includes psychosocial support for children that would be tailored according to their age and needs.

2.2.3 Linkages among mechanisms

Example: Potential opportunities and risks related to “linkages”

With Decree 4690 in 2007, the government established the Intersectoral Commission for the prevention of recruitment and use of children by illegal armed groups. This Commission was responsible for coordinating actions by all State entities at both national and local levels related to preventing the illegal recruitment of children. For example, the Commission developed a policy to coordinate government strategies to prevent the recruitment and use of children (CONPES 3673/2010). With Decree 552 in 2012, the Commission expanded to also coordinate efforts related to prevention of sexual violence against girls, boys, and adolescents. It also extended the membership from nine to 22 governmental members, including the Ministry of Defense, and was renamed the Intersectoral Commission for the prevention of recruitment, use, and sexual violence against children by illegal armed groups.³³

In the years since its establishment, the Commission has developed strategies, projects, programs, agreements, emergency response working groups, and institutional action plans to prevent the recruitment and use of children and/or sexual violence against them. Some of the Commission's efforts have proven effective in mobilizing actors and enhancing collaboration on protection issues, especially prevention of recruitment. A 2013 evaluation by UNICEF highlights the benefits of important strategic alliances with various national entities, including the Colombian army and national police.³⁴

However, some interviewees indicated that the membership of the Ministry of Defense in the Commission may pose risks, citing several concerns. These include the implication of the armed forces in child rights violations, such as use of children for intelligence purposes; sporadic reports of occupation of schools by armed forces; and involvement of children in civic-military campaigns, which may put children and educational staff at increased risk.³⁵

2.3 Options for advancing CAC accountability³⁶

Drawing on analysis of the CAC accountability environment, individuals and organizations can identify emerging opportunities and challenges and develop a range of potential options toward advancing CAC accountability in Colombia. Table 2 presents some sample options, based in part on inputs from interviewees.

Table 2 : Examples of potential options

Points of Analysis	Sample Opportunity/Challenge	Examples of Potential Options for Various Actors
Influencing factors (See Section 2.1)	Government's categorization of all post-demobilization groups as criminal gangs	<ul style="list-style-type: none"> • [Actors involved in the peace process] use the ongoing peace process agenda to raise the issue and promote the treatment of children as victims regardless of the group with which they were affiliated. • [Judicial actors] work with child protection actors to develop alternatives to judicial proceedings for children separated from post-demobilization groups.³⁷ • [Government] ensure that all children are treated as victims and are eligible for State-run demobilization and reparations programs, regardless of the group with which they were affiliated.
Functionality of mechanisms (See Section 2.2.1)	Challenges of the MRM Task Force	<ul style="list-style-type: none"> • [Donors] support all members of the MRM Task Force to increase field presence for monitoring and reporting, as well as follow up on cases by local humanitarian teams, government authorities, and civil society organizations. • [MRM Task Force] evaluate strategies and procedures to address arising challenges, such as low reporting of violations to the Task Force. • [Various actors] develop indicators and monitoring and evaluation systems for measuring outcomes of CAC accountability mechanisms.
Level of activity (See Section 2.2.2)	High level of activity in reforming systems	<ul style="list-style-type: none"> • [Various actors] conduct comprehensive mapping of accountability mechanisms working at the international, national, and local levels on the context of Colombia (see section 2.2). • [Various actors] develop options to increase accessibility and strengthen outcomes of existing accountability mechanisms, including through increased coherence, coordination, and clarity.
Linkages among mechanisms (See Section 2.2.3)	Potential opportunities and risks related to linkages	<ul style="list-style-type: none"> • [The Intersectoral Commission] review the role of members to mitigate potential risks. • [Coordination mechanisms] continue and deepen the involvement of local organizations in the design of policies, programs, and mechanisms related to CAC accountability. • [Government] consider expanding coordinated government-wide efforts to address other violations, such as attacks on schools.

Having developed a set of potential options, it is useful to narrow down priority options based on practical and contextual considerations (e.g., feasibility, potential impact, anticipated risk, and other important factors) and develop a plan to ensure that the CAC accountability strategy is successfully implemented.³⁸

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Next steps

As these practical examples illustrate, relevant actors, such as national authorities, the UN, NGOs, and civil society, can adopt and use the *CAC Accountability Framework* to advance their efforts to prevent and remedy CAC violations in Colombia.

Overall, the *CAC Accountability Framework* enables individuals and organizations to:

- **draw attention to the urgent need** to achieve accountability for CAC violations and engage key decision makers toward that goal;
- **develop innovative approaches** to advance CAC accountability based on a comprehensive analysis of the context, existing and potential new mechanisms, and opportunities for linkages between accountability mechanisms;
- **make well informed decisions** to ensure the direction of limited resources toward accountability actions that are feasible, realistic, and likely to lead to high-impact results for children and their communities;
- **increase cooperation** among actors working at various levels and in fields related to CAC accountability (e.g., child protection, justice, peacebuilding, or related fields), such as facilitating joint analysis or planning;
- **conduct impact assessments of CAC accountability efforts** and identify areas for targeted technical, financial, or other support.

For additional guidance on designing and implementing strategic options to enhance CAC accountability, please visit the Children and Armed Conflict Accountability Resource Database www.cacaccountability.org or contact Conflict Dynamics International's CAC Accountability team directly info@cacaccountability.org.

End notes

- 1 Conflict Dynamics International, *Children in Armed Conflict Accountability Framework: A Framework for Advancing Accountability for Serious Violations against Children in Armed Conflict* (Cambridge: 2015).
- 2 The Colombia case example is based on desk research, key informant interviews, and focus group discussions conducted in 2014 in conjunction with Quilting for Change involving approximately 60 stakeholders in Bogota. The field research targeted actors in several sectors, including child protection, justice, and security. Interviewees included State actors, donors, the diplomatic community, international and local nongovernmental organizations (NGOs), and children affected by armed conflict.
- 3 The other three case studies are Democratic Republic of Congo, Nepal, and Uganda.
- 4 Related fields include human rights, transitional justice, rule of law, and security.
- 5 For more information, refer to *CAC Accountability Framework* Section 2 - Foundations of CAC accountability and Section 3 - Definition and structure of CAC accountability.
- 6 Reforms may relate to State and non-State institutions and/or policies.
- 7 For more information, refer to *CAC Accountability Framework* Section 4 - Guidance for developing strategic approaches to CAC accountability.
- 8 For background to the conflict and analysis of recent developments, see International Crisis Group (ICG), *The Day After Tomorrow: Colombia's FARC and the End of the Conflict*, Latin America Report no. 53 (Brussels: 2014).
- 9 For more information on the impact of the conflict on children in Colombia, see UN Security Council, *Report of the Secretary-General on Children and Armed Conflict, A/69/926-S/2015/409* (5 June 2015), paras. 217-225; Watchlist on Children and Armed Conflict, *No One to Trust: Children and Armed Conflict in Colombia* (New York: 2012).
- 10 Several groups have criticized the Justice and Peace Law for not offering sufficient incentives to bring out the truth and exposed flaws in its implementation, including limited participation of victims in the process. See Inter-American Commission on Human Rights (IACHR), "Report on the Implementation of the Justice and Peace Law: Initial Stages in the Demobilization of the AUC and First Judicial Proceedings," *Follow-Up on the Demobilization Process of the AUC in Colombia*, Digest of Published Documents (2004-2007), 2 October 2007, paras. 78-100; ICG, *Correcting Course: Victims and the Justice and Peace Law in Colombia*, Latin America Report no. 29 (Bogota/Brussels: 2008).
- 11 For further information on the demobilization process, see Human Rights Watch (HRW), *Paramilitaries' Heirs. The New Face of Violence in Colombia* (New York: 2010); International Center for Transitional Justice, *Transitional Justice and DDR: The Case of Colombia* (New York: 2009).
- 12 For further analysis on the Legal Framework for Peace, see Human Rights Watch, *World Report 2015. Events of 2014* (New York: 2015), pgs. 170-171; Felipe Gómez Isa, *Justice, truth and reparation in the Colombian peace process* (Norwegian Peacebuilding Resource Centre, Oslo: 2013).
- 13 UN Security Council, *Report of the Secretary-General on Children and Armed Conflict, A/69/926-S/2015/409* (5 June 2015), para. 225.
- 14 IACHR, *Truth, Justice, and Reparation: Fourth Report on the Human Rights Situation in Colombia*, OEA/Ser.L/V/II. Doc. 49/13 (Washington, DC: 2013), para. 113.

- 15 For more information, refer to *CAC Accountability Framework* Section 4.1.1 - Step 1: Examine influencing factors.
- 16 Watchlist on Children and Armed Conflict, *No One to Trust* (2012).
- 17 *Report of the Secretary-General, A/69/926-S/2015/409* (2015), para. 224.
- 18 The UN-led Monitoring and Reporting Mechanism (MRM) was established under UN Security Council Resolution 1612 (2005) to monitor and report on grave violations against children and armed conflict.
- 19 As of September 2014, 37 of the more than 30,000 paramilitaries who officially demobilized had been convicted of crimes under the Justice and Peace law, nine years after it was approved. See Human Rights Watch, *World Report 2015*. (2015), pgs. 168-169.
- 20 International Human Rights Law Clinic, University of California, Berkeley School of Law, "Truth Behind Bars: Colombian Paramilitary Leaders in U.S. Custody," February 2010.
- 21 International Criminal Court (ICC), *Report on Preliminary Examination Activities 2014* (The Hague: 2014).
- 22 See *Law 1719 of 2014* (on access to justice and other matters for victims of sexual violence and especially of sexual violence related to the armed conflict), Congress of Colombia, Diario Oficial No. 49.186, 18 June 2014.
- 23 Watchlist on Children and Armed Conflict, *No One to Trust* (2012), pgs. 36-37.
- 24 FARC-EP, "Announcement on minors in the conflict," press release, 15 February 2015, <http://farc-epeace.org/index.php/communiqués/communiqués-peace-delegation/item/666-announcement-on-minors-in-the-conflict.html> [accessed 31 August 2015]. It is important to note that the Optional Protocol on the involvement of children in armed conflict to the Convention on the Rights of the Child (ratified by Colombia in 2005) prohibits armed groups from recruiting children under the age of 18 and requires that States parties prevent such recruitment.
- 25 Amnesty International, *Colombia: The Victims and Land Restitution Law. An Amnesty International Analysis* (London: 2012).
- 26 UN Office for the Coordination of Humanitarian Affairs, "2015 Humanitarian Needs Overview: Colombia," October 2014 <https://www.humanitarianresponse.info/en/operations/colombia/document/humanitarian-needs-overview-colombia-2015> [accessed 31 August 2015].
- 27 *Report of the Secretary-General, A/69/926-S/2015/409* (2015), para. 218.
- 28 For more information, refer to *CAC Accountability Framework* Section 4.1.2 - Step 2: Examine CAC accountability mechanisms.
- 29 Watchlist on Children and Armed Conflict, *No One to Trust* (2012).
- 30 The Victims and Land Restitution Law defines a victim as any person who has suffered grave violations of human rights or international humanitarian law as a result of the conflict since 1985.
- 31 See The Comptroller General's Office of the Republic of Colombia, "Seguimiento Ley de Víctimas" <http://www.contraloria.gov.co/web/seguimiento-en-ti-empo-real/victimas-por-que> [accessed 3 September 2015].
- 32 See The Monitoring Committee for Law 1448/2011, *Primer Informe al Congreso de la Republica 2013-2014* (Bogota: 2014).
- 33 Vice-Presidency of the Republic of Colombia, "Comisión intersectorial para la prevención del reclutamiento, la utilización y la violencia sexual contra niños, niñas, y adolescentes por grupos organizados al margen de la ley y grupos delictivos organizados," <http://historico.vicepresidencia.gov.co/Iniciativas/Paginas/PrevencionReclutamiento.aspx> [accessed 8 April 2015].
- 34 UNICEF, *Evaluation of UNICEF Programmes to Protect Children in Emergencies: Colombia Country Case Study* (New York: 2013).
- 35 *Report of the Secretary-General, A/69/926-S/2015/409* (2015), paras. 222-223; Global Coalition to Protect Education from Attack (GCPEA), *Education under Attack 2014* (New York: 2014), p. 127.
- 36 For more information, refer to *CAC Accountability Framework* Section 4.2.1 - Step 3: Identify options.
- 37 For more information on alternatives to judicial proceedings, see Office of the Special Representative of the Secretary-General on Children and Armed Conflict, *Children and Justice During and in the Aftermath of Armed Conflict*, Working Paper No. 3 (New York: 2011).
- 38 For more information, refer to *CAC Accountability Framework* Section 4.2.2 - Step 4: Prioritize options.

Mission

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