

OLA

Note to Mr. LopesSecretary-General's in-depth study on all forms of violence against women

1. This is in reference to your Note of 13 October 2006 in which you request our advice with respect to a demarche made by the Permanent Representative of the Russian Federation to the United Nations concerning the reference to "Chechnya/Russian Federation" as being a situation of "armed conflict" in paragraph 145 of the Secretary-General's Report entitled: "In-depth study on all forms of violence against women" of 6 July 2006 (A/61/122/Add.1). In particular, you seek our advice as to whether a corrigendum should be issued along the lines of the corrigendum to the Secretary-General's Report on Children and Armed Conflict (S/2003/1053 Corr.2; A/58/546/Corr.2).
2. We recommend against issuing a corrigendum along the lines of the above-mentioned corrigendum. When this issue arose in 2003-2004, the Secretary-General was compelled to issue the said corrigendum in the particular circumstances. The Russian Federation insisted upon the corrigendum and rejected proposals to insert language to the effect that the Special Representative of the Secretary-General had used the term "armed conflict" in a broad and pragmatic manner, without making any legal determination as to the nature of any particular situation included in the report. The Office of Legal Affairs had strong reservations on issuing the corrigendum on the basis that it is not for the Secretary-General to determine the existence or otherwise of an armed conflict in any given case or the applicability of the Geneva Conventions and their Additional Protocols.
3. However, as the Secretary-General stated in 2004 that the situation in the Republic of Chechnya of the Russian Federation "is not an armed conflict within the meaning of the Geneva Conventions and the Additional Protocols thereto", it is our view that if the Russian Federation insists upon the issuance of a corrigendum in the present Report, such corrigendum should substitute old paragraph 145 with a new paragraph omitting a reference to "Chechnya/Russian Federation".
4. Finally, we recommend that in future all reports of the Secretary-General which refer to situations of armed conflict should be carefully reviewed to ensure that similar problems do not arise. The Office of Legal Affairs would be happy to review such reports and to suggest language as appropriate to address such issues. We note that in the recent Report of the Secretary-General on Children and Armed Conflict (A/61/529-S/2006/826), the following paragraph clarified the use of the term "armed conflict" within the Report:

"This report does not seek to make any legal determination as to whether situations included herein are or are not armed conflicts within the context of the Geneva Conventions and the Additional Protocols thereto, nor does it prejudice the legal status of any non-State parties which might be involved in these situations.

In the performance of her mandate, my Special Representative has adopted a pragmatic and cooperative approach to this issue, focusing on ensuring broad and effective protection for children exposed to situations of concern, rather than seeking to define "armed conflict" from a legal perspective".



Nicolas Michel
1 November 2006