



DEFENSA DE NIÑAS Y NIÑOS INTERNACIONAL DNI  
DEFENSE DES ENFANTS INTERNACIONAL DEI  
DEFENCE FOR CHILDREN INTERNATIONAL DCI

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# **46th session of the UN Committee on the Rights of the Child**

## **Information note on juvenile justice**

**Defence for Children International  
October 2007**

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Defence for Children International  
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## FOREWORD

The Committee on the Rights of the Child is the UN body responsible for monitoring the implementation, by States Parties, of the Convention on the Rights of the Child, as well as its two optional protocols, namely: the optional protocol on the involvement of children in armed conflict and the optional protocol on the sale of children, child prostitution and child pornography.

Every year, the Committee on the Rights of the Child holds three sessions in January, May-June and September.

The 46<sup>th</sup> session was held in Geneva from 17<sup>th</sup> September to 5<sup>th</sup> October 2007. During the three-week session, the Committee on the Rights of the Child reviewed the second periodic report on the implementation of the Convention on the Rights of the Child by Venezuela.

Under the optional protocol on the sale of children, child prostitution and child pornography, members of the Committee reviewed the reports of Spain, France and Bulgaria.

Under the optional protocol on the involvement of children in armed conflict, the Committee on the Rights of the Child considered the reports of Croatia, France, Bulgaria, Lithuania, Luxembourg, Qatar, Spain and the Arab Syrian Republic.

The International Secretariat of Defence for Children International attended the session of the Committee on the Rights of the Child in order to follow the presentation of the second periodic report of Venezuela and is happy to present the following information note on juvenile justice.

Geneva, October 2007



## INFORMATION NOTE

### **2<sup>nd</sup> periodic report of Venezuela during the 46<sup>th</sup> session of the UN Committee on the Rights of the Child**

#### **Summary of juvenile justice related issues**

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**Ratification of the UN Convention on the Rights of the Child by  
Venezuela: September 13<sup>th</sup>, 1990**

**Previous report presented in:** September 1998 (22<sup>nd</sup> session of the UN  
Committee on the Rights of the Child)

**Members of the CRC Committee present:** Ms. Lee (President), Ms. Aidoo, Mr. Al-Thani (temporarily replacing Ms. Al-Thani), Ms. Aluoch, Mr. Citarella, Mr. Filali, Ms. Herczog, Ms. Khattab, Mr. Kotrane, Mr. Krappmann, Ms. Ortiz, Mr. Parfitt, Mr. Pollar, Mr. Puras, Mr. Siddiqui, Ms. Smith, Ms. Vuckovic-Sahovic, Mr. Zermatten (Country Rapporteur).

#### **Composition of the delegation of Venezuela:**

Ms. Yadira Hidalgo (Head of delegation, Vice-Minister for Development and Social Protection, Ministry for Development and Social Protection), Mr. German Saltròn (State Officer for Human Rights), Mr. Gabriel Salazar Pineda (Ambassador and Permanent Representative at the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva), Mr. Juan Rafael Perdomo (Magistrate, President of the High Court of Justice), Ms. Gabriela Ramirez (Deputy, President of the Commission for Families, Women and Youth at the National Assembly), Ms. Luisa Rodriguez (President of the National Council for the Rights of Children and Adolescents), Ms. Rocio del Carmen Lora (Director for the integral protection of families, Public Ministry), Mr. Humberto Montiel (Coordinator of the National Identity Program, Ministry for Health), Ms.

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Aiskel Zurita (Lawyer, Agent. National Council for the Rights of Children and Adolescents), Mr. Larry Devoe (Legal Counselor. State Agency for Human Rights), Mr. Enzo Bitetto Gavilanes (First Secretary, Permanent Mission of the Bolivarian Republic of Venezuela in Geneva).

### **Areas of concern in previous concluding observations, on the question of juvenile justice:**

During its previous session (22<sup>nd</sup> session), the Committee had voiced its concern in relation to the overall situation of juvenile justice in Venezuela and in particular its compliance with the Convention on the Rights of the Child and other relevant international standards. Other issues had been raised by members of the Committee, especially the fact that deprivation of liberty was not considered as a measure of last resort, the placement of juvenile offenders in adult detention facilities and also insufficient efforts to rehabilitate and reintegrate minors. The Committee had called upon Venezuela to take all necessary measures to strengthen the juvenile justice system, taking into account the key principles of the Convention.

## **Juvenile Justice in Venezuela: Main issues**

### **Juvenile Justice Legislation**

The Organic Law for the Protection of Children and Adolescents (LOPNA in Spanish) was partly reformed to adapt this piece of legislation (adopted in October 1998) to the Constitution of the Bolivarian Republic of Venezuela. It is worth mentioning that the Constitution grants constitutional level to the Convention on the Rights of the Child and to the doctrine for integral protection (“Doctrina de la Protección Integral”).

According to the 2<sup>nd</sup> periodic report of Venezuela, the on-going reform of the Organic Law for the Protection of Children and Adolescents has adapted the legal proceedings to the new principles enshrined in the National Constitution in relation to the right to a due process and to a legal protection as well as to the new organization of the Justice System.

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Oral legal proceedings are provided for. These take place during hearings where the principles of universal access, free services, simplicity, rapidity, uniformity and non traditional means to solve conflicts prevail.

However, the alternative report of the non-governmental organization CECODAP (“Centro Comunitario de Aprendizaje por los Derechos de la Niñez y Adolescencia”) reveals that for children in conflict with the law, there are no public policies or concrete guidelines set by the National Council for the Rights of Children and Adolescents. The report also mentions that no relevant measure was taken within care institutions and closed centers for juvenile offenders to respect the principles of the Organic Law for the Protection of Children and Adolescents (LOPNA).

During the interactive dialogue with the members of the delegation of Venezuela, the Committee on the Rights of the Child welcomed the clear status given to juvenile offenders in legal proceedings, but noted however that the implementation of the juvenile justice system was not totally in compliance with the UN Convention and other relevant international standards. In particular, there is no clear evidence that a specialized justice is being offered to children and adolescents and that those children are separated from adults in prisons.

### **Minimum age of criminal responsibility**

According to the provisions of the Organic Law for the Protection of Children and Adolescents, the minimum age of criminal responsibility is set at 12 years. Criminal responsibility of adolescents applies to every person aged 12 to 18 who commits an offence, whether they reach the age of 18 during the proceeding or are 18 once they enter the process of accusation. The committee asked the state party what the maximum penalty was for a juvenile accused of a serious offence. In response, the legislation of Venezuela foresees that as of the age of 12, juveniles may be sentenced to a maximum of 5 years imprisonment in case of a serious offence.



### **Separation of juvenile offenders and adult inmates**

The second periodic report of the Bolivarian Republic of Venezuela states that no child or adolescent is imprisoned with adults. The Organic Law for the Protection of Children and Adolescents foresees that adolescents shall always be separated from adults when held in pre-trial detention or when they serve their sentence following their trial, and that no minor shall be sentenced as an adult.

However, the alternative report of CECODAP unveils that in detention centers, the obligation to separate adult inmates and juvenile offenders is not respected.

### **Abuses, torture and other degrading treatment and punishment**

According to the second periodic report of Venezuela, programs aimed at tackling violence against children have been set up and the information provided stipulates that such practices will be banned. However, corporal punishment is still legal and many children die in pre-trial detention according to CECODAP.

The Committee underscored the allegations concerning ill-treatment and abuses included in the alternative report, which prove that violence against children in closed or specialized institutions is taking place. Committee members called upon the State Party to improve its efforts to improve the living conditions in prisons.

### **Training of relevant professionals**

According to the second periodic report of Venezuela, teachers, professionals, health and education professionals, judges and magistrates work with and for children taking into account the spirit of the Organic Law for the Protection of Children and Adolescents. However, the measures being taken are not very clear.

The alternative report of CECODAP stipulates that the institutions responsible for the welfare of children lack specialized professionals and



thus many children are deprived of a proper diagnosis. Furthermore, the diagnosis made by technical teams lack information and do not reflect the needs of children. As a result, ill-treatment and abuses against these adolescents still prevail, in clear violation of the protection principles of the Convention.

## **Conclusion**

In its concluding observations and recommendations, the Committee noted that the second periodic report had not only been submitted late but it had not involved all the required parties. In addition, a few questions in relation to discrimination and data collection had been partly covered or omitted.

In its conclusions, the members of the Committee on the Rights of the Child called upon the members of the delegation of Venezuela to better incorporate the provisions of the UN Rules for the Protection of Juveniles Deprived of their Liberty and to ensure a separation between juvenile offenders and adult inmates in closed institutions.

Members of the Committee also called upon the State Party to take measures to guarantee that children and adolescents are not submitted to torture or any other degrading treatment or punishment and that measures be taken to held perpetrators accountable.

The Committee also encouraged Venezuela to adopt and implement new laws which would explicitly ban corporal punishment in all institutions, and to promote non violent methods taking into account the General Comment N° 10 of the Committee on the Rights of the Child.

The State Party was also asked to strengthen the cooperation between the National Institute for the Protection of Minors and NGOs and to provide for a systematic and adequate training and awareness raising on the rights of children to professionals working for and with children.



The committee also encouraged the State Party to continue to seek technical assistance from the Interagency Panel on juvenile justice, composed of UN agencies and NGOs.

Finally, the Committee on the Rights of the Child called upon Venezuela to present its third periodic report by April 2011.

**Sources:**

UN Committee on the Rights of the Child. Concluding observations and recommendations on the 2<sup>nd</sup> periodic report of Venezuela.

Second periodic report of Venezuela (State Report).

NGO Group CECODAP (Alternative Report).