

## STATE PARTY EXAMINATION OF VENEZUELA'S THIRD, FOURTH, AND FIFTH PERIODIC REPORTS

67<sup>TH</sup> SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD  
1-19 SEPTEMBER 2014

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*The Bolivarian Republic of Venezuela ratified the Convention on the Rights of the Child (CRC) on 13 September 1990. On the 1<sup>st</sup>-2<sup>nd</sup> September 2014, the Committee on the Rights of the Child (the Committee) examined the third, fourth, and fifth periodic reports of the Bolivarian Republic of Venezuela. It was last examined on the 28 September 2007. The State party has interpretive declarations to articles 21(b), 21(d), and 30 of the CRC.*

### Opening Comments

The delegation of Venezuela was led by Ms. Andreina Tarazón, Minister of People's Power for Women and Gender Equality. She was supported by a large delegation consisting of representatives of the Vice Minister of Interior Politics, Vice Minister of Education, and the Permanent Mission in Geneva.

Ms. Andreina Tarazón began by speaking of the Bolivarian Revolution which took place since the delegation was last in front of the Committee in 2007. She explained that Venezuela now has a Constitution in place which recognises the human rights of all people, and recognises children as rights holders. Ms. Tarazón highlighted that many new social programmes had been instituted in Venezuela since 2007. 62.5% of the State budget had been allocated for these social programmes, which address issues such as access to education (allotment of supplies, school feeding programme, and help with enrolment), right to cultural activities and play (musical programmes and instruments), and right to health (access to

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vaccinations, increased breastfeeding, and decreased mortality). Ms. Tarazón highlighted that in 2007 the child protection law (LOPNNA) had been reformed in compliance with the CRC.

The country task force, Mr. Jorge Cardona, Mr. Bernard Gastaud, Ms. Olga Khazova, Mr. Wanderlino Nogueira Neto and Ms. Renate Winter, welcomed the large delegation and congratulated Venezuela on improved legislation since its last review in 2007.

## **General Measures of Implementation**

### ***Dissemination and training***

The Committee asked what had been done in relation to dissemination and awareness raising of the CRC among children, families and authorities since the State's last review in 2007. The delegation responded that the government is constantly furthering strategies for wide scale publicity and training on children's rights. It added that the CRC was accessible online. The Committee asked if the CRC had become part of the curriculum in schools and how this was being achieved. The delegation remarked that current university training of teachers involved topics on children's rights and that the CRC was included in textbooks and laptops that were distributed for free to children in all areas.

### ***Legislation***

The Committee recommended the ratification of the Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure be included on the national agenda. The delegation took note of the recommendation and replied that ratification of the Protocol was still under evaluation in the State and that it will inform the Committee when it has reached a decision. The Committee noted that the national child protection law was amended in 2007 and again in August 2014 by the National Assembly. It inquired as to whether the State had assessed its implementation. It also asked as to why the National Action Plan for 2009 through 2013 had not been adopted, and what the situation of the new National Action Plan was. The delegation did not provide a response to these questions.

### ***Coordination***

The Committee noted that in 2012, responsibility for implantation of the CRC had changed between 5 different bodies, and asked which body was ensuring coordination of this. The delegation said that the National System for the Comprehensive Protection of Children and Adolescents that was established under Article 78 of the Constitution specified the responsible bodies. The President's office was the leading body, with the Autonomous Institute of the National Council for the Protection of Children's and Adolescents' Rights (Children's Institute) being the coordinating entity that acted as an umbrella for the implementation of programmes. Regional and local administrations were also involved, since the implementation was done as much as possible at the local level. The Committee expressed its concern for the discrepancies between national legislation and its implementation at a local level, and asked how the national government was ensuring consistency throughout various communities. The delegation replied that coordination took place through the vice-presidency and assured the Committee that the national government coordinated and provided unity on policy. The delegation added that there were a series of social missions that were part of the State and were allocated a part of the national budget. The Committee asked for further clarification as to if the missions were integrated into the national protection mechanism and how the missions worked together with the Children's

Institute and all national services for children. The delegation responded that different ministries were responsible for different aspects of rights (eg. The Ministry for Education was responsible for ensuring the right to education) with the missions providing follow up support. The delegation continued that there was direct coordination of the administration and ministries in protection programmes and centres for children.

### ***Budget***

The Committee asked which body was in charge of managing the budget and ensuring effective public spending. It also asked if there was any procedure or mechanism to monitor expenditures on children's rights and was concerned about the budget of the Children's Institute, which halved since 2012. It also asked if the government undertook any impact assessment on children's rights before adopting budgetary cuts. The delegation declared that for 2014, the national government made a 42% increase in budget for the Children's Institute. However, a cut in the Children's Institute's budget would not necessarily signify a lack of appropriate social investments. The delegation expressed its willingness to submit more information to the Committee regarding the budget of 2014.

The Committee expressed its concerns over the increase in poverty, despite the increase in social expenditure, and recommended that the State created indicators and conducted assessment studies in this area. The delegation highlighted the State's 2011 household census that provided information on increases/decreases in poverty by income. This showed a reduction in structural poverty, which it believed to be an outcome of the school food and family food programmes currently running in Venezuela.

The Committee also requested information on plans to combat corruption in public administration. The delegation expressed its belief that corruption was not a topic dealt with in the CRC, but nevertheless explained that there was a law to ensure transparent management of resources, as provided for in the Constitution.

### ***The role of civil society and non-governmental organizations***

The Committee regretted that there had been no improvement of cooperation between the State and civil society since 2007, and noted that civil society had not been invited to contribute to the State report. It asked how the government planned on cooperating with civil society, especially in relation to new legislations and policies (e.g. LOPNNA and the new National Action Plan). The delegation informed that the amendments to LOPNNA had not been adopted yet; it therefore could not give its views on the subject. It nevertheless welcomed the possibility to talk about the amendments at the next periodic review.

The Committee was concerned about civil society actors and NGOs not being allowed to freely express their views. It referred to demonstrations in February 2014 and regretted that some members of civil society, including youths, had been arrested and detained. The delegation responded that no children or adolescents had been deprived of liberty and that this false information was the result of manipulation by media. The delegation informed that the February demonstrations were violent actions driven by the political opposition, which aimed at paralysing the functioning of society. Given this context, the government had to arrest those responsible, including one adolescent who murdered a worker during the demonstrations.

### **Data collection**

Despite the Committee's previous recommendations, the national system of statistics (Sistema Único de Información Estadística de Niños, Niñas y Adolescentes, or SIENNA), had still not left the design stage. The Committee requested an explanation of the current standing and functioning of SIENNA. The delegation remarked that, with the help of UNICEF, it was receiving statistics from the SIENNA system.

### **Law Enforcement**

The Committee expressed concern on police actions that have been reported on in Venezuela. While there is a plan for Police Reform, the Comisión Nacional para la Reforma Policial (Conarepol), the Committee was interested in progress reports and statistics of changing police behaviour. The delegation explained that the *Movement for Peace and Life* Mission aimed at preventing and reducing the risk of violent conflict through educational centres. It informed that the movement reaches directly to youth affected by violence to try and enrol them in alternative activities. Furthermore, in 2006, law enforcement reform began to ensure respect for human rights. This reform involved a wide consultation of people throughout the State and the result was a national model for the law enforcement division which promoted a culture of peace as a primary objective.

The Committee also expressed concern about the length of the initial period of police custody and asked if the police officers who did not respect the law had been sanctioned. The delegation responded that it did not tolerate any action by law enforcement officials that was contrary to international human rights standards. It noted that there were isolated incidents investigated by competent authorities, including 13 officials who were currently in prison for human rights violations. The Committee suggested that an Ombudsman should be empowered to conduct independent investigations when such cases occur.

## **General Principles**

### **Best interest of the child**

The Committee commended the State party on the integration of the best interest of the child into domestic legislation, but asked if judges were trained accordingly and how it was applied. The delegation explained that the best interest of the child was integrated, but not defined, and was therefore interpreted on a case-by-case basis, as provided by Article 8 of LOPNNA. It cited some judgements of the Supreme Court which provided that the best interest of the child extends before birth and through childhood and that the child's personal safety and integrity should always be taken as a main concern.

### **Respect for views of the child/Right to Participation**

The delegation informed the Committee that children who reached 15 years of age could be elected to municipal councils according to Article 15 (3) of the Law of Community Council. However, the Committee asked if this was happening and if any adolescents had actually been elected. It also asked if and how the relevant personnel and officials involved in judicial proceedings respected the views of children. It also asked what sanctions would be imposed if these personnel were not taking children's voices into account. The State responded that the law provided that child participation should be appropriate to the age and maturity of the child and that judges were required to hear the child's views before reaching a decision. The delegation regretted that there had been cases which the Supreme Court determined to have

inappropriately used child participation. As a result, these decisions were invalidated. It stated that starting in January 2014, statistics were kept to assess the performance of each court. This would allow the State to track child participation in court. The delegation also informed that the Supreme Court had adopted *Guidelines for ensuring the right to the opinion of children and adolescents in judicial proceedings* which dealt with the organisation of hearings, addressing children, and recording of information. According to the guidelines, alternative methods could also be used by judges to obtain a child's opinion, such as drawings or games. There were 38 courts with a total of 172 judges throughout the country which provided special services for children, along with multidisciplinary teams that were present in each court. The delegation informed that in 2014, 15 judges would attend a training course in coordination with the United Nations Fund.

## **Civil Rights and Freedoms**

### ***Right to Identity and Birth registrations***

The Committee expressed concern for the lack of data available in regards to birth registration and asked for more information. The delegation responded that 99% of children born in hospital were registered at birth. The government was cooperating with the organisations *Mision Identidad* and *Yo Soy*, through modules located throughout the country, to provide birth certificates and identity documents to all citizens, without discrimination and with special assistance provided to persons with disabilities, children, native populations, and voters. The delegation reported that over 1 million 62 thousand children in Venezuela received their identity documentation.

### ***Corporal punishment***

The Committee congratulated the State party on the abolition of corporal punishment through legislation, and asked the delegation to provide more information on how the legislation was working in reality. The delegation did not respond.

### ***Child Abuse***

The Committee asked if there were helplines available to children. The delegation informed that various institutions responsible for children's rights had free phone lines available 24 hours a day which had the capacity to receive direct and immediate calls. The Children's Institute was also creating a new helpline.

### ***Right to Privacy***

The Committee highlighted that the CRC requires States to guarantee privacy of children and asked the delegation what measures had been taken to protect children in criminal and family affairs. The delegation did not respond.

### ***Sexual violence and abuse***

The Committee asked for more information on sexual violence against adolescents and if there were mechanisms in place to yield confidential information on sexual violence. The Committee noted the Action Plan on Sexual Abuse and Implementation, but requested information as to its effectiveness. The delegation acknowledged that there had been a limited number of cases of sexual abuse and violence, but that these cases were dealt with by the 335 municipal entities, which ensured immediate and grassroots protection. This action was supported by 1,250 child protection offices throughout the country that could directly receive

reports and complaints.

Additionally, the Committee asked about training procedures for professionals dealing with youth who have been sexually abused. Finally, the Committee asked whether the State had undergone awareness raising campaigns to prevent sexual exploitation. The delegation did not respond on these topics.

### ***Freedom of thought, conscience, and religion***

The Committee inquired if children participated in television programmes and expressed its concern on reports that national media institutions were not allowing child participation for fear of state appraisal. The delegation asserted that both television and radio promoted the image of children as rights holders. Some programmes were produced by children themselves. The delegation explained that the Constitution guaranteed freedom of expression, and Article 14 in particular referenced social responsibility in radio, television and electronic media. This required stations to disseminate a minimum of three hours per day of social, cultural or educational programmes. No station had been punished for the inclusion of youth in their programmes, however private communication companies had been penalised for disseminating information which was not age appropriate for children. The Committee also inquired what languages were available in media and if indigenous languages were represented.

### ***Age of Marriage***

The Committee asked for an update on the Supreme Court application to invalidate Article 46 of the civil code regarding legal marriage age (which was currently set at 14 for girls and 16 for boys), which was submitted by the Ombudsman in 2010. The delegation explained that the case was nearing a decision. The delegation stated that it was a jurisdictional matter and that it could not give an opinion on the subject.

## **Family Environment and Alternative Care**

### ***Institutions and family based care***

The delegation cited its National Programme for Family Inclusion that prioritised children being reunited with their families and led to a reduction in institutionalisation. It explained that there were 226 institutions which housed children in families. These institutions were checked quarterly by the *Instituto Autonomo Consejo Nacional de derechos de Niños, Niñas, y adolescentes* (Idena). The delegation said that institutionalisation was a measure of last resort and that priority of placement was with immediate or extended family members, with foster families or given for adoption. It focused on Idena's guarantee of programmes to assess the family environment in order to determine if family reunification is a possibility as well as the provision of mental health services.

The Committee commended the State party for incorporating the right of children not to be separated from their family except as an exceptional measure under LOPNNA. It asked on the particular functioning of this right, including the criteria for removal, duration children can be without parents, and the process of reunification. The Committee further asked if Idena was the body who cared for all of the children in this situation. The delegation declared that all children and adolescents were entitled to live in a family environment and not to be arbitrarily separated. Separation from the family was an exceptional measure of last resort that could not happen for reasons of poverty or social exclusion.

## **Adoption**

The Committee congratulated the State on having adopted the Hague Convention on Inter-Country Adoption but expressed its concern over delays in the adoption process as well as transparency for in-country adoption. The Committee asked for more detailed information on how adoption worked and who was supervising the process. The delegation explained that the adoption office within Idena is responsible of all administrative procedures related to adoption, while a national court evaluated the effectiveness of each individual placement after a trial period. The delegation reported that the number of adoptions had reduced significantly due to successful reunification with original family members, which improved from 317 cases in 2010 to 654 cases in the first half of 2014.

## **Children whose parents are deprived of liberty**

The Committee requested information on how many children were deprived of their parents due to imprisonment. It also inquired what was the situation of children in these instances, if children were entitled to visit their parents, and what measures were taken to ensure prison visits occur in a safe and adequate manner (e.g. children could not be searched). The delegation informed that children who wished to maintain contact with their detained parents must receive prior authorisation; visits must be appropriately organised and must take place in areas separate from general prison populations. Women detainees were able to receive their children every 15 days. The State said that there were 44 children who lived in prison with their mothers, and emphasised the fact that mothers with children were kept in separate areas. It informed that children may live with their detained mothers until up to 3 years of age, and received all services consistent with penitentiary regime and relevant organic law.

## **Basic Health and Welfare**

### ***HIV and AIDS***

The Committee asked for information as to whether the national strategy of 2012 was being correctly implemented to prevent HIV/AIDS through the allocation of human, technical and other resources. It requested disaggregated data on the situation of HIV/AIDS in the country regarding infected children and mother-child transmission. The State informed that 4,926 HIV/AIDS patients were receiving free treatment and the *Barrio Adentro* mission had created over 3020 centres. The Committee inquired if all HIV/AIDS positive mothers received appropriate treatment. The delegation did not respond.

### ***Children with disabilities***

The delegation informed that it had approximately 1,508,000 children with disabilities and that these children were cared for by a network of 95 units which focused on diagnostics, 14 of which were for children with cardiovascular impairments, and 9 of which focused on autism. The delegation highlighted the State's distribution of over 3,500 hearing aids free of charge.

### ***Health services***

The Committee pointed out the absence of information on public mental health policies regarding children and adolescents. It also noted a lack of inoculation services in the State. The delegation explained that expenditures for vaccinations had raised to 70 million dollars. The Committee requested information on the integration of the *Barrio Adentro* mission.

Specifically, it asked for information on medical equipment, staff, and child friendly services. The delegation outlined that training of medical professionals had taken place in coordination with UNICEF with the goal to standardise medical care. The delegation informed that in 2013, 325 professionals were certified in training on important issues.

### ***Breast Feeding***

The delegation informed about its Maternal Breastfeeding Programme which fostered a series of actions to improve nutrition in mothers and children. 8 special centres for preserving breast milk had been created.

### ***Child mortality***

The Committee stated that quality drinking water was not available in some areas of the country, which was causing infection and diarrhea. It also noted the high level of air pollution. The delegation recognised that diarrhea was an issue in certain areas but that there had been a decrease of cases. Access to drinking water had improved from 80% in 1990 to 92% in 2014. The delegation acknowledged that seasonal rain caused peaks of dengue, but the Ministry of Health had made efforts to provide information for this on its website.

### ***Sexual and Reproductive Health and Teenage Pregnancy***

The Committee was concerned about the high rate of adolescent pregnancy and noted a lack of disaggregated data. It asked for specific information on the results of the national plan on sexual and reproductive health. The delegation responded that the Ministry of Health instituted a Sexual and Reproductive Health Unit which aimed to raise awareness among adolescents, without any discrimination. 10 million condoms (both male and female) had been distributed thanks to international cooperation and implantation of intra-uterine devices had been encouraged among adolescent girls. The joint UNICEF and UN Population Fund Guide on Reproductive Health had been taught to over 16,000 doctors in various communities with 6,300 of those specifically trained in the last year. The Committee asked why there were 70 centres in 2005 to help teenage mothers and in 2014 there were only 23. It also asked what steps had been taken to educate children and adolescents on these issues. The delegation responded that there was educational programmes which included information on emergency contraception and surgical sterilisation as well as a web portal on the Ministry of Health's webpage which posted weekly reports and statistics. It said that services for pregnant adolescents had not been closed and added that there were 242 hospitals providing this kind of services.

## **Education, Leisure and Cultural Activities**

### ***Education***

The Committee requested that the State provide information as to what body defines what appropriate information was for children. The delegation clarified that the overall education framework and texts were first produced by the Ministry of Education. Additionally, the Committee asked how teachers were trained to deal with Internet/technology issues. It requested the State provide information on the standard of teaching and training level of teachers, as well as any plans in place to ensure effectiveness. The delegation responded that the Ministry had set up common criteria for the training of teachers where functional and cultural diversity was a priority.



### ***Education for children with disabilities***

The Committee acknowledged the State's good policies for children with disabilities and commended the State on having ratified the Convention on the Rights of Persons with Disabilities along with both of its Optional Protocols. However, it noted the lack of disaggregated data and reminded the delegation that in its 2007 recommendations it had requested information on the coordination with special education and training for teachers.

### ***Language acquisition***

The Committee asked the State to provide information on the status of taught minority language programmes in schools. The delegation explained that there was 1,400 intercultural bilingual schools, and that 80% of teachers spoke local indigenous languages. Additionally, it said that bilingual materials with indigenous languages had been available since 1999.

### ***School attendance***

The Committee expressed concern for the fact that 20% of children were excluded from access to education. The delegation reaffirmed its dedication to education and stated that the attendance in school had risen from 46% in 1998 to 77% in 2013. It outlined its goals to reach 100% attendance by 2019. The Committee also asked if there were plans in place to combat the high drop-out rates of teenage mothers.

### ***Leisure***

The Committee commended the State on their orchestra and choir programmes, but worried about options available to non-musical students. It stated that there were few spaces in communities for activities and games and asked for State plans to adapt existing structures. The delegation responded that it had established a National Recreation Plan which aimed to increase the opportunities for children in recreation to reach 4.5 million children. The orchestra and choir were just some of the options for cultural participation and there were theatre, drama, and sport activities available. It informed that activities were also fostered by community and private centres.

## **Special Protection Measures**

### ***Refugees and asylum seekers***

The Committee was concerned about the little information on the situation of refugees and asylum seeker children. It noted the Memorandum of Understanding between the government and UNICEF, but highlighted the delays in the issuance of documentation. It asked if there was a timeline for the decision making process. The delegation responded that over 1,500 children had been granted the status of refugee.

### ***Child labour***

The Committee noted the significant reduction in the percentage of child workers, but remarked that figures were still high. It requested information on existing control mechanisms of child labour. The delegation replied that there were stringent regulations on registering and authorising child labour and that municipal authorities were required to take into account, *inter alia*, the opinion of the child, the child's best interests, the right to education, and the right to health. Lawful labour was supervised by the Ministry of Labour.

### ***Juvenile justice***

The Committee expressed concern that the State report did not address juvenile justice issues. It asked for information regarding a pending new law and suggested the importance of ensuring that new crimes, such as terrorism, were legally defined. The delegation outlined that there were 32 detention centres for teenagers where their rights and safeguards were respected, such as the right to maintain contacts with their families. Furthermore, the delegation explained that LOPNNA ensured that detained youth must be brought before the court within 24 hours, under the oversight of public defenders and the offices of the children's and adolescents' ombudsman

### ***Native Populations***

The Committee noted that, in 2013, a new Mining Law was enacted without any consultation of the indigenous population. The delegation responded that the State recognised the right to indigenous communities and the lands they have traditionally occupied. It further informed of the existence of a National Commission for the Demarcation of Native Lands, which brought together all institutions working in this area. That there were over 87 land title documents issued to indigenous communities and over 9000 hectares had been allocated. The Committee commended the State on their plan for access to education for indigenous populations, but stated that there was a lack of data on how many children were included. It also requested information on the translation of health documents into indigenous languages.

### ***Street children***

The Committee noted a lack of information on street children. The State informed that street children fell under the competency of the Council for Protection of Children and Adolescents which placed the children in foster families until they could be reunified with their families.

## **Concluding Remarks**

The head of delegation, Ms. Andreina Tarazón regretted that many questions could not be answered and committed to send more information to the Committee as soon as possible. The head delegate thanked the Committee for its time in listening and welcomed the constructive dialogue. Additionally, she acknowledged that infant mortality and teenage pregnancy were ongoing issues that the government of Venezuela was taking efforts to combat with a humanist approach.

Mr. Jorge Cardona Llorens, the Coordinator of the Task Force, thanked the delegation for the constructive dialogue and for the additional information. He regretted the lack of sufficient time to cover all aspects of children's rights. He thanked the delegation for recognising the challenges that the Committee had shared and recommended the State party to move forward with increasing the marriage age.