



Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the report submitted by the Bolivarian Republic of Venezuela under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*

1. The Committee considered the initial report of the Bolivarian Republic of Venezuela (CRC/C/OPSC/VEN/1) at its 1905th meeting (see CRC/C/SR/1905), held on 2 September 2014, and adopted at the 1929th meeting, held on 19 September 2014, the concluding observations below.

I. Introduction

2. The Committee welcomes the submission of the initial report of the State party and its written replies to the list of issues (CRC/C/OPSC/VEN/Q/1/Add.1). The Committee expresses its appreciation for the high-level and multisectoral character of the delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the combined third to fifth periodic reports of the State party under the Convention (CRC/C/VEN/CO/3-5) and those on the initial report under the Optional Protocol on the involvement of children in armed conflict (CRC/C/OPAC/VEN/CO/1), adopted on 19 September 2014.¹

II. General observations

Positive aspects

4. The Committee welcomes the various measures taken by the State party in areas relevant to the implementation of the Optional Protocol, including the adoption of:

- (a) The Law against organized crime and terrorism, in 2012;

* Adopted by the Committee at its sixty-seventh session (1-19 September 2014).

¹ The term “children” encompasses anyone under the age of 18, including adolescents.



(b) The National Plan of Action against Sexual Abuse and Commercial Sexual Exploitation, in 2007.

5. The Committee also notes with appreciation the ratification by the State party of:

(a) International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, in October 2005;

(b) The United Nations Convention against Transnational Organized Crime, in May 2002;

(c) The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, in May 2002.

6. The Committee welcomes the progress achieved in the creation of institutions that facilitate the implementation of the Optional Protocol, including the Intersectoral Commission against Sexual Abuse and Exploitation in 2011.

III. Data

Data collection

7. The Committee welcomes the efforts made by the State party to design the System of Statistical Information on Children and Adolescents (SIENNA). It is, however, concerned that the slow progress made in establishing the system has hampered the collection and dissemination of data needed to assess the implementation of the Optional Protocol.

8. The Committee recommends that the State party expeditiously complete and implement its data collection system (SIENNA) on all the areas covered by the Optional Protocol, as recommended by the Committee in paragraph 20 of its concluding observations under the Convention. Data should also be collected on the number of prosecutions and convictions, and be disaggregated according to the nature of the offence. In this context, the Committee also recommends that the State party strengthen its technical cooperation with, among others, the United Nations Children's Fund (UNICEF) and regional mechanisms.

IV. General measures of implementation

Legislation

9. While welcoming the efforts made by the State party to integrate various provisions of the Optional Protocol into its legislation, the Committee is concerned that such efforts have focused almost exclusively on trafficking, prostitution and pornography. It is also concerned that the existing legislation does not address explicitly all offences covered under the Optional Protocol and that the definition of sale of children in legislation is not in conformity with the Optional Protocol. The Committee regrets that comprehensive legislation on preventing trafficking in persons and assisting child victims, which could be of relevance for the implementation of the Optional Protocol, is still pending adoption.

10. The Committee recommends that the State party take all measures necessary to incorporate fully the Optional Protocol into its domestic legal system. It also recommends that the State party amend the definition of sale of children in national legislation, which is similar to but not identical to trafficking in persons, in order to

adequately incorporate the provision on sale contained in the Optional Protocol. The Committee further recommends that the State party adopt expeditiously the draft comprehensive legislation on trafficking in person, which would be in accordance with international standards.

National plan of action

11. The Committee takes note of the various plans, policies and programmes implemented during the period under review to prevent the offences covered by the Optional Protocol and to protect the victims thereof. The Committee is nevertheless concerned that the State party has not yet adopted a national plan of action on children that includes, inter alia, all issues covered by the Optional Protocol.

12. **The Committee urges the State party to finalize the National Plan of Action for Children and Adolescents (2015-2019), addressing specifically all issues covered under the Optional Protocol, and to provide adequate human, financial and technical resources for its implementation. In doing so, the State party should pay special attention to the implementation of all provisions of the Optional Protocol, taking into account the Declaration and Agenda for Action and the Global Commitment adopted at the first, second and third World Congress against Commercial Sexual Exploitation of Children.**

Coordination and evaluation

13. The Committee is concerned at the lack of an adequate mechanism capable of coordinating, monitoring and evaluating the various institutions working on issues related to the rights covered by the Convention and Protocols thereto.

14. **With reference to paragraph 13 of its concluding observations under the Convention, the Committee urges the State party to designate a coordinating body capable of providing leadership and effective general oversight for the monitoring and evaluation of activities on child rights under the Convention and the Optional Protocols thereto at the cross-sectoral, national, state and local levels. The State party should ensure that the coordinating body is provided with the human, technical and financial resources necessary for its effective operation.**

Dissemination and awareness-raising

15. The Committee notes some initiatives taken by the State party to disseminate and raise awareness on the Optional Protocol. It regrets, however, the lack of a comprehensive strategy in place to harmonize those initiatives and to disseminate adequately the provisions of the Optional Protocol.

16. **The Committee recommends that the State party design a strategy to disseminate the Optional Protocol among all relevant professional groups, in particular law enforcement officials, border personnel, judges, prosecutors, representatives of the media, social workers and teachers, as well as children (in a child-friendly manner)-, their families and communities. The dissemination strategy should provide specifically for the inclusion of issues relating to the Optional Protocol in curricula at all levels of education. The strategy should also provide for the implementation of awareness-raising programmes on preventive measures, assistance programmes and reporting mechanisms on offences relating to the Optional Protocol.**

Training

17. The Committee acknowledges the various training initiatives, targeting a variety of stakeholders organized by the State party on the rights relating to the Optional Protocol. It

regrets, however, the lack of evaluation provided by the State party on the implementation of these training initiatives as well as the absence of a coordinated training strategy with clear goals and indicators.

18. **The Committee recommends that the State party develop a strategy to ensure that all relevant stakeholders working on children's rights relating to the Optional Protocol receive adequate training. The strategy should be provided with human, financial and technical resources that are adequate for its implementation, and should include the designation of a mechanism capable of monitoring, evaluating and improving the quality of training initiatives on a regular basis.**

Allocation of resources

19. The Committee regrets the lack of information provided by the State party with regard to the resources allocated to the implementation of the Optional Protocol during the period under review.

20. **The Committee recommends that the State party establish specific and clear budgetary allocations for the implementation of the Optional Protocol. The State party should earmark all human, technical and financial resources allocated to programmes designed to implement its provisions, in particular those relating to criminal investigations, legal assistance, compensation and the physical and psychological recovery of child victims of crimes relating to the Optional Protocol.**

V. Prevention of the sale of children, child prostitution and child pornography (art. 9, paras. 1 and 2)

Measures adopted to prevent offences prohibited under the Optional Protocol

21. The Committee notes the significant initiatives undertaken by the State party to reduce poverty and exclusion, which are some of the root causes leading to offences under the Optional Protocol. The Committee also notes the variety of training initiatives, awareness-raising activities and programmes aimed at preventing those offences, as well as the establishment of the Intersectoral Commission against Sexual Abuse and Exploitation in 2011. It is, however, concerned that:

(a) The State party has not made adequate efforts to properly identify and eliminate all root causes and risks, including the prevalence of discriminatory practices and attitudes, and violence, including gender-based violence, that have a negative impact on children;

(b) Children at risk have never been properly identified before prevention programmes have been designed;

(c) The State party has not presented any evaluation of the prevention programmes nor explained how they are articulated;

(d) Information on the composition of the Intersectoral Commission against Sexual Abuse and Exploitation, its functioning and results achieved to date is lacking.

22. **The Committee recommends that the State party:**

(a) **Conduct a comprehensive study that addresses the relevant root causes and risk factors of offences under the Optional Protocol, including poverty, discrimination, violence – including gender-based violence – and absence of parental care;**

- (b) Undertake an evaluation of the programmes conducted during the period under review to prevent offences under the Optional Protocol and, building on the lessons learned and on the comprehensive study addressing the root causes, design and implement a consolidated prevention strategy. The strategy should be provided with adequate human, financial and technical resources, including those necessary to support and assist children at risk of becoming victims under the Optional Protocol;
- (c) Increase efforts to eliminate discrimination on all grounds against children at risk and, in particular, organize educational programmes targeting relevant stakeholders in order to challenge discriminatory practices and stereotypical attitudes with regard to the role and responsibilities of women and girls in the family and in society;
- (d) Strengthen the Intersectoral Commission against Abuse and Sexual Exploitation of Children, monitor its functioning and evaluate its accomplishments;
- (e) Consider ratifying ILO Convention No. 189 (2011) concerning decent work for domestic workers.

Sale of children

23. The Committee is concerned about reports that indigenous children are involved in illegal gold mining, in slavery-like conditions, in the upper Orinoco and the Casiquiare and Guainia-Rio Negro basins, and that this may amount to sale of children. In that regard, it is particularly concerned that no case of sale of children has yet been registered by the State party. The Committee is also concerned about reports that those children are also victims of child prostitution and trafficking.

24. **The Committee strongly urges the State party to investigate expeditiously all cases involving children working in illegal gold mining, to prosecute alleged perpetrators of crimes covered by the Optional Protocol, to punish those convicted with penalties commensurate with the gravity of the crime, to provide rehabilitation and protect and to compensate child victims.**

Child sex tourism

25. The Committee is concerned about reports that girls are sexually exploited in some tourism centres of the State party. The Committee is particularly concerned that, while the State party has plans to promote tourism as one of the main pillars of its economy, it has not yet taken all measures necessary to protect children from violations of their rights arising from tourism activities.

26. **In the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, the Committee urges the State party:**

- (a) To undertake a comprehensive study on the scope of child sex tourism in the State party and to take all measures necessary to eliminate the phenomenon;
- (b) To examine and adapt its legislative framework (civil, criminal and administrative) to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the State party's territory, in particular in the tourism industry, regarding abuses of child and human rights;
- (c) To conduct advocacy with the tourism industry on the harmful effects of child sex tourism, widely disseminate the World Tourism Organization Global Code of Ethics for Tourism among travel agents and tourism agencies, and to encourage

these enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism;

(d) To establish monitoring mechanisms for the investigation and redress of such abuses, with a view to improving accountability, transparency and the prevention of violations of the Optional Protocol.

VI. Prohibition of the sale of children, child pornography and child prostitution and related matters (arts. 3; 4, paras. 2 and 3; 5; 6 and 7)

Existing criminal or penal laws and regulations

27. While noting that the legislation of the State party prohibits some of the offences covered by the Optional Protocol, the Committee is concerned that the criminal law of the State party does not explicitly prohibits all forms of "sale of children" and all aspects of child prostitution and child pornography covered by the Protocol.

28. The Committee recommends that the State party revise and bring its Criminal Code into full compliance with articles 2 and 3 of the Optional Protocol. In particular, the State party should ensure that all of the following offences are explicitly criminalized:

(a) The sale of children by offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation, transfer of organs of the child for profit, engagement of the child in forced labour or improperly inducing consent, as an intermediary, for the adoption of a child in violation of the applicable legal instrument on adoption;

(b) Offering, obtaining, procuring or providing a child for child prostitution;

(c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography;

(d) An attempt to commit any of these acts and complicity or participation in any of these acts;

(e) The production and dissemination of material advertising any of these acts.

Impunity

29. The Committee notes the information provided about the low number of cases of trafficking of children, child prostitution and child pornography identified by the State party. It is, however, concerned that, according to the report submitted by the State party, only three cases have been successfully prosecuted to date. It is also concerned about reports that child prostitution is especially widespread in territories bordering with a neighbouring State and at the lack of appropriate measures taken to prevent, investigate and punish perpetrators.

30. The Committee urges the State party:

(a) To enforce the legislation in place for the protection of children from all forms of offences covered under the Optional Protocol by actively identifying and investigating those cases and prosecuting and sanctioning all offenders with a view to strengthening the deterrent effect of existing legislation;

(b) To take all the measures necessary to increase the human, financial and technical resources of the police, prosecutors and judiciary so they have the capacity to investigate, prosecute and convict individuals involved in the offences under the Optional Protocol;

(c) To provide specific information on the investigation, prosecution and punishment of perpetrators of offences under the Optional Protocol in its next periodic report under the Convention, and to ensure that such information is easily and publicly accessible in the State party.

Liability of legal persons

31. While noting that the State party recognizes the liability of legal persons in the framework of the law against organized crime, the Committee is concerned that the liability of legal persons for all crimes under the Optional Protocol is not included in the law.

32. **The Committee recommends that the State party incorporate explicitly into law the liability of legal persons involved in any of the crimes under the Optional Protocol, with the establishment of legal sanctions commensurate with the seriousness of the crime committed.**

Extraterritorial jurisdiction

33. The Committee notes the legal recognition of extraterritorial jurisdiction for offences under the Optional Protocol when committed in the framework of the law against organized crime. It regrets, however, that extraterritorial jurisdiction is not recognized for all offences covered by the Optional Protocol.

34. **The Committee urges the State party to take the legislative measures necessary to introduce and establish extraterritorial jurisdiction for the prosecution of all offences referred to in article 3, paragraph 1 of the Optional Protocol when they are committed abroad by one of its nationals, by a person who has habitual residence in its territory or when the victim is one of its nationals, and to ensure that there is no requirement of double criminality for the prosecution of such offences.**

Extradition

35. The Committee notes that article 5 of the Optional Protocol may be used as a legal basis for extradition, in the absence of a bilateral or multilateral treaty of extradition. It is, however, concerned that dual criminality seems to be required in all cases of extradition.

36. **The Committee recommends that the State party take steps to ensure that a dual criminality requirement is not used in cases of extradition for crimes covered by the Optional Protocol.**

VII. Protection of the rights of child victims (arts. 8 and 9, paras. 3 and 4)

Measures taken to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

37. The Committee notes the legal and administrative measures taken to protect child victims of some of the offences prohibited under the Optional Protocol. While noting the existing plan of action and protocols on sexual abuse and exploitation, the Committee is concerned at the absence of protocols dealing with sale of children. It is also concerned

about the deficiency or lack of availability of services required to protect child victims properly.

38. **In the light of article 9, paragraph 3 of the Optional Protocol, the Committee recommends that the State party:**

(a) Evaluate the results achieved through the existing plan of action and protocols on sexual abuse and exploitation and, on the base of lessons learned, improve these instruments and ensure their adequate implementation;

(b) Strengthen all services, including forensic services, related to the protection of rights of children victims of offences covered by the Optional Protocol by providing regularly trained specialized staff, protocols, infrastructure and technical equipment as required;

(c) Establish specialized police services to deal with cases concerning children, ensure the adequate implementation of the Resolution on Standards of Police Behaviour of 2011, and adopt complementary standards of police behaviour to apply when children are victims, witnesses or perpetrators of crimes;

(d) Strengthen child-friendly mechanisms to register, monitor and address complaints relating to the offences covered by the Optional Protocol.

Recovery and reintegration of victims

39. The Committee notes the various programmes undertaken to assist children in vulnerable situations, including those implemented by missions. It is, however, concerned that the services provided are not fully adequate and do not sufficiently respond to the needs of child victims.

40. **The Committee recommends that the State party:**

(a) Take all the measures necessary to ensure that child victims of the offences covered under the Optional Protocol are provided with appropriate shelter and assistance for their full social reintegration and physical and psychological recovery;

(b) Seek technical assistance from UNICEF and civil society organizations for the implementation of these recommendations.

VIII. International assistance and cooperation (art. 10)

Multilateral, bilateral and regional agreements

41. In the light of article 10, paragraph 1, of the Optional Protocol, the Committee encourages the State party to continue to strengthen international cooperation through multilateral, regional and bilateral arrangements, in particular with neighbouring States, including by strengthening procedures and mechanisms to coordinate the implementation of such arrangements with a view to improving prevention, detection, investigation, prosecution and punishment of those responsible for any of the offences covered under the Optional Protocol.

42. The Committee encourages the State party to continue its cooperation with United Nations agencies and programmes, such as UNICEF, and with non-governmental organizations in developing and implementing measures aimed at the effective implementation of the Optional Protocol.

IX. Follow-up and dissemination

Follow-up

43. The Committee recommends that the State party take all appropriate measures to ensure full implementation of the present recommendations by, inter alia, transmitting them to the relevant government ministries, the Parliament, the judiciary and to national and local authorities, for appropriate consideration and further action.

Dissemination of concluding observations

44. The Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through (but not exclusively) the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

X. Next report

45. In accordance with article 12, paragraph 2 of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.
