



Convention on the Rights of the Child

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Committee on the Rights of the Child

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Item 4 of the provisional agenda

Consideration of reports of States parties

List of issues in relation to 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

Addendum

Replies of the Bolivarian Republic of Venezuela to the list of issues*

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* The present document was not edited before being sent to the United Nations translation services.

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1. **Please provide information on the functions of the National System for the Comprehensive Protection of Children and Adolescents with respect to the implementation of the Optional Protocol and on how it performs its coordination function among all the bodies responsible for implementing the Optional Protocol, in particular between the Autonomous Institute and National Council on the Rights of Children and Adolescents and the Ministry of People's Power for Internal Affairs, Justice and Peace.**
 1. The Constitution of the Bolivarian Republic of Venezuela mandates the establishment of a National System for the Comprehensive Protection of Children and Adolescents, under the authority of the national Government. Article 78 of the Constitution¹ provides for the creation of such a System in order to strengthen the State's responsibility for guaranteeing the rights of children and adolescents.
 2. The powers of the National System include establishing coordination among public bodies, social movements and civil society in order to create a far more efficient and effective network for addressing, protecting and safeguarding the human rights of children and adolescents.²
 3. The public bodies that make up the System are administrative and judicial, each with clearly defined powers.³ For instance, the Institute for the Protection of Children's and

¹ **Constitution of the Bolivarian Republic of Venezuela, article 78:** "Children and adolescents are full subjects of law and shall be protected by specialized legislation, bodies and courts, which shall respect, guarantee and implement the content of this Constitution, the law, the Convention on the Rights of the Child and any other relevant international treaties signed and ratified by the Republic. The State, families and society shall guarantee comprehensive protection as an absolute priority, taking their best interests into account in decisions and actions concerning them. The State shall promote their gradual incorporation into active citizenship and shall create a national system for the comprehensive protection of children and adolescents."

² **Child and Adolescent Protection Act, article 133. Governing authority:** "The Ministry responsible for the comprehensive protection of children and adolescents shall be the governing authority of the National System for the Comprehensive Protection of Children and Adolescents. It shall have the following powers: (a) to define the policies of the National System for the Comprehensive Protection of Children and Adolescents; (b) to adopt the National Plan for the Comprehensive Protection of Children and Adolescents; (c) to approve the mandatory and legally binding general guidelines of the National System for the Comprehensive Protection of Children and Adolescents submitted for its consideration by the National Council for the Rights of Children and Adolescents; (d) to monitor and evaluate policies, plans and programmes for the comprehensive protection of children and adolescents; (e) to review and propose amendments to the applicable laws in order to ensure the viability of the National System for the Comprehensive Protection of Children and Adolescents; (f) to establish and develop forms of interaction and joint coordination among public, private and community bodies to ensure the coherence of the System's policies and plans; (g) to ensure compliance with the mandate and obligations of the National System for the Comprehensive Protection of Children and Adolescents in matters within its jurisdiction, as well as those of its affiliated bodies and entities; (h) to exercise any oversight functions with regard to the administration and management of its affiliated bodies and entities; (i) to request administrative and financial information on its management from the National Council for the Rights of Children and Adolescents; (j) to draw up the implementing regulations for this Act; (k) to exercise such other powers as are established by law or by the national executive branch."

³ **Child and Adolescent Protection Act, article 119. Composition:** "The National System for the Comprehensive Protection of Children and Adolescents shall be composed of: (a) the Ministry responsible for the comprehensive protection of children and adolescents; (b) councils for children's and adolescents' rights; (c) child and adolescent protection courts and the Social Court Cassation of the Supreme Court of Justice; (d) the Public Prosecution Service; (e) the Ombudsman's Office; (f) the autonomous Public Defender's Office; (g) care institutions; (h) offices of the children's and adolescents' Ombudsman; (i) communal councils and other grass-roots organizations."

Adolescents' Rights (IDENNA) is responsible, *inter alia*, for guaranteeing the collective and other rights of children and adolescents and for providing technical support to members of the System.⁴

4. With regard to compliance with the Optional Protocol, one of the main coordination activities⁵ is the holding of meetings between the Public Prosecution Service, the body responsible for bringing the necessary actions to enforce the criminal responsibility of persons who engage in punishable acts against children and adolescents,⁶ and the National Office against Organized Crime and Financing of Terrorism of the Ministry of Internal Affairs, Justice and Peace, as stipulated in the Act against Organized Crime and Financing of Terrorism.

5. More specifically, the purpose of these coordination meetings is to ensure, through intersectoral meetings, that the Public Prosecution Service's Directorate for Comprehensive Family Protection⁷ and the National Office against Organized Crime work together to design and implement preventive activities against the sale of children, child prostitution and child pornography.

6. It should be explained that direct action, as soon as the presumed existence of the above crimes becomes known, may be taken only by the Public Prosecution Service, as the agency responsible for directing the investigation of the punishable acts in order to establish the full identity of the perpetrators and participants and for ordering and supervising the actions of police investigation bodies, in accordance with the procedure explained at length in paragraphs 114 to 122 of the initial report submitted by the

⁴ **Child and Adolescent Protection Act, article 134. National Council for Children's and Adolescents' Rights:** "The National Council for Children's and Adolescents' Rights is an autonomous institute with legal personality and its own funds, attached to the Ministry responsible for the comprehensive protection of children and adolescents, its aim being to guarantee the collective and other rights of children and adolescents. As the managing authority of the National System for the Comprehensive Protection of Children and Adolescents, it performs deliberative, financial oversight and advisory functions. Its decisions are administrative acts that exhaust the administrative channel. Its general administrative acts shall be disseminated in an official publication. The Council shall be based in the city of Caracas and shall have regional offices in the states. Its rules of procedure shall determine the powers of these offices."

⁵ Its other activities are those indicated in paragraphs 160 to 188 of the initial report submitted by the Venezuelan State in relation to the Optional Protocol on the sale of children, child prostitution and child pornography.

⁶ **Child and Adolescent Protection Act, article 170. Powers of the Public Prosecution Service:** "The Special Prosecutor for the Protection of Children and Adolescents shall have the following powers, in addition to those set forth in the Act on the Public Prosecution Service: (a) to bring the necessary actions to enforce the civil, administrative or disciplinary responsibility of persons or institutions that, by act or omission, violate or threaten individual, collective or general rights of children and adolescents; (b) to file judicial remedies of protection; (c) to bring the necessary actions to enforce the criminal responsibility of persons who commit punishable acts against children and adolescents; (d) to defend the interests of children and adolescents in judicial or administrative proceedings; (e) to bring actions for the withdrawal of parental authority, either automatically or at the request of a child aged 12 or over, the child's ascendant or other relatives up to the fourth degree in any line, the person responsible for the child's upbringing or the child and adolescent protection council; (f) to promote judicial and extrajudicial agreements to protect the interests of children and adolescents; (g) to perform such other powers as are laid down by law."

⁷ The Directorate's special prosecutors are those competent to investigate crimes such as child trafficking, child pornography and sexual abuse.

Venezuelan State relating to the Optional Protocol on the sale of children, child prostitution and child pornography.⁸

2. Please provide the Committee with information on the mechanisms used to identify children and adolescents who are particularly at risk from the offences described in the Optional Protocol, such as street children, indigenous children and children living in remote rural areas.

7. Articles 4 to 8 of the Child and Adolescent Protection Act establish the threefold responsibility of the State, the family and society for protecting and safeguarding the rights of children and adolescents in Venezuela. To this end, the State has developed of system of protection composed of institutions that oversee and address the issue at different levels.

8. Through the municipal protection councils, the local Ombudman's offices and the school Ombudsmen, the protection system is activated when complaints are received from the community, schools, families, teachers or members of the public that they are aware of a situation involving the sale of children, child prostitution or child pornography.

9. Complaints are sent to the municipal protection council and, if a crime is involved, referred to the country's special system for the administration of justice in matters relating to children, which has specialized criminal prosecution services for the protection of children and for handling cases of adults who have committed crimes against children and also special courts and public defender's offices for handling child protection cases.

3. Please provide information on any programmes which the State party is carrying out to raise awareness of and publicize the Optional Protocol, indicating, in particular, whether those programmes are conducted in a systematic way, the target groups and whether any evaluation has been undertaken.

10. The Venezuelan State, families and society have a duty to safeguard, as fundamental, inalienable and equal rights, the rights of children and adolescents to

⁸ **Code of Criminal Procedure, article 111:** "In criminal proceedings, the Public Prosecution Service shall be responsible for: 1. Directing the investigation of the punishable acts in order to establish the full identity of the perpetrators and participants. 2. Ordering and supervising the actions of police investigation bodies with regard to the acquisition and preservation of evidence for the prosecution. 3. Requesting highly skilled public or private bodies to carry out the necessary expert examinations and analyses to shed light on the acts under investigation, without prejudice to the activities of the criminal investigations police. 4. Formulating and, where appropriate, expanding the accusation and requesting the application of the corresponding penalties. 5. Ordering, by means of a substantiated decision, the archiving of the evidence gathered, when there is insufficient evidence to pursue the investigation. 6. Requesting the authorization of the overseeing judge to forgo criminal proceedings. 7. Requesting, where appropriate, dismissal of the case or acquittal of the accused. 8. Charging the perpetrator or of participant in the punishable act. 9. Proposing challenges against judicial officials. 10. Bringing civil proceedings in respect of the crime, where this Code and other laws of the Republic so provide. 11. Asking the competent court to take the relevant precautionary measures and measures of constraint. 12. Ordering that active and passive objects related directly to the commission of the crime be secured. 13. Acting in all those phases of the proceedings that, by law, require its presence. 14. Filing remedies against any decisions adopted in the cases in which it is involved. 15. Safeguarding the interests of the victim in the proceedings and representing the victim when this task is delegated to it or if the victim does not attend the trial. 16. Giving opinions on extradition proceedings. 17. Requesting and executing warrants, letters rogatory and requests for mutual assistance in criminal matters, in coordination with the Ministry responsible for foreign affairs. 18. Asking the competent court to declare the absence of an escapee or fugitive who is the subject of an arrest warrant and to order definitive measures for the disposition of property related to the punishable act and belonging either to the fugitive or to persons acting on his behalf. 19. Performing such other functions as are assigned to it by this Code and other laws."

protection, to an identity, to respect for their physical integrity, to specialized legal services, to health information, to protection against sexual abuse and commercial sexual exploitation, to a healthy, voluntary and risk-free sexuality, to education on sex and reproduction, to honour, reputation and self-image, to family life and privacy, to protection from pornographic materials and to receive truthful and age-appropriate information.

11. Under the new institutional framework, the Institute for the Protection of Children's and Adolescents' Rights (IDENNA) works within guidelines set by the governing authority to coordinate the dissemination of laws and protocols designed to promote child and adolescent rights in the country.

12. On its website, IDENNA posted a number of international legal instruments pertaining to children, adolescents, women and the family, including the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in order to disseminate this information among the bodies comprising the Protection System and, in particular, among the country's children and adolescents. The website is currently being revised and updated to include a number of new laws on the subject, adopted by the Venezuelan State through the National Assembly, that incorporate or expand on the provisions of both the Convention on the Rights of the Child and the Optional Protocol.

13. Under the technical cooperation agreement signed between the Inter-American Development Bank and IDENNA and implemented since 2011, strategies are being coordinated for the development of the Pregnancy Care for Girls and Adolescents Project, which provides for the drafting of prevention and care protocols that promote sound and responsible sexual and reproductive health.

14. One of the functions of the Ombudsman's Office is to promote human rights. Accordingly, it has taken various actions to disseminate the texts of the Convention and its Optional Protocols widely, through seminars at which agreement has been reached among the different sectors and institutions concerned. The Ombudsman's Office has also disseminated the concluding observations of the Committee on the Rights of the Child with a view to strengthening the relevant policies, plans and programmes.

4. Please provide information on the content and results of the implementation of the National Plan of Action against Sexual Abuse and Commercial Sexual Exploitation. Please also inform the Committee whether there is a general strategy to eliminate the sale of children, child prostitution and child pornography, and whether there are any regional or local plans that have been adopted in order to strengthen efforts to implement the Optional Protocol.

15. Further to the National Plan of Action against Sexual Abuse and Commercial Sexual Exploitation and the Inter-agency Plan for the Comprehensive Protection of Children and Adolescents against Violence, in February 2008 IDENNA launched a communication campaign aimed at preventing and tackling these crimes. The campaign, in which the Ministry for Participation and Social Protection, the Ministry of Communication and Information, the National Women's Institute (INAMUJER) and the United Nations Children's Fund (UNICEF) were actively involved and which was aimed at preventing violence against children, adolescents, women and families, tackled the issue of sexual abuse of children and adolescents. The campaign involved the distribution of leaflets, calendars, booklets, posters, badges and television spots.

16. More recently, the Venezuelan State, as part of its efforts to combat this problem, has been taking robust action through the National Office against Organized Crime and Financing of Terrorism of the Ministry of Internal Affairs, Justice and Peace. The Office is the lead body for efforts to combat pornography, as stipulated in the Act against Organized

Crime and Financing of Terrorism,⁹ which defines and punishes this crime in chapter IV “Crimes against Persons”.¹⁰

17. Articles 46, 48 and 49 of the Act also define and punish crimes that exploit the pornography industry or lure children and adolescents into pornographic activities, establishing penalties of 25 to 30 years’ imprisonment.¹¹

18. The National Office has undertaken a number of studies and evaluations in this connection, in coordination with the Directorate of Crime Prevention, with a view to drafting a joint decision on monitoring the entry and sale of explicitly pornographic material. The draft is currently being analysed and studied with a view to its possible adoption, following evaluation by the President, and publication in 2014.

19. At the same time, the Scientific, Criminal and Forensic Investigation Unit (CICPC), through its Cybercrime Division and in coordination with the National Office against Organized Crime and Financing of Terrorism, holds regular discussion days in public and private educational institutions aimed at children and adolescents, the main topic of which is the prevention of child pornography. The main aim is to create a culture of safety on social networks so that children do not become victims of this cybercrime. The Division, as the competent body in this area, also works with international police organizations to combat this crime. It should be mentioned that the Venezuelan State has managed to keep the commission of this crime to a minimum.

⁹ Published in Official Gazette No. 39.912 of 30 April 2012.

¹⁰ **Act against Organized Crime and Financing of Terrorism, article 41:** “Anyone who, as a member of an organized criminal group, promotes or encourages the accommodation or reception of persons, resorts to threats, force, coercion, kidnapping, deception, abuse of authority or situations of vulnerability or the granting, receipt or other fraudulent means of payments or benefits in order to get to know the victim either directly or through an intermediary or a person in a relationship of authority over the victim in order to force the victim into begging, forced labour or services, debt bondage, irregular adoption, slavery or related practices, the extraction of organs, any kind of sexual exploitation, such as the prostitution of others or forced prostitution, pornography, sex tourism or servile marriage, even with the victim’s consent, shall be liable to 20 to 25 years’ imprisonment and the payment of compensation for the costs of the victim’s recovery and social reintegration. If the victim is a child or adolescent, the penalty shall be 25 to 30 years’ imprisonment.”

¹¹ **Act against Organized Crime and Financing of Terrorism, article 46. Pornography:** “Anyone who, as a member of an organized criminal group, exploits the pornography industry or trade to reproduce obscene or indecent material for dissemination to the general public shall be liable to 10 to 15 years’ imprisonment. If the pornography is produced with or for children or adolescents, the penalty shall be 25 to 30 years’ imprisonment.”

“Article 47. Dissemination of pornographic material. Anyone who, as a member of an organized criminal group, sells, disseminates or exhibits pornographic material by any direct or indirect means to children or adolescents shall be liable to 25 to 30 years’ imprisonment.

“Article 48. Use of children or adolescents in pornography. Anyone who, as a member of an organized criminal group, uses children or adolescents, or their image, for exhibitionistic or pornographic purposes or shows, whether private or public, or to produce any kind of pornographic material in whatever medium, or who finances any of these activities, shall be liable to 25 to 30 years’ imprisonment.

“Article 49. Anyone who, as a member of an organized criminal group, produces, sells, distributes or exhibits pornographic material or facilitates its production, sale, dissemination or exhibition by any medium where children or adolescents were used to make it, even if the material came from abroad or its origin is unknown, shall be liable to 20 to 25 years’ imprisonment.”

5. **Please provide information on the measures taken by the State party to ensure that those responsible for the administration of justice (lawyers, attorneys, prosecutors and judges), the Councils for the Protection of Children and Adolescents and all the other public authorities working in the various areas covered by the Optional Protocol, including those involved in efforts to combat the offences covered by the Protocol and to ensure the rehabilitation and reintegration of child victims, are familiar with and understand the contents of the Optional Protocol.**

20. The National System for the Comprehensive Protection of Children and Adolescents currently consists of: the Ministry for Communes and the Institute for the Protection of Children's and Adolescents' Rights (IDENNA), as managing authority, municipal councils for children's and adolescents' rights, child and adolescent protection councils, child and adolescent protection courts and the Social Court of Cassation of the Supreme Court of Justice, the Public Prosecution Service, the Ombudsman's Office, the autonomous Public Defender's Service, care institutions, offices of the children's and adolescents' Ombudsman, communal councils and other grass-roots organizations.

21. As a State party to the Optional Protocol, the Bolivarian Republic of Venezuela is required to take steps to provide specialized training for those who have to deal with the crimes prohibited by the Protocol. The Public Prosecution Service fulfils this requirement, in that it has prosecutors specialized in ordinary crime (limited to crimes committed by adults against children and adolescents), juvenile crime (cases where the perpetrator is an adolescent) and violence against women (especially cases where a girl or adolescent woman is a victim of gender crimes committed by a male adult). These prosecutors pursue specialized, in-service training in the legal, human and psychological aspects of such crimes, receiving comprehensive training through the Prosecution Service's National Prosecutors' School.

22. Similarly, in 2010 the Social Court of Cassation of the Supreme Court of Justice requested the National Magistrates' School, through the Teaching Directorate, to design an assessment methodology comprising: an introductory talk by facilitators, guided discussions, assignment of individual cases, analysis of case law, discussion of real cases, forums and simulated hearings. The overall aim of this training was to teach judges about the procedural reform of the Child and Adolescent Protection Act, so that they are able to perform their functions according to uniform criteria and contents based on the Constitution, the Convention on the Rights of the Child and the doctrine of comprehensive protection.

23. The Ombudsman's Office has also done important outreach work with the competent authorities by formulating policies, plans and programmes designed to protect the physical integrity of children and adolescents, emphasizing such issues as abuse and sexual exploitation. This work has involved holding a number of meetings with national and international bodies, more specifically UNICEF, with working groups making recommendations for pooling efforts to establish guidelines for the protection of children's and adolescents' rights.

6. **Please explain to the Committee whether the sale of children is classified as a separate offence under criminal law and whether, as provided for in article 3, paragraph 1 (a), of the Optional Protocol, the following are classified as cases involving the sale of children: sexual exploitation of the child; transfer of organs of the child for profit; engagement of the child in forced labour; and illegal adoption.**

24. Venezuelan law, through articles 253 to 275 of chapter IX: Violations of due protection, of the Child and Adolescent Protection Act, imposes criminal penalties for the crimes of forced child labour in contraindicated activities, accepting or profiting from child labour, sexual exploitation, sexual abuse, supply of weapons, ammunition and explosives,

supply of harmful substances, use of children to commit crimes, inclusion of children in criminal groups, trafficking of children and adolescents and profiting from the handover of children or adolescents.¹²

¹² **Child and Adolescent Protection Act, article 258:** “Anyone who promotes, directs or profits from the sexual activity of a child or adolescent shall be liable to five to eight years’ imprisonment. If the perpetrator has authority over the child or adolescent or is responsible for his or her upbringing or care, the penalty shall be six to 10 years’ imprisonment. If the victim or victims are girls or adolescent women or if victims of both sexes are involved in the case, the special courts provided for in the Act on Women’s Right to a Life Free from Violence shall hear the case, according to the procedure laid down in that Act.”

“Article 259. Anyone who performs or participates in sexual acts with a child shall be liable to two to six years’ imprisonment. If the sexual act involves genital or anal penetration by a sex organ, hand or object, or oral penetration, even with instruments simulating sexual objects, the penalty shall be 15 to 20 years’ imprisonment.

If the perpetrator has authority over the victim or is responsible for his or her upbringing or care, the penalty shall be increased by a quarter to a third.

If the perpetrator is an adult male and the victim is a girl, or if victims of both sexes are involved, the special courts provided for in the Act on Women’s Right to a Life Free from Violence shall hear the case, according to the procedure laid down in that Act.

“Article 260. Anyone who performs or participates in sexual acts with an adolescent against his or her shall be punished in accordance with the preceding article.

“Article 261. Anyone who sells, supplies or hands over weapons, ammunition or explosives to a child or adolescent shall be liable to one to five years’ imprisonment.

In such cases, depending on the seriousness of the offence, the temporary or permanent closure of the establishment may also be imposed.

“Article 262. Anyone who sells, supplies or hands over fireworks to an adolescent shall be liable to three months’ to one year’s imprisonment.

If fireworks are sold, supplied or handed over to a child, the penalty shall be six months’ to two years’ imprisonment. In such cases, depending on the seriousness of the offence, the establishment may also be closed for up to 10 years.

“Article 263. Anyone who sells, supplies or hands over unlawfully to a child or adolescent products whose components may cause physical or psychological dependence shall be liable to six months’ to two years’ imprisonment, unless the action constitutes a more serious crime.

If the crime was unintentional, the penalty shall be halved. In such cases, depending on the seriousness of the offence, the temporary or permanent closure of the establishment may also be imposed.

“Article 264. Anyone who, at another’s instigation, commits a crime against a child or adolescent shall be liable to one to three years’ imprisonment.

The instigator of the crime shall be liable to the penalty imposed for the crime, increased by a quarter.

“Article 265. Anyone who promotes, directs, participates in or profits from associations set up to commit crimes and of which a child or adolescent is a member, or anyone who recruits children or adolescents for this purpose, shall be liable to two to six years’ imprisonment.

If the perpetrator has authority over the child or adolescent or is responsible for his or her upbringing or care, the penalty shall be four to eight years’ imprisonment.

“Article 266. Anyone who promotes, facilitates or carries out acts intended to bring a child or adolescent into the country or to remove him or her from it, without observing the legal formalities, in order to obtain an unlawful benefit or illicit profit for himself or herself or a third party shall be liable to 10 to 15 years’ imprisonment.

If the victim or victims are girls or adolescent women or victims of both sexes are involved, the special courts provided for in the Act on Women’s Right to Life Free from Violence shall hear the case, according to the procedure laid down in that Act.

“Article 267. Anyone who promises or hands over to a third party, in return for payment or a reward, a son, a daughter, a ward or a child or adolescent for whose upbringing he or she is responsible shall be liable to two to six years’ imprisonment.

Anyone who offers or provides such payment or reward shall be liable to the same penalty.”

25. In this connection, it is important to mention that “sale”, understood in Venezuelan law as “profit” from the handover of children and adolescents and sexual exploitation, is defined as an unlawful activity, in which an adult sees a child or adolescent as an object or product that can be marketed to satisfy his, her or another person’s economic or sexual interests, taking advantage of the child’s or adolescent’s vulnerability.

26. It can be inferred that forced labour is any work or service that is carried out against a person’s will and under threat of punishment. Examples would be intensive labour in jobs such as construction, farming, fishing, domestic employment, mining and prostitution. Child labour refers to any work done by children and adolescents under the age of 18 that is mentally, physically, socially and morally dangerous or prejudicial to their all-round development.

27. It should also be mentioned that articles 46, 47 and 56 of the Act on Women’s Right to a Life Free from Violence¹³ define the crimes of forced prostitution, sexual slavery, forced labour and trafficking of women, girls and adolescent women.¹⁴

28. With regard to the trafficking or transfer of children’s organs for profit, it is important to mention that Venezuela has two laws governing the issue, one of which seeks to encourage organ donation as a means of helping reverse the illegal organ trade and the other aimed at punishing human organ traffickers.

29. In this connection, the Act against Organized Crime and Financing of Terrorism shows that the Venezuelan State is aware that organized crime is a global phenomenon that transcends national borders and exceeds the limits of conventional criminal law. The Act’s purpose, therefore, is to combat transnational crimes.¹⁵

“Article 255. Anyone who forces a child or adolescent to work under threat shall be liable to one to three years’ imprisonment.

“Article 256. Anyone who accepts a child or adolescent to work in activities contraindicated as a result of a comprehensive medical examination shall be liable to six months’ to two years’ imprisonment. Anyone who profits from such work shall be liable to the same penalty.

“Article 257. Anyone who accepts or profits from the work of a child aged eight years or under shall be liable to one to three years’ imprisonment.”

¹³ Published in Official Gazette No. 38.770 of 17 September 2007.

¹⁴ Act on Women’s Right to a Life Free from Violence. Forced prostitution. “Article 46. Anyone who, through the use of physical force, the threat of violence, psychological coercion or abuse of authority, forces a woman to perform one or more sexual acts in exchange for monetary or other advantages, for his or her own benefit or that of a third party, shall be liable to 10 to 15 years’ imprisonment.”

Sexual slavery. “Article 47. Anyone who unlawfully deprives a woman of her liberty in order to exploit her sexually, through purchase, sale, loan, exchange or other similar negotiation, forcing her to perform one or more sexual acts, shall be liable to 15 to 20 years’ imprisonment.”

Trafficking of women, girls and adolescent women. “Article 56. Anyone who promotes, encourages, facilitates or engages in the capture, transport, accommodation or reception of women, girls or adolescent women, through violence, threats, deception, kidnapping, coercion or other fraudulent means, for the purposes of sexual exploitation, prostitution, forced labour, slavery, illegal adoption or organ extraction, shall be liable to 15 to 20 years’ imprisonment.”

¹⁵ Act against Organized Crime and Financing of Terrorism. Unlawful genetic manipulation.

“Article 40. Anyone who, as a member of an organized criminal group, manipulates human genes shall be liable to six to 10 years’ imprisonment. If he or she fertilizes human eggs for purposes other than procreation or treatment, or engages in cloning or other procedures aimed at genetic modification, he or she shall be liable to eight to 10 years’ imprisonment.

If he or she uses genetic engineering to produce biological weapons or weapons designed to exterminate the human species, he or she shall be liable to 25 to 30 years’ imprisonment.”

“Article 43. Anyone who traffics, transplants or illegally disposes of organs, blood, blood concentrates, platelet concentrates, plasma or other tissues derived from or anatomical materials coming from a human being shall be liable to 25 to 30 years’ imprisonment.”

30. Article 10 of the Act on Donations and Transplants of Organs, Tissues and Cells in Human Beings¹⁶ establishes the prohibition on trafficking, transplanting or illegally disposing of human organs in exchange for any kind of remuneration or for commercial purposes. Because the Act is designed to encourage donations, one of its main purposes was to stipulate that organ donation is a personal, voluntary act in which the person either informs relatives of his or her decision while still alive or leaves a document authorizing the removal of organs, tissues or cells. Such organs can be used only for therapeutic purposes in establishments and health centres authorized by the Ministry of Health.¹⁷ It can be inferred from that article that organs, tissues and cells may only be donated free of charge.

7. Please provide recent statistics (disaggregated by sex, age, ethnic and rural or urban origin) on:

(a) The number of cases of the sale of children, child prostitution or child pornography and information on the action taken in those cases, particularly with regard to the trial and punishment of those involved;

(b) The number of cases of trafficking in children for purposes of sale, prostitution or pornography, as defined in article 3, paragraph 1 of the Optional Protocol;

(c) The number of children who have received assistance for their physical and mental rehabilitation, social reintegration or payment of compensation for the damages suffered, in accordance with the provisions of article 9, paragraphs 3 and 4, of the Optional Protocol.

31. Although the incidence of people trafficking is not particularly great or prevalent in the Bolivarian Republic of Venezuela, the Directorate of Crime Prevention of the Ministry of Internal Affairs, Justice and Peace, with UNICEF support, looked into risk factors and the ways in which victims are captured in an analytical report on trafficking in persons produced in 2011 with the intention of eradicating this problem completely. The report showed that victims have a distinct profile, that of socioeconomically disadvantaged women from working class districts and border areas.

32. According to information available to the official bodies that receive complaints of human trafficking and provide care for its victims, attached to the CICPC National Division to Combat Violence against Women and the Family, the CICPC Directorate for Ordinary Crimes and Organized Crime, the Directorate of Women's Protection of the Public Prosecution Service, the National Office against Organized Crime and Financing of Terrorism, the National Central Office of INTERPOL in Caracas and the National Women's Institute, the incidence of trafficking in persons is low in the Bolivarian Republic of Venezuela. On the rare occasions that it does occur, however, it poses a threat to State policies and strategies aimed at halting organized crime, to compliance with the provisions of national and international legal instruments and to the human rights of Venezuelans.

33. As part of its efforts to eradicate trafficking in persons, the Government submitted to the National Assembly a preliminary bill on the prevention and punishment of the crime of trafficking in persons and on comprehensive assistance to victims. This bill is currently in first reading.

¹⁶ Published in Official Gazette No. 39.808 of 25 November 2011.

¹⁷ Act on Donations and Transplants of Organs, Tissues and Cells in Human Beings. Article 10: "Any commercial transaction, monetary compensation or direct or indirect material recompense for organs, tissues and cells to be used for therapeutic, research or teaching purposes shall be prohibited."

34. The Venezuelan State is using its legal framework to guarantee and protect people's rights against this kind of crime. Accordingly, article 54 of the Constitution establishes that no one may be subjected to slavery or servitude and that trafficking in persons, particularly women, children and adolescents, in all its forms shall be subject to the penalties laid down by law.

35. The Government set up as lead agency the National Office against Organized Crime and Financing of Terrorism attached to the Vice-Ministry for the Integrated Criminal Investigation System of the Ministry of Internal Affairs, Justice and Peace. The Office's functions are to design, plan, structure, formulate and execute public policies and strategies against trafficking in persons, as well as to organize, monitor and supervise at national level all activities related to the prevention and suppression of this crime.

36. Although the National Plan of Action to Prevent, Suppress and Punish Trafficking in Persons is currently being reviewed by the competent bodies, the Government, as the guarantor of human rights, protects victims of trafficking through the promotion of policies implemented by the Ministry of Internal Affairs.

37. At another level, the Venezuelan State created the *A Toda Vida Venezuela* mission with the key aim of reducing the occurrence of crime-related situations, which weakens or poses a threat or risk to the population's enjoyment of their rights, by transforming structural conditions and crime prevention and ensuring penalties in accordance with the law.

38. The Directorate of Crime Prevention has also directed its plans, programmes and projects towards creating the necessary institutional conditions for the establishment of a national, state, municipal and parish structure made up of the bodies responsible for the prevention and control of the crime of human trafficking. Such a structure would ensure a comprehensive approach to guaranteeing that the affected population are able to enjoy and exercise their rights. To this end, the Directorate has trained 50,630 persons in prevention of the crime of trafficking in persons and comprehensive assistance to victims.¹⁸

39. In 2012, workshops on education and training in the problem and on the dissemination of information, especially to working class and vulnerable populations, were held for 76 senior law enforcement officers, prosecutors and ordinary criminal judges.

40. As regards the measures taken to discourage the demand for prostitution, the Venezuelan State makes the crimes of forced prostitution and sexual slavery (articles 46 and 47 of the Constitution) punishable by 10 and 20 years' imprisonment respectively.

41. The National Office against Organized Crime, for its part, defines and punishes crimes against sexual integrity, the dissemination of pornographic material, the use of children and adolescents in child pornography and the production of child pornographic materials.

42. Among other measures taken to discourage the demand for prostitution, a May 2014 order of the Supreme Court of Justice banned all explicitly or implicitly sexual images from advertisements published in print media freely accessible to children and adolescents. It also urged the Public Prosecution Service to investigate whether, following the publication in the national press of classified advertisements promoting prostitution, there is a possible link with the crimes of trafficking in persons or procurement and whether unlawful acts are in fact being committed.

¹⁸ Members of communities, indigenous peoples, social and community organizations and private institutions and students in basic, secondary, diversified and university education.

8. **Please provide additional information on the measures taken by the State party to ensure the application of the Act on Protection for Victims, Witnesses and Other Participants in Legal Proceedings, in relation to victims of the offences covered in the Optional Protocol. Please also provide information on whether programmes have been developed and adopted to support children, victims and witnesses of the offences covered by the Optional Protocol during their contact with the criminal justice system.**

43. The Public Prosecution Service is the body entrusted by law with applying for such protection. To this end, victims' assistance units attached to the corresponding superior criminal prosecutor's office have been created, expanded and strengthened in each state in the country, providing comprehensive protection to victims, especially children and adolescents.

44. With regard to legal proceedings, the Public Prosecution Service, in protecting the integrity and well-being of child and adolescent victims of crimes, including the sale of children, child prostitution and child pornography, and in securing and guaranteeing their special needs when they are declared witnesses or victims in oral proceedings, relies on the strict, permanent oversight exercised by its ordinary criminal prosecutors in criminal cases where children are victims and the accused are adults. The aim is to prevent their revictimization, invoking in such cases the exception to the principle of public proceedings provided for in article 333(4) of the Code of Criminal Procedure. In these cases, the Public Prosecution Service also draws on the support and participation of trained psychologists in the chamber where the oral proceedings are taking place, thereby minimizing any possibility of the child victim being adversely affected.

45. Articles 85, 86 and 87 of the Child and Adolescent Protection Act establish, respectively, the right of petition, the right to defend one's rights and the right to justice. Children and adolescents are entitled to exercise these rights, including the rights to submit and address petitions to any public official, to defend their rights directly in person before any authority and to appeal to judicial bodies to protect these rights, forcing the courts to take an early decision on their case.

46. Child victims of crimes in general, including crimes related to the sale of children, child prostitution and child pornography, also have the rights set forth in paragraphs 2, 6 and 7, among others, of article 120 of the Code of Criminal Procedure, namely, the right to be informed of the outcome of the proceedings, even when they have not taken part in them, the right to be notified of the prosecution's decision to shelve the case and the right to be heard by the court before it decides to stay the proceedings or adopts any other decision that would put an end to or conditionally suspend them, thereby enabling the child victim to be informed of the progress of proceedings and the disposition of the case.

47. The Bolivarian Republic of Venezuela, as a State party to the Optional Protocol, is required to take steps to provide specialized training for persons working with victims of the crimes prohibited by the Protocol. The Public Prosecution Service fulfils this requirement, in that it has prosecutors specialized in ordinary crime (limited to crimes committed by adults against children or adolescents), juvenile crime (cases where the perpetrator is an adolescent) and violence against women (especially cases where a girl or adolescent woman is a victim of gender crimes committed by a male adult). These prosecutors pursue specialized in-service training in the legal, human and psychological aspects of such crimes, receiving comprehensive training through the Prosecution Service's National Prosecutors' School.

48. Consistent with the activity described in the previous paragraph, the Public Prosecution Service has a Directorate for the Comprehensive Protection of the Family, within which specialized technical units for the comprehensive care of women, child and

adolescent victims have been created. Among other ambitious goals, these units have trained psychologists, psychiatrists, social workers and forensic doctors who provide specialized assistance to child and adolescent victims and advise prosecutors specialized in this area.

49. The law also guarantees the direct exercise of the right to be heard in person, especially in any administrative or judicial proceedings leading to a decision that may affect the child's or adolescent's rights, guarantees and interests, without other limitations than those dictated by his or her best interests, in keeping with article 80 of the Child and Adolescent Protection Act, which provides that all children and adolescents have the right to: (a) express their views freely in matters affecting them; and (b) have their views given due weight in accordance with their age and maturity.

50. The Guidelines for Guaranteeing the Protection of Children and Adolescents from Child Pornography as a Form of Commercial Sexual Exploitation¹⁹ lay down a procedure for dealing with complaints of these specific cases, which are defined in articles 16 and 17 of the Guidelines. These articles specify which entities or services are responsible for receiving such complaints (protection councils, Public Prosecution Service, Ombudsman's Office, offices of the Ombudsman for children and adolescents, the police, prefectures or civil authorities and health centres). The entities and services in question are required to coordinate their activities so as to ensure that they handle cases effectively and follow the proper procedures in dealing with complaints.

51. The entities and services identified in article 15 of the Guidelines as being those that receive complaints must:

- (a) Keep standardized statistical records of cases of child and adolescent victims of child pornography and other forms of commercial sexual exploitation;
- (b) Develop comprehensive support programmes so as to protect the victim at all stages of the proceedings, as well as their family members and witnesses testifying in their favour, from intimidation and reprisals;
- (c) Protect the privacy and identity of victims and take measures as provided in domestic legislation to prevent the dissemination of information that might lead to their being identified;
- (d) Recognize the vulnerability of victims and adapt procedures to ensure that they are recognized as such;
- (e) Treat victims decently and with respect, bearing in mind that they are children and adolescents;
- (f) Establish a coordinated mechanism for consultation and expeditious action that will guarantee effective responses to each case, avoiding unnecessary delays in the resolution of cases and the enforcement of action to restore victims' rights;
- (g) Develop a comprehensive assistance process, including outpatient treatment, academic training and recreational, sports and cultural activities, in which children and adolescents participate in various activities according to a cross-disciplinary approach implemented by psychiatrists, forensic doctors, forensic psychologists, social workers and lawyers.

52. As provided in article 58 of the Act on Women's Right to a Life Free from Violence, any complaint received by an entity or service must be processed within 48 hours.

¹⁹ Official Gazette No. 38.753 of 23 August 2007.

53. The Public Defender's Office also receives and processes reports, complaints or petitions from all petitioners without distinction, regardless of whether or not they submit any kind of supporting documentation or evidence. In compliance with the Act on the Simplification of Administrative Procedures, the petitioner is assumed to be acting in good faith and the reported situation is handled with the minimum amount of information needed. The situation is then investigated to determine what type of action to take, which may be legal advice, mediation or conciliation, or judicial proceedings.

9. Please provide information on the measures implemented by the State party to ensure that the victims of the offences covered by the Optional Protocol are not stigmatized. Please include information on the measures taken to prevent them from being socially marginalized and to facilitate their reintegration and their physical and mental rehabilitation.

54. According to a decision published in Official Gazette No. 40.426 of 5 June 2014, further to articles 8 and 14 of the Act on Protection for Victims, Witnesses and Other Participants in Legal Proceedings and to component 5 of the *A Toda Vida Venezuela* mission, the Public Prosecution Service, in conjunction with the Ministry of Internal Affairs, Justice and Peace, will begin to form protection brigades for crime victims, made up of police officers specialized in this area and working in the different national, state and municipal police forces.

55. The brigades' functions will include the following: complying with the measures of protection granted to victims by a judge or the senior criminal prosecutor of a state; driving victims, witnesses and other protected participants in legal proceedings to court buildings, to the place where an investigation is to be carried out or to their homes in official vehicles; protecting the physical integrity of victims; and taking steps to avoid victims being photographed or filmed.

56. The brigades will comprise at least 20 police officers and will give priority to their mission of protecting victims. They will have to be set up within 90 days following publication of the decision.

10. Please provide information on whether the State's legislation establishes the criminal responsibility of legal persons for acts or omissions in relation to the sale of children, child prostitution and child pornography. Please clarify whether the State's legislation provides for the seizure and confiscation of property used to commit or facilitate all the offences referred to in the Optional Protocol, as well as any acts deriving from such offences.

57. Firstly, it is important to clarify that legal persons are abstract entities made up of one or more individuals. This definition of legal persons applies to entities such as limited companies, corporations and different civil associations. In this connection, articles 2, 4, 31 and 32 of the Act against Organized Crime and Financing of Terrorism establish the criminal responsibility attributed to legal persons.²⁰

²⁰ **Act against Organized Crime and Financing of Terrorism, article 2:** "This Act shall apply to individuals and legal persons, both public and private, and to oversight and protection organs or entities, on the terms laid down herein."

"Article 4. For the purposes of this Act, the following meanings shall apply:

"9. Organized crime: any act or omission committed by three or more associated persons, for a period of time, with the intention of committing the crimes established in this Act and obtaining, either directly or indirectly, an economic or any other benefit for themselves or for third parties.

58. Concerning the seizure and confiscation of property used to commit any of the offences referred to in the Optional Protocol, the Act against Organized Crime and Financing of Terrorism establishes the procedure applicable to crimes covered by the Protocol.²¹

Any activity carried out by one person acting as an organ of a legal entity or association, with the intention of committing the crimes established in this Act, shall also be considered to be organized crime.”

“Article 31. Legal persons, with the exception of the State and its enterprises, shall be responsible under civil, administrative and criminal law for punishable acts related to organized crime and terrorist financing committed on their behalf by their governing bodies or their representatives. In the case of legal persons in the banking or financial sectors or any other sector of the economy who deliberately commit, or contribute to the commission of, crimes defined as organized crime or financing of terrorism, the Public Prosecution Service shall notify the corresponding oversight organ or entity so that appropriate administrative measures can be taken.

“Article 32. Penalties against legal persons. In the definitive sentence, the competent judge shall impose any of the following penalties, according to the nature of the act committed, its seriousness, the consequences for the business and the need to prevent the commission of punishable acts by legal persons:

1. Permanent closure of the legal person, where the crimes defined in this Act were committed deliberately.
2. Prohibition on engaging in commercial, industrial, technical or scientific activities.
3. Confiscation or seizure of the instruments used to commit the crime, illicit merchandise and the proceeds of the crime in all cases.
4. Full publication of the sentence in one of the major national newspapers, the cost to be borne in all cases by the legal person.
5. A fine equivalent to the value of the legal person’s capital, goods or assets, in the case of money laundering, or of the capital, goods or assets derived from the crime, where the penalty laid down in paragraph 2 of this article is applied.
6. Referral of the legal person’s actions to the corresponding organs and entities for a decision revoking any concessions, powers and administrative authorizations granted by the State.”

²¹ **Act against Organized Crime and Financing of Terrorism, article 54. Specialized service for the administration and disposal of secured or seized, forfeited and confiscated property:** “The national executive branch shall create a decentralized specialized service, answerable to the oversight authority, for the administration and disposal of secured or seized, forfeited and confiscated property used to commit the crimes under investigation in accordance with this Act or concerning which there are grounds to believe that it was obtained illegally.”

“Article 55. The overseeing judge, at the request of the criminal prosecutor of the Public Prosecution Service, shall order the preventive seizure of movable and immovable property used to commit the crime under investigation in accordance with this Act or concerning which there is reason to believe that it was obtained illegally. Until such time as the specialized service for the administration of seized property is created, the property in question shall be placed at the disposal of the oversight authority for safekeeping, custody, maintenance, conservation, administration and use. The oversight authority may assign the property for the execution of its programmes and of those carried out by public entities and bodies for the prevention and suppression of the crimes defined in this Act. In the case of foodstuffs, beverages, perishable goods or property that is difficult to administer that have been seized preventively, the criminal prosecutor of the Public Prosecution Service shall request the overseeing judge to dispose of them as soon as possible. The overseeing judge shall take an inventory of the property and, having heard the views of interested third parties acting in good faith, shall authorize, as appropriate, its sale or use for social purposes to avoid its deterioration, damage or loss. The proceeds of the sale of the property shall be preserved until a firm, definitive sentence has been passed.

When there is a firm, definitive conviction for the crimes defined in this Act, preventively seized movable and immovable property shall be confiscated and allocated to plans, programmes and projects for the prevention and suppression of the crimes defined in this Act. In the event of a firm, definitive acquittal, preventively seized property shall be restored to its rightful owners.

59. It is important to mention the specialized service for the administration and disposal of secured or seized, forfeited and confiscated property created by Decree No. 592,²² which is responsible for the planning, organization, functioning, administration, custody, inspection, oversight, procedures, monitoring and disposal, within and outside the country, of secured or seized, forfeited and confiscated movable and immovable property, capital, ships, aircraft, motor vehicles, works of art and jewels, livestock, banks assets and holdings, shares and rights that have been assigned by the criminal courts of the Bolivarian Republic of Venezuela.

60. The purpose of this service is to administer and dispose of secured or seized, forfeited and confiscated property used to commit crimes under investigation or concerning which there is reason to believe that it was obtained illegally. It is coordinated by the Office of the Vice-Minister for the Comprehensive Criminal Investigation System, which is part of the Ministry of Internal Affairs, Justice and Peace.

11. Please provide information on whether the Optional Protocol may be used as a basis in law for the extradition of a person suspected of the offences covered by the Protocol in the absence of a bilateral treaty, and please explain to the Committee whether the State party has extraterritorial jurisdiction over the offences covered by the Optional Protocol.

61. The Optional Protocol may be applied in the absence of a bilateral extradition treaty, the Venezuelan State having entered no reservations to any of its articles. However, in this case two constitutional provisions must be taken into account: article 69 of the Constitution, which establishes that no Venezuelan may be extradited; and article 271, which establishes that in no case may extradition be denied in respect of aliens responsible for the crimes of money laundering, drug trafficking, international organized crime²³ and acts against the public interests of other States and against human rights.

62. The above constitutional provisions are, in turn, linked with article 6 of the Venezuelan Criminal Code,²⁴ which establishes that a Venezuelan may not be extradited on any grounds, but must be tried in Venezuela, at the request of the injured party or the Public Prosecution Service, if the crime or which he or she is accused is punishable under Venezuelan law.

63. The same article indicates that an alien may not be extradited for political crimes or related offences or for any act not criminalized under Venezuelan law. An alien may also not be extradited if he or she is accused of a crime punishable by a death sentence or life imprisonment under the law of the country requesting extradition.

64. In correlation with the preceding paragraph, an alien may not be extradited for ordinary crimes unless the competent authority gives its consent, in accordance with the procedures and requirements established for this purpose by the international treaties signed by Venezuela and currently in force or, in their absence, by Venezuelan laws. In any case, once the request for extradition has been made, the national executive branch decides,

In proceedings involving the crime of money laundering, the competent judge, at the request of the Public Prosecution Service, may declare as intermediaries any natural or legal persons who appear as owners or holders of money, assets, securities, shares, holdings, personal or property rights or movable or immovable property, when there is sufficient evidence to show that they were acquired with the proceeds of organized criminal activities.”

²² Published in Official Gazette No. 40.297 of 19 November 2013.

²³ This would cover the crime of child pornography as defined in chapter IV, article 41, of the Act against Organized Crime and Financing of Terrorism.

²⁴ Published in Official Gazette, Special Edition No. 5.768 of 13 April 2005.

based on the merits of the accompanying evidence, whether or not to place the alien in pretrial detention before referring the matter to the Supreme Court of Justice.

65. The existence of extraterritorial jurisdiction over the offences covered by the Protocol is envisaged in article 73 of the Act against Organized Crime and Financing of Terrorism.²⁵

²⁵ **Act against Organized Crime and Financing of Terrorism, article 73:** “The following shall be subject to trial and punishment in accordance with this Act:

1. Venezuelans and aliens who, in committing any of the crimes defined in this Act in a foreign country, act against the security interests of the Bolivarian Republic of Venezuela.
2. A person under investigation who is in the Bolivarian Republic of Venezuela and has committed one of the crimes defined in this Act, or if part of the crime was committed in the territory of the Bolivarian Republic of Venezuela, on the high seas, in the extraterritorial sea or in international airspace.”