



Convention on the Rights of the Child

Distr. General
12 August 2013
English
Original: Spanish

Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Combined third to fifth periodic reports of
the Bolivarian Republic of Venezuela*

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

GE.13-46084 (EXT)

1346084

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Introduction

1. Pursuant to article 44 of the Convention on the Rights of the Child, the Bolivarian Republic of Venezuela submits for consideration to the Committee on the Rights of the Child its combined third to fifth reports on the measures adopted to give effect to the commitments under this international human rights instrument.

2. The Bolivarian Republic of Venezuela is signatory to both the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. In June 2011, the Bolivarian Republic of Venezuela submitted its reports under both Optional Protocols. In accordance with the treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties, adopted by the Committee at its 55th session, the present report confines itself to reporting on implementation of the Convention on the Rights of the Child.

3. This report highlights the legislative changes that have taken place with regard to the protection of children and adolescents and the advances and social achievements of the Bolivarian Republic of Venezuela due to its priority commitment to safeguarding the fundamental rights of the child. The results of Venezuela's policies on children are set out in the annexed tables**, which identify the progress made in statistical terms.

4. The report underlines the scope of the reform of the Child and Adolescent Protection Act, which radically changed the procedural rules, transforming a written procedure into an oral one and making the administration of justice more efficient and effective; it also established new fundamental rights and strengthened the role of the State in framing and implementing public policies in the field.

5. The report also emphasizes progress with regard to policies, programmes, projects and socialist missions, demonstrating how the Bolivarian Republic of Venezuela continues to work towards the Millennium Development Goals. The achievements in question are due to a series of institutional initiatives underlining the State's commitment to ensure that all children in the Bolivarian Republic of Venezuela enjoy the human rights relating to health, food, education, culture, sport, recreation, work, social security, science and technology.

6. The Bolivarian Republic of Venezuela ratifies its adoption of international legal instruments, whether agreements, conventions or protocols, in particular those relating to human rights and the rights of children and adolescents, by incorporating them as State policy in all the institutions of State. In accordance with the Committee's guidelines, the Bolivarian Republic of Venezuela in July 2007 submitted the common core document forming part of the Republic's reports, which contains general information on its territory and population and on the general legal framework within which human rights are protected nationally.

7. The methodology used in drawing up this report was participatory, in accordance with the Committee's recommendations. Two inter-agency consultations of all public bodies with any responsibility for the protection of children and adolescents were convened and their observations were taken into account. Significantly, the consultations included the main beneficiaries of the public policies implemented by the State, namely the children and adolescents of the Bolivarian Republic of Venezuela. On 15 February 2012, the community of la Bombilla in the municipality of Sucre in Miranda State (Caracas Metropolitan Area) organized a ceremony to validate the third to fifth reports on the Convention on the Rights of the Child. Similar events took place simultaneously in the States of Carabobo and

** The annexes may be consulted in the Secretariat.

Táchira and were attended by over 2000 children from the local communities. The result of this process is annexed to this report.

I. Institutions that participated in this report

1. Executive branch

Ministry of People's Power for Communes and Social Protection

Autonomous Institute of the National Council for the Rights of Children and Adolescents

Ministry of People's Power for Public Health

Ministry of People's Power for Foreign Affairs

Ministry of People's Power for Education

Ministry of People's Power for Prison Services

Ministry of People's Power for the President's Office

National Institute of Statistics

Ministry of People's Power for Communication and Information

Ministry of People's Power for Planning and Finances

Ministry of People's Power for Women and Gender Equality

2. Civil branch

Office of the Public Prosecutor

Office of the Ombudsman

3. Legislative branch

National Assembly

4. Judicial branch

Supreme Court

Public Defender's Office

II. Substantive information

A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

1. Legislative provisions

8. In the Bolivarian Republic of Venezuela, all the Convention's provisions have been incorporated in domestic law; citizens are able to appeal directly to the courts to require their application by the authorities. In this connection, article 78 of the Constitution specifically states that children and adolescents are full subjects of law, being protected by specialized legislation, bodies and courts, which respect, guarantee and implement the content of the Constitution, the Convention and any other relevant international treaties which the Republic has signed and ratified.

9. The Child and Adolescent Protection Act was the first law to guarantee application of the doctrine of comprehensive protection in the Venezuelan legal code, radically modifying the historical approach to the problems of childhood. Its regulatory system served as the basis for the incorporation of the Convention's principles in the new text of the Constitution by members of the National Assembly. However, the Constitution also established new institutions of government, such as the Ombudsman's Office and the independent Public Defender's Office, and included a series of regulations concerning family institutions, judicial processes and organization of the justice system, for which the Act made no provision.¹

10. The Constitution also provided for the establishment of a National System for the Comprehensive Protection of Children and Adolescents, which comes under the overall authority of the Government while the municipal authorities are responsible for protection services, in accordance with the last sentence of article 78 and consistent with subparagraph 5 of article 178.² A partial reform of the Act was therefore necessary to bring it into line with the new constitutional provisions, while retaining the principles of the Convention and the doctrine of comprehensive protection.³ The National Assembly performed this task with the promulgation of the Child and Adolescent Protection Act in 2007.⁴

11. The reform focused on three main areas: the human rights of children, adolescents and family institutions, the justice system and judicial processes, and the protection system.

12. With regard to the human rights of children and adolescents, the text introduced a new fundamental right in the form of the right to fair treatment; it reaffirmed the right of children and adolescents to live and develop within their family of origin and not to be separated from it in an unjust or arbitrary manner; it expressly prohibited the separation of children and adolescents from their family of origin on grounds of poverty or other instances of social exclusion; and it required the State to take every measure to ensure family integration or reintegration where minors are separated from their nuclear or extended family of origin.⁵

13. Concerning family institutions, the reform included a set of measures aimed at bringing parents' rights and duties in relation to their children into line with the new status of children and adolescents as subjects of civic rights and, particularly, with the principle of gender equality and the new constitutional rules on stable *de facto* unions embodied in articles 76 and 77 of the Constitution.⁶

14. With respect to judicial processes, provision was made for an in-depth reform aimed at guaranteeing the right of children and adolescents to effective judicial remedy and due process based on the Constitution.⁷ The Child and Adolescent Protection Act establishes a

¹ Preamble to the Child and Adolescent Protection Act.

² Constitutional articles in both cases.

³ See note 1 above.

⁴ Official Gazette, No. 5859, Special Edition, 10 December 2007.

⁵ See note 1 above.

⁶ The term "guardianship" was replaced by "responsibility for the upbringing", which according to article 358 of the Child and Adolescent Protection Act implies the shared, equal and inalienable right of the father and mother to love, raise, train, educate, protect, supervise, support and care for their children materially, morally and emotionally as well as the authority to administer appropriate punishments that do not infringe their children's dignity, rights and guarantees or harm their comprehensive development, entailing the prohibition of any kind of physical punishment, psychological violence or humiliating treatment. The Act thus guarantees the exercise of shared parental responsibility for the upbringing of children as prescribed in article 76 of the Constitution.

⁷ Judicial procedure is governed by a set of guiding principles set out in article 450 of the Child and Adolescent Protection Act: orality; immediacy; concentration; uniformity; promotion of alternative means of dispute settlement; public hearings; simplification; scope for initiative and limits of the

standard procedure for treating and resolving issues of a contentious nature, a procedure for treating all non-contentious matters, and an adoption procedure.⁸ These procedures are the responsibility in the first instance of mediation and substantiation judges and at second instance of senior judges.

15. Article 179 of the Child and Adolescent Protection Act stipulates that every child and adolescent protection court should include a multidisciplinary team in the form of an independent and impartial auxiliary service to ensure that the administration of justice takes full account of the relevant biological, psychological, social and legal factors in a collegiate and interdisciplinary manner.⁹ The teams in question are composed of professional psychiatrists, psychologists, social workers and legal experts and, where necessary, bilingual intercultural experts speaking indigenous languages.

16. The Supreme Court has pursued a policy of modernizing child and adolescent protection courts by eliminating from judicial activities the performance of administrative tasks, which are carried out by support units and offices. The courts currently possess state-of-the-art digital technology enabling judicial proceedings to be recorded accurately and procedures to be systematized; there is also a self-service system enabling users to access the information contained in court proceedings without having to request the printed record.¹⁰

17. Article 78 of the Constitution provides for the creation of a National System for the Comprehensive Protection of Children and Adolescents. Article 133 of the Child and Adolescent Protection Act provides that the governing body of the System is the Ministry responsible for the comprehensive protection of children and adolescents, currently the Ministry of People's Power for Communes and Social Protection.¹¹

judge's discretionary power; the judge's role in guiding and expediting proceedings; primacy of the facts; procedural fairness and honesty; single notification; and free legal aid.

⁸ The regular procedure comprises two hearings: the "preliminary" and the "trial". They are initiated by a complaint that can be submitted in written or oral form. To democratize access to justice, this complaint may be made directly by users of the service, with or without the assistance of counsel. The "preliminary hearing" is in two stages: a mediation phase followed by a substantiation phase. In the first phase, the judge, employing the mechanisms available for effective mediation, encourages the parties to reach an agreement on the dispute at the origin of the proceedings; where agreement cannot be reached or remains partial, the hearing enters the substantiation phase. The "substantiation phase" is the procedural opportunity for the parties to make their comments on formal questions, whether or not related to the prerequisites of procedure.

⁹ In accordance with article 481 of the Child and Adolescent Protection Act, the reports drawn up by the multidisciplinary teams constitute expert opinions carrying greater weight than other expert opinions.

¹⁰ Article 180 of the Child and Adolescent Protection Act stipulates that child protection courts shall have the necessary facilities, equipment and staff to perform their functions; in particular, they shall include accommodation specially reserved for children and adolescents during their stay at the court; suitable premises and facilities to enable the multidisciplinary team to carry out its duties; and an environment in keeping with the status of children and adolescents as developing persons.

¹¹ In accordance with article 119 of the Child and Adolescent Protection Act, the National System for the Comprehensive Protection of Children and Adolescents is composed of the Ministry responsible for the comprehensive protection of children and adolescents, currently the Ministry of People's Power for Communes and Social Protection; the councils responsible for children's and adolescents' rights, currently the Autonomous Institute of the National Council for Children's and Adolescents' Rights at national level and the municipal rights councils at local level; councils for the protection of children and adolescents; courts for the protection of children and adolescents; the Social Court of Cassation of the Supreme Court; the Public Prosecution Service; the Ombudsman's Office; the Public Defender's Office; health-care services; offices of the children's and adolescents' ombudsman; communal councils and other forms of grassroots organization.

18. Under the reform, the functions and legal status of the former National Council for Children's and Adolescents' Rights are redefined with a view to reinforcing the State's responsibility for guaranteeing the exercise and enjoyment of the human rights of all children and adolescents as well as improving its effectiveness and efficiency in the management of public policies. This body is constituted as an autonomous institute with legal personality and independent resources, its chief executive officer being appointed directly by the President of the Republic.

19. Under article 134 of the Child and Adolescent Protection Act, the main aim of the Autonomous Institute of the National Council for the Protection of Children's and Adolescents' Rights (Children's Institute) is to guarantee the collective and individual rights of children and adolescents. As managing authority, the National System for the Comprehensive Protection of Children and Adolescents exercises deliberative, comptrollership and consultative functions; its powers and responsibilities are laid down in article 137 of the Child and Adolescent Protection Act, and it has regional departments at state level nationwide.¹²

20. Under the reform, the State Councils for Children's and Adolescents' Rights were abolished with the aim of strengthening the municipal authorities as the national political entities with the main responsibility for comprehensive child and adolescent protection services, in keeping with article 178, paragraph 5, of the Constitution.

21. Under the policy of strengthening the municipal authorities, the municipal councils on children's and adolescents' rights were retained and their responsibilities under the 1998 Act strengthened and extended but with some changes to their internal organization and functioning. The reform strengthens the role of council chairperson, whose appointment and dismissal are at the discretion of the mayor, while an executive committee is created, consisting of the council chairperson, four representatives of the mayor and three representatives elected by the communal councils.

22. The Child and Adolescent Protection Act strengthened the operational capacity of child and adolescent protection councils by providing for their organizational, administrative and budgetary integration in the mayor's office, reaffirming their members' status as career public officials, requiring the municipal authorities to fund them adequately, and establishing multidisciplinary teams to help them carry out their duties.

23. The Act made it obligatory to establish at least one children's and adolescents' ombudsman's office in each mayoral district to promote and defend the rights and guarantees of children and adolescents.

24. Finally, citizen participation is promoted, in accordance with article 62 of the Constitution and article 6 of the Act. Communal councils and social protection committees are expressly included as social organizations enabling the people to play a proactive role in formulating, implementing and monitoring public policy.

25. Through the Children's Institute, the National System for the Comprehensive Protection of Children and Adolescents is made responsible for carrying out an annual public consultation on the formulation of comprehensive protection policies and plans and

¹² Under article 135 of the Child and Adolescent Protection Act, the Children's Institute should observe the following principles in carrying out its functions: joint responsibility of the State and society in defence of children's rights; promotion and observance of administrative interaction between states and municipalities with regard to the protection of children; balanced strengthening of the communal councils with regard to the protection of children; coordination between the Institute and the other components of the National System for the Comprehensive Protection of Children and Adolescents; and uniformity of policy formulation.

the preparation of the draft budget. It has also to present a detailed report on the previous year's management activities to a citizens' assembly in January of each year.

26. Further to the Committee's recommendations, all the statutory mandates under the Child and Adolescent Protection Act are fully compatible with the principles and provisions of the Convention, strengthening as they do the powers of the municipalities as the branches of government closest to the citizen and the community with regard to the comprehensive protection of children. In this connection, one of the functions of the management authority established under article 133(f) of the Act is to develop forms of interaction and joint coordination between public, private and community bodies to ensure integration of the System's policies and plans, in keeping with General Comment No. 5 on the general measures of application of the Convention on the Rights of the Child.¹³

27. Other legislative texts have been adopted in the period covered by this report that further increase child protection. Details of the main legal instruments follow.

28. Act on Special Procedures for Protecting Children and Adolescents within the Family¹⁴ supplements the Child and Adolescent Protection Act, setting out in detail how mediation and conciliation are to be conducted in judicial and administrative bodies. It also specifies those areas in which mediation is inherently inapplicable.

29. The Family and Parenthood Protection Act¹⁵ aims to establish policy mechanisms for the comprehensive protection of families and parenthood and to promote responsible practices in that regard. The Supreme Court has laid down how article 8 of this Act should be interpreted, granting fathers the same rights as mothers to security of employment under the Labour Act.¹⁶

30. The People's Power for Youth Act¹⁷ is aimed at regulating, guaranteeing and developing the rights and duties of Venezuelan young people so as to create the People's Power for Youth, the aim being to promote the conditions for their full physical, psychological, social, spiritual, multi-ethnic, multilingual and multicultural development on the path to adulthood.

31. The Act on the Prohibition of Warlike Video Games and Toys Act¹⁸ bans the manufacture, importation, distribution, purchase, sale, rental and use of warlike video games and toys, on the grounds that the State, the family and society, as the expression of

¹³ Article 133 of the Child and Adolescent Protection Act establishes the powers of the governing authority of the National System for the Comprehensive Protection of Children and Adolescents: defining the policies of the National System; adopting the National Plan for the Comprehensive Protection of Children and Adolescents; approving the System's mandatory and legally binding general guidelines, submitted for its consideration by the National Council for the Rights of Children and Adolescents (CNDNA); monitoring and evaluating policies, plans and programmes with regard to the comprehensive protection of children and adolescents; reviewing and proposing changes to the applicable legal standards to ensure the operability of the System; establishing and developing forms of interaction and joint coordination among public, private and community bodies to ensure the coherence of the System's policies and plans; ensuring compliance with the System's remit and obligations as well as those of its affiliated bodies and entities; exercising oversight functions with regard to the administration and management of its affiliated bodies and entities; requesting administrative and financial information from the National Council for the Rights of Children and Adolescents on its management; drawing up the implementing regulations for the Child and Adolescent Protection Act and for other provisions established under the Act and by the Government.

¹⁴ Official Gazette, No. 39570, 9 December, 2010.

¹⁵ Official Gazette, No. 38733, 20 September 2007.

¹⁶ Supreme Court, Constitutional Division, case file 09-0849, 10 June 2010.

¹⁷ Official Gazette, No. 5, Special Edition, 21 October 2009.

¹⁸ Official Gazette, 3 December 2009.

people's power, are jointly responsible for giving maximum priority to the comprehensive protection of children and adolescents in order to build a just and peace-loving society.

32. The Act on the Promotion of Breastfeeding¹⁹ is aimed at promoting and supporting breastfeeding as the best way of ensuring that children are properly nourished so as to safeguard their life, health and comprehensive development. Exclusive breastfeeding at the request of the child is promoted and supported up to age 6 months, and breastfeeding in conjunction with suitable, risk-free and properly administered supplementary foods up to two years of age.

33. The Education Act²⁰ aims to develop guiding principles and values, rights, guarantees and duties in education, conceived by the State as a duty of the highest importance, in accordance with constitutional principles and guided by humanistic ethical values leading to social transformation, as well as to lay the organizational and operational foundations of the educational system of the Bolivarian Republic of Venezuelan.

34. The Civil Register Act²¹ is aimed at regulating the powers, training procedures, organization, functioning, data centralization, supervision and monitoring of the Civil Register, under the overall authority of the National Electoral Council. The Act makes provision for special protection for children and adolescents, who benefit among other things from free delivery of identity documents.

35. The State, through the National Assembly, has drawn up and adopted legislative texts on a wide range of subjects characterized by the inclusion of legal provisions focused on the interests of children and adolescents, in keeping with article 78 of the Constitution and article 7 of the Child and Adolescent Protection Act. The legislative provisions in question include the following.

36. The Sports, Physical Activity and Physical Education Act²² provides, under article 75, that the practice of professional sport is restricted to adolescents over the age of sixteen. The Act also covers the disciplinary regulations applicable to child and adolescent practitioners of athletic and sporting activities, which must be essentially educational in nature and must reaffirm the moral and ethical values of sport.

37. The Social Accounting Act²³ is aimed at developing and reinforcing people's power. Its goals include promoting the creation and development of civic education and training programmes and policies based on the doctrine of the Liberator Simon Bolívar and on the socialist ethic, particularly for children and adolescents.

38. The Public and People's Planning Act²⁴ stipulates that public, popular and participatory planning should be a basic tool for guaranteeing the rights of women, children and adolescents and all vulnerable groups.

39. The Communal Economic System Act is aimed at developing and strengthening people's power, establishing standards, principles and procedures for the creation, operation and development of the communal economic system, which should guarantee the rights of women, children and adolescents, and anyone in a vulnerable situation.

40. The aims of the Drugs Act²⁵ include the regulation of social security measures applicable to users of drugs and psychotropic substances and the regulation of prevention activities, absolute priority being given to children and adolescents.

¹⁹ Official Gazette, No. 38763, 6 September 2007.

²⁰ Official Gazette, No. 5929, 15 August 2009.

²¹ Official Gazette, No. 39264, 15 September 2009.

²² Official Gazette, No. 39741, 23 August 2011.

²³ Official Gazette, No. 6011, 21 December 2010.

²⁴ *Ibid.*

41. The Communal Councils Act²⁶ is aimed at regulating the establishment, organization and functioning of communal councils as participatory bodies for the direct exercise of popular sovereignty. It defines communal councils as responsible for participation, liaison and integration between citizens and other social organizations for the direct management of public policy. It provides for the creation of committees for the social protection of children and adolescents, and sets out guidelines on their functioning. It also stipulates that adolescents over 15 years of age can be members of communal councils and can participate in all the processes associated with this organizational structure.

42. The Police Service and Bolivarian National Police Force Act²⁷ is designed to regulate the responsibilities of the Police Service in its various policy and territorial jurisdictions and the creation, organization and powers of the Bolivarian National Police Force, in keeping with the standards, principles and values laid down in the Constitution. The Act requires the police to exercise extreme caution when dealing with children and adolescents so as to safeguard their security and physical, mental and moral integrity.

43. The Public Defender's Office Act²⁸ regulates the functioning and powers of the Public Defender's Office. This institution, forming part of the justice system, is designed to provide a free public defence service nationwide to all who require it, without distinction of any kind, in relation to any kind of judicial or administrative procedure. Its special responsibility is to provide free and suitable public defence to all children and adolescents concerning their protection as well as the adolescent's criminal responsibility before any court.

44. Section 5 of the Public Prosecution Service Act²⁹ establishes the special powers of the prosecutors belonging to the Public Prosecution Service under the child and family protection system as well as the criminal responsibility of the adolescent.

45. The Identification Act³⁰ is designed to regulate and ensure the identification of all Venezuelans living within or outside the country, in accordance with the provisions of the Constitution. It establishes that the identification of all Venezuelans under nine years of age is to take place through presentation of their birth certificate and that they shall be issued with an identity card upon reaching that age. Children and adolescents have the right to apply for the delivery of an identity card or other identity document free of charge. In the case of identity papers issued, lost, damaged or in any way altered, the Act specifies the procedures for entering indigenous children and adolescents in the civil register, as will be explained in the corresponding group of articles.

46. The Act on Women's Right to a Life Free of Violence³¹ is aimed at creating the conditions for preventing, treating, punishing and eradicating violence against women in all its forms. It provides that children and adolescents under the authority of or raised by women victims of violence have the right to social service care, emergency assistance, protection, support and shelter conducive to their full recovery.

47. The Act amending the Social Responsibility of Radio and Television Act³² will be described in the section dealing with access to adequate information.

²⁵ Official Gazette, No. 39546, 5 November 2010.

²⁶ Official Gazette, No. 39335, 28 December 2009.

²⁷ Official Gazette, No. 5940, 7 December 2009.

²⁸ Official Gazette, No. 39021, 22 September 2008.

²⁹ Official Gazette, No. 38647, 9 March 2007.

³⁰ Official Gazette, No. 38458, 14 June 2006.

³¹ Official Gazette, No. 38647, 19 March 2007.

³² Official Gazette, 7 February 2011.

48. Article 6 of the Act on the Protection of Victims, Witnesses and other Participants in Judicial Proceedings³³ concerns the special care that should be shown to particularly vulnerable victims, such as children and adolescents. The protection of child victims or witnesses of crimes takes place through joint action by constituent bodies of the National System for the Comprehensive Protection of Children and Adolescents, in particular the protection councils and child protection courts, which are able order some of the protection measures stipulated in the Act. This provision is in line with the Committee's recommendations in this regard.

49. The Decree with Rank, Status and Force of Special Law on Adequate Shelters to Protect the Public in the Case of Emergencies or Natural Disasters³⁴ is designed to regulate joint measures by the people and Government with regard to the nationwide construction, rehabilitation, refurbishing, organization and management of shelters to protect the public in the case of emergencies or disasters. Once the initial alert or emergency is over, the Government should give priority to evacuating the refugee population to public or private schools in order to protect and safeguard the right of all children and adolescents to education.

50. The Law for the Protection of Children and Adolescents in Places for Internet, Videogames and other Multimedia Uses³⁵ lays down the regulations governing the entry and stay of children and adolescents in premises for computerized, electronic or multimedia games and Internet services of a private nature. It prohibits access to information and contents that promote, advocate or incite to violence, war, the commission of punishable offences, racism, gender inequality, xenophobia, religious intolerance, and any other form of discrimination. This law extends the scope of article 229 of the Child and Adolescent Protection Act, which prohibits the entry of children and adolescents in establishments where games of chance or gambling are taking place.

51. The legislative branch is not alone in issuing standards for the comprehensive protection of children and adolescents; the judiciary, through the plenary session of the Supreme Court and in accordance with article 267 of the Constitution, has published a series of agreements, policies and regulations containing guidelines on criteria to be taken into account by child protection court judges in reaching their decisions. These include:

(a) Guidelines on safeguarding the human right of children and adolescents to express their opinion and be heard in judicial proceedings in child protection courts.³⁶ These guidelines will be explained in the articles on general principles.

(b) Regulations on the functioning of children's waiting rooms in child protection circuit courts in the Caracas Metropolitan Area.³⁷ These are aimed at establishing the terms and conditions for the operation and use of children's waiting rooms by parents, representatives or guardians. Under these regulations, the children's waiting room is a temporary games and leisure facility for children requiring the involvement of a child protection judge or multidisciplinary team, as well as those having reason to accompany their parents, representatives or guardians to the court in question, the aim being to provide them with a secure, warm and educational environment, in strict compliance with article 180, subparagraphs (a) and (c), of the Child and Adolescent Protection Act.

(c) Agreement containing guidelines on the criteria to be taken into account by protection courts judges when ordering the preparation of technical reports by

³³ Official Gazette, No. 38536, 4 October 2006.

³⁴ Official Gazette, No. 39599, 21 January 2011, containing Presidential Decree No. 8001 of 18 January 2011.

³⁵ Official Gazette, No. 38529, 25 September 2006.

³⁶ Plenary session of the Supreme Court of Justice, 25 April 2007.

³⁷ Official Gazette, No. 38496, 9 August 2006.

multidisciplinary teams.³⁸ The aim of the agreement is to establish the criteria to be taken into account and pondered by child protection judge when ordering the preparation of technical reports by the multidisciplinary teams in order to verify salient facts in reaching their decisions.

(d) Agreement establishing the guidelines and general directives for issuing and applying a supervised family cohabitation order. These guidelines and general directives are addressed to child protection judges and court officials as a whole, including the multidisciplinary teams attached to the courts.

52. The Ministry of People's Power for Communes and Social Protection has also issued directives and guidelines in this regard:

(a) Guidelines on the protection and care of children and adolescents before, during and following a natural disaster.³⁹ These have been drawn up with the aim of protecting the safety of children and adolescents when they become separated from their parents or guardians as a result of natural disasters.

(b) Guidelines on the functioning of the Child and Adolescent Protection Councils.⁴⁰ These establish provisions relating to the councils and their members, their functioning, powers and election procedures.

(c) Guidelines on authorizations for children and adolescents to travel within the country or abroad.⁴¹ These regulate the travel of children and adolescents alone or with third parties with the aim of fully protecting their right to freedom of movement while safeguarding them against illicit trafficking.

(d) Directives containing instructions on the process of identifying children and adolescents born in the Bolivarian Republic of Venezuela.⁴² These were drafted with the technical help of the United Nations Children's Fund (UNICEF)⁴³ and are designed to ensure that live births in public and private health institutions, centres and services are duly recorded and that children born in public health institutions, centres and services are entered at once in the register of births.

(e) General directives on protecting children and adolescents against sexual abuse and commercial sexual exploitation.⁴⁴ They establish definitions and punishments for sexual abuse and commercial sexual exploitation.

(f) Guidelines on protecting and caring for children and adolescents before, during and following a natural disaster, with the aim of protecting them and safeguarding their rights and those of their families during the evacuation process.

(g) General guidelines governing visits by children and adolescents to places of detention,⁴⁵ designed to ensure their personal safety during exercise of the right to maintain personal relations and direct contact with their parents, representatives or guardians when visiting places of detention.

³⁸ Official Gazette, No. 39320, 3 December 2009.

³⁹ Official Gazette, No. 37090, 1 December 2000.

⁴⁰ Official Gazette, No. 38072, 24 November 2004.

⁴¹ Official Gazette, No. 37595, 19 December 2002.

⁴² Official Gazette, No. 37771, 9 September 2003, revoking the Guidelines containing the instructions on the civil identification of children and adolescents born in the Bolivarian Republic of Venezuela, published in the Official Gazette, No. 37447, 21 May 2000.

⁴³ UNICEF, *Derecho a la Identidad: La Experiencia en Venezuela*.

⁴⁴ Official Gazette, No. 37815, 11 November 2003.

⁴⁵ Official Gazette, No. 39362, 5 February 2010.

2. National Plan of Action

53. In accordance with article 136 of the Child and Adolescent Protection Act, the Children's Institute put forward a proposal on 28 April 2009 for a National Plan for the Comprehensive Protection of Children and Adolescents 2009–2013 and convened a substantial number of representatives of communal councils and government agencies to review and validate it. This National Plan is in the process of adoption by the Government authorities.

54. The National Plan submitted for approval comprises the following objectives and strategic approaches:

(a) Strategic objective: provision of comprehensive care to persons suffering from extreme poverty and total social exclusion. Strategic approaches: eradication of all forms of violence and exploitation against children and adolescents; centralization of provision for children and adolescents deprived of parental care; care and comprehensive protection for children and adolescents at risk.

(b) Strategic objective: generating, publishing and promoting the use of timely and relevant statistical information concerning the protection of children and adolescents. Strategic approach: devising a unified statistical system on children and adolescents.

(c) Strategic objective: integrating people's power in the coordination of social inclusion policies so as to safeguard the rights and full exercise of the civic duties of children and adolescents as citizens. Strategic approach: ensuring that people's power and all its forms of organization are directly involved in public management.

55. It should be mentioned that the National Plan's objectives took into account the need to implement the programmes mentioned in article 123 of the Child and Adolescent Protection Act, designed to protect, guarantee and restore the rights of children and adolescents.

56. Further to the Committee's recommendations, the Neighbourhood Children Mission, as an integrated national plan of action in support of children, was implemented from 2008 onward with the aim of safeguarding the rights of children and adolescents in the Bolivarian Republic of Venezuela, particularly those suffering from extreme poverty, thereby revitalizing the State's responsibilities in this regard.

57. The Neighbourhood Children Mission fits into the General Outline of the National Economic and Social Development Plan for 2007–2013 ("Simón Bolívar" National Project), specifically the strategic approach entitled Supreme Social Happiness and the strategic goal of "Reducing destitution to zero and accelerating poverty reduction". The Neighbourhood Children Mission's has as its main focus:

- (a) Comprehensive care for children separated from their family environment;
- (b) Specialized care for children addicted to psychoactive substances;
- (c) Dignifying the work of child and adolescent victims of labour exploitation;
- (d) Care for children at social risk.

58. These activities, channelled and coordinated through the communal councils, are the practical application of the State's policy of transferring skills to organized communities in keeping with the Child and Adolescent Protection Act and pursuing the campaign for social inclusion. The plans and programmes being implemented under the Neighbourhood Children Mission are as follows.

59. The National Plan for Family Inclusion represents a major step towards protecting the basic rights of children and adolescents. It is aimed at promoting and safeguarding the

right of children and adolescents to family life through family reintegration, family placement and adoption, including family tracing measures. International adoptions have also been relaunched, always as an exceptional option, in association with the Directorate of Consular Relations of the Ministry of People's Power for Foreign Affairs under the 1993 Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

60. The programme of Communal Comprehensive Protection Centres (CCPI) offers facilities for prevention and participation by people's power in the protection system. With the support of the Children's Institute, organized communities provide protection to socially vulnerable and street children aged 0 to 12, victims of negligence by parents, representatives or guardians, school dropouts, children forced by their family situation to start work prematurely and the casualties of any other condition involving the denial or restriction of their rights.

61. The Programme for Dignifying the Work of Adolescent Workers (PRODINAT) helps adolescent workers to find gratifying paid work by generating inter-agency action to combat labour exploitation that may affect their health and all-round development, promoting their participation in the development of protection policies and implementing socio-productive projects benefiting them and their families, in compliance with articles 94 to 116 of the Child and Adolescent Protection Act.

62. The National Training Programme in Mass Communication for Children and Adolescents, focused on the young people's organization Semillero de la Patria Simón Bolívar, organizes communication teams to train Venezuelan children and adolescents as mass communicators by learning about the different forms of communication and expression. Under this programme, 750 children and adolescents have been integrated in alternative and/or community media.

63. The Comprehensive Protection Units (UPI) were previously the protection entities of the Children's Institute (IMAM), operating on an informal basis. All units include a cross-cutting component responsible for tracing and strengthening families to promote the transition to a new institutional framework centred on the fundamental role of the family. There are currently 32 such units in 16 states, providing comprehensive protection to 1,920 children and adolescents. The aim of this programme is to protect children and adolescents removed from their family setting by providing them with a decent environment offering temporary care pending their reintegration in their family of origin or placement in substitute families.

64. The Specialized Comprehensive Protection Units (UPIE) are a pilot experiment designed to respond to the needs and demands of communities and families of disabled and at risk youngsters nationwide, in compliance with article 29 of the Child and Adolescent Protection Act.

65. The Comprehensive Care Centre (CAI) is a ground-breaking experiment in Venezuela, which cares for street children and adolescents at social risk through a strategy of initial approach and contact, comprehensive care and reintegration in the family, society and the world of work. This experiment is taking place in the federal capital and in the state of Zulia through the *Brigada de Captación Divino Niño*, which has helped to retrieve 1,986 street children and adolescents.⁴⁶

⁴⁶ The approach and contact strategy is based on daily street rounds in different neighbourhoods to define the profiles of those living rough. The street educators involved are persons qualified in interventions of this kind, crisis situation management and psychosocial recovery, and with experience and ongoing academic training. The team is assessed and given skills development training to establish the necessary empathy with a very special "street culture" public, with its own

66. Communal shelters care for children and adolescents whose right to life, personal integrity and health are seriously threatened and who have been granted protection, termed shelter, by the protection councils. A communal shelter accommodating 122 children and adolescents is currently operating in the State of Vargas, and six others are under construction or being fitted out.

67. The Children's Institute is developing programmes for the alternative use of leisure time. An example is the annual implementation of a national recreation plan for children and adolescents known as the National Recreation Plan for Good Living.

68. This Plan, in its third year of operation, has involved over 1 million children and adolescents from different social strata, towns, ethnic groups, communities and sectors in Venezuela's 24 federal entities. Its main aim is to create an environment conducive to healthy recreation and the enjoyment of public spaces, enabling children and adolescents to assimilate the values essential to the preservation of our planet, to acquire a sense of belonging to the community in which they live, to appreciate and identify with its history, to show respect and solidarity towards their fellow beings and to participate actively and proactively in solving the problems of their community.

69. The children and adolescents of the Bolivarian Republic of Venezuelan have been the producers of media contents, reshaped in terms of the lived experience of their own communities. This has resulted in creations such as theatre scripts and puppet shows, murals and radio and audiovisual programmes and micros, among other options currently being developed systematically to help socialize the young. The Children's Institute is making progress in the preparation of a book reflecting the experience of young spokespersons ("Voceritas y Voceritos") of the working class community of Las Clavellinas, in the Antímano district of Caracas.

70. An important initiative by the Children's Institute was to organize information and consultation meetings for children and adolescents, in the form of "street parliaments", on a number of draft laws. At these meetings, children and adolescents were able to participate, consult and express their views on topics such as legislation on people's power, human rights and the Convention.

3. Coordination

71. The National System for the Comprehensive Protection of Children and Adolescents, currently governed by the Ministry of People's Power for Communes and Social Protection, operates through a coordinated set of intersectoral public service activities developed by State bodies and civil society.

72. The body responsible for protection policies serves to ensure that a senior government official, such as a Minister, can keep the President regularly informed on all matters relating to childhood and can receive the relevant instructions. As a member of the Council of Minister, the Minister can see to it that the necessary coordination exists for the rights of children and adolescents to be respected at all levels of Government. In keeping with the Committee's recommendations, he or she also plays a coordinating role in ensuring that the work of the social missions is consistent with the institutional framework for the protection of young people's rights.

4. Independent national human rights institution: monitoring implementation

73. Article 34 of the Ombudsman's Office Act provides that offices of special human rights representatives (*defensorías delegadas especiales*) with national responsibilities,

customs, codes and language enabling those concerned to live in the street individually and as a group.

including a special representative for children's and adolescents' rights, will be headed by a special human rights representative whom the Ombudsman is free to appoint and replace. The person will be responsible for providing technical support and specialist advice to the various branches of the Ombudsman's Office by devising, planning and coordinating measures contributing to the promotion, defence and monitoring of the rights and guarantees laid down in the Constitution and international instruments.

74. Further to the Committee's recommendations, and consistent with the decentralised organizational model prescribed in the Ombudsman's Office Act, the institution is represented throughout the Republic by state human rights representatives, who are basically responsible for dealing with complaints and resolving issues within their competence as rapidly as possible, in keeping with the principles of immediacy and rapidity laid down in the Constitution.

75. In accordance with article 32 of the Ombudsman's Office Act, the responsibilities of state human rights representatives within their territorial jurisdiction include representing the Ombudsman's Office in the region where they are located, with the right to initiate judicial actions or remedies where legally appropriate against non-regulatory acts and to bring such actions where the fundamental rights of children and adolescents are affected. At the present time there are 32 regional representatives nationwide.

76. Article 169-A of the Child and Adolescent Protection Act provides for the establishment of special representatives for the protection of children and adolescents within the offices of the special human rights representatives. So that when children and adolescents require help in obtaining effective and no-cost remedies in cases where their fundamental rights have been violated, the office of the state human rights representative is available to assist them in the region they live, where necessary with the technical advice of the special representative for children's and adolescents' rights.

77. In response to the Committee's recommendations, the Ombudsman's Office launched a programme of mobile ombudsmen's offices aimed at providing comprehensive human rights assistance to citizens living in municipalities and districts in remote parts of the country or lacking the means to travel to the Office's regional headquarters. A plan was drawn up to make human rights representatives in the states of Bolívar, Falcón, Monagas, Portuguesa and Táchira more mobile and more in touch with their different districts, thereby bringing the Ombudsman's Office closer to more geographically remote and inaccessible localities.⁴⁷

78. The Ombudsman's Office and the Children's Institute brought an action against the *El Nacional* and *Tal Cual* newspapers in the Judicial Circuit Court of the First Instance for the Protection of Children and Adolescents in Caracas Metropolitan Area No. 3 on the basis of images published on 13 and 16 August 2010. The images were considered a form of expression that infringed the rights of children and adolescents, in particular their sustained all-round development, because of their highly grotesque character. The case is currently at the trial stage, awaiting the court hearing.⁴⁸

79. The Ombudsman's Office has repeatedly examined the Venezuelan adoption system and adoption procedures and has organized various diploma courses, workshops, discussion groups and other training and further training activities at which, with the active participation of those present, all the principles and precepts relating to children's rights in the Bolivarian Republic of Venezuela and internationally have been expounded, including

⁴⁷ Ombudsman's Office, Management Report 2010.

⁴⁸ *Ibid.*

the adoption system and changes to it under the partial reform in 2007 of the Child and Adolescent Protection Act.⁴⁹

80. Article 201 of this Act defines the offices of the human rights representatives for children and adolescents as a public interest service of that should be organized by the mayor's office in every municipality and, depending on its population, should include more than one office. Such offices can also be organized by society, that is to say, by communal councils, protection committees, associations, foundations, social organizations or any other form of citizen participation.

5. Visibility of children and adolescents in budgets

81. The State has an obligation to provide for cooperation and financial assistance in the application of the Convention on the Rights of the Child. Under the National System for the Comprehensive Protection of Children and Adolescents and its constituent bodies, and in accordance with article 137, subparagraph (k), of the Child and Adolescent Protection Act, the functions of the Children's Institute include requesting the competent authorities to act and allocate resources to resolve specific problems affecting children and adolescents.

82. Since 2003, the Children's Institute, through the National Child and Adolescent Protection Fund, has financed action plans, programmes and projects at national level to ensure investment in the prevention, protection, care and restitution of the rights of children and adolescents nationwide. The resources have progressively been transferred to state and municipal funds for the protection of children and adolescents under financing and co-financing agreements designed to reduce the impact of inequalities in income distribution and offset the high cost of implementing protection programmes, initiatives and services in sparsely populated areas.

83. The allocation of resources has taken place in two phases. Firstly, the National Fund allocated 60 per cent of its resources to state and municipal funding sources, while 40 per cent of its funds went to financing national and regional programmes. In the second phase, resources were shared between states and municipalities having regard to the following criteria: the state's human development index; state and municipal budget allocations by the National Budget Office; the child population by state and municipality; the socio-economic situation in the municipalities; and population density.

84. The distribution of resources is also based on the following order of priorities: specific protection and care programmes (50 per cent), training, research and outreach programmes (25 per cent per cent), legal, media and cultural protection (15 per cent), financing of exceptional basic social policies, in the case of emergencies and natural disasters only (10 per cent).

6. Data collection

85. A key achievement in the period 2006–2011 has been the development and deployment of a set of instruments for monitoring progress towards the Millennium Development Goals and application of the Convention on the Rights of the Child and the Plan of Action "A World Fit for Children".⁵⁰

⁴⁹ *Ibid.*

⁵⁰ The official information sources that help to monitor the situation of children and adolescents are: the National Statistical System (SEN), a body of interrelated principles, organizations, functions and resources through which the national, state and municipal branches of government produce statistical information of national interest; the Inventory of Statistical Operations and the Inventory of Community Statistical Operations (IOEC), promoted and produced by the National Institute of Statistics; the Vital Statistics System, responsible for registers of births and deaths; the 2011

86. The Children's Institute, in conjunction with the National Institute of Statistics and UNICEF, has produced a statistical record form for use in the protection councils in cases of infringements of children's and adolescents rights. The form is intended to provide information on rights violations for use in developing protection policies adapted to each state in the Bolivarian Republic of Venezuela.⁵¹ As a member of the Subcommittee on Afro-Descendant Population Statistics, the Institute also participated in the task of planning, implementing and achieving consensus on the concept of the national population recognizing itself to be of African descent, with the aim of ensuring that the questions included in the census questionnaire (National Population and Housing Census 2010) were able to identify accurately a national population group never previously studied as a whole.

87. In line with the Committee's recommendations and with a view to developing a comprehensive data collection system on the implementation of the Convention and to generating reliable and timely statistical data, the Children's Institute has made major efforts to establish a Common Statistical Information System on Children and Adolescents (SIENNA) to meet the current demand for information on them. The Institute has itself assumed responsibility for overseeing the System, which has the support of UNICEF.

88. The objectives of SIENNA are: to generate reliable and timely statistical data for efficient monitoring, evaluation and decision-making on public policies concerning children and adolescents, with particular reference to the programmes promoted by the Children's Institute, and to help shape priorities with regard to strategies, programmes and projects and the corresponding investments; to systematize the information produced by the Institute; and to contribute to computerization of its activities and processes.

89. To this end, the Children's Institute has taken a number of strategic decisions on the organization and generation of reliable statistics as the basis for transparent and effective management. These involve: establishment of a statistical coordination unit within the Institute's Protection Policy Management Department; creation of a Social Observatory on Children and Adolescents, responsible for analysing and monitoring the state of children's and adolescents' rights and for monitoring activities pursued through the Institute under the Child and Adolescent Protection Act; systematization of current information on the basis of standardized methodological guidelines; diagnosis of the state of statistical information in the main departments of the Children's Institute; analysis of the state of statistical information in all the other public and private bodies concerned with the care of children and adolescents; development of a consolidated system of statistical information on children and adolescents; and definition of a set of indicators on children and adolescents.

National Population and Housing Census; the Sample Household Survey (EHM) and the Household Budget and Expenditure Survey (EPGF) (these instruments are the main sources of demographic data, poverty measurement and monitoring of employment conditions as well as information on the transfer of subsidies and economic and social programmes to Venezuelan households); the Food and Nutritional Monitoring System of the National Institute of Nutrition (INN) (monitors the nutritional status of persons aged 0 to 15 treated in health centres); the Second National Growth and Human Development Study of the Bolivarian Republic of Venezuela (SENACREDH) 2007–2012 (carried out by the Centre for Studies on Growth and Development of the Venezuelan Population (FUNDACREDESA)); the annual mortality report and epidemiological statistics of the Ministry of People's Power for Health (produces regular information on population mortality and morbidity and on national health-care coverage and services); the Food Consumption Survey (ESCA) and the Food Balance Sheet, to improve the quality of information on food security.

⁵¹ A consultation was held on the format of the record form and the flow of information in a pilot test involving protection councils treating a substantial volume of cases and in municipalities prioritized by the Ministry of People's Power for Communes and Social Protection in the states of Miranda (central region), Bolívar (south-eastern region), Zulia and Táchira (western region) and Barinas (plains region), including urban, rural and frontier municipalities.

90. According to the 2011 census, the Bolivarian Republic of Venezuela has a population of 27,150,095, including 13,656,498 women (50.3 per cent) and 13,493,597 men (49.7 per cent). The total number of children and adolescents in the Bolivarian Republic of Venezuela is currently being processed.

91. In April 2011, a Statistics Subcommittee was set up to assemble data on children, adolescents and young people in a strategy designed to have a major impact on the shaping of public policies on childhood. It is a standing body of the Children's Institute's Coordination Committee on Social and Environmental Statistics and its function is to promote the coordination, harmonization, timeliness, suitability and quality of the statistics relating to children, adolescents and young people.

92. The aims of the Subcommittee are: to identify information needs in terms of statistics on children, adolescents and young people; to promote the compiling of statistics on children, adolescents and young people under the National Statistics Plan; and to ensure coordination and cooperation between public and private statistics offices for the updating, integration, harmonization, standardization and follow-up of statistics on children and adolescents. The Subcommittee consists of the Children's Institute and the National Institute of People's Power for Youth together with the Directorate of Statistics and the Department responsible for the Formulation and Monitoring of Statistical Plans, both forming part of the Children's Institute.

7. Dissemination and training

93. In keeping with the Committee's recommendations, the Children's Institute has promoted a training plan focused on prevention, care and the comprehensive protection of children and adolescents, with the support of a training programme involving proactive participation by the family, school, community, communal councils and institutions of the emerging protection system. This indicates the need for a dual approach to training, focused on officials in government institutions, particularly those forming part of the National Protection System, and on children, adolescents and families at risk or socially vulnerable.

94. This training plan is based on the theory and methodology of popular education, the systemization of experience and mass communication and is aimed at activating learning environments and/or communities where there is interaction between adults from working-class communities (mainly the spokespersons of communal councils and grassroots social organizations), the staff of institutions forming part of the National Protection System and, in particular, serving teachers and members of the teams responsible for comprehensive protection units, specialized comprehensive protection units, emergency care centres, communal comprehensive protection centres and shelters, in keeping with the Committee's recommendations.

95. In the period 2008–2010, pursuant to the Child and Adolescent Protection Act, the Children's Institute organized training workshops aimed at representatives of the communal councils and members of the National System for the Comprehensive Protection of Children and Adolescents. The subjects of discussion at these workshops always included information on the Convention.

96. In 2010, the Children's Institute signed an agreement with the Coordination Council of the Centre for Experiments in Permanent Learning of the "Simón Rodríguez" National Experimental University, launching the first socio-educational experiment aimed at professionalizing teachers in the Institute's care centres. As a result, some staff with practical work experience were able to obtain their teaching qualifications as education graduates.

97. Within the judicial system, various intensive workshops were organized with the support of the National School of the Judiciary to provide national protection court judges

with the basic tools to handle the substantive and procedural changes in the human rights field resulting from the Child and Adolescent Protection Act. On the basis of its powers under article 267 of the Constitution, the Supreme Court instructed judges throughout the country to assume the task of publicizing the Act on radio and television. The Supreme Court also organizes the annual Children's Forum to debates topics related to the Venezuelan child population, which has become a national and international benchmark due to the quality and scope of its discussions.

98. The period 2010–2011 also saw the publication and simultaneous promotion of 12,000 copies of both the Child and Adolescent Protection Act and the Constitution. Distribution took place among a range of social sectors, including educational bodies (basic and diversified education), university-level institutes, communes under construction, private care agencies, hospitals, non-governmental organizations and components of the Protection System.

B. Definition of the child (art. 1)

99. Concerning the definition of the child, the Child and Adolescent Protection Act differentiates from the gender perspective between male and female, giving visibility to girls in accordance with the spirit of the Constitution, article 21 of which stipulates that all persons are equal before the law and that affirmative measures are therefore to be adopted in favour of any group that is discriminated against, marginalized or vulnerable. This change constitutes an historic endorsement of the sustained action of women's rights organizations, which in 1999 succeeded in incorporating the gender perspective in the new Constitution.⁵²

100. In keeping with the Committee's recommendations, article 177 of the Child and Adolescent Protection Act empowers mediation and substantiation courts of first instance responsible for the protection of children and adolescents to resolve all cases involving requests for permission to marry where one of the contracting parties is an adolescent. The prescribed procedure is one of voluntary jurisdiction in which a mediation and substantiation court of first instance responsible for the protection of children and adolescents in the corresponding judicial district takes the decision that most benefits and protects the adolescent concerned.

101. In June 2010, the Supreme Court admitted a petition for nullification on the grounds of unconstitutionality submitted by the Ombudsperson's Office with regard to article 46 of the Civil Code. This establishes a distinction in the age for contracting marriage, making it a *sine qua non* for a woman to have reached the age of 14 and for a man to have attained the age of 16, a differentiation contrary to the principle of equality and non-discrimination prescribed in articles 21 and 77 of the Constitution.⁵³ The petition submitted by the Ombudsperson's Office demanded that the requirements for marriage be applied on an

⁵² Article 2 of the Child and Adolescent Protection Act (2007) is worded as follows: Article 2. Definition of the child and the adolescent. The child is understood to be any person less than twelve years of age. The adolescent is understood to be any person aged twelve or more and under eighteen. Where doubts exist as to whether a person is a child or adolescent, he or she shall be presumed to be a child in the absence of evidence to the contrary. Where doubts exist as to whether a person is an adolescent or over the age of eighteen, he or she shall be presumed to be an adolescent in the absence of evidence to the contrary.

⁵³ Supreme Court, appeal for annulment submitted by the Ombudsman's Office, <http://www.TribunalSupremo.deJusticia.gov.ve/decisiones/scon/Junio/556-8610-2010-10-0161.html>.

equal basis to men and women. The appeal in question is currently being studied by the Supreme Court.⁵⁴

102. The Children's Institute, the National Youth Institute and the Inter-American Development Bank (IDB) launched a series of talks and workshops for young people and adolescents from 500 districts chosen nationwide with the aim of raising awareness about responsible sexuality and the prevention of adolescent pregnancy. These initiatives are being carried out by the Neighbourhood Children Mission through the Training Department of the Children's Institute in conjunction with the "Semillero de la Patria Simón Bolívar" programme.

103. For the last two years, International Day for the Prevention of Adolescent Pregnancy has been observed on 26 September in the Bolivarian Republic of Venezuelan, involving the organization nationwide of workshops on the prevention of premature pregnancies aimed at eradicating misinformation on methods of preventing sexually transmitted diseases and avoiding unplanned pregnancies. In this context, training for comprehensive care providers for adolescent girls has been organized at workshops in 20 Venezuelan states.

104. Mention should also be made of the campaigns carried out in health centres to distribute leaflets and pamphlets publicizing the use of contraceptive methods, as well as the regular visits to education centres in states with the highest incidence of adolescent pregnancies to give talks on how to prevent premature childbirth.

105. The Pan American Health Organization, in conjunction with the Ministry of People's Power for Health, has organized a series of workshops entitled "Quality Health Care for Adolescents" to devise strategies for improving the quality and cover of health services in this sector. A multisectoral institutional action plan has also been developed to prevent adolescent pregnancies in the Bolivarian Republic of Venezuelan, where 24 per cent of all pregnancies occur among the adolescent population.

106. In keeping with the Committee's recommendations, article 92 of the Child and Adolescent Protection Act expressly regulates the consumption of alcohol and makes it an offence to sell or in any way facilitate access to it by children and adolescents. Article 263 of the Act prescribes penal sanctions for anyone improperly administering or supplying to children and adolescents products whose components can cause physical or psychological dependence. In keeping with the concept of the child and the age range specified in the Act, alcohol consumption is forbidden for anyone under the age of 18.

107. At the municipal level, there are binding regulations specifically prohibiting licensed commercial premises from selling alcoholic beverages to children and adolescents. This provision must be clearly displayed on notices visible to the public.⁵⁵

108. The Mayor's Office in Caracas has issued a municipal ordinance stipulating that commercial establishments of any kind licensed for the sale and consumption of alcoholic beverages must be situated at least 200 m from educational establishments and making the urban planning departments and municipal administrative services responsible for ensuring compliance with this provision and applying sanctions for non-compliance, ranging from fines, temporary closure of premises and confiscation of merchandise to repeal or suspension of the licence for the sale of alcoholic drinks.

⁵⁴ See note 47 above.

⁵⁵ Examples of municipal ordinances: Caracas: Municipio Libertador <http://www.caracas.gob.ve/wp-content/uploads/2010/22/licores.pdf>. Miranda: Municipio Chacao: ordinance on the retailing of alcoholic beverages, published in the *Gaceta Oficial Municipal* of the municipality of Chacao, No. 7237, Special Edition, 12 December 2007.

109. Public policies designed to avoid the consumption of drugs, including alcohol, have focused on the development of research as a source of new knowledge on consumption. This effort is centred on data collection, processing and analysis in the areas of demand and supply as key elements in policies for strengthening the National Drug Information System of the National Anti-Dugs Office (ONA).⁵⁶ This was the context for the creation of the National Plan for the Care and Treatment of Addiction 2011–2013, which took as its reference the Simon Bolívar National Project and the General Outline of the National Economic and Social Development Plan 2007–2013. Alcohol is classified as a drug with damaging effects when used to excess; and there are plans to establish a Commission on the Risky Use of Alcohol in the Bolívar in Republic of Venezuela through the Fundación José Félix Ribas (FUNDARIBAS) and the National Anti-Dugs Office.⁵⁷

C. General principles (arts. 2, 3, 6 and 12)

1. Non-discrimination (art. 2)

110. Equality and non-discrimination are fundamental rights recognized in article 21 of the Constitution and article 3 of the Child and Adolescent Protection Act. This right places an obligation upon the State to enforce, respect and guarantee the rights recognized by the legal system, regardless of race, colour, sex, language, religion, political opinion, ethnic or social origin, economic status, birth or any other social attribute of persons under its jurisdiction.

111. The measures taken by the State authorities, the control exerted by the decisions of the courts and the promulgation of laws on this subject are the most effective mechanisms for protecting the right to non-discrimination since they enable potential violations of this right to be identified and harmful actions prevented. In this connection, one of the main instruments for the promotion of non-discrimination is the Education Act, whose guiding principles and values include exchanges of social and artistic theories and practice, knowledge, experience and popular and ancestral knowledge that reinforce the identity of the Latin American, Caribbean, indigenous and Afro-descendant peoples of the Bolivarian Republic of Venezuela.⁵⁸ These principles constitute the incorporation in the Education Act of General Comment No. 1 on article 29, paragraph 1, of the Convention (the aims of education).

112. In 2011, the National Assembly adopted the Racial Discrimination Act, which establishes mechanisms for preventing, addressing, eliminating, eradicating and penalizing racial discrimination as a punishable offence. This law strengthens the action of the State by establishing the National Institute against Racial Discrimination, responsible for implementing public policies for the prevention, elimination and eradication of racial discrimination in all fields, including that of children and adolescents. In reviewing this normative text, the Constitutional Division of the Supreme Court of Justice declared it to be constitutional and organic in character.

113. Another normative instrument guaranteeing equality and the right to non-discrimination is the Act on Social Responsibility in Radio, Television and Electronic Media, which expressly states that radio, television and electronic media are forbidden from spreading messages that incite or promote hatred or intolerance based on religion, politics, gender difference, racism or xenophobia.

⁵⁶ National Anti-Drugs Office. Observatory-Studies. National study of drug-use among schoolchildren (ENaDPE), 2009, <http://www.ona.gob.ve>.

⁵⁷ Fundaribas. National Plan for the Treatment of Addictions: http://www.fundaribas.gob.ve/images/Plan_Nacional_de_Tratamiento_a_las_Adicciones.pdf.

⁵⁸ Article 6.5.

114. Article 28, paragraph 4, of the Act makes it an offence to spread discriminatory messages, with fines ranging from 3 to 4 per cent of the media outlet's gross annual income. The Act likewise provides for fines of up to 10 per cent of gross annual income in the financial period prior to that in which the offence was committed and/or the suspension of transmissions for up to 72 continuous hours when messages are broadcast that incite or promote hatred or intolerance based on religion, politics, gender difference, racism or xenophobia.

115. With regard to social media of a public, private, community or alternative nature, including radio, cinema, television, computer services, satellite broadcasts and printed matter, at the communal, municipal, state and national levels, the Act provides that their programme schedules should include material aimed at preventing, eliminating and eradicating racial discrimination.

116. Article 10 of the Organized Crime Control Act defines genetic engineering and human egg fertilization for purposes other than procreation or therapy, as well as cloning and other procedures aimed at racial selection, as offences against the person.

117. In keeping with the Committee's recommendations, the Afro-descendant and indigenous populations in the Bolivarian Republic of Venezuela have been integrated in political, economic, social and cultural life, furthering the creation of a society free from discrimination, racism or xenophobia. A further move in this direction was the establishment in 2005 of the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System; comprising various institutions and members of Afro-Venezuelan organizations; the Children's Institute is included among these institutions with the aim of ensuring that children and adolescents figure prominently in the Commission's policies.

118. The Presidential Commission prepared a plan of action divided into various commissions in the areas of culture, education, legal affairs and communication. The main activities under this plan include revising the curricular structure of the Venezuelan education system in coordination with the Curriculum Directorate of the Ministry of People's Power for Education so as to include contents highlighting the Afro-descendant theme,⁵⁹ and organizing training sessions with the Ministry's Directorate of Intercultural Education on the importance of including the Afro-descendant population without impediment in all branches of society.

119. The Ombudsman's Office has promoted inclusive measures on behalf of the rights of Afro-descendants, including the convening of working meetings on sexual and reproductive education with a gender emphasis, held under the leadership of the Ministry of People's Power for Education, in association with UNICEF and with the participation of various state organizations, the school population and communal councils. It was decided at the same time to develop training activities on sexual and reproductive education for teachers in the towns and communities concerned, and to reproduce related materials in the Canaima Project. In the course of 2010, the Ombudsman's Office also promoted the establishment of directorates for indigenous and Afro-descendant education in association with the Ministry of Education's Directorate for Intercultural Education.⁶⁰

⁵⁹ Report on Racial Discrimination submitted by the Presidential Anti-Discrimination Commission to the State Agency, 3 August 2011.

⁶⁰ Annual Report of the Ombudsman's Office, 2010, p. 307.

2. Best interests of the child (art. 3)

120. The Bolivarian Republic of Venezuela has incorporated in its legislation the principle of the best interests of the child and has established guidelines to be observed by all branches of the State and society to ensure that it is applied in practice.

121. In keeping with the Committee's recommendations, the Supreme Court has issued repeated rulings emphasizing that the best interests of the child require the courts to act with much greater caution when taking any decision that may affect the interests of children and adolescents.⁶¹ The Court holds that it is wrong for a protection judge when sentencing not to take account of article 6 of the Child and Adolescent Protection Act, emphasizing that judges' decisions must be characterized by prudence, responsibility, reasonableness, careful consideration and complete mastery of family institutions.⁶²

122. The Supreme Court has issued guidelines on safeguarding the right of children and adolescents to express their opinion and be heard in judicial proceedings in the protection courts, setting out criteria, standards and good practices to be observed by protection court judges as well as by court officials having direct dealings with children and adolescents, including the multidisciplinary teams associated with these bodies.

123. All the laws mentioned in this report aimed at protecting children and adolescents are designed to protect young people's best interests.⁶³ Such protection is not a matter of simply inserting the phrase "the best interests of the child", but rather of making provisions to ensure that the child's interests have absolute priority, in accordance with article 7 of the Child and Adolescent Protection Act.

124. By establishing the National System for the Comprehensive Protection of Children and Adolescents, the State has placed the best interests of the child at the centre of its legislative and administrative programmes, policies and procedures, the instrument for this purpose being the permanent linkage with public bodies and implementation of the social missions.

125. Article 49 of the Constitution states that the right to life is inviolable. No law shall provide for the death penalty and no authority shall apply it. The State shall protect the life of persons who are deprived of liberty, serving in the armed forces or civilian services, or otherwise subject to its authority. Article 15 of the Child and Adolescent Protection Act likewise affirms the right to life of every child, making it the State's duty to guarantee this right through public policies designed to ensure their survival and rounded development.

126. In April 2006, in keeping with the Committee's recommendations and with the aim of reducing violence against children and adolescents and insecurity in general, the State through the Ministry of People's Power for the Interior and Justice created the National Commission on Police Reform (Conarepol) in response to the public's need for a new model of the police force respectful of human rights and staffed by suitable and properly trained law enforcement officers.

127. Conarepol was set up on the basis of the broadest possible consultation of a wide range of authorities, organizations, interest groups, civic associations and organized

⁶¹ Case Law of the Supreme Court of Justice, Constitutional Division, Judgement No. 2301, 14 December 2006, Justice Carmen Zuleta de Merchán.

⁶² Since 2002, the Supreme Court of Justice has characterized the "best interests of the child" in terms of an indeterminate legal concept. For the Supreme Court, the main point of the "best interests of the child" is to ensure the comprehensive protection of the child, who on account of his or her lack of physical and mental maturity needs special protection and care, including due legal protection, both before and after birth. Case Law of the Supreme Court of Justice, Constitutional Division, Judgement No. 1917, 14 June 2003, Justice Jesús Eduardo Cabrera Romero.

⁶³ An example is the Communal Economic System Act quoted in paragraph 63 above.

communities concerning the criteria for defining the policing function and the best means of ensuring that it served the public needs.⁶⁴ This initiative led to the promulgation in 2009 of the Police Service and Bolivarian National Police Force Act and other bodies such as the General Police Council.

128. In May 2011, the General Police Council launched a national consultation on the preparation of a draft resolution on the regulation of police conduct in situations involving children and adolescents. This consultation was carried out in association with UNICEF and the Institute of Legal Research of the Universidad Católica Andrés Bello, which submitted their proposals for regulating the conduct of police officers when dealing with child victims or offenders in criminal cases.⁶⁵

129. In relation to children and adolescents and public order, the Ministry of People's Power for the Interior and Justice issued a decision regulating police conduct during public meetings and demonstrations involving the participation of pregnant women, children, adolescents and elderly people, requiring maximum care to be taken not to harm those vulnerable groups.⁶⁶

130. With the implementation of these policies it is hoped to ensure that police forces act in a professional and impartial manner, without discrimination and without inflicting or tolerating arbitrary acts or any inhuman or degrading treatment involving physical, moral or psychological aggression, with particular regard to protecting the fundamental rights of children and adolescents. Failure to comply with these standards will make those concerned liable to dismissal and to investigation for possible criminal responsibility.⁶⁷

131. The programme entitled "More protection and less violence, more inclusion and less disparity", a core strategy of the Simon Bolívar National Project, has been implemented by the Government in association with the Supreme Court, the Ombudsman's Office, the National Electoral Council, Ministries with social and judicial responsibilities, the National Institute of Statistics, security agencies, local governments and UNICEF.⁶⁸

132. With regard to the prevention of violence at school, the Ministry of People's Power for the Interior and Justice in 2010 proposed increasing training for the prevention of violence at school through a series of workshops and activities to strengthen the values of peace, tolerance and friendship among children and adolescents. The appropriateness of this measure lies in the fact that it is not exclusively focused on crime or direct violence but also includes topics such as adolescent sexuality, the consequences of drug use, child abuse, community development and communication skills.⁶⁹

133. Various activities were carried out under programmes and plans to combat violence.⁷⁰ Notable among these was a communication campaign on the prevention of

⁶⁴ General Police Council at: <http://www.consejopolicia.gob.ve/index.php/consejo-general-de-policia/el-mandato>.

⁶⁵ General Police Council at: <http://www.consejopolicia.gob.ve/index.php/noticias-cgp/noticias/807-arranca-consulta-sobre-desempeno-policial-en-materia-de-nna>.

⁶⁶ General Police Council at: <http://www.consejopolicia.gob.ve/index.php/noticias-cgp/noticias/794-publicada-resolucion-que-regula-actuacion-policial-en-la-garantia-del-orden-publico->.

⁶⁷ General Police Council at: <http://www.consejopolicia.gob.ve/index.php/noticias-cgp/noticias/794-publicada-resolucion-que-regula-actuacion-policial-en-la-garantia-del-orden-publico->.

⁶⁸ See [http://www.unicef.org/República Bolivariana de Venezuela/spanish/unicef_Republica Bolivariana de Venezuela_15686.htm](http://www.unicef.org/República%20Bolivariana%20de%20Venezuela/spanish/unicef_Republica%20Bolivariana%20de%20Venezuela_15686.htm).

⁶⁹ Ombudsman's Office, Management Report, 2010, p. 267.

⁷⁰ At the end of 2006, the National Council for the Rights of Children and Adolescents, currently the Autonomous Institute of the National Council for the Rights of Children and Adolescents, drafted and submitted for discussion and agreement a proposal for an interagency plan for the protection of

violence against children and women entitled “Less violence, more respect”, devised and initiated jointly by the Ministry of People’s Power for Communes and Social Protection, the Ministry of People’s Power for Communication and Information, the Children’s Institute, the National Women’s Institute and UNICEF.

134. Under its training and research programme, the Children’s Institute organized forty-three workshops on the prevention and treatment of sexual abuse involving children and adolescents, aimed at training extension workers on this subject and providing training and further training opportunities for children, adolescents and members of communal councils and other forms of grassroots organization.

135. The Children’s Institute organized a consultation of experts on family and gender violence to exchange opinions on information needs and other factors to be taken into account in designing and implementing a study on family and gender violence, with the aim of identifying information on the topic and providing competent bodies with the tools for designing public policies to address the issue.

3. Respect for the child’s point of view

136. In response to the Committee’s recommendations, the State in 2009 established the voluntary children’s and adolescents’ organization Semillero de la Patria Simón Bolívar, with the aim of promoting the proactive participation of children and adolescents as full subjects of rights, contributing to their all-round development by promoting the study and practice of sports, recreational, cultural and ecological activities and helping to strengthen people’s power among the very young.

137. The organization is divided into three stages:

- (a) Heralds: aged 6 to 11, with 19,322 members in the reporting period;
- (b) Precursors: aged 12 to 14, with 8661 members in the reporting period;
- (c) Promoters: aged 15 to 17, with 13,984 members in the reporting period.

138. Further to the Committee’s recommendations, Venezuelan jurisprudence has consistently stressed the obligation to listen to the child’s opinion as essential to determining his or her best interests. In April 2007, in accordance with article 267 of the Constitution, the Supreme Court published an agreement entitled “Guidelines for guaranteeing the human right of children and adolescents to express their opinion and be heard in judicial proceedings before the protection tribunals”, aimed at ensuring effective compliance with article 78 of the Constitution, in accordance with article 5 of the Convention on the Rights of the Child and article 80 of the Child and Adolescent Protection Act.⁷¹

139. This agreement concerns the right of children and adolescents to express their opinion freely on all subjects affecting their interests and for their opinions to be taken into account in the adoption of any decisions affecting them, as a human right and as an essential requirement for determining their best interests. In this connection, it sets out detailed criteria, standards, methodology and good practices for ensuring compliance with

children and adolescents against violence, as a follow-up to the agreements reached at the meeting to consider the United Nations Secretary-General’s 2005 study on violence against children.

⁷¹ The agreement notes, *inter alia*, that the opinion of children and adolescents on subjects concerning them expresses their feelings, thoughts and wishes with regard to their personal, family or social situation and that particular care should therefore be taken in assessing that situation. It also states that, while the opinion of children and adolescents is not a determining factor, not to heed or evaluate it has serious procedural consequences since it involves violation of a fundamental right entailing nullity of the proceedings and a retrial to permit that right to be exercised.

young people's best interests and guidelines on evaluating their opinions and on the appropriate way of doing so.

140. The new Child and Adolescent Protection Act makes it compulsory to listen to children and adolescents whatever the procedure concerned, whether judicial or administrative, and whatever the agency of the State involved. To ensure observance of this right, the Act stipulates the penalties for anyone violating the right of children and adolescents to express their opinion during an administrative or judicial procedure, namely fines ranging from 15 to 45 taxation units, without prejudice to the annulment of the proceedings where appropriate.

D. Civil rights and freedoms (arts. 7, 8, 13 to 17 and 37)

1. Birth registration

141. The promulgation of the Civil Register Act constitutes an important legislative advance, one of its goals being to guarantee the human rights to biological identity and personal identity as well as the constitutional right of all persons to be included in the Civil Register. This law provides for the establishment of a unique civil record comprising all the acts and events recorded in the Civil Register concerning each Venezuelan. Every person entered in the Civil Register is to receive an individual code or "unique identity number", recognizable by all the identification mechanisms of the State.

142. Further to the Committee's recommendations, Decree No. 2890 governing registration in the State register of births does not restrict the registration of children whose parents are undocumented. On the contrary, article 7 of this Decree allows for the possibility that, where a mother or father or both lack identity documents, registration of the newborn child may take place on the production of two witnesses testifying to the identity of the mother, the father or both, as appropriate.⁷²

143. Another important legal text is the Family and Parenthood Act, which establishes mechanisms for developing policies for the comprehensive protection of families and parents and promoting responsible practices in that regard, and which prescribes measures for preventing family conflicts and violence, educating for equality, tolerance and mutual respect within the family and ensuring that all its members enjoy a decent life and full development in the context of a democratic, inclusive, compassionate and egalitarian society.⁷³

144. A very important achievement for the Bolivarian Republic of Venezuela has been the development of the Identity Mission as a way of integrating thousands of Venezuelans deprived of the right to identity, in particular working class, indigenous and rural

⁷² Article 7 of Decree 2819: Regulation governing entry in the register of births, Official Gazette, No. 36553, 5 October 1998: Whenever identification of the mother or father is necessary and one or both of them lack identity papers, their identity can be verified on the basis of their respective passport, agricultural worker card or certificate delivered by the main civil authority of the relevant municipality or district or by a supporting document in which at least two persons, duly identified by their respective identity cards, testify to the identity of the mother, father or both. In any case, the attestation of birth shall be delivered to the mother or father where it has not been possible to identify them by any of the aforementioned means. A record of this circumstance shall be included in the copies to which article 1 of this regulation refers.

⁷³ The Family and Parenthood Act lays down the procedure applicable where the child's parents are not married or living in a stable union that fulfils the relevant legal requirements, and where the mother seeks to include the child in the civil register. It also specifies the measures to be taken where the mother has been the victim of rape or incest. It furthermore establishes the procedure for notifying the father and the right of adolescents aged sixteen or over to recognize their children.

communities. Central to this Mission is the National Identity Card Plan implemented by the Autonomous Identification, Migration and Immigration Service, attached to the Ministry of People's Power for the Interior and Justice. The Plan is being implemented jointly with the Children's Institute and with the technical and financial support of UNICEF, under the former National Identity Programme, now the National Identity Plan, all pursuant to the Committee's recommendations.

145. This Plan provides for the establishment of hospital birth units to ensure that every newborn child in the country's hospitals and health centres is entered in the Civil Register immediately following birth. These units are being set up in public and private clinics in different regions of the country, including Caracas, Falcón, Zulia, Amazonas, Anzoátegui, Carabobo, Nueva Esparta, Guárico, Mérida and Miranda. In addition, a series of training workshops on identity procedures was held at national level.

146. The right of children and adolescents to identity is being addressed through mobile operations deployed nationally by the Identification, Migration and Immigration Service in association with various schools across the country. In the course of 2010, mobile operations were conducted in units installed in the Plaza Bolívar⁷⁴ in every region in thirty-nine of the Service's offices. During this exercise, identity documents guaranteeing the right of children and adolescents to identity were processed in schools, colleges and residential areas. In 2010, the Identity Mission drew up and processed over 4 million new identity documents, most of them involving new Venezuelan citizens.⁷⁵

147. One of the main achievements of the National Identity Programme, for which the Ministry of People's Power for Health is currently responsible, has been to guarantee the right to identity in the form of a birth certificate and entry in the civil register upon birth as well as the fact of halting and narrowing the social gap built up over so many years. The gap has currently been reduced by 50 per cent, with the result that one out of every two children is being given this means of identification. Concerning the identity campaigns, it should also be mentioned that training activities are being organized to explain to civil servants the scope of the principle of comprehensive protection embodied in the Convention and the Child and Adolescent Protection Act.

148. The "Trio for Life" programme⁷⁶ is a national strategy implemented by the Ministry of Popular Power for Health involving three interrelated programmes: maternal breastfeeding, vaccination and birth registration. It is based on the observation that the majority of Venezuelan children are born in health clinics, which facilitates the safeguarding of their rights in this way. The State places the emphasis on giving children a good start in life through breastfeeding, as an exclusive, suitable and free source of nourishment, from birth to age six months, supplemented by solid foods up to the age of two; a vaccination programme guaranteeing a complete set of child vaccinations under the National Immunization Programme, which operates vaccination units in health facilities nationwide; and birth registration, which promotes the right to identity of children born in health clinics under the National Identity Programme through the immediate issuing of a birth certificate, free of charge and without discrimination of any kind.

149. The "Trio for Life" strategy has the technical support of UNICEF, which has helped in organizing technical working groups to design the distribution strategy and educational

⁷⁴ The Plaza Bolívar is a square with which all citizens are familiar.

⁷⁵ Ministry of People's Power for Communication and Information, <http://www.venezueladeverdad.gob.ve/content/ahora-s%C3%AD-que-los-ni%C3%B1os-tienen-razones-para-celebrar>.

⁷⁶ Ministry of People's Power for Health-UNICEF, <http://www.unicef.org/venezuela/spanish/ManualTrio-por-la-Vida.pdf>.

materials. The resulting handbook summarizes the principles and standards applicable to the maternal breastfeeding, vaccination and birth registration programmes.

150. With regard to judicial decisions guaranteeing the right to identity, Supreme Court ruling No. 1443⁷⁷ establishes that every woman, even if married and having given birth out of wedlock, can present the child to the civil authorities and register the identity of the biological father, confirming with this ruling the primacy of biological over legal identity.

2. Freedom of thought, conscience and religion

151. Article 35 of the Child and Adolescent Protection Act covers the right of all children and adolescents to freedom of thought, conscience and religion, emphasizing the right and duty of the parents, representatives or guardians to guide the children and adolescents in the exercise of this right. In this connection, Supreme Court ruling No. 1431⁷⁸ judged the decision by a doctor to administer blood products to a child against her will to be in keeping with the law, given that such a medical procedure was the only scientifically proven way of saving her life. This ruling served as the basis for the opinion by the Supreme Court that, while it is true that religious freedom carries a certain constitutional weight, Venezuelan society considers respect for the right to life to be an essential principle. Children and adolescents cannot therefore invoke a conscientious objection that would place this fundamental right at risk.

3. Access to appropriate information

152. The Bolivarian Republic of Venezuela monitors the quality of television and radio programmes on a permanent basis to ensure their compatibility with the rights of children and adolescents. To ensure the effectiveness of this monitoring, a series of legislative measures have been adopted, notably promulgation of the Radio and Television Social Responsibility Act.⁷⁹

153. This Act expounds the values of freedom, justice, equality, solidarity, social responsibility and the pre-eminence of human rights, among other concepts embodied in the Constitution. Great emphasis is placed on the need to expand communication as the foundation of a participatory and proactive democracy, the development of civic awareness and a culture of peace.⁸⁰

154. With regard to the protection of children and adolescents, article 3 of the Radio and Television Social Responsibility Act states that its general objectives include ensuring the dissemination of information and content for children and adolescents which are of social and cultural value, are aimed at the full and progressive development of their personality, skills and mental and physical abilities, at promoting respect for human rights, their parents, their cultural identity and civilizations distinct from their own, at helping them to lead a full and free existence and to develop an adequate sense of human and social understanding, peace, tolerance, gender equality and friendship between peoples, ethnic groups and persons of indigenous origin and, in general, which contribute to the development of social awareness among children and adolescents and their families.

⁷⁷ Case Law of the Supreme Court of Justice, Constitutional Division, Judgement No. 1443, 14 August 2008, Justice Luisa Estella Morales Lamuño.

⁷⁸ Case Law of the Supreme Court of Justice, Constitutional Division, Judgement No. 1431, 14 August 2008, Justice Carmen Zuleta de Merchán.

⁷⁹ Act on Social Responsibility in Radio and Television, Official Gazette, No. 38333, 12 December 2005.

⁸⁰ National Telecommunications Commission (Conatel), <http://www.conatel.gob.ve/index.php/principal/responsabilidadsocial>.

155. Article 14 of the Radio and Television Social Responsibility Act stipulates that, in the “all users” period, radio and television service providers should broadcast a minimum of three hours daily of cultural and educational programmes, news and discussion programmes or recreational programmes aimed particularly at children and adolescents, conducive to their all-round development, with an educational focus and of the highest quality. Adolescents should also play an important role in the broadcasting of these programmes, as artists or participants in their production.⁸¹ Article 6 of this Act⁸² establishes four categories for the classification of programme, namely language, health, sex and violence, while article 7 stipulates the categories and periods permitted for the broadcasting of programmes that may be freely received by children and adolescents.⁸³

156. The Act provides for many types and expressions of participation. It encourages the users of broadcasting services to organize themselves for the promotion and defence of their human rights and interests; it provides for user representation on the Executive Board of the National Radio and Television Institute; and it includes mechanisms for dialogue and the submission of proposals, suggestions and claims to broadcasting service providers and the relevant authorities. It also envisages arrangements whereby people can access and express their views in free and pluralistic radio and television media.

⁸¹ Ministry of People’s Power for Communication and Information, http://www.minci.gob.ve/info/105/191696/la_produccion_infantil.html.

⁸² Extract from article 6:

Content categories. The following content categories are defined for the purposes of this Act: language, health, sex and violence.

1. Language content: (a) Category “A”. Texts, images and sounds in common use that may be received by children and adolescents without the need for guidance by parents, representatives or guardians, and which are not classified in categories “B” and “C”. (...)
2. Health contents (a) Category “A”. Texts, images or sounds used for the disclosure of information, opinions or material on the prevention, treatment and eradication of the consumption of alcohol, tobacco, narcotic drugs and psychotropic substances and for the display of compulsive gambling, games of chance, and other addictive behaviours that may be witnessed by children and adolescents without the need for the guidance of parents, representatives or guardians. (...)
3. Sexual content: (a) Category “A”. Texts, images or sounds used for the dissemination of information, opinions or material on sexual and reproductive health, motherhood, fatherhood, the promotion of breastfeeding and artistic expressions with an educational purpose, which can be received by children and adolescents without the need for the guidance of parents, representatives or guardians.
4. Violent content: (a) Type “A”. Texts, images or sounds used for the prevention or eradication of violence, which can be witnessed by children and adolescents without the need for the guidance of parents, representatives or guardians, provided the violent act or its consequences are not displayed in detailed or explicit form.

⁸³ Article 7. Types, periods and restrictions by period.

For the purposes of this Act, the following programme types and periods are established:

1. Times for all users: only programmes suitable for all users, including children and adolescents without the supervision of parents, representatives or guardians, can be broadcast. Between 7 a.m. and 7 p.m.;
2. Supervised period: programmes requiring the supervision of parents, representatives or guardians can be broadcast. Between 5 a.m. and 7 a.m., and between 7 p.m. and 11 p.m.;
3. Adult period: programmes exclusively for adults (over 18 years old) to which children and adolescents should not be exposed can be broadcast. Between 11 p.m. and 5 a.m.

During the times for all users, radio and television services cannot broadcast programmes with category “B” and “C” language content, category “B”, “C” and “D” health content and category “C” and “D” sexual content.

157. Regarding the existing programme schedule suitable for children and adolescents, the National System of Public Media has a range of programmes for children and adolescents that foster respect for cultural diversity, with particular reference to Afro-descendant and indigenous culture.

4. Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment (arts. 37, subpara. (a), and 28, para. 2)

158. Children and adolescents in the Bolivarian Republic of Venezuela are protected by the component organizations of the National System for the Comprehensive Protection of Children and Adolescents, which must ensure that the fundamental rights of minors are not violated. With regard to the rights in question, the Ombudsman's Office and the Public Prosecutor's Office have special powers to act, within their respective areas of competence, when the personal integrity of children and adolescents are threatened or violated.

159. Article 170-A of the Child and Adolescent Protection Act defines the powers of the Ombudsman's Office, which include initiating and pursuing ex officio or at the request of the interested party any investigation leading to elucidation of the subjects for which it is responsible and for calling on the relevant authority to apply the appropriate corrective measures and punishments when children's rights and guarantees have been violated. Similarly, article 170 of the Act empowers the Public Prosecutor's Office to take appropriate steps to ensure that the perpetrators of offences against children and adolescents are held criminally responsible.

160. The Family Protection Directorate attached to the Public Prosecutor's Office is responsible for prosecuting offences against the family within its four areas of competence: offences committed by an adult against a child or adolescent; offences committed by an adolescent against adults or children and adolescents; initiation of criminal action in cases involving violence against women; safeguarding the rights and guarantees of children and adolescents in judicial and administrative procedures.

161. Further to the Committee's recommendations, the Office of the Public Prosecutor received 88,449 complaints between 2008 and 2010 alleging offences against children and adolescents; final decisions were taken in 49,975 cases, resulting in 8548 indictments and 4131 sentences.

E. Family environment and alternative care (arts. 5, 9 to 11, 18, paras. 1 and 2, 19 to 21, 25, 27, para. 4, and 39)

1. Family support

162. The social missions, as a matter of public policy, have pursued the task of guaranteeing the fundamental rights of the public, with the emphasis on the most excluded groups. They have helped to strengthen families by reducing historic poverty levels and by increasing family purchasing power and with it the quality of care that parents can give to their children.

163. In 2006, the Bolivarian Republic of Venezuela achieved the goal of reducing the proportion of families living in a state of extreme poverty, restricting it to 11.1 per cent. In the second half of 2009, the proportion of families living in a state of extreme poverty fell to 7.2 per cent, due to an increase in the purchasing power of poor households and a reduction of inequality.⁸⁴

⁸⁴ Meeting the 2010 Millennium Goals, Caracas, September 2010.

164. With the aim of strengthening families, the State signed a cooperation agreement with the Republic of Cuba, including a project involving the creation and organization of family support and citizen participation centres aimed at promoting social intervention for the strengthening of families nationally. The Children's Institute is developing this project using existing infrastructures. All the Institute's programmes in fact include provision for helping parents and guardians to undertake their responsibilities, 2,448 counselling sessions having taken place in 2011.

165. In accordance with General Comment No. 7 (Implementing child rights in early childhood), the "Simoncito Project" was implemented with the support of the Autonomous National Service for the Comprehensive Care of Children and the Family with the aim of providing comprehensive care and non-conventional preschool education to children aged 0 to 6 and creating the social, educational and nutritional conditions for this population group to grow and develop fully so as to enjoy equality of opportunity in primary education.⁸⁵ As a result of the "Simoncito Project", the number of establishments providing preschool education totalled 16,972 in 2010, compared with only 11,546 in 1999.⁸⁶

2. Family reunification

166. Article 75 of the Constitution provides that the State shall protect families as vital to the comprehensive development of individuals and as the natural form of association within society. The Constitution similarly provides that children and adolescents have the right to live, be raised and develop in their families of origin, and that only when this is impossible or contrary to their best interests shall they have the right to substitute families, in accordance with the law.

167. Article 26 of the Child and Adolescent Protection Act establishes the right of children and adolescents to live and develop within their family of origin and not to be separated from it in an arbitrary manner. Such a separation may only take place exceptionally, when strictly necessary to safeguard the minor's best interests, through the application of a protection measure prescribed by the competent authority, which should be of the shortest possible duration. In line with the Committee's recommendations, the Child and Adolescent Protection Act prohibits the separation of children and adolescents from their family of origin on grounds of poverty or other forms of social exclusion, so as to avoid any discrimination.⁸⁷

168. In keeping with the Committee's recommendations and to avoid placement in care facilities as has been the usual practice, the Children's Institute has developed the National Plan for Family Inclusion, through the Neighbourhood Children Mission and in coordination with the judicial and civil branches, as a public policy aimed at ensuring family reintegration or integration of institutionalized children and adolescents.⁸⁸ This plan involves the adoption of three approaches: family reintegration or integration, family placement and adoption.

⁸⁵ Voluntary national presentation by the Bolivarian Republic of Venezuela on "Implementing internationally agreed goals and commitments in regard to education", July 2011.

⁸⁶ *Ibid.*

⁸⁷ Preamble to the 2007 Child and Adolescent Protection Act.

⁸⁸ According to article 181 of the Child and Adolescent Protection Act, care facilities are public interest institutions implementing projects, measures and sanctions. They can take the form of any legally permitted organization or public association, private or mixed. Care facilities created by public sector bodies are public for the purposes of this Act. Care facilities of the National System for the Comprehensive Protection of Children only implement shelter and placement measures, which are ordered by the administrative or judicial authorities as the case may be.

169. Between 2008 when it was first implemented and 2010, the National Plan for Family Inclusion has resulted nationally in 1762 cases of family reintegration, 436 family placements and 1533 adoptions.

3. Payment of the maintenance obligation

170. The Supreme Court has issued an instrument entitled “Guidelines to be adopted by the courts and child protection circuits on the administration of the property of children and adolescents in cases involving maintenance obligations or terminated or blocked estates with sums of money deposited by third parties”.⁸⁹ These guidelines are aimed at regulating the administration of children’s property in maintenance obligation cases coming before child protection courts, with the aim of safeguarding their human rights and improving the quality of service, efficiency and effectiveness of the courts in question.

4. Adoption

171. The Child and Adolescent Protection Act establishes a new procedure for ruling on adoption applications more flexibly and expeditiously. In general terms, this new adoption procedure involves two distinct phases — the administrative and the judicial. The administrative phase, which precedes the judicial phase, is essentially the responsibility of the adoption offices. The judicial phase is the responsibility of the child protection courts. This procedure regulates both national and international adoptions, distinguishing in the latter case between adoptions in which Venezuela is the country of origin and where it is the receiving country.⁹⁰

172. It should be pointed out that article 495 of the Child and Adolescent Protection Act makes it compulsory for the mediation and substantiation judge, when accepting an adoption request, to order that the Public Prosecutor’s Office be notified of the fact so that it can familiarize itself with the entire case file and be a position to give an informed opinion at the hearing fixed by the judge.

5. Illicit transfer and non-return

173. The Ministry of People’s Power for Foreign Affairs is the central authority responsible for implementing the Hague Convention on the Civil Aspects of International Child Abduction. Between 2008 and 2010, it processed 101 requests under the Convention for the return of children and adolescents and 17 cases involving the international visitation system, addressed either to the central authorities of the relevant countries signatories to the

⁸⁹ Plenary Division of the Supreme Court of Justice, 15 October 2008.

⁹⁰ In accordance with the preamble to the 2007 Child and Adolescent Protection Act, in the case of national adoptions, the usual place of residence of both the child or adolescent to be adopted and the prospective adoptive parents, independent of their nationality, must be in Venezuela, whereas international adoption presupposes that both parties have their usual place of residence in different countries. If Venezuela is the usual place of residence of a child or adolescent to be adopted and the usual place of residence of the prospective adoptive parents is in another country, then Venezuela will be the country of origin of the adoption. If the usual place of residence of those requesting the adoption is Venezuela and the child or adolescent to be adopted is resident in another country, then Venezuela will be the receiving country for the purposes of the adoption.

The Child and Adolescent Protection Act provides that national adoption can be initiated in three ways, depending on the person or persons launching the adoption procedure. The parent or parents wishing to have their child adopted are not allowed to choose the adoptive parents since that favours so-called direct deals, which have played such a large part in human trafficking. The adoptive parents must be selected previously by an adoption agency, in accordance with legal procedure.

Convention or to the courts in the child protection circuit in the Bolivarian Republic of Venezuela where the minors in question were located.⁹¹

6. Child abuse and neglect

174. In keeping with the Committee's recommendations, article 32-A of the Child and Adolescent Protection Act, in order to underline the status of children and adolescents as subjects of rights and, in particular, to ensure full recognition of their dignity and integrity as persons, included a new right in the shape of the right to be well treated, involving a non-violent upbringing and education based on love, affection, mutual understanding, respect and solidarity.

175. To ensure its effectiveness, the Act provides that parents, guardians, family members, educators and other persons legally responsible must use non-violent methods in the upbringing, training, education and correction of children and adolescents and bans any kind of physical or humiliating punishment. The aim of this new regulation is to move towards the abolition of all kinds of mistreatment of children and adolescents so as to build the legal foundations of a new peace-loving society.⁹² It should be noted that article 32-A of the Child and Adolescent Protection Act provides definitions of physical and humiliating punishment administered by those responsible for raising or educating children, emphasizing that such punishment is prohibited.

176. Article 254 of the Child and Adolescent Protection Act provides that any person who subjects a child or adolescent under their responsibility or in their custody or care to cruel treatment through physical or psychological humiliation shall be sentenced to a term of imprisonment of one to three years. The same punishment is incurred by the parent, representative or guardian who acts negligently or by omission in exercising his or her child-raising responsibility or causes the child or adolescent physical or psychological damage.

177. Article 217 of the Child and Adolescent Protection Act provides for a generic aggravating circumstance under which the punishment for any criminal act entailing harm to a child or adolescent must be increased to some degree except where the author or authors are themselves children or adolescents. Article 218 likewise establishes the principle of preferential application, which is simply the mandate to categorize criminal actions harmful to children and adolescents as offences subject to stricter punishment than that prescribed in the above Act.

F. Disability, basic health and welfare (arts. 6, 18, para. 3, 23, 24, 26, paras. 1 to 3, and 33)

1. Children and adolescents with disabilities

178. In keeping with the Committee's recommendations, the State on 15 November 2006 approved the Disabled Persons Act. Article 18 of the Act establishes the right of relatives of disabled children and adolescents to be informed about the nature of the disability in question and to be trained as co-partners in the educational and training activities of the minors in question. Under article 70, public and private health-care facilities are required to report the birth of all children with any disability to the National Health Information System.

⁹¹ Data supplied by the Ministry of People's Power for Foreign Affairs, Directorate of Consular Affairs.

⁹² Preamble to the Child and Adolescent Protection Act.

179. As an appendage to the Disabled Persons Act, the Children's Institute has published "Guidelines on the protection of children and adolescents with disabilities", which underline the duty of protection bodies to ensure that disabled children and adolescents are included without any discrimination in the regular and non-conventional education systems and to require specialized agencies of the protection system to revise periodically the State budget provisions and relevant municipal ordinances to ensure that they include general and special sections on caring for children and adolescents in this category.⁹³

180. As already mentioned, the Children's Institute, under the strategic objectives of the Neighbourhood Children Mission, created the Specialized Comprehensive Protection Units (UPIE), a programme caring for children and adolescents with multiple disabilities in situations of social risk or family neglect. The children and adolescents accommodated in the UPIE are introduced into the education system in line with their abilities, while specialized staff periodically visits children and adolescents recently reintegrated in their family circle.

181. The Paquita Giuliani pilot UPIE came into operation in 2009 and has developed as a specialized comprehensive care unit with a multidisciplinary and a specialist health team caring for 138 children and adolescents with some form of disability. In 2011, it treated 263 children and adolescents. All the care units attached to the Children's Institute have their own health-care teams, including paediatricians, general practitioners and therapists treating children and adolescents with some form of disability.

182. The State has a National Genetics Centre inaugurated on 14 October 2009, providing free prenatal and post-natal services for the diagnosis of genetic diseases. This public service enables persons with some form of disability to benefit from chromosome disorder studies and analysis and cytogenetic studies and thereby to receive specific treatment for their disability and prevent it being passed on to future generations.

183. In March 2008, the José Gregorio Hernández Mission was created with the aim of bringing primary health care to all those suffering from some kind of disability. The mission has four objectives: diagnosing the population in this category; determining the basic needs of those concerned and their nuclear families; devising immediate care programmes; and social work. Implementation of the José Gregorio Hernández Mission gives effect to the mandate in article 81 of the Constitution, which establishes the right of any person with disability or special needs to exercise of his or her abilities to the full and to be fully integrated in his or her family and community.⁹⁴

184. One of the main achievements of the missions focused on education is to cater to the needs of children and adolescents with visual, motor and hearing disabilities, among other impediments. An example is the production of educational materials in Braille, to teach those concerned to read and write adequately.⁹⁵

185. In 2010, 7154 persons with hearing, visual, motor and cognitive disabilities were treated. The Robinson Mission successfully taught persons with Down's syndrome and other learning difficulties to read and write by tailoring programme contents to individual needs and providing personalized care through use of the most appropriate teaching resources.⁹⁶

⁹³ Official Gazette, No. 38759, 31 August 2007.

⁹⁴ Universal periodic review of the Bolivarian Republic of Venezuela: *Derechos Humanos para el Buen Vivir*, annexes.

⁹⁵ Voluntary national presentation by the Bolivarian Republic of Venezuela on "Implementing internationally agreed goals and commitments in regard to education", July 2011.

⁹⁶ *Ibid.*

2. Health and health services

186. Venezuela's health policies are based on the principles of universality, equity, solidarity, no cost, participation and recognition of ethnic diversity and multiculturalism. The following strategies have been used to put these policies into practice: (1) expand and consolidate timely and free health services; (2) reduce maternal and infant mortality and mortality among children under 5 years of age; (3) strengthen the disease prevention and control; (4) promote pharmaceutical security and sovereignty; (5) improve the prevention of accidents and acts of violence; and (6) optimize efforts to prevent drug use and provide treatment and rehabilitation for those concerned.⁹⁷

187. As reported in the Universal Periodic Review,⁹⁸ the *Barrio Adentro* Mission was set up in 2003 to meet the primary social and health-care needs of the population in working-class neighbourhoods and inaccessible rural areas where residents had previously been unable to exercise the right to health, thereby fulfilling the objectives of primary health care.⁹⁹

188. *Barrio Adentro* IV was established in 2006 with the inauguration of specialized centres such as the Hospital Cardiológico Infantil, which has considerably increased the nation's capacity to deal with child cardiology cases, up from 141 cases in 1998 to the current figure of 600 cases per year. The hospital also treats children from other countries in the region.¹⁰⁰

189. The State inaugurated the Metropolitan Public Health System, aimed at promoting the integration and joint participation of all the health centres in the Metropolitan area together with the integration of the Ministries of People's Power for Health, Labour and Social Security in association with the Office of the Metropolitan Mayor of Caracas and its associated bodies.

190. The Metropolitan Public Health System, provided for in article 84 of the Constitution, is aimed at ensuring the coordinated management of all hospitals, dispensaries, people's clinics, comprehensive diagnosis centres, comprehensive rehabilitation facilities, high-technology diagnosis centres and other medical assistance centres, and to strengthen joint work with the health committees and other forms of people's participation.

191. The missions providing special health protection to children and adolescents in the Bolivarian Republic of Venezuela are: the *Negra Hipólita* Mission,¹⁰¹ aimed at restoring, defending and guaranteeing the rights of people living in the street and in conditions of extreme poverty, with the emphasis on street children; the Neighbourhood Children

⁹⁷ Universal periodic review of the Bolivarian Republic of Venezuela: *Derechos Humanos para el Buen Vivir*, para. 77.

⁹⁸ Voluntary national presentation to the Economic and Social Council by the Bolivarian Republic of Venezuela on "Implementing internationally agreed goals and commitments in regard to education", July 2011.

⁹⁸ *Ibid.*

⁹⁸ Universal periodic review of the Bolivarian Republic of Venezuela: *Derechos Humanos para el Buen Vivir*, para. 77.

⁹⁹ *Barrio Adentro* Mission operates on several levels: *Barrio Adentro* I, which covers primary health care; *Barrio Adentro* II, which expands medical and diagnostic services through diagnostic centres, rehabilitation centres and high-technology centres; and *Barrio Adentro* III, which aims to strengthen the hospital network.

¹⁰⁰ Universal periodic review of the Bolivarian Republic of Venezuela: *Derechos Humanos para el Buen Vivir*, para. 80.

¹⁰¹ It was initiated on 14 January 2006, under Presidential Decree 4,210 of 13 January 2006, and published in the Official Gazette No. 38358.

Mission already mentioned; the *Niño Jesús* Mission,¹⁰² aimed at developing plans, projects and programmes to improve the quality of life and health of the mother-and-child population, based on the principles of universality, equity, accessibility, cultural relevance, justice, no-cost and joint responsibility.¹⁰³

192. A measure underlining the Government's resolve to protect all children and adolescents in the Bolivarian Republic of Venezuela as a matter of state policy, along with the missions referred to in the previous paragraph, is the new project entitled *Gran Misión Hijos de Venezuela*,¹⁰⁴ announced by the President of the Republic in November 2011. This mission will provide support to pregnant women and adolescents, to children and adolescents under 18 and to disabled children without age limit living in conditions of critical poverty, households considered to be suffering from extreme poverty being those in which both parents or heads of family are unemployed and the family income is less than the minimum wage. Pregnant adolescent girls and women, and families with a maximum of three children under eighteen, will receive a monthly benefit of 430 bolivares (\$100) and in the case of children and adolescents with disability, will receive 600 bolivares (\$139.5) per month, without age limit.¹⁰⁵

193. Further to the Committee's recommendations,¹⁰⁶ the mortality rate in 2008 among children under five was 16.4 per 1000 recorded live births, representing a reduction of 47.6 per cent compared with 1990. Mortality among children under one fell by 11.9 percentage points between 1990 and 2008, representing a reduction of 46.1 per cent.¹⁰⁷

194. The State applied the Expanded Programme on Immunization, which resulted in a reduction in infant and maternal mortality through implementation of the official vaccination scheme using vaccines designed to protect children under five and women of childbearing age or pregnant women against immuno-preventable diseases.

195. Between 2001 and 2002, there was a widespread measles epidemic, which made it necessary to step up close monitoring of the target population and undertake mass

¹⁰² It was created on 23 December 2009, under Presidential Decree No. 23139 published in the Official Gazette No. 39334, and reports to the Ministry of People's Power for Health.

¹⁰³ Directly or indirectly, the other social missions also favour children and adolescents, who are not excluded from their benefits. The Bolivarian Republic of Venezuela, in its presentation to the Human Rights Council under the Universal Periodic Review of Human Rights, provided a detailed account of each of these missions. This information can be consulted in the document: "Examen Periódico Universal de la República Bolivariana de Venezuela: Derechos Humanos para el Buen Vivir, anexo 1, Misiones Sociales".

¹⁰⁴ Official Gazette, No. 38358, 12 December 2011.

¹⁰⁵ Venezuelan News Agency, <http://www.avn.info.ve/node/88794>.

¹⁰⁶ The data reported up to paragraph 204 is contained in the document *Attaining the Millennium Goals 2010*, Caracas, September 2010.

¹⁰⁷ These figures have been achieved through the following strategies: application of the handbook on norms and standards for caring for the nursing and preschool child; implementation of the norm on neonatal scanning; implementation of the Act on the Promotion and Protection of Maternal Breastfeeding; adaptation of the Labour and Social Security Act to promote maternal breastfeeding; provision of specialized hospitals to cater for this population group, through the integration of the *Barrio Adentro* and *Niño Jesús* Missions; implementation of preventive strategies in association with the *Barrio Adentro* and *Niño Jesús* Missions, through the promotion of maternal breastfeeding, health education and optimum obstetrics and neonatal care in the People's Clinics and Comprehensive Diagnosis Centres, in support of the services already provided in other establishments of the National Public Health System; improvement, expansion and construction of the hospital services network with a focus on gynaecology and obstetrics, making large investments in the country's main maternity hospital; consolidation and implementation of the vaccination scheme for this population group; reduction of risk diseases affecting the population aged 0–5, through improved access to drinking water and the collection of human waste.

vaccination of the general public, resulting in a major reduction in the number of cases. In 2006 there was a new outbreak of the disease, which by the start of 2007 had been brought under complete control (epidemiological week No. 7). Since then no confirmed cases of the disease have been reported, and vaccination coverage has been maintained (except for 2007) at over 80 per cent of the population aged over one year.

196. In 2007, a campaign was carried out to eliminate German measles and congenital rubella syndrome, involving the vaccination of some ten and a half million people nationwide over a period of two months and achieving a record coverage of 108 per cent among the 18 to 39 age group (this coverage was checked on the ground by means of a rapid monitoring exercise).

197. Another achievement has been the inclusion of new population groups in the vaccination campaign, in particular the prison population and the indigenous population. It should be mentioned that 7 million vaccinations against yellow fever were administered in a period of two years, a figure without precedent in the country's history.

198. According to the parameters of the World Health Organization (WHO), overall malnutrition in under-five-year-olds in the Bolivarian Republic of Venezuela is situated at a low level of 4.64 per cent, and chronic malnutrition within a moderate range, being on course to meet the Millennium Goals. These achievements are due to the high coverage in food and nutritional protection programmes organized by the National Government.

199. With regard to the adoption of measures in keeping with the International Code of Marketing of Breast-milk Substitutes, the State is developing the following programmes:

(a) Cross-sectoral programme to protect, promote and support breastfeeding: this is aimed at encouraging mothers to breastfeed their babies so as to satisfy their nutritional requirements and ensure the quality of life and health of children, mothers, families and community.

(b) Breastmilk bank programme: signed under the Ibero-American Cooperation Agreement in 2007, its main aim is to support the implementation of a breastmilk bank in each country, capable of serving as the Ibero-American network's reference point for promoting mother-and-child health for premature and low-birth-weight children. There are currently six breastmilk banks situated in the following hospitals: Hospital Universitario de Caracas (Caracas Metropolitan area), Hospital Pablo Acosta Ortiz and Hospital José Antonio Páez (Apure State), Hospital Ruiz y Páez y Maternidad Negra Hipólita (Bolívar State) and Hospital Santo Aníbal Dominici. In 2007, the Ministry of People's Power for Health signed a supplementary agreement to the basic technical cooperation agreement for the implementation of the project "Technical support for the introduction and implementation of breastmilk banks in Venezuela", between Brazil and the Bolivarian Republic of Venezuela.

3. Adolescent health

200. Further to the Committee's recommendations, unplanned pregnancy has emerged as a problem of special concern in the period covered by this report and has been addressed through various public health policies as well as through the personal development of adolescents. In this connection, a large national network of people's dispensaries and new hospital units providing care and advice to adolescents has been created, together with the recently inaugurated Maternidad Concepción Palacios hospital.

201. Since 2000, the State has been developing the National Sexual and Reproductive Health Programme, including the conceptual and programme bases, technical and administrative rules and development procedures. This set of documents represents an

important contribution to improving the quality of sexual and reproductive health care in the social and healthcare networks.

202. The process of designing, reviewing and validating the National Sexual and Reproductive Health Programme has benefited from the participation of interdisciplinary teams with substantive, managerial and operational expertise in the areas of sexual and reproductive health, originating from governmental and non-governmental sectors at national and regional level, national universities, scientific societies and international cooperation bodies such as the United Nations Population Fund and the Pan American Health Organization. This programme aims to contribute to human and social development through the implementation of promotion, prevention, restoration and rehabilitation policies and activities, with a comprehensive and gender equity focus.

203. The Children's Institute, through the National Fund for the Protection of Children and Adolescents, financed sixteen programmes on the prevention of sexual abuse and sexual and reproductive counselling, which benefited 10,290 children and adolescents, 7,870 parents and 2,020 families. In association with the Inter-American Development Bank, the Institute also developed a non-reimbursable technical cooperation agreement (ATN/OC-12628-VE) on the design of an intervention model for preventing early and adolescent pregnancy. This agreement provides for the establishment of a project executive unit responsible for coordinating efforts with national, regional, municipal and local organizations and actors to ensure the implementation of effective pregnancy prevention strategies and activities among this population group.

204. The Ministry of People's Power for Education regulates the protection of pregnant girls in educational institutions¹⁰⁸ by stipulating that a girl cannot be refused entry to such an establishment on the grounds of pregnancy.

205. The State has initiated a project entitled "Strengthening families and communities for prevention, care and responsibility with regard to early pregnancy", which since 2008 has been focusing on young people in schools in order to reduce rates of early pregnancy and infant and maternal mortality. The project is designed as a social and educational programme for promoting the human development of adolescents from a gender perspective. The main thrust of the programme is on prevention, comprehensive social care and the strengthening and rehabilitation of the family.¹⁰⁹

206. The period under review has seen the establishment of 3,757 adolescent study groups, which have developed 2,556 projects on gender, sexual and reproductive rights and infectious and contagious diseases. Between 2008 and 2011, a total of 233,950 adolescents (52 per cent women and 48 per cent men) were trained as campaigners against early pregnancy.¹¹⁰

207. In 2010, with the help of the *Niño Jesús* Mission, assistance was provided to indigenous communities in connection with 6,013 pregnancies and 1,113 childbirths,¹¹¹ and sixteen maternal shelters were installed in ten states nationwide.¹¹²

¹⁰⁸ Resolution 1,762 of 9 September 1996.

¹⁰⁹ Between 2008 and 2011, a total of 8,551 expectant mothers and 6,221 adolescent mothers were incorporated in various activities involving the comprehensive care of pregnancy, childbirth and child rearing. Information derived from the Reports and Accounts of the Ministry for Women and Gender Equality (2008–2011).

¹¹⁰ Information provided by the Ministry for Women and Gender Equality.

¹¹¹ Report and Accounts 2010 of the Ministry of People's Power for Health.

¹¹² Document entitled *Revolutionary Achievements 2010*, Ministry of People's Power for Health.

4. HIV/AIDS

208. With reference to the Committee's recommendations, the inauguration took place in 2003 of the "National HIV/AIDS Strategy (PENVIH): Promoting Health and Quality of Life", defined as an instrument of health policy and social development and serving as a focus of organized and sustained responses for mobilizing financial and human resources in support of measures to combat HIV/AIDS. The strategy was framed with the help of a wide range of persons, including representatives of government bodies from the health and other sectors, scientific societies, private firms, international agencies such as the Pan American Health Organization (PAHO), the United Nations Population Fund, UNAIDS, and participants from social movements and community organizations working in the HIV field.

209. The Plan is aimed at the population as a whole and caters for a variety of social needs in terms of gender and social and ethnic groupings, with particular emphasis on needs profiles situating those concerned in the most vulnerable population groups in society. Financing has therefore gone to activities related to community mobilization; prevention work among schoolchildren; AIDS transmission prevention aimed at adolescents; prevention activities among the homosexual population; prevention, diagnosis and treatment of STD; prevention of mother-to-child transmission; universal precautions and post-exposure prophylaxis.

210. The prevention of vertical transmission of HIV in the Bolivarian Republic of Venezuela is carried out jointly by the National Reproductive Health Programme (PNSR) and the National AIDS/STI Programme (PNSIDA/ITS). The PNSIDA/ITS is responsible for the comprehensive care of any pregnant woman known to be infected with AIDS or any woman known to be infected with AIDS who becomes pregnant. This care is provided in accordance with the "Agreement on the technical regulation of the comprehensive care of patients with HIV/AIDS in Venezuela", drawn up for the PNSIDA/ITS in 2007, with the participation of medical experts from all parts of the country and the international validation of the World Health Organization.

211. In addition to financing the above projects, PNSIDA/ITS through its education and prevention component carries out education, communication and information activities aimed at preventing HIV infection. These activities include information campaigns on various prevention topics, such as delaying the start of sexual relations, promoting condom use, practising safe sex, reducing the number of sexual partners, combating violence against women and preventing mother-to-child transmission of AIDS.

212. The National Reproductive Health Programme is responsible for the comprehensive care of all pregnant women and one of its main activities is screening for HIV infection. This is free and compulsory for all pregnant women and is carried out from the start of prenatal testing with the aim of detecting HIV-positive women at an early stage in order to begin treatment and provide proper care during their pregnancy.

213. An essential achievement in guaranteeing the right to health includes universal free access to antiretroviral medicines against opportunistic infections and other sexually transmitted diseases, laboratory reagents for testing, birth kits and nutritional supplements for all patients requiring it, without any discrimination. Antiretroviral drugs are given to all infected pregnant women irrespective of the result of immunological and virological tests. Mothers are also free to choose caesarean section at the time of giving birth, and maternal milk substitutes are provided for feeding children because of the recommendation not to breastfeed. This process is continued throughout the first year of the child's life. These activities have been successful in preventing the vertical transmission of HIV in the Bolivarian Republic of Venezuela.

G. Education, leisure and cultural activities (arts. 28 to 31)

214. The Bolivarian Republic of Venezuela has made significant progress in the educational field throughout all its subsystems, levels and modalities. Over the past eleven years, the Bolivarian Republic of Venezuela has turned itself into “the world’s largest classroom”, advancing toward universal education through increased enrolment, better school performance, and declining dropout rates.

215. In keeping with the Committee’s recommendations,¹¹³ 1,502,688 children and adolescents have been integrated into the various levels of the basic education system. Between the 1998/99 and 2009/10 school years, school enrolment increased by 24 per cent. One strategy adopted by the Bolivarian Government to promote universal school enrolment at every level has been the abolition of registration fees at all State-run schools, including preschool, primary and intermediate institutions.

216. One of the policies adopted to lower the incidence of child malnutrition and increase school enrolment, reduce dropout and achieve better performance rates at all levels of the basic education system has been the strengthening of the school meals programme. This programme is aimed at ensuring that the daily diet is varied, balanced, of high quality and suited to the nutritional, calorific and energy requirements of children and adolescents. The programme also has an impact on family group dynamics, not only in the economic sphere but also in the matter of eating habits. A total of 4,055,135 pupils benefited from the school meals programme in 2010, up from 119,512 in 1998.

217. A measure that has had an impact at all levels of the basic education subsystem has been the introduction of preferential student bus tickets, a social instrument designed to ensure that students can afford to use the public transport system by giving them reduced fares. All students attending State-run and private institutions, including universities, are eligible for these tickets.

218. One feature of the strategies implemented in the basic education system has been the construction of 4,037 new State-run schools between 1998/99 and 2009/10, representing a 21 per cent increase in the country’s school building stock, while in the private sector the increase in new school construction was only 13 per cent.

219. The number of teachers increased by 161 per cent, with 494,534 teachers in 2009–2010, up from 189,172 in 1998.

220. The net preschool enrolment ratio has increased by 28 percentage points, from 43 per cent in the 1998/99 school year to 71 per cent in 2009/10. This achievement was due to the policies already mentioned, such as the constitutional recognition of preschool education as the first compulsory level, the abolition of registration fees at State-run institutions at that level, the strengthening of the school meals programme and the adoption of specific strategies at that level, including in particular the design and implementation of Project Simoncito.

221. In the 2009/10 school year, the net primary-school enrolment ratio was 93 per cent. That is to say, out of every 100 children between 6 and 11 years of age who should have been attending school, 93 actually were doing so.

222. As regards the percentage of students who begin Grade 1 and reach the final grade of primary school in six years, it would appear that 85 per cent of all pupils completed primary school in six years in the period between 2004/05 and 2009/10. However, taking

¹¹³ The data reported up to paragraph 218 is contained in the document Voluntary National Presentation by the Bolivarian Republic of Venezuela to the Economic and Social Council on the “Implementation of internationally agreed goals and commitments with regard to education”, July 2011.

the repetition factor into account, we find that over 97 per cent of all pupils completed primary school in six to eight years.

223. Apart from the increases observed for the net primary-school enrolment ratio and the numbers of students beginning Grade 1 and completing primary school in six years, another noteworthy achievement is the behaviour of completion and dropout rates for that level. For the 2008/09 school year, the completion rate for primary education was 95 per cent.

224. Bolivarian schools, conceived as a means of combating educational exclusion, operate without interruption, so that children can spend the entire day at school; this is a way of addressing a number of out-of-school factors that contribute to exclusion, such as poor nutrition and extreme poverty. At Bolivarian schools, children enjoy improved social welfare, including transport, meals, medical assistance, uniforms, scholarships, shoes, and educational and vocational guidance. By the end of the 2009/10 school year, 5,749 Bolivarian schools had been established, of which 5,495 were primary schools and 254 special education establishments.

225. The Canaima educational project in Venezuela is designed to support comprehensive training for pupils through the provision of portable school computers with digitized educational content for teachers and pupils at the primary level. Canaimas are used in State-run schools throughout the country, and also at State-subsidized private schools.

226. The project is being implemented under a cooperation agreement between the Republic of Portugal and the Bolivarian Republic of Venezuela. The project takes two forms: (a) the “Canaima Educativo Escolar”, in which the portable computers are kept at school, and (b) the “Canaima Educativo Va a mi Casa”, in which all primary-school pupils from Grade 2 through Grade 6 have at their full-time disposal a portable school computer equipped with educational content appropriate to their grade.

227. Between 2009 when the project was launched and 2010, a total of 382,708 Grade 1 and Grade 2 primary-school pupils at 11,432 schools were supplied with portable computers; as of April 2011, a total of 743,887 computers had been supplied. The goal for 2012 is to ensure that portable school computers are made available to the entire primary-level pupil population at State-run schools and State-subsidized private schools.

H. Special protection measures (arts. 22, 30, 32 to 36, 37, subparas. (b) to (d), and 38 to 40)

1. Children outside their country of origin seeking protection as refugees

228. In 2001, the State promulgated the Refugees and Asylum-Seekers Act, establishing the National Refugee Commission to provide better protection for the refugee population, and setting up three offices on the Venezuelan border, namely the Apure, Táchira y Zulia Offices, so that persons entering the country across the border would have rapid access to refugee request procedures.

229. The National Refugee Commission promoted the creation of regional technical secretariats in the states likely to receive refugee requests and these work closely with the Identification, Migration and Immigration Service and the Office of the United Nations High Commissioner for Refugees to deal promptly with the cases submitted.¹¹⁴

230. Pursuant to the Committee’s recommendations, the State in May 2011 signed a memorandum of understanding with the United Nations High Commissioner for Refugees

¹¹⁴ Information provided by the National Refugee Commission.

(UNHCR) with the aim of strengthening cooperation between UNHCR and the Children's Institute. Under this agreement, UNHCR will help distribute the Refugees and Asylum Seekers Act, the Child and Adolescent Protection Act and the Convention together with its optional protocols. At the same time, it will provide technical assistance with regard to displaced persons and refugees to achieve optimum efficiency in the protection of this group of children and adolescents.

2. Economic exploitation of children, including child labour (art. 32)

231. Further to the Committee's recommendations, the State through the Children's Institute is promoting the Programme for Dignifying the Work of Adolescent Workers by helping them to switch to economically rewarding tasks, by fostering interagency measures to combat labour exploitation potentially harmful to their health and all-round development, and by promoting their participation in the development of protection policies. Under this programme, adolescents will implement socio-productive projects that will raise their standard of living and that of their family, in keeping with the provisions of articles 94 to 116 of the Child and Adolescent Protection Act. The programme currently has three social production units in the states of Lara, Trujillo y Mérida, in which forty-five adolescents are participating. It also plans to implement three projects by adolescents engaged in the dignified work programme in the states of Bolívar, Carabobo, Miranda, Monagas and Zulia.

3. Street children

232. In line with the Committee's recommendations, the State has developed a series of activities and initiatives to deal with this problem at national, regional and municipal level, in particular by promoting the *Negra Hipólita* Mission, which was set up in 2006 in an attempt to overcome some of the worst forms of exclusion, including that of destitute street children and adolescents lacking shelter or projects in life or at serious risk of finding themselves in that state.

233. Through the Neighbourhood Children Mission and in association with the Ombudsman's Office to ensure young people's rights are safeguarded, the Children's Institute has made the following efforts to approach and establish contact with street children and adolescents and to ensure they remain in care programmes:

- (a) Incorporate children and adolescents in care and comprehensive protection programmes to reintegrate them in the family setting;
- (b) Draw up a comprehensive protection protocol involving units to wean youngsters off psychotropic substances, narcotics, alcohol and cigarettes;
- (c) Create shelter facilities;
- (d) Gradually incorporate children and adolescents in active citizenship;
- (e) Develop a set of community, cultural, sporting, recreational, leisure and play activities, offering opportunities for establishing junior discussion groups and social protection committees in communal councils.

234. One of the most successful ways of caring for street children has been the Bicentenary Approach Plan, begun in 2010, which involves approaching and establishing contact with children and adolescents during the day and night over a continuous three-month period in order to properly assess the situation in any given city. Such sessions were undertaken throughout the year with the participation of institutions forming part of the National System for the Comprehensive Protection of Children and Adolescents and various public security bodies. Between 2009 and the present, 2,227 children and adolescents living in the street or at social risk have benefited from the scheme.

4. Children belonging to minorities and indigenous peoples

235. Chapter VIII of the Constitution is devoted to the Rights of Indigenous Peoples, including guidelines on the recognition of indigenous peoples and communities, their natural resources, their right to ethnic and cultural identity, comprehensive health care, their own economic practices, ownership of their intellectual property and political participation — rights recognized for the first time in the history of Venezuela.

236. The Ministry of People's Power for Indigenous Peoples¹¹⁵ has lead responsibility for government policies to promote and strengthen the ancestral traditions of the indigenous communities by serving as a means of disseminating policies shaped collectively at the grassroots level in response to the most urgent immediate, short-term and medium-term needs of the native peoples and communities.

237. The Indigenous Peoples and Communities Act is an important advance aimed at developing and safeguarding the rights of indigenous peoples recognized in the Constitution and in the international treaties, agreements and conventions signed by the Republic. It recognizes indigenous peoples as rights-holders with regard to their habitats and as legal persons; guarantees the right to a safe and healthy environment and to participation in the management, administration and conservation of the natural resources within their habitat; it recognises their traditional ways of life and economic systems; it prohibits the transfer and unjustified relocation of indigenous populations and, when such measures are exceptionally considered necessary, provides that they may only be carried out with the full consent of those concerned.

238. In addition to constitutional provisions and in accordance with international agreements on indigenous rights, the State has ratified the Act adopting the 1989 ILO Convention concerning Indigenous and Tribal Peoples (No. 169), which provides that signatory governments must recognize the importance for indigenous cultures of their relationship with the land, and in particular the collective nature of that relationship.

239. Article 56 of the Constitution expressly recognises the right of every individual to a personal identity. Chapter III of the Identification Act (Identification of Indigenous Persons) is devoted to guaranteeing this right, which under article 11 involves taking into account the socio-cultural organization of the different indigenous peoples and communities through a procedure for issuing identity cards characterized by “simplicity, no cost, transparency, equality, rapidity, social responsibility, publicity, non-discrimination and efficiency”.

240. Under article 12 of the Identification Act, indigenous children and adolescents shall be included in the civil register by their parents, representatives or guardians. However, those not born in hospital can be included in the civil register without the production of a birth certificate issued by a hospital authority. Instead, registration can take place in the presence of two adult witnesses belonging to the indigenous community concerned, who must state the exact place, hour, day and year of birth as well as any other circumstance relevant to the registration process. This same procedure is followed where an indigenous person of adult age is not included in the civil register and does not therefore possess an identity document.

241. Article 7 of the Partial Regulation of the Identification Act on the identification of indigenous peoples¹¹⁶ stipulates that, when entering indigenous children and adolescents in the civil register in accordance with the law, the relevant authorities “... shall respect indigenous family names, given names and toponymies and shall in no case modify, alter or

¹¹⁵ Established by Decree No. 5103 of 28 December 2006, Official Gazette, Special Issue, No. 5836.

¹¹⁶ Official Gazette, No. 37817, 13 November 2003.

change them...”; and where an error of transcription has occurred or where an entry has been altered, the same official who drew up the record must make the correction at once in keeping with the statement of the parents or indigenous representative. Article 14 provides that both the birth certificate and the identity card or other identity documents of persons belonging to indigenous peoples and communities must be issued in Spanish and in the language of the people or community concerned, respecting family names and given names specific to their languages. They are not obliged to be photographed in clothing different from that corresponding to their conventions, customs and traditions.

242. Provision is made in article 15 of the Identification Act for the creation of the Indigenous Identification Service. This stipulates that the Government, through the branch of the Ministry responsible for identifying the Republic’s inhabitants and in coordination with the body responsible for civil matters, is to establish a permanent identification service to facilitate the mass issuing of identity cards to the communities concerned.

243. The Venezuelan State through the Identification, Migration and Immigration Service¹¹⁷ is implementing the National Plan for issuing identity cards to all the country’s indigenous communities through mobile units established jointly with the Venezuelan Air Force and with Ministries and governors’ and mayors’ offices responsible for indigenous affairs.¹¹⁸ From 2004 to 2010, the State issued identity cards to a total of 335,105 indigenous persons nationwide, including 160,764 women and 174,381 men.¹¹⁹ The Service’s work was reinforced by the introduction of the Identity Route for Native Peoples, with important consequences for the exercise of the right to identity of the peoples concerned through the issuing of identity cards. The reasons for the importance of the issuing of identity cards for ensuring their human right to identity was explained to the indigenous population, using translators¹²⁰ in the case of those who only spoke their own languages

244. The State, through the Comprehensive Childcare Programme, coming under the Autonomous National Service for the Comprehensive Care of Children and the Family, provides services to the indigenous child population, benefiting some 24,340 infants under 810 indigenous programmes operating in native constructions such as cabins (*caneyes*), roundhouses (*bohios*), traditional shelters (*churuatas*) and *janocos* serving to strengthen their customs, songs and languages.

245. In October 2007, the Children’s Institute, in association with UNICEF, organized an encounter entitled “Participation Experiences”, which was attended by members of the Venezuelan Network of Indigenous Youth who described their experiences in the company of a substantial group of children’s and adolescents’ organizations. The Children’s Institute likewise supported the participation of a representative of the Venezuelan Network of Indigenous Youth in the commemorative high-level plenary meeting devoted to the follow-up to the outcome of the special session on children, held to evaluate the results of the country report on the Plan of Action contained in the document “A World Fit for Children”, which took place in New York on 11 and 12 December 2007.

¹¹⁷ The National Office of Identification and Alien Affairs was renamed the Identification, Migration and Immigration Service, reported the Official Gazette, No. 369623, 9 June 2009.

¹¹⁸ www.minci.gob.ve.

¹¹⁹ Communication based on official data of the Identification, Migration and Immigration Service.

¹²⁰ *Idem*.