

Alternative Report:

**IMPLEMENTATION OF THE
CONVENTION ON THE RIGHTS OF THE
CHILD**

July, 1998

VENEZUELA
INFORME ALTERNATIVO:
Aplicación de la Convención Internacional Sobre
Los Derechos del Niño

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Venezuela

General Information

Official Name: República de Venezuela

Area (Km2): 916,445

Capital: Caracas

Type of Government: Republic

Chief of State: President

Legislative Power: Congress; composed of the Senate (49 members) and the Chamber of Deputies (201 members); universal suffrage elections every 5 years.

Executive Power: President, Departments attached to the Presidency of the Republic, and Ministries.

Judicial Power: Supreme Court of Justice, Judicial Council.

Voting age: 18 years.

Official Language: Spanish

Total Population: 22,777,155 inhabitants (1997)

Population Density: 22.6 (1997)

Mortality Rate: 0.42% (1995)

Rate of Total Growth: 19.61% (1996)

Average Age: 22.6 (1995)

Life expectancy at Birth: 69 (men) and 75 (women)

Inflation Rate: 37.6% (1997)

Exchange Rate: 1 US\$ = Bs.499.75 (December 1997)

% of Homes Under Poverty Conditions: 44.76% (1997)

% of children under 12 years of Age Living Under Poverty Conditions: 43% (1997)

Unemployment Rate: 12% (1997)

An adequate approach to the situation of the implementation of the Convention on the Rights of the Child in Venezuela, requires at first instance to have a general notion of the specific conditions in which Venezuelan children live nowadays.

Since the late eighties, our country has been facing a profound and constant crisis that has led to the application of structural adjustment and macro-economic stabilization programs. Some of the socio-economic effects of these programs are: inflation rates increase, drop on the national treasure reserves, fall of oil prices, political instability, unemployment increase and a progressive impoverishment of the population.

The structural adjustment programs have also meant a severe contraction of private consumption and real wages, and a progressively unequal social distribution of wealth. There has also been a significant setback in social public investment. In 1994, total social spending was 37% lower than in 1987; health spending fell 43% in real terms between 1980 and 1994; elementary and secondary education budget decreased between 20% and 25% from 1980 to 1992. According to the Central Bank of Venezuela (Banco Central de Venezuela -- BCV), real per capita spending has progressively decreased from Bs. 4,435 in 1983 to Bs. 2,827 in 1995.

Inflation rates show a trend to increase. 1989 ended with an inflation rate of 81%, whilst in 1996 it reached a peak of 103%, falling in 1997 to 37.6%.

In the social context, family income has dramatically decreased, while unemployment figures are constantly growing, and there is a reduced access to increasingly deficient social services. In 1995, the economically active population amounted to 13,771,998 persons over 14 years of age. The active population rate for that same year was 61.5%, and the unemployment rate 10.3%. For 1997, the unemployment rate had reached 12.1%, and the non-active population rate was 36.8%.

That same year, 50.6% of the economically active population was working in the formal labour sector, while 49% was working in the informal sector. In 1997, this last figure increased to 51%. On the other hand, long-term unemployment rate reached 10.2% of the population.

In 1990, cost of the family shopping basket (food and services) was Bs. 19,770.00, and in 1997 it had increased to Bs. 215,214.00.

In 1988, 46% of households all over the country were living under total poverty conditions. In 1994, this same indicator increased to 76% (Indicadores de Desarrollo Humano, 1997).

According to the Ministry of the Family (Ministerio de la Familia), in 1997, 47.3% of children under 13 years of age were living under poverty conditions, and 21.9% under extreme poverty. Per capita meat consumption has decreased from 18 kilos per year in 1994 to 13 KGs per year in the 1995-96 period, while milk consumption is 75 litres per capita (National Press: Economía Hoy, 6.03.96).

A report of the Centre for Economic and Social Investigations (Centro de Investigaciones Económicas y Sociales -- CIES) states that the access to, as well as the quality of education have suffered an important decline. During a Symposium on the "Situation of Literacy in Venezuela" (1996), the current Minister of Education declared that school registration figures have decreased in the last years, pointing out that for the periods of 1993-94 and 1994-95, a significant decrease was registered. The Minister also said that "...If we take a look at the vegetative growth of the population and the trends of non-planned migrations, this means we have thousands of children that are staying illiterate, and we should have to add to that the figures of school drop outs..." (CIES: II Trimestre 1996).

All this information offers a partial overview of the national reality and the conditions under which Venezuelan children are living nowadays.

/...../

GENERAL COMMENTS

The Venezuelan State ratified the Convention on the Rights of the Child in August 1990. In accordance with article 44 of the Convention, the undersigning Non-Governmental Organisations present an Alternative Report before the United Nations Committee of the Rights of the Child

The preparation and writing of the Alternative Report has meant an ample and complex process of collective work, and consultation of several information sources. The information gathering process confronted several difficulties because of data dispersion, and because of deficiencies in the existing mechanisms for quick access to data, that should actually be computerised by now.

The report offers information about different situations that violate the possibilities for an integral growth process of children in Venezuela. Such information was omitted in the Report on the implementation of the Convention on the Rights of the Child

The different Non-Governmental Organisations that took part in the collective process of preparation and writing of this document (all of which work on projects in areas concerning the Convention), agreed on several questions regarding the general terms of its implementation in Venezuela. Among them are:

There is a contradiction between a tutelary and assistance-oriented vision, and one of integral protection, that is made obvious when observing the design and implementation of the children related policies, as well as the justice administration system.

The mechanisms for justice administration, based in the "irregular situation" doctrine (doctrina de situación irregular), show a flagrant omission of the contents of the Convention; moreover, they show a marked trend to penalisation of the children that live under extremely difficult living conditions.

The principle of non-discrimination is not respected, given the prevailing conception of the child as subject of protection or tutelage. An example is the discrimination and exclusion that suffer the children born in national territory from parents living in Venezuela without a legal permit, due to non recognition of their right to a name and a nationality (See paragraphs 23-30, and 32-33).

The principle of the paramount interest of the child and the principle of absolute priority are not respected. Evidence of this omission is shown by the precarious and progressively decreasing budgets assigned to the organisms responsible for social areas such as development, welfare and protection

Even though the National Constitution establishes the principle of Universality, the interpretation and application of the law by the State shows a clear trend to penalise poverty.

**IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS
OF THE CHILD IN VENEZUELA
ALTERNATIVE REPORT**

General Measures for the Implementation of the Convention.-

1. Following ratification of the Convention on the Rights of the Child in August 1990, the Venezuelan State signed the Compromiso de Nariño (1994) and the Acuerdo de Santiago (1996), thus demonstrating the intention to assume childhood as a national priority.
2. The National Conference on the Rights of the Child took place in Caracas in August 1991. As a result of this conference, a National Action Plan in Favour of Childhood (Plan Nacional de Acción a favor de la Infancia -- PNA) was launched that same year. The PNA contained a number of medium-term objectives and goals, to be achieved by the year 2000. (See appendix no. 1).
3. The implementation of the PNA, for which the Ministry of the Family was responsible, faced several difficulties during the period of implementation, due to: lack of instrumentation of the proposed policy orientations; incapability of extending it all over the country; and absence of adequate mechanisms for evaluation and monitoring of the plan. As a consequence of this situation, the PNA was finally brought to a standstill in 1994.
4. After the PNA was paralyzed, the Presidential Ad Hoc Commission designated for its design and monitoring was dissolved.
5. According to the analysis carried out by the Minors National Institute (Instituto Nacional del Menor -- INAM), the main goals of the PNA were not designed from an interdepartmental perspective. This fact was made clear by the failure to achieve the expected commitment with childhood of the different sectors responsible for the achievement of the Plan. (INAM: "Observaciones a los Documentos: Plan de Acción Intersectorial para la Atención Integral de la Infancia y la Adolescencia en Venezuela", 6.13.96).
6. In 1995, the INAM co-ordinated the preparation of an "Analysis on the Situation of Children" ("Análisis de Situación de la Infancia"). In view of its results, and given the recent paralyzation of the PNA, the organisms that prepared this analysis point out the need to undertake an "Interdepartmental Action Plan for the Integral Assistance of Childhood" ("Plan de Acción Intersectorial para la Asistencia Integral de la Infancia"). The Treasury Department (Oficina de Coordinación y Planificación de la Presidencia de la República -- CORDIPLAN) was designated for its design.

7. During 1996, CORDIPLAN designed and prepared the Plan, which would start out in the current year of 1998. Up to this date, it is not operative, and its contents have not been made public. The reasons for this impasse are not known.

8. The ratification of the Convention on the Rights of the Child opened up in Venezuela an irregular judicial situation, due to the simultaneity of two conflicting laws regulating on the same matter: the Minors Protection Act (*Ley Tutelar de Menores*, which had come into force in 1980) and the Convention.

9. In 1995, the authorities begun the discussions about adaptation of the Minors Protection Act to the contents and propositions of the Convention on the Rights of the Child. In July 1997, the "Draft Bill for the Organic Law for the Protection of the Child" ("*Anteproyecto de Ley Orgánica para la Protección del Niño y del Adolescente*") was introduced before a Special Commission of the Congress, following a long process of social participation, in which various sectors of society, including children, got involved.

10. In March of the current year (1998), the Bill was passed in first discussion in the Chamber of Deputies of the Congress. It is yet to be discussed and passed in the Senate, and was approved and sanction in september, *Gaceta Oficial* N° 2.566.

11. The progressive budget cuts in areas such as health care and education are affecting dramatically the fulfilment of economic and social rights, specially of the more vulnerable sectors, among which children.

12. As until now, it has not been possible to estimate efficiently the situation of compliance with the Convention on the Rights of the Child in Venezuela, due to dispersion of information, and also to the deficiencies of the available indicators and statistics.

13. The measures undertaken by the Venezuelan State to safeguard the physical, mental and social welfare of Venezuelan children have been based in the implementation of assistance-oriented programs, which are characterised by low population coverage and based in food distribution as a compensation to poverty.

14. The monitoring of the situation of implementation, violation or omission of the Convention on the Rights of the Child has been done by Non-Governmental Organisations.

National and Local Mechanisms for the Co-ordination of Child-related policies, and for Monitoring the Implementation of the Convention.-

15. The different plans and programs prepared by the Government regarding children have not had a single core issue, as was established in the World Conference Summit in Favour of Childhood. They have been mostly influenced by the particular criteria of the various institutions and organisations that have competence in the matter.

16. Given that domestic legislation has not been adapted to the Convention, the official organisms still design policies and programs following a tutelar conception.

17. The measures undertaken by the Venezuelan governments do not show compliance with the principle of the paramount interest of the child, even though this principle is enshrined in different instruments of domestic legislation.

18. The monitoring and evaluation of budget assignment to the public organisms is competence of the regional authorities; participation of civil society in the process is not taken into account.

Measures for the Dissemination of the Provisions of the Convention.-

19. The measures undertaken by national and regional governments to disseminate the contents and scope of the Convention are deficient and temporary. There is no specific and systematic dissemination policy related with the matter.

20. The undersigning NGOs have undertaken the task of promoting the contents of the Convention, through mass media coverage, and through execution of educational programs in potentially spreading spaces such as the Red Escolar (composed by all teaching institutions of the country).

21. The Ministry of Education has been quiet receptive to this programs, and has even designed and implemented organisational entities such as the Rights of the Child Regional Co-ordinators (Coordinadores Estadales de Derechos del Niño), of which there are 23 all over the country, one for each federal entity. However, these co-ordinators have not been able to develop efficient diffusion activities regarding the Convention in schools, due to lack of budget assignation.

22. The undersigning NGOs have also promoted the development and strengthening of spaces to encourage political participation among children, such as the Children and Youth Parliaments, which take place annually in the Congress of the Republic, as well as at local and school levels. Through these experiences, and after a process of consultation and debate, the children develop a series of proposals regarding the protection of their rights, that are finally brought up before the local and national authorities.

CIVIL RIGHTS AND FREEDOMS

Name and Nationality.-

Preservation of Identity.-

23. In articles 464, 465 y 468, the Civil Code establishes the obligation of parents to register their children within 20 days after birth. For this means, parents must present his/her identity papers, procedure for which the only valid document is the Venezuelan Identity Card (Cédula de Identidad). The Code does not establish an alternative identification procedure for parents who are not entitled to such document.

24. Article 35 of the Constitution of the Republic entitles every person born in national territory to the Venezuelan nationality, without any restriction or condition whatsoever regarding the juridical status of his/her parents. Thus, the procedure established in the Civil Code for the Inscription at the Registry Office omits a provision of higher rank. As a result of this situation, there is a significant number of children that have to endure a situation of judicial and social disadvantage. Their right to an integral growth process is

specially restricted, given that they are excluded from the formal education system, and from the social security system. They are also exposed to children trafficking, due to their condition of children without official identity.

25. According to information published by the national press, the authorities of the INAM esteem that in 1996 there were 407,000 children without identity papers in the country. This figure results from the difference between the number of livebirths in Maternity Hospitals, and the number of children registered at the Registry Office. Children born in other Health Care Centres and those born in indigenous communities are not included.

26. The Campaigns of Placing of Birth Certificates that the INAM developed in accordance with article 10 of the Minors Protection Act, were suspended by the Public Prosecution (Ministerio Público), as they were considered non-legitimate.

27. The INAM excluded from these campaigns those children born in national territory whose parents are foreign and living in the country without legal permit.

28. The possibility of claiming for the right to *ius sanguinis* and to *ius solis* is denied to children born in Venezuela from migrant workers living in the country without legal permit. Therefore, they not only have no access to an official identity and its benefits, but become stateless as well. These children are suffering direct discrimination, resulting in violation of articles 7 and 8 of the Convention on the Rights of the Child.

29. A legal action has been presented before the Inter-American Human Rights Commission of the Organisation of American States (OAS) (Case no. 11,889 -- Venezuela), through which it is reported that children born in Venezuela, whose parents live in the country without a legal permit, have no access to Bill of Birth (Constancia o Boleta de Nacimiento) and to proof of his/her nationality (Birth Certificate), thus becoming stateless de facto. (See appendix no. 2).

30. The Foreign Office (Ministerio de Asuntos Exteriores) has presented a project to regulate issuing of Birth Certificates (March 1998). This Project has been submitted to an ample public consultation and discussion process, in which the NGOs have been included.

Freedom of Association.-

31. The Constitution of the Republic establishes in article 70 the right of every human being to freedom of association and to freedom of peaceful assembly. In accordance with this, article 72 of the Constitution establishes as compulsory for the State to protect associations, corporations, societies, and communities that have as object the better accomplishment of the aims of citizens and society, and to promote the organisation of co-operatives and other social institutions aimed at improving popular economy.

32. In article 404, the Labour Organic Law (Ley Orgánica del Trabajo -- LOT) denies child workers the right to form and to join trade unions. This article establishes that only workers aged 18 years old and over have the right to form and to join existing trade unions, and to participate in union administration. This article deprives child workers (14 to 17 years old) from the protection and benefits of trade unions.

33. It is also important to point out that the exercise of the right of children to freedom of association is limited because of the lack of support and promotion to create Student's

Centres, Bolivarian Societies, and Rights Committees, as established by the Organic Law of Education (Ley Orgánica de Educación).

Right to Access to Appropriate Information.-

34. Articles 19 and 20 of the Minors Protection Act relate to the right of children to have access to appropriate information. The prohibitions established therein do not have subsequent sanctions, thus facilitating uncompliance with the law.

35. Monitoring of radio and television broadcasting is competence of the Ministry of Transport and Communications (Ministerio de Transportes y Comunicaciones). The INAM has no actual competence to force compliance with the regulations applied to this matter, thus debilitating the capability of the State to apply such regulations.

36. Articles 11 and 13 of the Resolution # 2,625 of the Ministry of Transport and Communications make compulsory for all television channels, both public and private, the inclusion of at least three (3) daily hours of special broadcast for children, but they are systematically violated.

37. Several studies have demonstrated that the daily television broadcast (specially on weekends), includes an extremely high dose of violence (a survey in four national channels registered an average of 177 violent acts per hour during children and youth targeted broadcast). Some of these actually have children as protagonists and/or subject of violence. (See appendix no. 3).

38. Cartoons are the subgenus with the highest level of violence. Physical violence is the most frequent, followed by psychological and sexual violence, in a 4 to 1 ratio female/male.

39. Public television reproduces the same low-quality pattern in production and broadcasting as observed in commercial television, and there is no apparent effort to achieve a local production for children and youth.

40. The State has not guaranteed the existence of an endogenous production quota that, through the dissemination of appropriate materials, may enable children to have an egalitarian access to cultural diversity, and to plurality of ideas and opinions, so as to ensure the right to a healthy and quality-graded cultural, informative and communicational environment.

Right to Freedom from Torture or Cruel, Inhuman or Degrading Treatment.-

41. In 1991, the Venezuelan State ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Inter-American Convention to Prevent and Punish Torture. However, domestic legislation has not yet been adapted to the provisions and regulations of both legal instruments.

42. In a 1997 Amnesty International report, there is an ample description of several types of basic human rights violations of which children are victims, including extrajudicial

executions and other violations following arrest or inflicted at police stations. Cases of arbitrary detentions and cruel treatment are also featured. (See appendix no. 4).

43. In the same report there is one case of a 17 years old child, who died at a minors detention centre after being subjected to torture, and not receiving adequate medical care for the injuries he received.

44. Apart from the cases reported by Amnesty International related with extrajudicial executions, cruel treatment and arbitrary arrest and detention, in the annual report "We are news" ("Somos Noticias"), which promotes compliance with the Convention on the Rights of the Child, 70 cases of killings of children were registered for the period 1993-97, in which the alleged responsible killers are members of the State's security forces.

FAMILY ENVIRONMENT AND OTHER TYPES OF TUTELAGE

Illicit Removal and Retention.-

45. The Venezuelan State ratified the Convention on the Civil Aspects of International Child Abduction in 1996, and it was sanctioned that same year (Gaceta Oficial N° 36,004; 7.16.96). However, the Foreign Office (which is the office in charge of the implementation of this Convention), has not up to this date established any procedure to enable the correct application of this legal instrument. This means domestic legislation lacks adequate protection measures regarding the matter.

Maintenance.-

46. The Minors Protection Act defines Maintenance (Pensiones Alimenticias) as strictly related with feeding. Thus, it is interpreted exclusively as the obligation of providing food and beverage, leaving out such areas as recreation, health care, education, clothing, housing, etc.

47. On the other hand, domestic legislation does not establish adequate regulations for international maintenance programs. This allows for a situation of legal vulnerability for those children whose parents live abroad.

Note: The Venezuelan State has not ratified any of the existing Conventions relating the matter.

Adoptions.-

48. The Venezuelan Adoptions Act (Ley de Adopciones) regulates only on matter related to National Adoptions. The only existing provisions regarding International Adoptions are those established through article 21.b and 21.d, of the Sanction Act of the Convention on the Rights of the Child.

49. In 1996, the Venezuelan State ratified the "Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption". Although this legal instrument came into force in May 1997, nowadays the regular procedures regulated wherein are not respected.

50. Domestic legislation allows for the direct placement of children, establishing a confusion between the criteria of poverty and that of abandonment. It is considered that

custody enables parents and judges to hand in children directly in adoption and/or foster placement through a regular court procedure. This procedure is undertaken without an adequate interpretation of criteria such as: verification of suitability of applicants, verification of the child's adoptability, other regular procedures. (See appendix no. 5).

51. Until now, a foreign citizen visiting Venezuela with a tourist visa has been allowed to apply for an adoption, being the procedure followed the same as for a common national adoption. This leaves the child unprotected once he is living abroad.

52. 23 cases of intercountry adoptions presented before the Social Service International -- Venezuela, have merited important observations regarding ethical as well as procedural issues on three aspects: adoptability of the child, suitability of applicants, and procedures applied. Among the 23 cases, 12 happened after ratification by the Venezuelan State of the "Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption". (See appendix no. 6).

Children Deprived of Their Family Environment.-

53. In the Penal Code, abandonment of a child or of any other person incapable of providing him/herself with security or health care by his/her own means, is considered a criminal offence (articles 437 to 440). However, the sanctions established in case of infringement are merely symbolic, and consequently they are seldom applied. For example, article 440 establishes that someone who "...having found an abandoned or lost child under seven years of age, has omitted giving immediate notice to the authorities, when being able to, will be sanctioned with a fine of Bs. 50 up to Bs. 500 (US\$ 0.09 to 0.93)".

54. In articles 84 y 85, the Minors Protection Act shows a trend to consider the child with economic shortage (that is, living under poverty conditions) as if in situation of abandonment, and thus subject to the State's protection. This brings about a penalisation of poverty, facilitating the institutionalisation of poor children.

55. In article 88, the Minors Protection Act establishes that the Judge, an attorney from the Juvenile Attorney's Office (Procurador de Menores), or any other authority in charge of the protection of a child, "will undertake the measures of the case, favouring whenever possible, his/her own home or a substitute home". The decision is submitted to the "prudential judgement" of these authorities.

56. Juvenile court judges are inclined to take the measure of internment without a previous study of the case, prevailing the judge's criteria. In cases of children in situation of abandonment, the most frequent measure is internment, which brings about in many cases forced separation of brothers and/or sisters into separate centres.

57. In Home Houses (Casas Hogares), the requirements for admission usually taken in consideration are: possession of identity papers, scholarisation, adequate health conditions, among others. Additionally, in some of these centres an essential requirement for admission and permanence is adequate prove of the child's "good conduct", as well as guarantee of correct adaptation to the centre's rules of conduct. This is most frequent in private non-profit centres. The existence of these conditions for admission violates the

children's rights, and furthermore, it enters in contradiction with the usual characteristics of the children that require this type of social service.

58. The lack of adequate procedures for classifying the children in situation of abandonment, according to their specific conditions, brings about the possibility of finding children that face different problems in the same centre. Cases of home runaways and homelessness, narcotics possession and/or consumption, mendicity, sexual exploitation, abandonment, mistreatment, sexual abuse, and even (although in a lower scale) cases of juvenile offenders, can be found in the same centre of internment.

59. Priority is usually given to the measure of internment, relegating the option of family placement and/or assistance in foster families.

60. The support measures for family groups of children deprived of their family environment, are usually of a temporary and compensatory nature.

61. The prevailing corrective measures fall upon the child. No coercive measures and/or sanctions are imposed on the adult that has incurred in violation of the child's rights. Even in cases of mistreatment and abuse (which according to legislation are regarded as abandonment), the measure falls upon the child, who has to undergo internment.

Abuse and Neglect, including Physical Recovery and Psychological and Social Reintegration.-

62. Articles 441 al 443 of the Penal Code establish the legal provision that considers abuse and brutality in the disciplinary measures taken within the family group as punishable acts.

63. Children living under poverty conditions are considered by domestic legislation as being in situation of neglect, and thus at risk. This legal consideration makes them subject of the State's protection (as established in the Minors Protection Act). This approach tends to penalise families living under poverty conditions, judicializes the process of assistance, and favours internment as the prevailing protection measure. Under these circumstances, the protection measures omit the possibility of a family group support oriented action.

64. There is no national information system to allow a quantitative description of the situation of children that are or have been victims of abuse and/or mistreatment. All the information available is that reported by some national NGOs, and it only offers a partial view of the actual situation.

65. Domestic legislation establishes as compulsory the reporting of situations of neglect and/or abuse. However, the State has not developed any diffusion campaigns regarding the reporting procedures, and the importance of undertaking them if it is the case.

66. Children are not legally entitled to report abuses inflicted upon them, given that only their legal representatives can report such acts, as established in article 442 of the Penal Code: "the legal action can be brought before the court by the guardian or legal custody of the victim". This means the complaint can only be made both before the Juvenile Courts and the Juvenile Attorney's office if it is presented by the child's legal representative.

67. Different situations of abuse and/or neglect are known to be taking place in centres of internment for children deprived of their family environment, and in conflict with the law. The reports point out basic needs not being met and physical mistreatment among the population that receives assistance. However, complaints on these violations of children's rights are scarce, given that: children can not report them; in many cases authorities do not receive notice due to lack of witnesses; some of the victims have no family; the victims or their relatives and/or abuse witnesses feel afraid to report, or simply don't believe in the possibilities of justice being made. (See appendix no. 7).

68. In the cases of children with no identity papers, internment in centres for children deprived of their family environment is the most frequent measure taken by juvenile court judges, so as to pressure the family group in to proceeding to officially register the child.

Conditions of Internment.-

69. In the Centres of Internment of the Assistance Program for the Child with Special Treatment Needs (Programa de Atención al Niño con Necesidad de Tratamiento), intended for juvenile "offenders", the same kind of non-specialised assistance is given to both children in conflict with the law and to those that endure a hazardous situation and/or abandonment.

70. Children admitted in centres of internment, usually do not receive any information about the legal procedures they are being submitted to. In many cases, this information is not given to their legal representatives either.

71. The INAM has been regularly complaining about budget limitations, and about its severe effects on an adequate supply and maintenance of the centres of internment.

72. There is no systematic supervision nor active monitoring of the situation of children detained at detention and internment centres for children, even less so of those in detention centres for adults. The supervision of the Conditions of Internment is competence of the Public Prosecution and the INAM.

73. The reports the INAM presents before the Juvenile Courts register the progress of individual cases, and do not reflect the actions of employees and officials under whose custody the children are. The reports presented before the court do not offer in many cases an effective and opportune diagnostic, that may support the judges' decision.

74. Time of internment is extended beyond actual needs due to administrative difficulties and deficiencies. Once the reports on children are presented before the Juvenile Courts, sentences are not passed within the time lapses established by the law.

75. At the time of preparation of this Alternative Report, the centres of the INAM are known to be collapsed, specially those belonging to the Assistance Program for the Child with Special Treatment Needs (intended for juvenile offenders). This collapse is mainly due to the deficiencies of the assistance given and the delay in taking protection measures for the target population.

76. The INAM does not report on the conditions of internment of the centres attached to the organism. These centres are subject of internal evaluation only in extreme cases, such

as riots and massive escapes, which are reported to governmental organisms (Chamber of Deputies, Public Prosecution, Judicial Council).

77. In the Centres of Internment belonging to the Assistance Program for the Child with Special Treatment Needs, specifically those under the Program of Diagnostic and Treatment (Programa de Diagnóstico y Tratamiento), one of the sanctions for major offence is the "isolation for a maximum period of 24 hours" (INAM: April, 1995, at 36). This measure has been explicitly prohibited through the Riyadh Guide Line no. 67.

78. The reduction of the time for visits or meals, or even its total suppression, are usually considered and applied as sanction in the centres of internment of the Program of Diagnostic and Treatment. Other coercive measures, such as those based in sedation and/or physical mistreatment, are also known to be applied.

79. The centres of internment do not count within their premises with care units for treating children suffering from narcotics abuse problems, and there is basically no specialised service to take care of these cases. There is no planned narcotics consumption prevention and/or rehabilitation activities, apart from those undertaken for the control and vigilance of trafficking and/or consumption within the detention centre premises.

80. The Program of Diagnostic and Treatment does not allow children being assisted to continue formal education studies. In most centres there is no alternative for the education of juveniles.

RIGHT TO HEALTH AND WELFARE

81. The progressive decline of the health sector in Venezuela is reaching huge proportions. The health crisis is reflected through high infant mortality rates, high levels of malnutrition in children under one year of age, and re-emergence of endemic diseases that had actually disappeared. A significant number of hospitals and health centres of the public health care system all over the country have suffered from temporary closures, because of deterioration of its sanitary conditions, and lack of medical supplies.

82. There is a clear incoherence between the public health policies and the actual health programs. These programs are designed from an assistance-oriented perspective, and are intended to work only on the effects of the crisis of the national health care system, without taking in consideration its causes. The analysis of the policies and budget orientation in the health care sector show a weak definition of objectives, goals and functions of the health care system, and specially of health care services.

83. Public health investment trends are regressive. In relation to Gross National Product (GNP), health spending has been showing a progressive decrease. In 1992, the State spent 2.65% of the GNP in the health sector, whereas in 1995, public health spending went down to 1.87% of the GNP. (PROVEA: Annual Report 1996-97).

84. According to the Central Office for Statistics and Computing (Oficina Central de Estadística e Informática -- OCEI), in 1992 public health spending was US\$ 112 per capita; in 1995 it went down to US\$ 50; and estimates for 1996 were around US\$ 33 per capita. (National Press: El Universal, 8.21.96, at 2-2).

85. Infant Mortality Rate, which had showed a positive progression during the last decades, halted its decrease in 1988. For the quinquennium 90-94, the official rate was

between 29.25 and 25.5 children per 1000 livebirths. According to the Statistics Service of the Maternity Hospital Concepción Palacios, the main reference maternity hospital of the country (located in the Federal District), 53 out of every 1000 live born died between January and September 1994, a rate that doubles the national average. (Provea: Annual Report, 1994-95, at 129).

86. The Maternal Mortality Rate is on the increase: in 1990, it was 58.48 per 100.000, a value that was up to 66.66 in 1995. The official goal was to reduce the figure registered in 1988 in at least 60% of its value. (MSAS: Memoria y Cuenta; several years).

87. The main causes for the high maternal mortality rates are identified by the authorities as follows: the terrible sanitary conditions of the hospitals and delivery rooms; the physical conditions of the future mothers; the lack of medical control during pregnancy; and the scarce communicational and educational policy on family planning. According to the Statistics Service of the Maternity Hospital Concepción Palacios, 40% of the women in labor that register at the hospital have had no prenatal control; 22% are minors, 11% of which die at childbirth.

88. According to the Ministry of the Family, there is no information available regarding official campaigns to stimulate women to feed their children exclusively through maternal breastfeeding.

89. The main morbidity causes are still related to infectious and preventable diseases. Diarrhoeas are the disease that report the highest number of cases, followed by hepatitis, parotiditis, measles and dengue fever. In 1995, 420,014 cases of diarrhoeas were reported among children 4 years old and under. (MSAS: Memoria y Cuenta; several years).

90. Another source points out that "the main morbidity causes registered in 1993 in Venezuela are infectious and parasitic diseases, and those related to the breathing system. Among the first, viruses is the most common (32% of the cases), followed by diarrhoeas (26%) and helmintiasis (18%). Regarding diseases related to the breathing system, the main cause is faringo-amigdalitis (36%), second cause is asthma (25%), and third cause is rinofaringo-amigdalitis (20%)". (CORDIPLAN-UNICEF: Análisis de Situación de la infancia, la juventud y la mujer en Venezuela, 1995, at 51).

91. In 1990, 15.4% of children under 2 years of age presented global nutrition deficiency. This figure went down to 12.7% in 1992, but increased to 14.4% in 1996. Thus, the planned goal to reduce the proportion of malnutrition in at least 50% of the value registered in 1988 has not been accomplished. (MSAS: Memoria y Cuenta; several years).

92. This health situation is the more significant when values for children between 7 and 14 years of age are taken into account. If in 1990, 36.2% of these children showed global nutrition deficiency, in 1994 this figure decreases to 27.5%, and in 1996 it amounts to 30.1%. (Id.).

93. In the period 1991-93, the infant mortality rates for children under 1 year of age due to malnutrition range between 38.1 and 52.4 deaths every 100,000 children. (CECODAP: Somos Noticia 1994).

94. According to figures presented by the OCEI, infant malnutrition affects a high proportion of children. Between 15% and 21% of the children of Venezuela suffer from different levels of malnutrition. Acute malnutrition prevails among children up to six years old, whereas children between seven and fourteen years of age are affected mostly by chronic malnutrition.

95. In 1990, 18.2% of all registered mothers that gave birth were under 12 years of age; according to more recent statistics of the OCEI, this figure increased to 18.6% in 1992.
96. According to figures obtained through the National Survey on Venezuelan Youth (Encuesta Nacional de la Juventud Venezolana -- ENJUVE), 55.8% of young people start having sexual relations before the age of 19, 25.7% of which declared having had their first sexual experience before the age of 15. For young people living in poverty conditions, this figure increases to 28.4%.
97. According to the same study, only 39% of young people with sexual experience use any method to prevent pregnancy or sexual transmittable diseases (STD), and among them only 52.6% does it permanently.
98. In 1993, the mortality rate among adolescent mothers due to pregnancy and/or perinatal related complications, doubled the average maternal mortality rate for all ages. (CECODAP: Somos Noticia, 1997).
99. Incidence of AIDS and other STD is increasing among children. For every 1000 cases of STD registered, 134 are children aged between 12 and 18 years old. (Id.).
100. In 1994, after the UN International Conference on Population and Development, the Venezuelan State created the National Commission for the Prevention of Precocious Pregnancy (Comisión Nacional de Prevención del Embarazo Precoz), an office attached to the Ministry of the Family. This Commission is currently not working because of unknown reasons.
101. "According to official figures of the Ministry of Health and Social Assistance (Ministerio de Sanidad y Asistencia Social -- MSAS), from 1982 (when the first case of AIDS in Venezuela was registered), until March 1997, 6,768 cases of HIV/AIDS and 3,938 deaths have been registered. Among these, 24 were children aged between 10 and 14 (19 boys and 5 girls). Figures from the World Health Organisation (WHO) showed that, until December 1993, among the 3,325 registered cases in Venezuela 83 were juveniles aged between 10 and 19, and 30 were children that had been born with the disease, among which 15 eventually died" (CECODAP: Somos Noticia, 1997, at 56).
102. The J.M. de los Ríos Hospital, located in Caracas (Federal District), is the only hospital all over the country prepared to bring assistance to children living with HIV-AIDS.
103. The MSAS has an office on Prevention and Struggle against AIDS (Oficina de Prevención y Lucha Contra el SIDA). This office develops epidemiological control programs, co-ordinates prevention and educational programs all over the country, and manages and co-ordinates the blood banks.
104. Children with HIV-AIDS are subject to constant discrimination, despite the existence of an official disposition (Resolución Ministerial N° SG-439, published August 26, 1994), that prohibits application of HIV tests to people applying for a job, or being admitted at educational, health care and refuge centres.
105. According to a report on Human Rights and HIV/AIDS Epidemics in Venezuela (Acción Ciudadana Contra el SIDA, 1997), the most frequent situations that people living with HIV-AIDS have to endure are: rejection in educational and health care centres, and deficiencies in orientation as well as prevention programs.

Social Security.-

106. The Integral Social Security Act (Ley Orgánica de Seguridad Social Integral), that was recently passed in Parliament, offers protection to both the formal and the informal labour sectors, but it establishes a modality of individual affiliation of all members of each family groups. Only workers that have the economic status to additionally pay for affiliation of the members of their families (among which obviously their children), will be able to offer social security protection to the entire family group, whereas the remaining part of the population will be excluded from the benefits of family protection. As a result, the new system generates discrimination and violates the social security principle of solidarity.

107. Children deprived of their family environment do not benefit from social security protection. Only institutionalised children are covered by a hospitalisation and surgery insurance, offered by the INAM.

RIGHT TO EDUCATION

108. Budget assignment for public education has decreased in the last years. In 1992, 18% of the National Budget was assigned to education, whereas in 1996 this figure went down to 15%. In 1997, budget deficit reached 48%, of which around 95% were payroll assignments.

109. One out of each 5 children is esteemed to repeat the First Grade of Elementary School (18.46%); one out of ten leave school before the legal age, and almost two out of every three do so before the Ninth Grade of Elementary School. (CECODAP: Somos Noticia, 1996).

110. According to the Ministry of Education, the reasons behind children dropping out of school are associated with economic problems, and lack of interest towards formal education.

111. The pre-school registration figures show that only 33% of the children in pre-school age are receiving assistance through the Net of Official and Private Nursery Schools. There are non-conventional modalities through which children between 0 and 3 years of age can receive assistance. (Ministerio de Educación: Memoria y Cuenta; several years).

112. According to figures registered by the OCEI and published by the Ministry of Education in 1994, scholarship rate (children aged from 6 to 11 that are registered in elementary education) reaches 89.7%. This means around 10% of these children are left out of the formal education system. Furthermore, "only six out of ten children that register in first grade of elementary education pass the sixth grade, and only one out of three reaches ninth grade" (UNICEF-CORDIPLAN: Análisis de la Situación de la Infancia, la Juventud y la Mujer en Venezuela, 1995, at 73)

113. In rural areas, less than half of the population reach elementary education level (up to sixth grade), another 7% have completed the cycle, and a mere 3% have ended secondary school studies. (Id. at 76)

114. The figures and rates related with children repeating year and leaving school before the legal age have been increasing, specially those for first and seventh grade of

Elementary School; official statistics of the Ministry of Education show that, for the school year 1993-94, 11% of the children repeated first grade.

115. "During the school year 1993-94, more than 470,000 school pupils were repeating course, and the previous year more than 390,000 children did not continue their basic educational studies. In the past ten years, an average of 320,000 children per year have left the education system at Elementary School level". (CORDIPLAN: Diagnóstico sobre la situación de la Infancia y Adolescencia en Venezuela, 1996).

116. The scholarship rate at Secondary School has remained below 40% since the mid-eighties, a figure which is the more significant when as compared to other countries. (Navarro Juan Carlos: La Educación, Ediciones IESA, Documentos de Base N° 17).

117. Factors associated to the problems of children repeating course and dropping out of school are: low quality of the education system, deficient preparation of the teaching staff, a limited learning time, deficient library services, low capability to acquire educational materials and text books.

118. The academic index attained by Secondary School students is under the desirable minimum (57.5). In 1990, the index was 49.97, and in 1994, it decreased to 48.19. (CECODAP: Somos Noticia, 1997).

119. The public Venezuelan education system is not achieving development of minimum skills (reading comprehension, basic logical-mathematical operations) for students ending the cycle. (CORDIPLAN/UNICEF: Análisis de Situación de la Infancia, la Juventud y la Mujer en Venezuela, 1995).

120. Between September 1996 and August 1997, the national press reviewed 134 reports of closure and/or malfunction of educational institutions, most of them related to security problems (theft and malfunction).

121. Six different social programs are developed through the Net of Educational Institutions (Red de Planteles Educativos): Family Subsidy (Subsidio Familiar); School Board (Alimento Escolar); School Refectory (Comedores Escolares); Uniform Supply (Dotación de Uniformes); Youth Job-Training (Ocupación Joven); and Student Transport Fare (Pasaje Estudiantil). These programs are mainly intended to scholarised population of urban areas.

122. Children without identity papers are being gradually incorporated to the formal education system, due to a legal disposition of the Ministry of Education. However, lack of an official identity does not allow for issuing of elementary school certificates.

123. The Venezuelan education system does not have a standardised skill and/or knowledge test for students of any given school level, except for those ending secondary school and intending to study higher education. (Navarro, Juan Carlos: La Educación, Ediciones IESA, Documentos de Base N° 17).

124. The introduction of subsidies for students' families such as the Board Grant, and its distribution through the public education system favoured an increase of registration figures. However, this registration increase did not have any positive effect on the quality of the children's education, or on the actual functioning of the education system, nor on a better administration of economic resources. (Id.).

125. The public debate that the teachers' trade unions promote are almost exclusively centred on negotiation of collective agreements. They seldom relate to the quality and state of public education.

126. The Ministry of Education staff is made up of one worker or administration employee for every two teachers, whereas international standards establish as the adequate rate one every eight teachers.

SPECIAL PROTECTION MEASURES

Child Victims of Sexual Abuse.-

127. The Venezuelan laws do not guarantee physical integrity to the child victim of sexual abuse. In order for a child victim of sexual abuse to receive assistance in an emergency service at a public hospital, copy of the complaint presented before the Judicial Technical Police must be submitted.

128. The official statistics of the Judicial Technical Office (Cuerpo Técnico Judicial) related with complaints for offences "against good manners" (sexual abuse), do not classify the information according to the age of the victim. This restricts the possibility of identifying trends referred to incidence of this kind of offences against children.

129. Reporting before the Technical Office of the Judicial Technical Police (Cuerpo Técnico de Policía Judicial) is hindered due to irregular functioning of the Forensic Medicine Offices (Oficinas de Medicatura Forense). This service is supposed to be permanently operative. Instead, it is known to be working only at office hours, and closed in weekends and bank holidays.

130. In Sexual Abuse cases, existing legislation establishes procedures only for cases in which there is substantial prove of offence.

131. There is no regulation concerning the specific measures for assistance of sexual abuse cases.

132. The regulations related with sexual abuse are established in Title VII "Of the offences against good manners and the right order of families" (Titulo VII: "De los delitos contra las Buenas Costumbres y el buen orden de las familias") of the Venezuelan Penal Code. Therefore, what is being protected is an abstract entity ("good manners"), and not a potential victim and his/her physical and psychological integrity. The current Penal Code was passed in 1929, and was partially reformed in 1964.

133. Incest cases are only punishable when they occur "in situations that may cause scandal" (Penal Code, article 381), such being the criterion to evaluate the situation, and establish the proceeding measures.

134. There is an important presence of moral judgements in the Penal Code. Other examples are: an aggressor that marries the victim of his aggression is exempt of sanction

(article 395); a sexual act perpetrated with the consent of a female child is punishable “when there is a promise of marriage and (the child) is known to be decent” (article 379).

135. INAM statistics, differentiated by admission causes and assistance programs, show a trend to institutionalise the victims of sexual abuse in centres for children with special treatment needs. (See appendix no. 8).

136. Thus, it is easy to conclude that the definition of sexual abuse offence established in the Penal Code drives the authorities to take measures based on custody, decency, honour and morality, and not in the integral protection of the child victim of sexual abuse. This approach ends up in penalisation of the victim.

Child Workers — Right to Labour Protection Measures.-

137. The INAM study “National Enquiry about the Labour Situation of Child Workers in Venezuela” (“Encuesta nacional sobre la Situación Laboral de la Niñez y Adolescencia en Venezuela”) has been applied three times (twice in 1996 and once in 1997). The purpose of this survey is to approach the reality of children working in the streets, and it is supposed to have been done through contact with approximately 18,000 child workers all over the country. Results showed that most are street vendors, working an average of eight hours a day. (See appendix no. 9).

138. The Minors Protection Act considers that every streetroaming child is in situation of risk and/or hazard, according to the “irregular situation” doctrine, and thus subject to the State’s protection measures. This regulation has meant arbitrary detentions and institutionalisation of child street workers.

139. The Labour Organic Law (LOT) does not establish sanctions for violation of regulations regarding: 1) minimum age of admission to employment (articles 247, 248 and 251); 2) dangerous or hazardous work (articles 249 and 250); 3) periodical medical examination of the child worker (articles 252 and 253); 4) discrimination in labour conditions and wages based on age of the worker (articles 26 and 258); 5) prohibition of paying wages to children according to capacity (article 259); and 6) coincidence between labour and school holidays (article 260).

140. The sanctions established in the Minors Protection Act are not coercive, reason because of which they are frequently omitted. The sanctions amount to a 18 US\$ fine, and 1/10 of the official minimum wage. Sanctions established in the LOT oscillate between 1/8 and 04 of the official minimum wage. Even though the latter are higher to those established through the Minors Protection Act, the Committee of Experts on the Application of Standards of the International Labour Organisation (ILO) has asked the Venezuelan government to increase the amount of several of them, given that they stand as merely symbolic, and that they are not dissuasive nor effective to protect workers.

141. The child labour inspection services -- both INAM’s and Labour Ministry’s (Ministerio del Trabajo), are ineffective in achieving compliance with the existing protection regulations in favour of child workers. This situation is made clear given that: 1) the State recognises the existence of a significant number of child workers that are under the minimum legal age for admission to employment; 2) a significant number of child workers have to endure longer working days than those legally established; and 3) a significant number of child workers do not attend school.

142. The Office of the Labour Ministry that was in charge of the supervision and inspection of working conditions and work permits, was closed down in 1995.

143. Domestic legislation does not provide for a definition of “dangerous or hazardous work” regarding child workers, nor of the type of labour that might slow up his/her education process. It only establishes its formal prohibition in general and vague terms.

144. The offices in charge of establishing the definition of “dangerous or hazardous work” are the Congress of the Republic (according to article 136 of the Constitution), and the Labour Ministry, after a previous report of the INAM (according to article 25 of the Minors Protection Act). Up to this date, none of these public institutions has proceeded to define, nor even state which jobs are dangerous or hazardous to the child, or those that may have a negative effect on the child’s education.

145. The INAM’s Program Home of the Child Worker (Programa Casa del Niño Trabajador) has only 6 centres all over the country. Coverage is thus insufficient, given that there are an estimated 444,585 child workers in Venezuela (OCEI: Encuesta de Hogares por Muestreo, 1997).

Children in Conflict with the Law and Deprived of their Liberty.-

146. Domestic legislation does not establish a minimum age below which a child cannot be deprived of his/her liberty, nor be presumed to have the capacity to infringe the law. In the main lines of the project of the INAM’s Assistance Program for the Child with Special Treatment Needs, the minimum age from which children can be deprived of their liberty following infringement of the law is twelve (12) years of age. The current Draft Bill for the Organic Law for the Protection of Children proposes the age of 16 as the minimum age below which children will not be considered as punishable by the law.

147. In some counties, local authorities have imposed night curfews for “minors”. This measure has meant an increase in the number of children detained at police stations, and in the number of cases of arbitrary detention.

148. Security forces and the juvenile court judges show a trend to penalise children that have been witness of criminal acts and/or suffer from homelessness, establishing their institutionalisation in centres for children in conflict with the law, without an adequate preliminary study of the case. These public organisms tend to penalise children living under poverty conditions and/or with institutional experience as “offenders”, thus violating the Minors Protection Act (article 1.6), and above all the Universal Principle of the Right to be presumed innocent until proved guilty.

149. A recent report by Amnesty International (AI) points out the deficient conditions of the assistance that children receive in police stations. The most significant are: overcrowding, lack of water service and water closets, lack of clothing and adequate furnishings, deficient and inappropriate alimentation, and lack of guards and custodies from the Juvenile Attorney’s office. (See appendix no. 4).

150. Children detained by police forces do not have the support of the Juvenile Attorney’s office, given that its officials do not carry out their duties at police stations.

151. In 1997, the Public Prosecution, the INAM and the juvenile court judges reached an agreement after which a joint Action Plan was designed. In accordance with this plan, children can not undergo detention for a period of over eight days. This measure offered an initial solution to the problem related with detention periods, but ended up collapsing the assistance capacity of the INAM’s centres.

152. The periods of permanence of children detained at police stations usually varies between 3 and 22 days (sometimes more). The maximum period of permanence at the Assistance Centres of the INAM to prove an attributed offence is 8 days.

153. Children detained at police stations and/or treatment centres do not usually receive information on the legal procedures regarding his/her case, which are the charges against him/her, and who is his/her legal defender.

154. For children in conflict with the law deprived of their liberty, there are two possible assistance methods once the detention period is over: Parole – periodical presentation before an officer of the INAM at the Juvenile Courts; and the External Consultation Service – psychological and social assistance for the child and his/her family group. However, assistance work is almost non-existent, due to the limitations produced by the collapse of the centres and services provided by the State.

155. According to an article written by the current President of the INAM, Dra. Nancy Montero, and published in 1995 in *Children's Magazine* (Revista Niños), a close evaluation of these centres throws the following significant issues: a) cohabitation of children with different admission causes, and different assistance needs; b) inadequate adjustment to the real capacity of the internment centres (overcrowding); c) contradictions between the propositions established for each assistance model and its implementation; d) the staff is not technically trained to assist children; e) there is no incentive policy towards the staff; f) assistance facilities still maintain repressive focused treatment models, which are largely questioned nowadays; g) families are not incorporated to the process of assisting the children; h) deficient supervision and monitoring; and i) the community has a negative perception of these centres, and consequently does not participate. The NGOs share the conclusions of this analysis.

156. The focus of the assistance programs for children with special treatment needs is characterised by: penalisation of the child, re-educational and sanctioning nature, non-appliance of distinctions according to admission causes, and feeble incorporation of the child's family to the process.

157. These programs are not systematised and properly evaluated. There is a deficient monitoring of management, so as to enable evaluation of results, correction measures implementation, and safeguarding of compliance and respect of the rights of the institutionalised children.

158. An INAM research study about "Childhood in Conflict with the law" ("Niñez y Adolescencia en Conflicto con la Ley", 1997), indicates the existence of difficulties for the permanent supply of materials and equipment needed for the correct functioning of the centres. According to the INAM, the main cause related with this deficiency is constant budget limitations.

159. This same study also outlined that out of the 55 existing centres in the country for the assistance of children in conflict with the law, only four developed any kind of re-educational work.

160. In 1997, 38,724 children received assistance at centres for children with special treatment needs, among which 2,802 were under 13 years of age. 77% of the population that received assistance in these centres were offenders; 23 % were classified as in a dangerous situation; and 0.3% as abandoned.

161. For children under twelve (12) years of age in conflict with the law, deprivation of liberty is concealed under other assistance modes.

162. National legislation does not guarantee the right to a fair trial to children in conflict with the law.

NOTE: See "Conditions of Internment"

Indigenous Peoples and Children.-

163. According to information gathered by the OCEI through the Indigenous Census (Censo Indígena) for 1992, the main issues regarding the indigenous population situation are:

Of all collective property titles that a few indigenous peoples enjoy over their lands, only 1% are definitive.

Pathologies that were thought to have disappeared due to efficient sanitary measures, such as malaria and leprosy, are re-emerging.

Cholera epidemics in 1991 affected indigenous communities 30.4 times more than the rest of the population, being the Wayú and Warao peoples the most affected.

40.5% of the population over 10 years of age is illiterate.

55.6 % of the population between 5 and 24 years of age are ousted from the education system.

El 40.9 % of the children over 5 years of age have not attained any education level.

65% of the indigenous communities do not have schools.

164. The Indigenous Census for 1992 also shows that among the 1,494 existing Indigenous Communities, 65% do not have school, and 76% of these do not have any teacher; 86% do not have any sort of medical service; and 95.8% do not have radio-communication systems.

165. According to the Indigenous Census, 57.6 % of indigenous population is under 20 years of age.

166. The precarious situation in educational issues has a negative effect in the capability of indigenous peoples to defend themselves before the non-indigenous populations, given that they have to deal with them with the same conventional mechanisms common to the whole Venezuelan society.

167. The right to bilingual education is not actually respected. Curricula at indigenous schools are not adequately adapted to their cultural characteristics. In 1979, the Intercultural Bilingual Education Program (Régimen de Educación Intercultural Bilingüe - REIB) was created. However, 16 years after its creation it has not been sufficiently developed, has not been implemented in all indigenous territories and communities, and its implementation has been deficient. There is a permanent lack of materials, qualified teachers, and truly intercultural educational programs. (National Press: Diario El Universal, 7.02.95)

168. Due to the deficiencies of the bilingual education system, the Committee on the Elimination of Racial Discrimination (Doc. CERD/C/304/Add.17) has recommended to the Venezuelan State that: "16. New efforts have to be done to strengthen the bilingual education system, so as to achieve total coverage of the indigenous population, 40% of

which is illiterate, and to avoid the destruction of the indigenous cultural patrimony". The CERD also stated that: "12. There is concern regarding the deficient measures undertaken to ensure bilingual teaching to the indigenous peoples, and to avoid the destruction of their cultural patrimony".

169. Most indigenous peoples do not benefit from national health care programs. According to the Indigenous Census, 90.9% of these communities had no assigned health care nurse; among these same communities, 88.3% have never been visited by a nurse; 93.9% have not been visited by the Epidemiological Service (Servicio de Malariología); and 99.4% have not received odontologic assistance. (Provea: Informe al CERD).

170. The precarious living conditions of indigenous peoples, and specially the lack of social services, make them a highly vulnerable social group. In 1991, an epidemics of cholera took place in Venezuela (cholera is an infectious disease associated to inadequate environmental conditions). This disease had an incidence 30.4 times greater among indigenous groups, than among the rest of the population of the country (35% of the cases happened among indigenous peoples, which represent 1.5% of the total population). The indigenous groups that suffered the most were the Wayuú and Warao peoples. An entire community disappeared due to migration of its 450 inhabitants, when fleeing from the presence of the disease; the authorities offered them no medical assistance. (Id.).

171. The central office in charge of giving assistance to the indigenous peoples and children is the Office for Indigenous Affairs (Dirección de Asuntos Indígenas). This office, which has undergone several changes, is currently attached to the Ministry of Education. It has suffered severe and constant budget cut downs, and the authorities are currently discussing its possible elimination.

172. An action was brought before the Public Prosecution three years ago, related with traffic of female children from the Eñepa tribe, in Bolívar State, to submit them to sexual exploitation. This case has had a low public impact, and until now the measures taken for the protection of these children are unknown. The INAM recognised ignorance of the case.

173. The problem of judicial insecurity for indigenous people regarding their territories and natural resources has brought about as a consequence serious situations of displacement to urban areas of entire families, ending up in a situation of homelessness and mendicity.

RECOMMENDATIONS:

To urge the Parliamentarians to speed up discussion and passing of the Draft Bill for the Organic Law for the Integral Protection of Children, presented before the Congress of the Republic in July 1997.

1. To urge the Home Office (Ministerio de Relaciones Interiores) and other organisms with competence in the matter, to establish a mechanism for identification of parents that do not have Venezuelan identity card, allowing for other identification procedure for the sole means of enabling registration at the Registry Office of their children born in Venezuela.
2. To create Registry Offices at Public Hospitals, so as to guarantee registration of all childbirths.
3. To urge the Foreign Office to establish the necessary measures to regulate the international child protection conventions signed by the Venezuelan State.
4. To urge the Judicial Council, the Foreign Office and the INAM to design legal instruments that may establish the proceedings for the implementation of the propositions of the Convention on the Civil Aspects of International Child Abduction, so as to guarantee a prompt procedure.
5. To speed up the process of discussion and passing of the Act Against Trafficking of Children (Ley Contra el Tráfico de Niños), presented before the Congress in February 1998.
6. To urge the Venezuelan State to formulate public information and communication policies oriented towards the protection of children, so as to guarantee compliance with their rights, and to avoid the systematic abuses committed by the mass media, specially through television broadcasting.
7. To urge the Venezuelan State to change orientation of the public television so as to achieve a public service media, giving special attention to the children audience.
8. To create a Social Communication Council, with equal representation State-Media-Civil Society, for the design of information and communication policies that may guarantee the access to adequate, quality-graded information to children, and to establish a frame of reference of shared responsibilities.
9. To study the possibility of ratifying at least one of the Conventions related with Payment of Board Maintenance.
10. To urge authorities with competence in matter of Adoptions, specially al Judicial Council, to establish as compulsory the compliance with the propositions established in "Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoption".

11. To urge the Venezuelan State to increase the public education budget, that has been constantly decreasing in the last ten years.
12. To urge the Ministry of Education to improve the quality of education and to qualify teachers through a monitoring system and a continuous training policy.
13. To revise and/or modify the legal propositions related with sexual abuse, so as to speed up discussion and passing of the Reform Bill for the Penal Code, introduced by the INAM in 1996.
14. To urge the Foreign Office to issue specific guidelines to Consulates, so as to guarantee the existence of protective measures for children that are living abroad, with special emphasis on the measures related with prevention and treatment of situations of illicit removal or retention.
15. To urge the Foreign Office and the Judicial Council to establish the criteria for admission of intercountry adoption, which must be considered only with States that have ratified the Convention and when all alternatives within the child's own country have been considered.
16. To urge the Public Prosecution to comply with its objective of protecting civil, political, economic, social and cultural rights of children, giving special monitoring to the actions related with situations of conflict with the law: internment conditions, both in detention and protection centres.
17. To urge the Public Prosecution and the INAM to take in consideration and apply the propositions of the Riyadh Guide Lines nos. 72, 73 and 74, related with "Inspections and Demands".
18. To urge the INAM to review the internment causes and status of children admitted in all centres.
19. To urge the organisms with competence in the matter to promote and support investigations related with children deprived of their liberty, with absolute and unrestricted access to the juvenile detention centres of the country, through human rights inspection teams.
20. To give net priority to the children, through adequate budget assignments to the public organisms related with fulfilment of the children's requirements.
21. To define a systematic registration and information analysis model, attached to specific offices that would deal with the data given by the institutions.
22. To include the propositions and principles of the Convention in the contents of the technical and professional studies, related with justice administration and assistance of children, adjusting them to the doctrine of integral protection.
23. To include in the curricula of the Technical Institutes of the Police Forces (Escuelas Técnicas de los Cuerpos de Seguridad) the principles and dispositions of the Convention, as well as orientations regarding adequate treatment of children. NGOs should be consulted.

24.To revise the contents and propositions of the assistance programs intended for children deprived of their family environment and in conflict with the law, so as to adapt them to the doctrine of integral protection, thus guaranteeing their social re-incorporation.

25. To strengthen the labour inspections offices of the Labour Ministry, and to guarantee, with the active participation of NGOs and labour and employers' organisations, an appropriate labour inspection of child workers, specially in small/medium businesses, rural work, domestic labour and informal sector.

26. To urge the President of the Republic to establish, with the active participation of NGOs and labour and employers' organisations, a Regulation of the LOT that defines clearly the legal terms of dangerous and hazardous work and work that hinders education, in relation with child work.

APPENDIX:

- 1: Goals of the National Action Plan in favour of Childhood.
- 2: Report before the Inter-American Human Rights Commission of the Organisation of American States (OAS), related with the Right to a Name, Nationality and Identity.
- 3: Publications of the ININCO
- 4: Amnesty International Report (1997): “The Silent Cry”
- 5: “Irregularities in the Process of Adoptions”
- 6: Table of Adoption Cases with Irregular Procedures.