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VIOLATIONS AGAINST THE RIGHTS OF CHILDREN AND ADOLESCENTS IN THE CONTEXT OF THE PANDEMIC - VENEZUELA

Authors of the Report:

Community Learning Centers (CECODAP) (<http://www.CECODAP.org>) is a Venezuela social institution that, since its foundation in 1984, works on the promotion and defense of the human rights of children and adolescents, with special emphasis in the construction of violence-free cohabitation through citizen participation and the assistance of children and adolescents, families, education centers and the society at large.

The Network for the Human Rights of Children and Adolescents (REDHNNNA) is a coalition of social, academic and community organizations, research centers and institutes and defenders of the rights of children and adolescents (CHA), founded and operational since 2006 (<http://www.REDHNNNA.org>) and dedicated to the promotion, defense and enforceability of the rights of children and adolescents, through the implementation of actions and mechanisms of collective and democratic participation, aimed at promoting the Best Interest of the Child inclusively and with openness to dialogue with various actors.

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Executive Briefing:

1. With the enactment of the Convention on the Rights of the Child (1989) and later the Framework Law for the Protection of Children and Adolescents (2000), Venezuela established a juridical setting of guarantees meant to profoundly favor children and adolescents; however, there are still important gaps between the written regulations and the everyday reality of children and adolescents in Venezuela. One of the fundamental characteristics of every right is the availability of mechanisms, procedures and institutions to denounce any threat or violation. Enforceability is an inherent part of any culture of rights; therefore, it is indispensable that citizens have access to the necessary information so that they know how and where to raise their complaints, and that the various institutions of the State guarantee a timely and effective response for all the cases of threats or violations against rights, especially in situations involving children.
2. Taking into consideration a context of violence and a progressive weakness in the attention of the System of Protection for Children and Adolescents, in 2020 CECODAP began a new experience of aid for victims through the creation of the Service of Legal Attention (SAJ) which has already helped in assisting, guiding and supporting, as well as in denouncing situations that threaten and violate the rights of children and adolescents (CHA). This experience emerges in the country's worst institutional, social and political moment, when the decline in the quality of life of

Venezuelans is evident, along with an increment in the frequency and severity of violence, a weakening of the System of Integral Protection for Children and Adolescents (SIPINNA) and a contraction of the civic space which reduces, stigmatizes, limits and corners social participation in public affairs, all elements that characterize the Complex Humanitarian Emergency (CHE) that has been denounced for years by many organizations and human rights defenders in the country.

3. This report represents an effort to identify and document the need to increase the responses and services of protection for CHA because violence does not cease in a pandemic, on the contrary, it is heightened by the tensions of the prolonged lockdown, the closure of schools, the economic impact and the absence of programs to support families.
4. This document comprises the experience accumulated in a methodology for the attention to cases and highlights the main violations against the rights of CHA that took place between April 2020 and April 2021 in 12 states of the country. Additionally, it studies the levels of effective responses of the SIPINNA and civil society organizations (CSO) that offer programs for the attention to cases and providing psychosocial attention. Although it is true that the data obtained is not representative of the national reality, it revealed elements that help in detecting trends and raising of demands to strengthen the mechanisms of legal, social and psychological protection for children and their families.

Characterization of the Service of Legal Attention (SAJ) of CECODAP:

5. It began operations as a support and by referral of CECODAP's Service of Psychosocial Attention (SAP), Growing without Violence. However, due to the clear shortcomings of the SIPINNA and the scarcity of programs of specialized legal support for children and adolescents nationwide, its range of action was expanded to allow the attention of all cases that require legal assistance regarding CHA.
6. The process of attention to cases developed in CECODAP is a free, voluntary and confidential service meant to provide guidance, and involves the execution of a series of steps that include: identification and initial assessment, evaluation, attention plan, implementation (orientation, referral or complaint,) review of the case and lastly, closure of the case. It is not a linear process. The steps or moments of attention are interconnected and in many situations the evaluation, the attention plan, the implementation or the review may take place several times. Due to the COVID-19 pandemic, the process of attention incorporated remote assistance through digital platforms, phone calls and text messages in accordance with the needs of the affected population, thus broadening the reach of the service to states and communities that were previously inaccessible due to financial and territorial constraints.

People assisted between April 2020 and March 2021:

7. Between April 1st 2020 and March 31st 2021, the SAJ managed to assist 413 people. The data obtained shows that protection needs remained during the COVID-19 pandemic. Confinement is not a guarantee to avoid conflicts or violations against the rights of CHA. On the contrary, the number of people in need of legal support increased in July (14%), September (15%) and November (14%), presumably also related to the closure of schools.

Percentage of people assisted by age and gender:

8. According to the collected data, 59.30% of people assisted were adults, 31.23% of them were women aged 18-60 years old and 2.90% were women older than 60 years old, mainly mothers, grandmothers and aunts. 18.64% were men aged 18-60 years old and 6.53% were men older than 60 years old, mostly fathers. In other words, 55% of the people assisted were female. This shows that women are mostly the ones who request legal support and guidance for the protection of CHA. This represents an opportunity to include a gender perspective in attention strategies, to better adapt them to the needs and requirements of the female population.
9. On the other hand, 40.64% of people assisted were children and adolescents and among them, 9.19% were children aged 0-4 years old; 20.08% were children aged 5-11 years old and 11.37% were adolescents aged 12-17 years old.
10. The analysis of the results by age group and sex as a whole, reveals that the services of legal attention, in contrast with service of psychosocial attention, are mainly focused on adults. Legal needs are mostly perceived by adults due to the implications of family life, roles and parental responsibilities.

Percentage of people assisted by region:

11. 12 states in the country received legal attention during the period covered by this report. The context of the COVID-19 and the implementation of sanitary measures allowed the incorporation of remote attention that increased the reach of the services. The analysis of the figures of attention by region shows that 82.32% were in the Central Region (Miranda, Argos, Carabobo, La Guaira and Capital District); 9.20% in the Western Region (Falcón, Lara, Yaracuy and Zulia); 2.90% in the Andean Region (Mérida, Trujillo and Táchira); 2.42% in the Southern Region (Bolívar, Amazonas and Delta Amacuro); 2.17% in the Flatlands Region (Apure, Barinas, Guárico, Cojedes and Portuguesa) and 0.96% in the Eastern Region (Sucre, Monagas, Anzoátegui and Nueva Esparta.)
12. Collected reports reveal worrisome limitations in the service of legal attention for the country's provinces. State services and civil society initiatives focus their efforts on capitals and urban centers to the detriment of rural areas or intermediate cities.

History of cases received and people assisted by month:

13. Between April 2020 and March 2021, 185 cases were received, comprising 413 people assisted. It is important to note that a case involves a family group as the person assisted.
14. The analysis of the history of cases received reveals that despite the pandemic and the limitations imposed by the sanitary measures related to COVID-19, requests for support did not decline, on the contrary, the number of cases and people assisted either remained the same or increased in certain months. This shows that even in the pandemic, services and programs for the protection of CHA must be strengthened and broadened as a rule.
15. The following months recorded the highest number of cases received: July (22), September (22) and November (31).

Main rights of children and adolescents violated in this period:

16. In a year of operation, CECODAP-SAJ received 185 cases, all of them related to threats or violations against the rights of CHA. It is important to keep in mind that a case by its characteristics, frequency, intensity and parties involved, represents a situation of “plurioffensive” violation, meaning that in a single case, two or more rights may have been violated.
17. The detailed analysis of cases and specific violations finds that: 40.55% were related to the right to personal integrity, meaning situations of physical punishment, mistreatment and abuse (sexual, physical), 17.24% of which were situations of aggression caused by the behavior of the child or adolescent; 12% involved the right to a family related to institutions and family cohabitation; 11.88% involved the right to health related to medical treatments (psychological, psychiatric and physical health) and sexual abuse; 9.79% involved the right to education with emphasis on discriminatory treatment and withdrawal from school due to failure to pay tuition fees; 6.29% involved the right to an adequate standard of living related to alleged negligence on the part of parents and relatives in the care and sustenance of CHA; 4.19% involved the right to free transit and migration, related to the unilateral exercise of parenthood, change of place of residence and international return; 3.49% involved gender-based violence where the mother is the main victim of physical and psychological violence. In these cases, the intervention was the orientation and assistance of the victim in filing the corresponding complaint; 2.79% involved the right to identity, with emphasis on the obstacles for obtaining birth certificates and identity cards. Lastly, 8.39% are related to other rights linked to situations of conflict between neighbors, suspension of the salaries of parents, discrimination and aggressions against the elderly members of the family.
18. The data presented here shows that during the pandemic, personal, physical and psychological integrity is the most violated right. The characterization of cases shows situations of physical and psychological violence, mistreatment and sexual abuse against CHA. There is also evidence of a context of great adversity for parents and caretakers that affects their capacity to fulfill their responsibilities to provide a dignified upbringing.
19. This reality matches the results shown in the survey about the consequences of COVID-19 on families¹ published by CECODAP in April 2021. Many families are experiencing high levels of stress, frustration, anxiety, anger and sadness which, coupled with the financial context, the rapid decline of the quality of life and cohabitation conflicts, constitute one of the main issues identified during the pandemic.
20. Another factor of violations against the rights of CHA is the complete shutdown -for several months in 2020- of courts and other bodies attached to SIPINNA. Because of this, many judicial proceedings regarding family cohabitation, responsibility of upbringing, obligations to provide sustenance or changes of residence were frozen, and the problems or conflicts between fathers and mothers that arose during the pandemic did not have effective institutional attention.
21. As organizations dedicated to the promotion and defense of the rights of children and adolescents, we reiterate that the Venezuelan State has the obligation to guarantee the continuity

¹ <https://cecodap.org/resultados-de-la-encuesta-sobre-las-consecuencias-del-covid-19-en-las-familias/> 14 Informe Somos Noticia - Capítulo Vulneraciones y Protección a los Derechos del niño en Contextos de Pandemia

and quality of protection services for CHA. The shutdown of the SIPINNA not only represents a violation against the Principle of Absolute Priority, but also exposes children to suffering various forms of violence, coupled with the absence of activities for effective promotion and prevention in favor of the rights of CHA.

Alleged aggressors:

22. According to the cases serviced, the alleged aggressors are mothers (25%), fathers (20%) and teachers (12%). This information is related to the main reported form of violation against the rights of CHA: domestic violence associated with situations of physical punishment or mistreatment (physical and psychological, abuse and negligence.) There are also reports of other kinds of aggressors, such as relatives, acquaintances and neighbors (12%), partners of fathers or mothers (10%), caretakers (4%), grandparents (1%), grandmother (1%), siblings (1%), aunts (1%) and daughter of legal age (1%). The trend indicates that the main aggressors are close to the everyday environment of children and adolescents.
23. Similarly, there are cases of adolescents as self-aggressors, which involves any behavior that endangers them or violates their own rights, such as situations of disruptive conduct and mood alterations such as depression, anxiety, ideation and suicidal risk.
24. The data also marks the State as an alleged aggressor (6% of cases) in situations related to a context of structural violence, caused by official omissions and deficiency in providing public services and failure to fulfill social rights (particularly regarding homeless children, abstention from the protection system, failure to comply with identity regulations.)

Intervention strategies for the protection of the rights of children and adolescents:

25. Every process of attention to cases requires the implementation of an attention plan that involves the creation of a protection strategy, the development of specific actions aimed at stopping the violation and lastly, the restitution of the rights of the child or adolescent. In this sense, CECODAP-SAJ implemented three kinds of interventions: legal orientation (LO); complaints before the Protection Council of CHA and the Prosecutor's Office, and referrals and written recommendations (RWR) to social organizations, bodies of the Protection System or other State institutions, in accordance with the competences and specific needs of each concrete case.
26. During the period reported, there were 507 interventions in concrete cases, 80.07% were LO, 1.97% complaints and 17.94% RWR to other public institutions and civil society organizations.
27. An LO comprises the technical advisory and individual assistance for a better understanding of the situation or conflict. The LO is done in person or remotely according to the needs and characteristics of the case. This strategy of intervention not only seeks to guide the person assisted, but also strengthen their capacities in a culture of human rights.
28. A complaint comprises the formal statement before a State institution, which describes the situation of threat or violation against the rights of the child or adolescent. The complaint is filed through CECODAP-SAJ in virtue of the right-duty to denounce threats and violations against the rights of and guarantees of CHA, in compliance with Article 91 of the Framework Law for the Protection of Children and Adolescents (LOPNNA).

29. A RWR comprises the reconstruction of a concrete case based on the testimonies of the interested parties, analysis of the documentation and the report of specialists. The RWR incorporates the detailed and accessible information about the endangered rights and the procedures that must be implemented in order to cease the violation. It also offers the possibility to carry out derivations to State institutions or CSO, assessing the need for specialized direct services such as psychosocial, psychiatric or educational support or family or group therapy. The attention to cases may lead to the use of various strategies depending on each concrete situation.

Legal orientations and referrals made:

30. 406 legal orientations (LO) and 91 referrals and written recommendations [RWR] during the implementation of the intervention strategies in the attention to cases. The historical analysis of these intervention processes shows a higher volume of orientations in July (35 LO / 12 RWR), September (39 LO / 7 RWR), November (74 LO / 15 RWR) and December 2020 (42 LO / 7 RWR.) These figures indicate a higher volume of services during school holiday, which signals an increment in conflicts and violations against the rights of CHA.

Referrals and written recommendations to the System of Integral Protection of CHA:

31. In a year of operation, CECODAP-SAJ carried out a total of 73 RWR to the SIPINNA. Disaggregated data shows that 40 of these referrals were made to the Protection Council of Children and Adolescents, 29 to the Prosecutor's Office and 4 to other State institutions.
32. The RWR are derivations that require some kind of intervention from the Protection System or a public body, either for the opening of an administrative or judicial proceeding, or the adaptation of special measures to stop the threat or violation against the rights of children and adolescents.
33. The Protection Council of CHA constitutes the closest administrative instance for families and communities, which depend on each Mayor's Office. These institutions have the authority to intervene in situations of threat of violation against the rights of children considered individually in accordance with Article 158 of the LOPNNA.
34. The Prosecutor's Office, as a member of the Protection System, has the authority to implement the actions to enforce the civil, administrative and disciplinary sanctions against people or institutions that, whether by action or omission, violate or endanger the individual, collective or diffuse rights of CHA. It is also the duty of the Prosecutor's Office to defend the higher interest of children and adolescents in administrative and judicial proceedings as established in Article 170 of the LOPNNA.
35. There are also situations where protection is necessary that require the intervention of other State bodies. During the attention to cases, referrals were made to the Ombudsman's Office, the Education Zone or the Corps of Scientific and Criminal Investigations.

Responses of the SIPINNA: Protection Council of Children and Adolescents

36. Out of the 40 cases referred to the Protection Council of CHA, 65% of requests were not answered. Only 35% were received and processed. The data related to the levels of neglect are worrisome. For every 10 referred cases, 6 were not received by an administrative instance that is expressly

obligated by law to provide priority attention in all situations of threat and violation against the rights of children and adolescents.

37. This situation is aggravated in a context of pandemic where all actions corresponding to the Protection System have been halted, or where attention is provided under unclear emergency criteria that prioritize the attention of some conflicts over others. From the human rights perspective this situation is unacceptable.
38. CECODAP has denounced the many difficulties and limitations faced by Protection Councils. A report published in October 2018 called: Assessment of the Operation of the Protection System of Children and Adolescents in the Metropolitan Area of Caracas², showed through the information collected, the State's absolute neglect regarding the protection of children and adolescents. The report says that: "The Municipal Protection Systems are currently in "technical shutdown" due to lack of professionals. Out of the four Protection Councils visited, only one has the minimum of councilors necessary for its operation. This means that Protection Councils are working at 32.7% of their capacity." (ibid.)
39. And additional insight: "the dismantling of the administrative bodies of the Protection System for children and adolescents becomes another form of violence against the population they should be assisting, because it means institutional unprotection as there is no real access to the channels to denounce and demand their rights, a situation that is evident in the drastic reduction of procedures attended in Protection Councils; nor the channels to protect and safeguard violated or threatened rights as is the task of Attention Programs." (Ibid.)
40. The results of the aforementioned investigation show a crisis and a fragility that has been long in the making which affects the effectiveness of the Protection System for CHA. The context of the pandemic substantially diminished the capacity of response of the bodies responsible for the protection of children and adolescents.

Responses of the SIPINNA: Prosecutor's Office

41. 59% of the requests of the 29 cases referred to the Prosecutor's Office were not answered and 41% were received and processed. According to the Framework Law of the Prosecutor's Office (2007, Official Gazette N° 38,647), the work of prosecutors should be simple, efficient and effective. The absence or delay in the attention to cases is alarming, especially with regards to children and adolescents.
42. Regarding the attention to cases, the Prosecutor's Office claimed that it had no authority to process the situations being denounced, nor the derivation to other bodies of the Protection System, thus failing to guarantee their monitoring, support and coordination. There were also situations where the complaint was not received when made by the parents, demanding the presence of the children or adolescent as a victim to start the investigation.

² Evaluación del Funcionamiento del Sistema de Protección de Niños, Niñas y Adolescentes en el Área Metropolitana de Caracas
<https://drive.google.com/open?id=1CE0JtGAUo5PBIBSCMKFoG3PtIsvNnn6>

Responses of the SIPINNA: Other State institutions

43. 50% of the requests of the 18 cases referred to other State institutions were not answered and 50% were received and processed. Other State bodies include the Education Zone, the Ombudsman's Office and the Corps of Scientific and Criminal Investigations. The main reason given for the dismissal of cases was the lack of authority to process the requests and the derivation to the Protection Council of the place where the child or adolescent lives.

Behavior of the SIPINNA regarding referred cases

44. A general analysis of the Protection System reveals that it mostly did not receive an answer to the presented cases. Protection Councils constitute the bodies that show the largest percentage of unattended cases with 65%. The Prosecutor's Office ranks second with 59% of unattended cases, while other State bodies constitute 50% of unattended cases.
45. Since 2000 the LOPPNA established that the Protection System operates through an articulated set of intersectoral actions of public service, developed by State bodies and entities and by civil society organizations. This mandate means that the Protection System must fulfill five criteria: integrity, efficacy - participation, articulation, decentralization and redistribution of legal functions, in accordance with Article 117 of the LOPPNA.
46. The behavior of the bodies involved in the attention to cases supported by CECODAP shows a marked institutional weakness and a failure to fulfill basic obligations. This institutional fragility in the context of a CHE puts children and adolescents in an even greater level of helplessness and unprotection.
47. In the context of the pandemic, there is a decline in the response capabilities of the bodies responsible for the protection of CHA, a lack of resources that limits operability, and also the absence of programs and support services for the execution of protective measures and the advisory of victims.

Effective responses between SIPINNA and Civil Society:

48. Civil society organizations, in accordance with the principle of co-responsibility in the promotion and defense of the rights of children, have developed programs and services for the attention to cases, psychosocial advisory and training, in compliance with Article 6 of the LOPNNA.
49. When comparing the number of effective responses and the referral of cases attended by the Protection System and civil society organizations, it was revealed that the effective responses of civil society organizations amounted to 72%, while the State covered the remaining 38%.
50. These figures show that, despite working in a context of great adversity, stigmatization, criminalization and with limitations in the financing of programs and services, civil society organizations offer much more effective responses when compared to State bodies. Social and community organizations that implement services and programs to protect children and adolescents were suddenly overwhelmed between 2020 and 2021 by the complexity and increment of these situations. The rise in demand was noticeable, but at the same time so was the need to adequate and broaden their programs to offer appropriate attention to a population and faced great harm and danger.

51. Civil society organizations that supported the cases referred by CECODAP-SAJ showed a marked strengthening of attention capabilities, the broadening of their coverage and the creation of a social network to articulate and promote the implementation of programs and services for CHA and their families. These are particularly relevant results in the face of the clear failure of the institutional system for the Integral Protection of CHA, however, it is important to note that these programs and services may not be able to continue operations due to limitations and difficulties of financing.

Recommendations for the protection of the rights of children and adolescents

52. Designing and implementing public policies to promote, promulgate and guarantee the rights of children and adolescents. The logic for the protection of the rights of children and adolescents is preventing the emergence of a situation of threat or violation through the implementation of basic social policies.
53. Prioritizing programs and services of attention to cases and psychosocial assistance for children, adolescents and their families. There are a series of legal and protection needs that require expedite, effective and quality institutional responses.
54. Strengthening the technical, operational and financial capacity of the bodies of the Protection System of Children and Adolescents. It is urgent to implement a logic of articulation between State institutions and civil society organizations for the protection of the rights of children.
55. Establishing a system of official figures about the various situations that affect the rights of children and adolescents. A unique system of records of cases allows the characterization and differentiation of possible threats and violations against the rights of children and the prioritization of actions of prevention and attention.
56. Promoting permanent and quality awareness campaigns that offer information about the various spaces, opportunities, mechanisms and methods to report and denounce threats and violations against the rights of CHA.
57. Prioritizing the services of protection for CHA in the country's interior and attending to the needs for legal and psychosocial assistance in the regions farthest removed from each state capital.
58. Acknowledging and supporting the work of civil society organizations in the development of programs and services of protection for children and adolescents. Avoiding any official attempt of criminalizing, stigmatizing or threatening the work developed by civil society organizations.
59. Guaranteeing priority and quality attention of children and adolescents who suffer threats and violations against their rights. Avoiding impunity requires implementing all measures necessary for guaranteeing restitution, rehabilitation, reparation and guarantees of satisfaction and repetition in any situation of violence.
60. Implementing programs of attention and support for parents, families and caretakers with the goal of eradicating violent practices in the upbringing and education of CHA.