

DECISION T-078/10 TESTIMONY PROVIDED BY SEXUALLY ABUSED MINORS AND THE *PRO INFANS* PRINCIPLE.

The Constitutional Court stated that according to the results of scientific research, most of the children have the moral and cognitive capacity to give their testimony in court and their declaration must be analyzed together with the other means of evidence provided in a process. The Court also noted that the disputes arising from cases where there is a minor involved must be resolved by applying the pro infans principle, axiom that was dismissed in the rulings which are being questioned.

Finally the Court's ruling indicated that according to the doctrine of this Court, judicial authorities involved in the investigation and trial of sexual crimes committed against minors, must avoid acting in a discriminatory manner against the victims, and they are required to take into consideration the helpless state of a child who has been a passive subject of this type of crime. Thus, any behavior of the judicial officer that does not take into consideration the helpless state of a sexually abused minor constitutes discrimination. In this sense, practices such as giving the victim the same treatment that is usually given to an adult, failing to carry out the activities required for the protection of the minor, assuming a passive attitude as regards evidence, intimidating or coercing a minor in any way to declare or not doing so, all of them seriously undermine the Constitution and involve the criminal and disciplinary responsibility of the official who commits them.