



2nd Cycle - UPR Venezuela 2016

**Contributions of the
Venezuelan Civil Society**

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Economic, Social, and Cultural Rights



Brief assessment of the implementation of 1st cycle UPR recommendations

Among the recommendations during Venezuela's 2011 UPR, the State accepted 3 on the right to food (94.40, 94.47 and 94.9), aimed at continuing and accelerating measures to combat and reduce poverty, guarantee food security and to eradicate malnutrition and hunger, in which awards by United Nations Development Programme (UNDP) and the Food and Agriculture Organization (FAO) were mentioned. The Venezuelan government, however, adopted regressive measures that have seriously compromised the right to food, refusing to accept the severity of the situation and, therefore, seeking international assistance to address internal deficiencies urgently and adequately, which has caused the worsening of structural problems in which there was no progress, as was requested in the recommendations. In fact, awards and recognitions to Venezuela by FAO and UNDP have created confusion and opacity in the international community in regards to the reality of the right to food in the country, in breach of principles of UN Agencies of independence, objectivity and veracity regarding the field data collected for the proper monitoring of human rights. They must have absolute priority over other interests or constraints of governments, even if such information is unfavorable to States.

In 2012, FAO reported Venezuela had a rate of undernourishment of under 5% using projections without official information at the time, given the fact that nutritional indicators had not been published since 2007. In addition, the recognitions by FAO in 2015 and 2016 differ widely from what has happened during these years, in which the levels of food safety and protection of the population against hunger diminished evidently, given the country's high dependence on imports, sustained food shortages and high inflation. In the 4th periodic review of Venezuela in June 2015 on the International Covenant on Economic, Social and Cultural Rights (ICESCR), the **UN Committee on Economic, Social and Cultural Rights** recommended that the State increase local agricultural investment to improve productivity of small farmers and their access to local markets and redesign the agrarian reform to advance the effective realization of the right to food. The Committee also expressed concern about the "serious unavailability and shortages of food and basic necessities", generated by dependence on imports, recommending urgent action against this problem, according to the obligations of the ICESCR and reflected in General Comment No. 12 on the right to adequate food and the FAO guidelines on food safety.

The **Secretary General of the United Nations, Ban Ki-moon**, in an interview with international media on August 10, 2016, expressed concern about a humanitarian crisis in Venezuela due to unmet basic needs of food, water, sanitation and clothing. At the opening session of the Human Rights Council Session 33, in September 2016, the **UN High Commissioner for Human Rights**, said that there was "a dramatic decline in the enjoyment of economic and social rights, an increasingly widespread hunger...", in Venezuela.

National legal framework

The **Constitution of the Bolivarian Republic of Venezuela** recognizes food security as a right that generates obligations to the State, in regards to rural development and sustainable agriculture, to guarantee access to quality food to the population, through domestic production and adequate, stable and equitable availability. In practice, these obligations have not been fulfilled, although they are covered by the **Organic Law on Food Security and Sovereignty 2007 Decree**, contravened by existing legislation such as the **Law on Land and Agricultural Development, 2001** (amended in 2005 and 2010), with which the state has concentrated 70% of productive land through forced nationalizations; the **Organic Law of Fair Costs and Prices 2015**, of a criminal nature, aimed at fixing prices, profit margins and other controls, establishing offenses and severe penalties for consumers, employers, unions and union leaders, from prison to fines, closure or temporary occupation of establishments. It also provides for extreme penalties of 14 to 18 years in prison and creates the crime of Extraction Smuggling and preventative custody in 95% of the penalties. In January 2016, the Executive issued the **Decree of State of Economic Emergency** throughout the national territory, renovated in September 2016, which deepens the discretionary use of measures to affect fundamental freedoms without control by other State branches.

Challenges

Serious deficit and instability of food supply due to high levels of external dependence through intense import policy and controls over the economy, which severely weakened agricultural and livestock production, causing sustained and growing shortages of food, which is not possible to face with internal capabilities in the immediate term.

Cases, facts, comments

Food supply in Venezuela is highly dependent on external factors as a result of an intense policy of imports of finished goods, especially food, maintained by the State through extraordinary revenues obtained from continuously high oil prices between 2003 and 2012, in addition to a growing public and private internal and external debt and permanent controls on prices, exchange rates, interest rates and foreign trade. Between 2010 and 2014, nearly 90% of food purchased by the State through the Corporation of Supply and Agricultural Services and other public enterprises, came from international sources. Government spending on imports went from 5.139 billion US\$ in 2011 to 9.756 billion US\$ in 2013.

These policies undermined domestic agricultural and livestock production, which shrank systematically between 2008 and 2014, reaching extreme levels in 2015, given the lack of investment in irrigation infrastructure, roads, bridges and watershed protection; restrictions on access to foreign exchange to purchase supplies, seeds, machinery, equipment and spare parts; disproportionate subsidies to imported products; high inflation and internal pricing below costs of production; prolonged drought; lack of guarantees to property rights and personal insecurity as a result of kidnappings, extortion, assaults, murders and robberies. 21 security plans have been implemented, none of which has worked.

In 2014, the State cut access to foreign exchange to import food by more than 60%, according to the National Foreign Trade Center (CENCOEX), generating a drastic fall in imports without plans to cover the domestic deficit.



Producers in Venezuela have warned that they are to be able to provide only 31% of what is needed. Between 2005 and 2014, the Confederation of Agricultural Producers (FEDEAGRO) reported decreased sowing land by 33% in rice production, 40% in corn, and 55% in sugar cane. Between 2014 and 2015, 11 of the 12 areas with the greatest contribution to the value of agricultural production showed significant reductions: corn (-26%), rice (-30%), sorghum (-21%), sugar (-21%), sunflower (-68%), coffee (-18%), potatoes (-51%), onion (-19%), tomatoes (-28%) and paprika (-39%), affecting the economy of 15 Venezuelan states. The National Federation of Ranchers (FEDENAGA) noted that reductions in meat and milk exceeded 50%. University of Zulia said that in 2015 there were only 11.5 million cattle heads for 30 million inhabitants and that only 1.7 million liters of milk were produced, instead of the 4 million needed.

As a result, food shortages reached 29.5% in March 2014, latest data published by the Venezuelan Central Bank. In more recent years, and given the lack of official data, the Center for Documentation and Analysis of the Venezuelan Federation of Teachers (CENDAS) has reported shortages increases from 31% to 43% between 2015 and 2016. 25 of the 58 products of the basic food basket are frequently hard to find. Those under the stiffest price controls are the most scarce (corn flour, powdered milk, sardines, chicken, beef and beef liver, eggs, margarine, sugar, pork, corn oil, hard white cheese, yellow cheese, rice, wheat flour, pasta, peas, lentils and black beans, oats and bread, among others). Currently, inventories are not enough to supply public and private food outlets and domestic producers have reported that they are in a compromised position, warning that the shortfall in domestic production will not be resolved until the last quarter of 2017.

Legal uncertainty by measures of forced nationalization of land, factories and distribution networks, which have rendered unproductive extensive areas previously productive and caused the abandonment of their land by local producers, who also face serious obstacles and constraints to carry out their work.

The State has also implemented a policy of forced nationalizations of land, factories, companies and private food outlets, most of which have been kept by government-controlled entities to create state production units or have been assigned arbitrarily to land workers, based on political affiliations, but without ownership rights, creating legal uncertainty for owners and contractors. From 2000 to 2012, about 4 million hectares in full production of agricultural and livestock staples were expropriated, most of which are no longer active. By 2015, some 3,700 million hectares of productive area had been rendered unproductive, through the eviction and displacement of land workers families, according to PROVEA.

With this policy, the State became the sole supplier of some staples, such as coffee, and nationalized most of the distribution of supplies and seeds, requiring prior registration and authorizations by organizations politically affiliated to the Governing party. As well, funding and technical support are conditioned. Producers have also faced serious obstacles to manage health permits and to transport their products. Education in the country side has deteriorated, and agricultural colleges have suffered attacks and invasions of their lands (in many cases with government approval). Rural unemployment has increased. Imports of live animals did not work to promote livestock and milk production, due to price regulations and lack of veterinary supplies and water. Many farmers abandoned the countryside and productivity dropped significantly.

Severe economic inaccessibility to food given high inflation and rapid increase in poverty, which leaves geographical areas, families and people in extreme vulnerability neglected, which and whom are not currently covered by State-subsidized food programs, which are practically inactive or paralyzed by the same crisis.

Lack of economic access to food is severe given high inflation, which rose from 33.9% to 180.9% between 2011 and 2015, the highest in Venezuela's history and the fourth highest at any time in Latin America. Poverty levels have also increased rapidly. According to the National Institute of Statistics, from 2012 to 2015 poverty increased from 27.2% to 33.1% and extreme poverty from 7.7% to 9.3%. As measured by the Living Conditions Survey (ENCOVI) conducted by national universities, between 2014 and 2015 poverty increased from 48% to 73%, and extreme poverty from 23% to 49%, doubling in agricultural states.

Programs of "Food Mission", supported by imports and generalized subsidies, were not directed to the most vulnerable populations. During its initial stages, Mercal Mission distributed prepared meals and sold food through small shops and establishments in low-income areas. Since 2005, the small shops which constituted most of the network started closing, which led to the creation of street markets. In 2009, much of the purchase and distribution of food was allocated to PDVAL, a program of the national oil company Petróleos de Venezuela, but problems in food handling generated irregularities such as mass maturity of products and corruption, reported by the Comptroller General. Coverage in Mercal fell from 23.4% to 18.7% between 2010 and 2014. By 2014, 54% of Mercal establishments and 77% of PDVAL were inactive. The School Feeding Programme (PAE) is practically paralyzed.

The population has generated survival strategies to find scarce regulated foods, and the practice of buying and reselling those products increased, with price markups of up to 1,500%. This practice is referred to as "bachaqueo". The State's response has been to restrict access to weekly food rationing systems that generate long lines at the outlets, under the custody of military personnel. In 2014, a system of fingerprint biometric registration was implemented, excluding those not registered in the Electoral Registry (children and adolescents, as well as foreign residents), and those with problems to capture their fingerprints or without debit or credit cards.



In Zulia state, most outlets did not allow cash payments, excluding indigenous peoples with high representation in the state, most of them without bank accounts and some even without identity cards. Indigenous women were accused of "bachaqueras" or "smugglers", denying them access to food, as happened with those of Colombian nationality, whether or not they had legal residence.

The National Superintendency for the Defense of Social and Economic Rights (SUNDDE) established in 2015 the national system of control by ID card numbers. Each person can buy only one day per week extremely limited amounts of regulated food, which is not even enough to cover the needs of half of the days of the week. In states like Trujillo, ID lottery systems have been reported, leaving many without access to buy regulated items for more than one week. In 2016, the Local Committees of Supply and Production (CLAP), composed by government party members and other related organizations, which require registration in order to sell regulated products, although not on a regular basis, without controls and transparent criteria. A study conducted in August 2016 by More Consulting, revealed that 45.8% of the population is supplied by private supermarkets, 52.3% by resellers, 36.7% through private exchanges, 30.1% by public markets, 13.6% by CLAP, 5.8% by own crops or on the street and 15.7% eating from food waste discarded by businesses. Research by PROVEA documented reports of people who claim that the distribution of CLAP food bags in their communities excludes persons belonging to opposition parties.

Rapid increase of nutritional deterioration leading towards an emergency in geographic areas and populations at high risk (pregnant women, infants and young children, the elderly, people with health conditions, people deprived of liberty, indigenous peoples, people living in inaccessible areas and sectors in extreme poverty) which is compromising the lives and health of people, with irreversible and irreparable consequences.

In Venezuela, the rate of nutritional deterioration indicates the existence of a severe crisis of food insecurity and on its way to an emergency in areas of the country and higher risk groups. The diet of the population is increasingly inadequate and of low quality. The National Food Consumption Survey by the National Institute of Statistics (INE) in 2013, showed a decrease in consumption, the worst fed being teenagers and the elderly. According to the survey 2,285 calories were consumed per day, below the recommended 2,300, and levels of calcium and fats decreased. Calories were composed of 69% carbohydrates (cereals, sugar and fat) and 12.9% protein with just 48% of high biological value, well below the recommended 75%. At present, quantities consumed are not only smaller, but carbohydrate intake reaches 75% in the daily diet, virtually eliminating proteins, which warns of a serious nutritional status and health risks, such as growth retardation in children, anemia and diabetes, which went from fifth to third in the leading causes of death, according to latest health statistics published in 2013.

The only official data on nutritional status are related to research in specific groups. In 2013, the National Nutritional Institute (INN) reported an increase in childhood obesity and a chronic nutritional deficit of 8%. However, in 2015, other studies found 10%-14% of children with nutritional problems, with nutritional deficit being higher than excess. During 2015, in a study with 2,872 children, the Center for Integrative Nutrition Care Antimano (CANIA) recorded 47.7% with nutritional deficit, and 1.9% with severe deficit. Vargas School of Medicine of the Central University of Venezuela (UCV) evaluated 1,058 children under 12 in Miranda state, finding 9.92% of children with weight deficit and 9.64% with weight excess. The prevalence of low birth weight increased from 2.9% to 3.4% between 2011 and 2013 and the percentage of premature newborns also increased, revealing major nutritional problems in pregnant women and lack of access to care programs.

In studies conducted by Bengoa Foundation for 4 years through a surveillance system in educational institutions in Miranda, Zulia and Merida, as well as in the Capital District, among others, it was found that between 2013 and 2015 the nutritional deficit in schools increased from 12.6% to 22.5% and overweight children decreased from 20% to 10.4%. Until June 2016, the food problem had become widespread, with 12% of children with nutritional deficit in urban areas, 19% in suburban areas, and 27% in poor neighborhoods. Patterns in which parents stop eating to ensure sustenance to their children have been observed, and in low-income sectors flours and protein are replaced by tubers.

Cases of mild and moderate malnutrition have increased in hospitals, and severe malnutrition has reappeared. Between 2013 and 2015 the Service for Nutrition, Growth and Development at the J. M de Los Rios (children's hospital and national referral center, as well as INN pilot) was receiving an average of 30 children per year with severe malnutrition. In 2014 it reported 43.3% children with nutritional deficit, and 24.3% overweight or with obesity. In 2015, they 34 cases of severe malnutrition were cared for, 11 children presented marasmus and 1 presented kwashiorkor. Until June 2016, they had received 43 children, of whom 21 had marasmus and 10 presented kwashiorkor. 58% of these children were infants between 0 and 2 years old, of whom 3 died. For every child who comes to the hospital with severe malnutrition, there may be in their community up to 20 more children with moderate or mild malnutrition, which compromises their growth and development due to lack of calories and protein. During the month of June, 100% of infants hospitalized in the pediatric ward of the Domingo Luciani Hospital in Caracas (Social Security Hospital) showed some level of malnutrition.



Criminalization of consumer rights and freedom of expression, through allegations of serious crimes and severe penalties for mere possession of food or basic need products, regardless of the amount and circumstances, or for recording images of long lines, in a context high militarization and repression against civilians.

Social unrest has increased due to food shortages. The Venezuelan Observatory of Social Conflict recorded 4,725 protests between January and August 2016 for economic and social rights, mainly for lack of food. The militarization of public and private outlets, has led to frequent situations of restrictions on freedom of expression for recording images of supply shortages. In several states, mainly in border states of Zulia and Tachira, the mere possession of regulated food or basic necessities has been criminalized, charging groups or individuals with crimes under the Criminal Code, Organic Law of Fair Prices and Organic Law Against Organized Crime and Financing of Terrorism. Common charges are: extraction smuggling, hoarding, speculation, money laundering and usury. The NGO Red Wine Movement has recorded some 9,400 arrests of individuals or groups standing in line based on such crimes since 2015, in violation of consumer rights, access to justice and due process. In Zulia state, severe cases have been reported in which the crime of smuggling extraction is charged for possessing 2 or 3 controlled products. There have also been denunciations of arrests of groups of people for staying overnight in front of food shops waiting for products to arrive, based on alleged unpublished decrees (except for Decree 006-2016 dated 16/04/16 in Carabobo state) emanating from mayors and governors which supposedly prohibit this activity.

Recommendations

1. Take immediate action by all possible means and using the maximum available resources to ensure essential levels of food supply and consumption in the population, protecting the most vulnerable groups from hunger and nutritional problems which may cause irreversible damage to health, accepting international humanitarian assistance.
2. Identify the most vulnerable among the population, people living in extreme poverty, pregnant and lactating women, children under 5 years old, people with chronic conditions, the elderly, people deprived of liberty and indigenous peoples, to address specific needs and to implement damage prevention for risks of malnutrition.
3. Accept a visit by a UN commission of independent experts and organizations specializing in food, nutrition and health, to assess risks related to food insecurity, including child malnutrition.
4. Review the legislation establishing economic crimes, repealing provisions that criminalize or penalize the exercise and enjoyment of economic and social rights and interdependent freedoms, and adopt legislation to ensure the protection of consumer rights.
5. Immediate cessation of the use of legislation, policies or public institutions for discriminatory purposes or repression against citizens or sectors for political reasons, and end impunity in the investigation and prosecution of acts of violation of economic and social rights, including corruption.
6. Ensure land ownership to farmers and their rights against invasion, usurpation and arbitrary expropriations.
7. Take immediate measures to promote a free and open economy in the field of agriculture to revive food and livestock production, in order to overcome current deficits and ensure economic accessibility to good quality food.
8. Relax domestic price controls giving preference to local producers, in order to allow adequate returns and capacity for productive investment without dependence on State subsidies, improve the quality of public institutions production support, eliminate imports at subsidized prices, and implement programs of good agricultural practices in order to improve product quality, protect agricultural workers and improve the environment.
9. Implement effective measures to protect rural producers and their property from criminal activities and organized crime groups.
10. Strengthen the Venezuelan System for Food and Nutrition Surveillance (SISVAN) and resume regular publication of updated data on the nutritional status of the population, as well as statistics on domestic production, inflation and poverty.
11. Establish transparent mechanisms in the allocation of foreign exchange for food and health

* Summary prepared based on contributions: Venezuelan Observatory on Health, Bengoa Foundation, CIAAL, Acción Campesina in coalition with Sinergia, Aula Abierta Venezuela, Movimiento Vino Tinto and Programa Venezolano de Educación y Acción en Derechos Humanos (Provea). Available in: <https://goo.gl/M0n5Ga> - <https://goo.gl/tfom9U> - <https://goo.gl/njosMz> - <https://goo.gl/0tXpcc> Contacts: - @ovsalud - @fundacionbengoa - @AcciCampesina - @AulaAbiertaVE - @movinotinto - @Provea



Brief assessment of the implementation of 1st cycle UPR recommendations

There were 5 recommendations on the right to health at Venezuela's 2011 UPR which were omitted from the government's actions during the first cycle. In this period, measures that led to severe setbacks of the right to health prevailed and, since 2013, expanded to an extreme threat to the health and lives of the most vulnerable people, in which there are minimum levels of availability, access and quality of medicines, medical supplies and essential health services, are not guaranteed. This has been contrary to recommendations 94.9, 94.46 and 94.49 to further implement policies and programs to guarantee the right to health and improving and expanding health services available to the population, in order to prevent and fight diseases through primary health care.

The **UN Committee on Economic, Social and Cultural Rights** issued concluding observations after the 2015 3rd periodic review of Venezuela on "...the critical situation facing the health system in the State party, due to the severe shortage and irregular provision of supplies, medicines, surgical and medical equipment, deterioration of some hospitals and lack of medical staff." The Committee recommended the State to allocate sufficient resources to the health sector and to adopt "...urgently the necessary measures to ensure the availability and quality of health services, ensuring that a sufficient number of facilities, goods and public health services are in operation, with trained medical personnel, medicines and hospital equipment scientifically approved and in good condition, as well as in adequate sanitary conditions". It also recommended adopting a national plan to prevent the spread of HIV/aids, malaria and other mosquito-borne diseases; ensure sufficient coverage of antiretrovirals; and raise awareness about modes of HIV transmission and the need for tolerance towards people with HIV.

However, the State has refused to provide information on the severity and urgency of the actual situation in health and to recognize the serious internal constraints to solve it, refusing to answer the call for a response of those affected, health personnel, communities and civil society organizations, many of them harassed for demanding the right to health. The State also refuses to fulfill obligations regarding the use of international assistance and cooperation, trying to deflect its purpose toward supposed interests of "interference or foreign war, with support from internal allies", at the expense of suffering, damage to the integrity and loss of life of people in chronic health conditions, children and adolescents, the elderly, prisoners, indigenous peoples, pregnant women and newborns. In these cases the State failed to implement recommendations 93.20 and 94.50, in regards to reviewing policies of maternal health care and making the necessary changes to ensure access of pregnant women to health care, and intensifying efforts to reduce neonatal and maternal mortality.

Through communications to the State in 2014, 2015 and 2016, the UN Rapporteurs on the right to the highest attainable standard of physical and mental health and on the situation of human rights defenders, expressed concern regarding general shortages of availability of drugs and medical supplies and the increasing deterioration of the public health system, including reprisals against defenders. They underlined the urgent need to address the **humanitarian crisis in health**, declared by the National Assembly in January 2016, which may provoking an exponential demand for drugs, intensification of cardiovascular, cancer and maternal mortality, weakening of vaccination and prenatal care and a higher incidence of malaria, dengue, chikungunya and zika. The Rapporteur on the right to the highest attainable standard of physical and mental health, indicated that guaranteeing essential drugs without discrimination is a basic and immediate obligation of States, caring for priority diseases and ensuring sufficient availability in all public health facilities and by all means available. In addition, he indicated the need for an effective and integrated health system, accessible to all, ensuring participation of the population in the planning stages.

The **Inter-American Commission on Human Rights (IACHR)** also urged the State, in 2016, to take urgent public policy measures against acute shortages of medicines, guaranteeing the right to health to the population, taking into consideration the special conditions of individuals, groups and communities in conditions of vulnerability, according to international standards.

National legal framework

Under the Constitution of the Bolivarian Republic of Venezuela, the State is obliged to create legislation to establish the structures and norms needed to integrate all establishments and public health services into a decentralized National Public Health System (PNS), under the rectorry of one health authority. This obligation has not been fulfilled, and the **1998 Organic Health Act** continues to be into effect, even though it is not in conformity with the guarantees of the right to health under the current Constitution. The few acts passed have referred to private practice, and even though in December 2014 the **Law for the Promotion and Protection of the Right to Equality of People with HIV or aids and their families** was enacted, the text does not meet all the criteria recommended by human rights bodies to eliminate systemic discrimination, including that based on sexual orientation and gender identity and expression. The National Assembly passed the **Special Law to Address the National Health Crisis** in May 2016. However, the Supreme Court declared it unconstitutional for usurping powers of the Executive and the "fraudulent" use of information about the health situation. *

* Factsheet prepared based on submissions by Acción Solidaria, StopVIH, Venezuelan Association of Friends with Lymphoma (AVAL), Venezuelan Association for Hemophilia (AVH), Coalition of organizations for the rights to health and to life (Codevida), Venezuelan Program for education action on Human Rights (Provea), Venezuelan Observatory on Health (OVS), Foundation to fight Breast Cancer (Funcamama), Red Rosa, Senos Ayuda, Aula Abierta and the Network for the rights to Children and Adolescents (Redhna). Available in: <https://goo.gl/WQv5S> - <https://goo.gl/CCAv1> - <https://goo.gl/58ASmY> - <https://goo.gl/Lda3De> - <https://goo.gl/Rd1SCK> - <https://goo.gl/Qs917S> - <https://goo.gl/ALCJQI> - <https://goo.gl/njosMz> - <https://goo.gl/r7u3NW> Contacts: @AccionSolidaria - @StopVIH - @AVHemofilia - @codevida - @Provea - @ovsalud - @FUNCAMAMA - @RedRosaVzia - @SenosAyuda - @AulaAbiertaVE - @REDHNA



Challenges

Widespread shortages of medicines and medical supplies, which have been depleted to extreme levels in most of the network of pharmacies and health centers, causing severe disruption of treatments and services nationwide, against which the State implements rationing measures that lead to discrimination and endanger the lives of people.

Precarious availability of health care due to the closure or suspension of services in most public health centers, which make up 90% of providers, concentrate 70% of clinical beds and upon which 80% of the Venezuelan population depends for care, in a context of accelerated poverty, high inflation, high rates of violence and increased hospitalizations for malnutrition.

Disabling health programs that have weakened capacities of the national response to priority health problems, resulting in an uncontrolled increase in epidemics and causes of death which had been reduced or eradicated.

Intensification of maternal and infant mortality. Maternal and infant deaths increased alarmingly, in a context of lack of progress in maternal and child care and serious deterioration of health care nationally.

Cases, facts, comments

90% of medicines and medical supplies depend on imports and foreign currency administered and authorized by the State. Since 2010, the Executive restricted the allocation of foreign currency to the health and food sectors, implementing a cut of 65% between 2014 and 2015, without considering the limited capabilities of domestic production, which caused the disappearance of 7 out of every 10 drugs in inventories. Due to the high accumulation of debt since 2010, international suppliers closed their credit lines and paralyzed activities in the country.

Until March 2016, shortages of supplies and medicines reached 85% nationwide and expensive drugs supplied by the State had been exhausted, risking the integrity and the lives of 120,000 people with chronic health conditions (hemophilia, lymphomas and myelomas, breast cancer, renal failure, transplant, schizophrenia, epilepsy, etc.), some 2,000 cases of children and adolescents with cancer and hematologic problems, and 3 million people with diabetes and hypertension. Currently, the authorities do not guarantee continuity of supplies or sufficient treatment for adequate care in health centers; and rationing measures are being implemented in the delivery of medicines without medical or scientific criteria.

In 2015, 70% of public hospitals had 30% of inoperative beds, a shortage of 70% of supplies and 80% in medicines, more than 50% of exodus of medical personnel, 60% of inoperative equipment and power and water failures. According to the 3rd National Survey of Hospitals by the network Physician for Health and the Venezuelan Observatory on Health (OVS), which included nearly 100 hospitals on a universe of 240, in 23 of the 24 Venezuelan states, severe deficiencies increased between 2014 and 2015, in the services of these centers: from 55% to 76% shortage of drugs; from 57% to 81% shortage of medical-surgical supplies; from 55% to 87% lack of catheters and probes; from 28% to 69% water failures; and from 38% to 41% inoperative operating rooms.

Also, 89% of emergencies, 77% of operating rooms and 95% of laboratories had high deficits; tomographs were inactive in 80% of hospitals; and personnel without the necessary qualifications or training in medical careers at national universities was deployed in hospitals and emergency medical admissions. In these circumstances, waiting lists for surgery increased to about 400 thousand people in 2015, and pregnant women and people requiring immediate interventions faced increasing risks of death. This was due to lack of specialists, beds and medical and surgical equipment, oxygen, blood supplies, equipment and ambulances. If admitted, people have assumed the cost of supplies, without guarantees of timely and adequate medical care.

Health programs, through which efforts were channeled to increase the national response to priority health problems, are disabled or have lost much of their capabilities, thereby producing the closure of several specialized institutions. Currently, these programs lack the human, technical and financial resources to conduct surveillance, research, monitoring, treatment and services in the areas of transplants, hemophilia, breast cancer, lymphoma, HIV/aids, diabetes, hypertension, mental health, immunization, maternal and child health, sexual and reproductive health, and vector-borne diseases. Morbidity and mortality official statistics have not been updated for up to 3 years.

According to the Ministry of Health, the maternal mortality rate, which had remained for several years in a high average rate of 70, climbed to 130.7 between 2014 and June 2016. The infant mortality rate rose from 14.8 to 18.6 in the same period, of which 80% are neonatal. According to hospital statistics, neonatal mortality increased from 0.05 to 2.01% between 2014-2015, as a result of consecutive collective deaths due to unhealthy conditions and overcrowding. Malnutrition in pregnancy and in hospitalized children under 2 years has also climbed due to lack of supplements and the number.



Expanding HIV epidemic, irregularity in provision of treatment and interruption of testing for monitoring and medical control. HIV cases and aids deaths continue to grow. Health authorities do not know the actual course of the epidemic given the lack of epidemiological studies and abandonment of preventative policies, in breach of international commitments against HIV/aids.

Until 2013, 11,000 new HIV cases and 2,000 AIDS deaths a year were recorded. However, no studies have never been done in the field to know the actual % of population aged 15 to 49 years with HIV, their annual growth and the practices of the population at risk. There are no educational campaigns nor is there access to condoms. The government provides antiretrovirals at no cost to people diagnosed with HIV, prescribed at public health centers, thanks to court rulings between 1999 and 2000. The number of people receiving them rose from 42,000 to 63,000 between 2012 and 2014, but the number of people undiagnosed was estimated at 162,000 in 2011, and the possibilities of delivery failures were consistently high, given the repeatedly late purchase orders and payments to the Strategic Fund of the Pan American Health Organization (PAHO). Public labs for control and monitoring tests are insufficient, and due to shortages affecting the health system there is a permanent shortage of reagents to perform them.

Significant simultaneous increase of epidemics of malaria, dengue, chikungunya and zika, given the lack of surveillance and disease control. Several mosquito-borne diseases in households are increasing simultaneously, causing greater suffering due to shortages of medicines.

Venezuela is the Latin American country with the highest number of malaria cases per inhabitant and the only one without progress in reducing them. Malaria went from 45,824 to 89,822 cases between 2011 and 2014. In 2015, they increased to 136,402, and from January to August 2016 the accumulated number is 148,670. 88% of cases are concentrated in Sifontes, Sucre and Gran Sabana municipalities of Bolivar state, where mining activities are predominant. Since 2015, the shortage of antimalarials and the shortcomings of insecticides and transport units to access areas deepened. There have also been other epidemics spread by transmission vectors: dengue increased by 189% from 2011 to 2014, going from 30,172 to 87,308 cases; 34,642 confirmed cases of chikungunya were confirmed in 2014 and 13,359 in 2015; in 2015, zika cases started to be documented, but there are no published official figures.

Systematic disinvestment on public health infrastructure, diverting large fiscal resources without budgetary controls into programs and infrastructures which were paralyzed and a high level of imports managed without transparency.

Total expenditure on health as % of GDP in Venezuela dropped from 5.7 to 4.7 between 2000 and 2012, being the lowest in Latin America with the lowest public investment, estimated at 34%. In 2015, public health spending rose only 13%, in spite of an official inflation of 181%; 74% of this expenditure depends on the country's foreign earnings, which places under high vulnerability the availability of resources to meet health needs.

Until 2012, a large amount extraordinary resources were destined to imports of medicines and supplies, as well as to construction works which were not finished. The Comptroller General reported irregularities in the years 2011, 2013, 2014 and 2015, and, to date, those responsible have not been punished.

Undermining of responsibilities of rectorship, management and financing of the health system, which remains in highly fragile conditions for lack of correcting structural deficiencies by creating the National Public Health System provided by the Constitution.

The public health system remains fragmented, causing multiple disparities and inadequacies. Since the National Public Health System has not been created, there are predominantly centralized public decisions in offices other than the competent ones, weakening their ability to implement programs and timely, adequate and quality services to all the population, diverting efforts towards parallel, unsupervised structures, many of which stopped working. In 2009, the government admitted that 70% of primary care modules (Mission Barrio I) had been abandoned, and only diagnostic centers with certain specialties survived, with severe limitations for care.

State's inaction to face the worsening health conditions at the national level and the weakening of its internal capabilities to respond, in breach of international obligations to use the maximum available resources, including those of international assistance and cooperation, a situation before which national human rights protection bodies and the judicial system have kept silent.

The dire situation of the health system was admitted on several occasions by the Executive without this being translated into concrete and effective measures to solve it. Various civil society groups demanded the sanitary authorities and the Ombudsman to take urgent actions, including seeking international assistance in compliance with international obligations on the right to health, without obtaining any concrete results. From 2014 to 2016, Cecodap introduced different legal recourses at the Supreme Court and the Court for the Protection of Children and Adolescents, in order to protect the right to life and health of children treated at the Hospital JM de los Rios (pediatric national referral hospital). The hospital has been deprived of resources for several years, preventing it from meeting the systematic deterioration of its infrastructure and staff shortages, medical-surgical supplies, drugs and equipment. All judicial appeals were rejected, omitting obligations to the principle of absolute priority and interest of the child, recognized in the Constitution and national laws. In 2016, several organizations working for the rights of children and adolescents, women, the elderly and people with chronic condition, have filed new appeals before the Supreme Court, on which the Court has remained silent.



Recommendations

1. Meet the immediate obligation to ensure medicines and medical supplies to all public health services and to provide treatment to all people without discrimination, mobilizing the maximum resources available, including international humanitarian assistance and cooperation.
2. Give priority to solve the acute shortages of drugs to the most vulnerable people based on physical and mental health conditions, pregnant women and newborns, people deprived of liberty, communities in geographically remote areas and in indigenous territories, ensuring medical and scientific criteria for prevention, timeliness, quality, safety and efficacy.
3. Assign all human, technical and financial resources necessary to conform or reactivate health programs such as organ transplants, hemophilia, breast cancer, lymphoma, HIV/aids, diabetes, hypertension, mental health, immunization, maternal and child health and sexual and reproductive health; as well as the monitoring, research and health control functions, with support from international technical assistance, to reduce epidemics associated with vector-borne diseases
4. Enact the Law on the National Public Health System, universal and decentralized, in accordance with Constitutional provisions.
5. Provide sufficient public budget to rehabilitate public health infrastructure, ensure regular provision of supplies, equipment, qualified and well-paid health personnel, transportation, electricity and water, requiring health facilities at all levels of care to comply with principles of transparency and accountability.
6. Investigate and punish those responsible for administrative irregularities or corruption in the management of resources for public spending on health.
7. Take measures to encourage domestic production of medicines and medical supplies according to the needs of domestic supply.
8. Publish and periodically update sanitary and epidemiological statistics.
9. Facilitate participation and maintain dialogue with all affected persons, organizations and sectors which can contribute to improving policies and conditions of the health system, without distinction of any kind.
10. Refrain from harassment or reprisals for the legitimate exercise of the defense of the right to health.



Brief assessment of the implementation of 1st cycle UPR recommendations

In the first cycle of the UPR, the Venezuelan government accepted 10 recommendations addressed to continue with (A) literacy policies and the use of educational technology for low-income sectors; (B) achieve universal primary education and gender equality in access to education; (C) increasing investment in primary, secondary and university education; (D) expanding educational opportunities and enrollment at all levels of education; (E) the democratization of the access to higher education; (F) strengthening the autonomy of universities, through active participation in their communities; (G) and combating unequal access to education (94.15, 94.51, 94.57, 94.59, 94.60, 94.61, 94.62, 94.63, 94.64, 94.67).

However, until 2011 the state education policies focused on limited programs that are parallel to the education system -called educational missions – those programs did not continue or went weak during the first cycle, and their coverage, performance and results remain unknown. In the absence of policies and investments to strengthen the education system, the deficiencies in the quality and coverage increased during the first cycle, generating sustained decline in the number of students in official schools, stagnation and paralysis of school programs and the persistence of illiteracy. Likewise, intervention and indoctrination at all levels of public education has emphasized, including systematic violations of university autonomy.

The Committee on the Rights of the Child (CRC) recommended in the 3rd periodic review of Venezuela in 2014, to ensure school enrollment and dropout prevention for reasons of affordability, geography, ethnicity, disability, pregnancy, shelter and application asylum, promote the quality of education by reforming curricula and the introduction of teaching methods to stimulate active participation of children and adolescents; to intensify efforts for quality training for teachers; to include the teaching of human rights in the curricula at all levels and eliminate the military approach in mainstream schools. Also, during the 7th and 8th Periodic Review of Venezuela in 2014, the Committee on the Elimination of Discrimination against Women (CEDAW) recommended to adopt without delay measures to improve the quality of education, exclude from the curricula military issues and solve the problem of shortage of qualified teachers, among other recommendations.

As a result of the 3rd periodic review of Venezuela in 2015 on compliance with the international Covenant on Economic, Social and Cultural Rights, the Committee on Economic, Social and Cultural Rights (CESCR) expressed concern about the introduction of indoctrination material and activities in educational programs and recommended to take all necessary measures to ensure that education promotes the full development of human personality and sense of dignity and the active participation in a free society as well as respect for human rights and fundamental freedoms, where understanding, tolerance and friendship among nations prevails.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela (CRBV) states that education is one of the fundamental processes for the defense and development of the individual and respect for their dignity, the democratic exercise of the popular will, the construction of a just and peace lover society and the prosperity and welfare of the people. Furthermore, it is recognized as a human right and social duty, of democratic basis, mandatory (from kindergarten to high school) and based on respect for all currents of thought in order to develop the creative potential of every human being and the full exercise of their personalities in a democratic society.

However, the **Organic Law of Education (LOE)** of 2009 disposes the ideologization as one of the educational purposes in a single model of thinking based in socialism, with emphasis on basic education. The LOE also eliminated the preferential right of parents to participate in their children's education. In 2012, **Resolution 058** of the Ministry of Education created new forms of organization of the educational community for ideological purposes, nullifying existing student organizations and some 20,000 parent associations freely established. The LOE also violates university autonomy to suppress the ability of the autonomous universities to issue rules of self-government and organization, and the internal election of its authorities. None of The legal appeals lodged has prospered.

The CRBV also states that education is an instrument of scientific, humanistic and technological knowledge in the service of society. But the reforms of 2010 and 2014 to the Law on Science, Technology and Innovation (LOCTI), eliminated the mechanism for dialogue between companies and research centers of national universities to define investments in research projects, transferring this function to the Executive, through the National Endowment for Science, Technology and Innovation (FONACIT), which is exercised with little transparency.

Challenges

Imposition of doctrines and ideologies of state mainly in basic education, which diminish freedoms and rights in education and essential purposes and objectives of education.

Cases, facts, comments

Socialists Plans 2007-2013 and 2013-2019, have as their objectives to adapt the education system to the socialist production model and training in socialist and patriotic values. Based on them, the Ministry of Education introduced a new Bolivarian Curriculum in 8,000 basic public schools, without any consultation. Since 2011, 100 million books of the Bicentennial Collection have been distributed as the only text and in 2016 it was planned to distribute 20 million more books, with stigmatizing and discriminatory content for political reasons.



More than 30% of the teachers and 68% of the directors of public schools are temporary, exposing them to pressures and threats of dismissal. Also, there have been cases of harassment and persecution of teachers or executives because they did not join or sympathize with the ruling party. Similarly, pre-military training in secondary schools remains mandatory and in 2011, through a resolution, the Ministry of Defense issued a plan of military education that proposed the mandatory inclusion in the curriculum of the course "Education for overall defense," whose design and administration would be commissioned to an irregular shape of the armed forces, formed by civilians and called "Bolivarian militias". Also, to be accepted in national universities, regional zoning are applied and the opening of new careers or college courses and access to study abroad have been limited, which limits students freedom of choice and equal opportunities within the capabilities, knowledge and experience.

Failure of the educational role of the State and its obligations with a priority investment in infrastructure, staffing, services and improving conditions of teachers in public schools, affecting both the quality and the cost of education; as well as safety and security policies that safeguard the integrity and life of children and adolescents, communities and educational facilities.

Investment in education has not been a priority for the state. The deterioration of the physical infrastructure of public schools is widespread and the lack of educational institutions is higher. This deficit affects rural and indigenous areas, where cases of overcrowding of the schools are presented. Although the legal framework provides free basic education, part of the costs of school maintenance and transport specifically related to the School Feeding Programme (PAE), are transferred to the schools community, so members must make working hours to perform maintenance and take up collections to pay for transportation leading PAE inputs to schools.

In addition, the national education system does not have a school bus service, not even facilities that enable families to reduce the costs of taking the students to their schools. The School Feeding Programme (PAE) is the main support of students in public schools and does not reach 60% of the schools so, because of the severe food shortage it works irregularly, having as a result the partial suspension of activities in many schools.

Coverage of basic education in public schools shows a steady decline and an increased absenteeism, causing school exclusion. A study in public schools in the state of Miranda in 2016, found that 48.1% students skipped classes because of issues related to food (had not eaten, they were weak, they were saving money to buy food, went to a supermarket to make a line to buy food). Salary levels of teachers have been reduced drastically and they have prohibited claiming restitutions. Despite the lack of teachers, new applicants from national or private universities have been denied. The number of classes has been cut by arbitrary suspensions, which does not correspond to the maximum interest that the State should pay for education, according to the CRBV. This school year, the official calendar submitted by the governing body fails to fulfill the number of days established in the Organic Law of Education.

The lack of a security policy and educational facilities protection, has generated increasing violence and insecurity in the country, that has been breaking through school areas. In consequence, about 30% of students have decreased their attendance to school and great part of the teachers have abandoned their jobs. Mentioned insecurity and violence is characterized by robbery, theft and vandalism, including the robbery of equipment and materials in general and PAE supplies and equipment. Some recorded events were committed with violence, using knives and firearms. School attacks are recurrent at any time of year. Several schools have reported being victims of robberies during the first days of 2016-2017 school year.

Also, the lack of a security policy and state protection, has spread the networks of micro-trafficking of drugs and extended criminal organizations that recruit students to involve them in their activities inside and outside schools, entailing, in many cases, the dropout of children and youth. In border areas, the situation is related to recruiting activities by non-state armed groups. This situation increases the vulnerability of children and young people, it affects the educational process in schools and it also obstructs the realization of the right to education.



Violation of university autonomy through interference in rules for participation and political organization of autonomous national universities for purposes of control over self-government structures

Based on the LOE, The Supreme Court remains the election of authorities in all national universities suspended until workers and employees get include as voters, violating the autonomy of the university. The government has promoted the creation of a national body of student representation that is parallel to the student federations legitimately constituted in either autonomous, experimental or private universities. Additionally, through the National Council of Universities (CNU) the right to hold elections at national universities it's being denied to the universities that allow to have 3 student representatives on the Council.

Criminalization of freedom of association and peaceful assembly of students in autonomous national universities by state and non-state actors who perform acts of violence against community members, leaders and physical spaces of universities

Repression is keeping suspended the exercise of the right to peaceful protest, the protests are being considered violent despite being vindictive and fulfill legal requirements. Numerous peaceful student protests and university demonstrations have been prevented, with refusal of permits and routes, dissolved and suppressed. In official schools, teachers are forced to attend political demonstrations in support of the government, threatening them on losing their jobs. Between 2008 and 2015, the Directorate of Legal Council of the UCV recorded more than 100 complaints submitted to the competent bodies about acts of violence including attacks on peaceful demonstrations by the National Guard and the Bolivarian National Police, which remain unpunished. These allegations also recorded acts of violence by irregular civil groups in combination with public forces.

Discriminatory treatment in financing policies to the autonomous national universities that reduce educational quality and do not ensure equal opportunities through scholarships and student support services.

Since 2007, the annual budget of the autonomous national universities is basically the same, generating exodus of academic and also the decline of educational quality as a result of the severe deterioration of infrastructure, loss of salaries and lack of opportunities for professional improvement. The use of foreign exchange is restricted to these universities, preventing them from acquiring equipment, materials and supplies that are not produced in the country and update books, scientific magazines and software. They have also expropriated rental areas of these universities that allowed own income. Scholarships and student dining services, transportation, health care and residence -that ensured equal opportunities- have stalled or are closed for lack of resources. Many low-income students have had to abandon their studies.

Recommendations

1. Exclude objectives and content of ideological indoctrination and military training from standards, plans, policies, curricula, textbooks and income mechanisms at all levels of the education system. Refrain from persecution and improper restriction practices against the academic freedom of teachers.
2. Make use of the maximum available resources to make the necessary investments in basic education and keep school programs that reduce dropout and absenteeism for economic reasons.
3. Design, assign resources and implement a policy of protection and safety of educational institutions and their communities, addressing situations of violence that develop in the environment in which the schools are located.
4. Grant an appropriate budget to all national universities, without distinctions or subdivisions and in line with the inflation; remove restrictions on access to foreign exchange and mechanisms to contribute their own income
5. Take measures to assure scholarships and the provision of services for students in proper conditions, such as health, food, transportation and lodging in national universities.
6. Amend the Organic Law of Education and any statutory provision that has interfered with the right of parents to participate in their children's education, the exercise of freedom of association and peaceful assembly in all levels of education and the autonomy of institutions of higher education.
7. Refrain from practices of criminalization, repression, arbitrary arrests and undue restriction of university students for exercising their right to peaceful protest and investigate all cases of violence against students and universities to end impunity.
8. Restore legally consultation mechanisms between universities and companies to finance research projects, in accordance with rules of transparency by reforming Organic Law on Science, Technology and Innovation.

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Brief assessment of the implementation of 1st cycle UPR recommendations

There were 3 recommendations; all accepted but not fulfilled: Continue increasing investment in primary, secondary and university education, as it has progressively done so in recent years; Continue increasing educational enrollment at all its levels; continue to deep the existing policy on democratization of access to higher-education and implement measures envisaged to strengthening the autonomy of universities, through the active participation of the university community's member.

National legal framework

Organic Law of Education. Although university autonomy and academic freedom are recognized in the Constitution, as in the Universities Act, the Organic Law of Education (LOE) contains articles that are applied in violation of these rights. Article 6 of the LOE creates the Estado Docente (Teaching State), which assigns to the National Executive Power competences of control over the universities' rules and policies of government, income and training. Article 34 states that university autonomy must be interpreted (a) in academia, as the subordination of training programs and research to the plans of the National Executive Power and the priority needs of the country; (b) in the administrative and self-government level, as the obligation to include the administrative staff and workers in the election of university authorities and student representatives; and (c) in the economic sphere, as the centralized State control over investment and expenditure of universities. Articles 37 and 38, reserve to the State the functions of formulation, regulation, monitoring and control of professors training policies

Reform Project of the Organic Law on Higher Education (PLEU). Approved by the National Assembly in 2010 and vetoed by the Executive in 2011. There is a de facto application of the vetoed law.

Second Socialist Plan for Economic and Social Development of the Nation 2013-2019. Was unconstitutionally given the force of law in 2013. It provides for the university transformation, to deepen and radicalize the revolution under the Bolivarian socialism, conditioning academic activity to an ideology.

Challenges

Policy against autonomy. "Sucre Mission" created a university parallel system under the State, which governs all non-autonomous universities in a pensée unique (single thought) model, established at the Second Socialist Plan of the Nation 2013-2019. The Ministry of Popular Power for Higher Education, Science and Technology has the power to enact without political consultation, plans and training programs, student admissions and research priorities.

Interference in internal rules of self-governance and participation. The Supreme Court has suspended since 2011 any process of election of officers and / or student in 9 public national universities.

Attacks to facilities and insecurity in campuses, with high rates of crime and impunity.

Regressivity in guarantees for working conditions. In 2010, the Supreme Court stopped certification standards governing relations between the teachers' union and the State. Since 2013, a Single Collective Bargaining (CCU) was imposed.

Interference in academic policies. In 2015 the Continuing Education System of University Teachers was created with ideological bias, which affects the approval of academic programs and selection of teachers, and ignores the career ladder.

Cases, facts, comments

Seven public national universities and 27 private universities are guided by the principle of university autonomy.³² other universities have not obtained their autonomous status. This system excludes the autonomous universities from higher education policies and follows purposes of proselytizing and indoctrination. There is a regional zoning policy limiting the right of students to choose careers and university of their choice.

Actions brought before the Supreme Court requesting the annulment of art. 34 have not been decided. In the parallel system, the State created associative government figures to subtract participation of autonomous universities in university policies.

In 2014 demonstrations, more than 20 public and private universities were systematically attacked by security forces and armed civilians.

Pay scales were decreased. The 2015 CCU created distortions by which today 64% of university professors earn less than minimum wage. Most universities have lost a significant number of teachers.

Since 2010, the National Council of Universities does not authorize new academic offers in autonomous universities; instead, they have opened in the parallel university system. In 2015, the Office of University Sector Planning (OPSU) reserved 100% allocation of new admissions to autonomous national universities, violating the powers of the University Councils.

Restrictions and reprisals against autonomy and academic freedom in higher education system



Restricting funding and economic autonomy. Autonomous universities that depend on the public budget are subject to practices of opacity, cuts and split allocations at the expense of academic quality. Investigations applying for funds before the National Endowment for Science, Technology and Innovation are discriminated against by university of origin and subject.

Stigmatization, criminalization and repression against students, teachers and researchers, reached alarming levels in 2014. Resolution 8610 was issued authorizing the military to control public meetings using weapons of deadly force. In July 2016, the Supreme Court upheld the constitutionality of Resolution 8610.

Budget and purchases decisions are centralized; spending on infrastructure and services is very limited. Access to foreign exchange is becoming more restricted, hampering academic update. Since 2007 only 30% of the budget requested by public universities is approved, without considering inflation. Scholarships do not cover the minimum cost of food, and dining halls have stopped working. Limitations imposed on university companies do not allow generate their own incomes. In private universities, the State imposes regulations on tuition fees. Reforms to the Law on Science, Technology and Innovation (LOCTI) eliminated consultation mechanisms between companies and research centers of national universities for investments in projects.

Between February and June 2014 more than 3,000 demonstrators, the mostly university students, were arrested and subjected to trials without due process, with the intervention of the army and armed civilian groups. Military involvement in repression of demonstrations continues. Three university students were killed by National Guard and the Bolivarian National Police outside the university campus. Academics who question government policies are monitored and harassed by intelligence agencies. Between 2008 and 2015, the UCV made more than 100 complaints of violence before government agencies, of which no response was obtained.

Recommendations

1. Promote the reform of the LOE and its compliance with international standards on the protection of the right to autonomy and academic freedom.
2. Immediately cease any policy or practice that undermines freedom of university professors, students, researchers and campuses to perform their duties without being constrained by doctrines, and refrain from taking actions that may threaten or violate the autonomy of universities.
3. Respect and not interfere with the internal rules of self-government for the election of authorities and student representatives, ensuring that voters belong to the university cloister.
4. Ensure equal treatment to all universities and principles of adaptability and flexibility of academic offerings, without subordination to measures that interfere with policies and procedures of admission of new students.
5. Even in times of severe resource constraints, make every effort to provide universities access to stable, sufficient and autonomous budget and consider the challenges of private university education through consensual solutions, refraining from punitive options in any attempt to regulation of tuition.
6. Remove restrictions on the autonomous universities for generation of their own income for self-financing.
7. Establish quality criteria for student services that complement and make possible the right to education.
8. Guarantee, immediately, universities access to foreign currency.
9. Cease practices that restrict the participation of universities and organizations representing the university community in higher education policy and the defense of their interests and rights, and ensure decent pay and working conditions for teachers and researchers and their rights to collective bargaining.
10. Ensure that members of the academic community express themselves without fear of discrimination, intimidation or repression, and to repeal measures that criminalize freedom of expression, assembly and association at the university level.
11. Protect the life, security and integrity of students, teachers, researchers and university staff; and ensure the safety and security of its facilities and property, preventing measures to be taken do not threaten their autonomy, and investigate reported attacks beyond the formalities.



Balance of the implementation for the First Cycle Recommendations

Venezuela did take as a granted 29 recommendations about the EPU 201, related to the poverty reductions and inequality, human right to work, water supply and housing, and the Millennium Development Objectives (named today Sustainable Development Objectives). About these recommendations, 14 were referred to continue improving the policies and social programs based on community purpose, particularly the so called “Misiones Sociales” to reduce poverty, exclusion and inequality (94.6, 94.7, 94.8, 94.9, 94.39, 94.45, 94.40, 94.41, 94.42, 94.43, 94.44, 94.47, 94.74 y 94.75), the 94.38 did refer to identify the unemployment causes, the 94.48 to continue the clean water supply and sanitation policies for all, and other 4 recommendations were devoted to continue programs for housing access in order to solve the lack of supply, specially improving the *Gran Mision Vivienda* (94.52, 94.53, 94.54 y 94.55). Despite these, during the first cycle, the so called *Misiones Sociales* that were the focus of the Venezuela State’s action during past years with a huge spend amount of resources, today are literally without action and in permanent crisis, recognized by the national government on different moments throughout internal public declarations, all these because of the assistant scope that were not guaranty of universality, equality and quality standards, as well as its use as a parallel political instrument to the formal institutions, outside the technical and administrative control, bringing as a result a high level of clientelism and corruption.

As a result, the *Misiones* lost the initial impacts that mainly produce temporal poverty alleviation, based on direct subsidies and food, without solving the structural causes and just having a limited access to the main urban centers of the country, provided by personnel of health, education and recreation of the Venezuela-Cuban Agreement, outside the regular institutional services and programs structure. As a result, a wide sector of the people felt part of the actions, but that did not reflect a real well-being, since these programs did not change the assistance-based approach towards structural policies that tackle the poverty causes.

Even more, there have become more complex problems of water access and pollution and still it is relevant the lack of housing solutions within the country as a whole, despite the government programs, all these producing a decrease of the life quality, with a difficult of strong economic crisis, unemployment, high price inflation, high violence level and lack of food, medicines and services for health. These is the case, due to the drastic reduction import of goods and services and government management with antidemocratic and authoritarian trends reflected in the State permanent refusal towards a plural and democratic dialogue with all the wide range sectors of the Venezuelan society as well as the internal military of the public sector governance. The legal actions for the advocacy in human rights are not considered nor having effects on the public policies, due to the lack of separate and independent public institutions with technical and financial capabilities to give response to the social, economic, nutritional and health of the population, especially those most vulnerable groups and communities.

In the year 2000 Venezuela assumed the commitments under the Declaration on the Millennium Development Goals (MDG). The State submitted two reports on achievements, the last one in 2010 that declare to accomplish the goals poverty, hunger, equal education opportunity for women, clean water and sanitation supply of medicines to people with HIV and increase of the area covered by forest. In the field of health and education, these reports claimed that Venezuela was on the way of reducing infant and maternal mortality, and increase the rate of primary education coverage. However, in 2014, the Venezuelan civil society organizations conducted an assessment whose findings were: (a) failure to comply with all of the goals of health and weaknesses in monitoring, inefficiency and corruption in the health system; (b) high pregnancy teenager and precarious access to sexual and reproductive health services; (c) problems of quality of education, lack of infrastructure and high proportion of non-graduates and hired teachers, (d) exclusion for political reasons affecting the universality of rights, (e) persistence of inequity in access to programs and services of education and health, (f) violence in all its forms (criminal, school, domestic) with impunity, (g) adolescent population without job training options (h) marked inefficiency and corruption in the management of social services and (j) centralization and public deinstitutionalization.

National Legal Framework

In the Constitution of the Bolivarian Republic of Venezuela (Constitution), it is obligation of the State to manage policies, programs and protection systems aimed at ensuring the effective realization of fundamental social rights (health, food, water, housing and work) and raise levels of life, prosperity and well-being of the entire population. During the last decade, the State advanced in the adoption of laws in favor of the guarantees of social rights*, nevertheless persist serious omissions in the field of social security and health, reforms to existing legislation have introduced regressive provisions to the universality and guarantees of effective access to the satisfaction of rights and the majority of laws are not accomplished, due to the serious problems of decomposition and internal weakening of the State, that allow to account with a institutional framework according to the provisions of the laws. Venezuela has not yet completed the process of ratification of the **Optional Protocol of the Covenant on Economic, Social and Cultural Rights**, since this was decreed by the National Assembly in 2014 as a law of the Venezuelan Republic.

* Ley Orgánica de Prevención, Condiciones y Medio Ambiente de Trabajo; Ley Orgánica de Soberanía y Seguridad Agroalimentaria; Ley Orgánica del Sistema de Seguridad Social; Ley Orgánica para la prestación de los servicios de agua potable y saneamiento; Ley de Alimentación para los trabajadores; Ley de Agua; Ley de Demarcación y Garantía del Hábitat y Tierras de los Pueblos Indígenas; Ley del Régimen Prestacional de Vivienda y Hábitat; Ley Especial de Protección al Deudor Hipotecario de Vivienda; Ley de Tierras y Desarrollo Agrario; Ley de Regularización Integral de la Tenencia de la Tierra de los Asentamientos Urbanos y Periurbanos; Ley del Régimen de Propiedad de las Viviendas de la Gran Misión Vivienda Venezuela; Ley contra el Desalojo y la Desocupación Arbitraria de Vivienda; Ley Orgánica de Emergencia para Terrenos y Viviendas; Ley Especial de Protección al Deudor Hipotecario de Vivienda.

Poverty and Adequate Standard of Living



Challenges

Cases, Facts, comments

Setbacks in decrease of the poverty, by weakness of social policies not aimed to solve the structural problems of poverty and an sensitive shortage of essential products.

According to figures from the Statistics National Institute (INE), the percentage of households in poverty line income increased 21.2% to 27.3% between 2012 and 2013. For that moment, 9 million people were in poverty and almost 3 million in extreme poverty. Poverty worsened between 2014 and 2015, rising to 33.1%, in a context of accelerated inflation, widespread food shortages, reduced employment, severe cuts foreign exchange for imports and budget to the social sectors and closure of public health services. The Survey of Conditions of Life (ENCOVI) conducted by 5 national universities, said that the poverty impact of inflation, actually reached 73% of Venezuelan households (23 million) and 49.9% without income to cover the cost of a food requirements, in the view of official three-digit inflation, located in 180,9% by 2015. The main cause of the setbacks in the fight against poverty is the persistence of an economy based on imports, with oil income, which provides 9 of every 10 dollars entering the country, the lack of opportunities for stable and well-paid employment, and the absence of a policy of structured social security that includes subsidies designed to meet the most underserved population.

Commodity scarcity is widespread nationwide. In April 2014, the Central Bank of Venezuela (BCV) reported that 19 products of the basic basket (coffee, Sugar, milk, rice, corn, oil, products of personal hygiene, toilet paper, disposable towel, medicines, prosthesis, spare parts for vehicles, among others), had a rate of greater than 60% shortage. Since that date, the BCV does not publish the index. Independent studies estimated that by 2015, shortages reached 70% of 40 major consumer products. The State has persisted in refusing to acknowledge the crisis and it has implemented a series of economic adjustment measures that downloaded the cost of it in the most vulnerable sectors and the rationing of 23 products at regulated prices, which only can be purchased once a week and most of them are not always available. In February 2016, the National Assembly approved an agreement on humanitarian crisis and lack of food security, whereby it was agreed to request the United Nations food and Agriculture Organization (FAO) and the United Nations Fund for children (UNICEF) to send experts to the country to evaluate the risk of food shortages, currently located in 80%.

High shortage of safe drinking water and electricity continued deterioration of watersheds, water, insufficient and inadequate infrastructure and severe pollution problems and mining.

Reports on Compliance with the Millennium Development Goals, the State claimed to have reached a goal of drinking water coverage in 2001 and wastewater in 2005. However, Venezuela has limited water supply in urban areas due to degradation of their watersheds, which also affects indigenous peoples in the jungle areas. The infrastructure of reservoirs, treatment plants (water purification and treatment plants), network of aqueducts for water distribution and wastewater sanitation, developed between 40 and 70, is inadequate and not properly maintained and currently is almost dismantled. As a result, it is not suitable to process raw water sources, where they have increased biological pollutants (POPs, toxic agro, heavy metals, oils, aluminum, chlorine, detergents and other chemicals), for the same degradation, deforestation indiscriminate population growth, deterioration or lack of sanitation and increased agricultural, industrial, oil and mining areas. The water companies increased chlorine and aluminum to distribute colorless water without microorganism, when they are given by scarcity. Treatment plants that should "clean" water do not exist, and returning it contaminated to the sources. The shortage of water increased alarmingly. In some states it reaches 1 time per month and in others, 1 time a week. Lack of water is the cause of frequent suspension of health services, school activities and working hours. Numerous demonstrations are due to demands for right to water.

The small amount of water which is available is not fit for human consumption. Lake Valencia was polluted by a river (where sewage reach populations and industries) that its course was changed to increase the water levels of the lake. This caused flooding to nearby towns and, as a measure, the government authorized the transfer of water from the lake to the reservoir that supplies water to the center of the country. 3 million people in Carabobo and Aragua states do not get clean water to ensure their health and healthy environment. In March 2012, the Movement for Water Quality introduced appeal to the Supreme Court by damage to collective and diffuse interests, and requested an injunction to prevent the transfer of polluted waters of Lake Valencia to Pao-Cachinche reservoir. The Supreme Court declined competence to intervene in the lawsuit.

The Caroni River generates more than 65% of the electricity consumed in the country. The biggest hydroelectric dam "Guri" does not provide enough energy to produce water due to drought as a result of the degradation of watersheds. More than 10 states are already arid or semiarid, but so far there have not been taken steps to measures to mitigate and adapt to climate change, in line with international commitments. In addition, basins and all its biodiversity are threatened by gold mining, which is rapidly deteriorating the Orinoco river and contaminating feeding ancestral ethnic Yekuanas, Yanomami, Sanema, among others.

Poverty and Adequate Standard of Living



The mining practice releases mercury and cyanide into the atmosphere and into rivers. Mercury goes to ground and the water is transformed into methyl mercury which is highly toxic. Mining also destroys the fragile soil of the jungle, felling their forests, as well as generates unsanitary conditions conducive to vectors malaria, dengue, chikungunya zika. Caroni River Basin is being seriously affected by mining practices. In March 2016, the Guri dam dropped to record lows several times that put it at risk of collapse and paralysis, causing blackouts of 4.6, 8 and even 10 hours a day. Thermoelectric plants that complement the electric service have not received the required maintenance and are estimated to be producing only 30% of capacity.

Failure of housing policies for low-income sectors, without right to possession and use of repressive methods to address the problems of insecurity, with mass eviction practices and serious violations to life and personal liberty.

In 2011, the state launched the Great Mission Housing Venezuela (GMVV), promising to build 2 million housing units between 2011 and 2017 (some 285,714 homes built on average per year). In 2012, 200,080 were completed. By 2013, the goal was 380,000 units, but official figures indicated that actually completed and delivered 201,074 houses. In 2014 only 64,680 homes, 21,228 of which were conducted through agreements with Iran, China, Turkey, Spain, Belarus, Portugal and Colombia) Beneficiary families of the GMVV do not yet have the title of ownership or unknown were built award mechanisms. They have no legal security of tenure. In 2015, the national government launched Operation Liberation and Protection of the People (OLP) in which, as a result of police and military takeover of areas inhabited by popular sectors, warrantless searches, police executions were carried out, and proceeded to evict hundreds of families or destroy their homes, on the grounds of links with alleged criminal acts. In five months of the OLP they were demolished 976 homes and forced eviction of 1,490 families benefiting from the GMVV was performed.

Recommendations

1. Review of social policy, including so-called social missions, to guide them to the solution of structural problems and strengthening economic capacities of the population, concentrating aid and subsidies on vulnerable social groups into extreme poverty of character cyclical or recent, and with due regard to differences and gaps between urban and rural areas.
2. Adopt a plural dialogue to design social policies to reduce poverty and meet the regular publication of statistics on poverty.
3. Stop Operating Liberation and Protection of the People (PLO) as security policy and conduct proper investigations and conclusive on evictions, detentions and executions of families that were conducted as part of these operations, with punishment for those responsible and reparation for victims, including special programs to guarantee decent housing.
4. Comply with the goals of building housing for low-income sectors, ensuring property titles to families who have already been or are beneficiaries according to transparent criteria and legal procedures that could lead to discrimination for political reasons or of any kind.
5. Establish a food subsidy targeted at low-income families to ensure access to food with adequate nutritional standards and take urgent measures to address the problem of shortages of food and basic necessities.
6. To comply with the constitutional provisions, domestic laws and international conventions on water quality and environment.
7. To ratify the Optional Protocol to the Covenant on Economic, Social and Cultural Rights.
8. Ratification and implementation of Minamata Convention and the Regional Convention Principle 10.

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† Summary prepared based on contributions from the Venezuelan Program of Education and Action in Human Rights (Provea), Aguaclara Foundation and the Venezuelan Platform Network of Organizations of Civil Society, composed of Synergy, Venezuelan Association of Health Services Christian Counseling (AVESSOC), Venezuelan Network of Organizations for Social Development (REDSOC), FENASOPADRES Federation of Private Institutions Child Care, the Youth and Family (FIPAN), Red ARA, Venezuelan Observatory of Human Rights of Women (OVDHMujeres), Group CESAP and Campesino social Action. Available in: <https://goo.gl/0tXpcp> - <https://goo.gl/TGmGgQ> - <https://goo.gl/gOwKyR> Twitter: - @Provea - @acsinergia - @avessoc - @Redsoc_Ven - @FENASOPADRES - @FIPAN - @OV_DDHH_Mujeres - @CESAP_AC - @AcciCampesina



Brief assessment of the implementation of 1st cycle UPR recommendations

In Venezuela's UPR in 2011, the Government accepted two recommendations: 94.70 and 94.71, which advised the State to consolidate and further advance the exercise of popular sovereignty over natural resources and the wealth of the country; as well as to maintain international leadership regarding a healthy environment.

Venezuela is signatory to the United Nations Framework Convention on Climate Change (UNFCCC) from 1992, which was ratified by the Parliament in 1994 and is therefore law of the land. Among its commitments, the State ought to develop, apply, publish and regularly update the necessary measures to facilitate socioeconomic and environmental policies on climate change; in conjunction with the adoption of working programs (COP10, 2004) and national adaptation plans (Durban Platform, COP17, 2011), in order to increase responsiveness, to reduce vulnerability and to strengthen resilience; in a participatory and transparent manner, from a gender perspective, and in consideration of the best scientific information available and traditional knowledge: indigenous people and local inhabitants (Paris Agreement, COP21, 2016).

Even though the State has included climate change in its development plans, with the intention of positioning the country as a benchmark in the struggle for the compliance of the agreements and the construction of a new system based in the "ecosocialist" doctrine; in reality, international commitments and obligations, together with national legislation, have not been met.

National legal framework

Climate change is underdeveloped in Venezuelan legislation. Most regulation applicable refers to aspects related to air contamination. Furthermore, the relation between climate change and human rights is incipient, it has not been legally developed and has yet to find an expression in public policies. The Constitution of the Bolivarian Republic of Venezuela recognizes as an individual and collective right the enjoyment of a safe, healthy and ecologically balanced environment and life; along with the duty of every generation with the protection and maintenance of the environment, for the benefit of present and future generations.

The **Organic Law on the Environment** (LOA, in Spanish) from 2006, establishes the right and the obligation of every citizen to participate actively and to have a central role in the management of the environment. In this sense, systems of risk prevention must be included as part of environmental planning; as well as the right and duty of indigenous people and local communities to participate in the plans and programs of national, regional and local development that could affect their lives, beliefs, values, institutions and spiritual welfare, the use of the land and the habitats they have ancestrally inhabited and that they use collectively. Environmental education and citizen participation are considered relevant in planning processes.

The **Law for the Comprehensive Management of Socio-Natural and Technological Risks** from 2009 creates a National Council for the Comprehensive Management of Socio-Natural and Technological Risks, assigned to the Ministry for the Environment. This Council has the responsibility to dictate the guidelines for the formulation of a National Plan of Adaptation to Climate Change, with activities to evaluate the impact, threats, vulnerabilities and the national strategy for adaptation. However, this obligation has not been met.

Challenges

Absence of national plans for adaptation to climate change from the perspective of human rights, in spite of the recognition that it represents one of the main threats for human beings and life on Earth; considering its potential to cause harm to the rights to life, health, water, security, housing, development, protection of indigenous people culture, among others; with the consequent damages to present and future generations, especially the most vulnerable groups; thus requiring policies to protect people, as an strategy to defend human rights.

Cases, facts, comments

The actions the State is undertaking to tackle climate change are completely opaque. There is no official information on whether the State is currently working in plans for adaptation. Orientation, terms and responsible authorities are also unknown; even though foresight investigations indicate the probability of an upsurge of extreme events, the increase of areas in risk of desertification, less annual rainfalls and the increase of average temperatures. As a result, agricultural production decreases, particularly permanent crops; vector-borne diseases will possibly up-scale; ecosystems, biodiversity and the sea level vary, among others.

The National Plan for Human Rights of 2015 entails environmental rights and protection faced with climate change, but advances in these subjects are unknown. Official documents only report isolated measures, such as attendance to international events, programs of environmental education, agro-ecological systems, spaces for the communal management of water and the promotion of scientific investigation; without data on progress made.



Ideological and excluding approach to participation in the economic and environmental policies of the State, which undermines the right of every person without discrimination to be protected from the negative impact of these policies in climate change.

The Second Plan for Economic and Social Development of the Nation 2013-2019 (Plan of the Motherland) dictates the elaboration of plans for adaptation and mitigation of climate change at a national and municipal level; as well as the goal to make Venezuela a world benchmark in the struggle for the compliance of international agreements and the impulse of a new "ecosocialist" system. The document "Contributions nationally previewed by the Bolivarian Republic of Venezuela for the fight against climate change and its effects" delivered by the State at the COP21 in Paris, states that "Venezuela presents ambitious contributions in adaptation and mitigation, covering actions and policies towards a just and sustainable development". That same document indicates that the country "aims to implement a National Plan for Mitigation along a National Plan for Adaptation".

However, it is not possible to verify what contributions have been made in the subjects of adaptation and mitigation. Advances in this matter are also unknown. On the other hand, the approach the Executive has taken to climate change is mainly ideological, using it as a tool of confrontation against capitalists or imperialists that cause all global problems, although Venezuela, as an oil exporter, should have an ethical position regarding the utilization of natural resources. Besides, the national Government has deepened the extractionist model: along oil exploitation, it has recently added the development of a mining macro-project called **Orinoco Mining Arch**, which will affect 12% of the national territory by increasing deforestation, the vulnerability of the nation to the effects of climate change and by deteriorating rivers and biodiversity.

Inexistence of a national plan of education among citizens to face the negative effects of climate change, which should be a cross-cutting subject within the plans of mitigation and adaptation to climate change.

It is unknown whether there is a national plan of education on adaptation to climate change, and the actions of the State to educate population on this matter have been insufficient. Up to date, these actions have been restricted to the inclusion some educational content in school textbooks and some isolated educational campaigns.

Recommendations

1. To develop in the short term a national plan of adaptation to climate change, which should be participatory, inclusive and comprise international support; in order to protect social, economic and environmental rights of every citizen and to advance towards sustainable human development, considering the changes and impact it entails. Emphasis should be on underserved communities, the safeguard of water sources and their responsible utilization, food security, health and preparation to face socio-natural disasters.
2. To reestablish participation, dialogue and collaborative work with civil society organizations, universities, enterprises and specialists, with the purpose of joining efforts to advance effective measures towards mitigation and adaptation to climate change, taking into account the key role of the society in the decision-making process regarding physical space disturbances, which affects the full enjoyment of their rights.
3. To promote necessary legislation reforms and institutional aptitudes to define strategies, sectoral actions and work mechanisms regarding climate change; through the articulation of efforts and participatory processes. As a result, this should produce organizational structures and middle and long term plans, which should be properly designed and financed; including risk management programs, protection and improvement of food security, protection of health and urban management, among others.
4. To assert environmental rights, particularly those related to climate change mentioned in the National Plan of Human Rights. To adopt a national program of citizen education on the effects and impact on human rights of climate change, making emphasis in the development of community, institutional and personal strategies to adapt and evolve in this new environmental, economic and social context.

* Summary prepared based on contributions Equipo de Proyectos y Asesoría Social (Edepa) y Phynatura Civil Association. Available in: <https://goo.gl/LVqFcl> Contacts: - @ongedepa - @phynatura



Civil and Political Rights



Brief assessment of the implementation of 1st cycle UPR recommendations

Out of a total of 14 recommendations on freedom of expression made to the Venezuelan State during the 2011 UPR, 12 of them were not accepted (95.15, 96.1, 96.3, 96.4, 96.5, 96.8, 96.27, 96.28, 96.29, 96.30, 96.31, 96.38). These recommendations dealt with: (a) comply with international obligations to protect and respect freedom of expression and opinion; (B) amend and harmonize the legal framework in accordance with these obligations, in particular the rules governing the media, ensuring their diversity and plurality, and ensure that journalists can exercise their legitimate function without undue prosecutions; (C) eliminate the crimes of disrespect, disobedience, defamation or denigration from the Penal Code and the Organic Code of Military Justice; (D) renew the commitment to freedom of expression and opinion, and pluralism; (E) combat threats and attacks against journalists, and intensify efforts to ensure their safety; (F) promote the exercise of freedom of expression of political parties, trade unions, media and civil society, without risk of undue restrictions; and (g) condemn anti-Semitic statements and ensure that officials refrain from making them. The State accepted only the recommendation 94.36. about ensuring NGO's and other civil society actors' media, and 94.72, referred to taking further measures to improve access to information and communication technologies. However, during the first cycle, violations of freedom of expression continued and none of the accepted recommendations was implemented.

In 2014, the **UN Committee against Torture**, during the 4th periodic review of Venezuela, expressed deep concern over acts of aggression, threats, intimidation and harassment against journalists during demonstrations that occurred between January and April of that year, recommending effective guarantees of protection in the exercise of their activities, ensuring prompt, thorough and effective investigation of all threats and attacks against them, and trial and punishment of those responsible, with penalties commensurate with their acts. Also in 2015, **UN the Human Rights Committee**, during the 4th periodic review of Venezuela, drew attention to provisions and practices that have the effect of discouraging opinions or publishing critical information in the media and social networks on matters of public interest, including the criminalization of opinions concerning high-ranking officials, for crimes of defamation and widespread monitoring by the National Telecommunications Commission (Conatel) on the content broadcast by media. In regards of this situation, the Committee recommended ensuring legislation compatible with the International Covenant on Civil and Political Rights (ICCPR), remove undue restrictions on freedom of expression, exercising powers and regulatory criteria independently and impartially; and decriminalizing expressions referring to officials.

To date, the Venezuelan State has not taken measures that take into account these recommendations; on the contrary, in recent years, systematic attacks on journalists, coercion towards the media and the use of administrative and judicial procedures to penalize or censor critical opinions, have increased. As well, Venezuela has not taken steps to implement the **Resolution on the right to privacy in the digital age**, adopted by consensus on 18 December 2014 by the United Nations, which asked States to review their procedures, practices and legislation in monitoring communications, interception and collection of personal data in a massive form, in order to respect the right to privacy under international human rights standards.

National legal framework

The **Constitution of the Bolivarian Republic of Venezuela (CRBV)** guarantees the right to freedom of expression. However, the **Law on Social Responsibility in Radio, Television and Electronic Media**, reformed in 2005 and 2010, contains vague and imprecise provisions allowing excessive discretion of the State to regulate and punish media, which have been used to commit abuses for political reasons. The CRBV also establishes the right to free and plural communication with duties and responsibilities prescribed by law, the right to timely, truthful and impartial information, without censorship, and the right to reply and correction by inaccurate or offensive information. However, contempt and vilification remain offenses of a criminal nature provided in the Penal Code and the Code of Military Justice, and have been used by officials persistently to accuse citizens, journalists and directors of media to disseminate information about irregularities in their performances.

In addition, the CRBV guarantees the secrecy and inviolability of private communications, forbidding interfering with them without a competent court order, in compliance with the law and preserving the secrecy of private matters unrelated to the proceedings, Venezuela lacks legislation for data protection in accordance with international human rights standards. **The Law on Protection of Privacy Communications** and the **Law on Information Government** are ambiguous and do not provide for an effective protection. The Supreme Court has created jurisprudence based on habeas data, but its lack of independence compromises guarantees of such effective protection. **The Organic Code of Criminal Procedure** and the **Organic Law against Organized Crime and Terrorism Financing**, allow judges to authorize the interception of telephone calls in criminal investigations without fulfilling criteria of necessity, proportionality and due notice.

Challenges

Increased attacks on journalists and the media, in a context of impunity and systematic harassment towards the press and dissenting opinion, which creates a hostile environment for the performance of journalism and discourages public debate.

Cases, facts, comments

Officials use public media to discredit, insult and arbitrarily accuse media and journalists with critical and independent editorial lines. In public statements by senior officials prevails a type of speech which promotes a climate of hostility and intolerance against persons linked to private media or critical to the government's performance. In some cases, journalists have been accused of involvement in criminal acts as a form of retaliation for disseminating information considered sensitive by the government.



Between 2012-2015, IPYS Venezuela recorded 1,210 cases of violation of freedom of expression and access to information, in which 2,032 violations were committed. 44% of cases occurred in the metropolitan area of Caracas and the rest in states of Barinas, Zulia, Bolivar, Carabobo, Táchira, Aragua and Monagas, whose governors belong to the ruling party. The most frequent cases were attacks on journalists and media (42%), abuses of State power in communications (25%), restrictions on access to public information (15%) and cases of censorship (9%). These violations involved public authorities, violent groups operating outside the law and the media themselves. The largest number of cases was recorded in months when elections or public demonstrations occurred.

Censorship and institutional and legal coercion to media and journalists through censorship, economic pressure and use of legislation and judicial procedures arbitrarily as instruments of intimidation and retaliation, which leads to self-censorship and inhibition.

The Social Responsibility Board of CONATEL, responsible for imposing sanctions in accordance with the **Law on Social Responsibility in Radio, Television and Electronic Media** does not act independently. Most of its members are appointed by the President of Venezuela. Between 2012 and 2015, IPYS Venezuela recorded 31 administrative proceedings against private and electronic media, such as websites, ISP's and pay TV. 5 radio stations went off the air by government order. The State has not complied with the ruling of the Inter-American Court of Human Rights issued in 2015, which ordered to repair the financial damage and equipment to Radio Caracas Television (RCTV), and to open a bidding process on an equal basis to transparently assign the channel 2 signal. The Supreme Court held that this binding ruling was "irrelevant". The monopoly on the distribution and sale of paper through the creation of Alfredo Maneiro Complex and currency control by the State, has been used as an instrument to pressure and limit private media, forcing them to reduce format and even to stop printed publishing. About 45 media from 10 states have had difficulties of this type and have limited their informative work; at least 17 have been temporarily or permanently out of circulation.

The organization Espacio Público (Public Space) recorded 118 cases in courts, of threats and effective complaint lawsuits against media and journalists between 2011 and 2014. In 2014, congressman and former president of the National Assembly, Diosdado Cabello, sued the Board of newspaper Tal Cual and writer Carlos Genatios for "aggravated defamation". The lawsuit was admitted and 4 members of the Board and Mr. Genatios all were banned from traveling outside of Venezuela and required to weekly presentation in court. Cabello initiated another lawsuit against the newspapers Tal Cual and El Nacional and digital media La Patilla, for replicating information published in Spanish newspaper ABC, which had linked Mr. Cabello with drug trafficking activities. A civil suit for moral damages amounting to 1,000,000,000 bolívares was accompanied by another one for "continuous aggravated defamation". 22 accused have been banned from leaving the country and weekly presentation before the courts. Between 2002 and 2015, IPYS Venezuela also recorded 29 lawsuits for libel and slander that have affected 39 people, mainly carried out by public authorities. In 2016, David Natera, director of the Correo del Caroni (private newspaper Bolivar state) was sentenced to 4 years in prison, banned from leaving Venezuela and presentation in court, after conducting a journalistic investigation of corruption at the Orinoco Iron Mining Company (FMO), one of the main public industries. The medium, Correo del Caroni, was sanctioned economically and subject to a civil suit which may lead it to bankruptcy.

Violations of the right to communication and to the privacy of communications, involving intelligence agencies and entities of media control, accompanied by threats and arbitrary shut offs that inhibit the discussion and exchange of ideas characteristic of a democratic society

Venezuelan intelligence agencies, which include the General Directorate of Military Intelligence (DIM), the National Service of National Bolivarian Intelligence (SEBIN), and the Strategic Centre for Security and Protection of the Homeland (CESSPA), are involved in surveillance practices which violate international human rights standards, based on political considerations and without any independent oversight. The mandates of these agencies are in executive decrees without going through the National Assembly, with functions of gathering information for national security. They respond to the Executive. Between 2011-2015, Espacio Público documented 111 allegations of violations of freedom of expression on the Internet: hacking of web sites and social networking profiles, blockades, threats, attacks, impaired use of networks, judicial harassment, raids and arrests. In 2014, 8 Twitter users were arrested for spreading information uncomfortable to the Government.



Most were charged with public incitement, incitement to hatred and conspiracy; 5 of them were released, one spent 9 months deprived of liberty, and, until March 2016, 3 remained detained. Information dissemination or broadcast of opinion is indeed qualified as a criminal offense. In the 4th periodic review by the ICCPR, CONATEL's Director admitted having blocked 924 links of the "Dollar Today" web site, adding that "legally", it had also been blocking some 1,060 Internet sites at the request of other authorities.

The courts have prosecuted suspected government opponents based on information obtained from anonymous "cooperating patriots", and senior government officials have used the personal information collected by such anonymous informers to intimidate critics and human rights defenders. Under Venezuelan law, it is mandatory for mobile companies, public and private, to register SIM cards and to retain information about users in a centralized database. When a person wants to buy a prepaid SIM card or take out a contract for mobile services, the company selling the service must collect legal documents, taking impressions of fingerprints, getting a signature, and registering the address of the person. Venezuelan law requires a registry of this information, as well as phone numbers involved in a call, geographical location of callers, time, date and duration of the call. In the absence of a robust framework for protecting data, use of biometric technologies around the sale of commodities in supermarkets and pharmacies, as well as voting systems, also create risks to privacy.

Recommendations

1. Cease disqualifications and direct and indirect threats to journalists, media, social and political leaders and human rights defenders, which may jeopardize the genuine exercise of their freedom of expression and prohibit offensive statements and hate speech by public officials, which endanger the work of journalists and human rights activists.
2. Establish a national program of protection for journalists, in order to combat impunity in cases of violations of freedoms of journalism and the press, and create mechanisms for investigation and appropriate punishment of those responsible for attacks on journalists, reporters and media attacks.
3. Establish a strategy to ensure plurality and diversity of information at its best, for the media and journalists, in order to safeguard the right of citizens to be informed of in a relevant, adequate and timely manner, so that can make responsible decisions that promote democracy.
4. Ensure the autonomy and independence of the authority responsible for setting and implementing public policies on telecommunications and managing the radio spectrum frequencies, for granting telecommunications frequencies transparently and with equality for all media.
5. Prohibit actions that lead to censorship and eliminate discriminatory practices in the sale of newsprint to independent media and government critics.
6. Ensure that public media have plurality and diversity in its information content.
7. Reform national legislation to eliminate the crimes of defamation, vilification, libel or slander.
8. Promote a public policy on which the Internet is guaranteed for all as a human right. This warranty can establish a fundamental mechanism for safeguarding and demanding other fundamental principles and for strengthening new technologies, education and culture.
9. Reforming the legal framework governing the surveillance of communications to comply with international human rights standards.
10. Reform Venezuelan intelligence agencies, so that they are regulated by laws (passed by the National Assembly and not by Executive decree) that clearly prescribe their powers, establish monitoring mechanisms, and comply with international human rights standards.
11. Prohibit the use of anonymous "cooperating patriots" in court proceedings, establish clear and public rules on the use of informants by security services, and appropriately punish officials who illegally disseminate personal information or private conversations.
12. Abolish the mandatory registration of SIM cards and review the data retention requirements imposed on telecommunications companies, and pass legislation on data protection that meets international standards; as well, establish an independent data protection authority that has adequate resources and has the power to investigate violations of data protection and order compensation.
13. Re-evaluate the use of biometric technologies in voting systems and for selling commodities in supermarkets and pharmacies, in order to ensure compliance with international human rights standards.
14. Comply with the decisions of international human rights bodies, particularly those relating to freedom of expression, independence of the judiciary and arbitrary detention.
15. Encourage and accept an official visit to Venezuela by the special rapporteurs on freedom of expression, the right to privacy and the situation of human rights defenders.*

* Summary prepared based on contribution of Public Space and organizations that make up the National Committee to Protect Journalists (Conapro), which also includes Public Space: National College of Journalists (CNP), National Union of Press Workers (SNTP) and Circle of Graphic Reporters Venezuela (CRGV), IPYS Venezuela and Free access. Available in: <https://goo.gl/Lor0qx> - <https://goo.gl/UnFVf1> - <https://goo.gl/CtpA6b> Contacts: - @espaciopublico - @cnpvven - @ipysvenezuela - @AccesoLibreRed



Brief assessment of the implementation of 1st cycle UPR recommendations

Venezuela only received 3 recommendations relating to the right to freedom of assembly and peaceful demonstration, which were not fully accepted (96.2, 96.25, 96.27 and 96.30). These recommendations were related to promote the exercise of this right among members of political parties, trade unions, the media and civil society, without risk of undue restrictions: renew the State's commitment with the freedoms and pluralism; end impunity in cases of retaliation for dissent reasons, and with the excessive use of force during peaceful demonstrations; and revise the law on political parties, public meetings and demonstrations, and their adaptation to the Venezuelan Constitution.

In the 4th periodic review of Venezuela of 2014 to the **Committee against Torture of the United Nations**, its commissioners expressed alarm at reports of acts of torture and ill-treatment of people arrested in the demonstrations of 2014, which included beatings, electric shock, burns, suffocation, sexual violation and threats, in order to destroy evidence, information or a confession, punishing and any discrimination based on gender. Of the 185 investigations the Public Ministry, there were only 5 accusations. Also was concerned to know that some of those affected have not denounced for fear of reprisals and that was not being applying the Istanbul Protocol in medical -forensic reports. The Committee noted 3,306 people, including 400 adolescents, detained as a result of the demonstrations, according to records of the Public Ministry and expressed concern about consistent reports in which it was alleged that a large number of these arrests were arbitrary, without a warrant or had been flagrante as in the case of arrests in neighboring residences to the places of demonstrations. The commissioners also discussed the prolonged and arbitrary detentions of the opposition figures as Leopoldo López and Daniel Ceballos, and other arrests, and violations of personal integrity and due process in these cases.

The **Committee against Torture** drew attention to the State of its duty on; (A) a prompt, thorough and independent investigation of all cases; (B) immediately suspend from their duties to suspected of involvement, while investigations were made; (C) ensure the protection of whistleblowers; (D) require to all officials to denounce cases of which they are aware, adopt measures of confidentiality and security for officers who denounce; (E) judge the alleged perpetrators; ensure implementation of the Istanbul Protocol; (F) adopt without delay effective measures to restrict the use of flagrante detentions; (G) release immediately Leopoldo López and Daniel Ceballos, and all arbitrarily detained for exercising their right to express and demonstrate; and (h) fundamental judicial guarantees from the outset of detentions.

Likewise, in the 4th periodic review of Venezuela to the **Human Rights Committee**, the State alleged that the demonstrations of 2014 had been "a violent offensive aimed to depose the legitimate authorities chosen by the people in free elections", for which ordered the due performance of the security organs, apprehending several people in "flagrante commission of crimes". However, the commissioners warned about violations committed in these acts, including cases of excessive and disproportionate use of force, torture or ill-treatment, arbitrary detention, and disregard of legal safeguards, to which only 7 officials had been charged. Also it concerned the participation of military personnel in the control of public meetings and demonstrations; the death of 43 people and 878 injured, of which 68% were civilians; 242 complaints reported by the State at variance with 558 of the Ombudsman; misuse of firearms and riot gear against demonstrators and residential areas; and 437 attacks by pro-government armed groups against demonstrators, with complicity and acquiescence of the security forces. The Committee also expressed concern about the existence of a number of rules, including some of those contained in the Organic Law on National Security, which could adversely affect the exercise of the right to freedom of peaceful assembly in practice, including Judgment of the Supreme Justice Court which set an obligatory authorization before performing a public meeting or demonstration.

In this review, the Committee urged the State to fulfill its duty to: (a) prevent and effectively eliminate the excessive use of force by members of the security forces, especially in demonstrations; (B) investigate promptly and thoroughly, independent and impartial manner all violations, including attacks by pro-government armed groups and duly prosecute perpetrators and officials who were complicit or acquiesced; (C) effective prevention of torture and ill-treatment and punishment of those responsible; (D) prevent arbitrary detention; (E) fair and impartial trial for all accused persons; (F) fundamental legal safeguards for all persons deprived of liberty; (G) ensure civilians and non-military in charge of law enforcement authorities, to the greatest extent possible; (H) the guilty agents impose appropriate penalties and adequate reparation for victims; (I) modify laws, regulations and plans to authorize military involvement in the maintenance of public order, except in extraordinary situations; (J) urgent and effective strategies for disarmament, control and dismantling of armed civilian groups, among others; and (k) take the necessary measures to ensure that all persons under their jurisdiction can fully enjoy their rights to freedom of peaceful assembly.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela (Constitution) recognizes the rights to freedom of assembly and peaceful demonstration, without previous permission, with lawful purposes and without weapons, and prohibits the use of firearms and toxic substances to control peaceful demonstrations. Also, the Constitution ensures that no person can be detained without a warrant, unless it be in the act and brought before a judicial authority within 48 hours; to communicate immediately with relatives, lawyers or confidants and these, to be informed about the place and grounds for detention, and a written record about the physical and mental state of the detainee; to physical, mental and moral integrity of every person is respected and not be subjected to punishment, torture or cruel, inhuman or degrading treatment; and due process in all judicial and administrative proceedings.



However, all these rights were violated in the demonstrations of 2013 and 2014, but until now have completed investigations of all allegations. Derived from these violations, the State has established in practice the criterion of violent presumption to judge all manifestations and strengthen enforcement of restrictive legislation to suppress and dissolve those that consider threat to the government. Among the laws that applied include: **Organic Law on National Security** (2002), which stipulates imprisonment of 5 to 10 years to carry out disruptive activities in "security zones"; **Organic Code of Criminal Procedure** (2005), which provides imprisonment from 4 to 8 years who put obstacles on public roads; **Law on Political Parties, Public Meetings and Demonstrations** (2010), which attributed its discretion to governors and mayors the power to prohibit sites for public gatherings or demonstrations; and **Resolution 008 610** (2015), issued by the Ministry of Defense, which allows the intervention of army, air force and army in control of public order, including use of "deadly violence" or "life-threatening" when there is a risk of death for officials.

Challenges

Systematic patterns of repression by security forces and non-state actors against peaceful demonstrators and attacks on civilians in the context of demonstrations, where serious violations were committed and widespread human rights, which they have not been timely, thorough and impartially investigated

Cases, facts, comments

Between 1989 and 2013, 10,400 people were arrested by security forces during demonstrations or development of manifestations. In the first 4 months of 2014, the number of arrests was equivalent to 30% of all demonstrators detainee in those 24 years. During the first half of 2014, 21.31% of the demonstrations were repressed, with the Bolivarian National Guard (GNB) been the organism responsible for as much. From the analysis of 37 cases of criminal courts involving 399 people detained during the protests of 2014, CDH-UCAB found the arbitrary nature of the arrests during demonstrations, concealment of evidence of torture and irregular later processes. No cases are known where the authorities have developed actions to compensate the victims and, in the few cases in which investigation was ordered and the aggressors are fully identified, they have not yet been called to testify, remain active and in some cases, acts of intimidation have been carried out against victims, without having provided effective protection to them.

According to records of NGOs Public Space and PROVEA, the State responded with repressive actions disproportionately to the demonstrations of 2014, 82% of which were peaceful. 43 people were killed in separate incidents in the context of these demonstrations as a result of the actions of the security forces and non-State actors. In them the greatest number of human rights violations of which he has become aware Venezuela was committed: unjustified and disproportionate attacks with weapons prohibited, mass arbitrary detentions; persons criminally prosecuted; torture and cruel, inhuman or degrading treatment; illegal raids; injured and dead people; and attacks on journalists and citizens in their homes.

Also, CODHEZ and the Inter-institutional Commission of Human Rights in Zulia state, met 150 of about 453 cases of arbitrary detention reported in the context of demonstrations in 2014 occurred in the city of Maracaibo, Zulia state, finding violations to liberty and personal security, due process, physical, mental and moral integrity, carried out repeatedly by the Venezuelan state agencies against demonstrators. In most interviews, victims reported being labeled as "guarimberos", "bourgeois" and many other derogatory words and phrases. In addition to offenses, 16 victims said they had received threats against his family and 87 against him in detention with verbal attacks, "we know where you live"; "If you want to disappear"; "They will not leave alive" or "we will kill you." 58 victims were beaten by government troops at the time of the arrest, 29 in the transfer to the detention center and 26 while in the detention center. In the case of two sisters arrested, an officer took one pinning his arms behind his neck to observe how they beat her sister. As lawyers warned, there was a marked delay of the presentations, which were always the last to develop. In 56 cases, the Public Ministry presented no evidence imputation written with reasoned basis. 108 victims were cut off from their families and 40 said they had not had contact with lawyers until the time of the conclusion of the hearing presentation. In most cases before the courts, alternatives to deprivation of liberty were issued in 20 cases the measure introduced a ban on approaching any kind of protest of a political nature, make use of caps, shirts or allusive banners to protest, and use the national flag.

CivilisDDHH also documented 204 attacks on civilians in residential areas of Bolivar, Zulia, Lara and Táchira states between February and May 2014, having recorded similar situations in other 10 states. These attacks were carried out with military control measures and undeclared state of emergency, in which it was carried out a large military deployment and military equipment was used. The attacks consisted of the use of excessive and indiscriminate repressive force against individuals and families in their neighborhoods and housing developments, houses and buildings during the time held demonstrations. In 81% of attacks acted of GNB; 17% state police, Army 12% and 8% the Bolivarian National Police. In 53 attacks (26%) participated groups of armed civilians and in 64% of the time, they attacked jointly with military and police or under their agreement effective, most of the time to take charge of assaulting and terrorizing the inhabitants and cause the destruction of private property.



Severe restriction of the right to peaceful demonstration in violation of international standards, with incompatible legal and judicial guarantees under the rule of law and democratic

From 2014, most of the judgments of the Constitutional Court were intended to restrict the freedom of peaceful assembly, through the Security Zones, the allocation of municipal authorities to authorize and fix time and place of public demonstrations, and suspend this law declared states of emergency areas.

In April 2014, the Constitutional Chamber of the Supreme Court interpreted the 68 article of the Constitution, unconstitutional and illegal imposing the requirement of a "permission" before any public meeting and authorizing the actions of the security forces to break up unauthorized gatherings. In sentencing the Chamber declared not consider the peaceful demonstration as an absolute right, being capable of restrictions. Regarding the Law on Political Parties, Public Meetings and Demonstrations, the Chamber noted that to exercise the right to demonstrate must be requested a permit to the first civil authority, which authorizes on its implementation and conditions. In addition, the Constitutional Court ruled that the "public meeting that does not have the prior endorsement of the authorization by the respective competent authority may lead to police the bodies [...] act dispersing these concentrations".

In January 2015, a resolution that extends the performance of military officials and provides discretion to the use of firearms in work control public order took effect. This remains remarkably guarantees for the exercise of the right, which can degenerate into further abuses by the security forces. In February 2015 the teenager Kliverth Roa was shot dead by police officers while was passing near a demonstration in San Cristobal, Táchira state. Those responsible were sentenced to 18 years in prison. The resolution remains in force.

Recommendations

1. End criminalization practices and repression of peaceful assembly and peaceful demonstration.
2. To repeal all restrictive legislation or regulation of the rights to peaceful assembly and peaceful demonstration, including one that authorizes use of military force and firearms in control of law and public order and the application of criminal law to deal with situations related to the exercise of these rights.
3. Undertake ex officio tax investigations aimed to determine responsibilities in implementation, concealment and failure to report violations of the right to physical integrity, in the context of demonstrations and accelerate ongoing investigations.
4. Allow the official visit of the UN Special Rapporteurs to Venezuela in order to ascertain the situation of human rights in the country.
5. Full freedom and immediate release of all persons deprived of liberty for exercising the right to public assembly and peaceful demonstration ensuring due reparations to victims and their families.

* Summary prepared based on contribution Centre for Human Rights at the Andres Bello Catholic University (CDH-UCAB), Civilis Human,Rights (CivilisDDHH), Public Space, Human Rights Commission of the Zulia State (CODHEZ) and Open Classroom Venezuela. Available in: <https://goo.gl/iEmdN5> - <https://goo.gl/R9n9fA> - <https://goo.gl/FCxM1C> - <https://goo.gl/udfvfU> - <https://goo.gl/njosMz> Contacts: @CDH_UCAB @CivilisDDHH, @espaciopublico, @CODHEZ and @AulaAbiertaVE



Brief assessment of the implementation of 1st cycle UPR recommendations

During the 2011 UPR, Venezuela received seven recommendations relating to the right to freedom of association and protection of the environment in which Venezuelan civil society operates. Of these, 3 were accepted, referred to continuing facilitating and strengthening the work of NGO's and other civil society actors, and guaranteeing their use of their social media; strengthening grassroots democracy and further develop the institutions established for the exercise of "People's Power" (term for pro-government organizations that are part of State), including the role of social comptrollership (94.36, 94.37, 94.4).

Among the 4 not accepted by the State are: to support the independent work of NGO's in the interest of sustainable and healthy development of the State; to ensure that representatives of civil society are effectively protected from any form of intimidation and harassment, and to engage with them constructively in the search for solutions to the problems of human rights in Venezuela; to allow access to international financing; and to promote freedom of association and peaceful assembly, especially by members of political parties, trade unions, media and civil society, without risk of undue restrictions (96.33, 96.35, 96.36 and 96.30).

However, as indeed it was reflected in the State's refusal to accept these recommendations, a severely restrictive environment for the space of civil society and the free exercise of the right to association and other fundamental freedoms has been created. These restrictions have been reflected both in law and in practice, and involve various obstacles to associate and ability to carry out legitimate objectives of any kind, without fear of conditionings or reprisals, including matters of interest to citizens, from which most organizations have been excluded because of their autonomous character, independent of the state and the official political ideology.

During the 4th periodic review of Venezuela, conducted in 2015, on compliance with the International Covenant on Civil and Political Rights, the **UN Human Rights Committee** expressed concern about measures that could hinder the full exercise of the right to freedom of association, such as the scope of the concept of "organizations for the defense of political rights" and restrictions on foreign financing thereof, in the **Law for the defense of political Sovereignty and National Self-Determination**, especially its impact on the work of the human rights organizations. The Committee also warned of the need to clarify the implications that would have for legal entities the requirement of registration in the **Registry for Integral Defense**; and therefore it urged the State to ensure that all people may fully enjoy freedom of association, guaranteeing that all restrictions on this right be applied in strict compliance with the stringent requirements of Articles 21 and 22 of the Covenant.

Similarly, in the 3rd periodic review of Venezuela before the **UN Committee on Economic, Social and Cultural Rights**, the Committee expressed concern about acts of violence and intimidation against leaders and members of unions; and interference by certain State authorities in elections of representatives within trade unions. Referring to this, the Committee urged to protect the rights of trade unions and to effectively investigate all allegations of violations of these rights, reviewing the laws that restrict their free to organize internal elections.

National legal framework

The **Constitution of the Bolivarian Republic of Venezuela (CRBV)** guarantees the right of everyone to associate and establishes the State's obligation to facilitate the exercise of this right. Also, under the principle of participatory democracy, CRBV includes 23 other provisions in which various associative expressions are mentioned, through which the right to participation in public affairs can be exercised. However, since 2009, the State created a set of norms called the "Laws of Popular Power", term used to designate organizations based on allegiance to State and official ideology policies, which are the only ones that can participate in government affairs, and whose foundations were extracted from the proposed constitutional reform rejected by referendum in 2007. Although this legislation is incompatible with CRBV, the government conducted an extensive modification of Venezuela's legal order that has included about 70 laws in various fields of civil, political, social, economic and cultural aspects of public life, adopting the concept of "People's Power" and excluding any expression of autonomous organization from the State's action arena, and thus violating almost 90 articles of the CRBV. In addition, the government has enacted labor laws restrictive of the work of autonomous organizations, that primarily cover the areas of funding and military intervention in civilian life.

Of these laws, the ones that most directly affect the right to freedom of association and civil society in general are: **Law on National Security** (2002 and reform of 2014), that creates the **Popular Peace Protection System** (called SP3), as a mechanism to have organized communities work together with the Bolivarian National Armed Force (FANB), the National Bolivarian Militia, the Systems of intelligence and counterintelligence of each component, and the Bolivarian intelligence Service (SEBIN); **Law on Defense of Political Sovereignty and National Self-Determination** (2010), which may qualify as acts "destabilizing and insurrectional against the State" receiving international funding or inviting foreigners to Venezuela who can "express opinions critical of government institutions"; **Law of the Federal Council of government and its Regulations, Organic Law of the People's Power, Law of Communal Councils, Law on Social Comptrollership, Law on Public Planning, and Popular Law of the Communes and Law of the Communal Economic System** (2009 and 2010), which exclude autonomous organizations from participating in public affairs; **Law against Organized Crime and Financing of Terrorism** (2012), which has a criminal nature and ambiguously defines the crimes of terrorism, financing of terrorism and organized crime; **Registration and Enlistment Act for the Integral Defense of the Nation** (2014) which requires all organizations with legal personality, including civil society organizations, to register with a military body, to fulfill tasks in the defense of the nation's security.



The **Decree-Law of Income Tax Reform**, passed in November 2014, eliminated paragraph 10 of Article 14, which provided for tax exemptions for non-profit foundations and associations, as well as educational institutes, academic institutions, sports or scientific associations, leaving the exemption only to charitable institutions and of social assistance, considered as such by the tax administration. On the same date, the **Law on Financing of People's Power** established organizations of People's Power (Community Councils, Communes, Cooperative Associations, Social Owned Enterprises, Production Family Units and barter systems) as beneficiaries of financial support from government agencies, together with individuals in vulnerable situations, duly endorsed by the Ministry of people's Power for Communes and Social Movements.

The **Decree of State of Exception and Economic Emergency**, passed by Executive order in May 2016, left to discretionary decision the suspension of guarantees of the rights to freedoms of association, expression, information and peaceful assembly, and also includes the possibility of ordering the annulment of international cooperation agreements signed by civil society organizations, qualified as having "political objectives" or aiming at the "destabilization of the Republic".

Challenges

Broad restrictive environment for civil society, in which the autonomous space of organizations is not recognized and practices of conditioning are implemented, using State's resources to impose the government's ideology.

Cases, facts, comments

State policies have also created a permanent climate of hostility towards civil society organizations, for their autonomous nature from State policies and from the political ideology formalized by the State in national plans and national legislation. By exercising their right to freedom of association, citizens face obstruction practices to get organizations registered, are constantly being threatened by the source of their funding, and the authorities have excluded them from all spaces related to government affairs. Within the concept of "People's Power", the State has been closing possibilities for civil society organizations to participate in public policy, unless they become a part of the State or follow the guidelines of its authorities. Under these impositions, in most government agencies the right to participation is recognized only to organizations of "Popular Power", regulated by laws that make them organizations of a public nature and are authorized to register as long as they adhere to the values and ideological practices of the State.

As a result, most of associations working in the cultural field have been dismantled, after the government made systematic evictions from public offices and even expropriations of their own offices; most environmental organizations were excluded from national and international spaces, where they were carrying out an important role in the promotion and development of policies; more than 20,000 associations or societies parents and guardians of children in basic, public and private schools, legitimately constituted, were annulled and excluded, violating the right to participate in decisions regarding the education of their children; indigenous organizations and leaders of indigenous communities have been displaced from decisions concerning them, on condition of being part of the organizations of "People Power".

Imposition of severe restrictions on freedom of association through obstructive practices and harassment of trade unionists reflected in the constant interference by the authorities in trade union issues, and dismissals and arrests for exercising labor rights, including the right to strike.

According to monitoring carried by Provea, the right to freedom of association of labor unions is increasingly restricted. Violations to their right were evidenced through various means: a) interference in the electoral process of trade unions; b) obstructing the registration of trade unions that are considered critical of the government; c) impairment of trade union activities, mainly in the public sector, such as assemblies; d) obstruction of procedure of petitions of conciliatory or confrontational nature by the labor authorities; e) denial of trade union leave to workers in the public sector; f) dismissal of trade unionists in violation of trade union immunity; g) public disqualification of trade union work and trade unionists; h) police harassment, detention and initiation of criminal prosecution and even imprisonment of trade unionists for engaging in peaceful demonstrations, or organizing or participating in strikes. In a recent research done by Civilis Human Rights regarding sentences by the judiciary affecting freedom of association, it was found that the Electoral Chamber of the Supreme Court of Justice issued a total of 203 judgments relating to internal union elections between 2013 and 2015, which seriously hampered their capacity for action over the years. The State criminalizes unions for exercising their right to peaceful protest and to strike. More than 100 trade unionists are facing judicial processes, restricted from moving around the country and subject to periodic appearances in court.



Recommendations

1. Review the legislation related to new associative figures of "People's Power" promoted or created by the State, to ensure that the purpose and scope does not affect the freely constituted associations or limit their right to participate in public affairs on equal footing, without discrimination.
2. Review legislation and judicial measures that may fail to recognize the legitimate constitution, action and participation in public life of civil society organizations.
3. Refrain from taking administrative, legislative or judicial measures restricting funding of civil society organizations, including funds from foreign or international origin, and repeal those with restrictions not compliant with those strictly stipulated in international human rights treaties, and ensure a safe and supportive environment for the space of civil society.
4. Refrain from imposing on civil society organizations a military registry, and adapt the Act on Military Enlistment and Registry in accordance with the provisions of international human rights treaties that protect the right to freedom of association and conscientious objection for both organizations and their members.
5. Refrain from imposing obstacles or obstructions that prevent the legitimate right of association for lawful purposes, whatever their nature, to obtain legal personality or the admission of documents on registration procedures, without restrictions not compliant with the permissible in a democratic society by international human rights treaties.*

* Summary prepared based on contribution Civilis Human Rights (CivilisDDHH), SINERGIA, FENASOPADRES, REDHNNNA, Laboratorios de Paz (LabPaz) and Venezuelan Program of Education and Action in Human Rights (PROVEA). Available in: <https://goo.gl/R9n9fA> - <https://goo.gl/OtEbnD> - <https://goo.gl/NJdjkA> - <https://goo.gl/r7u3NW> - <https://goo.gl/50xcJC> - <https://goo.gl/0tXpcp> Contacts: - @civilisDDHH - @acsinergia - @FENASOPADRES - @REDHNNNA - @LabPaz - @provea



Brief assessment of the implementation of 1st cycle UPR recommendations

In the 2011 UPR, Venezuela received 9 recommendations regarding protection of and cooperation with human rights defenders, of which 2 (93.16 and 93.17) related to the support of their activities and those of independent human rights organizations, in particular by publicly recognizing their positive role, strengthening dialogue and broad cooperation with defenders and enforcing their protection. The 6 not accepted (96.25, 96.26, 96.33, 96.34, 96.35 and 96.36) aimed at repealing the practice of attacks against defenders and lawyers seeking legal remedies for human rights violations; ensuring effective protection for defenders and civil society representatives from intimidation, harassment, threats or aggression, and taking action against perpetrators; ending the culture of impunity in cases of retaliation and attacks on defenders; creating a strategy for the protection of human rights activists; creating an environment where defenders can work freely; engaging with them constructively on solutions to human rights problems; and allowing them access to international funding to carry out their legitimate work. Both, accepted recommendations as those noted, were not implemented during the first cycle: attacks and practices of exclusion of defenders using public media against them persist.

In the 4th periodic review of Venezuela in 2014, the **UN Committee against Torture** showed great concern about the high number of attacks and intimidation against defenders, which remained unpunished, lamenting the lack of data on complaints and sentences imposed on those responsible, as well as in regards to information on measures taken to prevent such actions. The Committee explicitly referred to the persistent public insults against defenders by senior government officials, particularly the then President of the National Assembly, citing reports of "cooperating patriots" who exposed defenders to violent intimidation by pro-government groups. Given these situations, the Committee urged the cessation of disqualification to the work of defenders and the public acknowledgement of their essential role in the observance of international obligations of the State, urging it to ensure the effective protection of defenders, prompt and thorough investigation and the trial and punishment of those responsible, with corresponding penalties; and to ensure that no one was threatened or publicly discredited for providing information to the Committee and other UN human rights bodies. The Venezuelan State should submit a report in 2015 on the measures implemented to comply with these recommendations, which it has not done to date.

In 2015, at the 4th examination of Venezuela, the UN Human Rights Committee drew attention to acts of intimidation, disqualification, threats and alleged attacks against human rights defenders and lawyers, including disqualifying statements by the then President of the National Assembly in his television program "the hammer", citing information from "cooperating patriots." At that time, the Committee stressed the resolution 68/268 of the General Assembly, which "strongly condemns all acts of intimidation and reprisals against all individuals and groups who contribute to the work of the UN Treaty Bodies", urging States to take "the necessary measures (...) to prevent and eliminate these violations of human rights..." and reiterated the urgency of ceasing all kinds of disqualifying statements against defenders by State agents, requesting reports on measures taken in this regard.

Similarly, the UN Committee on Economic, Social and Cultural Rights, on the 3rd review of Venezuela in 2015, urged the State to guarantee that all defenders, including those of economic, social and cultural rights, to carry out their work free from any form of intimidation or threat; and to cease defamatory statements against defenders who had publicly participated in the spaces of the Committee, according to its working methods. The unwillingness of the State to comply with these recommendations led to the publication of a joint communiqué, on July 22, 2015, by UN Special Rapporteurs Michel Forst, Maina Kiai and David Kaye, and Inter-American Rapporteurs Jose de Jesus Orozco and Edison Lanza, stating: "It is time to end televised reprisals against human rights defenders in Venezuela". In spite of this, the practices of stigmatization, intimidation and reprisals against defenders and their organizations intensified, in various regions of the country, through continuous hate speech and using the combination of different mechanisms over which the State exercises authority or political control, such as public media, legislation, judicial action and operations run by military and security forces, as well as by non-state actors.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela respects and guarantees the right and duty of everyone to participate in the promotion and defense of human rights. It also recognizes and protects the rights to freedom of expression, access to information, association, peaceful assembly and public participation, essential for the defense of human rights, independently and free from undue pressure, interference or any act that could impede the work of defenders or endanger their integrity or personal freedom.

However, there is extensive legislation restricting these rights, used to exclude, intimidate and harass defenders, among which are: the **Law on Defense of Political Sovereignty and National Self-Determination**, which prohibits and penalizes the international financing of organizations defending the right to political participation or exercising comptrollership over the State; the **Organic Laws of People's Power**, which do not recognize the legitimacy of free and autonomous civil society organizations to interact and participate in the decisions of the State; the **Law against Organized Crime and Financing of Terrorism**, which penalizes suspicious financial activities under widely discretionary criteria; the **Registration and Enlistment Act for an Integral Defense of the Nation**, which requires mandatory registration and subordination to military authority of all organizations with legal personality for activities related to national security, violating their autonomous, civic and peaceful nature.



In addition, there is no legislation incorporating the **Declaration on Human Rights Defenders**, adopted by the United Nations General Assembly in 1998, nor any other specific rule providing guarantees for the work of defenders. The **Organic Law on the Ombudsman (LODP)** does not expressly indicate any principle, rule or function related to the protection or support for human rights defenders, even though the Venezuelan Ombudsman has the status of National Institution for Human Rights at the United Nations, governed by the Paris Principles, according to which these institutions must ensure the broadest participation and constant relationship with NGO's concerned with the defense of human rights. Since 2010, the Ombudsman is guided by doctrines and policies that promote an "alternative or critical view" of universal human rights, which ignores the principles and norms established in international law, fostering a hostile institutional culture towards defenders. The last two Ombudspersons have participated in campaigns of disqualification, harassment and criminalization promoted by State officials. The **Reform of the Criminal Procedure Code** of 2012 abolished the right of the accused to communicate with legal aid associations, limiting communications to family and lawyers, and excluded human rights organizations from participating in the substantive stages of criminal proceedings, such as representing victims in judicial proceedings against officials who have incurred in human rights violations, leaving this function only to individuals and the Ombudsman.

Challenges

Persistence of stigmatizing and discrediting campaigns against human rights defenders because of their work, through the Bolivarian System Communication and Information (SIBCI), which also affects victims, beneficiaries, communities and activists who are afraid to report or engage with defenders so as not to become targets of these attacks.

Intensification of the criminalization of the work of defenders, who are accused and charged with alleged crimes, for cooperating with international systems of human rights protection, receiving international funding for carrying out their work and documenting and reporting violations, based on anonymous information or provided by alleged undercover agents called "cooperating patriots", denoting surveillance activities, including the interception of telephone calls, emails and social networks. The Inter-American Commission on Human Rights (IACHR) has granted precautionary measures to several Venezuelan defenders, taking into account these public accusations as part of the risks.

Exclusion of public policy spaces political affiliation or allegiance, through legislation, the creation of mechanisms and instances exclusive to pro-government organizations and the transfer of public functions to these organizations through which citizens have access to public programs and benefits, including conditional forms enjoyment of rights.

Prevalence of a culture of impunity which allows for lack of investigation or punishment in cases of harassment, arbitrary detention, violence and murder against human rights defenders and their families, increasing therefore the risks to which they are exposed and evidencing absence of guarantees of protection for defenders to do their work.

Cases, facts, comments

Through SIBCI, which includes 21 radio and state television stations, constant micros, ads or programs at national and regional level are broadcasted, with content denigrating and slanderous against NGO's and defenders, with frequent descriptions of "squalid", "corrupt", "stateless", "lackeys of the empire". These campaigns have also been addressed at the High Commissioner for Human Rights and Rapporteurs of the United Nations, and other representatives of the universal and inter-American system of human rights protection.

The criminalization of defenders has been systematic, equating their work with criminal behavior through signs such as "treason, agents of foreign interests, destabilizing, generating anxiety" with threats of being charged, prosecuted and penalized for these alleged crimes, which have been a source of laws, rules and judgments, and even of the creation of a special commissions of inquiry, opening the possibility of the outlawing of organizations. "The hammer", a TV program conducted by deputy Diosdado Cabello, ex-president of the National Assembly, created in 2014, is aimed at pointing accusations and public ridicule at human rights defenders, social activists, party leaders or entrepreneurial sectors, using reports by "cooperating patriots". Between January and August 2015, IPYS Venezuela, recorded at least 578 people accused in this program, of which 60 were human rights activists and members of civil society organizations. In monitoring by DefiendoDDHH between July 2015 and September 2016, 59 programs were broadcast and in 71.18% of them there were disqualifications and accusations against defenders. 19 defenders and 18 human rights organizations were repeatedly mentioned.

Politics and loyalty to the political-ideological government project are at the root of a pattern of discrimination and exclusion against defenders and autonomous human rights organizations from public policy spaces, both in thematic areas (culture, food, health, education, prisons, environment), as well as in those related to population groups (women, children and adolescents, indigenous peoples, persons deprived of liberty, unions, cooperatives), including prohibition of entry to schools, health centers, prisons and government facilities .

In several states, defenders have been subjected to monitoring, persecution and death threats by state security organs and armed civilians. They have also been subjected to acts of harassment, assault, kidnapping, theft, arbitrary detention, temporary disappearance and murder, committed by state and non-state actors. Most of the complaints made to the competent national institutions have been dismissed or ignored. Both the Public Prosecutor and the Ombudsman have remained silent in spite of the intimidating discourse and public imputations and have backed restrictive laws and rules for the exercise of the freedoms of expression, peaceful assembly and association.



Recommendations

1. Put an immediate end to any kind of statement or act of defamation, disqualification, intimidation, harassment and persecution by State agents or non-State actors linked to State bodies or authorities, against human rights defenders, giving a clear and visible sign of guarantees for carrying their work safely and without restrictions.
2. Conduct prompt, independent, thorough, impartial and conclusive investigations regarding allegations of disqualification, intimidation and retaliation, in order to identify the masterminds and perpetrators, bring them before a competent, independent and impartial court, and apply the criminal or administrative provisions by law, commensurate with the seriousness of their actions.
3. Ensure effective protection to the physical and psychological integrity, and the rights of all human rights defenders who are the subject of vilification, threats or attacks because of their work; publicly recognize the essential role and legitimacy of the work they and their organizations play; and guarantee State protection to the free exercise of their functions, involving research, documentation and reporting, as well as assisting victims of restrictions or violations of rights.
4. Repeal any legislation or legal provision, mechanisms or instances of participation in public policies that exclude or discriminate against defenders and human rights organizations for their affiliation or political thought; including any legislation establishing restrictions on freedoms and human rights in a manner inconsistent with international human rights treaties.
5. Adopt, in legislation and in practice, the provisions of the Declaration on Human Rights Defenders of 1998, in particular in regards to the right of everyone, individually or collectively, to promote and strive for the protection and realization of rights human at national and international levels, and ensure the protection of defenders against any violence, threats, retaliation, discrimination, pressure or any other consequence or arbitrary action as a result of their legitimate exercise of the rights recognized in the Declaration.

* Fact sheet based on joint UPR submissions by Acción Solidaria, Assembly on Education, UCAB Center for Human Rights, CEPAZ, Civilis Human Rights, CODEHCU, CODEVIDA, Espacio Público, FENASOPADRES, FEPAP, Agua Clara Foundation, FUNPAZ, Working Group on Indigenous Affairs Los Andes University, IPYS Venezuela, Laboratorio de Paz (Peace Lab), Movimiento Vino Tinto, Human Rights Observatory Los Andes University, Venezuelan Observatory on Health, Venezuelan Observatory on Social Conflict, PROVEA, RDHNNA, SINERGIA, Sociedad Hominis lura, A Window to Freedom, Venezuelan Affirmative Action, Venezuelan Union for Citizen Participation and Venezuela Diversity. Available in: <https://goo.gl/YdRijT> Contacts: @VE_ONU



Brief assessment of the implementation of 1st cycle UPR recommendations

In EPU of Venezuela in 2011, very few recommendations on the right to political participation were made. Of those received, 5 were accepted and referred to the expansion of women's participation and greater involvement of society without further specification (94.23, 94.24 and 94.58) and 2 not accepted referred to revise the law on political parties, public meetings and demonstrations and their compliance with the Constitution and promote the exercise of freedom of expression, association and peaceful assembly, especially members of political parties and other associations without risk of undue restrictions (96.2 and 96.30). However, the right to political participation during the first cycle coated high risk situations for the rights of the Venezuelan population, in an environment of elevated internal conflicts, severe weakening of institutions and the rule of law and signs of political instability. In this regard, special significance have practices repeated and systematic by the tending to the pursuit of political and violate dissent of civil and political rights enshrined in the Constitution of the Bolivarian Republic of Venezuela (CBRV) Venezuelan government, the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (ACHR) ..

In 2014, in carrying out the 4th periodic review of Venezuela to the **Committee against Torture of the United Nations**, he urged the Venezuelan government to allow a prompt visit of the Special Rapporteur on torture and other cruel, inhuman or degrading punishment and access for NGOs to all places of detention, so that it could verify the progress made by the State, and recommended that it ensure adequate investigation and sanction those responsible for acts committed against political opponents during his detention, warning that isolation in detention regimes should be used only as a last resort, for the shortest time possible, under strict supervision and judicial control.

Also in 2015, **the Human Rights Committee of the United Nations**, on the 4th periodic review of Venezuela on compliance with the ICCPR, stressed in his remarks high concern about arrests of members of the political opposition, specifically referring to the leaders of the Party Popular will, Leopoldo Lopez and Daniel Ceballos, the latter elected mayor of Merida state, whereas these detentions were declared arbitrary by the Working Group that deals with these violations at the United Nations. To this end, the Committee recommended, ensure that no State actors take measures or perform acts that could constitute acts of intimidation, persecution, disqualification or undue interference to members of the political opposition or their rights; ensure prompt, thorough, independent and impartial investigation into all allegations concerning these acts and that the perpetrators be brought to justice and duly punished; and take the necessary measures so that no state actor to take measures against the political opposition.

However, during the first cycle they persisted systematic practice of arbitrary arrest citizens without warrants; violations of due process of detainees; the opening of criminal proceedings with unnecessary delays in its substantiation; public harassment by representatives of the organs of the National Government against the leaders of the Venezuelan opposition; the criminalization of protest; complaints of citizens by physical and psychological abuse by officials of the Bolivarian Intelligence Service (SEBIN) and the National Guard during his arrest, showing that the Venezuelan government has not paid due attention to the recommendations made by system organ universal protection and the practices that constitute forward part of state policy of extreme intolerance against the democratic exercise of dissent, criticism and different thinking.

The government has participated, through actions or omissions in systematic practices of persecution for political reasons. The persecution of political leaders, students and citizens, has sought to annul the expression of different views and weaken the organization to which you belong, as with certain political parties, for example Popular Will, where its leaders are arrested, persecuted, threatened or underground, or Primero Justicia, which are partially similar circumstances, demonstrating that there is a line defined by the government against its opponents. The type of pattern of persecution that more has been used by the government is opening procedures judicial or administrative proceeding against dissenters of its management, these procedures have been characterized by not having the parameters established by due process , misrepresenting the judiciary, which has passed to ensure and dispense justice, to be a mechanism of repression and persecution by the government, all in order to intimidate or reverse the actions of the Venezuelan opposition. Being political persecution a form of repression and attack, for ideological reasons in stakes power, its use can become a widespread practice to criminalize, discredit and nullify the performance of critical dissent with the government, mainly concentrated in the main opposition leaders.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela (CRBV) recognizes political rights under the ICCPR, stating that all citizens have the right to participate freely in public affairs, directly or through their elected representatives or elected; and it is the duty of the State and the duty of society to facilitate the generation of more favorable conditions for its practice. However, guarantees this right have been weakened in recent years, moving to the legislation restrictions to free and fair elections, constraints and undue pressure on citizens and electoral authorities, subtracting trust and transparency to the process of political choice, arbitrary disqualifications of candidates and candidates, usurpation and removal functions nonpartisan elected government officials, and prohibition of peaceful protest.



| Challenges | Cases, facts, comments |
|---|--|
| Intimidation through judicial procedures. | The opening of court proceedings have been characterized by violation of the right to due process, through the practice of arbitrary arrests against opposition leaders. |
| Chase through the media, through communicational hegemony. | Dissent government through the media and / or social networks has become considered an act of treason and especially the Bolivarian government. To date, the government owns virtually all programming of national television in Venezuela, to which is added the indiscriminate and excessive use of presidential chains, thus forcing that all radio and TV stations from being absorbed. These means have been used repeatedly to discredit and stigmatize the political leadership, creating a climate of widespread intolerance. |
| Dismissal of public office to political dissidents. | The dismissal of public office leaders elected by popular vote opposition, supported by the Supreme Court, has been a mechanism used by the current government, violating the law. The practices include immediate dismissal without investigation or trial. This happened in the case of the former deputy Maria Corina Machado, former mayors and Daniel Ceballos Scarano Vincenzo, Maria Afiuni Judge and Judge Edgar Aliza Macia, among others. |
| Irregular raids on private property. | Among the practices of persecution Venezuelan opposition political leaders include the extent of irregular private property trespassing, violating the constitutional provision and other related laws. The raid of private property is a measure that allows the Venezuelan legal system only under a court order. |
| Burglary parliamentary immunity. | The lifting of parliamentary immunity has been a figure used by the government to prevent deputies Speaking at the National Assembly (AN). The raid of parliamentary immunity is the mechanism by which it is requested before the AN immunity which enjoys the deputy rises, with the Supreme Court the only body to request the lifting of immunity, to carry out the process criminal prosecution. |
| Political disablement. | Political disqualification has been part of the practice of persecution that has implemented the government seeking to limit the scope and intervention of opponents in public office, using sentences that occur in electoral contexts such as control strategy on organs State decision. |
| Usurpation of public functions. | It has used the practice of advance, before the opening of a judicial or administrative proceeding against an opposition leader, instructions for the initiation of such procedures and transmitted by the media or by public speeches, for the purpose of threatening or intimidate. |
| Acquiescence of violence by state and non-state actors. | The consent of violent acts against opposition leaders have been observed in attacks on opponents, both public facilities and public spaces, conducted directly by state agents or by supporters of government, failure to guarantee safety and security by of security forces, including military personnel. The existence of groups linked to the government sector has been public knowledge. Their violent actions against opposition protesters have been continuous and repeated. However, the government has not exercised work leading to repress these actions and the judiciary has not been involved. |

Recommendations

1. End tracts of violence, intolerance and persecution against political dissent in Venezuela. Ensuring a climate of political pluralism, respect for the views and the exercise of civil and political rights without undue restrictions that limit their exercise.
2. Ensure the principle of independence of public powers and the principle of legality of all its actions. Refraining from statements or actions that compromise the independent and impartial performance of powers, particularly the judicial.
3. Perform investigations into allegations of violence, intimidation, irregularities in procedures and retaliation against Venezuelan political dissent, in order to identify and punish those responsible for these acts.
4. Comply with the recommendations and decisions of international organizations of human rights protection, especially in cases involving persecution and intolerance for political reasons in Venezuela ..*

* Summary prepared based on contribution of Commission for Justice and Peace (CEPAZ). Available in: <https://goo.gl/9sTMfU> Contacts: @CEPAZ



Brief assessment of the implementation of 1st cycle UPR recommendations

During the 2011 UPR, Venezuela received 9 recommendations related to the right to life and public safety. Of these, the Venezuelan government only accepted 5: (a) adopt stronger measures to combat widespread crime and violence, with particular attention to the prosecution of those responsible; (b) pursue policies and programs that give priority to an educational and preventive approach in the fight against crime; (c) continue efforts to combat crime while promoting the rule of law in maintaining social stability, upholding justice and respect for human rights; (d) intensify efforts to reform police corps and to counter insecurity, illicit arms trafficking, and the sale of narcotics; especially the ongoing work to train and professionalize the police, including the initiative of the Experimental Security University (93.9, 94.12, 94.13, 94.14 and 94.30). The State did not accept the following recommendations: (a) ensure that all cases of social violence are effectively investigated and that perpetrators of such cases are prosecuted and punished; (b) actively fight against the abuse of power by security forces; (c) prioritize reforms of the police and judicial systems to prevent crimes, punish those responsible and fight the culture of impunity; and (d) ensure that the rights to life and to physical integrity are effectively guaranteed in all instances of the State (95.14, 96.10, 96.15 and 96.8).

Unfavorably, in the first cycle, the country made no progress in reducing violent deaths, due to high crime, the breakdown of security institutions and impunity in the justice system. Venezuela still ranked among countries with levels of "very high violence", which have more than 31 homicides per 100,000 inhabitants. In 2016, the Citizens' Council for Security and Criminal Justice (which conducts an annual survey of numbers of homicides in cities worldwide), identified Caracas, the Venezuelan capital, as the most insecure and violent city in the world, including also seven other Venezuelan cities. In the Global Peace Index, Venezuela was among the three most violent countries in South America. One of the indicators that most influenced this negative evaluation was the militarization of public safety. Homicidal violence is the third leading cause of death and the first of death among adolescents and young people, especially in low-income sectors. Most Venezuelans are in a generalized state of vulnerability and fear of violence, which has become the way to solve interpersonal and community conflict.

The **UN Human Rights Committee** at the 4th examination of Venezuela in 2015, on compliance with the International Covenant on Civil and Political Rights, expressed concern about the high number of violent deaths in the country, including cases in which functional involvement of law enforcement agents is presumed. It recommended that the State redouble its efforts at preventing and combating violent deaths, including intensified efforts to disarm the civilian population and ensuring prompt, thorough, independent and impartial investigation of all cases and due sanctions to the perpetrators. Similarly, the **UN Committee on the Rights of the Child**, as part of the observations to the periodic review of Venezuela, published in 2014, expressed concern about the use of weapons by children and adolescents, and clashes between armed gangs, both of which produced a high mortality rate among adolescents aged 15 to 17 years old. In this regard, the Committee urged the State to strengthen the protection of the right to life, survival and development of children by addressing: (a) prevent the killing of children and adolescents, particularly by armed gangs, and address the causes deep of such acts, such as poverty and marginalization; (b) ensure mechanisms to investigate allegations of killings, including extrajudicial executions, with proper investigation and due punishment by the Courts for those responsible; (c) provide the families of children and adolescents who are victims of violence, adequate support and adequate compensation; and (d) ensure that there are no weapons at the disposal of children and adolescents in Venezuela.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela (CRBV) enshrines the right to life as an inviolable human right. It also recognizes the right of everyone to protection by the State through citizen safety bodies regulated by law, from situations that constitute a threat, vulnerability or risk to physical integrity, property, enjoyment of rights and fulfillment of duties. It states that public safety agencies are civilian in nature and shall respect the dignity and human rights, without discrimination. The Bolivarian National Guard (GNB) is the only body of the Bolivarian National Armed Force (GNB) with explicit function to cooperate in operations to maintain internal order.

However, between 2013 and 2016, several presidential decrees and resolutions by State agencies were passed, which have violated the CRRV, broadening the militarization of public safety functions. In 2013, the **Centre for Strategic Security and Protection of the Homeland (CESPPA)** was created, under military control and attached to the Ministry of the Office of the President and Monitoring of Government management, in order to control strategic information for national security, as well as 8 **Operational Zones for Integral Defense (ZODI)**, aimed at strengthening the civil-military union in the country's defense. In 2014, the **Special Brigades against the actions of Groups generators of Violence** were created, composed by law enforcement and intelligence agencies and other public and private entities. Other bodies were also created, such as the **Strike Force of the Strategic Operational Command of the FANB**, the new **Integral Defense Committees of the Communal Councils**, and 99 **Areas of Integral defense (ADI)** to work together with the **National Bolivarian Militia**, armed civilian corps, complementary to the FANB, to work in defense of the Bolivarian revolution. Between 2015 and 2016, **Resolution 008610** of the Ministry of Defense, which authorizes the intervention of the FABN (Army, Navy and Aviation) and use of weapons of war in controlling demonstrations, and the **Organic Law of Operation Liberation and Protection of the People (OLP)**, were issued



Challenges

Sustained rise of killings, which mainly affect adolescents and youth of low-income sectors, in a context of rising crime and weapons in the hands of the population, including those which should be of exclusive use by defense agencies.

High vulnerability to violence due to generalized insecurity and mistrust in police and justice institutions.

Militarization of the functions of public safety and other critical areas in social matters (such as food and health), with a high increase of abuses, excesses and discriminatory acts that violate human rights.

Cases, facts, comments

Between 1999-2015, there were 254,887 killings in total, according to official records followed up by Venezuelan Observatory of Violence (SVO). In 1999, they increased by more than 30%, with 5,968 deaths and a rate of 25 homicides per 100 thousand inhabitants. In 2000, 8,022 homicides were recorded, with a rate of 33; in 2001, they decreased slightly, and in 2003 reached a total of 11,342 homicides, with a rate of 44. In early 2005, the Ministry of Popular Power for Interior Relations and Justice and Peace (MPPRIJP) decided to withdraw homicide data from the official websites. The Body of Scientific, Penal and Criminal Investigations (CICPC), which represents the official source, published official records in 2005, in which the number of homicides decreased. In 2006, according to figures SVO, there was an increase of more than 20%, reaching 12,257 deaths, with a rate of 45.

The Report of the UN Children Fund (UNICEF) of 2014, titled "Hidden in broad daylight", showed Venezuela is one of the three Latin American countries with the most killings of children and adolescents, indicating that homicide is the leading cause of death for men between 10 and 19 years. The UN, in a study on disarmament conducted in 12 Latin American countries, found that between January 2013 and March 2015, Venezuela was the country in South America with more deaths by grenades.

In February 2016, during the presentation of the Prosecutor Office annual report to the National Assembly for the first time in several years, the Attorney General said there had been 17,778 homicides in 2015, representing a rate of 58.1. In that number, however, no deaths within prisons or defined as "resisting authority" were included. The government describes these deaths as occurring during alleged confrontations with security forces, even though it is common for family members and witnesses to denounce extrajudicial killings disguised under that label. The main victims are teenagers and young male between 15 and 25 years old, belonging to low-income sectors.

According to data from the Survey of Living Conditions (LSMS), conducted in 2014 and 2015 by several national universities, 81% of those interviewed had been victims of a crime: 60% said they had limited outdoors and recreational activities for fear; and 37% said they felt the need to move from their place of residence. According to the same study, 3 out of 4 people expressed no trust in police protection and, on average, 41% rated as poor or very poor the work of the agencies of justice (prison administration, police, prosecutors and judges). In addition, the perception of vulnerability of respondents was associated with the assumption that law enforcement officials were involved in the crimes.

These conditions of generalized vulnerability, have generated an increase in the number of lynchings in the country. In the last quarter of 2015, according to the SVO, there were almost daily lynchings of offenders reported, being accepted and approved by sectors of society. The security forces are also victims of crime. Through interviews, LACSO registered numerous murders of police officers to steal their weapons or achieve a higher status in criminal gangs. Data from the Foundation for Due Process (FUNDEPRO) indicate that, in 2015, 337 law enforcement officials and civil guards died from violence. It should be noted that many of these deaths occurred when armed gangs made use of weapons, such as grenades and rifles, which should be restricted to the Armed Forces.

The presence of the military in the civilian arena increased since 2013, to the point that the boundaries between strictly military activities and those of the police have blurred. There is a wide participation of active and retired military in different economic and social areas of national, state and local governments. Of the 23 elected governors in December 2011, 11 are military. Military involvement in the areas of public safety and crowd control, have also increased, leading to numerous reports of increased violations of human rights.

From 1999 to March 2016, the State has launched more than 20 security plans in which civilian control has been replaced by the military sector. Among these plans: the Great Mission Full Life Venezuela (GMATTV) and the National Plan for Peace and Coexistence, as well as the establishment of so-called "Peace Zones", the Plan Safe Motherland, with 3,000 members of the FANB, basically National Guard (GNB) and its People's Guard component; and the Operation for People's Liberation and Protection (OLP), with a high component of military involvement, reporting more than 50,000 troops from the Army and GNB.



During the 2013 and 2014 demonstrations, there was widespread deployment of troops and tanks that led to curfews, house searches and arbitrary detention, without an emergency measure in place. Since 2015, the security plan "Operation Liberation and Protection of the People" (OLP) has been implemented, consisting of raids carried out by soldiers and police in different parts of cities, mostly low-income sectors. Until March 2016, Provea recorded 13,000 illegal raids, 976 violations of the right to housing, demolitions and arbitrary evictions, some 125 extrajudicial executions and 8,000 arbitrary arrests, of which more than 40 were Colombian citizens, arrested simply because of their nationality. According to the Ministry of Interior, Justice and Peace, in these operating more than 9,500 arrests were made, of which only 1,500 were filed before the Public Ministry. In the 2015 Annual Report of the Attorney General, it was determined that in the framework of the OLP, an investigation on the death of 245 people is being carried out, involving 1,312 police and military soldiers on suspicion of violation of human rights. Of these, 959 have open legal proceedings. In the closing of the border with Colombia, in mid-2015, and the declaration of a State of Emergency, contingents of military, in charge of the deportation of families and demolition of homes, were deployed.

In 2016, the Executive declared a State of Exception and Economic Emergency nationwide, whose contents and scope were reported by the Coalition Forum for Life, because it represents a breach of the constitutional order, given its adoption of the doctrine of "internal and external enemies"; constitutional powers of the National Assembly were in fact eliminated and it is declared as "dangerous to the security of the nation, its citizens and its institutions"; and the production, marketing and distribution of food, as well as the water fountains and wooded areas of the country are militarized; groups of civilians and militants of the ruling party (called Local Committees of Supply and Production, CLAP), in combination with the FANB are given control over the production, distribution and sale of food. Under the State of Emergency, in July 2016 the President appointed the Minister of Defense, an active general, as Head of Command for Sovereign Supply, giving him broad discretionary powers to issue special measures, guidelines and regulations in financing, purchasing, marketing and distribution of food, to create special rules for monitoring and enforcement of "formal duties" by agricultural producers, agribusiness subjects and industries linked to health, primary production sector and industry sector.

Recommendations

1. Take necessary measures to reduce levels of homicide and crime in the country, through security policies of a civilian nature, which exclude methods, organization and management by military bodies; disarmament of the population and implementation of effective crime prevention and peaceful resolution of conflicts in school and community environments.
2. Investigate and carry out proper monitoring of ammunition and weapons of war acquired, produced and managed by authorized public bodies and restrict their exclusive use to the competent civil and military bodies.
3. Reduce the levels of impunity, through reconstruction and strengthening of the work of the police and justice systems, ensuring their independence and capacity for action by sufficient financial, technical and human resources.
4. Publish statistics of insecurity and violence regularly, clear and accessible to citizens who request them; and refrain from censoring information on the killings and crimes.
5. Promote peaceful and non-violent behavior, respect for the other, and refrain or prevent instances of hate speech or propaganda war in which case those who question or dissent are considered enemies of the State.
6. Review legislation and repeal provisions that allow for the use of weapons and military forces in activities of maintaining public order, restricting their presence only to exceptional situations, complying fully with constitutional and international human rights standards.
7. Exclude ideological indoctrination or political bias of the national armed forces, promoting their professionalization and institutionalization.



Institutions and Human Rights

Rule of Law, Access to Justice and Due Process



Brief assessment of the implementation of 1st cycle UPR recommendations

During the first cycle of the EPU, Venezuela received 25 recommendations related to the rule of law, access to justice and due process. Of these, the State agreed to only 6 (93.10, 94.19, 94.20, 94.4, 94.27 and 94.33), referred to as: (a) to continue to cooperate with international and regional bodies in the development of a legal and institutional framework for the protection and promotion of human rights; (b) strengthening the rule of law; (c) reform the criminal code, with special attention to human rights, (d) improving the penitentiary system and speed up criminal proceedings, (e) apply the rules of Bangkok for the treatment of prisoners and the non-custodial measures for women offenders.

The other 19 recommendations not accepted by the State were: (a) implement the judgments of the Inter-American Court of human rights and comply with the recommendations of international and regional human rights bodies; (b) comply with international obligations with respect to the judiciary; (c) respect and guarantee the independence and judicial autonomy; (d) apply open, transparent and independent process for the selection and appointment of judges and prosecutors, as well as to put an end to the provisional nature of the appointment of judges; (e) increase the institutional and material support to the system of Justice; (f) abolish the practice of using the judiciary to stifle criticism of the Government; (g) investigate allegations of interference of the Executive in judicial decisions; (h) give priority to the reform of the law and the judicial system to prevent, sanction and address the culture of impunity; (i) fight against the abuse of power by the security forces and (j) end impunity in retaliation for attacks against defenders of human rights, journalists and dissidents, the excessive use of force on peaceful demonstrations, abuse of State actors, extrajudicial executions and other serious violations of rights (95.8, 95.9, 95.10, 95.11, 95.12, 95.13, 96.1, 96.9, 96.10, 96.13) 96.14, 96.15, 96.16, 96.17, 96.18, 96.21, 96.22, 96.24 and 96.25).

In fact, none of these recommendations achieved any progress whatsoever and instead the stifling tyranny has rather worsened. The situation of the rule of law and the right to justice in Venezuela during the first cycle was already critical. The loss of independence of the judiciary has aggravated, and far from advancing in policies that meet the legal needs of the population; instead they restricted the access to international justice to assert the rights of the Venezuelan people due to the denunciation of the American Convention of human rights in 2013, which is territorially the international jurisdiction in a more accessible way. Between 2013 and 2015, the Venezuelan State also submitted its periodic reports to committees of racial discrimination, discrimination against women and the rights of the child, who recommended: (a) to ensure that the process of selection of judges and magistrates would finally become transparent; (b) ensure the independence of the judiciary; (c) ensure the applicability of all economic, social and cultural rights, as well as their knowledge between rights holders, operators of Justice and the National Assembly; (d) investigate and prosecute all cases of violence against detained women, especially that of judge Afiuni; (e) eliminate barriers to the women for access to justice, including training of operators of Justice in the rights of women and gender equality; ((f) reforming the juvenile justice system to adapt it to international standards, in particular a) raise the age of criminal responsibility; b) preventive measures; ((c) applying measures alternative to the preventive imprisonment, decrease the time that preventive imprisonment lasts and the amount of crimes punishable with prison, and d) separate between them adults and minors.

In 2014, the State presented its 4th periodic report to the Committee against torture of the United Nations, which recommended: (a) restrict the use of detention in flagrante delicto when committing a crime and freeing Leopoldo López, Daniel Ceballos and all those who have been detained for exercising their rights to express themselves and speak freely; (b) guarantee the due process to each and everyone; (c) to investigate allegations of torture and ill-treatment filed by judge Afiuni, as well as to ensure a fair and independent trial (d) respect the presumption of innocence and avoid any comments affecting judicial independence; (e) take measures to ensure the autonomy, independence and irremovability of judges. By 2015, the State also presented its 4th periodic report to the United Nations Human Rights Committee, which recommended: (a) take measures to ensure the autonomy, independence and impartiality of judges and prosecutors and to immediately resolve the provisionality of a high percentage of these; (b) resolve the situation of judge Afiuni through a fair, independent and impartial trial, as well as to investigate allegations of abuse and sexual assault of which she was the victim; (c) adopt the necessary legislation to avoid that civilians be judged in military courts.

Both the High Commissioner for the human rights of the United Nations and the Working Group of arbitrary detentions have qualified the arrests of Leopoldo López and Daniel Ceballos as arbitrary and recommended them to be released. The Special Rapporteur on the independence of judges and lawyers has likewise expressed its concern about the lack of independence of judges and by the interference of the political power in the judiciary.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela (Constitution), establishes the rule of law as one of the principles on which the Republic is founded. Similarly, the Constitution provides for the access to justice and due process rights and constitutional guarantees. In addition, the Constitution establishes the functional, financial and administrative autonomy of the Supreme Tribunal of Justice (TSJ) and prohibits partisan political activism in the exercise of judicial functions.



The judiciary is regulated by the Act of the system of Justice (2009), the organic law regulating the Supreme Court of Justice (2010), Venezuelan law of the administrative litigation jurisdiction (2010) and code of ethics of the judge of both sexes. However, this regulation has been used with policy objectives to allow interference by the Executive in the judiciary. The Act on the system of Justice created the National Commission of the system of Justice, which replaced the TSJ in the exercise of its powers of Government, management and administration, with authority to formulate, monitor and judicial policies, overseeing management of the TSJ, as well as review and approve its budget and management, which also limits their functional, administrative and financial autonomy. The Constitutional Chamber of the TSJ has applied its own irregular interpretation to modify partially the code of ethics of the judge twice, excluding its application to the magistrates of the TSJ, which acts as judge and jury, and has declared them irremovable if they engage in conduct contrary to the code. Also excluded from its application are the provisional judges, which are the vast majority, being the TSJ, which must appoint them through public contests. The rights of persons facing situations constituting a threat, vulnerability, risk or harm to their physical integrity, their properties, the exercise of their rights, respect for their security, social peace, coexistence and compliance with the law, despite the fact that they are established in the organic law of the service of police and the body of the Bolivarian national police (GNP) and the law of the body of scientific research are not complied with in the Venezuelan Penance and criminal investigations body (CICPC).

Challenges

Serious interference by the ruling party in the judiciary, which covers the appointment of judges, the appointment and removal of judges without stability and right to defense and judicial policies.

Cases, facts, comments

All appointments of judges since 2000 have been made in a manner contrary to the Constitution. The more violation was last, at the end of 2015, which violated all legal system, as well as the principles and international standards of judicial independence, separation of powers and democracy. The Commission, which made the appointment was largely composed of representatives of the ruling party and none was an independent civil society representative as required by the Constitution. The selection process started without making it clear how many judges had to retire and one week after its opening, 13 justices retired early. The Commission suspended the process without any justification and then restarted it.

The magistrates of the TSJ must last 12 years in office, according to the Constitution, but only 11% of the nominees since 1999 has completed the constitutional period. The average has been 7 years. Opposition contests are not made since 2003, still very high number of judges not headlines (provisional and temporary), which represent 69%, said a judge at the UN, but according to the website of the Supreme Court are 73%. These judges are appointed and removed by an administrative and non-judicial body, through a simple notice without prior procedure, according to the TSJ whimsical decision, leaving them devoid of possibilities for defense. Each year, according to inferences from the speeches of opening of the judicial year, they use to appoint around 1,500 to 2,200 judges. As a result, their efficiency is low. Less than 25% of its judgments are final. Political prisoners are example of impunity, violations of rights and bias of the judiciary. After acting as temporary judge for a short time, judge Susana Barreiro was charged to pronounce judgment on opposition leader Leopoldo López and then she was rewarded with a nomination as District Attorney General.

After the parliamentary election in 2015, the President of the National Assembly (AN) promised the President of the Republic to have judges appointed prior to December 23, 2015, despite the constitutional impossibility to do it without complying the time periods and statutory requirements. It was the task of the new AN to designate them, but the AN former President on the last days prior to expiration time although violating the law did. With this appointment both unconstitutional and illegal, the governing party who lost most of the seats in the AN reacted by naming 13 new main judges and 21 alternates for another 12 years. The 13 outgoing judges and many alternates retired prematurely, without any justification. One of the forcefully retired judge complained that their retirements were not voluntary but forced.

The TSJ, is ruled by the Strategic Plan 2013-2019 whose bases are Chavez Bolivarian socialism and Chavez Plan of the Homeland "Plan de la Patria" which is the Government's plan and is Entirely inconsistent with the Constitution, because, inter alia, provided for the existence of a single ideology and a form of State and society with collectivist models. The President of the TSJ said in his speech opening of the judicial year 2014: "The activities developed by the Judiciary shall be the foundations of the aims and objectives proposed in the Plan of the homeland 2013 - 2019".



Strategic Plan does not provide for judicial independence as one of its axis, but put the emphasis in the Bolivarian doctrine and national sovereignty and proposes popular control instances, which are in fact subject to the Executive Branch, called "Popular power". The TSJ had not submitted any annual report since 2012. That is why we have practically no statistics on the judiciary since 4 years ago. The opacity is enormous. The rate of access to legal information on the internet fell to 16% according to the studies of Justice of the Americas, in 2004 was almost 70%. Venezuela ranks last of the countries of the region with the internet in terms of their degree of accessibility to information. According to a study by access to justice from the website of the TSJ, only 52% of judgments of the Court are available on time.

Legal uncertainty, separation of powers and violation of guarantees of respect for the will of the people, in violation of the domestic law and human rights standards.

The Constitutional Chamber of the TSJ has exceeded their functions. It has endorsed the disincorporation of elected officials by popular vote of the National Assembly; It has violated legal certainty to create standards, which in addition to changing the laws contradict the Constitution; It has usurped legislative functions and has used the concept of sovereignty to disregard and violate human rights. This Constitutional Chamber accused of contempt of orders of protection, two elected mayors, revoking their mandates in an unconstitutional way and condemning them to comply with prison sentences, while it is expected worth any law. Mrs Maria Corina Machado was removed for the AN, violating the constitutional procedure to pave the immunity of a member of Parliament, for having participated in a meeting of the Permanent Council of the Organization of American States (OAS). The AN decision was ratified and "legalized" by the said Chamber, acting ex officio, after declaring an action inadmissible. Members of an entire State are currently suspended and made AN inoperable because the TSJ not allowed it and void everything that makes or prohibits compliance with its decisions.

Violation of due process and harassment to the work of lawyers for actions of bodies of State security.

The Venezuelan Government has not taken measures to ensure due process in its judicial and administrative proceedings. The so-called operation of people's Liberation (PLO) as part of public policy in the field of security, has largely contributed to the violation of this principle, given that these operations have not fulfilled the legal means necessary to assure the protection of the rights of citizens against the actions of the State security bodies.

In research conducted by CODEHCIU in 2015 in the State of Bolivar on the right to defense, 70% of 50 criminal lawyers said that they had been affected in their work because of actions or omissions of officials attached to judicial authorities. The main reasons were: refusal of access to sites of detention (50%), refusal to provide information on the circumstances of detention (42%); and impediments to communicate with their defended (38%). The official involved were the body of penance investigations and criminal investigations (CICPC) and the police state of Bolivar (PEB) agencies.

The State Prosecutor's Office responds just 6% of complaints on violation of constitutional rights of the accused. In January of 2016, when her attorney tried visit to a lady of Syrian citizenship detained in the Bolivarian Intelligence Service (SEBIN), to see her State of health, the official of Guard denied the visit and threatened with her transfer to another Center, which is overcrowded with 100 women, in a space with a capacity for 20. There are no rest rooms for women in that State.

Deficit of public defenders and legal aid for vulnerable groups by economic constraints.

The personnel formed in assistance legal is very scarce in the country. According to the People's Defensor, for every 10,000 people trained in courses developed for them, As many as 35,000 complaints of rights violations occur. Currently, low-income people do not have enough free legal assistance to the organs of Justice. The deficit of public defenders, judges and officials who meet the legal needs of the majority of the population needs is extraordinary. The most underserved towns include lesbian, gay, bisexual and transgender and intersex (LGBTI), which do not have protection mechanisms and also towns and villages in border areas.



Recommendations

1. Stop the interference of the Executive power and the Popular power in decisions, appointment and management of judicial resources and reforming legislation related to the justice system, with a focus on judicial independence.
2. Comply with the legal system in relation to the established procedures to appoint, replace and remove judges from the justice system, return to public and open CONTESTS, regulate the number of temporary judges and the constitutional rules on the appointment of judges.
3. To promulgate a code of ethics for magistrates and judges Venezuelans, according to the international guidelines of the independence and security of judges.
4. Abandon the practice of the resource of interpretation and the performance of trade, as mechanisms of repression and "legalization" of the practices of the Government contrary to the Constitution and to Human Rights.
5. Respect legal certainty and abandon the practice of legislating or even act as a constituent power from sentences, violating the separation of powers and the will of the people.
6. Reform the Judicial Strategic Plan 2013-2019 and separated it from any ideological or partisan reference.
7. Bring stability to the judge, career incentives, training to the Court and create mechanisms for its evaluation and tenure..
8. Create an annual system of accountability with clear and comprehensive statistics of the Judicial Branch.
9. Comply with the issued decisions of the Inter-American system for the protection of human rights, thus ensuring the international protection of the human rights of Venezuelans.
10. Remove the denunciation of the American Convention of human rights and to the international jurisdiction of the Inter-American Court of human rights.
11. Adopt training programs in the field of human rights with emphasis on due process directed to research bodies and auxiliary involving actions of monitoring and control of their actions.
12. Investigate and follow up on allegations made by lawyers and citizens in general, the actions of officials who violate the right to a defense and respect for citizenship.
13. Adopt measures that facilitate complaints against police abuses, to place the complainant in a State of danger or vulnerability.



Brief assessment of the implementation of 1st cycle UPR recommendations

During the 2011 UPR, Venezuela received 14 recommendations referring to the situation of prisons and the rights of people deprived of liberty. Of these, the Venezuelan government accepted 12 in which it was recommended to: (a) improve the overall conditions of detention and prison facilities, and put an end to overcrowding; (b) increase the number of prisons in the country and implement a policy of maintenance and construction of prisons; (c) invest in high quality training for prison staff and increase the number of staff; (d) applying constitutional norms on the prison system, to regulate and have a more efficient use of available resources; (e) strengthen coordination of the Superior Penitentiary Council, to improve prison conditions, including overcrowding and violence; (f) reform the health system and take emergency measures to ensure compliance with the UN Minimum Rules for the treatment of prisoners; (g) improve policies and programs relating to the treatment of persons deprived of liberty and expedite criminal proceedings (95.2, 95.2, 93.5, 93.7, 93.11, 93.12, 93.13, 93.14, 93.15, 94.31, 94.32, 94.33, 94.35) . The State did not accept the recommendations to permit access by the International Committee of the Red Cross to all Venezuelan prisons, ensuring the safety of its delegates during visits; and to provide the Judiciary Branch with adequate human and financial resources for its effective operation, and respect legislation on preventive detention (96.23, 95.6). However, to date, the Venezuelan State has failed systematically to implement these recommendations.

In the 4th periodic review of Venezuela before the **UN Committee against Torture**, the absence of information from the Ombudsman on results of visits to detention centers was observed. The Ombudsman had specified in its report to the Committee of having received a considerable number of complaints on acts of torture or ill-treatment between 2012 and 2014. The Committee also expressed concern about the lack of independence of the Ombudsman in the performance of its duties, necessary condition to investigate these allegations condition, and that 6 of the 13 members of the National Commission for the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment were linked to the Executive, compromising its independence because of the confidentiality of complaints and its task of making recommendations to the government. The Committee also urged the State to fulfill its commitment, made during the review, of ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading. Other issues that drew the attention of the Committee were the levels of overcrowding in prisons, which reached 190% in 2014, inadequate conditions of detention for lack of access to health services, the high number of detainees in police precincts, more than 13,000 according to complaints received at the time, and the violence that continued to be recorded in prisons.

To this end, the Committee recommended: (a) improve the conditions of detention, ensuring the end overcrowding and respect for the dignity of persons deprived of liberty; (b) take measures to prevent the detention of persons in police precincts for long periods; (c) end the violence in detention centers, including the effective elimination of gun ownership, and ensure timely, thorough, independent and impartial investigation of all cases and appropriate punishment of perpetrators; (d) publish official data disaggregated by location of detention, the capacity of the prison population, including police precincts; (e) allow without delay the visit of the Special Rapporteur on Torture and other cruel, inhuman or degrading punishment, and as well grant access to NGO's to all places of detention, so that they can monitor progress mentioned by the State; and (f) adopt legislative changes to facilitate access to measures alternative to imprisonment, according to the UN Tokyo and Bangkok rules.

In 2015, in the 3rd review of Venezuela before the **UN Human Rights Committee**, the members expressed alarm at the high level of violence in prisons, both among inmates and in regards to acts committed by the authorities to regain control. Since 2004, 4,791 deaths and 9,931 injured have been recorded, despite the State's explanation on how the new prison system had managed to eradicate violence. Concern was also expressed in regards to the preventative imprisonment of over 60% of the prison population, the obligation to carry out practical military training or "closed order", and that women were subjected to searches of body cavities to enter as visitors to penitentiaries. The Committee recommended the State: to prevent violence among prisoners and eradicate the carrying weapons in all centers; to investigate promptly, thoroughly and impartially all cases of violence, evaluating any potential liability of law enforcement officers and prison officials in arms trafficking; to implement the Safety and Remote Control System, ensuring that the body searches were carried out in the least intrusive manner, respectful of the integrity of the person concerned; to avoid military training of the prison population and to increase efforts to social reintegration; to reduce the high percentage of people in preventative custody and to prioritize alternative measures.

National legal framework

The **Constitution of the Bolivarian Republic of Venezuela** (CRBV) establishes the State's obligation to guarantee a prison system with the necessary conditions for the rehabilitation of persons deprived of liberty and for the respect for human rights, ensuring correctional facilities with spaces for work, study, sports and recreation, led by correctional professionals with academic credentials. As well, it establishes that the management of correctional facilities should be decentralized, allowing for privatization arrangements, and that there should be an autonomous penitentiary institution with exclusively technical personnel. It also states that prison policy should give preference to open regimes and to sentences which imply alternatives to imprisonment. Institutions for post-prison assistance to facilitate the social reintegration of former prisoners must be created. However, none of these provisions has been met either in law or in practice.

Prisons and the rights of people deprived of liberty



In January 2015 a new **Organic Prison Code**, which establishes the centralization of prison affairs in the Ministry of Popular Power for the Prison Service (MPPSP), the creation of an armed internal and external security corps, composed by personnel with military service, the creation of a disciplinary regime that provides for penalties of isolation and suspension of conjugal visits, according to the severity of the offense, and the transfer to social and community organizations, practicing public functions since 2010, the task of implementing alternative measures to deprivation of liberty.

Challenges

Prison Crisis due to extreme overcrowding and deteriorating prison infrastructure as products of limited and arbitrary policies and high levels of procedural delays in the justice system.

Cases, facts, comments

Prisons house a prison population of some 50,000 people, with a capacity not exceeding 20 thousand. Just 2 prisons in the country account for a population of 18,000 inmates. According to records of the Venezuelan Prison Observatory (OVP), until 2015 there were a total of 46,691 persons deprived of liberty, of which 57% was in condition of preventative detention: 19,475 with definitive sentences, 46,691 in process, 230 on labor detachment, and 466 in police custody. In addition, about 33 thousand people are detained in state and municipal police precincts, and at facilities of the Corps of Scientific, Penal and Criminal Investigations (CICPC), according to estimates from the Ombudsman. These precincts have a capacity to receive only 5,000 detainees, according to a study by A Window to Freedom, and detainees are in the custody of these agencies, illegally and arbitrarily, and not the MPPSP.

Procedural delay is a major cause of the high level of overcrowding in prisons, as a result of the severe institutional and financial shortcomings of the justice system. The government has not extended or improved prison infrastructure, there being a single center in the country for women deprived of liberty. About 70% of the centers are deteriorated and lack maintenance. Until 2011, of 25 scheduled construction works, only 3 were implemented. In addition, without any forethought, MPPSP has ordered the eviction, closure and/or demolition of prisons, given the extreme level of overcrowding, increasing the same problem in other correctional facilities and worsening the condition of prisoners, keeping them away from their families, who are their only support. The use of imprisonment as a sanction, backed by judges, including the arrest and conviction for political reasons, in grave violation of international human rights standards, has been added to the problems of the prison system.

In 2012, several plans carried out by the MPPSP to reduce procedural delays (*Plan Cayapa*) or for the employment of the prison population (*Plan Chamba*) had no effect as being too limited in relation to the magnitude of the crisis and unresolved structural problems. The *Cayapa* Plan, which involved the installation of mobile courts to provide alternative measures of compliance with penalties also violated the rights of prisoners who were not sentenced by their natural judge, did not have freely chosen lawyers, and admitting the charges in order to be benefited by the Plan. The *Maita* Plan, aimed at training and recreation, only included the relatives of prisoners. There are no effective post-penitentiary policies aimed at protecting ex inmates.

Systematic violations of the rights to health, food, water and sanitation in prisons, in a context of severe budget deficit and widespread shortages in the country.

In prisons, people deprived of liberty have no access to health services, sufficient drinking water, adequate food or sanitary facilities. Detainees are constantly affected by gastrointestinal and skin diseases, the number of people with HIV and TB, who receive no treatment or specialized medical care, has expanded. The State has persisted in the practice of assigning an extremely low budget to cover food needs and food shortages, accentuated in the last two years, do not cover minimum nutritional requirements. A Window to Freedom has been registering complaints of prison population indicating that their families have been notified of measures to suspend the allocation of resources for food expenses, so that this need is covered by the families. Cases of severe shortages have also been reported, which have forced inmates to sacrifice street animals (cats and pigeons) in order to prepare meals, given the absence of an alternative to get fed.

High levels of violence, abuses and excesses against the prison population and their families, especially women, in a context of impunity and complacency with corruption and arms trafficking inside prisons.

As a result of the inhuman conditions in which people deprived of liberty are kept, riots, fires, leaks, protests and clashes, among other types of violence, have intensified in recent years. According to documentation by the Venezuelan Prison Observatory (OVP), until 2015, these situations have resulted in 6,663 people killed and 16,442 injured in prisons, 28 years old in average. The centers do not have personnel specialized in prison management. MPPSP officials are the internal custodians, while members of the National Guard take care of external security. For several years, the prison policy has been to leave part of internal control in the hands of prisoners themselves, thus creating a culture of grouping and submission of the prison population to the domain of the strongest leaders.



The practice of rape, cruel treatment and torture, performed by both the custodial staff and prisoners with greater power, are denounced constantly. Also common are complaints of excesses, abuses and humiliating or degrading treatment of visiting women (mothers, grandmothers, daughters and couples), during personal body search procedures or requisitions. The Venezuelan State has not implemented policies to tackle corruption and complicity among officials, military personnel and prisoners involved in irregular practices, which are evidenced in the intake of firearms, including weapons of war, which should only be in hands of the security forces. Within the so-called New Prisons, methods of military discipline have been imposed, leading to violations of freedom of thought and religion, including conscientious objection, and psychological and physical integrity of prisoners, since those who do not follow orders to comply, are punished with isolation or transfer to other prisons.

Recommendations

1. Give urgent priority to the prison crisis caused by high levels of overcrowding, through measures aimed at structural solutions of construction and renovation of buildings, creating centers of preventative detention, judicial detention centers, and centers for compliance of sentences in each state of the country.
2. Adopt an extraordinary plan of humanizing prisons, through the provision of food, health supplies and drinking water, and the allocation of sufficient budgetary resources to meet these needs stably within a broad consensus with all sectors involved and the National Assembly.
3. Ensure respect for the presumption of innocence, making preventative detention an exception and ensuring the presentation of all detainees in court in a period no longer than 96 hours, as required by law.
4. Take immediate measures of classification and separation by categories of persons deprived of their liberty, in accordance with international standards in this area.
5. Check the operation of the judicial system holistically to prevent violations of due process by undue and unwarranted delay in criminal proceedings.
6. Adapt legislation to international standards on the use of force and use of lethal weapons in control operations of disturbances, mutinies and taking of hostage inside prisons.
7. Eliminate the use of police precincts as detention centers, since they do not meet conditions to hold prisoners for more than 48 hours.
8. Implement modern and non-invasive mechanisms for body searches of prison visitors, particularly women.
9. Check the entry of firearms into prisons and assure that individuals involved in such crime are duly punished.
10. Implement the decentralized nature of the administration of the prison system, run by professional prison staff with academic credentials, as provided by the Constitution of the Bolivarian Republic of Venezuela.
11. Respect and comply with the various recommendations that have been made by various international organizations to improve the situation in Venezuelan prisons.



Brief assessment of the implementation of 1st cycle UPR recommendations

During the first cycle, a recommendation was made, calling for continuing the work of the Ombudsman in monitoring the rights and guarantees established in the Constitution and international human rights treaties.

In May 2013, the Subcommittee on Accreditation (SCA) of the International Coordinating Committee (ICC), began the process of revision of the Ombudsman of Venezuela (DPV) to determine whether its status as category A National Human Rights Institution was renewed. In this regard, the Secretariat of the Subcommittee requested information from civil society on the performance in practice of the DPV in accordance with the Paris Principles.

Since the second quarter of 2013 and throughout 2014, a group of independent human rights organizations in Venezuela, provided information to the ICC on the performance of the DPV and the incompatibility of its actions with the Paris Principles, particularly with regard to independence, autonomy and adaptation of its performance to international human rights standards.

At its meeting in May 2013, the SCA recommended maintaining the DPV in category A. However, in view of the large amount of information received about the poor performance of the institution, in March 2014 a special review process was agreed. To carry out this special review, CIC claimed that *“At any time, the SCA may receive information that raises concern that the circumstances of a NHRI have changed in a way that affects its compliance with the Paris Principles, and the SCA may then initiate a special review of that NHRI’s accreditation status”*.

As a result of the special review, which took place in March 2015, the SCA recommended to **downgrade the accreditation of the institution to category B**. In its decision, the SCA explained that *“the DPV maintains A status until the SCA’s first session of 2016. This allows an opportunity for the DPV to provide the documentary evidence necessary to establish its continued conformity with the Paris Principles”*.

Referring to the performance of the DPV, the SCA stated: *“the seriousness of those actions and inactions impacts on the actual or perceived impartiality and independence of the DPV as an institution. As a result, the SCA is of the view that the ability of the DPV to effectively carry out its mandate to promote and protect human rights, in line with the Paris Principles, has been compromised”*. Accordingly, the SCA requested *“to **speak out** on the human rights issues of Venezuela in a balanced, unbiased, objective and impartial way to demonstrate that the DPV is independent and concerned with the promotion and protection of human rights for all persons in Venezuela”*.

The reaction of the DPV to the downgrading was **disqualification and attack on civil society organizations**.

A new review was carried out in May 2016, to determine whether the DPV had taken the comments made by the SCA, ratifying the downgrade to Category B, claiming that *“the DPV is not prepared to speak out in a manner that promotes respect for human rights in response to credible allegations of serious human rights abuses having been committed by government authorities”*. The DPV challenged the recommendation, so final decision is expected in October 2016.

National legal framework

The DPV is an institution with constitutional status and is governed by the Organic Law of the *Defensoría del Pueblo* (LODP).

In June 2015 the DPV began a review process of its duties, by which have privileged mediation actions, which implies a role of negotiator between the possible perpetrators or human rights violators and victims, circumventing its function of pointing and investigate violations. It is noteworthy that mediation is placed first on the list, behind the defense of rights which should maintain supremacy, while mediation is in fourth place in the LODP.

Challenges

Reform of the Code of Criminal Procedure (COPP) 2012. Human rights organizations were excluded from representing victims in judicial proceedings against officials allegedly involved in human rights violations, leaving this function only to private individuals and to the DPV.

Reports of attacks against defenders. Impunity in most of the allegations made, increases the risks to which they are exposed and evidence that defenders do not have guarantees of protection for the performance of their work.

Cases, facts, comments

Since the legitimation was extended to the DPV for filing complaints or appeals for review on behalf of victims, there is no record in the annual reports of the institution on the use of this function. Requests for information, by organizations of civil society, had no results.

The DPV has remained silent before the intimidating speeches and accusations made by state authorities and non-state actors, even joining criminalization campaigns against defenders organizations regarding their funding sources.



Adoption of restrictive laws and rules for the exercise of the freedoms of expression, peaceful assembly and association.

The DPV has remained silent or has endorsed the existence of these regulations, despite being contrary to the Constitution and international human rights standards.

Mechanisms for participation and dialogue with defenders and independent organizations

A policy of exclusion and disregard of defenders continues. The DPV called the only meeting held during the first days of his administration in 2014. There he announced a consultation process not continued after.

Meetings for consultation. The DPV has convened work groups in the area of health, without effectiveness due to lack of follow-up.

Health organizations have made complaints about the critical situation of the sector before the DPV; despite having participated in several workshops, results have not been achieved.

Entry of weapons into prisons. It is carried out by officials who are responsible for internal and external custody of prison facilities.

Investigation requested before the Public Ministry and the DPV, have been unsuccessful, maintaining the impunity of those responsible.

Special Ombudsman with National Proficiency at area of Human Rights of LGBTI persons. It was announced, but little is known about its operation.

The DPV has done little action on sexual diversity without accomplishments or significant impact to ensure the human rights of LGBTI people.

Powers of the DPV on indigenous peoples. By law, its functions include "*Ensuring the rights of indigenous peoples and take the actions necessary to guarantee effective protection*".

Failure of this function has prevented warning and stopping in a timely manner various abuses against indigenous communities in areas such as health and protection of their ancestral territories against incursions by third parties.

Rights of persons with disabilities (PWDs). There is a specialized DPV office to address the rights of this sector of the population, whose action has been deficient.

The Special Office is restricted by organizational proposals from "people power" that ignore the pluralism of PWD's associations and foundations. The DPV did not consult PWDs for the submission of the initial report of the State on the Convention on the Rights of Persons with Disabilities.

Reform of the Code of Criminal Procedure (COPP) 2012. Human rights organizations were excluded from representing victims in judicial proceedings against officials allegedly involved in human rights violations, leaving this function only to private individuals and to the DPV.

Since the legitimation was extended to the DPV for filing complaints or appeals for review on behalf of victims, there is no record in the annual reports of the institution on the use of this function. Requests for information, by organizations of civil society, had no results.

Recommendations

1. Adjust the performance of the DPV to the standards set out in the Paris Principles.
2. Ensure that the process of selecting the head of the *Defensoría del Pueblo* meets constitutional standards, with criteria of transparency and participation of civil society organizations.
3. Ensure effective mechanisms for communication and dialogue with human rights defenders and explicitly reject the criminalization and public discredit against human rights defenders.
4. Ensure that the special DPV offices with jurisdiction in the protection of rights of vulnerable groups, such as indigenous people, prisoners and LGBTI community fulfill their functions in close consultation with the organizations of civil society representing or working for the rights of these sectors.*

* Summary prepared based on information contained in 8 stakeholders contributions to the EPU (5 individual and 3 joint).



Brief assessment of the implementation of 1st cycle UPR recommendations

Venezuela did not accept recommendation 95.7 UPR 2011 on developing a national human rights plan in accordance with the Vienna Declaration, broadly consulted with civil society. The rationale expressed in the final adoption report by the State was that "the Constitution of the Bolivarian Republic of Venezuela and the Simon Bolivar National Plan 2007-2013, set the focus (all across) on fulfillment of human rights, constituting in itself a Plan in implementation (...) and it must be remembered that the current Constitution was subjected to long and constant consultations during the term of the National Constituent Assembly and its outcome, the current Constitution, was also submitted to and approved by popular referendum".

However, over a period of 6 months (between July 2015 and February 2016) the Executive presented and approved a proposal for a National Human Rights Plan, in which it claimed to have taken into account the 2011 UPR recommendations that are not reflected in content and which were not effectively disseminated during the first cycle, to allow for the monitoring of their implementation, as had been accepted by the State in recommendations 93.18 and 93.19. They called for a comprehensive approach for monitoring the UPR, which implied an open and extensive consultation with representatives of civil society, and conducting a participatory and inclusive process with all civil society interested in the implementation of UPR recommendations. The State objected recommendation 96.37, regarding the inclusion in monitoring of NGO' s which may be critical to the government's efforts.

Upon approving the PNDH, the State affirmed that in drafting it all recommendations of the UN Committees during reviews of international human rights treaties, made between 2013 and 2015, were considered. But these recommendations were not broadly and timely disseminated among the population, civil society and NGO' s across the country, nor was a cooperation mechanism for follow-up established. The PNDH obviated the recommendations of the committees to withdraw the denunciation of the American Convention on Human Rights, to accept requests to visit the country by UN Human Rights Mandate Holders, and to advance in the ratification of 5 pending treaties: International Convention on the Protection of the rights of all migrant workers and Members of their families; International Convention for the protection of all persons from enforced disappearance; the Optional Protocol to the International Covenant on Economic, Social and Cultural rights; Optional Protocol to the Convention on the rights of the Child on a communications procedure; and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment. In the first cycle, the state only met with the ratification of the Convention on the Rights of Persons with Disabilities and its Protocol (CRPD) in 2013.

In its annual 2015 report, the **Inter-American Commission on Human Rights (CIDH)** considered as positive the development of a PNDH, providing for the establishment of a National Human Rights Observatory, the promotion and strengthening of the participation of Venezuela international human rights systems, in which civil and political rights and considered equally with economic, social and cultural rights. However, the Commission regretted that the proposal does not refer to the State's obligations to the regional system of protection of human rights, especially regarding the denunciation of the American Convention on Human Rights (ACHR), and its compliance with recommendations and decisions issued by the Inter-American System. Similarly, the Commission noted the importance of the participation of civil society in the design and implementation thereof, with tools that allow the coincidence of different ideas and visions, facilitating the opening of a political and social dialogue that promotes tolerance and respect for human rights, as is urgently demanded by Venezuela's current reality.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela adopts human rights in accordance with the principles and norms established in international law, giving constitutional status to all international human rights treaties ratified by the Republic. However, since 1997, Venezuela had not drawn up a national human rights plan in accordance with the commitments made in the Vienna Declaration. In 2014, by decree of the Executive, the National Council for Human Rights (CNDH) was created, attached to the Venezuelan Vice Presidency, as a government body, not independent, in charge of coordinating, supporting and promoting government policies on human rights. It is composed of 15 members, 12 of whom are representatives of the State, 2 of the National Assembly, and 3 of human rights organizations, chosen by the Council. In exercising their duties, all members of the CNDH are accountable and must support compliance with instructions given by the President of Venezuela on national policies on human rights.

Challenges

Approval of a proposal for PNDH that does not represent the consensus of the Venezuelan society, incomplete, without comprehensive, plural, transparent and duly informed consultation, and without prior assessment of the situation of human rights.

Cases, facts, comments

In July 2015, in a public ceremony, the Vice President together with the Ombudsman and the Secretary of the National Human Rights Council announced a proposal for a National Human Rights Plan, which was subsequently submitted to an incomplete consultation, together with a campaign confined to Government-controlled public media. The mechanism or methodology of the consultation were not defined, and generally consisted of ad hoc meetings and collecting proposals electronically.

National Human Rights Plan (PNDH)



The problems and failures upon which supposedly objectives and actions had been formulated were not mentioned anywhere in the consulted proposal. Most civil and political rights were not taken into account, and only some issues were considered regarding economic, social and cultural rights.

The document of observations and recommendations submitted by 40 independent civil society organizations emphasized the need to address the process of developing a national human rights plan in a collective, objective and consensual manner, based on a prior participatory assessment on human rights. However, the PNDH was approved by the President of Venezuela in February 2016, without modifying the consultation procedures and methodologies, or reflect significant changes in relation to the initial proposal.

The decree of approval states that prior to the consultation, "a comprehensive assessment of strengths and challenges in human rights" was held, but there is no public information regarding this diagnosis. It also indicates that 258,096 people were consulted throughout around the country, through popular assemblies, meetings with special protection groups and key stakeholders, in addition to an electronic query. There is no indication of whether or not recommendations made by the respondents were incorporated.

Incompatibility of the PNDH formulation with international standards and human rights obligations of the State, inscribed in unilateral, biased, relativistic and revisionists doctrines and visions of human rights.

The main objective of the approved PNDH is "to ensure the continuity and consolidation of the Bolivarian Revolution", in accordance with the Plan of the Motherland 2013-2019, the "Alternative Vision of Human Rights", not the preeminence and effective realization of all human rights. This is incompatible with the principles and norms of international law, which cannot be conditioned or subjected to any political, economic or cultural system or model, and should ensure inclusive participation of all people, without any distinction.

The PNDH approved by the Executive insists in proclaiming an interpretation of human rights distanced and inconsistent with the obligations of recognizing the universality of human rights and the guarantees provided by constitutional law and international human rights treaties. It represents an excluding vision of human rights that follows the ideological precepts of government policies, in violation of the Venezuelan Constitution and international human rights standards. This represents a very negative precedent in a human rights plan.

The structure of the PNDH does not allow for a cross-check of compliance with national and international obligations of the State with the current and progressive situation of human rights within a specific period, including compliance with current recommendations by the UN Committees and the UPR in its first and second cycles, because it does not use the typology and standards of the Constitution and ratified international human rights treaties.

Recommendations

1. Adopt as a basis for the PNDH the principles and norms of universal human rights enshrined in international law and explicitly incorporate the international standards issued by international norms, excluding all definitions, categories, types and criteria associated with particular interests and ideologies, to ensure complete inclusion, universality and equality of all rights and fundamental freedoms, without exclusion or discrimination based on any of the prohibited grounds.
2. Harmonize the PNDH with State's international obligations in human rights and incorporate the recommendations of entities of the international system of protection of human rights, as well as those issued on the 2nd UPR cycle, including those unfulfilled during the 1st cycle, to facilitate its application to legislation, institutional framework, policies, programs, and national budget, as well as its evaluation, monitoring and dissemination to the entire population, with technical assistance from the UN Office of the High Commissioner for Human Rights.
3. Adopt the PNDH obligations of the State within the inter-American system of human rights protection, as well as the recommendation to withdraw the complaint of the ACHR and compliance with decisions of the Inter-American Court of Human Rights.

National Human Rights Plan (PNDH)



3. Include in the PNDH State's obligation with the Inter-American System of Human Rights, as well as the recommendation to revoke the denunciation of the American Convention on Human Rights and to comply with decisions by the Inter-American Court.
4. Prepare a previous diagnosis of the PNDH in a participatory manner, based on a broad consultation on common problems affecting human rights, in order to present levels and scope of actions within a timeframe that covers at least a year and equal installments in its formulation and consultation, considering experiences and good practices of other countries in the region with similar initiatives.
5. Convene an extensive and comprehensive discussion of PNDH with Venezuelan society and all of the plurality and diversity of organizations present within it, after full dissemination and through a clear and transparent process of consultation and guarantees incorporating contributions to in order to ensure maximum participation and consensus possible.
6. Establish mechanisms for consulting the PNDH with indigenous peoples and communities, which ensures their previous, free and informed consent on any decision that may affect the exercise of their rights and the right to (self) demarcation of indigenous territories.
7. Include all civil, cultural, economic, political and social rights, in the PNDH, as well as objectives, policies and specific actions toward minorities and vulnerable population groups, after a profound, participatory diagnosis with these populations, with full access to public information on the issues that concern them, including a broad view of the various forms of existing discrimination, including gender, sexual orientation, gender identity and expression.
8. Include measures in the PNDU to ensure the independence of the judiciary, with particular reference to the guarantees of transparency and participation in the process of election of judges and the legal conditions for removal.
9. Adopt in the PNDH the measures required to strengthen the Ombudsman, explicitly based on the Paris Principles and strict compliance with them.
10. Apply in the PNDH international standards of criminal, legislative and judicial policy allowing for the decentralization of the prison system, to solve the structural problem of overcrowding in all precincts (establishments, municipal police precincts); ensure inmates access to education, decent work, sport or exercise, cultural development and recreation; custodial staff training on the rights of the prison population, officials, relatives and visitors, so that no prisoner may be subjected to torture, cruel, inhuman and degrading punishment; and create an appropriate post prison attention to eradicate recidivism in crime.
11. Include in the PNDH guarantees for freedom of expression and the critical and deep human rights work undertaken by civil society organizations, defenders, lawyers and journalists, without retaliation or risks to their work and personal integrity, ensuring their protection and legitimate right to freedom of association and peaceful assembly.
12. Set in the PNDH guarantees for free forms of participation and the right of all persons and organizations to participate in public decisions and in political life, without censorship, coercion or discrimination.
13. Establish measures in the PNDH to ensure free access to information, the transparency of public administration and the effectiveness of the mechanisms of accountability, such as timely reporting on revenue and expenditure, in order to allow monitoring and evaluation of public policies.
14. Set clearly in the PNDH the public policies and internal regulations to develop, in accordance with the more favorable national and international standards of protection of human rights, excluding any kind of regressive measure.
15. Identify in the PNDH a temporary and legal framework, as well as the public institutions responsible for its implementation and assurance of compliance, and set goals, deadlines, budgets and monitoring mechanisms and periodic evaluation of the actions, in order for the PNDH to be become a State policy, not dependent on a particular administration or government, with the participation of defenders and civil society organizations, without exception.
16. In all phases of the development of the PNDH, count on the technical assistance and support of institutions of regional and universal human rights bodies, which have the methodological and theoretical experience, therefore generating the dialogue and trust needed for consensual acceptance.

* Factsheet based on joint UPR submissions by Acción Solidaria, Assembly on Education, UCAB-CDH, CEPAZ, Civilis Human Rights, CODEHCIU, CODEVIDA, Espacio Público, FENASOPADRES, FEPAP, Fundación Agua Clara, FUNPAZ, Working Group on Indigenous Affairs of Los Andes University, IPYS Venezuela, Peace Lab, Movimiento Vino Tinto, Observatory on Human Rights of Los Andes University, Venezuelan Observatory on Health, Venezuelan Observatory on Social Conflict, PROVEA, RDHNN, SINERGIA, Sociedad Hominis Iura, A Window to Liberty, Venezuelan Affirmative Union, Neighbor's Union for Citizen Participation and Diverse Venezuela. Aviable in : <https://goo.gl/R9n9fA> Contacs: @VE_ONU

Access public information and fighting corruption



Brief assessment of the implementation of 1st cycle UPR recommendations

For Venezuela's 2011 UPR there no specific recommendations regarding the right of access to public information and accountability in public administration. However, in periodic reviews on the situation of human rights in Venezuela, between 2013 and 2015, in regards to compliance with international human rights treaties, this right was highlighted by various UN committees, because of the restrictive patterns shown by the State in: (a) irregular publication of information essential to the economic and social life of the country, including disaggregated, updated and verifiable statistical data on the implementation of economic, social and cultural rights; (b) measures of reserve or information blockade imposed by public bodies, based on justifications incompatible with international standards protecting the right of access to public information; (c) the lack of effective mechanisms of accountability, which limits an objective assessment of the measures taken by the State to ensure the full realization of rights; (d) allocations and resource cuts without adequate controls or evaluations regarding their impact on the enjoyment of rights; and (f) the persistence of corruption cases in the absence of independent mechanisms for prevention and investigation, in accordance with the provisions of the UN Convention against Corruption.

In this sense, in these reviews it has urged that the Venezuelan State: (a) take the necessary measures to enable the right free access to information on the organization, operation and decision-making processes in public administration, including through the adoption of a law guaranteeing the right to access information of public interest; (b) establish effective mechanisms for disseminating information that is relevant to the rights holders; (c) ensure the effectiveness of the mechanisms of accountability, such as timely reporting on revenue and expenditure and eligibility of beneficiaries of social programs and their results; (d) improve transparency in the performance of activities of public administration in practice; (e) strengthen surveillance systems and monitoring for the allocation and use of resources, and assessments of the effects of investments or budget cuts in the effectiveness of rights, particularly economic, social and cultural rights; (f) conduct investigations of acts of corruption through independent bodies with sanctions imposed on those responsible, and (g) conduct awareness-raising initiatives aimed at officials and members of parliament, on the harmful effects of corruption on the full enjoyment of rights, and judges, prosecutors and police about the need to strictly enforce the law.

National legal framework

The **Constitution of the Bolivarian Republic of Venezuela (CRBV)** guarantees the right to access to public information and the right of all people to be informed promptly and truthfully by the government about the state of the proceedings in which they are directly interested and to know the final resolutions adopted on the matter. Furthermore, access to administrative files and records, subject to the limits acceptable in a democratic society, in accordance with the law is guaranteed. CRBV also provides that no censorship is allowed for officials to report on matters under their responsibility. However, between 1999-2014, the Coalition ProAcceso has registered 60 laws that violate the right of access to information. In general, these laws allow state agencies, to reserve or suspend publication of information on public affairs or to be exempted from publishing it, based on criteria of inadmissible restriction according to international standards, including sovereignty and state security. Venezuela does not yet have a law on access to information.

Challenges

Serious restriction of access to public information in highly sensitive areas for the population, because of suspension of publications, weakening data production systems, denial of information delivery by institutions and restrictions on media coverage.

Cases, facts, comments

Lack of access to public information worsened in recent years, when the government decided not to publish figures on the economic, social, educational, health and violence situation in the country. official statistics that have been suspended or are outdated are: of notifiable diseases and deaths, macroeconomic indexes and shortages, homicide rates and income poverty lines. Documents of accountability of each public body are not publicly available and the few that are published are 6 months late. In addition, most requests for information to officials are ignored or denied. 84% of requests for information made by Espacio Público (Public Space) between 2011 and 2014, were not answered. In 2014, of 21 requests for information from public bodies, only one was answered.

Judgments of the Supreme Tribunal of Justice (TSJ) have established bureaucratic or reserve reasons to justify the silence or refusal to respond to requests, including: lack of legitimacy of the petitioners, disproportionality of requests because of the time and human resource required by the State to respond; lack of justification on the type of "control to be exercised" and the intended use made of the information; invalidation of recourses of amparo as a mechanism to protect the right; and referral to more difficult processes limiting it.

In addition, indispensable system of information for analysis, evaluation and monitoring of public policies, for example, yearbooks mortality, the system of nutritional information, epidemiological surveillance systems, information systems on child protection and adolescents, educational statistics enrollment, awarding pensions and housing beneficiary groups, have been weakened or paralyzed. The only regular statistics available are those published by the National Statistics Institute (INE), some of which have considerable delays.

Access public information and fighting corruption



In the absence of public information, senior officials offer numbers without technical support, which are not published; and any information that contradicts the official achievements are disqualified, even ignore or denying the existence of problems of public notoriety, as the shortage of medicines, deteriorating health services, food shortages and violence.

Journalists face serious limitations to access newsrooms of public institutions. Private media communicators must face discrimination in the call to press conferences and at public institutions, to which only communicators of the National System of Public Media have access, as well as those considered as "reliable" by authorities.

Censoring information on the Internet and social networks, through measures such as blocking pages and practices of harassment and intimidation against users and cyber-activists.

In 2013, restrictions on access to digital information were predominant. Among the most prominent cases are blockages to Bit.ly domains, by the National Telecommunications Commission (CONATEL). CONATEL began these procedures in November 2013, when the President questioned in an official speech several websites that broadcast foreign currency quotes at prices other than the official rate. The agency also launched punitive administrative proceedings against 8 web suppliers and blocked 50 sites that spread similar information.

Espacio Público and IPYS Venezuela noted that in the first three months of 2014, at least 454 websites had been blocked from Internet services in Venezuela. These censorship measures have had high impact on the economic performance of the country in managing foreign currency. The measure was extended to sites that unfurled different types of information. These restrictions continued in 2014 with partial blocking actions to Twitter and the slowness and service interruptions of ABA, the internet service offered by State-owned Compañía Anónima Nacional de Telefonos de Venezuela (CANTV), leading provider of this service through fixed and mobile telephony. In 14 cases of these interventions, holders received death threats, were subjected to smear campaigns and blockages, hacking and illegal intervention of personal communications. Mostly affected were journalists, citizen reporters and human rights activists.

Higher incentives for corruption because of the opacity of governance, impunity and high dispersion of responsibilities in State institutions.

Foreign exchange and price controls have become incentives for corruption from the State, creating a complicated bureaucracy that allocates resources in foreign currency at preferential prices with discretion. Since exchange controls were implemented, there have been 35 exchange agreements. Operations under these agreements have encouraged capital flight and the use of funds for private enrichment. A case publicly denounced was the allocation of 25 billion dollars to fake companies, in which no one has yet been found responsible, although it was described as a scam to the nation in 2014 by the former chairman of the Standing Committee on Finances of the National Assembly (AN) of the United Socialist Party of Venezuela (PSUV).

The Attorney General's Office has not acted on its own initiative in serious public complaints made by officials who have held senior positions. Highlighted are irregularities in the School Feeding Programme (PAE); the expiry of 400 thousand kilos of medicines between 2010-2014; 160 thousand tons of food and medicines abandoned in ports in the country; loss of funds in Petroleos de Venezuela (PDVSA) and Central Bank of Venezuela, denounced by a former Minister of Planning; and statements by the President of the Criminal Chamber of the Supreme Court, former Justice Eladio Aponte Aponte, who detailed his ties to drug trafficking.

Since 2012, the Supreme Court has favored the opacity of governance and restrictive measures of the Executive, supported by sentences. Between 2012-2016, Transparencia Venezuela systemized 102 statements, 93% of which favored government institutions. For example, it has granted all requests for states of emergency decreed by the Executive, as well as their extensions, and have limited powers of parliamentary control of the National Assembly. Also, given the high dispersion of the responsibilities of the State in many agencies, uncoordinated, without controls, as well as the breach of obligations of accountability, corruption has worsened. Social Missions, for example, are regulated by 23 legal instruments and are assigned to different institutions that have inconsistent performance figures and duplication of beneficiaries and resources. These missions have been a source of constant complaints registered by Transparencia Venezuela that are not investigated.

Access public information and fighting corruption



Recommendations

1. Repeal rules and regressive practices that prevent, condition or limit the delivery of public information.
2. Approve and implement the Law on Transparency, Disclosure and Access to Public Information.
3. Regulate the publication of complete, timely, clear and verifiable information in all areas of public administration and statistics related to economic, social and cultural rights, especially economic rights and policies regarding contracts, beneficiaries and resources invested in food, health, education, violence, demarcation of indigenous territories and environmental impact of existing projects.
4. Repeal rules and regressive practices that constrain delivery and publication of information, especially the regulations of Classification and Information Processing Public Administration, the Decree establishing the Centre for Strategic Security and Protection of the Homeland (CESPPA), the Regulation of Interior and Debates of the National Assembly and the Organic Law of Electric System and Service.
5. Review the legislation on controls and sanctions that deter corruption, including: Anti-Corruption Law, Procurement Law, Law of the Office of the Comptroller General and harmonize them with the laws of Public Financial Management and Audit of the Public Sector.
6. Implement an urgent plan to reduce impunity for corruption.
7. Promote compliance with the right of access to public information and transparency in all actions of the State and promote good practices of access to public information in state institutions.
8. Create an independent body that guarantees access to public information.
9. Regulate an effective system of prevention of conflicts of interest and publish Affidavits of Assets and interests.
10. Include in the annual Budget Act, the extraordinary resources received from exports, indicating funding source.
11. Reorganize the management structure of institutions, social plans and programs, encouraging monitoring, evaluation and a unified system of accountability, eliminating areas of discretion and arbitrariness.
12. Conduct and publish an audit process and risk analysis of corruption and inefficiency in social programs.
13. Invest planned and sufficient resources to ensure the implementation of social programs that demonstrate progressive development of rights.
14. Create a portal with complete information, updated and clear, of all public resources allocated to social programs, in an open data format that allows citizens to know easily and promptly services available in the various entities of the country.
15. Accept the visit of representatives of international and regional human rights bodies, and the rapporteurs responsible for the right to freedom of expression and information.

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Rights of Vulnerable Groups



Brief assessment of the implementation of 1st cycle UPR recommendations

Venezuela accepted 8 recommendations in the UPR 2011, concerning the rights of children and adolescents (94.5, 94.10, 94.17, 94.29, 94.51, 94.56, 94.61, 94.64 and 96.12) aimed at strengthening the protection system, with special attention to the criminal responsibility of adolescents; giving more importance to the protection of children and vulnerable groups; further cooperation between the competent bodies to ensure the protection of the rights of children and adolescents; and take further steps to: (a) fight trafficking of women and children; (b) achieve universal primary education and gender equality in education; (c) reduce child mortality; (d) protect and guarantee education for homeless children and adolescents; and (e) increase enrollment at all levels of education and to consider guarantees of education to all children with disabilities. The State did not accept the recommendation 96.12 referred to taking legal and political measures necessary to prevent children and adolescents from being victims of labor exploitation, servitude, slavery, prostitution and trafficking.

In comments to the 3rd, 4th and 5th periodic review of Venezuela on the Convention on the Rights of the Child, published in 2014, the **Committee on the Rights of the Child** expressed its concern about the limited range of effectiveness of the interest of the child in practice, despite their legal recognition. The Committee called the State's attention for not having approved the National Plan for an Integral Protection of Children and Adolescents and noted the high institutional instability of the National System for the Integral Protection of Children and Adolescents, and the absence of due coordination between different institutions related to child rights. Moreover, the Committee noted deficiencies: (a) lack of information on the number of children and adolescents whose birth is not registered; (b) non-evaluation of programs aimed at ensuring the legal identity of children; (c) the allocation and distribution of budgetary resources without a system based on the interests of the child rights; (d) the absence of a system of disaggregated data on children and adolescents; and (e) the limited legal and political achievements to fight discrimination, the elimination of all forms of violence, including sexual, physical punishment, prostitution and trafficking and the economic exploitation of children and adolescents. The Committee also expressed concern about the lack of supervision and support from the Autonomous Institute National Council of the Rights of Children and Adolescents (IDENA) to all alternative care centers; legislative setbacks in criminal responsibility; the high rate of maternal mortality, stagnation in reducing infant mortality and the high number of teenage pregnancies; the absence of legal measures to decriminalize abortion in cases of rape, incest, health risks to mother and risk of severe malformation of the fetus; and shortage of medicines (essential and costly such as antiretrovirals), and the lack of sufficient doctors and medicines in hospital services, lack of policy and mental health centers for the care of children and adolescents.

Unfortunately, in the first cycle there was no progress in the implementation of these recommendations and children and adolescents have not been assisted with priority as vulnerable group in the difficult economic, social and political situation in the country. In addition, the State has not ratified the Optional Protocol to the Convention on Communication Procedures, and the participation of Venezuela in international forums on human rights has not resulted into an internal cooperative work with its mechanisms. No actions have been taken to disseminate and implement the recommendations provided in the **Study against Violence of the UN** on children and adolescents. The relations of civil society organizations with the cooperation agencies of the United Nations are not fluid and in some cases nonexistent.

National legal framework

In the **Constitution of the Bolivarian Republic of Venezuela** (Constitution), children and adolescents are full legal persons and are protected by law, bodies and specialized courts, which should respect the constitutional provisions such as the Convention on the Rights of the Child and other ratified international treaties. Comprehensive protection of children and adolescents has absolute priority, taking into account their best interests in decisions and actions concerning them. The State has an obligation to promote the progressive incorporation of children and adolescents into active citizenship and establish a national governing body that directs the policies of comprehensive protection. Slavery or servitude, trafficking and violence against children and adolescents are crimes. Children and adolescents have the right to live, be raised and develop within a family, including adoption, and to receive adequate information for their development.

In 2007, a reform of the **Organic Law for the Protection of Children and Adolescents** entered into force, creating a ministry with jurisdiction in that matter. However, between 2007 and 2013, the coordination of the National System for the Integral Protection of Children has gone through five ministries, thus hampering the consolidation of a governing system. In 2013, this coordination went to the Ministry of the Office of the Presidency of the Republic with limited approach on the assistance to children and adolescents in situations of vulnerability or social exclusion. The Autonomous Institute National Council for the Rights of Children and Adolescents (IDENA) publicly assumes these functions although the law expressly states that it is a management body. In this reform, the plural and autonomous social participation was also suppressed in policies for protecting children. The Organic Law for the Protection of Children and Adolescents recognizes participation as a right but it does not define the mechanisms and opportunities for participation. It is only limited to social participation under Laws of People's Power, 2010 and it only recognizes community organizations promoted and financed by the government. Since 2007 the reform of the Organic Law for the Protection of Children and Adolescents has ordered a regulation of popular participation and to this day it has not been enacted.



Since August 2015, in the Supreme Tribunal of Justice (TSJ), there is an appeal for a partial annulment to the reform of the Act on criminal responsibility for adolescents, promoted by organizations in REDHNNNA. This resource is based on the lack of definition of responsible authorities in the governing of the Penal System for Adolescents, powers of community councils (community-based organizations not specialized in the area) in the implementation of non-custodial measures, expansion of criminal types susceptible of imprisonment as a sanction, including terrorism; increased penalties to 10 years imprisonment for certain crimes; and no diagnosis of institutional capacities to ensure rights of juvenile offenders. To this day there is no a statement or action or admission of the petition and the process is paralyzed for causes attributable to the Supreme Court.

The Organic Law for the Protection of Children and Adolescents and other laws such as the Organic Law on the Rights of Women to a Life Free of Violence and the Law on Protection of Families, Maternity and Paternity and the Law for the Protection of People with HIV or AIDS and their families protect the right to gender equality and sexual and reproductive health of adolescents; however, there is not enough information to assess the level of implementation and the impact on the health of children and adolescents, in changing cultural patterns that strengthen paternal responsibility and the right to enjoy a successful, responsible and safe sex life and decide freely on reproduction.

Challenges

Absence of a governing system of integral protection of the rights of children and adolescents responsible for policies, programs and projects aimed at protecting the rights of children and adolescents in the different levels of the territory.

Failure to ensure the protection of the rights of children and adolescents to an adequate standard of living, violating the principle of absolute priority by not implementing policies, programs of assistance and institutional and investment measures required to ensure the realization of this right in most vulnerable groups.

High exposure of children and adolescents to a context of violence, who are frequent victims, in the absence of policies, plans or public actions aimed at protecting the lives and safety of children and adolescents in their homes, schools and neighborhoods. It is a concern how children are formed in this culture of violence, which can even normalize the criminal action.

Cases, facts, comments

The system established by law for the protection of the rights of children and adolescents lacks a governing body that fulfills this function. Failing that, policies have not been defined; programs and investments to ensure the full development and proper protection of children in situations that violate their rights, nor has it been managed to adopt a national plan for comprehensive protection of children and adolescents rights. The actions implemented by the State are not in synch with each other or with legal regulations, not knowing how many organs, programs and services and budgetary resources are available to make the necessary investments that guarantee absolute priority in the best interests of the child. Nor is there an information system with records and statistics of public access to allow monitoring and evaluation of rights by age group, gender, geographical location, among other features, nor has it advanced in a culture of respect and promotion of participation children and adolescents in family, community and school spaces.

Political and social programs announced by the Executive to serve populations of children and adolescents, have not been transparent, due to which their real and specific impact is unknown. The current shortages of food and other necessities, places children and adolescents in vulnerable conditions, including severe and discriminatory restrictions as the prohibition on selling food and other products to minors, especially teenagers. It is particularly worrying for child nutrition and feeding the high shortages and high costs of pasteurized milk, milk formulas and other derivatives of high biological value foods, cereals, vitamin and nutritional supplements. It is worrying the feeding situation of children and adolescents in rural areas and indigenous communities, especially the Yukpa community in the Sierra de Perija. School Feeding System of the Ministry of Education, does not reach all public schools and food have been reduced in quantity, variety and quality. Because of this, it has been severely increasing student's absenteeism, affecting the prosecution of their study process. In February 2016, a general meeting was held in Caracas attended by representatives of 86 agencies and programs of care for children without parental care operating in different cities of the country and which collectively serve a population of approximately 4,077 children and adolescents with different health conditions. 72.22% of the entities have decreased in quantity and quality food supply necessary to ensure a standard of living adequate for the population served.

Children and adolescents are often victims of criminal violence in different social spheres, especially in popular communities. CECODAP on an analysis of the Epidemiological Bulletin has reported that the rate of violent deaths from 15 to 17 years old increased from 15.9% to 42.2% between 1997 and 2009. 74.59 % of the total deaths were adolescents in this age group, most men because of clashes and armed conflicts between urban gangs. 53% died in the street without medical assistance. The Action Plan of the Country Programme (2015-2019) signed by UNICEF with Venezuela indicates that the homicide rate among adolescents is one of the highest in Latin America (2010: 57.3 per 100,000) and mainly affects adolescents men. 86% of homicides are concentrated in 79 of 335 municipalities (large population centers highly urbanized).



Similarly, organizations have reported a high number of cases of violence against girls, adolescents and women due to their gender. Although more than 40 courts and special personnel have been established for the care of such cases reported, the reality is that according to data provided by social organizations, it is estimated that 100 women are harassed daily, and only 1 in 10 women denounce the aggression before the competent bodies, leaving 90% of cases unnoticed and unpunished. The Action Plan Country Programme (2015-2019) with UNICEF also reported that girls and young women are the main victims of sexual violence (84% of registered cases). 39% are victims under 10 years, 34.8% are between 10 and 13 years and 26.2% between 14 and 17 years. 48% of child abuse cases are children aged under 10 years (2008).

Severe reduction in availability of health services for children and adolescents, particularly pediatric and maternal hospitals, mental health and sexual and reproductive health in most public health care facilities in the country, in the absence of mechanisms of state protection, putting in risk the integrity and life of children and adolescents.

There is still a lack of programs and services for prevention and intervention to ensure differentiated care and quality issues related to sexual and reproductive health. Teen pregnancy continues to increase rapidly. 1 in 5 women under the age of 20 has had a child. Data from the last Census of Population 2011 shows that 30% of girls start their sexual activity between 12 and 14 years of age and, within this group, while having information only 1 in 10 uses some form of contraception. There is also a high incidence of sexually transmitted infections in adolescents and young population. 50% of new HIV infections occur in adolescents and young people under 24 years, which is compounded by the absence of permanent services and specialized staff in sexual and reproductive health for adolescents in most health care facilities nationwide.

The national hospital crisis due to the precarious infrastructure, exodus of specialized personnel and shortages of supplies and medicines, equipment and laboratories impedes to respond appropriately to prevent health problems affecting children and adolescents. In January 2016, CECODAP asked the Court of Protection of Children and Adolescents in Caracas, for early preventive measures against the shortage of essential medicines for children and adolescents. The Court rejected the measure on the grounds of limitations of the petition since it only mentioned a few medical cases of "alleged shortage of drugs" without "documentation that irrefutably substantiate shortages." The statement also indicated that under the principle of shared responsibility, families must ensure medicines to children. In May 2016 the Third Superior Court Child Protection and Adolescents refused for the second time the measures requested. The judge argued that the Economic Emergency Decree enacted by the President of the Republic and invoked by CECODAP is a public policy that seeks to protect children. In this statement the judge misinterprets a presidential decree with a "public policy" and he cannot attribute that character. The judge in his reasoning does not indicate how, in a Presidential Decree, actions, goals, time and resources are developed to ensure access to medicines to children.

Because of this situation and nutritional problems that are causing food shortages in pregnant women, infant mortality has intensified mainly neonatal deaths. According to figures from the Ministry of Health, the infant mortality rate went up from 14.8 to 18.6 between 2014 and June 2016, 80% of which corresponds to babies with less than 28 days of age, died in hospital. The JM de los Ríos Hospital, a pediatric hospital that is a national reference center, according to reports from the Medical Society and the Office of the Comptroller General office there is a severe shortage of medical and hospital care, due to the lack of personnel, equipment failures, shortages of supplies, medicines and medical and surgical equipment, and deteriorated physical infrastructure. There is a grave situation affecting children and adolescents with hematological diseases and oncology treated at this hospital, which have faced several times the possibility of closure of the hospitalization service despite of the sentence from the Court of Protection of Children and Adolescents in Caracas in 2004, which orders the State to guarantee timely and sufficient funding and the necessary medical and nursing staff in this health center. In 2014, CECODAP and Fundación Luz y Vida began a legal action before the corresponding courts of protection without obtaining response. The process has been marked by procrastination and lack of timely response by the executive and judicial authorities, while the Hospital faces every day a deep crisis of medicines and supplies that compromises the care of children.



Recommendations

1. Create the governing authority of the National System for the Integral Protection of Children and Adolescents, at the highest level of the state, with powers to promote the existence and coordination of an integrated and articulated with public institutions at different levels of the territory in order to guarantee the rights of all children and adolescents.
2. Approve the National Plan for Comprehensive Protection of Children and Adolescents, with the technical, human and financial resources.
3. Address immediately the special and most vulnerable situation of children in nutritional or health risk, who live in areas of greatest poverty, in the border, remote or rural areas, where severe shortages and reduced availability of health services are more severe.
4. Implement strategies for the comprehensive protection of children and adolescents from violence generated by illegal armed groups or groups of organized crime, or from being recruited for these purposes, establishing specialized programs and services that enable the identification of the vulnerable or affected population, including public performance necessary for families to have services for physical, psychological recovery and social reintegration of children and adolescents.
5. Strengthen the Criminal System for the Responsibility of adolescents according to the parameters set out in the Convention on the Rights of the Child and UN Guidelines on Juvenile Criminal Justice System, together with the establishment of a specialized police investigation, socio-educational programs and dedicated to the integral formation of adolescent services.
6. Evaluate thoroughly the extent, causes and character of the various forms of violence children are subject of and develop a comprehensive national strategy to prevent and combat them, in coordination with civil society organizations and other sectors that can contribute.
7. Intensify efforts to prevent the killing of children and adolescents, particularly by armed gangs and combat trafficking, sexual exploitation and abuse, solving the root causes such as poverty and exclusion.
8. Strengthen mechanisms, procedures and guidelines to ensure the complaints about violation of rights of children and adolescents, to guarantee accessibility, confidentiality and adaptability to their needs, and investigate, prosecute perpetrators and compensate and rehabilitate victims appropriately.
9. Prioritize appropriate policies and programs to ensure effective implementation of rights of sexual and reproductive health of adolescents; and its monitoring, placing special emphasis on the availability, provision and effective access to comprehensive services, with warm staff, friendly and good quality that provide information and education, psychological support and project construction of life for adolescents, pregnant women and teenage mothers and their partners.
10. To ensure a pluralistic, independent and effective participation of children and adolescents and the civil society organizations in policies, programs and services aimed at fulfilling the rights of children and adolescents, abolishing all exclusive or discriminatory provision for political reasons.



Brief assessment of the implementation of 1st cycle UPR recommendations

Most of the recommendations issued on 2011 UPR regarding gender equality and women's rights were not executed or limited to insufficient initiatives. The State accepted 10 recommendations (93.20, 93.10, 94.11, 94.16, 94.17, 94.21, 94.22, 94.24, 94.50 and 94.51) on: adopting the Rules of Bangkok for the Treatment of Women Prisoners; consolidate women's rights; gender parity; non-discrimination and the elimination of gender violence through legislation and practices; the elimination of obstacles generated by stereotypes and sociocultural models; to strengthen women participation in the political, economical and social spheres; to assess maternal care policies and ensure the access of all pregnant women to medical assistance, decrease infant and maternal mortality and to increase access to sexual and reproductive health. The State did not accept recommendation 96.11, referred to eliminate violence against women by ensuring prosecution and sanctions against the responsible.

In 2014, the UN Committee on the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) undertook the 7th and 8th periodic review of Venezuela, recommending the State: to fulfil the Beijing Declaration and Platform for Action; to incorporate the gender perspective on development plans; to remove legal dispositions that are discriminatory against women and to adopt the necessary dispositions to protect them against discrimination, including discrimination on the basis of sexual orientation and gender identity; to remove gender stereotypes and patriarchal attitudes; to raise the minimum age for marriage to 18 and to consider intangible assets as part of the common patrimony within a marriage; to assess gender equality plans and increase the political representation of women; to serve disadvantaged groups of women; to execute the Law on Women's Right to a Life Free from Violence; to warrant sexual and reproductive health services and treatment for HIV/AIDS; to decrease maternal mortality and teenage pregnancy. Between 2013 and 2015, other 5 periodic reviews by treaty bodies recommended to combat violence against girls and adolescents; to establish exceptions on the legislation that bans abortion in any case, and to incorporate civil society on the gender equality and women's rights measures. For the 2016 UPR, the State did not summon the participation of women organizations in the National Report, nor published information on the official website www.epuenezuela.gob.ve.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela establishes equality before Law and non-discrimination on grounds of sex, nevertheless, both constitutional principles have not been developed sufficiently in national legislation and public policies. The **Organic Law on the Right of Women to a Life Free of Violence** from 2007 laid a certain institutional framework down (attorney offices, courts, bodies to receive complaints, among others) that, nonetheless, has not translated into an increase on women's access to justice nor the punishment of offenders. Likewise, too little has been done regarding education, attention of victims, and prevention of violence against women. In 1999, the reform of the **Law on Equality of Opportunities for Women** excluded women NGOs from the board of the National Institute for Women (Inamujer). The **Organic Labor Law on Workers** of 2012 did not provide rules on gender equality nor prohibited the discrimination against women in the labor sphere. In general, legislation favorable to the rights of girls, adolescents, and women is not transformed into public policies, making its dispositions ineffective. For example, the **Organic Law on the Protection of Children, and Adolescents**, the **Organic Law on Indigenous People and Communities** and the **Law on Social Responsibility for Radio, Television and Electronic Media** -the latter of which establishes the obligation of the State to disseminate up to 70 minutes weekly of education and public service messages that could be used for campaigns aimed at the modification of discriminatory socio-cultural patterns- are not fulfilled. There has been no progress made to reform the **Penal Code** to ease criminalization of abortion nor to efficiently integrate gender perspective. As well, there has been no progress made to apply norms on **gender equality in elections**, subjecting democracy to the discriminatory customs of the political culture.

Challenges

Acute affectation of sexual and reproductive rights of women and high rates of early pregnancy. The Protection of Sexual and Reproductive Rights Plan and the Safe, Desired and Happy Motherhood Program, developed in 2015, have not given result; in a context of severe health crisis that differentially impacts women, who cannot receive humanitarian assistance despite the exhortations of the National Assembly and the United Nations.

Cases, facts, comments

Teenage pregnancy rates are the highest of the region: 101x1000 live births in 2014. That year, unplanned teenage pregnancies represented 55.3%, according to a study by the National Council of Children and Adolescent Rights (IDENNA), 11.4% ended up in abortion and 79.8% of couples did not use contraception with the first child. In 2010, the Official Statement of Comprehensive Care in Sexual and Reproductive Health placed abortion as the third cause for maternal mortality. No campaigns on the responsible exercise of sexuality and fatherhood exist. Shortage of contraceptives exceeded 85% in 2015, which constitutes a regression in the right to the reproductive autonomy of women. The shortage of condoms increases the risk of sexually transmitted infections for women, including HIV/AIDS.

Maternal mortality rate is one of the highest in the region. It didn't vary in more than a decade with an average ratio of 611.49 deaths x 100 thousand live births, according to official figures. Between 2009 and 2013, it increased to 70.83% deaths and in 2016, it increased from 68 to 130.7; mostly during cesarean sections (36.4%), labor (20.6%) and uncompleted pregnancies (4.2%). The severe interruption of medicine supply and health services significantly affects girls and teenagers, pregnant women, inmates, older women and with chronic conditions, being breast cancer the first cause of death among women, and leaves them unprotected facing an increase in tuberculosis, malaria and dengue epidemics.

Gender equality and Women rights



Since the entrance of Zika into Venezuela in 2015, figures have been published in just one occasion and the figure of affected pregnant women remains unknown despite the fact that the virus is associated with microcephaly development on infants. To date, the press has reported 8 cases of babies with microcephaly during 2016, just in the most important maternal and child hospital in the country.

Economic deterioration and lower empowerment of women, which increases discrimination and their exposition to poverty and the deterioration of living standards, facing a three digit inflation and high levels of contraction on employment levels.

Venezuela got the position 103 in the Gender Inequality Index (GII) of 2015, being one of the 5 countries with the worst performance of Latin America. The Gender Equality and Equity "Mama Rosa" Plan 2013-2019 has promoted the participation of women in communal economy and socialist production development. No progress has been made on the inclusion of women in paid work, therefore, effective female empowerment has not been achieved and possibilities to escape poverty have reduced. The Ministry for Women and Gender Equality (MINMUJER) favors programs with a predominant conception of women as mothers and caretakers, confined to home, with less sexual and reproductive services and employment access.

In 2013, The National Statistics Institute (INE) estimated a gender pay gap of 18% on average. In 2015, female unemployment was 3 times higher than the masculine one. Between 2001 and 2011, poor households headed by women went from 29% to 39%. In 2013, there were 107 women for every 100 men in poverty and 112 women for every 100 men in extreme poverty. Between 2014 and 2015, inflation, shortage of food and poverty worsened. The latter increased from 48% to 73%, according to the Living Conditions Survey (ENCOVI) conducted by universities and it weighed more heavily on women, who must make long queues to get scarce amounts of medicine and food.

Low inclusion and political representation of women, given the lack of implementation of political parity measures that could accelerate the achievement of substantive equality between women and men in all political and public spheres, as demanded by women NGOs.

By demand of women NGOs, the National Electoral Council (CNE) created the 50/50 regulation in 2008 for regional elections, resulting in an increase of elected women. The CNE and the National Assembly (AN) declined to include the norm in the Organic Law of Electoral Processes and in 2010 it was incorporated into its regulations by the will of political parties. Therefore, the amount women elected on public charges has decreased, reaching barely 20% in the 2016 parliamentary elections. This year, the AN created the Subcommission of Women, which had disappeared.

An increase in violence against women and femicide cases in a context of high criminality, repressive militarization, homicide and immunity rates. No guarantees of full access to justice exist nor are international regulations, such as the Rules of Bangkok, applied. Mothers, wives, partners, daughters and widows present during the aggression are secondary victims.

Disaggregated data regarding violence against women is unavailable, besides the figures published by the General Attorney of the Republic. In 2014, only 1% of 70 thousand complaints went to trial and 96% of the cases did not result in conviction, according to Amnesty International. 8 states do not have a specialized tribunal and in 16 of the states that do have specialized court, procedural delays and impunity persists. In 2015, INAMUJER reported 13 thousand cases without preventive action being taken. That year, the Attorney made 159.897 proceedings and learnt about 253 femicides (132 frustrated and 121 consummated). 40% of murdered women had between 15 to 25 years.

Figures on the situation on women detainees or deprived of their liberty are sparse. The National Institute for Female Orientation (INOF), the only detention center for women, does not apply the Bangkok Rules. Prisoners face violence, overcrowding and health and food deprivation. The case of María Lourdes Afiuni, victim of torture and violation inside the INOF, has not been investigated. Women deported after the border closure in 2015 have not have access to Venezuelan justice. 42% of all deported were women and 60% had various children.

Persistence of gender stereotypes and patriarchal social and cultural models due to isolated, insufficient, disarticulated and excluding actions along with the absence of statistics and restricted access to public information regarding the situation of women.

Gender equality has been part of the official speech, but in practice, no policies designed to modify social and cultural patterns and stereotypes that subordinate and discriminate women have been implemented. The "Mama Rosa" Gender Equality and Equity Plan 2013-2019, guiding instrument, contains high ideological bias and lacks goals, strategies and schedules for evaluating and monitoring its results. Policies aimed at eliminating sexist language, reification of female image and use of gender stereotypes in education, publicity and mass media do not exist. Official data disaggregated by sex is sparse and public information about the situation of women is not guarantee.



Recommendations

1. To urgently revise the legal framework on gender equality to establish a doctrinal framework as a reliable base for the design and execution of national equality public policies.
2. To take all necessary measures to eliminate violence against women, ensuring that perpetrators are prosecuted and sanctioned. To make justice in the case of María Lourdes Afiuni. To apply the Bangkok rules on women detention centers. To approve the rules of procedure of the Organic Law on Women's Right to a Life Free from Violence, which has a 9 year delay.
3. To urgently adopt public policies for the eradication of violence against women, based on international agreements and the goals of specialized government agencies dedicated to women, and to fulfill them.
4. To undertake urgent action aimed at the reduction of teen pregnancy and to update the "Standards of Sexual and Reproductive Health" for public action on the subject. To guarantee access to contraception and condoms, including emergency contraception services as well as differential attention for teenagers services.
5. To revise the legal framework on the subject of abortion.
6. To undertake urgent action to reduce maternal mortality and to use the full span of available resources, including international aid, to address the humanitarian crisis in Venezuela, in order to reverse its serious consequences, arising from the severe lack in health and nutrition, for women, adolescents and children.
7. To implement policies that eliminate discriminatory, androcentric and sexist content from the educational curriculum, public and private mass media, legislation and public programs and publications. To advance awareness campaigns on equality of men and women.
8. To extend the capabilities and methodologies of the National Institute of Statistics (INE) in order to produce disaggregated, updated and timely data that allow to track progress and setbacks in the dynamics of the gap between existing genders.
9. To create specialized courts for the attention of violence against women on rural, marginalized zones.
10. To incorporate onto the Organic Law of Electoral Processes mechanisms for equitable access of women and men to elected office, fulfilling article 21 of the Constitution, following parity criteria according to 50/50 standard and alternability.

* Summary prepared based on contributions: Venezuelan Observatory on Human Rights of Women - Observatorio Venezolano de los Derechos Humanos de las Mujeres (OVDHMujeres), Center for Peace and Justice - Centro de Justicia y Paz (CEPAZ), Venezuelan Association for an Alternative Reproductive and Sexual Education - Asociación Venezolana para una Educación Sexual Alternativa (AVESA), Hispanic Center for Women - Centro Hispanoamericano para la Mujer FREYA, Gender, Democracy and Human Rights - Género, Democracia y Derechos Humanos (GENDHU) and Civil Association of Family Planning - Asociación Civil de Planificación Familiar (PLAFAM). Available in: <https://goo.gl/k4gXE6> - <https://goo.gl/9sTMfU> - <https://goo.gl/knXYxa> - <https://goo.gl/OyS0QA> Contacts: - @OV_DDHH_Mujeres - @CEPAZ - @AVESA_ONG_VZLA - @FreyaCH - @PLAFAMong

Equality and Non-Discrimination based on Sexual Orientation, Identity and Gender Expression



Brief assessment of the implementation of 1st cycle UPR recommendations

Despite having accepted the recommendation 94.11 directed to consolidate, both in law and in practice, the rights of people with different sexual orientation and identity gender, during the first cycle of the UPR to Venezuelan, the State failed to carry out concrete actions to achieve legal and social inclusion of lesbian, gay, bisexual, trans and intersex (LGBTI). On the contrary, in the Forth Periodic Review to Venezuela on the International Covenant on Civil and Political Rights, in 2015, the **Committee on Human Rights**, recommended the State to adopt a broad and comprehensive legislation aimed at prohibiting discrimination based on sexual orientation, gender identity. Likewise, in 2015, the **Committee on Economic, Social and Cultural Rights**, noted the absence of a comprehensive legal framework to fight discrimination and that consider all the criteria set out in the International Covenant on Economic, Social and Cultural Rights, during the Third Periodic Review to Venezuela, and recommended the State to accelerate the elaboration and adoption of a legislation that guarantees enough protection against discrimination and that includes all types of discrimination, and any other social condition, such as sexual orientation and gender identity. In 2014, the **Committee on the Convention on the Elimination of All Forms of Discrimination against Women** recommended that the State take steps to protect women from discrimination on grounds of sexual orientation and gender identity laws.

On the other hand, in 2015, the **Human Rights Committee** stated its concern about the discrimination and violence against persons because of their sexual orientation or gender identity, which included murder, to which it recommended the State to increase its efforts to fight stereotypes and prejudice against LGBTI persons and effectively ensure the prevention, investigation, prosecution and punishment of these acts, with appropriate penalties.

In 2014, during the 3rd periodic review of Venezuela before the **Committee on the Rights of the Child**, it noted that the specific laws against discrimination had not resulted in greater protection of children and adolescents on their sexual orientation and gender identity, along with the lack of information on measures taken. The Committee recommended to conduct an evaluation of laws, policies and programs implemented to protect children and adolescents LGBTI with indicators to measure their achievement; prevent all forms of discrimination against children and adolescents on sexual orientation and gender identity; ensure in law and in practice, the prohibition of such discrimination and duly punish; and establish an effective complaint mechanism to monitor and resolve cases of discrimination in schools and juvenile detention, alternative care institutions and other environments.

While in March 2015, the **Inter-American Commission on Human Rights** urged the Venezuelan government to adopt a non-pathologizing law on gender identity; to investigate crimes against LGBT persons with due diligence and deepen state measures, including public policies in favor of LGBT people and their defenders.

National legal framework

The **Constitution of the Bolivarian Republic of Venezuela** recognizes the principle of non-discrimination of human rights. The Constitution establishes that the State has the duty to take affirmative actions to develop legal and administrative conditions to ensure real and effective equality before the law, and the progressive nature of human rights, which can extend their guarantees under treaties, covenants and conventions on human rights signed and ratified by Venezuela, as it is favorable to the universal exercise. Although the Constitution does not explicitly mention the right to non-discrimination on grounds of sexual orientation, it was clarified in Resolution No. 190 of the Constitutional Chamber of the Supreme Court of Justice (TSJ) in 2008, in response to a request for interpretation of that Article, by the Civil Association Unión Afirmativa de Venezuela: it set out that "... it is not possible within the Venezuelan constitutional framework, the individual discrimination on grounds of sexual orientation of the person...", and determined that it is the National Assembly's responsibility to legislate on this matter. However, Venezuela has failed to materialize a broad and comprehensive law to protect LGBTI persons from discrimination and inequality. Few legal instruments, in some specific areas, mention the prohibition of discrimination on grounds of sexual orientation and gender identity, but they lack the mechanisms to implement real and effective strategies against discrimination and inequality. Despite having a favorable Constitution, there is still a restrictive legal framework that denies equality of rights to LGBTI persons.

Challenges

Absence of an institutional and administrative framework to guarantee the right to equality and non-discrimination of LGBTI persons; in an environment in which homophobia and transphobia persists supported by frequent stigmatization and hate speeches issued by public officials and individuals from different social sectors, based on ideologies and religious beliefs although Venezuela is constitutionally a secular state.

Cases, facts, comments

Acts of discrimination and unequal treatment against civil, political, economic, social and cultural rights of LGBTI people are constant and widespread. There are no policies, plans, programs and public services to meet their needs. There is no demographic, social, educational, health or political participation statistics of LGBTI persons.

Many times, authorities have justified not having made progress due to cultural barriers, suggesting the need to consult publicly the legitimacy of proposals that would allow LGBTI persons to exercise rights set out in the Constitution.

Hierarchy of the Catholic Church and other Christian religions, as well as important members of the society have consistently opposed the demands of activists and LGBTI organizations through campaigns and influence on public decisions, for reasons based on moral and religious doctrines that denigrate their status as human beings and subjects of full rights. Both public and private media constantly ridicule and promote discrimination against LGBTI persons and censor the broadcasting of issues related to sexual orientation and gender identity, and so restricting freedom of expression and the right to information on matters that improve the living conditions of LGBTI persons.

Equality and Non-Discrimination based on Sexual Orientation, Identity and Gender Expression



Consequently, LGBTI persons are often denied job opportunities or segregated in their jobs. In health services, LGBTI persons are subject of cruel treatment when they require health care; they are prevented from donating blood because they are considered "risky" and "promiscuous" people; trans women, gay and bisexual men diagnosed with HIV/AIDS or other sexually transmitted infections face serious obstacles for care and treatment. In public and private schools, people who are defined as LGBTI or those who are perceived as such, are often victims of harassment, physical punishment and degrading treatment by members of the community.

Denial of the right to legal protection of same-sex couples and families with or without children who are invisible and on secrecy before the intolerance, contempt and degrading treatment due to the lack of state protection.

Preliminary statistics from the Population Census in 2011, mentioned there are about 6,000 same sex families that lack legal protection due to the impossibility of legal recognition by the marriage or civil union between same sex persons. According to data from Fundación Reflejos de Venezuela, a Venezuelan organization, 2,000 children and adolescents from these families are facing severe problems of access to education, health and social and legal protection, having no possibility to formalize their status within their homes. Between 2011 and 2016, Unión Afirmativa de Venezuela along with other organizations, presented to the National Assembly several proposals to amend laws that, so far, have not been considered.

No recognition of the right to legal gender identity of transgender and intersex persons, despite several requests by activists and organizations, and the existence of certain legal provisions that allow making progress.

Trans and intersex persons cannot change their name and sex on their legal identity documents. The implementation of the Law of Civil Registration has failed, which is possible only when the name does correspond to gender, through a simple administrative act, due to the refusal of the registry authorities to meet this standard and although deputies of the National Assembly stated in 2009 when the reform of the bill was introduced, its goal was to protect trans and intersex persons. Recently, the General Attorney Office persuaded the National Electoral Council to allow trans people to take their picture without modifying their physical image in the identity card.

High exposure to moral, psychological or physical violence, and legal and civic helplessness of LGBTI persons who are denied from their right not to be subjected to arbitrary arrest, torture, other cruel, inhuman and degrading treatment.

LGBTI people are victims of constant violence because of their sexual orientation and gender identity and there are no policies to investigate and prosecute these cases. Between 2009 and 2016, ACCSI, a Venezuelan Organization, registered 175 hate crimes published by the press, 75 murders and 100 assaults that included arbitrary detentions, torture and other cruel, inhuman or degrading treatment. Most of those people killed were aged between 17 to 30 years, 71.7% were trans. 39.1% were sex workers and 76% of the bodies were found in avenues, streets and highways, garbage dumps or less traveled sites. Venezuela Diversa, a Venezuelan Organization has denounced attacks against transgender people and gay men, comprising verbal, physical and psychological threats, harassment and police abuse and murder. Trans women performing forced sex work, are the most vulnerable group. The Ombudsman has taken a few actions on sexual orientation and gender identity issues without accomplishments or significant impact. The Public Ministry does not guarantee judicial proceedings on rights and constitutional guarantees.

Adopt measures for monitoring acts of discrimination and ensure effective protection of LGBTI people to end impunity for such violations.

Recommendations

1. Enact a broad and comprehensive law against discrimination based on sexual orientation, gender identity an expression that provides for effective mechanisms to prevent discriminatory practices in health services, schools, jobs and public spaces.
2. Adopt measures for monitoring acts of discrimination and ensure effective protection of LGBTI persons to end impunity for such violations.
3. Adapt article 44 of the Civil Code and allow marriage between same sex couples, and adapt the Organic Law of Civil Registry to legally recognize same sex marriages of Venezuelans who have married abroad.
4. Adapt article 146 of the Law of Civil Registry to allow the change of sex and name in legal documents to trans and intersex persons.
5. Adapt article 565 of the Organic Code of Military Justice that criminalizes homosexuality in the armed forces.
6. Include hate crimes based on Sexual Orientation Gender Identity and Expression and Sex Characteristics as an aggravating circumstance in the Criminal Code.
7. Set in operation the Special Ombudsman with National Jurisdiction in the area of Human Rights of LGBTI persons.
8. Prohibit hate expressions, stigmatization or violence against LGBTI persons, with appropriate sanctions.
9. Promote public policies, communicational and educational programs with secular, scientific and gender perspectives aimed at promoting equality and non-discrimination against LGBTI persons.
10. Publish statistics demographic, social, educational, health or political participation on the situation of LGBTI persons.
11. Legal recognition of status of same sex families and their children through adoption.



Brief assessment of the implementation of 1st cycle UPR recommendations

In the first UPR cycle, the recommendations 93.1, 93.2, 93.3 and 93.4 made to Venezuela urged the State to ratify the Convention on the Rights of People with Disabilities (CRPD) and its Optional Protocol, which it did in September 2013. The State has omitted to promote the content of the CRPD through public dissemination among people with disabilities and Venezuelan civil society, in general. Venezuela presented a national report for the first periodic review of the Committee, but did not consult nor receive contributions from people with disabilities and their organizations.

In 2014, during the third periodic review of Venezuela, the **UN Committee on Rights of the Child (CRC)** manifested their satisfaction with the diverse initiatives adopted by the State to meet specific needs of children and adolescents with disabilities, particularly regarding health and education (par. 50). However, the CRC lamented "(...) the lack of information about a comprehensive strategy to guarantee coherence among all the initiatives and the protection of the rights of the children and adolescents with disabilities." The Committee also expressed their concern over the lack of disaggregated data and the information received according to which an important percentage of children and adolescents with disabilities did not attend school, especially in rural areas; and over the absence of especial programs to ensure future employment opportunities for adolescents with disabilities.

The CRC recommended the State to adopt a human rights approach towards disability, specifically: a) to gather disaggregated data on the situation of children and adolescents with disabilities; b) To implement a comprehensive strategy that includes initiatives on education, health, accessibility, recreation and access to cultural activities, employment and participation; pre-establishing the indicators and the expected results, budgetary assignation and a monitoring mechanism. The Committee also reiterated the recommendation to guarantee the access to education to children and adolescents with disabilities, this, by encouraging their inclusion in ordinary schools and by making a greater effort in providing necessary specialists and resources; as well as by expanding community rehabilitation programs, particularly support groups for parents.

National legal framework

Venezuela recognizes the rights of people with disabilities in the **Constitution of the Bolivarian Republic of Venezuela (CRBV)**. The State has the obligation to guarantee the full and autonomous exercise of their capacities and their integration in the family and the community, including the rights to education, work, social security and participation. These rights are further developed in the **Law for Persons with Disabilities** (LPPCD, from its Spanish acronym), enacted in 2006, which states that its objective is to "guarantee the comprehensive full and autonomous development of persons with disabilities, in accordance with their capacities, and to reach familiar and community integration, through their direct participation as citizens with full rights and the joint participation of the society and the family."

The LPPCD has yet to be adapted to the CRPD. In 2012, a reform proposal was conducted through the National Council for Persons with Disabilities (CONAPDIS), which was never presented to the National Assembly. In 2016, the Ombudsman offered to present a draft bill to the parliament to initiate a debate on the reform, based on the provisions of the CRPD. An especial commission is in charge of analyzing this ongoing initiative, and it should present a report by the end of September, with the objective of initiating a debate on the legal reform.

According with the Constitution, the law shall guarantee equal attention to persons with special needs or disabilities in the education system. In 2009, the National Assembly enacted a new **Organic Law on Education** (LOE, in Spanish), which completely omitted the chapter regarding Especial Education, without consulting the parents and representatives of children and adolescents with disabilities. The subject was only mentioned in an isolated article. The Ministry of Education has not yet developed the standards and means to guarantee the inclusion of persons with disabilities in ordinary schools.

Public policies aimed at disability are managed with a national and centralized focus, even though it is a recurrent competence of the National, Federal and Municipal entities. 8 estates and 20 municipalities have enacted laws on disability, but their activities are not reflected in national policies. In 2009, a legal reform eliminated several competences of the Metropolitan District of Caracas; one of them referred to attention programs for disability. This was transferred to the Capital District, which does not develop policies on this subject.*

Challenges

The Organic Law on Education is regressive for the right to education of children and adolescents with disabilities. The elimination of the chapter regarding Especial Education in the new law brought as a consequence the shutting and dismantling of especial schools, without the implementation of previous plans and technical and economical mechanisms to include children and adolescents with disabilities in ordinary schools.

Cases, facts, comments

With the new organic law, especial education centers were closed and their interdisciplinary professional teams were dismantled, forcing the parents and representatives to attend their children at home. Ordinary schools have not been adapted to guarantee their accessibility, and there is no support for didactical material and equipment. The State does not publish data on the entry of children and adolescents to the education system.

* Briefing based on the report of Escuela de Vecinos de Venezuela: NGO that supports the development of legislation related with disabilities since 2004. Available in: <https://goo.gl/EXAKb6> Contacts: @EscuelaVecinos



Universities face severe restrictions to implement the **Guidelines for the Exercise of the Rights of People with Disabilities to a Quality Tertiary Education**, approved in 2007.

The State has made emphasis in policies for the inclusion of persons with disabilities in tertiary education. However, severe financial restrictions faced by universities, hinders the possibility of implementing these guidelines. On the other hand, the State has not created programs to favor inclusion.

Disregard of the rights to education and work of people with Visual Impairment. This is the largest group among persons with some disability in Venezuela, according with the 2011 Population and Housing Census.

The access to education of persons with visual impairment is not guaranteed, even though it is the largest group of persons with some disability in Venezuela. Braille system is not used in most schools and tertiary education institutions, and the number of support services has decreased. The production of canes is paralyzed in the country. Data on people with visual impairment in the education system is not published, and their rights are not promoted. The difficulty of these persons to access and remain in the education system limits their right to work.

Restrictions on the right to participation of people with disabilities. The Law for Persons with Disabilities limits their participation by establishing only one associative form. Federal and municipal legislation does not provide mechanisms for the participation of people with disabilities. Their right to political participation is disregarded because of the absence of information and measures to ensure their access to voting centers.

According with the legislation, participation in public decisions on disability is confined to community committees of persons with disabilities. There are only 4,000 of these committees to channel ideas, proposals, claims, necessities and contributions through their spokespersons before 40,000 registered Communal Councils and Local Planning Councils. Data on voters with disabilities is not published, and assisted vote is linked with electoral irregularities, which in some cases has impeded persons with disabilities to vote.

Recommendations

1. To dictate the necessary regulations to fill the blanks of the Organic Law on Education regarding persons with disabilities. To implement, in a peremptory term, plans to guarantee the inclusion of children and adolescents in the regular educative system, taking especial measures for the time needed to not risk the continuity of their studies and their school attendance.
2. To release regularly disaggregated data on the entry of children and adolescents with disabilities in the national education system, considering education levels.
3. To publicize the CRPD and to adapt national legislation to its content, guaranteeing a permanent and extensive consultation with persons with disabilities and their organizations on periodic reviews, as well as their participation in the process of implementation and follow-up of the recommendations.
4. To sign and ratify the 2013 Marrakech Treaty on the Rights of People with Visual Impairment. To guarantee the promotion of their rights, the use of Braille system in all levels of the education system, official documents and administrative procedures in public institutions; as well as full access to information in the hands of the State.
5. To develop a comprehensive strategy with a universal human rights focus to articulate all national, regional and municipal initiatives aimed at persons with disabilities, in the subjects of the rights to health, education, recreation and work. To release information on funding, coverage and performance.
6. To take to terms the reform of the Law on People with Disabilities, guaranteeing the full participation of them and their organizations, protecting their rights and fulfilling the due dissemination and compliance of the new legislation.



Brief assessment of the implementation of 1st cycle UPR recommendations

In the EPU of Venezuela of 2011, the Venezuelan State submitted the National Report without enough references about aging and the situation of the elderly, and the accepted recommendation 94.10 aired on giving more importance to the protection of vulnerable social groups, such as women, children, the elderly and the poor. Also in the National Reports for periodic reviews of the Agreements on Human Rights, after 10 years without informing, the State omitted updated figures on the rights of this population. In the region, Venezuela denounced the American Convention on Human Rights and has not ratified it as a party to the OAS, the Inter-American Convention on the Protection of Human Rights of Older Persons 2015.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela (CRBV) provides that the State has an obligation to ensure to all full elderly the exercise of their rights, dignity, autonomy and access to comprehensive care, with joint participation of families and society. Also recognizes the right to social security and it is provided through a public and universal system in which the absence of ability to pay can not be grounds for exclusion. Pensions and retirement may not be less than the urban minimum wage and the right of older people to work is established, if they wish, according to their ability. Officials should be further protected by a special pensions regime.

Social security is subject to the Social Security Act of 1966, whose content does not meet the provisions of the Constitution, although a new Organic Law of Social Security System (LOSS) was approved in 2002, unapplied by failing to develop laws that would allow each of its protection regimes. Among them, there is no law Pension Scheme, which unifies contributory pensions and non-contributory and criteria for universal allocation, nor the Law on the National Public Health System, which must guarantee adequate and timely health care to all the elderly, including access to medicines and services for catastrophic illnesses. The social security system also assigns economic benefits for disability, special needs and widowhood, which has not yet met.

In 2005 the Law of Social Services (LSS) that provides economic benefits to the elderly, as well as people without contributory capacity and in need (housewives, people in poverty, children and indigenous peoples) was approved. Older people under the care of state institutions, the right to sexuality and to vote is recognized.

Challenges

Absence of plans for the aging population. Venezuela has no plans tailored for accelerated aging of the population according to the recommendations of the International Plan of Action on Aging, adopted by the United Nations General Assembly in 1982.

Severe disruption of essential treatment for the health of the elderly, because of high food shortages and shortage of medicines. Deficiency care institutions for the elderly without family support, in a context of extensive disintegration of families, mainly from fewer resources, in which the greater the impact of violence, social and economic crisis in the country, lack of services health, drug shortages and food.

Cases, facts, comments

According to the National Statistics Institute (INE), there is a population of 2.9 million people aged 60 and over (46% male / 54% female). This represents 9.71% of the total and will rapidly increase in a range of 10 to 20 years: 13% in 2025 and 19% in 2040. Official statistics on older people are few, scattered, not unbundled and inconsistent, contributing to their problems are not visible or are understood and assessment of compliance with obligations limit their rights. The NGO HelpAge International on human rights situation of the elderly, conducts studies into 5 categories (income security, health, employment, education and supportive environments). Since 2013, Venezuela occupies the lowest positions, the worst being in 2014 with Latin American country ranked 76 among the 96 evaluated. According index of shortages of medicines for seniors applied by Convite AC in 5 measurements, from April to August 2016, only the metropolitan area of Caracas has averaged a shortage of 95.68% on medicines for hypertension and 89.16% for diabetes in 40 pharmacies. Is critical the situation of families to support their older members, due to lack of medicines and health services, food shortages, migration of younger by the economic decline of the country or death due to violence. Care centers of the National Institute of Social Services (INASS) are not sufficient and have been reduced. In 2015, a center that served 200 elderly people in Caracas without consulting them, to be transferred to other distant states were evicted from their families. These centers do not provide adequate services, their budgets are very poor and lack the necessary personnel. In August 2016, Convite denounced the death of 30 elderly people in a group home in Caracas, diseases related to malnutrition.

Restrictive legislation remains in force that prevents the right to social security and rights of the elderly. The institutions responsible for social security, Venezuelan Institute of Social Security (IVSS) and National Institute of Social Services (INASS), continue to provide care, with poor and centralized programs, along with another 500 schemes in public institutions, of which there is little information. In 2001, the government allowed the attention of people not affiliated health centers IVSS and assumed responsibility for the delivery of high-cost drugs to people with chronic conditions and care of people with mental health disorders. However, since there are no legal guarantees for these benefits, the number of people served is irregular and has declined significantly due to financial cuts in health.

Rights of Elderly People



Failure to create a universal system of social security, not complied with the Constitution or the law of the new social security system (LOSS) to transform the system of tax access and formal worker and their families centered in a system of universal benefits without contributions requirement. Discretion in granting pensions and financial aid through decrees. Around 38% of older people do not receive pension and do not know when they will receive, even if they meet the requirements.

The government has been adopting exceptional and temporary measures by way of decrees to grant pensions to non-contributors who increased the number of pensioners but so highly and variable without providing data on how many are for the elderly and how many older people receive them. Neither criteria or programs through which are assigned are known. The Committee for the Defense of Pensioners, Retirees, Older Persons and Persons with Disabilities, unjustified delays have been repeatedly denounced in the pensions process and in 2014 the request made for the publication of lists of new pensioners was denied. In the 2015 legislative elections, the ruling party granted pensions to promote candidates, which was not investigated.

Insufficient pension amounts for inflation and the current costs of food and medicine, consequently resulting in older people reducing food intake and interrupting their treatment.

Pensions are equal to the minimum wage which is fixed without agreement with workers. Inflation in Venezuela is one of the highest in the world. A basic food basket in January 2016 cost 157,000 Bolivars and the minimum wage was 12,000 Bolivars. In March 2016, the extent of free transportation for retired older people was cut, establishing a payment of 50%. In 2011, through the Great Mission Older Love aid was granted to 216,492 seniors in 2012 rose to 500,000, in 2013 it dropped to 80,000 in 2014 to less than 60,000.

Recommendations

1. Develop a national plan to bring economic and social policies of the country to the aging of the Venezuelan population, to ensure full enjoyment of all human rights and protection of older persons and their full inclusion, integration and participation in society.
2. To approve the pension laws and law of the national public health system, ensuring the unification of contributory pensions and non-contributory, and adequate and timely health care to all older people.
3. Integrate the institutions, programs and centers of social security systems, to ensure a framework of guarantees for the universal right of all people to an adequate standard of living.
4. Advance the universal inclusion of older persons to the pension system, ensuring access to health and recreation.
5. To publish official figures on people who have received old-age pensions for the various existing programs and allocation criteria, to ensure transparency and nondiscrimination.
6. Addressing urgently the problem of lack of care in public health facilities and shortages of medicines, which particularly affects older people.
7. Increasing care facilities for the elderly across the country and ensure all appropriate existing centers for comprehensive care of all these people physical and economic conditions.



Brief assessment of the implementation of 1st cycle UPR recommendations

In the UPR 2011, Venezuela accepted 8 recommendations (94.11, 94.15, 94.25, 94.26, 94.65, 94.66, 94.67 and 94.68) relating to speed up and systematize the process of demarcation of indigenous habitat and collective lands; update the data of communities and indigenous peoples; strengthen in law and customary rights of indigenous peoples to strengthen the regime to combat all discriminatory practices; continue to promote intercultural and multilingual programs and intensify efforts to improve the literacy rate among indigenous peoples; and improve effective access to legal assistance for indigenous women; However, policies and programs related to rights of indigenous peoples were paralyzed during the first cycle, causing setbacks incompatible with these recommendations and with the Constitution.

In 2013, the **Committee of the Elimination of Social Discrimination (CERD)** expressed concern about attacks of members of illegal miners against Yanomami communities, the situation continues today. He also drew attention to the serious acts of violence in the Sierra de Perija, where was assassinated Sabino Romero, families members and Yukpa people. Recommends the protection of these indigenous people, investigate and prosecute the perpetrators and prevent further violence, including the necessary mechanisms to speed up the process of demarcation. However, although five were convicted perpetrators of the murder, the masterminds and security bodies still marked released and subsequently the Cacique Carmen Fernandez, was assaulted by the National Guard to be evicted from their territory where his son Christopher died, this attack remain unpunished. The Committee also recommends ensuring the full participation of indigenous people in all levels of public administration especially women, in order to make effective the right to previous consultation, implement the special pension or financial aid provided for in the law, and respect indigenous traditional systems in legislation on indigenous jurisdiction. None of these recommendations has been implemented.

In turn, the Human Rights Committee in the 4th periodic review of 2015 of **the International Covenant on Civil and Political Rights (ICCPR)** said it has not received sufficient information on the effectiveness of the right to prior consultation with the licensing of exploration or exploitation in indigenous territories, noting slow progress in demarcation and violence of the state and non-state actors against indigenous peoples. The Committee recommended that the State guarantee prior consultations necessary peoples to obtain their free, prior and informed consent before adopting and implementing any measures that could have a substantial impact on their way of life and culture consent, in particular mining projects and / or exploration of natural resources impact on their lands, territories and other resources; approve regulations prior and informed consultation; accelerate and complete the demarcation process and effectively protect the people against violence. In 2015, the Committee of International Covenant on Civil and Political Rights, However, there has been no process of free and informed prior consultation in any community or indigenous people, nor has approved a regulation of the law and the demarcation process was halted between 2014 and July 2016, when 3 collective titles were delivered property to 3 indigenous communities.

National legal framework

The Constitution of the Bolivarian Republic of Venezuela (Constitution) recognizes indigenous peoples and communities, their social, political and economic organization, cultures, customs, languages and religions, as well as their habitat and original rights to the lands they ancestrally and traditionally they occupy. With full participation of indigenous peoples and communities and respecting the exercise of self-demarcation, the State was obliged in a period not exceeding 2 years from the approval of the CRBV in 1999, the demarcation of the entire habitat and indigenous territories, ensuring the right to collective ownership of their lands and territories, inalienable, indefeasible, and nontransferable character as well as the right to free and informed on any decision affecting these rights prior consultation, as well as the Organic Law of Indigenous Communities and Peoples establishes the right to demarcation. Despite the favorable regulatory framework after 16 years CRBV approved, these rights have not been effective and continue to be the main demand of the indigenous peoples and communities in Venezuela.

Challenges

Failure to demarcate all indigenous territories and their collective property, contrary to the Constitution, without the full participation of indigenous peoples and communities in all stages of the process; disrespecting the self-demarcation, mind maps, plans of life and self-management of indigenous peoples and communities.

Cases, facts, comments

The Coordinadora de Organizaciones Indígenas de la Amazonía Venezolana (COIAM) reported that until 2014 were only 12.4% demarcated habitat and indigenous lands. Many lands given disrespect self-demarcation, the requested spaces are reduced or fragmented, land titles correspond to letters and not the collective ownership of the territory. Obstructing the process of self-demarcation and mental maps of indigenous peoples, some areas were declared protected areas or national parks under special legislation and sections of the indigenous territoriality. In his 4th examination of ICCPR, the State acknowledged slowness in the process of demarcation and claimed to have delivered 66.5% of the requested land; however, that information is not made public and no access to it. The demarcation of the habitat and lands was suspended between 2014-15. The National Commission on Demarcation of Habitat and Lands of Indigenous Peoples and Communities was amended in May 2016. After years of stalling the process, in July 2016 delivered just 3 collective titles.

Rights of Indigenous Peoples



Denial of the right to free, prior and informed consent of indigenous peoples, violating rights to public information to make decisions about concessions for exploration and exploitation of mining and hydrocarbons in their territories as the Comprehensive Strategic Zone Orinoco Mining Arc (ZOMA) resources.

In the studies of Provea, GTAI and Laboratorio de Paz from 1999-2016 Venezuela is not done in any process of free, prior and informed indigenous peoples and communities on energy concessions, mining, gas, oil and logging in indigenous territories consultation. In February 2016, the Executive decreed the Integral Strategic Mining Orinoco Arc (ZOMA), draft mining a large scale and open in 111.843,70Km² (12% of the country), with participation of 150 transnational and national corporations sky.

This project provides use of cyanide to extract gold, coltan, diamonds, iron and other minerals, in an area of high ecological fragility, with water reserves and larger wooden country, inhabited by five indigenous people, one of them (the Mapoyo) declared by UNESCO Intangible Heritage of Humanity and urgent safeguarding of 9 neighboring indigenous peoples.

The project was adopted in violation of the CRBV, without approval of the National Assembly without environmental impact studies, and informed consultation of indigenous peoples in the area. Ecosocialist the Presidential Commission for Development and Safeguarding the Rights of Indigenous Peoples on Mining Activities, which involved only some states representatives for indigenous communities, was created in March 2016. Indians, allies and human rights organizations have warned of severe rights violation and serious ecological and environmental consequences of Arco Mining for indigenous peoples and communities and country.

Militarization of indigenous territories and application of states of emergency and violation of the right to life, integrity, due process and cultural rights of indigenous peoples and communities, and the military presence of irregular groups in their territories and transit zones.

Peoples, indigenous communities and organizations have denounced military presence in their territories without prior consultation and violations of various rights for his performance, coupled with tolerance and support groups such as mafias and illegal armed groups of Colombian guerrillas in mining. Since 2012 peaceful protests have generated indigenous communities against military action and / or armed groups in their territories, according to CODHEZ organization.

In 2010, without prior consultation, a military district with 21 checkpoints in indigenous territory Wayuu in Guajira, Zulia state was created. The Human Rights Committee of the Guajira recorded 21 deaths, 46 injured, 19 tortured, kidnapped in January, 1 missing and hundreds of cases of arbitrary arrests and illegal raids, as a result of the measure. The Guajira Military District was repealed in July 2016, but impunity remains, like the military presence in the area under the figures of Strategic Regions for Integral Development (REDI) and Operational Areas of Integral Defense (ZODI). In 2015, the government decreed a state of emergency in states bordering Colombia in the country including Zulia, Amazonas and Apure with high indigenous population, imposing militarization of the zones and limitations on fundamental rights. States of emergency, now repealed, were not notified to the Secretary General of the United Nations in accordance with the ICCPR and during its implementation, indigenous organizations denounced abuses, assaults and serious violations to their customs and ancestral customs.

Severe lack of food, medicines and health supplies in indigenous territories, for its rural characteristics, generating constant displacement and migration exposing communities to stigmatization, discrimination, social segregation and epidemics.

The shortage of food, medicines and health supplies that affects the whole country, is more severe in indigenous territories. Although the Executive implemented food distribution programs at regulated prices, there are no accurate data of reach. Wayuu indigenous in its binational status, travel to various cities to obtain and carry food, Intensify practice in the current crisis, victims of stigma and discrimination with the adjective "bachaqueros" or "smugglers". Warao indigenous populations Delta Amacuro state, undergo a process of displacement to illegal mining areas and urban centers. This has influenced an alarming increase in cases of HIV indigenous unattended or treatments for prevention and control of the virus. The latest epidemiological bulletin of the Ministry of Health denote that Bolivar, Amazonas, Delta Amacuro and Anzoategui, states are in Malaria epidemic.

Imposition of forms of organization other than the authorities themselves, legitimate and traditional.

The state has imposed on indigenous forms of organization outside for recognition and dialogue with authorities, framed in the Organic Law of Communal Councils. Indigenous representatives question the Indigenous Communal Councils, replacing and weaken the organizations; undermining the autonomy of decisions and generating conflict and exclusion by displacing the legitimate indigenous authorities in the dialogue with the state.



Recommendations

1. Ensure public access to update on territories demarcated and turned over to indigenous peoples data.
2. Culminating in the shortest demarcation of all indigenous territories, fulfilling self-demarcation processes and delivery of collective title.
3. Meet the right to prior, free and informed indigenous peoples and communities in any project that may affect your rights and the deployment of military activities in their territories consultation.
4. The National Assembly approved a law guaranteeing fully the standards of the right to free, prior and informed consultation of indigenous communities and peoples.
5. Paralyze the mining concessions in the Strategic Zone Orinoco Mining Arc (ZOMA) until environmental impact studies are not submitted and processes of free and informed prior consultation with the affected communities and indigenous peoples are made.
6. Refrain from interfering with the free right wing association of indigenous communities as a condition for the enjoyment and exercise of rights.
7. Take immediate steps to control illegal mining and protection of indigenous communities from any form of abuse or exploitation by State and non-State actors.
8. Give priority to the supply of food, medical supplies, medicines and other personal products, affecting the right to life, health and standard of living of indigenous communities.
9. Allow access to the country of international and regional human rights bodies with a mandate on indigenous rights*

* Summary prepared based on contributions Peace Laboratory (LabPaz), Human Rights Commission for the State of Zulia (CODHEZ), Human Rights Committee of the Guajira, the Working Group of Indigenous Affairs ULA (GTAI) Venezuelan Program of Education and Action in Human Rights (Provea). Available in: <https://goo.gl/50xcJC> - <https://goo.gl/udfvfU> - <https://goo.gl/0tXpcp> Twitter: - @LabPaz - @CODHEZ - @gtaiUla - @ Provea



Brief assessment of the implementation of 1st cycle UPR recommendations

UNHCHR asked to implement the adoption of expanded refugee definition contained in the Cartagena Declaration on Refugees and urged to provide identity documents to all asylum seekers and refugees who are in Venezuelan territory, guaranteeing the principle of non-refoulement and other international standards. It also asked to approve Regulations of the Law on Foreigners and Migration, clearly including refugees and asylum seekers; define a public policy to address the situation of persons in need of international protection and make arrangements to ensure immediate access to refugee status of unaccompanied children.

The State accepted the recommendation to intensify its efforts to provide protection to asylum seekers and refugees, particularly through the timely provision of information about their legal status and their rights and took note of the recommendation to ratify the 1954 Convention on the status of Stateless Persons and the 1961 Convention to reduce statelessness. In the period, Venezuela has not yet deposited the instrument of ratification of the Convention relating to the Status of Refugees. There has been no progress for the granting of identity documents to all asylum seekers and refugees.

Since 2013 citizen security policies have been developed, which began with the Homeland Security Plan with media messages that stigmatize as criminal and paramilitary Colombian-born population living in the border. These policies were militarized in 2014, to worsen in August 2015, after the Decrees of states of emergency and the execution of Operation People's Liberation (OLP), which led or was used to justify serious human rights violations and collective deportations of foreigners. The absence of a clear guideline on the rights of this sector of the population, caused the **deportation of at least 420 people in need of international protection between August 23 and October 23, 2015.**

National legal framework

On October 3, 2001 the Organic Law on Refugees and asylum guarantees (LORRAA) was approved, by which the National Commission for Refugees (CNR) is created as the governing body on the matter, with multi-sectoral composition.

Operation People's Liberation. It consists of combined actions of police and military forces to control crime, implemented since July 13, 2015, without defined legal framework. These operations have affected especially the population of the border states, where there are refugees, asylum seekers and other migrants in need of international protection.

State of emergency and suspension of guarantees. As of August 21, 2015, 20 decrees and resolutions associated with the declaration of state of emergency affecting 24 municipalities were issued. Under the state of emergency, deportations occurred, affecting indiscriminately to legal residents, irregular migrants and people in need of international protection, due to the absence of guidelines to enable the latter access to appropriate resources, such as possibility of communication with national authorities responsible for refugees' protection. The emergency decrees were never communicated to the Secretary General of the UN, **in violation of Article 4.3** of the International Covenant on Civil and Political Rights.*

* Summary prepared based on contributions Center Andrés Bello Catholic University. Human Rights. Available in:: www.ucab.edu.ve/cddhh.html - @CDH_UCAB



Challenges

Documentation for refugees and asylum seekers. The State is failing to fulfill the obligation to provide adequate documentation to establish identification. Documents are not provided in a timely manner.

The **identification documents** are issued per family group, so that the right to free exercise of equal rights before the law in any State or jurisdiction without discrimination is violated.

Violations of the **principle of non refoulement** were recorded.

Cases, facts, comments

The absence of documents limits the enjoyment and exercise of rights and formal employment, social security, education certifications (especially children and adolescents).

Currently, this limitation has a greater impact on access to food and medicine, since the refugee applicants only have access through certificates of residence and / or lists of names issued by the communal councils, without which presentation are not permitted to purchase food regulated by the state because of the compulsory submission of Venezuelan identity card to acquire them.

The average wait to obtain interim documents varies, with a minimum of about 5 months. In the case of recognized refugees, the procedures for issuing identity cards for foreigners are very expensive, which prevents or delays in practice, access to identification and therefore, the exercise of rights.

The State only issues a letter with information identifying the family group, which acts as a temporary identification document, but it is not accepted for paperwork before public authorities, which fail to comply with the obligation of proper identification according to international standards.

Under the decrees of states of emergency, serious effects on security and personal integrity occurred, through deportations and expulsions carried out by the Venezuelan government against refugees or asylum seekers. According to reports from the Office for the Coordination of Humanitarian Affairs (OCHA), between 23 August and 23 October 2015 some 420 cases of deportations of applicants and / or recognized refugees were registered.

Recommendations

1. Modify and adapt the interim document of refuge, under the parameters of identification that allows the effective enjoyment of the rights guaranteed by the Venezuelan state.
2. Ensure access mechanisms for the refugee population, to the acquisition of food, goods and services.
3. Develop the Regulation for Aliens and Migration Act, including migratory categories derived from the LORRAA to adequately document to asylum seekers.
4. Ensure the prohibition of collective expulsion of foreigners and non-return or non refoulement of refugee applicants or recognized refugees to territories where their life, safety or integrity are at serious risk.
5. Provide greater continuous training to civil servants specializing in protecting refugees and in general people in need of international protection.
6. Generate greater communication channels between the State, civil society, academia and persons in need of international protection, allowing space for needs analysis and protection challenges with new approaches to monitoring of the causes of violence and expulsion of people entering Venezuela.
7. Strengthen the inclusion of persons in need of protection and refuge situation in public plans and programs, both national and local, together with the local population and promote more agreements to strengthen integration capabilities.
8. Ratify the Convention relating to the Status of Refugees.



Brief assessment of the implementation of 1st cycle UPR recommendations

Venezuela accepted the recommendation to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW); however, it has yet to deposit the instrument of ratification.

As part of the voluntary pledges, the State committed itself to strengthen mechanisms for protecting the rights of migrants, through training workshops for immigration authorities who perform control checks at points of entry and departure. Far from it, in 2015 the state encouraged from official media the creation of a stream of xenophobic opinion against the Colombian population. On August 21, 2015 a state of emergency and suspension of guarantees was decreed in 24 municipalities bordering Colombia.

National legal framework

Law Approving the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. On 6 May 2014 the National Assembly agreed to the Approving Law of the Convention; however, the instrument of ratification has not been deposited with the UN.

People's Liberation operation. It consists of combined police and military actions to control crime, implemented since July 13, 2015, without defined legal framework. These operations have affected especially the population of the border states.

State of emergency and suspension of guarantees. As of August 21, 2015, 20 decrees and resolutions have been issued associated with the declaration of state of emergency affecting four states and 24 municipalities. Under the state of emergency, mass deportations and forced displacements occurred.

Challenges

Official speech promotes xenophobia. It is expressed in various statements by the President and senior government officials.

Cases, facts, comments

Senior government officials and state media have expressed xenophobic and intolerant political messages against Colombian immigrants, describing them as paramilitaries and blaming them for the shortage, the "economic war" and food trafficking at the border.

Declaration of suspension of guarantees and state of emergency, which affected 24 municipalities in 4 border states.

Mass deportations and displacements under the state of emergency affected more than 22,000 people and generated a humanitarian crisis on the border.

Multiple situations of violation of due process and judicial guarantees of the migrant population in Venezuela occurred, due to expulsions and deportations without going through procedures and without compliance with the minimum guarantees for the defense of their rights, including the right to equality, the right of women to a life free of violence, the best interests of the child, the right to humane treatment and the right to property of migrants.



People's Liberation Operation as citizen security plan that criminalizes migrants.

On 13 July 2015 a security plan called "People's Liberation Operation" (PLO), was activated, through which promoted the persecution of migrants, labeling them guerrillas and paramilitaries. According to official statements, only on the second day of the PLO at the border, 185 foreigners were handed over to Colombia and 10 were arrested.

Human rights organizations have called the national government to revise this policy of persecution that violate the human rights of migrants in Venezuela, having received no reply to their communications.

Restricting access to food and medicines conditioned to the carrying of identity document.

Due to the shortage of food and medicine in Venezuela, the State has implemented a rationing system based on the granting of one shopping day per week depending on the last number of the ID. Migrants who have not regularized their situation, not having identification, are unable to access this mechanism for the acquisition of basic foods, toiletries and medications.

There have been reports of migrants who have been victims of intimidation and abuse by officials of the National Guard, who generally oversee security in queues for purchases.

Recommendations

1. End the xenophobic discourse used by the Venezuelan government authorities which generalizes and accuses Colombian migrants as creators of the "Economic War" and paramilitarism.
2. End arbitrary and unconstitutional arrests of Colombian migrants at the border, as well as mass deportations, especially those carried out within the framework of the PLO.
3. Ensure due process in the deportations and expulsions of irregular migrants.
4. Ensure access to medicines and food of irregular migrants in Venezuela, ending the abuse and arbitrariness of the security forces against the population.
5. Proceed without delay to record the instrument of ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).*

* Summary prepared based on contributions Center Andrés Bello Catholic University. Human Rights. Available in: www.ucab.edu.ve/cddhh.html - @CDH_UCAB