

Contribution of Venezuelan civil society organizations to Venezuela's Fifth Review of the International Covenant on Civil and Political Rights, under Article 40 of the Covenant, in the 139th Session of the Human Rights Committee.

VENEZUELA – Rights to non-discrimination, personal integrity and freedom of association (articles 6, 7, 15, 17, 22 and 26), at the beginning of a Homophobic State Policy

**País Plural
Observatorio Venezolano de Violencias LGBTIQ+**

September 11/ 2023

I. INTRODUCTION

1. País Plural is a civil association founded on March 30, 2020 and whose objective is to demand and defend the human rights of lesbian, gay, bisexual, trans, intersex and queer people in Venezuela. It is a young organization, led by young people who work for youth. We influence from 4 dimensions: visibility, education, empowerment and community participation in matters of public interest. As an organization we decided to promote the sending of this report that has information available from 2022 to 2023. This report was prepared based on the recommendations made by the Committee in 2015, the fifth periodic report of the State, the List of Issues (in forward LOI) and the State's response to the latter. The information presented comes from conducting surveys, interviews and documentation on the living conditions and needs of LGBTIQ+ people.
2. El The purpose of our participation before the Committee is to be able to provide an overview of the situation of LGBTIQ+ people in the following aspects:
 - 2.1 Update with statistical data on the living conditions and needs of LGBTIQ+ people in Venezuela in the areas of health, education, economic well-being, personal security and non-violence.
 - 2.2 Expose the work of civil society organizations that defend community rights and the challenges they face.
 - 2.3 Communicate the fact of the arbitrary detention of 33 gay and bisexual men committed in the month of July in the state of Carabobo, Valencia.
 - 2.4 Detail the organization, advance and presence of conservative groups in the powers of the State and the impact on the denial of rights.
 - 2.5 Present a list of petitions to the Human Rights Committee in favor of the rights of LGBTIQ+ people in Venezuela.

II. CONSTITUTIONAL AND REGULATORY FRAMEWORK

3. The Constitution of the Bolivarian Republic of Venezuela recognizes in its articles 20 and 21 the right to free development of personality and non-discrimination.¹ Also in its article 61 it recognizes freedom of worship without this being an excuse to prevent access or exercise of rights to other people.² In 2008, the Supreme Court of Justice issued ruling N 180 that gives Constitutional status to Non-Discrimination due to sexual orientation. The Organic Law of the Civil Registry in its article 146 establishes the right that any person may change their name if it is infamous, subjects them to public ridicule, violates their moral integrity, honor and reputation, or does not correspond to their gender. In another sense, for the year 2022, the National Assembly modified the Maternity Law. Paternity and Families, where it included that families are made up of people and that they cannot be discriminated against on the basis of sexual orientation, gender identity and/or expression. There are other laws of lesser legal rank that establish non-discrimination based on sexual orientation, gender identity and gender expression that constitute a legislative narrative but whose applicability is non-existent. However, there is no official information on its implementation. On the contrary, as will be explained subsequently, some apparently neutral norms have been applied in a discriminatory manner to the detriment of LGBTIQ+ people.

1 Constitution of the Bolivarian Republic of Venezuela. Title III. Of Human Rights, Guarantees and Duties. Chapter 1. General Provisions. (1999). Link: http://www.cne.gob.ve/web/normativa_electoral/constitucion/titulo3.php#cap1

2 Constitution of the Bolivarian Republic of Venezuela. Title III. Of Civil Rights. Chapter 3. General Provisions. (1999). Link: http://www.cne.gob.ve/web/normativa_electoral/constitucion/titulo3.php#cap1

III. RIGHT TO LIFE AND PERSONAL INTEGRITY (Articles 6 and 7)

4. During the second half of 2023, País Plural has carried out research on the living conditions and needs of LGBTIQ+ people in a population of 555 people belonging to the community. One of the study dimensions is personal safety and non-violence. In the information we were able to collect the following: Venezuela still does not have a legal framework that sanctions conversion therapies and those who apply them to LGBTIQ+ people.
5. Within the study population we were able to ensure that 69 people (12%) were subjected to conversion therapies. The ages most affected by these actions are between 18 and 24 years of age (50 young people), so a pattern of exercising these practices at an early age is observed in order to reverse their sexual orientations, identities and/or expression of gender. Most of these were committed by Christian and evangelical churches that aim to establish heteronormative dynamics as common human behavior. The most common long-term conditions discussed by these victims are depression, anxiety, and gender dysphoria disorders. This treatment is evidently discriminatory and pathologizing, but at the same time it violates health, the prohibition of torture and ill-treatment, freedom of conscience, religion and freedom of expression, a dignified life in the terms described in General Observation 36 of this Committee, and furthermore, in the case of children and young people as is the case documented by País Plural, it also violates the rights of the child.³
5.1 El Observatorio Venezolano de Violencias LGBTIQ+ has managed cases of survivors of conversion therapies and suicidal ideas and attempts are also part of the most common conditions with long-term impact on the lives of survivors.⁴
6. Some police forces still maintain discriminatory practices towards people from the LGBTIQ+ community. The study found that 160 people (28%) have been victims of physical, sexual or psychological violence by security forces. It was also found that more than 100 people (18%) have been victims of arbitrary detentions and that more than 65 people (12%) have been extorted for reasons of sexual orientation, gender identity and gender expression.
6.1 The Venezuelan LGBTIQ+ Violence Observatory, according to the bulletin that covers the months of January to April, documents 7 cases involving security officials.⁵ This generates great concern for the protection and protection of LGBTIQ+ people in Venezuela, since apart from suffering social violence related to homophobia, biphobia and transphobia, there are also actions outside the law and discriminatory by the security forces.

Suggested recommendations to the Venezuelan State:

1. Prohibit the practice of conversion therapies, and provide sanctions for those who perpetrate them.
2. Train and sensitize police security forces and armed forces on respect for personal integrity, non-discrimination and correct application of the law.
3. Build educational campaigns hand in hand with civil society organizations for police and armed forces officials who are in training processes.
4. Investigate and punish those officials who, abusing their power, decide to arbitrarily violate, detain and extort citizens for reasons of sexual orientation, gender identity/expression.

³ Report of the Independent Expert on protection against violence and discrimination based on sexual orientation or gender identity. Practice of so-called “conversion therapies”. May 1, 2020, A/HRC/44/53. Link: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/108/71/PDF/G2010871.pdf?OpenElement>

⁴ Observatorio Venezolano de Violencias LGBTIQ+. Report: Rompiendo el Silencio. Web site: <https://nomasdiscriminacion.org/wp-content/uploads/2023/08/3er-boletin-Discriminaciones-y-violencias-contra-las-personas-LGBTIQ-balance-enero-a-abril-de-2023-Junio-de-2023-OVV-LGBTIQ.pdf>

⁵ Idem

5. Strengthen the systems for receiving complaints so that victims can get support from institutions and obtain justice against abuses of power that put their physical integrity at risk.
6. Encourage and promote those officials who exercise their responsibilities with a focus on respect and defense of human rights and human dignity.

IV. RIGHT TO FREEDOM OF ASSOCIATION (Article 22)

7. In Venezuela, during the year 2021 to date, NGOs dedicated exclusively to LGBTIQ+ rights issues have had sustained growth. Since then, there have been more than 20 new organizations nationwide that are working on the visibility, education, empowerment and participation of LGBTIQ+ people. The majority of these organizations remain led by young people and maintain constant community creation, safe spaces, care and self-care tools, psychological first aid and new awareness strategies that break down the prejudices of the LGBTIQ+ community.
8. However, LGBTIQ+ organizations are facing different threats that put the work they do for the rights of the community at risk. This can mean a significant setback for the civic space because advocacy capacities are reduced and establishes unfavorable conditions for progress in the recognition and guarantee of rights:
9.
 - 8.1 Barriers not established in the Civil Code and in the Registry and Notaries Law for registration and legal constitution as non-governmental organizations.⁶
 - 8.2 The existing threat with the approval in the National Assembly of the Bill for inspection, regularization, performance and financing of non-governmental and related organizations.⁷
 - 8.3 Persecution of human rights activists and criminalization of civic space in Venezuela.
 - 8.4 Increase in the participation of conservative and religious groups in politics and their influence on the paralysis or regression of rights.⁸
10. In a study carried out in an exploratory manner in some young organizations that work for the rights of LGBTIQ+ people, we found that 100% reported having perceived resistance on the part of those responsible for the Autonomous Registry and Notaries Service (SAREN) in receiving the constituent documents of the organizations for including the words: human rights, sexual orientation, gender identity, gender expression, LGBTIQ+ community
11. 100% of these organizations left their documents in the SAREN for more than 7 months and none have received a response or call to formalize their constitution.

6Programa Venezolano de Educación Acción en Derechos Humanos (PROVEA). Artículo The Venezuelan State assures that there is no order to prevent the registration of NGOs and foundations in the country. Link: <https://provea.org/actualidad/estado-venezolano-asegura-que-no-existe-una-orden-para-impedir-el-registro-de-ong-y-fundaciones-en-el-pais/>

7Centro de Justicia y Paz (CEPAZ). Artículo. “Anti-society Law suppresses the right to association and establishes a policy of control in Venezuelan society”. Link: <https://cepaz.org/noticias/lav-antisociedad-suprime-el-derecho-a-la-asociacion-e-insta-una-politica-de-control-en-la-sociedad-venezolana/>

⁸ Observatorio de Libertad Religiosa de América Latina. Artículo: In Venezuela the political use of religion continues. Link: <https://olire.org/es/uso-politico-de-la-religion-en-venezuela/>

Suggested recommendations to the Venezuelan State:

1. Cease the policy of intimidation, retaliation, criminalization, persecution and disqualification of civil society organizations, including human rights defenders, social and community activists, union leaders and leaders, journalists, university professors and students, and health personnel. and education, people linked to politics and their families, and the population in general.
2. Eliminate judicial charges and fully release the members of organizations, union activists and union and social leaders deprived of liberty for claiming, demonstrating and defending civil, political, economic, social and environmental rights, guaranteeing that these acts are not repeated.
3. Lift decisions or eliminate measures that obstruct, impose restrictions or deny access to procedures to facilitate legal personality, the registration of documents, tax exemptions and other facilities for the work of civil society.
4. Cease policies, measures or conduct that criminalize or are used to persecute members of civil society for carrying out their legitimate work, receiving financing from international cooperation and resorting to international rights protection systems.
5. Guarantee the recognition and effective protection of the rights to life, integrity, freedom and security of members of civil society organizations and a safe environment in civic space.
6. Strengthen civic space, so as to guarantee the existence of free, autonomous, independent civil society organizations that develop in a democratic context and the rule of law.
7. Ensure that no person is penalized for exercising the right to freedom of association in the context of human rights activities and that none of the sanctions imposed deter people from exercising their right of association.
8. Promote an inclusive policy for the full registration of all organizations that seek to promote human rights, development, assistance or peacebuilding with an intersectional perspective.
9. Guarantee that no organization that advances LGBTIQ+ rights faces disproportionate delays in its constitution.

V. RIGHT TO NON-DISCRIMINATION (Article 26)

12. As a result of the research carried out by the Plural Country organization for the study and analysis of the living conditions and needs of LGBTIQ+ people in Venezuela, the following findings can be observed:
13. **Health:** with a total of 555 respondents, it is reflected that 20% of these people have been discriminated against at some point within the public health system. It is important to do an analysis of these 112 people, since 32 of them identify as trans and non-binary people and the remaining 80 as cisgender people. The main cause observed is prejudice and rejection for reasons of sexual orientation, gender identity and gender expression by personnel working in State health institutions. The greatest deficiency of knowledge is towards trans, intersex and non-binary people, because they ignore the self-perceived identity of this population, use their deadnames and generate an unsafe environment for this population, which decides not to attend the health system. health to avoid discrimination.
14. Another important point is that more than 70% of those surveyed do not have health insurance, therefore, they are conditioned to use assistance centers that belong to the public system where health professionals work, more than 80% of whom do not. received any type of training in their university or postgraduate career on specialized care for LGBTIQ+ people. The most direct consequence that exists is the distancing and distrust of this community in the health system, building a barrier to access to the right to health, putting the lives of this population at risk due to the conditions to which they are mostly exposed. : damage to mental health, depression, anxiety, stress, suicidal ideation, sexually transmitted infections, HIV/AIDS, tuberculosis, among other opportunistic or chronic degenerative diseases.

15. Within the trans population, it is observed that, of 56 people surveyed, 51 begin their hormoneization and transition processes without the required medical and psychological support, the main causes are: 1) not having financial resources (40%), 2) not knowing where to go for support (34%) and 3) not having access to information about transition procedures (26%). The consequences that have been observed are that some of these people make modifications to their body with dangerous substances such as car oil, edible oil or the use of biopolymers which affect their health condition and put their life at risk in the long term due to liver, kidney, heart complications among others.
16. **Education:** with the sample of 555 respondents, we found that 184 LGBTIQ+ people, which make up more than 32%, are not currently studying. The predominant age range in this sample is between 21 and 25 years old. But, if we apply a more intersectional approach, we find that there are 31 trans and 153 cisgender people (of diverse sexual orientations) who are not active in the public educational system. The main causes are: 1) because they are working, 2) lack of economic resources and 3) because they are not interested in studying. However, these findings can be related to the discrimination that LGBTIQ+ people face in educational systems, the main ones being: 1) victims of harassment or bullying by classmates, teachers and educational authorities, (60%) 2) insufficient attention from teachers in the face of discrimination (28%) 3) constant punitive surveillance by educational personnel (12%).
17. El Observatorio Venezolano de Violencias LGBTIQ+ has documented 2 cases of children who have experienced some type of discrimination or difficulties in enrolling in an educational institution because they are children of lesbo-maternal families. Additionally, this organization developed a report called Breaking the Silence: where different forms of discrimination against LGBTIQ+ people in Venezuela are evident during the year 2022. In this, 2 cases of discrimination in educational environments were documented.⁹ During the months of January-April 2023, 7 cases were documented in educational settings.¹⁰ In all these cases, they highlight the difficulties that LGBTIQ+ people have in functioning in educational spaces, when their identities are not recognized or they have sexual orientations other than heterosexual. And we were even able to document discriminatory speeches issued by public officials within educational institutions.
18. This analysis guides us that educational spaces are not always safe spaces for LGBTIQ+ people since they are constantly persecuted or attacked and there is no care or reparation for the facts. This situation results in the appearance of certain negative situations such as the deterioration of the mental health of the younger population, creating stress, depression, anxiety, suicidal ideations, suicidal actions, violent attitudes and other compensatory behaviors such as smoking, alcoholism and/or drug addiction. These phenomena have a negative impact on the lives of the LGBTIQ+ population, especially young people who are excluded from the educational system due to hostility and resistance against sexual diversity. The most predominant consequences in this context is that there is a barrier to access to education, thus constituting a risk for the full development of professional capacities and skills with greater emphasis on the trans population, since the greatest inequality is observed in the access to education due to discrimination against their self-perceived identity. We can make a direct relationship with this dimension and that of economic well-being because it reflects the existing gap in access to the labor market, the salaries they obtain and the impact it has on their economic activities and their family group.

⁹ Observatorio Venezolano de Violencias LGBTIQ+. Informe: Rompiendo el Silencio. (Página 21) 2022. Web site: <https://nomasdiscriminacion.org/wp-content/uploads/2023/08/1%C2%B0-informe-Rompiendo-el-silencio-informe-sobre-violencias-contra-las-personas-LGBTIQ-en-Venezuela-durante-2022-Abril-de-2023-OVV-LGBTIQ.pdf>

¹⁰ Idem

19. **Economic Wellbeing:** with the sample of 555 LGBTIQ+ people surveyed, we found that 390 (70%) are working while the remaining 165 (30%) do not have access to the labor market. Of this working-active population, we find that there are 349 (81%) cisgender people and 41 (19%) who are trans, intersex and non-binary people. However, of those who do not work, we found that 123 (74%) are cisgender people and 42 (26%) are trans, intersex and non-binary people.
20. The gap is notable within these populations, since people with non-heteronormative gender identities and expressions tend to be more excluded from work spaces. 31% of the trans, intersex and non-binary population have faced some type of pressure or discrimination in their work based on sexual orientation, gender identity and expression. Among other relevant data, more than 70% of this population has felt forced to hide or disguise their sexual orientation, gender identity or gender expression at work due to fear of discrimination or negative consequences. For the lesbian, gay and bisexual cisgender population, we found that 128 people surveyed (28%) have experienced pressure or discrimination at work due to their sexual orientation and gender expression. A total of 105 people (22%) have been excluded from work due to their sexual orientation and gender expression. But the most alarming fact is that 328 people (71%) have had to hide their sexual orientation and gender expression for fear of being discriminated against or unfairly fired.
21. When observing salary income within the LGBTIQ+ population, we observe with concern the gap that exists between cisgender LGB and TIQ+ people. As an example are the salary ranges in which it is found that 240 people from the cis LGB population have incomes greater than 100 USD compared to trans, intersex, non-binary and queer people who only 30 of them are in the same range. In the analysis of this information we can highlight the fact that several trans people require financial income to carry out their transition processes. The costs associated with this process are linked to medical, psychological and laboratory support for hormonal evaluation. These have costs greater than 120 USD and must be carried out periodically (quarterly). This finding coincides with the fact that this population begins its transition processes in an uncontrolled manner and with high risks to health and life. Another important element is the unsafe alternatives that this population assumes in order to obtain greater economic income, such as sex work.
22. In some interviews with trans people (mostly women) they share that they have made the decision to engage in sex work to be able to increase their income and cover needs such as food, health, education, gender transition processes, family economic support and savings. to be able to migrate from the country. This represents a serious risk for their lives, since they are documented about how dangerous this job is, since it is carried out directly on the streets and they are exposed to physical, verbal and psychological attacks, mostly by men. Some of them have been injured with blows, knives and threatened with firearms. Sometimes, in order to access people interested in contracting their services, they have sexual relations without protection (condom), which places them in a situation of greater vulnerability, because HIV can be transmitted through sexual relations. This information also has an important element with access to the right to health by trans people, since, by not attending health centers, they do not obtain timely diagnoses, treatments and recovery from the diseases they may suffer from.
23. Homophobic Officials: In Venezuela, high-ranking State officials promote discrimination and pathologization of diverse sexualities through a stigmatizing discourse. The most emblematic cases occurred in the National Assembly when Representative Pedro Carreño and Hugbel Roa (now detained for being involved in acts of corruption) in the session of the National Assembly used the term “faggot” in a derogatory and pejorative manner to refer to politicians of opposition and Cardinal Porras.¹¹

¹¹ PSUV Deputy called Cardinal Porra “homosexual”. 2016. Link: <https://www.youtube.com/watch?v=wwkGhvRFtds>;

24. Unfortunately, these behaviors are not isolated, since in 2012 President Nicolás Maduro himself did it when he was chancellor when he called the opposition “sifrinitos, faggots and fascists”, in 2019 the Minister of Penitentiary Affairs, Iris Valera, through the platform And in 2019, Felipe Mujica, leader of the Movement towards Socialism (MAS), called Gustavo Tovar, a human rights activist in Venezuela, homosexual on several occasions as an insult in the program La Noche on the NTN24 television network.¹²

Suggested recommendations to the Venezuelan State:

Health

1. Raise awareness about LGBTIQ+ people among health personnel who are part of the public care system.
2. Develop standardized protocols with inclusive clinical methods that guarantee care based on respect, recognition of dignity and human rights.
3. Promote content related to LGBTIQ+ people within the universities that train future health professionals.
4. Accompany educational and training projects developed by civil society organizations to reduce stigmas and prejudices around the LGBTIQ+ community.
5. Promote scientific research that allows us to understand the barriers and inequalities that LGBTIQ+ people face within health services.

Education

1. Strengthen the knowledge of teaching, administrative staff and school authorities about LGBTIQ+ issues in childhood.
2. Promote standardized protocols for non-discrimination and prevention of school bullying.
3. Involve civil society organizations in the follow-up and monitoring of cases of harassment or abuse based on sexual orientation, gender identity and gender expression.
4. Maintain a balanced academic curriculum that allows children and youth to understand what LGBTIQ+ people are to increase their social naturalization.
5. Promote a national campaign through educational institutions, State institutions and civil society organizations to reduce myths and stigmas around the LGBTIQ+ community.

Economic Wellbeing

1. Ensure compliance with the Organic Labor Law and sanction discrimination based on people's sexual orientation.
2. Promote a first job policy under an intersectional approach, where all people compete on equal terms.
3. Build tax incentives for those companies that can attract, capture, hire and retain LGBTIQ+ people within their staff.
4. Investigate and legislate on sex work in Venezuela, which occurs and presents different risks and insecurities for those who perform it.
5. Include within the next National Census the characterization of sexual orientation, gender identity and gender expression to know the sociodemographic conditions of the LGBTIQ+ community.

¹² Deputy Pedro Carreño in the National Assembly calls Capriles a “Faggot”. Link: <https://www.youtube.com/watch?v=DKeDFsoGO4w>

VI. ARBITRARY DETENTION CASE OF THE 33 (Articles 9, 17 y 16)

25. On Sunday, July 23, 2023, around 4 in the afternoon, officials of the Bolivarian National Police (PNB), following an anonymous complaint about noise pollution, carried out a raid on the LGBTQIA+ public venue called Avalon Club, dedicated to providing leisure and socialization services such as sauna, bar and similar, and located in the Los Sauces sector of the city of Valencia, Carabobo state.¹³
26. During this day, 33 gay and bisexual men between the ages of 21 and 57 were arbitrarily deprived of liberty, to later be transferred to the main PNB headquarters in the municipality of Los Guayos. Another 6 men who were in the premises were exempt from this procedure either for belonging to other police forces or for giving in to extortion by State agents.¹⁴
27. The police report of the procedure carried out was altered by the officers in charge adding that the 33 gay and bisexual men were participating in an orgy, that they were using psychotropic and narcotic substances, that there were minors, or that pornography was being produced, all stigmatizing assumptions that are incongruent with the facts, and that reflect the stereotypes that permeate the institutions regarding LGBTQIA+ people. In addition to this, they exposed the HIV serological status of the detained people, and including photographs where their faces and full names were easily distinguished, all information together that was disseminated to the media, in violation of their rights to privacy.¹⁵
28. In interviews with the media, the victims have revealed that the detention conditions within the PNB Command Jails were inhumane, since they did not have basic requirements such as toilets and basic health care, and they also faced the continuous abuse and discrimination by the guards, who forced them to urinate and defecate on themselves or go to a bathroom with the door open while they watched them, they also checked their cell phones and made fun of their private messages and video.¹⁶
29. One of the 33 men even developed suicidal tendencies due to the exposure of the case and the effects on his life, another fainted due to syncope in the stressful situations he faced and had to be treated directly by the rest of his colleagues. since no type of medical care was available.¹⁷
30. These circumstances worsened with the transfer to the Palace of Justice for the presentation before a judge, since the guards informed the rest of the prisoners in the facility "that 33 o'clock were coming", exposing their sexual orientation in a pejorative way, and generating Inmates would throw things at them, expose their naked bodies in an aggressive and lascivious manner at them, and insult them. At the facility, the 33 had to request that they all be held together in a cell measuring approximately 2.5 by 2.5 meters and did not have access to basic hygiene and cleanliness requirements.¹⁸
31. On July 25, the Venezuelan Observatory of LGBTQIA+ Violence reported through the social network Twitter that the 33 detained people were waiting for a presentation hearing at the Carabobo Palace of Justice. It is important to note that it has been kept on hold, which is why they point to procedural delays and possible institutional violence. The same source reported

¹³ El Estímulo. “"No hubo orgía ni fiesta": familiar cuenta lo que pasó con los 33 detenidos en Carabobo” de fecha 28 de julio de 2023, recuperado en: <https://elestimulo.com/de-interes/2023-07-28/no-hubo-orgia-ni-fiesta-familiar-cuenta-lo-que-paso-con-los-33-detenidos-en-carabobo/>

¹⁴ La Prensa Lara. “Detuvieron a 33 hombres que participaron en una fiesta sexual en Valencia” de fecha 25 de julio de 2023, recuperado en: <https://www.laprensalara.com.ve/nota/63339/2023/07/detuvieron-a-33-hombres-que-participaron-en-una-fiesta-sexual-en-valencia>

¹⁵ No es SPAM. “Sometieron a 33 personas al escarnio público en Valencia” de fecha 24 de julio de 2023, recuperado en: <https://noesspam.com/someterieron-a-33-personas-al-escarnio-publico-en-valencia/>

¹⁶ WTC Radio en YouTube. “Entrevista exclusiva: Hablan dos de “los 33” detenidos por caso del sauna en Valencia” de fecha 30 de julio de 2023, recuperado en: <https://youtu.be/evV0vFc5fik>

¹⁷ Ídem

¹⁸ Ídem

that despite the hearing having been rescheduled for July 26 in the morning, it had not taken place, so protests were held outside the courts, achieving that only 72 hours after its arrest if his presentation occurs.¹⁹

32. The presentation hearing of the 33 detainees culminated with the court's admission of all the charges brought by the prosecution of "outrage to modesty, crowding and noise pollution" and decided that 30 would be released under presentation regime, while the owner and the 2 masseuses must present guarantors, this during the relevant investigations that the prosecutor's office must carry out to accuse. The three remaining men were released from prison on August 3, 2023.
33. On August 15, 2023, only 30 of the 33 initially detained men were granted a dismissal, however irregularities occurred regarding the content of the report. To date, the State has not shown interest in initiating a reparation process, has not taken non-reparation measures and continues to bring unfounded charges to the administrators of the Avalon location.²⁰

V. Human Rights Violations

34. From the facts previously proposed, it is clear that there were violations of the rights to personal freedom, honor and private life, equality before the law, contained respectively in articles 9.1, 9.3, 15, 17.1, 17.2, 26, of the International Covenant on Civil and Political Rights.
35. In this sense, the violation of the content of articles 9.1 and 9.3 of the Covenant is supported by the absence of flagrancy, given that no crime was being committed, or a judicial order at the time of the detention of the victims, as well as the extension greater than 48 hours for the presentation of the same, action contrary to the national regulation established in article 44 of the Constitution of the Bolivarian Republic of Venezuela, and in articles 232 and following of the Organic Code of Criminal Procedure. clearly constituting an illegal and arbitrary detention. His arrest responded solely and exclusively to his sexual orientation.
36. Furthermore, Article 15 of the Covenant was violated, in the sense that the crime of outrage of modesty does not meet the minimum requirements of the principle of legality. Under the criminal category, "obscene acts" are criminalized, stigmatizing the LGBTIQ+ population under a criminal category whose scope is unpredictable.
37. Accordingly, there is a violation of the content of articles 17.1 and 17.2 of the Covenant when State agents placed photographs with the visible faces of the victims, subjecting them to public ridicule and also exposing their sexual orientation publicly without their consent and to the detriment of their private lives. The protection of private life is also violated as a consequence of the fact that his arrest was carried out as an arbitrary interference with an activity that should not be criminalized.
38. All of these circumstances in the context of persecution and criminalization for reasons of sexual orientation, encouraged by hate speech tolerated and promoted by the State, representing differential treatment, which falls on a group in a vulnerable situation and which generates negative effects, resulting in a discriminatory application of current criminal law.
39. The actions of the State, in addition to violating the human rights of the 33 victims, set a legal and political precedent that legitimized the criminalization of LGBTQIA+ people and the homophobia of the State

Suggested recommendations to the Venezuelan State:

1. Cease the criminal proceedings being carried out against The 33

¹⁹ Ídem

²⁰ Crónica Uno. "Only 30 of the 33 from Avalon received a dismissal" 2023. Link: https://www.google.com/amp/s/cronica.uno/sobreseimiento-a-medias-30-33-avalon-spa/%3famp_markup=1

2. Repeal the crime of outrage to modesty.
3. Adopt measures for the comprehensive reparation of the 33.
4. Adopt measures so that LGBTIQ+ people can develop their personality freely without fear of reprisals.
5. Lean on civil society organizations to strengthen knowledge and tools about the LGBTIQ+ community and stop institutional homophobia.
6. Promote a law against all forms of discrimination that protects all people