



Civil Society Report – Fifth Review of Venezuela within the framework of the 139th Session of the Human Rights Committee

Contribution to the United Nations Human Rights Committee

Situation of Civil and Political Rights in the Andean region - Venezuela

Within the framework of the Fifth Revision of Venezuela of the International Covenant on Civil and Political Rights (hereinafter, "the Covenant" or the "ICCPR") at the 139th Session of the Human Rights Committee (hereinafter, the "Committee"), Venezuelan civil society organizations, we come to you in order to provide you with information and request your consideration regarding the lack of compliance with the obligations derived from the Pact by the Venezuelan State in matters of justice, due process and judicial guarantees. This report is presented by the Human Rights Observatory of the University of Los Andes (ODHULA), EPIKEIA University Observatory of Human Rights, and University of Los Andes Women' Commission, we report to the Human Rights Committee on specific aspects related to the compliance with obligations acquired and derived from the International Covenant on Civil and Political Rights by the Bolivarian Republic of Venezuela, within the areas that concern it.

Situation of Civil and Political Rights in the Andean region - Venezuela

I. Introduction

1. This contribution aims to demonstrate the non-compliance with obligations related to the right to life, prohibition of torture, cruel, inhuman, or degrading treatment or punishment, conditions of detention, personal liberty, and freedom of expression, with special reference to the Andean region (states of Mérida, Táchira, and Trujillo). The documents reviewed include the Human Rights Committee's Concluding Observations on the fourth periodic report (August 2015), the fifth periodic report (September 2021), the list of issues, and the state's responses to the list of issues. The information that highlights the state's non-compliance with its obligations is based on the work conducted by our organization, along with the synthesis of investigations conducted by the Office of the United Nations High Commissioner for Human Rights and the Independent International Fact-Finding Mission on Venezuela.

II. Right to Life (Article 6)

2. In the Concluding Observations on the fourth periodic report of the Bolivarian Republic of Venezuela (CCPR/C/VEN/CO/4), the Human Rights Committee "expressed concern over reports of a very high number of violent deaths in the State party, including cases allegedly committed by law enforcement officials," and recommended that the State "intensify its efforts to prevent and combat violent deaths, including the intensification of actions to disarm the civilian population. It must also ensure that all cases of violent deaths are promptly, thoroughly, independently, and impartially investigated, and that the perpetrators are brought to justice and duly punished."¹
3. In the fifth periodic report submitted by the Bolivarian Republic of Venezuela (CCPR/C/VEN/5) regarding the right to life, the State stated that it "gives high priority to ensuring compliance with the obligation of law enforcement officials, especially in the area of public safety, to act in accordance with the standards of Progressive and Differentiated Use of Force and the Use of Potentially Lethal Force, which establish the use of firearms only in exceptional cases, in accordance with the principles of legality, proportionality, and necessity."² Additionally, it mentioned that "from August 2017 to the first quarter of 2020, the Public Prosecutor's Office accused 731 members of security forces of homicide and charged against 492 of them. A total of 436 were deprived of their liberty. Likewise, the organization initiated 4,890 investigations related to violent deaths occurring during public safety operations. During this period, 118 security agents were convicted of this crime."³

¹ Committee on Human Rights (August 14, 2015). Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela. CCPR/C/VEN/CO/4, para. 11.

² Committee on Human Rights (September 7, 2021). Fifth periodic report that the Bolivarian Republic of Venezuela was supposed to submit in 2018 under Article 40 of the Covenant. CCPR/C/VEN/5, para. 55.

³ Ibid, para. 56.

4. The List of Issues regarding Venezuela's fifth periodic report (CCPR/C/VEN/Q/5) requested the State to "provide information on measures taken, including the relevant legal framework, to prevent enforced disappearances and to punish their perpetrators. Please also inform about measures taken to conduct prompt, thorough, and impartial investigations into all cases of alleged enforced disappearances, including those occurring in the context of detentions and those involving police or state officials, current or former, and to subject the perpetrators to criminal justice proceedings. Additionally, please report on allegations of enforced disappearances recorded during the period under review, including alleged violations committed by the State party as a mechanism of control and intimidation against individuals associated with political opposition, including journalists."⁴ It also requested information on "registered complaints regarding the unnecessary and disproportionate use of force by state agents resulting in extrajudicial executions and other arbitrary deprivations of life during the exercise of public safety tasks."⁵
5. Concerning the State's responses to the List of Issues for its fifth periodic report (CCPR/C/VEN/RQ/5) on the right to life, the State noted that in the "period 2015 – 2022, the Public Prosecutor's Office recorded 455 cases related to the crime of enforced disappearance of persons established in Article 180-A of the Penal Code. Of these cases, 402 are active in the investigative phase, 10 are in the trial phase, 40 have concluded, and 16 were archived by the prosecutor's office. During this period, 71 public officials were indicted, 72 were accused, and 5 public officials were sentenced for this crime. In total, during the same period, the Public Prosecutor's Office requested 2,867 proceedings related to the crime of enforced disappearance of persons."⁶ Regarding extrajudicial executions, it stated that "the MPPRIJP [Ministry of Popular Power for Interior, Justice, and Peace] undertakes actions for the training, education, specialization, and continuous updating of national police force officials, in line with international standards on the progressive use of force."⁷
6. In Venezuela, extrajudicial executions have been perpetrated by law enforcement officials in the exercise of their duties, making arbitrary and disproportionate use of force. Regarding access to public information about such incidents, the State does not publish official information about killings by security forces, as noted by the Independent International Fact-Finding Mission on Venezuela (A/HRC/45/33) in its 2020 report (hereinafter referred to as the Mission).⁸
7. In the absence of official information, according to civil society organizations, from 2012 until June 2022, at least 14,220 alleged extrajudicial executions have been estimated, of which 59% occurred during special security operations, 15% during regular surveillance operations, 13% in alleged flagrancy, and 4% in the context of an alleged operation carried

⁴ Committee on Human Rights (November 28, 2022). List of issues concerning the fifth periodic report of the Bolivarian Republic of Venezuela. CCPR/C/VEN/Q/5, para. 10.

⁵ Ibid, para. 11.

⁶ Committee on Human Rights (June 7, 2023). Responses of the Bolivarian Republic of Venezuela to the list of issues concerning its fifth periodic report. CCPR/C/VEN/RQ/5, para. 69.

⁷ Ibid, para. 70.

⁸ Human Rights Council (September 25, 2020). Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela, A/HRC/45/33, para. 81. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/238/94/PDF/G2023894.pdf?OpenElement>

out following the death of an official (8% of cases did not provide details on the context in which the incident occurred). Regarding the allegedly responsible security force, 30% of cases involve the Scientific, Penal, and Criminal Investigations Corps, 21% correspond to State Police Forces, 17% to the National Bolivarian Police (PNB), including its Special Actions Forces (FAES), 15% to the Armed Forces, 11% to Municipal Police Forces, and 2% involved the Bolivarian National Intelligence Service. In 4% of cases, another security force was involved or there was participation by armed civilian groups with the acquiescence of the State.⁹

8. This context of abusive use of public force is exacerbated in vulnerable regions of the country where the complex humanitarian emergency crisis is most evident. In Mérida, on May 27, 2019, Rosario Pérez, a farmer from the Paramo region, was executed by officers of the National Bolivarian Police while traveling on a motorcycle to her home. The victim was sitting as a passenger in the back, and her ex-husband was driving. The incident occurred in the Paramo road when, after passing a police checkpoint, the officers shot her in the back of the head, mortally wounding her. Her ex-husband, and father of their two daughters, who was driving the motorcycle, managed to escape the police attack by running and hiding behind some bushes.¹⁰
9. On June 8, 2019, Wuilderman Paredes Moreno was extrajudicially executed by an officer of the National Bolivarian Police in the area of Los Llanitos de Tabay in the state of Mérida while waiting in line to refuel his vehicle with gasoline. The vehicle that attempted to transport him to a medical care center was shot 12 times. This case has been characterized by obstruction in seeking those responsible for the crime, involving collusion between prosecutors from the Public Prosecutor's Office and judges from the Control, Trial, and Court of Appeals of the Judiciary. The auxiliary prosecutor Javier Antonio Díaz González failed to fulfill his duty to demonstrate the responsibility of the police officers. The provisional judge Carlos Manuel Márquez Vielma caused procedural disorder, resulting in the inadmissibility due to timeliness of the victim's private prosecution; he also disappeared notification warrants that would demonstrate the procedural disorder caused by him. Judge José Gerardo Pérez Rodríguez freed 5 of the police officers that were involved on the killing of Wuilderman Paredes, including Juan Bautista Cordero Freitez, the police chief who gave the order. The only official that was sentenced was a low grade official. Provisional judge Carla Gardenia Araque did not decide on the appeal filed against the procedural disorder

⁹ COFAVIC (September 5, 2022). "More than 14,000 alleged extrajudicial executions in a decade." Available at: <https://cofavic.org/2022/09/05/mas-de-14-mil-presuntas-ejecuciones-extrajudiciales-en-una-decada/#:~:text=Durante%20el%20a%C3%B1o%202021%20COFAVIC,15%20casos%20de%20presuntas%20torturas%20>

¹⁰ Human Rights Observatory of the University of Los Andes (2019). Extrajudicial executions and serious violations of human rights in state repression in Venezuela with special reference to the Andean region, p. 5. Available at: <https://www.uladdhh.org.ve/wp-content/uploads/2020/02/Informe-Ejecuciones-extrajudiciales-y-graves-violaciones-de-derechos-humanos-en-la-represi%C3%B3n-estatal-en-Venezuela-con-especial-referencia-a-la-regi%C3%B3n-andina-2019-Descargar-1.pdf>. The identity of the victim is protected at the request of the family.

caused by Judge Carlos Manuel Márquez, demonstrating bias and neglect of her duties as a judge.¹¹

10. Venezuelan justice has not fulfilled its duties with the direct victims or with the victims by extension of the act. There have been three trials in this case, the first of which was restarted after the judge of Trial No. 5 of the Criminal Judicial Circuit of the state of Mérida, José Gerardo Pérez Rodríguez, acquitted the police chief who gave the order to shoot and two others, police officers involved in the incident. The three officials, Juan Bautista Cordero Freitez, Freddy Bladimir Rodríguez Carrascal and Daniel Antonio Vivas Alborno were released on April 6, 2021 and since then have been fugitives from justice.¹²
11. As of the date of this report, it is evident that the majority of reported cases of extrajudicial executions remain in impunity due to a lack of transparent and diligent investigations that would lead to the determination of individual criminal responsibilities and compensation for victims, as indicated by the Mission in 2020 (A/HRC/45/33).¹³
12. As for other forms of extreme violence affecting the right to life, from 2021 to August 2023, there have been 39 cases of femicide in the Andean region (states of Táchira, Trujillo, and Mérida), with 64% (25) occurring in 2021, 21% (8) in 2022, and 15% (6) until August 2023¹⁴. These incidents demonstrate the absence of effective measures to prevent and combat gender-based violence.
13. Another deeply concerning threat to the right to life is enforced disappearances, which can constitute a violation of the right to life. In the state of Mérida, the enforced disappearance of Alcedo Mora Márquez was documented on February 27, 2015, after he left his home for a supposed meeting with his boss, then-Secretary of the Government of Mérida, Luis Martínez. Alcedo Mora's eldest son has publicly stated that his father's disappearance occurred after he provided Luis Martínez with evidence of fuel smuggling by PDVSA officials at the El Vigía filling plant in the Alberto Adriani municipality of Mérida. This enforced disappearance is compounded by the enforced disappearance of Eliécer and Jesús Esneider Vergel Prado, who were Colombian nationals and friends of Alcedo Mora, allegedly occurring between March 1 and 2, 2015. Officials of the Bolivarian National Intelligence Service are the primary suspects in these enforced disappearances, and state institutions have not provided updates on these investigations since 2018¹⁵.

¹¹ Human Rights Council (September 25, 2020). Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela, A/HRC/45/33, para. 82. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/238/94/PDF/G2023894.pdf?OpenElement>

¹² Observatory of Human Rights of University of Los Andes (June, 2023) Asesinato de Wuildderman Paredes cumple cuatro años impune y con tres policías prófugos de la justicia. Link: <https://www.uladdhh.org.ve/index.php/2023/06/08/asesinato-de-wuildderman-paredes-cumple-cuatro-anos-impune-y-con-tres-policias-profugos-de-la-justicia/>

¹³ Human Rights Council (September 25, 2020). Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela, A/HRC/45/33, para. 82. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/238/94/PDF/G2023894.pdf?OpenElement>

¹⁴ Monitoring carried out by ODHULA and ULA Mujer. The identification of cases of femicides is based on Article 73 of the Reform of the Organic Law on the Right of Women to a Life Free of Violence and the Latin American Model Protocol for the Investigation of Violent Deaths of Women for Gender Reasons (femicide/feminicide) of UN Women.

¹⁵ Human Rights Observatory of the University of Los Andes (February 27, 2022). "Alcedo Mora and the Vergel brothers: seven years of their forced disappearances." Available at:

14. Additionally, according to General Comment No. 36 (CCPR/C/GC/36), States parties to the International Covenant on Civil and Political Rights also have obligations to prevent suicides¹⁶, especially among individuals in particularly vulnerable situations. Concerning this, the socioeconomic situation in vulnerable regions of the country is worrying, where, according to the United Nations High Commissioner (ACNUD), there are reports of "growing inequalities," with wealth "remaining concentrated in Caracas and some urban areas, leaving behind large segments of the rural population."¹⁷ In the Andean region, in the context of a complex humanitarian emergency and a manifest lack of public policies on suicide prevention, 41 suicides and 25 suicide attempts were recorded from January to August 2023. Regarding suicides, 76% (31) of cases occurred in the state of Mérida, 17% (7) in the state of Trujillo, and 7% (3) in the state of Táchira. Regarding suicide attempts, 88% (22) of cases occurred in the state of Mérida, 8% (2) in the state of Táchira, and 4% (1) in the state of Trujillo¹⁸.
15. The State does not diligently investigate reports of extrajudicial executions, enforced disappearances, and femicides. It fails to implement effective violence prevention policies and does not adequately address the situation of suicides in vulnerable regions of the country. For all the aforementioned reasons, the Venezuelan state has not fulfilled its obligations under Article 6 of the International Covenant on Civil and Political Rights.

III. Prohibition of Torture, Cruel, Inhuman, or Degrading Treatment (Article 7) and Detention Conditions (Article 10)

16. In the Concluding Observations on the fourth periodic report of the Bolivarian Republic of Venezuela (CCPR/C/VEN/CO/4), the Human Rights Committee expressed its concern about alleged human rights violations in the context of demonstrations, including violations of the prohibition of torture, cruel, inhuman, or degrading treatment.¹⁹ Therefore, it recommended that the State "intensify its efforts to ensure effective prevention of acts of torture and ill-treatment and the punishment of those responsible" and "ensure that, in light of Article 9 of the Covenant, persons deprived of their liberty enjoy all fundamental legal safeguards from the outset of deprivation of liberty."²⁰
17. In the fifth periodic report presented by the Bolivarian Republic of Venezuela (CCPR/C/VEN/5) on torture or other cruel, inhuman, or degrading treatment or punishment, the State stated that it "has been fulfilling the obligation to investigate incidents where there is presumed violation of the prohibition of torture and other cruel, inhuman, or degrading treatment. In this regard, between 2017 and the first quarter of 2020, 401 law

<https://www.uladdhh.org.ve/index.php/2022/02/27/alcedo-mora-y-los-hermanos-vergel-siete-anos-de-sus-desapariciones-forzadas/>

¹⁶ Committee on Human Rights (September 3, 2019). General Comment No. 36. CCPR/C/GC/36.

¹⁷ United Nations Human Rights Council (July 4, 2023). Situation of human rights in the Bolivarian Republic of Venezuela. Report of the United Nations High Commissioner for Human Rights. A/HRC/53/54, para. 4.

¹⁸ Monitoring carried out by the Observatory of Human Rights of the University of Los Andes.

¹⁹ Committee on Human Rights (August 14, 2015). Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela. CCPR/C/VEN/CO/4, para. 14.

²⁰ Ibid.

enforcement officers were charged, 325 were accused, and 26 were convicted for this cause."²¹

18. The List of Issues concerning the fifth periodic report of Venezuela (CCPR/C/VEN/Q/5) requested information on the protection of persons "alleging torture and other cruel, inhuman, or degrading treatment from possible reprisals, especially when they are persons deprived of their liberty,"²² as well as access to adequate food, hygiene, and medical assistance in detention centers²³. Regarding the State's responses to the List of Issues concerning its fifth periodic report (CCPR/C/VEN/RQ/5), it is noted concerning torture and other cruel, inhuman, degrading treatment that "since 2017, the Public Ministry has carried out 64,368 fiscal actions to investigate and punish crimes of torture and other cruel, inhuman, or degrading treatment established in Articles 17, 18, and 21 of the Special Law for the Punishment of Torture and Other Cruel, Inhuman, or Degrading Treatment. In the period 2017-2022, 1,486 officials were charged, 993 officials were accused, and 108 officials were convicted."²⁴ Regarding detention conditions, it stated that "Venezuela continued with the construction and adaptation of penitentiary establishments and the implementation of the new penitentiary regime, achieving 98% in establishments for adult males and 100% in establishments for females and entities for adolescents in conflict with criminal law. The policies implemented have allowed for the eradication of overcrowding and the reduction of violence in penitentiary centers."²⁵
19. Despite the claims of the Venezuelan state, patterns of torture, cruel, inhuman, or degrading treatment, as well as deplorable detention conditions, can be observed in various cases assisted and documented by ODHULA, even referred to human rights protection organizations such as the Inter-American Human Rights System and the Universal Human Rights System.
20. The Independent International Fact-Finding Mission on Venezuela (the Mission), in 2020 and 2021, points out in its respective reports that it investigated cruel, inhuman, and degrading treatment of detained individuals that "generally took place during the first days of detention, before the presentation hearing, while the detained person remained incommunicado" (A/HRC/45/CRP.11)²⁶. As an example, it estimated that in "113 out of 183 cases of detentions examined by the Mission, detained individuals or their representatives reported torture, sexual violence, and/or other cruel, inhuman, or degrading treatment" (A/HRC/48/69)²⁷. It is of particular interest that these acts occurred, as the

²¹ Committee on Human Rights (September 7, 2021). Fifth periodic report that the Bolivarian Republic of Venezuela was supposed to submit in 2018 under Article 40 of the Covenant. CCPR/C/VEN/5, para. 73.

²² Committee on Human Rights (November 28, 2022). List of issues concerning the fifth periodic report of the Bolivarian Republic of Venezuela. CCPR/C/VEN/Q/5, para. 13.

²³ Ibid, para. 14.

²⁴ Committee on Human Rights (June 7, 2023). Responses of the Bolivarian Republic of Venezuela to the list of issues concerning its fifth periodic report. CCPR/C/VEN/RQ/5, para. 75.

²⁵ Ibid, para. 81.

²⁶ United Nations Human Rights Council (September 15, 2020). Detailed findings of the international independent fact-finding mission on the Bolivarian Republic of Venezuela. A/HRC/45/CRP.11, para. 279. Available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11_SP.pdf.

²⁷ United Nations Human Rights Council (September 16, 2021). Report of the International Independent Fact-Finding Mission on the Bolivarian Republic of Venezuela. A/HRC/48/69, para. 76. Available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A.HRC.48.69_ES.pdf.

Mission states, "there are reasonable grounds to believe that high-level security authorities knew or should have known that detained individuals in the context of demonstrations were subjected to ill-treatment and torture," which "took place in dozens of military and police detachments. They recurred over the years, especially in 2014 and 2017."²⁸

21. In this regard, we can mention a group of young people who were falsely accused of committing crimes during the social protests between 2014-2017, derogatorily and stigmatizingly referred to by justice system officials as the "guarimba cases." In these cases, detainees were subjected to severe physical and mental suffering intentionally inflicted by public officials in charge of their custody, as described below:
22. Erickvaldo José Márquez Moreno (a ULA Education student), upon his unjust arrest in 2017, upon arrival at the headquarters of the Scientific, Penal, and Criminal Investigations Corps (CICPC) in Mérida, was placed on his back and beaten by everyone who entered, exclaiming at the same time, "Ah! look, we finally got him." During his stay at this center, he was tortured and subjected to cruel treatment: suffocation with bags over his head, electricity on his testicles until he passed out, exposed naked in a cell with rapists, severe beatings, and being tied up by the hands to suspend his body and leave him hanging. He was later transferred to the Custodial Institution of the Merida State Police, where an agent of the Ministry of Penitentiary Affairs, in a talk to prisoners, identified him as an "opposition hitman" and told them, "political prisoners have to be treated specially"; days later, this victim was stabbed several times. He was taken to an office to answer questions, where he was constantly threatened by an official using his weapon and pointing it at his head (sometimes hitting him with it) to force him to answer the questions²⁹. Regarding detention conditions, Erickvaldo Márquez did not receive responses to his requests for health reasons or for a review of his preventive detention measure. He suffered inhumane conditions during his detention, as he was deprived of water and food, was not separated from the convicted inmates, and did not have suitable means for physical exercise and recreation. On several occasions, when he was ill with scabies and COVID-19, medical assistance was denied and obstructed.³⁰
23. Young 1, unjustly detained in 2016, is another example of how torture and cruel treatment were inflicted at the CICPC headquarters in Mérida. He received electric shocks until he passed out, was revived with water, and was then suffocated with a plastic bag over his head, with powdered soap mixed with tear gas powder inside the bag. When he was transferred to the Andean Region Penitentiary Center (CEPRA) after a hunger strike by inmates, motivated by corruption within the prison system, where the director diverted the food allocated to CEPRA, several officials from the Immediate Reaction Team (ERI) of the Ministry of Penitentiary Affairs arrived and beat him with sticks and combs. In addition, a group of female CEPRA and ERI custodians attempted to rape him with broomsticks, and

²⁸ United Nations Human Rights Council (September 15, 2020). Detailed findings of the international independent fact-finding mission on the Bolivarian Republic of Venezuela. A/HRC/45/CRP.11, para. 2066.

²⁹ ODHULA (2022). Human rights violations: "guarimba cases" in the Andean region of Venezuela, pp. 30-31. Available at: <https://www.uladdhh.org.ve/wp-content/uploads/2022/12/5.-Reporte-Casos-Guarimba.pdf>.

³⁰ Observatorio al Aire from November 23, 2021, 2021. Minute 45:45. Available at: https://www.ivoox.com/observatorio-al-aire-23-noviembre-2021-audios-mp3_rf_78965796_1.html.

when he resisted, a group of custodians and ERI personnel beat him. After being struck on the head with a shotgun that knocked him out, he was transferred to the punishment cells of "la máxima," where he remained isolated for 30 days, was not provided with medication, and received only one meal a day³¹. As for detention conditions, this individual was repeatedly denied and obstructed access to food, water, and personal hygiene. He had no place to sleep, walk, or exercise. He claims to have been a victim of political discrimination when prison officials distributed food that arrived at the detention center. He also witnessed prisoners dying of malnutrition, which at one point led to a hunger strike. When he fell ill with tuberculosis, he was not properly attended to and was denied essential medications for his treatment.³²

24. Young 2, detained in 2016, was transported to the Timotes police station without clothing or protective clothing against the cold, where he remained for approximately 3 months before being returned to the Autonomous Police Institute of the state of Mérida (Glorias Patrias headquarters).
25. Young 3, detained in 2016, was injured in the left leg with a knife inside the police station by another inmate, and initially, the police denied him medical assistance.³³
26. Similarly, it was evident that the situation of the mentioned young individuals 2 and 3, in addition to losing six years of their lives in unjust imprisonment, both were victims of repeated violations of their human rights during their detention, including the right to health, compromising their quality of life due to severe infections contracted in prison that were not adequately treated.³⁴ Prison conditions were so precarious that young 2 suffered severe depression to the point of having suicidal thoughts that were not addressed. Young 3 had a tendon in his foot severed and went without medical attention for a considerable period, and when he did receive it, it was inefficient, leaving him incapacitated.³⁵
27. Based on this evidence, it is clear that the State has not considered the previous recommendations made by the Committee. Furthermore, national awareness and training plans on human rights and prevention of torture have not been promoted, nor have meetings been held with responsible individuals and officials of the visited centers to maintain constructive dialogue with the competent authorities. Reports reflecting the observed situations have not been prepared. Worse still, the provisions established in Articles 7 and 10 of the International Covenant on Civil and Political Rights are being violated.

IV. Right to Liberty (Article 9)

27. In the fifth periodic report presented by the Bolivarian Republic of Venezuela (CCPR/C/VEN/5) regarding the right to liberty, the State indicates that it has made efforts to reduce the percentage of individuals in pretrial detention. Among the actions taken, it

³¹ Ibid, p. 31.

³² Ibid, p. 32.

³³ Ibid, p. 32.

³⁴ Idem.

³⁵ Una Ventana a la Libertad (March 29, 2022). "Mother of a political prisoner in Mérida denounces human rights violations and demands her release." Available at: <https://unaventanaalalibertad.org/alertas/madre-de-presos-politico-en-merida-denuncia-violacion-de-dd-hh-y-exige-su-liberacion/>

mentions "the establishment of a high-level coordination committee composed of senior state officials with the aim of promoting the granting of alternative measures to deprivation of liberty. Through this mechanism, in October 2019, 577 precautionary measures substituting for liberty, 10 full liberties, and 19 humanitarian measures were granted in preventive detention centers run by various police forces, as well as in the National Bolivarian Guard commands."³⁶

28. The List of Issues related to the fifth periodic report of Venezuela (CCPR/C/VEN/Q/5) requested information from the State regarding "measures implemented to ensure that pretrial detention is used as a last resort," and also urged the state to "provide information on measures taken to keep the families of detainees informed about their detention and location, transfers they undergo, and the charges against them, and on measures to address judicial delays and frequent adjournments. Please respond to allegations of mass and frequent arbitrary arrests and detentions in the context of peaceful protests and for political reasons."³⁷
29. Regarding the State's responses to the List of Issues related to its fifth periodic report (CCPR/C/VEN/RQ/5), the State only mentioned that the National Assembly passed a set of laws, such as the Organic Law for the Protection of Freedom and Personal Security, "strengthening guarantees of the right to personal freedom through an expedited process that takes place before a specialized court," and a partial reform of the Organic Code of Criminal Procedure "which reinforced the presumption of innocence and the rights of the accused in criminal proceedings, while confirming the nullity of any detention made in violation of the Constitution and the law."³⁸
30. Despite these claims, arbitrary and illegal detentions carried out by state security agencies have been a consistent indicator of repression against dissent and injustice by the State. The OHCHR (A/HRC/41/18) considers that "the Government has used arbitrary detentions as one of the main instruments to intimidate and suppress political opposition and any expression of dissent, real or perceived, at least since 2014."³⁹
31. The 'guarimba cases' previously mentioned are illustrative, highlighting patterns of human rights violations. One of the most striking aspects is the average duration of pretrial detention, which was 1,911 days or equivalent to 5 years, 2 months, and 27 days. Judicial corruption in some of these cases was documented by the Mission in 2021.⁴⁰

³⁶ Human Rights Committee (September 7, 2021). Fifth periodic report that the Bolivarian Republic of Venezuela was required to present in 2018 under article 40 of the Covenant. CCPR/C/VEN/5, para. 89.

³⁷ Human Rights Committee (November 28, 2022). List of issues relating to the fifth periodic report of the Bolivarian Republic of Venezuela. CCPR/C/VEN/Q/5, para. 16.

³⁸ Human Rights Committee (June 7, 2023). Responses of the Bolivarian Republic of Venezuela to the list of issues relating to its fifth periodic report. CCPR/C/VEN/RQ/5, para. 84 and 85 respectively.

³⁹ OHCHR (July 4, 2019). Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Bolivarian Republic of Venezuela, A/HRC/41/18, para. 41. Available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_18_SP.docx

⁴⁰ See Human Rights Observatory of University of Los Andes (September 9, 2021). UN international mission documents human rights violations in Mérida. Available at: <https://www.uladdhh.org.ve/index.php/2021/09/18/mision-internacional-de-la-onu-documenta-violaciones-de-derechos-humanos-en-merida/>

32. One such case is that of Erickvaldo José Márquez Moreno, detained on September 17, 2017, and released on June 29, 2021 (3 years, 9 months, and 16 days). He was detained for an incident that occurred five months earlier, on April 24, 2017, and was brought before the courts for the murder of Jesús Leonardo Sulbarán, who was allegedly a government party official in the state of Mérida. His detention was based on a witness who implicated this student, a witness who was never identified or appeared at the trial. Furthermore, the prosecutor refused to interview witnesses presented by the defense to demonstrate that the detainee was not at the scene of the crime and deliberately dismissed, without written justification, documents provided by the defense.⁴¹
33. On January 27, 2016, citizen A was arbitrarily detained, based on Diosdado Cabello's accusation of the murder of Giselle Rubilar Figueroa on March 8, 2014, during the social protests of that day in the city of Mérida. It was not until March 1, 2022, that his trial concluded (4 years and 14 days), and he was acquitted by provisional judge Yoyreli Mata Granados due to the lack of incriminating evidence. However, on April 23, 2022, citizen A was detained for 4 days in Caracas because he had not been removed from the Integrated Police Information System (SIIPOL). He was presented before the 27th Control Judge of the Caracas metropolitan area and subsequently released on April 26, 2022. He was finally removed from SIIPOL on May 9, 2022.⁴²
34. Citizens B and C were arbitrarily detained on January 21, 2016, and July 6, 2016, respectively, unjustifiably accused of the murder of a National Guard officer that occurred on March 24, 2014, during the protests of that year. On May 13, 2022, provisional judge Lucy del Carmen Terán Camacho of the 1st Criminal Trial Court of the Mérida Judicial Circuit issued an acquittal verdict for B (detained for 6 years, 3 months, and 21 days) and C (detained for 5 years, 10 months, and 8 days), six years after their unjust deprivation of liberty.⁴³
35. Recently, the Inter-American Commission on Human Rights presented a case to the Inter-American Court of Human Rights concerning the violation of the political rights of Mayor D and the illegal detention and torture of his son. Officials from the National Bolivarian Intelligence Service (SEBIN) allegedly forcibly entered the mayor's home without a search warrant and arrested his son without a court order. The son was beaten, threatened, and tortured to obtain information about his father's whereabouts.⁴⁴
36. Two firefighters, E and F, were arbitrarily detained on September 12, 2018, for producing and disseminating a satirical video comparing Nicolás Maduro Moros to a donkey. The video aimed to denounce and highlight the dire situation in the Fire Department. Provisional Judge Carlos Manuel Márquez Vielma granted the requested flagrancy without complying with legal formalities, ordered pretrial detention due to the presumed flight risk, and classified the crimes attributed to the firefighters based on an unconstitutional law. After

⁴¹ See ODHULA (2022). Human rights violations: “guarimba cases” in the Andean region of Venezuela. Available at: <https://www.uladdhh.org.ve/wp-content/uploads/2022/12/5.-Reporte-Casos-Guarimba.pdf>

⁴² Idem

⁴³ Idem

⁴⁴ Inter-American Commission on Human Rights (August 5, 2022). “IACHR presents Venezuela's case on violation of political rights, illegal deprivation of liberty and forced disappearance before the Inter-American Court.” Available at: <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/prensa/comunicados/2022/176.asp>

keeping the officials in detention for 48 days, he issued precautionary measures restricting their freedom and right to travel, as requested by the Prosecutor's Office: periodic reporting to the court's headquarters, prohibition from leaving the state of Mérida, and restrictions on social media expression.⁴⁵

37. Aidaliz Guarisma Mérida, a professor at the School of Performing Arts at the University of Los Andes (ULA), was arbitrarily detained on August 10, 2021, at her residence in Mérida and transferred two days later to the headquarters of the National Bolivarian Intelligence Service (SEBIN) in Caracas, known as the Helicoide. Sixteen days later, she was charged with at least three crimes, and her communication with her family was obstructed on two occasions.⁴⁶
38. Other forms of arbitrary detention demonstrate how the lack of human rights-focused training for public officials can affect personal freedom. Such is the case of Naibelys Noel, who was unjustly detained on August 17, 2019, following the infanticide of her son committed by her former partner, who is also responsible for personal and moral harm to Naibelys Noel.⁴⁷ On July 19, 2023, provisional judge Lucy del Carmen Terán Camacho of the 5th Criminal Trial Court of the Mérida Judicial Circuit sentenced to Naibelys Noel, a victim of vicarious violence by her former partner and victim of gender-stereotyped discrimination by the judge and prosecutor, to 30 years in prison.⁴⁸
39. In none of the cases of abusive pretrial detention were the victims compensated after their release, which means that despite regaining their freedom, the State has not taken responsibility for the harm done to them. Despite formal changes in legislation, they are not reflected in practice, as the use of arbitrary detentions for political reasons persists. This demonstrates the State's inability to train officials with a human rights perspective and, specifically, with specialized differential approaches such as gender. Furthermore, multiple violations of due process for individuals detained under these circumstances have been reported. Therefore, the Venezuelan State is not fulfilling its obligations under Article 9 of the International Covenant on Civil and Political Rights.

V. Freedom of Expression (Article 19)

40. In the Concluding Observations on the fourth periodic report of the Bolivarian Republic of Venezuela (CCPR/C/VEN/CO/4), the Human Rights Committee expressed its concern about "a series of provisions and practices that could have the effect of discouraging the expression of critical views or the publication of critical information in the media and social

⁴⁵ Human Rights Observatory of the University of Los Andes (2019). The firefighters of Mérida. Violation of freedom of expression, due process and judicial impartiality. Thematic report. Available at: <https://www.uladdhh.org.ve/index.php/2019/02/01/informe-los-bomberos-de-merida-vulneracion-a-la-libertad-de-expresion-el-due-process-and-judicial-impartiality/>

⁴⁶ Human Rights Observatory of the University of Los Andes (2021). "ULA professor is imprisoned in Helicoide after arbitrary arrest." Available at: <https://www.uladdhh.org.ve/index.php/2021/08/26/profesora-ula-esta-presa-en-helicoide-tras-detencion-arbitraria/>

⁴⁷ ULA Mujer (1 de septiembre de 2022). "Naibelys Noel: víctima de violencia de género, familiar y del Estado". Disponible en: <https://ulamujer.org/naibelys-noel-victima-de-violencia-de-genero-familiar-y-del-estado/>

⁴⁸ ULA Mujer (19 de julio de 2023). "Jueza condena a 30 años de cárcel a Naibelys Noel, víctima de violencia vicaria". Disponible en: <https://ulamujer.org/jueza-condena-a-30-anos-de-carcel-a-naibelys-noel-victima-de-violencia-vicaria/>

networks on matters of public interest and that could negatively impact the exercise of the right to freedom of expression," including regulatory frameworks that "criminalize defamation and offenses or disrespect towards the President or other high-ranking officials and the widespread monitoring of media content carried out by the National Telecommunications Commission." Therefore, it recommended to the State, among other measures, to "ensure that its legislation is fully compatible with Article 19 of the Covenant; that any restriction on the exercise of freedom of expression, including the exercise of monitoring powers, fully complies with the strict requirements set out in Article 19, paragraph 3, of the Covenant and developed in General Comment No. 34 (...), and that the authorities responsible for enforcing laws related to the exercise of freedom of expression carry out their mandate independently and impartially."⁴⁹

41. In the Fifth periodic report presented by the Bolivarian Republic of Venezuela (CCPR/C/VEN/5) regarding freedom of expression, the State states that "The Constitution of the BRV recognizes and protects the right of every person to freedom of expression (Article 57), and the Venezuelan State respects that right in practice."⁵⁰ It did not provide detailed information on the situation of journalists in Venezuela or on restrictive legislation regarding freedom of expression.
42. The List of issues concerning the fifth periodic report of Venezuela (CCPR/C/VEN/Q/5) requested information on measures taken to ensure that legislation related to the exercise of the right to freedom of expression and freedom of the press, and its restriction, "is fully compatible with the strict requirements set out in Article 19 of the Covenant and developed in General Comment No. 34 (2011) of the Committee."⁵¹ Regarding the State's responses to the List of issues concerning its fifth periodic report (CCPR/C/VEN/RQ/5), it states that "the Venezuelan State respects that right in practice"⁵² and that between 2020 and the first quarter of 2021, "10 new AM radio stations (100% private), 70 FM radio stations (67% public, 24% private, and 8% community) and one open television station"⁵³ were authorized. It did not address the regulatory framework that restricts freedom of expression, which had been a concern of the Human Rights Committee.
43. From 2015 to 2022, civil society organizations documented 2,339 restrictions on freedom of expression, specifically related to seeking, receiving, and disseminating information, establishing a pattern in the actions of the State. Between 2003 and 2022, the closure of at least 285 radio stations nationwide was documented, which amounts to 71% of the total media outlets closed during that period. In 2022 alone, the Government ordered the closure of 81 radio stations nationwide, executed by the National Telecommunications Commission

⁴⁹ Human Rights Committee (August 14, 2015). Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela. CCPR/C/VEN/CO/4, para. 19.

⁵⁰ Human Rights Committee (September 7, 2021). Fifth periodic report that the Bolivarian Republic of Venezuela was required to present in 2018 under article 40 of the Covenant. CCPR/C/VEN/5, para. 142.

⁵¹ Human Rights Committee (November 28, 2022). List of issues relating to the fifth periodic report of the Bolivarian Republic of Venezuela. CCPR/C/VEN/Q/5, para. 20.

⁵² Human Rights Committee (June 7, 2023). Responses of the Bolivarian Republic of Venezuela to the list of issues relating to its fifth periodic report. CCPR/C/VEN/RQ/5, para. 105.

⁵³ Ibid, para. 106.

(CONATEL), making 2022 the year with the highest number of radio stations closed in the last two decades.⁵⁴

44. According to reports from other civil society organizations, in 2022, 107 closures of radio stations were recorded, demonstrating that precisely one of the most used mechanisms to violate the right to freedom of expression during the past year was restrictions imposed by CONATEL through administrative procedures.⁵⁵ The Venezuelan state continues to implement the punitive power of the Public Administration to infringe upon freedom of expression and other human rights.
45. Additionally, in 2022, there were 22 arbitrary detentions for exercising the right to freedom of expression, and in 11 of these detentions, the "Law against Hatred, for Peaceful Coexistence and Tolerance"⁵⁶ was applied. This law was a concern of the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, along with the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, as it has a reasonable likelihood of being used to criminalize dissent, in addition to its ambiguity and the disproportionality of criminal sanctions, which contradicts the principles of international human rights law.⁵⁷ With this type of legislation, the State demonstrates that it does not align its legal norms with the obligations assumed under the International Covenant on Civil and Political Rights, as well as the recommendations of the Human Rights Committee.
46. It is illustrative of the case of two officials from the Fire Department of the state of Mérida, who were arbitrarily detained. In addition to the violation of the right to personal freedom, their freedom of expression was violated because the reason for their detention was the dissemination on social networks of a video in which a donkey could be seen walking through the facilities of the Fire Department headquarters in the town of Apartaderos. The firefighters referred to this animal as if it were President Nicolás Maduro, to whom they were informing about the dire situation at that fire department.⁵⁸ This case was included in the Annual Report of the Inter-American Commission on Human Rights (IACHR), specifically in the report prepared by the Special Rapporteur for Freedom of Expression of

⁵⁴ Espacio Público (May 3, 2023). Report 2022: Situation of the right to freedom of expression and information in Venezuela. Available at: <https://espaciopublico.org/informe-2022-situacion-del-derecho-a-la-libertad-de-expresion-e-informacion-en-venezuela/>

⁵⁵ IPYS VE (March 5, 2023). Journalism under the shadows | Annual Report 2022 IPYSve. Available at: <https://ipysvenezuela.org/2023/03/05/periodismo-bajo-las-sombras/>

⁵⁶ Espacio Público (May 3, 2023). Report 2022: Situation of the right to freedom of expression and information in Venezuela. Available at: <https://espaciopublico.org/informe-2022-situacion-del-derecho-a-la-libertad-de-expresion-e-informacion-en-venezuela/>.

⁵⁷ Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in conjunction with the Office of the Special Rapporteur for Freedom of Expression of the IACHR (January 11, 2018). OL VEN 9/2017. Available at: https://www.ohchr.org/sites/default/files/Documents/Issues/Opinion/Legislation/OL.VEN_11.01.18_9.2017.pdf Pp. 3, 4 and 6.

⁵⁸ Human Rights Observatory of the University of Los Andes (2019). The firefighters of Mérida. Violation of freedom of expression, due process and judicial impartiality. Thematic report. Available at: <https://www.uladdhh.org.ve/index.php/2019/02/01/informe-los-bomberos-de-merida-vulneracion-a-la-libertad-de-expresion-el-due-process-and-judicial-impartiality/>

that Commission. The IACHR determined that "this case constituted a criminalization of freedom of expression with subsequent responsibilities."⁵⁹

47. To these two firefighters, the Public Ministry charged them with the crime of aggravated promotion and instigation of hatred, punishable by 20 years in prison, in accordance with Articles 20 and 21 of the Law against Hatred, a law enacted by the illegitimate National Constituent Assembly on November 8, 2017, which was criticized by the IACHR: "The Special Rapporteurship for Freedom of Expression expresses its grave concern about the approval of 'the law against hatred' in Venezuela and its effects on freedom of expression and of the press," and by Venezuelan human rights NGOs, for being violative of fundamental rights and a mechanism to criminalize freedom of expression.
48. On the other hand, as stated in General Comment No. 34 (CCPR/C/GC/34) on the right to freedom of opinion and freedom of expression, the content of freedom of expression implies the right to seek, receive, and disseminate information and ideas of all kinds, without any borders. This right includes the expression and receipt of communications about all kinds of ideas and opinions that can be transmitted to others, including cultural and artistic expression.⁶⁰
49. In this regard, in May 2023, the theatrical play titled "Nené" was presented at the César Rengifo Theater in Mérida, and the Public Ministry summoned the director of the play and some actors for questioning about the script, which tells a fictional story about the disappearance of a baby at the University Hospital of Los Andes (IAHULA) on July 3, 2019. The director of the play expressed feeling intimidated by the summons from the Public Ministry issued on June 30, 2023, and even more so when public officials interrogated her, telling her that the interviews conducted with her and the actors of the play would be sent to the 14th prosecutor of the Public Ministry of the state of Mérida to review and determine what crimes might be committed in the theatrical piece.⁶¹
50. The Venezuelan State has not implemented the recommendations proposed by the Human Rights Committee and, on the contrary, contradicts all its statements established in its reports and responses to the lists of issues. It is evident how the State attacks and disproportionately restricts freedom of expression through legislative norms and administrative procedures. Therefore, the State does not fulfill its obligations derived from Article 19 of the International Covenant on Civil and Political Rights.

⁵⁹ OAS. Press release R179/17. Special Rapporteur for Freedom of Expression expresses its serious concern about the approval of "the law against hate" in Venezuela and its effects on freedom of expression and the press. www.oas.org/es/cidh/expresion/showarticle.asp?artID=1082&lID=2

⁶⁰ Human Rights Committee. General comment No. 34. CCPR/C/GC/34, para. 11.

⁶¹ Human Rights Observatory of the University of Los Andes (August 8, 2023). "Regime violates the right to artistic freedom with intimidation of the director of a play in Mérida." Available at: <https://www.uladdhh.org.ve/index.php/2023/08/08/libertad-artistica-obra-de-teatro-merida/>

RECOMMENDATIONS

51. With due respect, we request the Committee to demand that the Venezuelan State comply with the following:
52. Update and maintain the National Institute of Statistics (INE) continuously with real and transparent data in all aspects inherent to it.
Publish statistical and verifiable information on extrajudicial executions, forced disappearances, and femicides that have occurred in the country, following transparency and accountability criteria.
53. Take effective measures to combat impunity and diligently investigate reports of extrajudicial executions and forced disappearances to establish the truth of the events, the responsibility of the perpetrators, and the reparation of the victims.
Implement a comprehensive human rights-focused training program for public officials responsible for citizen security, especially with specialized differential approaches regarding the use of public force.
54. Adopt effective measures to prevent femicides, including the reform of criminal legislation and national public policies to ensure that authorities adopt a comprehensive approach.
Strengthen the care and protection of women victims of violence by creating shelters and free specialized medical care services.
55. Implement awareness and education programs in schools and workplaces to raise awareness of and eradicate all forms of violence against women.
56. Adapt the domestic legal framework to international standards on the prevention of torture and other cruel, inhuman, or degrading treatment; especially, ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.
57. Establish effective programs for monitoring and periodic evaluation of the performance of public agents responsible for citizen security.
58. Investigate and determine responsibilities for reports of torture and ill-treatment from the beginning, development, and conclusion of arbitrary detentions of victims.
59. Diligently investigate reports of lack of clean water, adequate food, and medical attention within detention and penitentiary centers.
60. Adopt concrete and effective measures to protect the population from arbitrary detentions.
Reduce the use of pretrial detention through effective institutional reforms in the criminal justice system.
61. Provide timely reparations to victims of arbitrary detention in accordance with United Nations standards.
62. Provide human rights training to officials in the criminal justice system, with specialized differential approaches such as gender sensitivity.

63. Ensure that women have the right to access justice, a fair trial, and without undue delays. Conduct exhaustive investigations into the circumstances surrounding the arbitrary deprivation of freedom of women and take appropriate measures against those responsible.
64. Guarantee the right of victims of arbitrary detention to obtain reparations with a gender-sensitive approach.
65. Economically empower women to help them escape situations of violence.
66. Repeal the "Law against Hatred, for peaceful coexistence, and tolerance" for failing to meet the requirements established in Article 19 of the Covenant.
67. Take concrete measures to prevent the arbitrary use of the punitive powers of the National Telecommunications Commission and prevent the closure of media outlets through administrative procedures.
68. Protect the population, especially journalists, from arbitrary detentions and intimidation by state institutions when exercising their freedom of expression.
69. Ensure the independence of the Judiciary and:
 - Select and appoint judges and prosecutors through public competitive exams that guarantee their independence and suitability for the position, in accordance with international principles in the field and the Venezuelan Constitution.
 - Promote public competitive exams for the selection of judges and prosecutors as the sole means of entry into the judiciary.
 - Refrain from any acts of harassment or intimidation that may influence the administration of justice.
 - Ensure the immovability of both provisional and permanent judges and prosecutors.
 - Repeal legislation that undermines the independence of the judiciary and align it with the National Constitution and international human rights standards.