

Document #2025448

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Annual Report 2019 - Venezuela [AMR 01/1353/2020]

Venezuela continued to experience an unprecedented human rights crisis. Extrajudicial executions, arbitrary detentions, excessive use of force and unlawful killings by the security forces continued as part of a policy of repression to silence dissent. The political and institutional crisis deepened in the first months of the year, resulting in heightened tensions between the Executive under Nicolás Maduro and the Legislature headed by Juan Guaidó. Growing social protest was met with a wide range of human rights violations and an intensification of the policy of repression by the authorities. Prisoners of conscience faced unfair criminal proceedings. Freedom of assembly and expression remained under constant threat. Human rights defenders were stigmatized and faced increasing obstacles in carrying out their work.

Those suspected of criminal responsibility for crimes under international law, some of which may constitute crimes against humanity, and human rights violations enjoyed almost total impunity, resulting in a lack of trust in the judicial system. There are a number of civilians subject to military courts. Interference with judicial independence remained common and isolation from regional human rights forums left victims of human rights violation with few avenues to pursue justice.

The authorities refused to recognize the true scale of the humanitarian emergency and deteriorating living conditions. The population faced severe shortages of food, medicines, medical supplies, water and electricity. By the end of 2019, the total number of people who had fled the country in search of international protection had reached 4.8 million.

High Commissioner of Human Rights’ written report, and Human Rights Council oversight were landmarks for the adoption of a Fact-Finding Mission to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhumane or degrading treatment occurred since 2014, with a view to ensuring full accountability for perpetrators and justice for victims.

The situation of economic, social and cultural rights continued its dramatic decline, economic sanctions were adopted by the USA government on governmental entities on 5 August.

EXTRAJUDICIAL EXECUTIONS

Extrajudicial executions by the security forces, primarily the Bolivarian National Police through its Special Actions Force, continued. Between 21 and 25 January, 11 young men were extrajudicially executed. The killings followed a consistent pattern. Those targeted were all young men who were or were perceived to be critical of the government and came from low-income areas and their participation in protests had been visible or publicized. The authorities claimed the deaths occurred during clashes with police officers and that the victims were “resisting authority”. However, there was evidence that the crime scenes were tampered with.

Since extrajudicial executions appear to be part of a systematic attack against the civilian population, they may constitute crimes against humanity.

A report by the Office of High Commissioner for Human Rights (OCHCR) referred to official figures indicating that there had been 1,569 killings classified as “resistance to authority” between January and 19 May; other sources quoted higher numbers. The OCHCR stated that many of these killings may constitute extrajudicial executions - a crime under international law.

ARBITRARY DETENTION

Arbitrary detentions continued as part of the policy of repression implemented by Nicolas Maduro’s government. During protests in January, more than 900 people were detained in five days, 770 of them in a single day. These detentions may also constitute crimes against humanity, since they seem to be part of a widespread attack against those perceived as dissidents.

Those arbitrarily detained were often subjected to ill-treatment, torture and violations of due process. There were frequent reports of enforced disappearances whereby the authorities confirmed that individuals had been detained, but families and lawyers were unable to discover their fate or whereabouts.

Among those arbitrarily detained was Roberto Marrero, National Assembly President's chief of staff, who was arrested on 21 March and remained held by the Bolivarian National Intelligence Service (SEBIN) in El Helicoide, Caracas, at the end of the year. Member of Parliament Gilber Caro was arbitrarily detained again by SEBIN officers on 26 April and held incommunicado for almost two months before being released on 17 June. No reasons were given for his detention. Later on 2019, Caro was again arrested with journalist Victor Ugas, and brought to Court, allegedly on terrorism charges, although their whereabouts and fate were unknown since police officers denied several times they were under custody. Member of Parliament Edgar Zambrano, first Vice President of the National Assembly, was detained by SEBIN officers in May and held until his release in September.

According to the NGO Penal Forum, by October, 2,182 people had been arbitrarily detained. This NGO considered that 388 people were imprisoned for political reasons, including 18 women and 370 men.

Judicial release warrants were frequently disregarded.

TORTURE AND OTHER ILL-TREATMENT

On 21 June, retired Navy Captain Rafael Acosta Arévalo was detained by the General Directorate of Military Counter-intelligence, although his family and lawyers were not notified of his fate and whereabouts. Eight days after his disappearance, he was taken before a military court bearing clear signs of torture; he died hours later in a military hospital. The Public Prosecutor’s Office opened an investigation and two military officials were charged and convicted of manslaughter; no charges of torture were brought.

The OCHCR’s report indicated that in most cases detainees were subjected to torture, including the application of electric shocks, suffocation with plastic bags, near drowning, or sexual violence, among others.

EXCESSIVE USE OF FORCE

Military and police forces continued to use excessive and, in some cases, intentionally lethal force against demonstrators.

In January, at least 24 people died in violent events surrounding protests. At least 21 died at the hands of public security officials and armed civilians acting with their acquiescence. Given the widespread and systematic patterns of these killings, they may constitute crimes against humanity.

According to the OCHCR report, 66 people died as a result of excessive use of force by police and military officers during demonstrations between January and May.

Reports of illegal raids and arbitrary detentions of demonstrators by security forces were common.

IMPUNITY

According to the OCHCR report, the Attorney General’s Office regularly failed to investigate human rights violations and prosecute those suspected of criminal responsibility, and the Ombudsperson failed to speak out about such violations.

The authorities often discouraged victims from filing formal complaints and the police routinely tampered with crime scenes in cases of extrajudicial executions to ensure impunity for their actions.

JUDICIAL INDEPENDENCE

The authorities continued to interfere in judicial decisions.

Misuse of the justice system to criminalize those perceived as critical of the government was common. High ranking officials routinely stigmatize human rights defenders, and activists.

Similar allegations of a lack of legitimacy regarding the Supreme Court and the National Assembly exacerbated the institutional crisis and lack of trust in the judiciary.

Civilians such as Ruben Gonzalez, a trade union leader, were subjected to military courts investigated and condemned under charges reserved to the military

INTERNATIONAL SCRUTINY

Venezuela continued refusing to allow the Inter-American Commission on Human Rights (IACHR) to visit the country and refused to comply with the decisions of the Inter-American Court of Human Rights and its other obligations under the Inter-American system. However, the IAHR issued 23 precautionary measures and continued to monitor the situation, setting up a Special Monitoring Mechanism for Venezuela (MESEVE).

The UN Human Rights Council appointed the OHCHR to report on the human rights situation in Venezuela. Maduro’s government invited the High Commissioner to visit the country.

The OHCHR’s report described a very alarming human rights situation and was severely criticized by the authorities who accused the OHCHR of bias.

In September, the UN Human Rights Council adopted two resolutions on Venezuela. The first renewed the OHCHR’s mandate to investigate human rights violations and called for a permanent OHCHR presence to be established in Venezuela, which by the end of the year consisted of two officials in the ground. The second established an international Fact-Finding Mission to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhuman or degrading treatment since 2014, with a view to ensuring full accountability for perpetrators and justice for victims. The Fact-Finding Mission was due publish its findings in September 2020.

PRISONERS OF CONSCIENCE

At least six prisoners of conscience continued to be detained or face restrictions on their rights during the year.

The journalist and digital rights defender, Luis Carlos Díaz, was released on 12 March after being arbitrarily detained for 30 hours by SEBIN. He was transferred to a clandestine detention centre for eight hours, then taken to his house to witness a raid

by SEBIN officers, interrogated and ill-treated. His wife was also threatened by officials. At the end of the year, Luis Carlos Díaz faced criminal charges and remained subject to restrictions, including a travel ban, a requirement to register at the local court every eight days and a prohibition on making public statements.

Leopoldo Lopez was released from house arrest by SEBIN officers during an uprising on April. His mobility is still restricted since he is residing as a guest of the Spanish embassy in Caracas, and his family fled the country.

The cases against Geraldine Chacón, Gregory Hinds and Rosmit Mantilla remain open. Villca Fernández continues banned from returning to Venezuela. At the end of the year, Maduro referred to Fernández as terrorist during a TV streaming and called the Peruvian government -as he is currently living in Peru- to arrest him.

FREEDOM OF ASSEMBLY

Excessive force was routinely used to repress peaceful protests. The NGO Venezuelan Observatory of Social Conflict registered 16,739 protests this year, most of them related to economic, social, cultural and environmental rights, especially collective bargaining, food, health, water and other public services.

Armed groups used violence against peaceful protesters and dispersed assemblies commonly.

FREEDOM OF EXPRESSION

Several media outlets critical of the government were the targets of censorship and cyberattacks, as were the websites of human rights organizations. NGOs reported that news sites such as El Pitazo and Efecto Cocuyo were blocked 975 times between January and November.

The local human rights organization Espacio Publico registered 1017 cases of violations of the right to freedom of expression between January and November.

The Press Workers’ Union (SNTP) recorded 244 attacks on freedom of the press between January and June, including censorship, harassment, physical assaults on workers, arbitrary detention and theft of equipment.

By October, 193 people were detained for posting opinions or complaints on social media or in the press. Among them was Pedro Jaimes, who had been arbitrarily detained by SEBIN officers for posting public information about the presidential plane's route on his Twitter account. He was finally released with charges on 17 October after a year and five months in detention.

HUMAN RIGHTS DEFENDERS

Criminalization, threats and attacks by government officials against human rights organizations that engaged with international protection mechanisms continued, particularly through state-owned media channels.

In January, Laura Gallo, head of the Political Prisoners Committee of the opposition Popular Will party and mother of the human rights defender Gabriel Gallo, coordinator of the Penal Forum in Yaracuy, was briefly detained and released on probation.

The online government portal Mision Verdad continued stigmatizing defender Marco Antonio Ponce, a beneficiary of precautionary measures from the Inter-American Commission on Human Rights since 2015. Organizations were targeted on the website of the Television show, *Con El Mazo Dando*, led by Diosdado Cabello, President of the National Constituent Assembly, were regularly used to attack dissidents and to criminalize and stigmatize human rights defenders and activists.

Trade union leader Rubén González was sentenced by a military court to five years and seven months' imprisonment on charges relating to a demonstration. He had been arbitrarily detained in November 2018 following his criticism of the government of Nicolas Maduro.

In September, human rights and humanitarian organizations denounced new barriers to obtaining legal status and operating freely. The Ministry of People's Power for Internal Relations, Justice and Peace, issued express instructions to impede their registration.

Overcompliance of sanctions imposed by US government to government entities affected NGOs capacity to use their funds freely, generating an additional obstacle to defend human rights in the country.

MIGRANTS AND REFUGEES

In December, the UN High Commissioner for Refugees put the number of Venezuelans who had fled the country at 4.8 million in the past few years, more than 14% of the total population. Around three million had fled to other Latin American and Caribbean countries, mainly Colombia (1.4 million), Peru (860,000), Chile (371,000), Ecuador (330,000) and Argentina (145,000). However, this was likely to be an underestimate, as most official data did not include those living abroad without registration.

At least 606,000 Venezuelans had formally sought asylum, mostly in Peru, Brazil and the USA.

Some Latin American states established legal mechanisms to regularize the status of people seeking protection. In practice, however, these were inadequate, creating significant obstacles to legal migration. Many states did not have effective mechanisms

for dealing with asylum requests and some, such as Chile and Peru, restricted Venezuelans’ access to asylum processes, violating people’s right to request international protection.

HUMANITARIAN EMERGENCY

The humanitarian emergency persisted, while the economic measures taken by the authorities proved ineffective. The government continued to refuse to recognize the gravity of the crisis and accept assistance from humanitarian agencies. The flow of people forced to travel to neighbouring countries to access the most basic goods increased.

In August, the US imposed sanctions on Venezuelan government entities. Overcompliance, both within the USA and beyond, with these sanctions led to obstacles in accessing goods in Venezuela, exacerbating the existing scarcity of basic goods and services.

According to the UN Office for the Coordination of Humanitarian Affairs, seven million people in Venezuela were in need of humanitarian assistance.

RIGHT TO HEALTH

Serious shortages in basic health services and medicines, as well as the exodus of health personnel, adversely affected people’s ability to access adequate health care. The increasingly frequent and sustained power cuts caused irreparable damage to health services and infrastructure. NGOs continued to report the re-emergence of diseases that had been under control or eradicated, including measles and diphtheria.

The National Hospital Survey found that, between November 2018 and February 2019, 1,557 people died due to lack of hospital supplies.

People living with HIV continued to highlight the dangers they faced due to the shortage and intermittent supply of antiretrovirals. NGOs reported that 70% of the more than 300,000 people in need of treatment for HIV, were affected by these shortages.

It is impossible to know the full scale of the challenges in accessing health, as the authorities have failed to publish health data in a timely manner. For example, no epidemiological data had been published by authorities since 2017.

SEXUAL AND REPRODUCTIVE RIGHTS

Access to all types of contraception was extremely limited and, in some cities, non-existent. Adolescent pregnancies had increased by 65% since 2015, impacting girls' right to education, according to the OHCHR.

Maternal mortality remained a concern, with reports of deaths resulting from unsafe abortions. The lack of qualified personnel, shortages of medical supplies and poor conditions in hospitals prompted many women to leave the country to give birth.

RIGHT TO FOOD

Hyperinflation and economic and social policies reduced food production and weakened distribution systems. The UN Food and Agriculture Organization reported that 6,8 million Venezuelans were undernourished. Purchasing power decreased drastically, resulting in severe constraints on access to food.

The humanitarian organization Caritas reported high levels of malnutrition among children and pregnant women.

Local organizations complained of violations of the right to food since the main food assistance programme did not cover people's nutritional needs, the quality of the food and the periodicity of its distribution were the main concerns. The authorities also did not allow access to information on the caloric content and quality of the programme.

RIGHT TO WATER

Restricted access to drinking water and sanitation continued to affect a significant part of the population. NGOs reported that, on average, people had access to drinking water only for 48 hours per week, particularly in lower income areas. The degradation of the power grid also impacted on people's access to water during periods of power outages, which affected not only individuals but also health services and morgues, among others.

PRISON CONDITIONS

Prison conditions remained very precarious and reports of inadequate conditions in police detention centres persisted. The Venezuelan Prison Observatory reported 59 deaths in prisons between January and June. Overcrowding and lack of medical attention were the main causes of the spread of disease in prisons.

INDIGENOUS PEOPLES

The rights of Indigenous Peoples were not respected or guaranteed.

On 23 February, in the city of Santa Elena, bordering Venezuela and Brazil, the Bolivarian National Guard used excessive force against Indigenous people going to the border to receive humanitarian aid. The OHCHR confirmed that seven people died and 26 were injured by gunfire by military forces. In the absence of medical supplies, the

injured were taken to a Brazilian hospital. No independent and impartial investigation had been initiated into the incident by the end of the year. Reports showed around 900 Pemon individuals forcibly displaced to Brazil, fleeing from the violence.

The presence of military personnel, organized criminal gangs and armed groups caused violence and insecurity in Indigenous territories in various parts of the country.

Reports of illegal mining continued. Indigenous communities continued to condemn the impact of mineral extraction on their communities and environment.

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Report on the human rights situation covering 2019



Country:

Venezuela

Source:

[AI – Amnesty International](#) ([/en/source/10960.html](#))

Original link:

<https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/>
[\(https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/\)](https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/)

Document type:

Periodical Report

Language:

English

Published:

27 February 2020

Document ID:

2025448

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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

