

**Contribution for the Third Cycle of the Universal Periodic Review of the 40th session
of the United Nations Human Rights Council on Venezuela**

**Situation of human rights defenders: criminalization and violations to the right to
freedom of association, expression and defense of human rights**

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This contribution is presented by the Center for Human Rights Defenders and Justice (CDJ, for its Spanish acronym), founded in 2018, CDJ is a non-governmental organization that protects human rights and works for the strengthening of justice and democratic institutionalism in Venezuela according to the obligations and institutional normative in the matter. Likewise, it promotes the defense and protection of human rights defenders, through the strengthening of their capacities and the safeguarding of their security. The CDJ is dedicated to the research, monitoring and documentation of the situation of human rights defenders in Venezuela, specially the registration of attacks, aggressions and security incidents committed against them. In the same way, it is dedicated to representing and accompanying defenders at risk, before national and international instances.

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I. METHODOLOGY

1. This report aims to provide information regarding the situation of human rights defenders, their criminalization, the violations to the right to freedom of association, expression and the different limitations, restrictions and obstacles to their work according the international obligations from the State. The report was elaborated and based on the monitoring and case follow-up, as well as the revision of legislation and the policies employed by the State in the mentioned areas.

2. During the second cycle of the Universal Periodic Review, the Venezuelan State received five recommendations about cooperation with civil society organizations; seven recommendations in the matter of protection of human rights defenders; and twenty regarding the exercise of the fundamental rights and freedomⁱ. Despite the importance of the organizations and human rights defenders in assisting and accompanying vulnerable populations, victims of abuses and violations to their rights, and the constant calls from international mechanisms of protection in order to protect those who defend human rights, the situation of human rights defenders has worsened with the deepening of a policy of criminalization against the defense of human rights.

II. SYSTEMATIC POLICY OF CRIMINALIZATION TOWARDS THE DEFENSE OF HUMAN RIGHTS

3. The environment for the defense and demand of human rights is increasingly more hostile and adverse. Based on the *Doctrine of National Security*, the State has criminalized and persecuted those who defend human rights, placing them within the logic of the “internal enemy”, **having been documented 770 attacks against human rights defenders and organizations between 2018 and May 2021**ⁱⁱ.

4. Since 2002, a progressive process of adaptation of the Venezuelan legal order has been taking place, through the adoption of factual and legal measures that limit, hinder and criminalize the right to freedom of association, expression and the defense of human rights, and in the same way, the strength and deepen the repression and social control by parallel structures to the State.

5. Similarly, the State has adopted an official narrative centered in a hate and disqualifying speech against organizations and people who promote and defend human rights and carry out humanitarian actions. High ranking state officials stigmatize and criminalize them, accusing them of participating in illicit activities associated with corruption, terrorism, organized crime and promoting interventional and destabilizing actions.

6. The calls on violence contained within the official speech, the legal framework that endorses and supports the criminalization against those who defend human rights, have resulted in attacks that compromise the integrity, life and operability of human rights defenders and organizations. These aggressions do not respond to isolated acts; they situate themselves within a general pattern of attack, consistent with the legal and socio-political environment that allows that officials, State institutions, security bodies and groups members of the Popular System of Protection for Peace (SP3, for its Spanish name) commit aggressions against human rights defenders.

7. The hate speech centered in the stigmatization and criminalization of human rights defenders and organizations, the actions and omissions from institutions and public officials of different ranks, and the existence of a pattern of attack, and the impunity of these actions demonstrate the systematic nature of the Policy of Criminalization.

III. RESTRICTIVE LEGAL FRAMEWORK

8. Contrary to the recommendations directed to the adoption of a normative order that adequate to the international standards in matter of freedom of association and expression, the State continues adopting laws and measures that restrict and affect the free exercise of these rights:

a. Law of Security of the Nation (LOSN), 2002ⁱⁱ, that penalizes activities that the State considers that may disturb or affect the organization and functioning of the installations or the economic and social life of the country. This law has facilitated the application of the *Doctrine of National Security* and in consequence the criminalization and prosecution of human rights defenders and organizations, for being considered as enemies or destabilizing agents.

b. Law against Organized Crime and Terrorism Funding, 2012ⁱⁱⁱ, which classifies in an ambiguous way the crimes of terrorism, terrorism funding and organized crime, and establishes control, supervision, inspection and vigilance of every financial operation considered by the authorities as “unusual or suspicious”. This law has been applied against organizations, and threats of its applications have been registered. Currently this law served as basis for the Administrative Ruling 002-2021, which prequalifies human rights organizations as terrorists.

c. Law of Registry and Enlistment for the Integral Defense of the Nation, 2021^{iv}, in which, legal persons must periodically deliver information regarding their members and activities, and demand for the registration of

their staff. Limiting and holding additional requirements to the freedom of association and acting as a factor that attacks the free development to the right to defend human rights.

d. Decree of State of Exception and Economic Emergency^v, during the 5 years of effect, the instrument was used to provide legality to the *Doctrine of National Security*, justified in the need of protection of the State from internal and external enemies, qualifying with such a term to any person or group that opposes to the interests or guidelines of the government. Since 2016, the attacks against human rights defenders increased as a consequence of the arbitrary and margin of discretion of the State's management. Due to this decree, plans such as the Civic-Military Plan Zamora 200 (2017) and a Red of Socio-Political Action (RAAS) (2018) were implemented, which have acted to institutionalize the figure of informing, allowing the performance of paramilitary collectives in functions of control of public order under the argument of protection of sovereignty and peace, improving the repression system and the control and social intelligence carried out against citizens and human rights defenders.

e. Law Against Hate, Intolerance and Peaceful living^{vi}, promulgated contrary to the constitutional processes and, this law has worked to persecute, harass and prosecute social leaders, journalists and dissidents who demand for the Venezuelan State to fulfill their obligations and respect to their rights. The instrument facilitates the criminalization and prosecution of every person that expresses critical opinion or dissent from the government policies.

f. The Autonomous Service of Registry and Notaries, announced the suspension and limitations of the activities of registry to non-governmental organizations, associations and foundations. In the public announcement they express the ban for registration of constitutive acts, as well as ordinary and extraordinary updates^{vii}.

g. The creation of the National Antiterrorist Corps^{viii}, this body would be in charge of the tactical, intelligence and counterintelligence operations for the prevention of crimes of corruption, organized crime, drug trafficking and terrorism and will use necessary tactical operations in order to “*prevent, repress, neutralize and combat*” these crimes. In relation to the work of human rights defenders and organizations, taking in consideration the institutionalization of *the Doctrine of National Security* as a part of the policy of criminalization, added to the threats perpetrated by different officials, it is worth noting the broadness of discretionary faculties given to the organism in order to inspect, illegally raid, investigate and detain people considered as terrorist, since those who defend human rights are stigmatized and qualified

as terrorists and interventionists, as well criminalized for receiving international cooperation.

h. The State of Alarm declared in March 13th, 2020^{ix}, which during its time of effect has existed along with the State of Exception and Economic Emergency, and worked to deepen and strengthen the social control and the Policy of Criminalization. Through the calls for action to the security organisms, and the parallel structures to ‘neutralize’ those people considered as ‘enemies of the homeland’, aggressions against human rights defenders have increased.

i. The Circular SIB-DSB-CJ-OD-06524 of the Superintendence of Financial Institutions of Venezuela^x, which orders the banks to establish and strength the measures of monitoring financial activities of Non-Governmental Organizations in order to identify those who receive and deliver funds to these organizations and ‘detecting’ unusual activities as legitimization of capitals, terrorism funding and proliferation of massive destructive weapons.

j. Joint resolution of the Ministry of International Affairs and Internal Affairs^{xii}, in which a series of rules and regulations are dictated in order to condition the recognition and functioning of non-governmental associative organizations not domiciled in Venezuela.

k. Administrative Ruling N. ONCDOFT-002-001-2021^{xii}: Posted in the Official Gazette 42.118, where is stated that non-governmental organizations must register in the Unified Register of Obligated Subjects of the National Office against Organized Crime and Terrorism Funding. Under the justification of pretending to control the performance of subjects whose activity is not regulated by a special law, or whose activities that must be supervised, in the article 16 is included that non-profit organizations are forced to present information regarding the activities they carry out.

IV. PATTERNS OF AGGRESSION

9. Contrary to the recommendations of the second cycle oriented to guarantee safe and adequate environments for the defense of human rights, the State has perfected a pattern of attack against those who defend human rights in order to limit their work.

10. The attacks against human rights defenders occur in a systematic manner, inside a pattern of aggression and harassment as a part of the Policy of Criminalization. The CDJ has identified the main patterns: **stigmatization, acts of**

intimidation and harassment; threats; arbitrary detentions; prosecutions; illegal raids and digital attacks.

11. Between 2018 and 2019, 121 aggressions were registeredⁱⁱⁱ. Since January 2020, and May 2021, CDJ documented 649 attacks ^{xiii}: **426 have been acts of stigmatization; 90 have been acts of intimidation and harassment; 50 have been threats; 26 have been arbitrary detentions; 25 have been digital attacks; 14 have been prosecution processes; 8 have been illegal raids and 10 more are placed within the acts of torture, cruel, inhuman and degrading treatment, and enforced disappearances.**

12. The documented attacks have been executed by officials and institutions from the State, security organisms and civilians who the government, members of the Socialist United Party of Venezuela, and groups of the Popular System of Protection for Peace (SP3).

13. Similarly, it is necessary to highlight the role of the pro government media and members of the National System of Public Media, remarking the platform *Con el Mazo Dando*, hosted by the current deputy of the National Assembly and vice-president of the Socialist United Party of Venezuela, the website *Misión Verdad* and the broadcast of *La Hojilla*. Throughout them, campaigns of stigmatization, hate speech, discrediting and threats against human rights defenders and organizations are implemented.

14. Among other perpetrators, there are high ranking state officials, such as: The President of the Republic; the Ministry of Foreign Affairs; the former State representative to the United Nations in Geneva; the Attorney General; the Minister of Defense. Other Ministers, Vice ministers and officials have also perpetrated aggressions.

15. In sight of the systematic attacks, it is worth noting that, frequently, the calls on violence and stigmatizing statements from high-ranking state officials derivate in aggressions that might compromise the life and integrity of people and organizations committed by other actors such as security and intelligence bodies, or civilians' members of the SP3.

16. On the other hand, it is necessary to highlight that the attacks increase significantly in periods in which actions of advocacy and denounce before international organisms are generated.

17. Reprisals are configured as a part of efforts in order to criminalize and hinder international cooperation, for which the State has progressed in the materialization of measures such as requests to financial institutions on information regarding funding

to non-governmental organizations ^{xvi}; As of May, 2021, at least two banks had received said requests throughout circulars incoming from the National Unity of Financial Intelligence. Likewise, after at least 5 threats from high-ranking State officials just during 2020^{xv}, by 2021 the unconstitutionally elected National Assembly, included in its Legislative Agenda the approval of a Law of International Cooperation ^{xvi}.

18. Within the actions in order to criminalize the international cooperation, the humanitarian organizations have been severely affected, being victims of different acts of violence. Highlighting the cases of illegal raid to organizations such as *Prepara Familia*, *Alimenta la Solidaridad*, *Convite A.C*, *Acción Solidaria* and *Azul Positivo*. In the case of the last two, its members were targets of arbitrary detentions, prosecution and other violations to their rights.

19. Impunity prevails in the facts described above, due to the lack of investigation and sanctions of the justice system, which remains silent before such violations. In occasions, it has figured as perpetrators of the attacks.

20. Even though the transgressions and aggressions framed inside the Policy of Criminalization have generated diverse general affectations to the Venezuelan human rights movement, there are people and organizations facing particular situations of vulnerability, which increase the risks of their work under an intersectional focus. Human rights defenders belonging to the LGBTI+ community, women and union leaders are found in a situation of higher risk due to the nature and focus of their mandates and conditions and personal qualities.

V. INTIMIDATION AND REPRISALS FOR COOPERATION WITH INTERNATIONAL MECHANISMS OF PROTECTION

21. As part of the actions to criminalize and restrict the international cooperation, the State has incurred in the commission of reprisals against those who cooperate or are presumable cooperating or interacting with organisms of protection of human rights. In this sense the CDJ has been able to register a total of **70 acts of reprisals since January 2019 until May 2021.**

22. Among the documented cases, we highlight that of the *Observatorio Venezolano de Conflictividad Social* (OVCS, for its Spanish name) and its general coordinator Marco Antonio Ponce. Who have been victims of blockings to their website and campaigns of stigmatization for “providing false and tendentious information” regarding the situation of the right to pacific manifestation and state repression; acts of intimidation and harassment.

23. It is also worth noting, the case of the humanitarian organization *Azul Positivo*, whose office was illegally raided and its members were arbitrarily detained and prosecuted for crimes of criminal association, money laundering, established in the Law against Terrorism funding and Fraudulent Management of Smart Cards, established in the Special Law Against Cyber Crimes. This is due to the activities implemented as partners of agencies and international organizations on the ground, in the framework of the humanitarian response in the state of Zulia. The defenders were released under presentation regime, but the process of prosecution against them is still on-going.

24. In this sense, other organizations have been equally targets of stigmatization and harassment by their actions of incidence and international litigation.

VI. LACK OF COOPERATION AND IMPLEMENTATION OF RECOMMENDATIONS FROM INTERNATIONAL ORGANISMS

25. Within the resolution 42/25^{xvii} the creation of the International Fact-Finding Mission on Venezuela was established, whose mandate was renewed for two years with the resolution 45/20^{xviii}. To the date, the State has not cooperated with the mandate of the Mission, by banning its access to the country to carry out the investigation. On the contrary, officials and public institutions, including the Ministry of International Affairs, have dedicated to disqualify the reports and findings presented by the Mission.

26. The Venezuelan State has not fulfilled the recommendations emitted by the OHCHR in the matter of protection to defenders and the exercise of fundamental freedoms. Since 2019, the OHCHR and recently the International Fact-Finding Mission has emitted 8 recommendations^{xix} regarding this subject, which the State not only has ignored, but also has dedicated to aggravate the situation of criminalization and restriction of the civic space.

VII. RECOMMENDATIONS

27. Derogate, disarticulate and lift immediately the legal and factual measures that restrict, limit and criminalize the exercise of the freedom of association and the right to defend human rights.

28. Immediately cease the Policy of Criminalization, prosecution and stigmatization against those who defend human rights.

29. Give full recognition to the work of human rights defenders.

30. Investigate and sanction the perpetrators of aggressions committed against human rights.

31. Provide capacity-building for security organisms and State institutions to the respect and guarantee of the legit work of those who defend human rights.

32. Guarantee safe and adequate environments for the exercise of the defense and exigency of human rights.

NOTES

ⁱ **Annex I:** Report: Situation of human rights defenders in Venezuela – Year 2020. Center for Human Rights Defenders and Justice

Annex II: Report: Situation of human rights defenders in Venezuela –First trimester of 2021. Center for Human Rights Defenders and Justice

Annex III: Report: Situation of human rights defenders in Venezuela – April, 2021. Center for Human Rights Defenders and Justice

Annex IV: Report: Situation of human rights defenders in Venezuela – May, 2021. Center for Human Rights Defenders and Justice

ⁱ A/HRC/34/6. Available in: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/441/47/PDF/G1644147.pdf?OpenElement>

ⁱⁱ Gaceta Oficial Ordinaria N° 37.594 del 18 de diciembre de <http://historico.tsj.gob.ve/gaceta/diciembre/181202/181202-37594-01.html>

ⁱⁱⁱ Gaceta Oficial Ordinaria N° 39.912 del 30 de abril de 2012. En: <http://historico.tsj.gob.ve/gaceta/abril/3042012/3042012-3417.pdf#page=2>

^{iv} Gaceta Oficial N° 40.440 del 25.06.14. Sustituye la anterior Ley de Concrispcción y Alistamiento Militar. En: <http://historico.tsj.gob.ve/gaceta/junio/2562014/2562014-4009.pdf#page=2>

^v Gaceta Oficial Extraordinaria N° 6.227 del 16 de mayo de 2016. En: <https://albacidad.org/wp-content/uploads/2016/05/312792311-Gaceta-Oficial-Extraordinaria-N%C2%BA-6-227-pdf.pdf>

^{vi} Gaceta Oficial No41.274, del 8 de noviembre de 2017. En: <http://espaciopublico.org/wp-content/uploads/2017/10/Borrador-Ley-contra-el-odio-la-intolerancia-y-por-la-convivencia-pac%C3%ADfica.pdf>

^{vii} OL VEN 6/2019. Disponible en: <https://spcommreports.ohchr.org/TMRResultsBase/DownloadPublicCommunicationFile?gId=24894>
Respuesta del Estado

^{viii} Gaceta Oficial n.o 41.828 del 27 de febrero de 2020. En: http://spgo.inprentanacional.gob.ve/cgi-win/be_alex.cgi?Documento=T028700032593/0&Nombrebd=spgo.in&CodAsocDoc=2097&Sesion=314179497

^{ix} Decreto N° 4.160, Gaceta Oficial N° 6.519 del 13 de marzo de 2020.

^x Circular SIB-DSB-CJ-OD-06524 del 20 de noviembre. Disponible en: <http://www.mppef.gob.ve/wp-content/>

^{xi} Gaceta Oficial n.o 41.994 del 27 de octubre de 2020

^{xii} Gaceta Oficial Nro. 42.118 del 3 de mayo de 2021. Disponible en: http://spgo.inprentanacional.gob.ve/cgi-win/be_alex.cgi?Documento=T028700035845/0&Nombrebd=spgo.in&CodAsocDoc=2526&TipoDoc=GCTOF&t05=png&TSalida=I&Sesion=164964439&T05=PDF&T04=0

^{xiii} Center for Human Rights Defenders and Justice. Situation of human rights defenders in Venezuela. Year 2020. Available: <https://centrodefensores.org.ve/?s=08>

Center for Human Rights Defenders and Justice. Situation of human rights defenders in Venezuela. First trimester of 2021. Available: <https://centrodefensores.org.ve/?p=188>

Center for Human Rights Defenders and Justice. Situation of human rights defenders in Venezuela – April, 2021. Available: <https://centrodefensores.org.ve/?p=225>

Center for Human Rights Defenders and Justice. Situation of human rights defenders in Venezuela – May, 2021. Available: <https://centrodefensores.org.ve/?p=268>

^{xiv} Circular SIB-DSB-CJ-OD-06524 del 20 de noviembre. Disponible en: <http://www.mppef.gob.ve/wp-content/>

^{xv} Con el Mazo Dando, programa 289. Cartelera informativa. Minuto 59:00:00 al 1:01:10. Disponible en:

https://www.youtube.com/watch?v=0bOU_oXX73M

Con en el Mazo dando, programa 294. 28.03.20. Minuto 1:30:22 al 1:32:35. Disponible en:

<https://www.youtube.com/watch?v=UFmNCoiqjkd&pbjreload=10>

Con el mazo dando. 04.11.20. Minutos 1:28:22 – 1:30:21 Disponible en: <https://www.youtube.com/watch?v=AasZ4SNi4Y4>

Con el mazo dando. 18.11.20. Minutos 1:14:29 – 1:18:46. Disponible en: <https://www.youtube.com/watch?v=hw86eqoJ0kY>

Con el mazo dando. 09.12.20. Minutos: 2:17:55 - 2:20:01. Disponible en: <https://www.youtube.com/watch?v=vevJMjoeuGg>

^{xvi} Asamblea Nacional. Presentarán Proyecto de Ley de Cooperación Internacional. 15.04.21. Disponible en:

<http://www.asambleanacional.gob.ve/noticias/presentaran-proyecto-de-lev-de-cooperacion-internacional>

^{xvii} A/HRC/RES/42/35. En: <https://undocs.org/A/HRC/RES/42/35>

^{xviii} A/HRC/RES/45/20. En: <https://undocs.org/es/A/HRC/RES/45/20>

^{xix} A/HRC/41/18. Recomendaciones e); f); k). Disponible en:

https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_18_SP.docx

A/HRC/44/20. Recomendaciones a); b); d); e). Disponible en:

https://www.ohchr.org/Documents/Countries/VE/A_HRC_44_20_UnofficialVersion_SP.pdf

A/HRC/45.CRP.11. Recomendación a). Disponible en:

https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11_SP.pdf

ⁱⁱ "Enemigos internos" - La defensa de derechos humanos bajo ataque, el cual evidencia las principales causas de vulnerabilidad de las personas defensoras de derechos humanos. Disponible en: <https://www.omct.org/es/recursos/reportes/internal-enemies-the-open-season-on-human-rights-defenders>

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Centro para los Defensores y la Justicia. Situación de personas defensoras de derechos humanos en Venezuela – Primer trimestre de 2021. Disponible en: <https://centrodefensores.org.ve/?p=188>

Centro para los Defensores y la Justicia. Situación de personas defensoras de derechos humanos en Venezuela – Abril 2021. Disponible en: <https://centrodefensores.org.ve/?p=225>

Centro para los Defensores y la Justicia. Situación de personas defensoras de derechos humanos en Venezuela – Mayo 2021. Disponible en: <https://centrodefensores.org.ve/?p=268>

ⁱⁱⁱ "Enemigos internos" - La defensa de derechos humanos bajo ataque, el cual evidencia las principales causas de vulnerabilidad de las personas defensoras de derechos humanos. Disponible en: <https://www.omct.org/es/recursos/reportes/internal-enemies-the-open-season-on-human-rights-defenders>