



THE SITUATION OF HUMAN RIGHTS DEFENDERS

VENEZUELA

UPR Briefing Paper - March 2016

In their last Universal Periodic Review (UPR) in October 2011, Venezuela received seven recommendations regarding human rights defenders (HRDs) and 14 recommendations regarding freedom of expression and opinion, freedom of assembly, and freedom of the press.¹ Despite the role of civil society in shaping the 1999 Constitution and its recognition of the importance of human rights,² the situation for the defence of human rights has worsened, with numerous laws restricting independent NGOs, high level stigmatisation campaigns against HRDs, and the repression of social protest.

This paper was co-authored by the international NGOs International Service for Human Rights and Front Line Defenders, together with Civilis Derechos Humanos and the Human Rights Centre of the Universidad Católica Andrés Bello, in Venezuela.

RISKS FACING HUMAN RIGHTS DEFENDERS

- Numerous laws have closed civil society space while constant defamation suits, arbitrary regulation of media outlets, and excessive and unlawful use of force have constrained freedom of the press, freedom of assembly and freedom of expression.
- The Government has directed a stigmatisation campaign against HRDs whilst also curtailing access to justice through impunity, a lack of judicial independence, and withdrawing from the Inter-American Court of Human Rights.
- Labour leaders, demonstrators, journalists, indigenous leaders and HRDs working on economic, social and cultural rights face heightened risk, as do HRDs denouncing human rights violations perpetrated by police or military forces and other government agents.
- HRDs resorting to international mechanisms have been subjected to reprisals, and systematically harassed and persecuted by public officials and State-run media outlets.
- Arbitrary detention has been used to hamper the work of defenders. In 2014, well-known defenders including Marcelo Crovato, Eliecer Jiménez, Rodrigo Diamanti, Rosmit Mantilla and members of Venezuela Diversa were all arbitrarily detained.³

- 2015 was a particularly dangerous year for HRDs in Venezuela, as shown by the granting by the Inter-American Commission on Human Rights, within 12 months, of four precautionary measures for the protection of nine HRDs and their organisations.⁴

OFFICIAL RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- Several human rights organisations have been threatened with sanctions under the 2012 Law against Organised Crime and Financing Terrorism (*Ley contra la Delincuencia Organizada y Financiamiento al Terrorismo*). This law contains vague and overbroad definition for crimes such as terrorism and allows for excessive governmental access to, and control over, the finances of NGOs.⁵
- The 2014 Law for Registering and Enlisting for the Integral Defence of the Nation (*Ley de Registro y Alistamiento para la Defensa Integral de la Nación*) contains provisions which could allow for military oversight of civil society organisations.⁶
- The Law for the Defence of the Political Sovereignty and National Self-determination (*Ley de Defensa de la Soberanía Política y Autodeterminación Nacional*) prohibits organisations from receiving international funding.
- In 2013 the Government created a special commission to investigate financing of organisations and individuals that 'aim to

generate social commotion and coup plans against the Government'. In the context of consistent Governmental stigmatisation, this law has served to further criminalise the work of NGOs and HRDs.⁷

- The 2002 National Security Law (Ley de Seguridad de la Nación) criminalises any activity 'which disturbs or affects the organisation and functioning of facilities of the economic and social life of the country' in 'Security Zones'. This has been widely abused to unduly restrict freedom of assembly, with 30% of Venezuela considered as a 'Security Zone'.⁸
- Attempts continue to pass a Bill on International Cooperation (Proyecto de Ley de Cooperación Internacional) that could unreasonably limit the possibility of NGOs accessing funds from international sources. Under this proposed law NGOs would have to meet 'guidelines and policies to be established by the President' in order to receive funds. In addition, the Bill is ambiguous and creates a clear risk of arbitrariness and discretion by public authorities.⁹
- Resolution 008610 permits the Venezuelan armed forces to use lethal firearms during protests in clear violation of international human rights law.¹⁰ During the 2014 protests, 43 people died, 878 were injured and more than 3,000 jailed.¹¹
- The Supreme Court of Justice has limited the participation of civil society organisations in public affairs, upholding the Government's decision to restrict NGOs' financing, members' national origin, type of organisation, and regulations.¹²
- A range of laws, decrees and Supreme Court jurisprudence were used to justify the arbitrary detention of protesters throughout 2014 and criminalise the rights to freedom of opinion and peaceful assembly.¹³

INTIMIDATION AND REPRISALS AGAINST DEFENDERS ACCESSING INTERNATIONAL HUMAN RIGHTS MECHANISMS

- A group of United Nations and Inter-American human rights experts have openly deplored Venezuela for stigmatising HRDs who submitted reports and gave testimony to the UN and regional human rights bodies.¹⁴ Both national and international NGOs, including ISHR, were subject to defamatory statements by the President of the National Assembly on television in connection with their cooperation with the UN.¹⁵
- In March 2015, a number of HRDs reported being intimidated and followed upon returning to Venezuela after attending sessions at the Inter-American Commission on Human Rights.¹⁶
- Judge Maria Lourdes Afiuni was arrested after ordering the conditional release of an individual whose detention, following consideration by the UN Working Group on Arbitrary Detention, was considered to be arbitrary.

- During her three year detention, she was reportedly assaulted, intimidated and raped by a Government agent.¹⁷

HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- At least 30 trade union leaders were killed between 2009 and 2010.¹⁸ Since 2005, approximately 150 workers and union leaders have been subjected to criminal proceedings for exercising their right to strike.¹⁹
- It has become increasingly dangerous to use public protest to demand rights in Venezuela. Demonstrators are criminalised, watched and harassed, with the widespread use of State-informants, 'Cooperating Patriots,' and militia groups affiliated to the ruling party.²⁰ During the 2014 protests, security forces allowed, and openly collaborated with, armed pro-Government gangs to attack protesters.²¹
- The extensive monitoring of media content by the National Telecommunications Commission and broad defamation laws place journalists at risk of serving jail time.²² Additionally, during the 2014 protests, security forces targeted individuals who had been taking photographs or filming protests.²³
- The high number of security requests to Front Line Defenders from Venezuelan HRDs or organisations working on gender and sexuality and indigenous issues, suggest they face heightened risks.²⁴ In some cases of LGBT defenders, the risks they have faced have led to the need for the HRDs to leave the country.
- Indigenous rights defenders fighting for recognition of their ancestral lands and rights face heightened risk, a situation that is particularly under-reported in the country. The situation led to the assassination of the indigenous leader Sabino Romero in 2013²⁵ while other indigenous leaders face several threats.²⁶
- Various HRDs from the organisation Observatorio Venezolano de Prisioneros (OVP) have been targeted on several occasions,²⁷ culminating in 2016 with the killing of human rights lawyer Mr. Héctor Sánchez Losada who worked alongside OVP members.²⁸

THE RESPONSE OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- After having denounced the American Convention on Human Rights, in 2013, the Venezuelan Government officially withdrew from the Inter-American Court of Human Rights thus depriving HRDs of this recourse.²⁹
- Many HRDs have been publicly accused by State-run media and by high-level officials of conspiracy, treason and attempt to destabilise the country and/or to overthrow the current Government, affiliate with criminal organisations, and incite violence.³⁰ In the cases Front Line Defenders reported, attempts

to portray HRDs as criminals and defame the HRDs were made by the President himself, the President of the National Assembly, the Minister of Interior and Justice, the Minister for Information and Communication, the Minister of Prison Services and the Deputy Minister of Environment.³¹

- Since 2014, the President of the National Assembly has hosted a weekly show on national television accusing, defaming, and slandering human rights defenders as 'anti-patriotic' and corrupt. In 8 months, 578 individuals have been targets of televised accusations.³²
- The fact that stigmatisation campaigns are carried out through State-run media with such broad reach is particularly concerning, as it has had the effect of inciting further threats and attacks against HRDs (such as attacks on the street, to their children at school, and robbery).
- President Nicolas Maduro publicly announced he was unapologetic about his Government's response to opposition protesters³³ while

acknowledging that Government security forces committed human rights violations in responding to protests.³⁴ However, to date, only three law enforcement officials have been convicted of ill-treatment.³⁵

- The judiciary has failed to fulfil its role as a safeguard against abuse of state power acting instead as a highly politicised body. Civil society have accused prosecutors and judges of routinely turning a blind eye to evidence suggesting abuse of detainees, of failing to scrutinise evidence that had been planted or fabricated by security forces, and the Attorney General of routinely ignoring complaints made by defenders and demonstrators.³⁶
- There is a particular concern over the impunity in which crimes against HRDs remain, while the specific component of human rights work is not taken into account when the attacks and threats faced by the defenders are investigated. In a country with such high levels of violence and crime, there is a risk that attacks against defenders are swiftly dismissed as common crime.

RECOMMENDATIONS TO THE GOVERNMENT OF VENEZUELA

- Develop and enact specific laws and policies to recognise and protect the work of HRDs and which give full force and effect to the international Declaration on Human Rights Defenders at the national level.
- Refrain from defaming and stigmatising HRDs and ensure public statements by State officials which recognise their important and legitimate work.
- Guarantee the right of safe and unhindered access to international human rights mechanisms and condemn and punish acts of intimidation and reprisals against HRDs who engage with the UN and regional human rights bodies.
- Combat impunity by ensuring the prompt, thorough and impartial investigation of all violations against HRDs, the prosecution of perpetrators, and access to effective remedies for victims. Ensure that the human rights work is considered as a line of investigation for attacks against human rights defenders.
- Ensure justice for all victims of excessive use of force during the 2014 protests.

- Guarantee that State security officials are trained in the safe management of public protests, in line with the recent report by the UN Special Rapporteurs on Extrajudicial Killings and on Freedom of Assembly and Association.
- Accept the contentious jurisdiction of the Inter-American Court of Human Rights by announcing a return to the American Convention on Human Rights.
- Ensure a safe and enabling legal environment for human rights defence, including by amending or repealing the Law against Organised Crime and Financing Terrorism, the Law for Registering and Enlisting for the Integral Defence of the Nation, the Law for the Defence of the Political Sovereignty and National Self-determination, the National Security Law, and Resolution 008610.
- In 2015 Venezuela was re-elected to the Human Rights Council and held largely free legislative elections. Human rights defenders and civil society will be vital in ensuring that the future of the country is a democratic one in which rights are protected. The UPR will provide an opportunity for the Government to make a public commitment to their protection and for States to make recommendations and hold them to account in this regard.

1. United Nations General Assembly, 'Report of the Working Group on the Universal Periodic Review: Venezuela (Bolivarian Republic of),' 7 December 2011 at http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-12_en.pdf
2. Constitution of the Bolivarian Republic of Venezuela, Title III, Art. 19 (stating, "The State shall guarantee to every individual, in accordance with the progressive principle and without discrimination of any kind, not renounceable, indivisible and interdependent enjoyment and exercise of human rights. Respect for and the guaranteeing of these rights is obligatory for the organs of Public Power, in accordance with the Constitution, the human rights treaties signed and ratified by the Republic and any laws developing the same").
3. Informe elaborado por Organizaciones del Movimiento de Derechos Humanos en Venezuela para consideración de la CIDH sobre la situación de los defensores y defensoras de derechos humanos en Venezuela, durante el 156° Período de Audiencias de la Comisión at https://issuu.com/proveaong/docs/informe_defensores_venezuela_cidh.d
4. Inter-American Commission on Human Rights, 'Precautionary Measures' at <http://www.oas.org/en/iachr/decisions/precautionary.asp>
5. Supra No 3.
6. Ibid.
7. Ibid.
8. Ibid. (noting that 'according to a study by the NGO Control Ciudadano, 30 % of the country could be considered as a Security Zone'); Ley de Seguridad de la Nación at http://www.ceedcds.org.ar/Srd-LibBL/VEN/Ley_Seguridad_Nacion.pdf
9. <http://www.omct.org/es/human-rights-defenders/statements/venezuela/2015/11/d23488/>
10. Amnesty International, 'Venezuela: the faces of impunity: a year after the protests, victims still await justice,' 24 March 2015 at <https://www.amnesty.org/en/documents/amr53/1239/2015/en/> (noting that "given the numerous serious human rights violations resulting from the excessive use of force by state agents, considering using all sections of the armed forces in public order operations is of grave concern. International standards clearly state that the use of the armed forces for internal policing operations should be considered only in clearly defined exceptional circumstances, and that should such deployments take place, excessive force must not be used and the right to life and physical integrity must be respected at all times.")
11. Article 19, 'Venezuela: Is it now legal to shoot protesters?,' 25 February 2015 at <https://www.article19.org/join-the-debate.php/205/view/>; Amnesty International, 'Venezuela: Lack of justice for protest abuses gives green light to more violence,' 24 March 2015 at <https://www.amnesty.org/en/latest/news/2015/03/venezuela-lack-of-justice-for-protest-abuses-gives-green-light-to-more-violence/> and El Universal, 'Foro Penal: Hay que resarcir el daño a detenidos inocentes,' 13 July 2014 at <http://www.eluniversal.com/nacional-y-politica/140713/foro-penal-hay-que-resarcir-el-dano-a-detenidos-inocentes>
12. Inter-American Commission on Human Rights, 'Second Report on the Situation of Human Rights Defenders in the Americas,' 31 December 2011 at <https://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf> ; Supreme Court of Justice of Venezuela, Constitutional Chamber, Office of the Human Rights Ombudsman v. the National Legislative Commission, Judgment of June 30, 2002, Governors v. Minister of Finance, Judgment of November 21, 2000.
13. Reform of the Telecommunications Act of 20.12.10; Law and Social Responsibility in Radio, Television and Electronic Media, the 20.12.10; Popular Defence Act against hoarding, boycott and any other conduct affecting the consumption of food or products subject to price controls, 2007; Reform Law of Political Parties, Public Meetings and Demonstrations, 2010; Decree 281 of February 17, 2014, issued by the mayor of Caracas Jorge Rodríguez. In 2014, the Supreme Court issued a judgment that 'any assembly, demonstration or meeting public who does not have the prior endorsement of the authorization by the relevant competent authority to do so may result in the police and security and control of public order to ensure the right to free movement bodies other constitutional rights (...) and may disperse these concentrations with the use of the most appropriate mechanisms to do so, under the provisions of the Constitution and the legal order.' Human Rights Watch, ' Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System,' 22 March 2014 at <https://www.hrw.org/report/2014/05/05/punished-protesting-rights-violations-venezuelas-streets-detention-centers-and>
14. United Nations Human Rights Office of the High Commissioner, 'High time to pull the plug on televised reprisals against Venezuela,' 22 July 2015 at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16259&LangID=E>
15. International Service for Human Rights, 'Venezuela: End stigmatisation and reprisals against human rights defenders,' 22 July 2015 at <http://www.ishr.ch/news/venezuela-end-stigmatisation-and-reprisals-against-human-rights-defenders>
16. Among those who suffered the intimidatory acts are Mr. José Gregorio Guareñas, General Coordinator of the Vicaria de Derechos Humanos; Ms Liliana Ortega, President of the Comité de Familiares de las Víctimas de los Sucesos; Mr. Humberto Prado Sifontes, Director of OVP; Mr. Rafael Uzcátegui, Coordinator of PROVEA; Mr. Jonathan Matheus of Venezuela Diversa and Ms Quiteria Franco of the Red de Lesbianas, Gays, Bisexuales, Trans e Intersexuales de Venezuela. See also: <https://www.frontlinedefenders.org/en/statement-report/new-threats-and-intimidation-against-human-rights-defenders>
17. Human Rights Foundation, 'The Case of Maria Lourdes Afiuni Mora,' 17 January 2013 at <https://humanrightsfoundation.org/uploads/Legal-Report-Case-Maria-Lourdes-Afiuni-Mora.pdf>
18. Supra No 12.
19. Foro por la Vida, 'Alternative report on implementation of the Covenant on Civil and Political Rights,' June 2015 at http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/VEN/INT_CCPR_CSS_VEN_20595_E.pdf
20. Supra No 3.
21. Human Rights Watch, 'Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System,' 22 March 2014 at <https://www.hrw.org/report/2014/05/05/punished-protesting-rights-violations-venezuelas-streets-detention-centers-and>
22. Committee to Protect Journalists, 'Venezuelan columnist sentenced to prison for defamation,' 14 June 2010, available at: <http://www.refworld.org/docid/4c-2b5e1322.html>
23. Supra No 21.
24. According to the requests received by Front Line Defenders through the emergency program and the constant contact with HRDs in the Country.
25. <https://www.frontlinedefenders.org/en/case/case-history-sabino-romero-izarr>
26. 'Grupo de Trabajo sobre Asuntos Indígenas (GTAI): Comunicado sobre Benjamin Perez,' 4 February 2016 at <http://www.derechos.org/ve/2016/02/04/grupo-de-trabajo-sobre-asuntos-indigenas-gtai-comunicado-sobre-benjamin-perez/>
27. <https://www.frontlinedefenders.org/en/case/case-history-humberto-prado-sifontes>
28. <https://www.frontlinedefenders.org/en/case/case-history-hector-sanchez-losada>
29. American Convention on Human Rights, 'Government of the Bolivarian Republic of Venezuela Ministry of the Popular Power for Foreign Affairs of the Bolivarian Republic of Venezuela: Note 000125,' 6 September 2012 at http://www.oas.org/dil/esp/Nota_Republica_Bolivariana_de_Venezuela_al_SG_OEA.PDF. Venezuela's denunciation of the American Convention does not affect the jurisdiction of the Inter-American Commission on Human Rights to consider matters related to Venezuela. Human rights violations that took place in Venezuela during the time in which the country was a State Party to the American Convention are subject to the Court's jurisdiction, in accordance with the obligations established in the treaty. Therefore, any petitions the Inter-American Commission may receive after September 10, 2013, that allege human rights violations that took place before that date will be processed based on the State's obligations under the American Convention and subject to consideration by the Inter-American Court. See also: http://www.oas.org/en/iachr/media_center/PReleases/2013/064.asp
30. <https://www.frontlinedefenders.org/en/statement-report/new-defamatory-statements-aimed-impeding-work-human-rights-defenders>
31. <https://www.frontlinedefenders.org/en/location/venezuela>
32. Supra No 3 (Since the December elections, the host is not the President of the National Assembly anymore, although the program is still running and in the last program before this submission, HRDs were still being attacked).
33. CNN, 'Death toll climbs as protests still rage in Venezuela,' 21 March 2014 at <http://edition.cnn.com/2014/03/20/world/americas/venezuela-protests/>
34. Ibid.
35. Supra No 10.
36. Supra No 21 and Supra No 11.

ABOUT THIS BRIEFING PAPER

ISHR and Front Line Defenders encourage States to consult UPR submissions by local activists as well as to make a recommendation to Venezuela regarding the protection of HRDs. This briefing is a result of both compilation of public information and FLD's direct contact and experience in the protection of local HRDs. ISHR and FLD suggest readers consult the sources cited for further information. Excellent sources of information on HRD security and civil society space in Venezuela include Civilis (www.civilisac.org, civilisac@gmail.com) and the Human Rights Centre at Universidad Católica Andrés Bello (www.ucab.edu.ve/cddhh.html, cdhucab@gmail.com). For further information on Venezuela's UPR, contact Helen Nolan at h.nolan@ishr.ch

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