



The Bolivarian Republic of Venezuela

26th Session of the UPR Working Group

Submission to the UN Universal Periodic Review

**Submission by CIVICUS: World Alliance for Citizen
Participation, NGO with General Consultative Status
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CIVICUS: World Alliance for Citizen Participation

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1. (A) Introduction

- 1.1 CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 170 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.
- 1.2 Since Venezuela's initial review under the UPR in October 2011, the government, under the auspices of the ruling United Socialist Party of Venezuela, has continued to utilize a number of overly restrictive and targeted tactics to silence independent civil society organizations and voices critical of state policy. Reflecting the government's refusal to accept a number of important UPR recommendations on protecting and promoting the rights fundamental to civil society, namely the rights to freedom of assembly, association and expression, the authorities have continued to exert undue coercive pressure and unjustifiably persecute protesters, human rights defenders and media outlets.¹
- 1.3 CIVICUS remains particularly concerned by the recent escalation of government suppression of fundamental civil and political rights since anti-government protests beginning in January 2014. The protests, precipitated by an economic crisis resulting in massive devaluation of the Venezuelan currency, unchecked inflation and shortages of basic goods, were marked by excessive force against protestors, heightened intimidation and persecution of opposition party members, students and independent human rights defenders.²
- 1.4 In this document, CIVICUS outlines urgent concerns related to the environment in which civil society activists and human rights defenders operate in the Bolivarian Republic of Venezuela, and discuss threats faced in the exercise of the freedoms of expression, association and assembly.
- 1.5 CIVICUS is concerned by legislative and extra-legal measures taken by the Government of Venezuela to curtail the legitimate work of civil society

¹ ICNL: NGO Law Monitor: Venezuela, December 2014, <http://www.icnl.org/research/monitor/venezuela.html> and [The Inter American Commission on Human Rights Annual Report 2014, https://www.oas.org/en/iachr/docs/annual/2014/docs-en/Annual2014-chap4Venezuela.pdf](https://www.oas.org/en/iachr/docs/annual/2014/docs-en/Annual2014-chap4Venezuela.pdf)

² CNN: Venezuela, What's the Crisis About? February 2014, <http://www.cnn.com/2014/02/20/world/americas/venezuela-qa/> and [Coalition of National Human Rights Organizations in Venezuela, Report on the protests in 2014, http://www.derechos.org/ve/pw/wp-content/uploads/Informe-final-protestas2.pdf](http://www.derechos.org/ve/pw/wp-content/uploads/Informe-final-protestas2.pdf)

organizations (CSOs), in an apparent attempt to suppress criticism and pluralistic debate on government policy.

1.6 CIVICUS is also greatly concerned by ongoing legal and policy restrictions on the free exercise of the right to freedom of assembly as well as unwarranted use of excessive force and arbitrary arrest to disperse and discourage nonviolent demonstrations.

- In Section B, CIVICUS highlights concerns related to the freedom of association and restrictions on civil society activities.
- In Section C, CIVICUS expresses concerns involving harassment and arbitrary detention of human rights defenders.
- In Section D, CIVICUS expresses concern over restrictions on freedom of expression and access to information.
- In Section E, CIVICUS highlights concerns regarding the freedom of assembly.
- In Section F, CIVICUS makes a number of recommendations to address the concerns listed.

2. (B) Restrictions to freedom of association and impediments to civil society activities

2.1 Article 67 of the 1999 Constitution of the Bolivarian Republic of Venezuela guarantees the right to freedom of association as does article 22 of the ICCPR to which Venezuela is a state party.³ In practice, however, Venezuelan civil society organizations (CSOs) are forced to operate within a volatile and disabling environment. CSOs, especially those engaging in human rights monitoring and documentation, are routinely subjected to unwarranted legal proscriptions, harassment and intimidation.⁴

2.2 The 2010 “Law for the Defence of Political Sovereignty and National Self-Determination” undermines the operations of civil society organisations, criminalizing foreign funding for organizations working on promoting and protecting political rights and participation in public affairs. The government can impose fines up to twice the amount received by the organization and further prohibit these CSOs from conducting advocacy for five to eight years.⁵

³ Constitution of the Bolivarian Republic of Venezuela, 1999, <http://indicators.ohchr.org/>, http://www.ucv.ve/fileadmin/user_upload/auditoria_interna/Archivos/Material_de_Descarga/Constitucion_de_la_Republica_Bolivariana_de_Venezuela_-_36.860.pdf.

⁴ CIVICUS: Coding and De-coding Civil Society, CIVICUS Civil Society Index for Venezuela 2009-2010, <http://civicus.org/downloads/CSI/Venezuela.pdf>

⁵ Local Venezuelan Activists’ Opinion on the law, <http://www.derechos.org/ve/2010/12/16/opinion-preguntas-frecuentes-sobre-la-ley-de-defensa-de-la-soberania-politica-y-autodeterminacion-nacional-ldspan/>;

- 2.3 The 2012 “Organic Law on Organized Crime and Financing of Terrorism” entrenches a series of limitations on freedom of association and the legitimate activities civil society organisations. Principally, the law stipulates that CSOs must report all activities deemed “suspicious” to the government, including those, which are funded by government-approved funding sources. Provisions under the law on “conspiracy” and “association to commit a crime” have been also used by the Public Ministry to criminalize and imprison peaceful protesters.⁶
- 2.4 The 2013 decree on the “Rank, Value and Force of Law” allows the government to establish official mechanisms to oppose support from foreign countries that may “destroy the country through media, economical and political means and fight illegal sponsors of political parties.” Such provisions unwarrantedly impose vague constraints on engagement with international entities in the promotion of human rights and flagrantly subvert the right to freedom of association.⁷
- 2.5 Moreover, independent civil society organisations dedicated to promoting human rights are subjected to discriminatory restrictions when attempting to register. A number of cases have been reported wherein the Subsidiary Registry Office, the government body authorized to oversee the registration of CSOs, enact politically motivated barriers to registration, seriously impeding organizations right to associate and operate without undue hindrances.⁸ Reports indicate that at least five organizations have been denied registration because their proposed objectives included the words “democracy, human rights or civil and political rights.”⁹
- 2.6 Additionally, CSOs are subject to undue surveillance and scrutiny by the Executive Organ, the state agency mandated to combat organised crime. As a result, potential domestic donors have been reluctant to provide financial support to independent human rights organisations, which may be subjected to arbitrary persecution by the Executive Organ and other government bodies with discretion to regulate CSOs.

3. (C) Concerns involving harassment, intimidation and attacks against human rights defenders

- 3.1 The environment for human rights defenders in Venezuela remains hostile and fraught with danger despite robust protections guaranteed under the Constitution of the Bolivarian Republic of Venezuela, the ICCPR and the UN

<http://www.derechos.org/ve/2010/12/22/carlos-correa-ley-que-limita-financiamiento-a-las-ong-pretende-desaparecerlas/>

⁶ National Assembly Decree,

https://www.oas.org/juridico/PDFs/mesicic4_ven_ley_del_org_finan_terr.pdf

⁷ ICNL: NGO Law Monitor: Venezuela, December 2014,

<http://www.icnl.org/research/monitor/venezuela.html>

⁸ *ibid*

⁹ Revista, Niegan Registros a ONG que Defienden Derechos Humanos, July 2011,

<http://revistasic.gumilla.org/2011/niegan-registros-a-ong-que-defienden-derechos-humanos/>

Declaration of Human Rights Defenders. However, despite these protections, a number of illustrative cases underscore how the Venezuelan Government's routinely intimidates, harasses and attacks human rights defenders and civil society actors.¹⁰

- 3.2 The Venezuelan Government has in several instances harassed human rights defenders for raising legitimate concerns with UN human rights mechanisms and bodies. On 2 July 2015, several human rights defenders were subject to targeted vilification on the national television series "Los Mazazos" after they had presented information to the UN Human Rights Committee on 29-30 June 2015. The host, Diosdado Cabello, then President of the National Assembly (Parliament), accused the human rights defenders of "conspiring against the state and defending the interests of foreign entities." During the first 8 months of 2015, 58 human rights defenders were victims of vilification on this TV program.¹¹ Indications show that human rights defenders were placed under surveillance in response to their participation in the UN Human Rights Committee examinations (CESCR and CCPR) and trainings hosted by international civil society prior to the meeting in Geneva, Switzerland.¹²
- 3.3 Human rights defenders who have raised concerns before the Inter-American Commission of Human Rights (IACHR) have also been targeted. Before and after having participated in hearings on Venezuela before the (IACHR) in Washington D.C. in March 2015, several human rights defenders were named and slandered on the Venezuelan Television series "Con el Mazo Dando". When they returned to Venezuela, several were photographed in restricted areas of the Simón Bolívar airport, without their consent, and followed, by plainclothes men without proper identification. On 13 May 2015, the travel itineraries and private meetings planned by human rights defenders during their mission to the IACHR hearing were publicly shared on the television program.¹³
- 3.4 Human rights defenders and civil society activists operating in Venezuela have also been subjected to judicial harassment and extra-legal killings to prevent them from undertaking their legitimate work. Such cases, which have become increasingly routine, are representative of the authorities' refusal to constructively engage with independent watchdogs to improve the human rights situation. During the UN Human Rights Committee examination in June

¹⁰ CIVICUS: Venezuela, Stop Harassing Human Rights Defenders, 8 April 2015, <http://www.civicus.org/index.php/en/media-centre-129/news-and-resources-127/2214-venezuela-stop-harassing-human-rights-defenders> and IPYS, *Las delaciones se apoderan de la TV estatal de #Venezuela*, October 2015, http://ipysvenezuela.org/wp-content/uploads/2015/10/IPYSve_Delaciones-se-apoderan-de-la-TV-estatal-de-Venezuela.pdf

¹¹ http://ipysvenezuela.org/wp-content/uploads/2015/10/IPYSve_Delaciones-se-apoderan-de-la-TV-estatal-de-Venezuela.pdf

¹² CIVICUS: Venezuela: Dialogue With, Not Harass Activists Cooperating with UN Bodies, 9 July 2015, <http://www.civicus.org/index.php/en/media-centre-129/news-and-resources-127/2283-civicus-alert-venezuela-dialogue-with-not-harass-activists-cooperating-with-un-bodies>

¹³ Free Assembly: High Time to Pull the Plug on Televised Reprisals Against Rights Defenders in Venezuela. <http://freeassembly.net/news/venezuela-hrds/>

2015, the Venezuelan State delegation was asked to clarify several specific cases of harassment and the extra-judicial killing of human rights defenders including the killing of Mijail Martínez in 2009 and the threats and violent attacks against his father; Víctor Martínez in June 2010 and January 2012; the stigmatisation and defamation of Humberto Prado Sifontes, Director of the Venezuelan Prison Observatory, in June 2011 and May 2012; and the abduction of the husband of Marianela Sánchez Ortiz, an activist for the Venezuela Prison Observatory, in May 2012 and the death threats against her family in April 2013.¹⁴ Of particular concern are the ongoing targeted attacks against indigenous leaders and activists including Sabino Romero, who was assassinated in March 2013 for defending indigenous people's right to land. His wife and new born son were also injured in the attack.

4. (D) Concerns regarding freedom of expression and access to information

- 4.1 Article 57 of the Venezuelan Constitution guarantees the right to freedom of expression. Article 19 of the ICCPR also provides for the right to freedom of expression.¹⁵ Nonetheless, since Venezuela's human rights record was first examined during the first cycle of the Universal Periodic Review, government has escalated its campaign to systematically monitor and silence all forms of dissent.
- 4.2 The government has been given authority to control media content through the 2004 Law on Social Responsibility of Radio and Television. Because of the lack of independence in the judiciary and regulatory agencies, the law is used to control or punish any media owner or journalist perceived as an adversary.¹⁶ The Law also allows for the arbitrary imposition of onerous fines and administrative and criminal procedures which may result to the closure of media outlets.
- 4.3 Critical media face harassment in the form of withdrawal of government advertising, equipment confiscation and tax penalties. Several private news outlets have been forced to adopt an overtly favourable position towards the government due to financial hardship incurred as a result of a reduction of institutional state support. In June 2015, the IACHR ordered the Venezuelan Government to reinstate the broadcast license for Radio Caracas Television, which was a critical broadcasting station closed down in 2007.¹⁷ However,

¹⁴ UNHRC, The Committee Considers the Report of Venezuela, Discusses Methods of Work, 30 June 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16175&LangID=E#sthash.jyRcn1lj.dpuf>

¹⁵ The Constitution of the Bolivarian Republic of Venezuela 1999,

<http://www.venezuelaemb.or.kr/english/ConstitutionoftheBolivarianingles.pdf>

¹⁶ Article 19: Venezuela: Law on Social Responsibility of Radio, Television and Electronic Media, <https://www.article19.org/resources.php/resource/2894/en/venezuela:-law-on-social-responsibility-of-radio,-television-and-electronic-media>

¹⁷ Court decision, http://www.corteidh.or.cr/docs/casos/articulos/resumen_293_esp.pdf

the Venezuelan Supreme Court rejected the ruling as “unenforceable” and refused to comply with the court’s decision.¹⁸

- 4.4 Journalists are also subject to acts of harassment, intimidation and persecution by the government and its supporters. After broadcasting images and video of popular protests in 2014, the government cancelled the credentials of CNN’s Caracas correspondent.¹⁹ The Venezuelan organization, Espacio Publico, also documented 284 violations against journalists in 2015.²⁰
- 4.5 For instance, on 11 March 2016, David Natera Febres, president and editor of an independent newspaper, Correo del Caroni, was sentenced to four years on specious defamation charges. Natera Febres, who was convicted of reporting on corruption at a state-run mining company, was also fined nearly 21,100 USD and banned from further reporting on the issue.²¹

5. (E) Concerns regarding freedom of assembly

- 5.1 The Constitution of the Bolivarian Republic of Venezuela, under article 68, guarantee citizens the right to protest.²² Moreover, article 21 of the ICCPR provides protections safeguarding the right to freedom of assembly. However, despite these protections, the government has utilized a number of legal and extra-legal measures to undermine this right. In particular, we remain particularly concerned about the wanton use of excessive and even deadly force to disperse protests and demonstrations across the country. We are further alarmed by the adoption of several restrictive laws and policies, which lack clarity and are regularly used to arbitrarily arrest and detain protestors.²³
- 5.2 The Organic Law for Police Service and National Bolivarian Police Corps codifies the responsibilities of police during protests, while the Law on Political Parties, Public Gatherings and Manifestations establishing the

¹⁸ Panam Post: Court Rules TV Network Shut Down by Chavez Must be Reinstated, September 2015, <https://panampost.com/sabrina-martin/2015/09/11/court-rules-tv-network-shut-down-by-chavez-must-be-reinstated/> and El Universal, TSJ Declara Inejecutable Fallo De La CIDH Sobre RCTV, 10 September 2015, <http://www.eluniversal.com/nacional-y-politica/150910/tsj-declara-inejecutable-fallo-de-la-cidh-sobre-rctv>

¹⁹ CPJ: Journalists under fire covering protests in Venezuela, February 2014, <https://cpj.org/2014/02/journalists-attacked-detained-covering-protests-in-1.php>

²⁰ Derechos, Espacio Publico 287 Violaciones a la Libertad de Expression en Venezuela en 2015, January 2016, <http://www.derechos.org/ve/2016/01/11/espacio-publico-287-violaciones-a-la-libertad-de-expresion-en-venezuela-en-2015/>

²¹ Informe21: Condenaron a 4 anos de prision a David Natera director del Correo del Caroni, 11 March 2016, <http://informe21.com/actualidad/condenaron-a-4-anos-de-prision-a-david-natera-director-del-correo-del-caroni> and Esacio Publico, Espeacio Publico Rechaza Sentencia Correo del Caroni Informar Corrupcion, <http://espaciopublico.org/espacio-publico-rechaza-sentencia-correo-del-caroni-informar-corrupcion/>

²² The Constitution of the Bolivarian Republic of Venezuela 1999, <http://www.venezuelaemb.or.kr/english/ConstitutionoftheBolivarianingles.pdf>

²³ Derechos, report, 2014 <http://www.derechos.org/ve/pw/wp-content/uploads/Informe-final-protestas2.pdf>

parameters and regulations of protests. Under this legal regime, assemblies must be authorized by the government in advance and are not permitted within certain security zones designated by law. Additionally, criminal penalties, including imprisonment for violations of the law, may apply to organizers and participants of assemblies.²⁴ A recent Constitutional Court decision upheld requirements under these laws further entrenching restrictions on freedom of assembly.²⁵

- 5.3 In 2014, large protests took place across the country in response to deficits in labour rights, public services and the government's unwillingness to address protracted issues of public health and personal safety. The government security forces used a wide range of violent and rights-violating tactics including excessive and lethal force, arbitrary arrest, cruel and degrading treatment of detainees, including instances of torture, and denial of due process rights to disperse the demonstrations and persecute those involved. During the protests at least 42 people were reportedly killed²⁶, 854 were injured²⁷ and at least 3,100 were arrested. Those responsible for the human rights violations committed during have the protests, including members of the security services, have not been brought to justice, deeply entrenching the culture of impunity in the country.²⁸
- 5.4 The government also routinely invoked the widely criticized "Organic Law on Organized Crime and Financing of Terrorism" to prosecute protestors for participating in the demonstrations. In March 2015, Emilio Baduel Cafarelli and Alexander Tirado received an eight-year prison sentence after being convicted of conspiracy to commit a crime during the 2014 protests, incitement and intimidation using explosives. This draconian sentence was delivered despite any substantial evidence presented by the Public Prosecutor.²⁹

²⁴ ICNL: NGO Law Monitor: Venezuela, December 2014, <http://www.icnl.org/research/monitor/venezuela.html>

²⁵ Jurisprudencia, Gerado Senchez Chacon, <http://jurisprudencia.vlex.com/ve/vid/gerardo-sanchez-chacon-593352510> and http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/licencia%20para%20protestar.pdf

²⁶ COFAVIC, Sentencias de Silencio, November 2014, <http://www.cofavic.org/wp-content/uploads/2014/11/COFAVIC-Sentencias-de-Silencio-Final-.pdf>

²⁷ NGO PROVEA, <http://www.derechos.org/ve/pw/wp-content/uploads/Informe-final-protestas2.pdf>

²⁸ Amnesty International, Annual Report 2015/2016, Venezuela, <https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/>

²⁹ PanamPost: Venezuelan Student Activists Sentenced to 8 Years in Prison, 5 March 2015, <https://panampost.com/panam-staff/2015/03/05/venezuelan-student-activists-sentenced-to-8-years-in-prison/> and <http://www.eluniversal.com/nacional-y-politica/150304/condenan-a-ocho-anos-de-prision-a-raul-emilio-baduel-y-alexander-tirad>

6. Recommendations to the Bolivian Republic of Venezuela

CIVICUS calls on the Government of the Bolivarian Republic of Venezuela to create an enabling environment for civil society to operate, in accordance with the rights ensured by the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

6.1 Regarding the restrictions to freedom of association and impediments to civil society activities

- Laws dealing with freedom of association should be suitably amended/repealed to bring them in conformity with the best practices prescribed by the UN Special Rapporteur on the Freedom of Peaceful Assembly and Association. These include the 2010 “Law for the Defence of Political Sovereignty and National Self-Determination”, the 2011 “Organic Law on Organized Crime and Financing of Terrorism and the 2013 decrees with “Rank, Value and Force of Law”.
- Civil society organisations should be allowed to freely access to national and international sources of funding and allowed to carry out their vital work. Civil society organisations in particular should be enabled to access state resources without relinquishing autonomy.
- Civil society organisations should be publicly acknowledged by the Venezuelan government as important actors in society with a view to encouraging citizen participation and good governance.

6.2 Regarding the concerns involving harassment, intimidation and attacks against human rights defenders

- Venezuelan authorities should refrain from reprisals against human rights defenders engaging UN and regional bodies and put an end to actions intended to discredit and intimidate groups that document human rights violations.
- The Venezuelan government should create an enabling environment for civil society by creating a legislative framework for the protection of human rights defenders and better government-civil society relations.

- All persons arbitrary detained for exercising their rights to freedom of expression, association and assembly, including members of civil society organisations should be released.
- The authorities should investigate and bring to justice perpetrators of violence against human rights defenders in the country;

6.3 Regarding concerns of freedom of expression and access to information

- The Venezuelan government should acknowledge the importance of freedom of expression by creating dialogue platforms that reduce polarisation and create better relations between various segments of society.
- Public officials should be issued instructions to refrain from criticising and intimidating members of the media. Reprisals against journalist offering commentary critical of the authorities should cease.
- Government officials should refrain from interfering with the independence of journalists and media outlets. Institutional mechanisms should be put in place to sanction offenders.
- Defamation should be decriminalized under the Criminal Code.

6.4 Regarding the concerns of freedom of assembly

- Those responsible for the grave human rights violations during the protests in 2014 must be brought to justice. All reported cases of torture and injury to protesters by security forces should be subjected to mandatory and transparent investigation by an independent commission.
- The use of excessive force in the dispersal of protests should be publically condemned and a formal investigation into such instances should be launched.
- Security forces in charge of crowd control should be equipped with nonlethal weapons and provided training across the board on humane means of crowd control as well as on the UN Basic Principles on the Use of Force and Firearms.
- Recourse to judicial review and effective remedy should be provided, including compensation, in cases of unlawful denial of the right to freedom of assembly by state authorities.

6.5 Regarding access to UN Special Procedures mandate holders:

- A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression, the Special Rapporteur on Freedom of Peaceful Assembly and Association and the Special Rapporteur on Independence of Lawyers and Judges and the Special Rapporteur on Torture.