



SHADOW REPORT

TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

 **Acceso a la Justicia**
El observatorio venezolano de la justicia
J299786772

 **OBSERVATORIO
VENEZOLANO
DE PRISIONES**

APRIL
2023

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INSTITUTIONAL PRESENTATION

This report is presented in a coalition of two Venezuelan civil society organizations:



AJ is a non-profit, private, non-partisan civil association established in 2010 by Venezuelans committed to the Rule of Law, separation of powers, judicial independence, democracy, freedom, and human rights in Venezuela.¹ As a Venezuelan observatory of justice and the Rule of Law, it disseminates information so citizens can enforce their rights.



OVP is a non-governmental organization created in 2002. Its mission is to promote and monitor that the Venezuelan State guarantees the human rights of persons deprived of liberty, permanently monitoring the prison situation in the country, and making its reports and other publications available to the public.²

1 <https://accesoalajusticia.org/>.

2 <https://oveprisiones.com/>.

METHODOLOGY

The purpose of this shadow report is to render AJ's and OVP's view on the *List of Issues and Questions related to the Ninth Periodic Report of the Bolivarian Republic of Venezuela (RBV)*, distributed in July 2022, from their experience and expertise, without claiming to be exhaustive given the word limit set by the CEDAW Committee.

Órganos de Tratados /

Comité para la Eliminación de la Discriminación contra la Mujer

UNITED NATIONS HUMAN RIGHTS TREATY BODIES

BACKGROUND

Absence of Rule of Law and justice administration in a context of complex humanitarian emergency (CHE)

1. According to the World Justice Project's Rule of Law Index, between 2015 and 2022, Venezuela ranked last among the countries evaluated, with one of the key indicators being the administration of justice; the criminal branch is in the last place, and the civil branch is in second to last place.³
2. In 2015, Venezuela was ranked 74th among the most fragile states of the 179 evaluated, while now it appears among the first 26 in the world.⁴ The main reason for such a severe breakdown was explained in August 2016 by the former Secretary General of the United Nations, Ban Ki-moon: "basic needs cannot be met, such as food, water, sanitation, and clothing, are not available. That creates a humanitarian crisis in Venezuela (...) This whole situation is created by political instability."⁵ Unfortunately, this scenario is still in force; the complex humanitarian emergency (CHE) persists and has worsened over time, as indicated by the current United Nations Office of High Commissioner for Human Rights (OHCHR), Volker Türk, before the Human Rights Council (22/3/2023).⁶
3. HumVenezuela, in its *Follow-up Report on the impacts of the Complex Humanitarian Emergency in Venezuela following the COVID-19 pandemic*, warned that there are more than 19 million people with humanitarian needs, of which 10.4 million face severe deprivation.⁷ Women are differentially affected by such a situation, as explained in the October 2022 report *Being a Woman in Venezuela: Community Diagnosis and Proposals for Humanitarian Action*, by Alianza Con Ellas.⁸
4. Although the State maintains that the cause of the CHE has been the international sanctions,⁹ the OHCHR pointed out in its last visit to the country (28/1/2023) that these sanctions took place after and that the sectoral sanctions, imposed since 2017, are the ones that really affect the country.¹⁰

3 <https://worldjusticeproject.org/rule-of-law-index/global/2022/Venezuela>.

4 The Found for Peace (2015 y 2022), Fragile States Index: <https://fragilestatesindex.org/country-data/>.

5 *La Nación* (2016), Ban Ki-moon: "In Venezuela there is a humanitarian crisis": <https://www.lanacion.com.ar/el-mundo/ban-ki-moon-en-venezuela-hay-una-crisis-humanitaria-nid1926563/>.

6 <https://www.ohchr.org/es/statements/2023/03/turk-updates-human-rights-council-situation-venezuela>.

7 (2022): <https://humvenezuela.com/19-millones-de-venezolanos-tienen-necesidades-humanitarias/>.

8 (2022): <https://cepaz.org/wp-content/uploads/2022/10/20220928InformeSerMujerenVenezuela.pdf>.

9 For it does not distinguish between sectoral and individual sanctions (to civil servants), although the latter do not affect the country or its inhabitants.

10 <https://www.ohchr.org/es/statements/2023/01/un-high-commissioner-human-rights-volker-turk-concludes-official-mission>

5. The institutional rupture has led to an increasing absence of the State as a security, justice, and basic living conditions guarantor, resulting in a generalized context of violence and defenselessness. This, together with a massive intervention in the economy with controls of all kinds,¹¹ led to an unprecedented economic crisis¹² that has favored the emergence of illicit economies of State security forces, irregular groups, and organized crime.¹³ Additionally, the State has become increasingly autocratic and militarized,¹⁴ even at the police level,¹⁵ to stay in power and confront the citizens.¹⁶
6. The discontent reached such a point that thousands of people protested massively throughout the country in 2014 and 2017¹⁷ which generated intense repression, which OHCHR documented in its June 2018 report.¹⁸ In September of the same year, several countries referred the Venezuelan case to the Office of the Prosecutor of the International Criminal Court (ICC) for the alleged commission of crimes against humanity¹⁹; the case is currently under investigation.²⁰
7. In addition to the previously mentioned, the creation in 2016 of the Arco Minero del Orinoco (AMO) as a National Strategic Development Zone through a Decree No. 2,248²¹ to massively extract minerals on the verge of the bankruptcy of the oil industry in the hands of the State, since it was the main income of the country.²² This zone represents 12% of the national territory, extends into the Amazon biome, and it is home to a significant number of indigenous groups, which the State did not consult before the AMO zone became established. In addition, women and girls are disproportionately affected by gender violence in this zone.

11 AJ (2018), *El control de precios como herramienta contra el pueblo*, <https://accesoalajusticia.org/el-control-de-precios-como-herramienta-contra-el-pueblo/>) and "Ley" de Consejos Productivos de Trabajadores, o el vano intento gubernamental de decretar la producción, <https://accesoalajusticia.org/ley-de-consejos-productivos-de-trabajadores-o-el-vano-intento-gubernamental-de-decretar-la-produccion/>.

12 The State has removed fourteen zeros from the national currency due to hyperinflation.

13 InSightCrime (2022), *The Colombian-Venezuelan Guerrillas: Colombia's War Migration to Venezuela* (<https://es.insightcrime.org/investigaciones/guerrillas-colombo-venezolanas-migracion-guerra-colombia-hacia-venezuela/>); (2018), *Venezuela: a Mafioso State?*, <https://es.insightcrime.org/investigaciones/venezuela-estado-mafioso-2/>, and Venezuela Organized Crime Observatory, <https://observatory-venezuela.insightcrime.org/>.

14 AC Control Ciudadano (2023), *With the appointment of Colonel Pedro Rafael Tellechea Ruiz, there are 14 ministers from the FANB*, <https://www.controlciudadano.org/noticias/con-la-designacion-del-coronel-ej-pedro-rafael-tellechea-ruiz-son-14-los-ministros-que-proviene-de-la-fanb/>.

15 AJ (2020), *The militarization of police forces: when the cure is worse than the disease*, <https://accesoalajusticia.org/la-militarizacion-de-las-policias-cuando-el-remedio-es-peor-que-la-enfermedad/>.

16 Jácome, F. (2018), *The military in Venezuelan politics and economy*, <https://nuso.org/articulo/los-militares-en-la-politica-y-la-economia-de-venezuela/>) and El Diario (2021), *A 15 años de la Reforma Policial en Venezuela: más militarización y violaciones de derechos humanos, militarization and human rights violations*, <https://eldiario.com/2021/04/14/reforma-policial-venezuela-violacion-derechos-humanos/>.

17 Observatorio Venezolano de Conflictividad Social, <https://www.observatoriodeconflictos.org.ve/categoria/tendencias-de-la-conflictividad>.

18 https://www.ohchr.org/sites/default/files/Documents/Countries/VE/VenezuelaReport2018_SP.pdf.

19 The Attorney General Office opened the case in February 2018.

20 <https://www.icc-cpi.int/venezuela-i>.

21 Oficial Gazette No. 40,855 of 2/24/2016.

22 Bermúdez, Á. (2019), *Crisis in Venezuela: how the dramatic fall of PDVSA, the crown jewel of the Latin American country*, <https://www.bbc.com/mundo/noticias-america-latina-47099849>.

8. The detailed findings of the United Nations International Independent Fact-Finding Mission to Venezuela (FFM) precisely describe the horror of the AMO and the torture and other cruel, inhuman, and degrading treatment that women go through.²³
9. Likewise, the Inter-American Commission on Human Rights (IACHR) in its 2021 report on Venezuela, mentions that there is a disproportionate and differentiated impact on women, indigenous peoples, and populations in the border area due to the lack of state control in the territories that are in the hands of illegal armed groups.²⁴
10. As FFM explained in its 2021 report, the issue described above would not have occurred if the justice system had fulfilled its functions:

If prosecutors and judges had properly and fully performed their constitutional role, they could have prevented the commission of many of these crimes and violations, or, at the very least, they could have put rigorous obstacles in place to hinder the ability of members of the State's public security and intelligence services to commit them. Moreover, in their view: the justice system has played a significant role in state repression of government opponents rather than protecting victims of human rights violations and crimes. The effects of the deterioration of the Rule of Law spread beyond those directly affected; they reverberate throughout society.²⁵

11. Evidently, the context described above affects women differently as mothers of young people, of those who are killed or detained during mass protests, and victims of organized crime, state security forces, or the military. In its 2020 report, the OHCHR attest that:

...It received reports of undue gender stereotyping in the legal system, as well as incidents of gender-based violence by public and judicial officials, including threats, mistreatment and verbal violence. This situation particularly affects women complainants, who often bear a tremendous burden in the process of seeking truth, justice, and reparations for violations suffered by their male relatives.²⁶

23 <https://www.ohchr.org/es/hr-bodies/hrc/ffmv/index>.

24 <https://www.oas.org/es/cidh/docs/anual/2021/capitulos/IA2021cap4B.Venezuela-es.pdf>.

25 Paragraphs 118 and 119 respectively, <https://www.ohchr.org/es/hr-bodies/hrc/ffmv/index>.

26 Paragraph 30, <https://www.ohchr.org/en/documents/country-reports/ahrc4454-independence-justice-system-and-access-justice-bolivarian>.

12. Finally, an **urgent appeal** is being made due to the imminent approval of the Control, Regularization, Performance and Financing of Non-Governmental and Related Organizations Bill, which would limit the actions and our work in defense of the right to access justice and of detained persons in the country. We are also concerned about the resurgence of the International Cooperation Bill, very similar to the Law for the Regulation of Foreign Agents in Nicaragua,²⁷ which has led to the disappearance of more than 3000 civil society organizations (CSOs), not only NGOs.
13. These points represent only some introductory elements presented by AJ and OVP, which will be exemplified in addressing the list of issues.

Evaluation before the CEDAW Committee in 2014

14. The CEDAW Committee, in its 2014 Concluding Observations, established its concerns about the lack of adequate access to justice suffered by women in the country. It shall be reported that these recommendations have not been fulfilled by the RBV which has completely ignored such observations.

ANSWERS TO THE COMMITTEE'S QUESTIONS

Dissemination of the Convention, its Optional Protocol, and the Committee's general recommendations (paragraph 2)

15. Regarding the visibility and dissemination of the CEDAW Convention, its Protocol, and General Recommendations, AJ notes that the courts do not invoke these instruments. Instead, judges use a "copy and paste" format in their sentences without even mentioning articles or applying these norms to the specific case.²⁸ Something similar happens in cases of violence against women, where, although the instruments are often quoted, the rights enshrined in these conventions are not developed throughout the rulings.²⁹

27 AJ (2022), *Comparative analysis between Nicaragua's Foreign Agents Regulation Law and Venezuela's draft International Cooperation Law*, <https://accesoaljusticia.org/analisis-comparativo-ley-regulacion-agentes-extranjeros-nicaragua-y-proyecto-ley-cooperacion-internacional-venezuela/>.

28 See TSJ Judgments: Criminal Cassation Chamber (SCP), no. 225 of 07/21/2022 (<https://accesoaljusticia.org/cuando-delitos-comunes-sean-el-medio-para-consumar-delito-de-violencia-de-genero-el-competente-sera-el-tribunal-especializado/>); Constitutional Chamber (SC), no. 91 of 03/15/2017 (<https://accesoaljusticia.org/la-sc-confirma-criterio-de-la-scp-sobre-no-beneficios-procesales-a-condenados-por-delitos-atroces-sexuales/>); and SC, no. 1,105 of 12/9/2022 (<https://accesoaljusticia.org/sc-establece-sentencia-vinculante-sobre-procedimiento-de-verificacion-del-cumplimiento-de-la-medida-proteccion-acordada-mediante-la-actuacion-de-equipos-multidisciplinarios/>).

29 An example of a generic citation is the SCP ruling of 07/21/2022, <http://historico.tsj.gob.ve/decisiones/scp/julio/318085-225-21722-2022-CC22-170.HTML>:

Access to justice and legal complaint mechanisms (paragraph 6)

16. The Venezuelan justice system³⁰ has become a repressive apparatus, and its role has been distorted to such an extent that, even when not dealing with political cases, it does not protect the citizen, but rather extorts, persecutes, or mistreats. AJ describes this involution in its report *The Administration of Criminal Justice in Venezuela (2022)*.³¹
17. In this regard, OHCHR noted in its 2020 report:

the judicial system's independence is significantly undermined by the insecurity of tenure of judges and prosecutors, lack of transparency in the appointment process, poor working conditions, and political interference, including links between members of the TSJ and the Government and the ruling party. This situation prevents the judiciary from exercising its fundamental role as an independent actor protecting human rights and contributes to impunity and the persistence of human rights violations.³²
18. OHCHR also noted that the monthly salary of a judge is approximately USD 30, "which increases the risk of corruption in all areas and at all levels of judicial administration."³³ Unfortunately, the salary of other justice operators is not known, as this information is not made public.
19. It is yet to be known with certainty the headcount of judges at present, let alone the number of female judges, except in the case of the TSJ: there are nine female judges compared to eleven men judges. There is also no official information on those who hold the positions of public defenders and prosecutors.

Similarly, the Criminal Cassation Chamber in Judgment No. 220 of June 2, 2011, file No. 11-072, established the criterion for conflicts of jurisdiction when there are related crimes - gender crimes and common crimes - due to the specialty of the Courts with Competence in Crimes of Violence against women. 11-072, established the criterion in matters of conflicts of competence when there are related crimes - gender crimes and common crimes - due to the specialty of the Courts with Competence in Crimes of Violence against Women, related to the jurisdiction of attraction for the matter, in all those in which the ordinary crimes provided in the Criminal Code serve as a means of commission for the execution of any of those provided in the Specialized Law, the competence will correspond to the Courts in matters of Violence against women, it stated:

"(...) The Chamber, in order to decide observes:

The explanatory memorandum of the Organic Law on the Right of Women to a Life Free of Violence establishes that gender violence constitutes a violation of women's human rights, which is supported by several international instruments such as: the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará, 1994), the Convention on the Elimination of All Forms of Discrimination against Women (1979) and the United Nations Declaration on the Elimination of Violence against Women (1993)."

30 Article 253 of the Constitution establishes that it is composed of the courts, the Public Prosecutor's Office (MP), the Public Defense, the criminal investigation bodies (the Scientific, Criminal and Criminalistic Investigation Corps, the municipal, state and national police) and the penitentiary system, as well as lawyers and citizens.

31 <https://accesoalajusticia.org/administracion-justicia-penal-venezuela/>. In this study, reference was made to the Police, the Public Prosecutor's Office, the Judiciary and the Public Defense. The Prison System was not included.

32 <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session44/list-reports>. Paragraph 66.

33 Ídem, para. 10.

20. The dullness is such that we only know what the Government revealed in the last Universal Periodic Review (UPR) in 2022: the number of courts by March 2020 (not judges); the number of prosecutors by 2019; and the number of public defenders by 2021, although without making a distinction by gender or providing any other information.³⁴
21. Access to courts and tribunals is minimal. Specifically, physical entry of NGOs staff and human rights defenders is restricted to them as well as to most state entities. The SCJ website does not publish the court rulings since 2018. In addition, a recent policy that appears on posters in public offices, called the "Code of Conduct and Dress"³⁵ prevents the entry of lawyers, as well as the general public, as they are not "worthy" of state attention because of their mere physical appearance. The most affected are the women, since they are scrutinized by the height of the skirt, the type of pants, the color of their hair, or the way they wear a blouse. In this way, clear patterns of sexist discrimination are applied. Some people cannot even get their identity card because of this type of policy.³⁶
22. There are also limitations to defending a victim, especially in cases of political persecution, "lawyers who practice independently are frequently subjected to harassment, intimidation, and even criminal sanctions".³⁷ Especially in cases with political content and/or involving human rights violations. Moreover, it is complicated to practice private representation, since the courts encourage the accused to have the Public Defender (PD) take on their case, and in the event that this is not done, it is impossible for the private attorney to exercise an adequate defense due to all the impediments imposed on him/her, especially if he/she is a victim of human rights violations or a political prisoner.³⁸
23. In its 2020 report, OHCHR highlighted that:

Respondents reported that justice system personnel were unable or reluctant to process their complaints and follow up on cases due to a lack of training or infrastructure. ... Respondents said that the main reasons for not approaching the authorities were fear of revictimization and lack of trust in the judicial system.³⁹

34 AJ (2022), *Cifras sobre números de tribunales, fiscales y defensores revelados por el Estado venezolano en el marco del EPU*, <https://accesoalajusticia.org/cifras-numeros-tribunales-fiscales-defensores-revelados-estado-venezolano-epu/> and (2021), *Informe nacional presentado con arreglo al párrafo 5 del anexo de la resolución 16/21 del Consejo de Derechos Humanos, República Bolivariana de Venezuela*, <https://digitallibrary.un.org/record/3954864?ln=es>

35 La Patilla (2022), *The TSJ circular that excludes necklines and miniskirts in the courts of Caracas*, <https://www.lapatilla.com/2022/10/01/tsj-escotes-minifaldas/>. Additionally, this policy can be seen in the physical bulletins of the institutions.

36 *An Afro-Venezuelan woman was not allowed to get her ID card because her hair was painted blonde*: <https://www.tiktok.com/@valeriaocandoc/video/7168972451085339910?q=valeriaocandoc&t=1677757208740>.

37 *International Commission of Jurists (2022), Venezuela: lawyers cannot practice their profession freely and independently*, <https://www.icj.org/es/venezuela-los-abogados-no-pueden-ejercer-su-profesion-de-forma-libre-e-independiente/>.

38 In the 2020 Detailed Findings of FFM, there are allegations of continued interference with the right to an adequate defense, paragraphs 358 and 359, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11_SP.pdf

39 Op.Cit. Paragraph 24.

24. Moreover, the justice system is deeply sexist. Thus, the OHCHR highlighted in the same report that "victims of human rights violations continue to face legal, political, and socio-economic obstacles in accessing effective justice, and women experience gender-specific difficulties."⁴⁰ The absence of gender-sensitive and victim-centered processes and effective protection measures have exacerbated widespread mistrust in the justice system.⁴¹
25. Another serious problem in accessing judicial services is the lack of translation and interpretation into indigenous and foreign languages. For example, in Zulia,⁴² not enough people who speak indigenous languages, which prevents them from knowing what happens in legal proceedings. Moreover, the constitutional mandate to translate sentences is not complied.⁴³ In fact, the State does not communicate with the indigenous communities in their language.⁴⁴ The case of detained foreign women is similar; since there are no translators and/or interpreters available, they do not know about what is happening in their legal proceedings.
26. Finally, to exemplify how the administration of justice operates in Venezuela, it is worth recalling emblematic cases of persecution.
27. **The case of Judge MLA.** The well-known "Afiuni effect" stems from this case, which has been the ultimate demonstration of the lack of judicial independence in Venezuela, and, in addition, a way of intimidating judges -which persists- whenever they try to issue a ruling that go against the interests of the Government party.⁴⁵
28. In 2009, the judge was publicly condemned by then President Hugo Chávez, who called for her to be sentenced to the maximum prison term in one of his regular radio and television broadcasts.
29. The judge was immediately imprisoned for having decided to release on parole a banker with more time in custody than legally allowed, following the recommendation of the United Nations Panel on Arbitrary Detention.
30. The judge went through calamities in prison, including spending months in the same women's prison as women that were sent to prison by her own rulings. Although in 2011 she was granted house arrest due to her health condition, the judicial process continued, and in 2013 she was paroled.

40 Idem, Paragraph 17.

41 Idem, para. 67.

42 In the entire region, there is only one prosecutor who speaks the language.

43 The need for an interpreter is established in Article 9, in connection with Article 49, paragraph 3, and 121 of the Constitution and Articles 2 and 40 of the Law on Indigenous Languages (Official Gazette No. 38.981 of July 28, 2008), <https://derechodelacultura.org/wp-content/uploads/2018/07/LEY-DE-IDIOMAS-INDIGENAS-VENEZ.pdf>.

44 Article 9: "Spanish is the official language. The indigenous languages are official for the indigenous communities and shall be respected in all the territory of the Republic for being cultural patrimony of the nation and mankind."

45 Op. Cit. Paragraph 9.

31. In 2019, a trial court convicted her of corruption, although without evidence and despite having already served a sentence for the time elapsed. This decision was ratified on appeal and on cassation by the TSJ itself in 2020.⁴⁶ In February 2023, she was removed from her position as a judge without being summoned or allowed to defend herself.⁴⁷
32. **The case of LLLS.** In 2001, at the age of 18, she was kidnapped in Caracas, tortured, raped, and sexually abused, for which she had to undergo a dozen surgeries, including facial reconstruction. LLLS suffered what many victims and survivors of sexual violence in Venezuela suffer: police negligence, revictimization, stereotypical judgments, ineffectiveness, and impunity on the part of justice operators during the investigation and the criminal justice process. Her case reached the Inter-American Human Rights System (IAHRS). In a 2018 judgment, the Inter-American Court of Human Rights (IACourtHR), concluded that the State was responsible for violating different rights of LLLS.⁴⁸ In November 2022, LLLS attested that the State was still not complying with the condemnatory sentence imposed by the IACHR Court.⁴⁹

Recommendations

33. To have true judicial independence and specialized and expeditious access to justice in cases of human rights violations in order to combat impunity and provide reparations to victims, including AMO cases.
34. Ensure effective and gender-sensitive attention to victims and their families who report both human rights violations and common crimes.
35. Guarantee the independence of the PD, provide it with sufficient resources and respect the right of defendants to choose a lawyer of their choice.
36. Ensure that bar associations regain their independence and autonomy.
37. Improve the legal and judicial system's policies and guidelines on human rights and gender training.
38. Implement a victim and witness protection program to safeguard their integrity and ensure accountability for human rights violations.
39. Respect indigenous languages and provide translators/interpreters for the corresponding cases.

⁴⁶ AJ (2020), <https://accesoalajusticia.org/tsj-no-vio-irregularidades-en-el-juicio-contr-la-jueza-afuni/> and <https://accesoalajusticia.org/tsj-desestima-recurso-de-casacion-de-maria-lourdes-afuni/>.

⁴⁷ AJ (2023), <https://accesoalajusticia.org/persecucion-sin-fin-justicia-venezolana-destituye-jueza-maria-lourdes-afuni-sin-citarla-permitirle-defenderse/>.

⁴⁸ https://www.corteidh.or.cr/docs/casos/articulos/resumen_362_esp.pdf.

⁴⁹ SwissInfo (2022), *Venezuelan woman denounces impunity after four years of IACHR ruling in her favor*, https://www.swissinfo.ch/spa/venezuela-justicia_venezolana-denuncia-impunidad-tras-cuatro-años-de-fallo-de-la-cidh-a-su-favor/48063962.

40. Adopt the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture.
41. Act immediately on allegations of torture and other cruel, inhuman, and degrading treatment, including sexual violence, brought before the courts.
41. Immediately cease any acts of intimidation, threats, and reprisals by members of state security forces against family members of victims seeking justice.
42. Immediately cease any acts of intimidation, threats, and reprisals by members of state security forces against family members of victims seeking justice.
43. Ensure that no one becomes prosecuted for exercising their rights to peaceful assembly and freedom of expression, investigate all allegations of intimidation, threats, and attacks, and ensure that perpetrators are brought to justice.
44. Resume the practice interrupted ten years ago of publishing annual management reports of the justice system bodies, with key and verifiable data on their functioning.
45. Become part of the Inter American Human Rights System again, and enforce the application of the ICHR rulings, especially the one concerning LLLS.

Gender-based violence against women (paragraphs 11 and 12)

46. One of the biggest obstacles to preventing and eradicating of violence against women in Venezuela has been the difficulty in arriving at a diagnosis of its causes, consequences, and dynamics, as the most recent official data, are from 2016.⁵⁰ Although the National Institute of Statistics created a subcommittee to apply a gender perspective to the figures obtained, there is still insufficient information, and the State does not use sensitive gender statistics.⁵¹
47. In the explanatory memorandum of the Organic Law on the Right of Women to a Life Free of Violence (LOSDMVLV), passed in 2014, it was stated that only 10% of cases of violence against women were reported. However, with the start of the CHE in 2015, that figure has probably decreased, despite the increase in violence throughout the country, not only against women.

50 Coalición Equivalencias en Acción (2019). *Mujeres al Límite*, https://avesawordpress.files.wordpress.com/2019/05/mujeres_limite_a4web.pdf and Alianza Con Ellas (2022), *Ser Mujer en Venezuela*, <https://cepaz.org/wp-content/uploads/2022/10/20220928InformeSerMujerenVenezuela.pdf>.

51 Equivalences in Action Coalition (2019). Op.Cit. p. 71.

48. The NGO Fundamujer, during the hearing on the human rights situation of women, teens, and girls in Venezuela before the IACHR (October 2021) pointed that "out of 171 cases attended, only 43% made a prior complaint." In addition, there are cases in which multiple vulnerabilities show dormant discrimination from the administration of justice when indigenous women suffer sexual violence. For example, this is the case of the military man convicted and then acquitted of raping two women of the indigenous Jivi people.⁵²
49. In a 2022 report, the Observatory of Justice Against Gender Violence of the Human Rights Center of Universidad Metropolitana indicates that, in general, the staff in charge of attending to women victims of gender violence do not know their mandate functions and the governing law.⁵³
50. On LOSDMVLV law, OHCHR (2020) denounces that although "it aims to provide protection and justice to victims of sexual and gender-based violence, its implementation remains partial and insufficient to protect victims adequately." It also noted: "a lack of due diligence in the investigation processes relating to cases of gender-based violence. While specialized courts and police units deal with gender-based violence, victim testimonies indicate that these generally lack a victim-centered approach."⁵⁴
51. In this regard, in the third cycle of the UPR, the State informed the UN Human Rights Council that:

During the period covered by this report, there was an expansion and strengthening of the courts and prosecutors' offices specializing in violence against women. Specialized gender justice covers 100% of the territory through specialized Judicial Circuits (75%) and the assumption of exceptional jurisdiction over crimes of violence against women by the Municipal Criminal Courts (25%), where the aforementioned Judicial Circuits have not yet been implemented. Likewise, 120 prosecutors' offices and prosecutors' offices specialize in cases of gender violence against women, adolescents, and girls at the national level.⁵⁵
56. However, it did not provide sources to substantiate its claims. It is also of concern that the handling of cases of violence against women has been transferred to the municipal criminal courts, which do not have the necessary training to conduct a gender-sensitive process.⁵⁶

52 Asociación Civil Kapé Kapé (2023). *The military officer accused of raping 2 indigenous Jivis from Amazonas was acquitted in a new trial*: <https://kape-kape.org/2023/03/14/fue-absuelto-en-nuevo-juicio-el-militar-acusado-de-violar-a-2-indigenas-jivis-de-amazonas/>.

53 <http://ulamujer.org/funcionarios-encargados-de-atender-a-mujeres-victimas-de-violencia-de-genero-desconocen-sus-funciones/>.

54 Op.Cit. Paragraphs 32 and 33, respectively...

55 RBV (9/11/2021), National report submitted pursuant to paragraph 5 of the annex to Human Rights Council resolution 16/21. A/HRC/WG.6/40/VEN/1, para. 108.

56 AJ (2022). *Análisis de la reforma de la Ley Orgánica Sobre el Derecho de las Mujeres a una Vida Libre de Violencia de 2021*: <https://accesoalajusticia.org/analisis-reforma-ley-organica-sobre-el-derecho-de-las-mujeres-a-una-vida-libre-de-violencia-2021/>. Pp. 10-11.

57. However, the specialized courts do not have sufficient training either. It is demonstrated by many of their interpretations contrary to the LOSDMVLV with sexist criteria; the fact that judges often refuse to hear cases that fall within the competence of the law (delaying processes for years), refraining from the mainstream gender principle because they limit to envision the case under a narrow perspective, or make formalistic decisions that do not protect victims from their aggressor. These cases can be consulted in the digital book of AJ and CEPAZ, in which the TSJ sentences analyzed between 2018 and 2022, where decisions of basic courts with these criteria stand out,⁵⁷ as well as in the result of the jurisprudential monitoring that AJ publishes on its website.⁵⁸
58. In addition, the rulings of the basic courts are not published, nor are figures on their sentences. In order to know their decisions, it is necessary to go to the reviews made by the SCJ when the cases reach that instance.
59. Another way of evidencing that the LOSDMVLLV is not being complied with as it should be through the binding judgment of the Constitutional Chamber (SC) of the TSJ No. 1,105, which seeks to standardize the criteria for judges to issue protection measures in criminal proceedings of crimes of violence against women.⁵⁹ This lack of uniformity was seen in the courts with such competence, specifically in the granting, execution, or revocation of such measures, provided for in article 106 of the current LOSDMVLV. In other words, due to this lack of compliance, the SC saw the need to issue, with binding character, a complement to the public policies already established in the *obiter dictum* of its decision n.º 311 of 26/4/2018.
60. Beyond the fact that the ruling can be described as positive, as it establishes deadlines and general guidelines to verify the effectiveness of the agreed protection measure, it is worrying that the Public Prosecutor's Office (MP), which is the one who carries out the investigation on behalf of the State, does not carry out a comprehensive work. In fact, this should be the primary entity to dictate protection measures, so it is paradoxical that it is not mentioned in the sentence, assigning its functions to multidisciplinary teams instead.
61. It is surprising that after 16 years of validity of the LOSDMVLV, the SC recognizes that social work protocols on gender violence have not yet been issued; that is, it recognizes the lack of regulation of the functions of the multidisciplinary teams.

57 AJ and CEPAZ (2022), *Mitos y realidades de la violencia contra la mujer en Venezuela*, <https://accesoalajusticia.org/mitos-realidades-violencia-contra-mujer-venezuela-historia-otro-fracaso-poder-judicial-2a-edicion/>. Pp. 24-56.

58 <https://accesoalajusticia.org/monitoreo/jurisprudencia/genero/>

59 AJ (2022), SC establishes binding ruling on procedure for verification of compliance with the agreed protection measure, through the performance of multidisciplinary teams, <https://accesoalajusticia.org/sc-establece-sentencia-vinculante-sobre-procedimiento-de-verificacion-del-cumplimiento-de-la-medida-proteccion-acordada-mediante-la-actuacion-de-equipos-multidisciplinarios/>.

62. Also of concern is that private lawyers and public officials are allowed to advise victims and survivors to conciliate, although, since 2014, conciliation has been prohibited. Thus, a "non-legal conciliation" is verified, where a court does not dictate preventive measures as it should, and many times, since the penalties are meager, men prefer to admit the facts.⁶⁰
63. Another barrier to implementing the LOSDMVLLV is that 16 years after it came into effect, its regulations have yet to be issued to articulate public policy in this area.⁶¹
64. In addition, the Multidisciplinary Committees have not been created as auxiliary bodies of the Courts for Violence against Women, outlined in the LOSDMVLV.
65. The Judiciary does not usually compensate victims and survivors after a criminal conviction. Women must then take civil action, which is cumbersome and lengthy. Generally, they do not obtain recognition of damages or moral damages, or with meager amounts, and even worse, if the State is involved.⁶²
66. The State informed the Committee that there are five active shelters in the responses to the List of Issues. However, under the premise that it was true, it is insufficient in a country of 30 million inhabitants. In addition, the organizations point out that there is no information on these houses and that they are dismantled.⁶³
67. It should also be highlighted that a SCJ magistrate,⁶⁴ who the Red Naranja denounced for violence against his wife in 2018⁶⁵, is a member of the Gender Commission⁶⁶ of the Judiciary. Still, the justice system has done nothing about it.⁶⁷
68. Finally, it should be noted that the legislative and judicial reforms undertaken since 2021 have not had the desired impact,⁶⁸ as pointed out by the ICC prosecutor in his brief of November 1, 2022.⁶⁹

60 Except for sex crimes and human trafficking.

61 This has been repeatedly pointed out by the CEDAW Committee, the Inter-American Court of Human Rights.

62 AJ (2023), *La justicia venezolana no se apiada ni del dolor de una madre*, <https://accesoalajusticia.org/justicia-venezolana-no-se-apiada-dolor-madre/>; *La desigualdad en la justicia venezolana*, <https://accesoalajusticia.org/justicia-venezolana-no-se-apiada-dolor-madre/> and (2021), *El Valor de una Vida*, <https://accesoalajusticia.org/el-valor-de-una-vida/>.

63 Coalición Equivalencias en Acción (2019). Op.Cit. p. 85; AVESA et al. (2020), *Situación de la violencia contra las mujeres en la República Bolivariana de Venezuela en el contexto de la pandemia Covid-19*, Informe presentado ante la Relatoría Especial de las Naciones Unidas sobre Violencia Contra las Mujeres. p. 12.

64 <http://www.tsj.gob.ve/-/edgar-gavidia-rodriguez>

65 *Communiqué to the public opinion on the case of Francis Flores* (2018): <https://rednaranja.com.ve/comunicado-ante-la-opinion-publica-por-el-caso-de-francis-flores/>

66 <http://www.tsj.gob.ve/-/comision-nacional-de-justicia-de-genero>

67 AJ (2018): *TSJ silent on alleged commission of a crime against women by a magistrate*, <https://accesoalajusticia.org/el-tsj-calla-ante-presunta-comision-de-un-delito-contra-la-mujer-por-parte-de-un-magistrado/>.

68 AJ (2022), *Situación y análisis de las reformas legislativas realizadas por el Gobierno de Venezuela vinculadas con el sistema de justicia*, <https://accesoalajusticia.org/situacion-y-analisis-reformas-legislativas-realizadas-gobierno-venezuela-vinculadas-sistema-justicia/>.

69 Paragraphs 162 and 163, https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2022_06554.PDF

Recommendations

69. Establish a system for collecting data on violence against women, disaggregated by forms of violence, number of complaints, prosecutions, and convictions, and to publish again the court rulings in the SCJ website.
70. To provide free legal assistance in cases of gender-based violence, guaranteeing the means for accessible, prompt, transparent, independent, and impartial justice.
71. Implement clear policies so women can access mechanisms for prevention, reporting, protection orders, and punishment of perpetrators.
72. Train (on a permanent basis) justice clerks in gender mainstreaming, human rights, and no-revictimization.
73. Ensure the courts apply the mainstreaming gender principle.
74. Impose sanctions upon the judges using sexist and discriminatory approach and language.
75. Expand the coverage of the prosecutors' offices for the Criminal Investigation of Crimes of Violence against Women.
76. Expand coverage of shelters/shelters for women and their children, follow up on protection orders and apply the respective sanctions.
77. Adopt the necessary measures to ensure the prompt and independent investigation of allegations of intimidation, threats, and attacks against women journalists and media, trade unionists, health workers, peasants, indigenous women, and human rights defenders.
78. Eliminate the dress and physical presence of women codes in public institutions and impose sanctions on those officers who practice these codes.

Disadvantaged groups of women: women in detention (paragraph 20)

79. As OVP has denounced and OHCHR has noted in its reports, the Venezuelan prison system lies in a deep crisis.
80. A 2021 OVP report explains that this is not adapted to the specific needs of women, who do not have special prisons (annexes of men's prisons) Furthermore, there are no reproductive prevention mechanisms in an environment where sexual favors are exchanged with members of security forces for protection, medical care, food and/or water.⁷⁰ In its *World Report 2022*, Human Rights Watch denounced that the lack of

⁷⁰ *Women deprived of liberty in Venezuela. Women's voices behind bars*: <https://secureservercdn.net/198.71.233.31/opv.3a7.myftpupload.com/wp-content/uploads/2021/06/INF-MUJERES-digital-1.pdf>.

access to clean water and nutritious food, and the low quality of hygiene and medical services has contributed to a high incidence of hunger and disease in prisons.⁷¹

81. In addition, the OHCHR said in 2021 that it is the practice of security agencies to carry out acts of sexual violence against women deprived of their liberty.⁷² The **MLA** case as mentioned above is a good example.
82. The OVP points out that 7.8% of the prison population in the country are women (first semester of 2022).⁷³ Furthermore, a 2021 report highlights: a systematic violation of human rights, where women have experienced violence of different types, including lack of specialized medical care, lack of access to sexual and reproductive health, and access to their medicines, treatments and basic necessities, including sanitary napkins. The lack of food and inadequate food, the lack of essential services necessary to achieve optimal detention conditions, are constants we identified in the testimonies. The inadequate spaces to house women attending to the inherent needs of procedural delays, inhumane disciplinary punishments, lack of qualified security and surveillance personnel, lack of social training programs, among other significant problems developed in the report.⁷⁴
83. Women also suffer multiple forms of discrimination, such as the express prohibition of visits by men, which violates their rights and rulings of the Inter-American Court of Human Rights, and the American Convention.⁷⁵
84. In addition, women, as mothers, sisters, wives, partners, and daughters, are the ones who visit the 29,700 men deprived of liberty, generating a great weight and violence against them to such an extent that they are called "parallel victims of crime."⁷⁶ The unlawful practices of the State towards visitors have a severe psychological, social, and physical impact on families, including mistreatment, the precariousness inside prisons; the denial of information; forced disappearances of detainees; procedural delays and corruption, among other aspects.
85. OHCHR (2019) reported the existence of police dungeons used as prisons, noting:

Detention centers, especially pretrial detention centers, are often overcrowded and unsanitary. Inmates have limited access to food, water, sanitation, sunlight, and recreation facilities. Their access to basic health care is restricted and even denied.⁷⁷

71 <https://www.hrw.org/es/world-report/2022/country-chapters/venezuela>.

72 Paragraph 19, <https://www.ohchr.org/en/documents/country-reports/ahrc4755-situation-human-rights-bolivarian-republic-venezuela-report>.

73 *Visitors in Venezuelan prisons are victims of violence from a gender and human rights perspective*: <https://oveprisiones.com/informes-tematicos/>.

74 *Women deprived of liberty in Venezuela. Women's voices behind bars*: <https://oveprisiones.com/informe-mujeres-privadas-de-la-libertad-en-venezuela-las-vozes-de-las-mujeres-detras-de-las-rejas/>.

75 *Idem*.

76 *Visitors in Venezuelan prisons are victims of violence from a gender and human rights perspective*: <https://oveprisiones.com/informes-tematicos/>.

77 Paragraph 45, <https://www.ohchr.org/en/documents/reports/ahrc4819-situation-human-rights-and-technical-assistance-bolivarian-republic>.

86. In 2021 also noted that it is "concerned about reports of sexual violence against women in pretrial detention, as most facilities are not adapted to meet gender-specific standards and female detainees are often guarded by men."⁷⁸
87. Finally, it should be noted that infants and children up to 3 years of age are kept with the women deprived of liberty.

Recommendations

88. Refrain from resorting to arbitrary detention and respect due process in all legal proceedings. in all legal proceedings.
89. To grant complete freedom to arbitrarily detained women.
90. Ensure that all allegations of torture, other cruel degrading and inhuman treatment, and all forms of violence against women prisoners, are promptly, thoroughly, and independently investigated and those responsible punished.
91. Improve the penitentiary system in every sense, provide the necessary gender-differentiated supplies, and expedite criminal proceedings so that all persons can be informed of court decisions in a timely manner.
92. Respect the right to visit of women deprived of freedom.
93. Respect due process and the human rights of women deprived of their freedom, especially pregnant women, and adolescents.
94. Create proper spaces for women deprived of their freedom.

78 Paragraph 19, <https://www.refworld.org/es/pdfid/61f3258e4.pdf>.



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