



SHADOW REPORT



OF ACCESO A LA JUSTICIA (AJ) AND OBSERVATORIO VENEZOLANO DE PRISIONES (OVP) TO THE COMMITTEE ON THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW).

OCT
2023

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I. CONTEXT

1. According to the World Justice Project's Rule of Law Index, in 2022, Venezuela ranked last among the countries evaluated. One of the crucial indicators is serving justice; the criminal branch ranked last, and the civil branch was second to last.
2. Venezuela also appears among the world's first 26 most fragile countries. It refers to the complex humanitarian emergency (CHE), which 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).
3. This crisis has had a disproportionate and differentiated impact on Venezuelan women and girls. The assorted protection mechanisms have made statements on this issue.
4. The United Nations International Independent Fact-Finding Mission (FFM) highlighted that if the justice system had done its job of controlling political power, the Venezuelan situation would not have been downgraded to the current level.
5. In its 2020 report, OHCHR informed that it received reports of undue gender stereotyping in the legal system, as well as incidents of gender-based violence by public and judicial officers, including threats, abuse, and oral violence. This situation mainly impacts women who log complaints, who often bear a tremendous burden in seeking truth, justice, and reparations for violations suffered by their male relatives.

II. THE ACCESS TO JUSTICE AND LEGAL COMPLAINT MECHANISMS

6. Acceso a la Justicia pointed out in its [shadow report](#) to the CEDAW Committee that the Venezuelan judicial system has become a repressive apparatus. Its role has been distorted to the point that, even when it does not deal with political cases, it does not protect the citizens but rather extorts, persecutes, or mistreats them. AJ describes this involution in its report <https://accesoalajusticia.org/administracion-justicia-penal-venezuela/> (2022).
7. The same report states that the salary of a judge is approximately \$30.00 monthly, "increasing the risk of corruption in all areas and at all levels of the serving of justice." The other justice operators' salaries are unknown because this information is not publicized.
8. There are also [limitations to defend](#) a victim, especially in cases of political persecution, "lawyers who practice law on a private basis are frequently subjected to harassment, intimidation, and even criminal sanctions," especially in cases involving human rights violations. It is complicated to practice private representation of a client because the courts encourage the accused to have the Public Defender (PD) take on their case. Hence, if the accused retains a private attorney, the personal attorney cannot perform a sound defense due to all the hindrances imposed, especially if the case involves being a victim of human rights violations or a political prisoner.
9. AJ denounced that the justice system is deeply sexist. In this regard, the OHCHR highlighted in the aforementioned 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." It also noted that "the absence of gender-sensitive and victim-centered processes and effective protection measures have exacerbated widespread distrust of the justice system."
10. Another significant problem accessing judicial services is the lack of translation and interpretation into indigenous and foreign languages. For example, in the State of Zulia, not enough people speak indigenous languages, which prevents them from knowing what happens in legal proceedings. Moreover, the [constitutional mandate](#) to translate sentences is not complied with. In fact, the State does not communicate with the different ethnic groups in their language. The case of detained foreign women is similar; since no translators or interpreters are available, they do not know what is happening in their legal proceedings.

III. GENDER VIOLENCE AGAINST WOMEN

11. One of the biggest obstacles to preventing and eradicating gender-based violence against women in Venezuela has been the difficulty in diagnosing its causes, consequences, and dynamics, as the most recent official data are from 2016.
12. Venezuelan organizations have reported cases where multiple vulnerabilities expose latent discrimination by the administration of justice when indigenous women suffer sexual violence.

13. The Observatory of Justice for Gender Violence of the Human Rights Center of the Metropolitan University exposes in a [2022 report](#) that, generally, the officers in charge of attending to women victims of gender violence are unaware of their functions and do not even know the current law on these matters.
14. Although Organic Law on the Right of Women to a Life Free of Violence (LOSDMVLV) was passed in 2014, OHCHR (2020) notes that "its implementation remains partial and insufficient to protect victims adequately."
15. The LOSDMVLLV has not been regulated, nor has established protocols for social work on gender-based violence.

IV. WOMEN IN DETENTION

16. Concerning disadvantaged groups of women, in its report, AJ referred to women in detention, as it presented it with the OVP, which, in [a report published in 2021](#), explains that the Venezuelan prison system is not adapted to the specific needs of women, who do not have special prisons (they are annexes of prisons for men). There are no mechanisms for reproductive prevention in an environment where sexual favors interchanged with members of security forces for protection, medical care, food, and water. Human Rights Watch, in its World Report 2022, reported that the lack of 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.
17. 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.
18. The OVP notes that 7.8% of the prison population in the country are women (first semester of 2022). Also, a 2021 report highlights a systematic violation of human rights, where women have experienced violence of different types, including lack of specialized medical care, access to sexual and reproductive health, and access to medicines, treatments, and necessities, including sanitary towels.
19. Food shortages, inadequate food, and lack of essential services necessary for optimal detention conditions are constantly identified by OHCHR in the testimonies.
20. The inadequate spaces for housing women in response to the inherent needs of procedural delays, inhumane disciplinary punishments, lack of qualified security and surveillance personnel, lack of social training programs, and discrimination in access to visits by men, among other major problems described in the report.

V. RECOMMENDATIONS

IV.1. Recommendations on the Access to Justice and Complaint Mechanisms

21. To have true judicial independence and access to specialized and efficient serving of justice in cases of human rights violations in order to combat impunity and provide reparations to victims.

22. Ensure adequate and gender-sensitive attention to victims and their families who report human rights violations and common crimes.
23. Guarantee the independence of the PD, provide it with sufficient resources, and respect the right of defendants to choose a lawyer of their choice.
24. Ensure that bar associations regain their independence and autonomy.
25. Improve the legal and judicial system's policies and guidelines on human rights and gender training.
26. Implement a victim and witness protection program to safeguard their integrity and ensure accountability for human rights violations.
27. Respect indigenous languages and provide translators/interpreters for the corresponding cases.
28. Adopt the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture.
29. Act immediately on allegations of torture and other cruel, inhuman, and degrading treatment, including sexual violence, brought before the courts.
30. Immediately cease any acts of intimidation, threats, and reprisals by members of state security forces against family members of victims seeking justice.
31. Ensure that no one is penalized 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.
32. Resume the practice interrupted ten years ago of publishing annual management reports of the justice system bodies, with vital and verifiable data on their functioning.
33. Rejoin the Inter-American Human Rights System (IAHRS) and implement the Inter-American Court of Human Rights (IACHR) judgments, especially the case of Linda Loaiza.

IV.2 Recommendations on gender-based violence against women

34. Establish a system for collecting data on violence against women, broken down by forms of violence, number of complaints, prosecutions, and convictions, and republishing the sentences of the courts of instance on the website of the Supreme Court of Justice (TSJ).
35. To provide free legal assistance in cases of gender-based violence, guaranteeing the means for accessible, prompt, transparent, independent, and impartial justice.
36. Implement clear policies so that women can access mechanisms for prevention, reporting, protection orders, and punishment of perpetrators.
37. Provide ongoing training to justice operators in gender and intersectional approaches, human rights, and non-revictimization.
38. Ensure that the courts apply the principle of mainstreaming.
39. Sanction judges who use sexist and discriminatory language.
40. Expand the coverage of the prosecutors' offices for the Criminal Investigation of Crimes of Violence against Women.

41. Expand coverage of shelters/shelters for women and their children, follow up on protection orders, and apply the respective sanctions.
42. 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.
43. Eliminate dress and physical presence codes for women in public institutions and sanction those who apply them.

IV.3. Recommendations on women detainees

44. Refrain from resorting to arbitrary detention and respect due process in all legal proceedings.
45. To give complete freedom to arbitrarily detained women.
46. 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.
47. Improve the penitentiary system in every sense, provide the necessary inputs and differentiate according to gender, and expedite criminal proceedings so that all people can promptly be informed of court decisions.
48. Respect the visitation rights of women deprived of their liberty.
49. Respect due process and the human rights of women deprived of their liberty, especially pregnant women, and adolescents.
50. Create adequate spaces for women deprived of their liberty.