



General Assembly

Distr.: General
16 February 2012
English
Original: Spanish

Human Rights Council

Nineteenth session

Agenda item 6

Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Venezuela (Bolivarian Republic of)

Addendum

**Views on conclusions and/or recommendations, voluntary commitments
and replies presented by the State under review**

* The present document was not edited before being sent to the United Nations translation services.

1. The Bolivarian Republic of Venezuela, imbued with respect for the principles of the sovereignty and self-determination of peoples, has undertaken a profound transformation of all aspects of Venezuelan society. The State of Venezuela has introduced new mechanisms which have gradually eradicated the social inequalities imposed for centuries; it is surmounting the long exploitation of its people; it has recovered its natural resources; it has been overcoming the neocolonial inheritance of dependence on international power centres and the firm dominance of a system based on ignorance and the legitimization of systematic human rights violations, while injustices have been structurally healed over 13 years of the Bolivarian Revolution.
2. Venezuela, thanks to its major advances in the field of human rights, has consolidated its obligations both domestically and with respect to the Universal System of Human Rights, while it has made strides in terms of cooperation with the help of the United Nations Development Programme (UNDP) in Venezuela and the Office of the United Nations High Commissioner for Human Rights (OHCHR).
3. Venezuela has been building a positive relationship with all the special thematic procedures and bodies created under the various human rights treaties. The presentation in October 2011 of the first universal periodic review to the Human Rights Council provided an excellent opportunity to report on achievements, to declare voluntary commitments and to assume human rights challenges.

The State of Venezuela submits herewith its comments on the recommendations that were not accepted following its presentation of the universal periodic review in October 2011

4. Recommendations **96.1–96.9** were not accepted because a distinction needs to be drawn between compliance with Venezuela's obligations under its international responsibility as a subject of international law and the material implementation within its territory of an "international" or "foreign" decision, conflicting with the country's Constitution, which exceeds or abuses the obligation contained in the treaty ratified by the Republic, or subject to an interpretation which extends or amplifies the original treaty. Venezuela cannot accept rulings which usurp the sovereign attributes of any of the branches of the National Public Power, since the treaty or international instrument granting jurisdiction to the jurisdictional body concerned did not authorize it to "usurp" in that way the functions that pertain exclusively to local or national bodies.
5. Recommendation **96.7** has not been accepted because it has been overtaken in practice with the creation in May 2011 of the Presidential Committee on Arms, Munitions and Disarmament Control, which is collectively composed of representatives of the State and society. This Committee is building a comprehensive public policy, which includes the revision of all domestic legislation concerning arms, munitions and explosives. On the basis of broad-ranging public consultations, the Committee is developing legislative and executive measures to ensure compliance and to deal successfully with the trafficking and possession of small arms and light weapons by civilians.
6. Recommendation **96.11** has not been accepted, because Venezuela has an existing legislative framework and municipal, regional and national institutions in favour of the promotion and protection of the human rights of women. These legislative provisions are clearly set out in the Constitution of the Republic; the Organizational Act on the Right of Women to a Life Free of Violence; the Organizational Act on the Protection of Children and Adolescents; the Act on the Protection of the Family and Parenthood; the Act on the Partial Reform of the Criminal Code; the Act on Equal Opportunities for Women and the Act on the Promotion and Protection of Breast-feeding. With this extensive legislation the

Venezuelan State has developed and implemented public policies in all its component institutions. These policies protect the effective and practical implementation of the human rights of women and of related penalties for abuses and breaches of the law, while strengthening non-discrimination and the gradual elimination of historical and sociocultural obstacles that perpetuate violence and discrimination against women.

7. Recommendation **96.12** is rejected on the grounds that it is false and without foundation. Venezuela has developed a series of legal and institutional provisions to prevent and punish any person guilty of the offence of human trafficking in any of its forms or manifestations. If any such offences arise, they are punished according to those laws, which include aggravated penalties in the event that the perpetrators of the offences hold authority or are responsible for the upbringing or supervision of the victims. In the National Plan for the Protection of Children and Adolescents, policies and plans have been developed for prevention and for the protection and participation of children and adolescents, including the opening of specialized centres, where the rights of children and adolescents who are socially exposed are guaranteed under the joint responsibility of organized communities and the State.

8. Recommendations **96.13, 96.14, 96.15, 96.16, 96.17, 96.18, 96.19, 96.20, 96.21, 96.22** and **96.24** have not been accepted on the grounds that they are based on interference with our sovereignty, autonomy, independence and national self-determination, which are non-renounceable rights of the State of Venezuela. Furthermore, our judiciary issues many important jurisdictional rulings aimed at the application of “just law” in noteworthy and exceptional advances, such as:

(a) The creation of new powers for the administration of social justice, in areas such as children and adolescents, the protection of the rights of women to a life free of violence, agrarian law, the strengthening of labour justice with a modern tendency towards conciliation to facilitate rulings and the administration of justice;

(b) Introduction of the Programme of Initial Training in Assessment Standards and Competition for Entry to and Promotion in Judicial Careers, which comply with the international tendency, which combines the constitutional mechanism of entry to a career in the judiciary — by competition — and initial training opportunities for aspiring judges;

(c) Appointments of male and female judges by the Supreme Court of Justice, either as incumbents, as a result of winning the relevant competition, or on a provisional, accidental or temporary basis (as a result for instance of dismissals, resignations, retirement, leave or suspensions), with the aim of following the dynamic of judicial activity and for the purpose of ensuring the continuity of the public service of administration of justice and the right to effective judicial protection;

(d) Design and implementation of the Mobile Courts Programme, which offers awareness to candidate judges in social and community matters and helps to bring justice to all states, municipalities, parishes, schools, colleges and detention centres;

(e) From a budgetary point of view, by virtue of the Constitution within the general State budget, the justice system is allocated a variable annual amount, which must not be less than 2 per cent of the ordinary national budget, for the proper functioning of the judiciary, an allocation which cannot be reduced or modified without the prior authorization of the National Assembly. All the above factors guarantee the independence of the judiciary and the correct administration of justice.

9. Recommendation **96.23** is not accepted despite the challenges faced by detention centres and the fact that this is a priority concern for all State departments. Progressive, structural policies are being implemented with the effect of humanizing and transforming prison life, policies which are devised by the actual detainees and their families, taking due

account of international human rights principles and the United Nations Minimum Rules for the Treatment of Prisoners. The results of the humanization of prisons have been successful and have been put into practice swiftly since July 2011 with the establishment of the Ministry of People's Power for the Prison Service, a department which is totally and urgently devoted to prison work with all the concentration that such a challenge deserves.

10. Recommendations **96.2, 96.3, 96.4, 96.5, 96.6, 96.10, 96.28** and **96.38** have not been accepted on account of the non-constructive, imprecise, confused and groundless manner in which they have been formulated; such recommendations are intended to weaken our independence and interfere in our internal affairs. No recommendation is acceptable if it distorts, excludes or ignores our constitutional order. Such recommendations are bent on giving orders to our public authorities, whereas the internal affairs of Venezuela belong entirely to the domain of the people and the sovereign State.

11. Recommendations **96.25** and **96.26** are rejected. The Venezuelan State, faithful to its democratic institutions and committed to respect for human rights, has expanded the enjoyment and exercise of all forms of human rights and has made constant efforts to ensure that government opponents and supporters maintain uninterrupted democratic activities, without any risk of reprisals on the part of the authorities. This applies equally to those whether active or not in the defence of human rights, journalists, and lawyers working in any capacity, recognition of the human right to demonstrate peacefully and unarmed, and the proportional use of public force only as necessary to safeguard the human rights of demonstrators and non-demonstrators.

12. Recommendations **96.8, 96.27, 96.29, 96.30** and **96.31** are rejected because the exercise and protection of freedom of expression are amply recognized in both the law and in practice, and it is even considered an untouchable right that such freedom may not be restricted even in a state of emergency. The State of Venezuela has extended guarantees still further and though the law has granted the whole population the right to express itself freely over open radio waves or through any other means of expression, in an effort to counter the imbalance that still exists owing to the fact that frequencies for years have been concentrated among a small number of business groups. On the other hand, citizens and media professionals are allowed to express themselves freely, without censorship; the same rights are granted to political groups and trade unions, including the right to associate and to assemble in public or in private peacefully and unarmed, without any other restrictions.

13. Recommendation **93.32** is rejected on the grounds that timely and effective access to government information is fully guaranteed in the Venezuelan justice system. All citizens are kept informed by the Public Administration of all actions, events and circumstances which might affect them, not only by ensuring the right to timely and effective, impartial and uncensored response, but also through the establishment of computing facilities such as web pages or institutional mailboxes to channel any petitions that citizens wish to make.

14. Recommendations **96.33, 96.34, 96.35, 96.36** and **96.37** are rejected on the grounds that the State of Venezuela, on the basis of broad guarantees for political and social participation by the public, in the exercise of its fundamental power, promotes and guarantees the development of social and popular organization without exclusion or favouritism; this includes the work performed by NGOs in our country, its lawful financing excluding actions to subvert or oppose the National Constitution, or the laws, or the legitimately constituted authorities.

15. The Venezuelan justice system enshrines the right to citizen participation, emphasizing the participation of social movements and NGOs through their contributions to the first universal periodic review report, as reflected in the compilation prepared by OHCHR, which found 579 contributions originating from domestic and international sources (A/HRC/WG.6/VEN/3); all registered human rights defenders and civil

associations, when engaged in the pursuit of any work or advocacy in favour of human rights, enjoy complete freedom to act under the same conditions as any Venezuelan citizen acting individually or collectively within the law. Any anomalies that may arise, once reported, are dealt with by the relevant authorities. Information concerning the follow-up to universal periodic review recommendations is displayed on the web page www.epuvenezuela.gob.ve, which gives all the relevant facts and where any organization wishing to do so may express an opinion and follow up all human rights reports. This is why the recommendations are rejected when they are intended to make suppositions or give lessons regarding participative processes, which are a matter of routine in our society, in accordance with the principles of participative, proactive and responsible democracy.

16. With regard to the comments made earlier, it is worth drawing attention to the approval and introduction of the Organizing Act of Social Monitoring, the aim of which is to regulate the mechanisms of public participation so as to exercise social control over public sector actions and behaviour. This Act is a means of implementing the human right to participation at all levels and all political or territorial bodies of the public administration.

Recommendations deferred at the universal periodic review presentation

17. Recommendations **95.1** and **95.2** are accepted, in view of the fact that the State of Venezuela anticipated such action, by signing the Convention for the Protection of All Persons from Enforced Disappearance in October 2008, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, both signed at the United Nations in New York on 4 October 2011, and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, signed on 31 July 2011.

18. Recommendations **95.3** and **95.4** are rejected in accordance with the sovereign right of any State to ratify or not to ratify international treaties, in the light of the national policy regarding ratification of international treaties, which in the case of Venezuela requires a comparative internal analysis to make sure that the international instrument awaiting ratification is compatible with domestic legislation and institutional requirements. This implies the obligation, under the Constitution and by law, to consult all the State bodies concerned. It is therefore premature for the Republic to undertake a firm commitment to ratify the few human rights instruments which are not yet part of the Republic's domestic legislation.

19. Recommendation **95.5** is rejected on the grounds that the State of Venezuela has developed public policies in this respect, such as the creation recently of the Presidential Commission on the Oversight of Arms, Munitions and Disarmament, composed collectively of representatives of the State and organized society.

20. Recommendation **95.7** is rejected, because it is considered that the Constitution of the Bolivarian Republic of Venezuela and the Simon Bolivar National Plan for 2007–2013 set out an approach that mainstreams the implementation of human rights, so that this in itself constitutes a plan for the realization of human rights. It should be remembered that the Constitution currently in force was subjected to long and constant consultations during the existence of the Constituent National Assembly, and that its outcome, the present Constitution, was also submitted to and approved by popular referendum.

21. Recommendations **95.8**, **95.9**, **95.10**, **95.11**, **95.12** and **95.13** are not accepted. The State reiterates its entire willingness to continue working closely with the Council's

mechanisms, and offers its full cooperation to mandate holders, while reserving the right to extend invitations to them when it considers that the time is right. Every invitation is subject to internal requirements, and the opportunity was duly welcomed to invite and confirm the visit to Venezuela of the Special Rapporteur on the right to food, which is scheduled to take place early in 2013.

22. Regarding recommendations **95.6**, **95.14** and **95.15**, the reasons for rejection have already been noted with respect to earlier recommendations above.

Conclusions

23. Venezuela has accepted 97 recommendations, made according to the Human Rights Council's principles of cooperation and non-selectivity. Venezuela has not accepted recommendations that ignore its independence and sovereignty and interfere in its domestic affairs; nor has it accepted ill-intentioned recommendations that are not in keeping with the reality experienced by the Venezuelan people in consolidating the respect for, promotion, realization and primacy of human rights in the public policies that are currently being put into practice. Some recommendations were made in a vague and unsubstantiated form, ignoring the universal periodic review under consideration and the considerable quantity of contributions received from social movements and NGOs prior to submission of the universal periodic review by the State of Venezuela in July 2011. Many of the recommendations that were rejected presumed to give orders to the State of Venezuela; they were marred with defamations and were contrary to the spirit of human rights for the well-being of the Venezuelan people, who have undertaken the historic plan to build Bolivarian socialism with the aim of overcoming all human rights challenges still outstanding.
