

Status of Human Rights in Venezuela for the 40th Session of the Universal Periodic Review

Introduction

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Bolivarian Republic of Venezuela (Venezuela) for the 40th Session of the Universal Periodic Review (UPR).

Background

2. Located in the northern part of South America, Venezuela has an estimated population of 29 million people¹. It is predominately Christian, with 96% of the population identifying as Catholic, 2% as Protestant, and 2% as other².

3. Venezuela's previous review was held on 1 November 2016³. As a result of the review, Venezuela received 273 recommendations, 193 of which Venezuela supported. It was recommended that Venezuela "[c]ontinue the efforts to combat human trafficking, through cooperation and coordination with the Office of the United Nations High Commissioner for Refugees" as well as "[a]dopt a national plan to combat human trafficking"⁴. It was also recommended that Venezuela "[c]ontinue efforts to combat criminal violence and to investigate and adjudicate all accusations of human rights violations, particularly regarding extrajudicial executions and the excessive use of force by civilian authorities"⁵. All of these recommendations were supported by Venezuela.

4. There were no recommendations made regarding religious freedom. However, since the review in 2016, relationships between religious organisations and the government have become increasingly fractured⁶.

5. Since President Nicolás Maduro was first elected President in 2013, Venezuela has been in a downward spiral resulting in skyrocketing inflation, mass migration, violence, and hunger⁷. In 2018, Maduro claimed victory in a highly controversial election, which opposition leaders, figures in the international community, and more than 50 countries declared illegitimate⁸. The dispute over the election arose early, when election day was moved from December of 2018 to May of the same year, giving the opposition less time to prepare for the election and causing the opposition leaders to call for a boycott of the election⁹. Following the election, the head of the democratically-elected National Assembly, Juan Guaidó, would claim the role of interim president¹⁰.

6. To maintain control of his disputed presidency, Maduro cracked down on dissidents, often targeting and imprisoning those who voiced opposition to his rule¹¹. Even the Catholic clergy have been accused of belonging to the political opposition¹². Additionally, Maduro has repeatedly used the military and security forces to arbitrarily and unlawfully detain political rivals¹³.

Legal Framework

7. Article 59 of Venezuela's constitution address religious liberty:

The State guarantees the freedom of cult and religion. All persons have the right to profess their religious faith and cults, and express their beliefs in private or in public, by teaching and other practices, provided such beliefs are not contrary to moral, good customs and public order. The autonomy and independence of religious confessions and churches is likewise guaranteed, subject only to such limitations as may derive from this Constitution and the law. Father and Mother are entitled to have their sons and daughters receive religious education in accordance with their convictions.

No one shall invoke religious beliefs or discipline as a means of evading compliance with law or preventing another person from exercising his or her rights¹⁴.

8. Furthermore, Article 92 of the Constitution states the following:

All workers have the right to benefits to compensate them for length of service and protect them in the event of dismissal. Salary and benefits are labor obligations due and payable immediately upon accrual. Any delay in payment of the same shall bear interest, which constitutes a debt certain and shall enjoy the same privileges and guarantees as the principal debt¹⁵.

9. Under Article 56 of Venezuela's Organic Law on the Right of Women to a Life Free of Violence, human trafficking is prohibited:

Whoever promotes, favors, facilitates or executes the capture, transport, the welcome or the reception of women, girls, or adolescents, through violence, threats, deception, kidnapping, coercion or other fraudulent means, for the purpose of sexual exploitation, prostitution, forced labor, slavery, or organ extraction will be punished with imprisonment of 15 to 20 years¹⁶.

10. Furthermore, under Article 16 of Venezuela's Organic Law Against Organized Crime, human trafficking is considered an organized crime offense, which carries with it a prison sentence of ten to fifteen years for the following:

[T]he illegitimate deprivation of liberty and from ten to eighteen years for kidnapping, when the crimes established in this article are committed:

1. Against children and adolescents or over seventy years.
2. By an armed group or wearing uniforms or symbols of authority.
3. With torture or other forms of violence¹⁷.

11. Venezuela has signed and ratified the International Covenant on Civil and Political Rights (ICCPR). Article 18 of the ICCPR enshrines protections for religious freedom:

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others¹⁸.

12. In addition, Articles 7 and 8 of the ICCPR address human trafficking:

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation¹⁹.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labor.²⁰

Human Trafficking in Venezuela

13. Under the Maduro government, the collapsing economy has caused food and medical shortages²¹. This, in turn, has led to the “largest external displacement crisis in Latin America’s recent history,” according to the International Organization for Migration²². According to the UN Relief Agency (UNRA), an estimated 5.4 million Venezuelans have fled to neighbouring countries²³.

14. However, those fleeing Venezuela in search of economic prosperity often unwittingly fall into the grasp of waiting human traffickers. For example, in neighbouring Colombia, traffickers lure Venezuelan women to Colombia with false promises of well-paying jobs²⁴. However, once they reach Colombia, the women’s documents are seized, and the women are sexually exploited²⁵. In 2018, Colombian authorities rescued 80 Venezuelan women who had been trafficked from Venezuela and forced to work as prostitutes in brothels²⁶. Colombian authorities reported that these women were forced into rooms that were locked shut and were only permitted

to leave the rooms for 15 minutes a day²⁷.

15. Women and girls are most vulnerable to sexual abuse and exploitation. The ongoing COVID-19 pandemic has worsened the situation²⁸. As stay-at-home orders and shutdowns have limited travel, victims remain indefinitely trapped in dangerous and abusive situations. One former sex worker stated, “Venezuelan refugees from Bogotá to Lima forced into sex work to survive have no option but to continue working during the coronavirus pandemic”²⁹. Similarly, a mother described the desperation she faces trying to provide for herself and her children: “Men think that because you are on your own with children, women must be selling themselves. I have had several propositions to sell myself in order to feed my children. It is really difficult to refuse because I need the work”³⁰. Likewise, a volunteer working to help migrant families stated, “Men are preying on vulnerable families during the pandemic, small girls have been drugged and raped. We are also seeing an increase in irregular armed groups forcibly recruiting both boys and girls as young as 10 for the purposes of trafficking”³¹.

16. While the majority of human trafficking victims are being taken to neighbouring countries, men and women are also trafficked within the country—particularly in the mining region known as the Orinoco Mining Arc³². Traffickers exploit men to obtain workers for the mines and traffic women for sexual exploitation³³. According to the United Nations Office of the High Commissioner for Human Rights, gender-based violence and forced prostitution have been on the rise in the region since 2016³⁴.

17. Furthermore, Venezuela lacks a comprehensive trafficking in persons law. While human trafficking is criminalized, it is done so by separate pieces of legislation that coalesce to condemn the atrocity.

Attacks on Religion

18. Within Venezuela, Maduro loyalists, known as “colectivos”, have targeted civilians as well as religious groups³⁵. In 2017, a group of colectivos stormed a Sunday Mass being held at the San Pedro Claver Church in Caracas³⁶. The individuals interrupted Mass, shouting insults at the congregation and the priest³⁷.

19. In May of 2019, members of the Venezuelan National Guard (GNB) carried out an attack on a Catholic church in San Cristobal³⁸. As mass was ending, two members of the GNB entered the church on motorcycles³⁹. When the pastor came down from the rectory to confront them, 40 more members of the GNB entered the church and began throwing gas canisters, but the parishioners were able to escape from the church with no injuries⁴⁰.

20. In February of 2021, a group of men attacked four Christians inside a drug rehabilitation center run by a church called the Restoration House⁴¹. The attackers used knives to carve an “X” into the bodies of the Christian men and forced them to eat pages torn out of a Bible⁴². In addition to the cuts, two of the men suffered broken arms and legs, and another one of the men sustained two broken ribs as well as injuries to his head and lungs⁴³.

Conclusion

21. Venezuela must address the ongoing humanitarian crisis that is occurring within its borders. Economic instability, coupled with political unrest, is driving Venezuelans to a point of desperation, further spurring instability, violence, and exploitation. Venezuela must permit humanitarian groups to work within the nation to protect individuals and alleviate the ongoing crisis. Additionally, Venezuela should take immediate steps towards the adoption of comprehensive trafficking in persons legislation to protect the country's most vulnerable.

22. Furthermore, the government of Venezuela must take immediate steps to halt attacks on Christians and religious leaders. The government must respect religious organisations and allow them to openly and freely practice their faith.

¹ *Venezuela*, WORLD FACTBOOK (18 Mar. 2021), <https://www.cia.gov/the-world-factbook/countries/venezuela/>.

² *Id.*

³ *Universal Periodic Review – Venezuela (Bolivarian Republic of)*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/VEIndex.aspx>.

⁴ UPR of Bolivarian Republic of Venezuela – Thematic List of Recommendations A/HRC/34/6/Add.1 – Para. Section II para. 6,

<https://lib.ohchr.org/HRBodies/UPR/Documents/Session26/VE/MatriceRecommendationsVenezuela.docx>.

⁵ *Id.* at A/HRC/34/6/Add.1 – Para. Section II, para. 6.

⁶ Felina Freier, *Maduro's Immortality and the Role of the Church in Venezuela*, BERKLEY CENTER (15 Jun. 2018), <https://berkeleycenter.georgetown.edu/responses/maduro-s-immortality-and-the-role-of-the-church-in-venezuela>.

⁷ Anna Vanessa Herrero and Megan Specia, *Venezuela Is in Crisis. So How Did Maduro Secure a Second Term?*, NEW YORK TIMES (10 Jan. 2019), <https://www.nytimes.com/2019/01/10/world/americas/venezuela-maduro-inauguration.html>.

⁸ *Nearly 50 Countries Reject the Victory of Chavism in the Venezuelan Elections*, ATALAYAR (8 Dec. 2020), <https://atalayar.com/en/content/nearly-50-countries-reject-victory-chavism-venezuelan-elections%C2%A0>.

⁹ William Neuman & Nicholas Casey, *Venezuela Election Won by Maduro Amid Widespread Disillusionment*, NEW YORK TIMES (20 May 2018), <https://www.nytimes.com/2018/05/20/world/americas/venezuela-election.html>.

¹⁰ *Juan Guaidó: The Man Who Wants to Oust Maduro*, BBC NEWS (23 Jan. 2020), <https://www.bbc.com/news/world-latin-america-46985389>.

¹¹ *Id.*

¹² *Maduro's Immortality and the Role of the Church in Venezuela*, *supra* note 6.

¹³ *Juan Guaidó: The Man Who Wants to Oust Maduro*, *supra* note 10.

¹⁴ Constitution of Venezuela art. 59, https://www.constituteproject.org/constitution/Venezuela_2009.pdf.

¹⁵ *Id.* at art. 92.

¹⁶ The Organic Law on the Right of Women to a Life Free of Violence art. 56, <http://www.derechos.org/ve/pw/wp-content/uploads/11.-Ley-Organica-sobre-el-Derecho-de-las-Mujeres-a-una-Vida-Libre-de-Violencia.pdf> (unofficial internal translation).

¹⁷ The Organic Law Against Organized Crime art. 16, https://www.imolin.org/doc/amlid/Venezuela/Venezuela_-_Ley_Organica_Contra_la_Delincuencia_Organizada.pdf (unofficial internal translation).

¹⁸ International Covenant on Civil and Political Rights, Dec. 16, 1966 S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 18.

¹⁹ *Id.* at art. 7.

²⁰ *Id.* at art. 8.

²¹ Devone Cone & Melanie Tiff, *Searching for Safety: Confronting Sexual Exploitation and Trafficking of Venezuelan Women and Girls*, REFUGEES INTERNATIONAL (5 Aug. 2019), <https://www.refugeesinternational.org/reports/2019/8/2/searching-for-safety-venezuela-trafficking>.

²² *Venezuelan Refugee and Migrant Crisis*, INTERNATIONAL ORGANIZATION ON MIGRATION, <https://www.iom.int/venezuela-refugee-and-migrant-crisis>.

²³ *Venezuela Situation*, UNHCR, <https://www.unhcr.org/en-us/venezuela-emergency.html>.

²⁴ Anastasia Moloney, *Desperate Venezuelan Migrants Fall Prey to Sex Slavery in Colombia*, REUTERS (28 Nov. 2019), <https://news.trust.org/item/20181128160752-czhj1/>.

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Paddy Dowling, *A Dollar for Sex: Venezuela's Women Tricked and Trafficked* (30 Jul. 2020), <https://www.theguardian.com/global-development/2020/jul/30/a-dollar-for-sex-venezuelas-women-tricked-and-trafficked>.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Human Trafficking Accompanies Illegal Mining in Venezuela's Orinoco*, *INSIGHT CRIME* (9 Feb. 2020), <https://insightcrime.org/news/human-trafficking-illegal-mining-venezuela-orinoco/>.

³³ *Id.*

³⁴ *Independence of the Justice System and Access to Justice in the Bolivarian Republic of Venezuela, Including for Violations of Economic and Social Rights, and the Situation of Human Rights in the Arco Minero del Orinoco Region*, UNHRC, (29 Sep. 2020), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/242/31/PDF/G2024231.pdf?OpenElement>.

³⁵ Lucia Newman, *Venezuela: Who Are the Colectivos?*, *ALJAZEERA* (9 May 2019),

<https://www.aljazeera.com/features/2019/5/9/venezuela-who-are-the-colectivos>.

³⁶ Daniel Esparaza, *Pro-government "Colectivos" in Venezuela Targeting Catholics*, *ALETEIA* (15 Mar. 2017), <https://aleteia.org/2017/03/15/pro-government-colectivos-in-venezuela-now-also-target-catholics/>.

³⁷ *Id.*

³⁸ *Venezuelan National Guard Attacks Church During Mass*, *CATHOLIC NEWS AGENCY* (2 May 2019), <https://www.catholicnewsagency.com/news/41175/venezuelan-national-guard-attacks-church-during-mass>.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Sara Mae Saliong, *Gang Attacks Church-Run Center In Maduro's Venezuela, Hurts and Forces Four Christians to Eat Bible*, *CHRISTIANITY DAILY* (4 Mar. 2021), <http://www.christianitydaily.com/articles/11037/20210304/gang-attacks-church-in-maduro-s-venezuela-hurts-and-forces-four-christians-to-eat-bible.htm>.

⁴² *Id.*

⁴³ *Id.*