

Introduction

1. Espacio Público is a Venezuelan civil association, founded in 2002, whose purpose is the investigation, promotion and defense of freedom of expression, the right to information and social responsibility in the media.
2. The methodology used for the preparation of this presentation is based on direct and indirect documentation of cases; through interviews, testimonies, videos and photographs; and the analysis of the facts based on the instruments, doctrine and jurisprudence of the international human rights system.
3. The report refers to the obligations concerning freedom of expression in aspects related to legal guarantees for access to public information, criminalization of denunciation and criticism, repressive measures that violate the guarantees of the right to peaceful demonstration, in addition to limitations, attacks and criminal sanctions for the dissemination of information and opinion through the Internet.

Access to public information and Economic, Social, Cultural and Environmental Rights (ESCER)

4. The National Constitution establishes the prohibition of censorship of public officials in matters that concern them, according to Articles 57 and 143. However, opacity is a common practice in public instances where officials go so far as to contemptuously question legitimate attempts to obtain information¹.
5. Venezuela is one of the three countries in Latin America that does not have legislation on access to information. Despite the fact that civil society promoted in 2016 the presentation of the Organic Law on Transparency, Disclosure and Access to Public Information in Venezuela, the legal instrument still does not go beyond the second discussion in the National Assembly (AN). It was approved in first discussion on March 3, 2016 with the former National Assembly dominated by the opposition, but even with this step completed, the enactment and publication by the National Executive in the Official Gazette is still pending².
6. In Venezuela, information of interest to citizens, such as data on epidemics and diseases, the country's electric system, imports and distribution of food and medicines, as well as crime, is especially restricted. In the midst of a Complex Humanitarian Emergency (CHE), outbreaks, epidemics and already eradicated diseases have spread throughout the country in the face of a system of complete opacity.
7. In 2020, in the midst of the COVID-19 pandemic, out of 20 requests for information made by Espacio Público, from March 11 to August 31, the result is that in 55% of the cases, the requests for information were not received due to internal considerations of public agencies and failures in the implementation of e-government. In the other 45% there was neither written nor oral response³.
8. From the requests for information made by Espacio Público between 2017 and 2020, it was determined that in at least 89% of the occasions, the institutions do not respond to the requests for information. In 2017, out of 10 requests for information to public bodies on topics associated with health, none were answered. In a report by Espacio Público on the balance of access to public information between 2016 and 2018, it was recorded that: of 245 requests for information related to the right to water, electricity,

¹Access to public information and DESCA. Retrieved 09/06/2021 at: <http://espaciopublico.org/wp-content/uploads/2015/05/Acceso-a-la-Informacio%CC%81n-Pu%CC%81blica-y-Desca.-Amado-Vivas-Espacio-Pu%CC%81blico-2017.pdf>

² Espacio Público, March 02, 2016, *National Assembly to discuss Access Law*. Retrieved 02/06/2021 at: <http://espaciopublico.org/asamblea-nacional-discutira-ley-de-acceso/>

³Access to information in times of Covid. Retrieved on 09/06/2021 at: <http://espaciopublico.org/acceso-a-la-informacion-publica-en-linea-en-tiempos-de-covid-19/>

housing, and citizen security, 100% of the responses were silence (none were answered)⁴ .

Criminalization of whistleblowing and criticism

9. Impediments to coverage, arbitrary detentions, illegal searches, theft of material and equipment, aggressions, monitoring and surveillance, threats and attacks against media headquarters increased in the last 5 years. Between 2017 and 2020 Espacio Público recorded 1953 cases of violations to freedom of expression in Venezuela. In that period 809 people were detained or held for seeking or disseminating information or opinions⁵ .
10. In 2017 alone, the National Telecommunications Commission (Conatel) took 54 radio stations and 8 television channels off the air. In the same year, 17 print media newspapers stopped circulating due to lack of newsprint or difficulties to access printing supplies, 6 of them suspended operations indefinitely⁶ .
11. In Venezuela there are a series of laws that attempt to criminalize the possibility of seeking and disseminating information. Sanctioned in 2017 by an illegitimate national constituent assembly (ANC), the so-called "Law against hate, for peaceful coexistence and tolerance" contemplates up to 20 years of imprisonment for the dissemination of opinions or information. This regulation punishes hate speech, but does not define it or establish clear categories to evaluate when an expression could qualify as such. The vagueness of the instrument leads to arbitrary applications. The deprivation of liberty, according to human rights standards and legislation compared to other countries in the region, is a disproportionate sanction.
12. From 2017 to 2020, at least 45 cases were recorded in which the "law against hate" was used or invoked as a mechanism of threat or sanction against public workers, protesters judicially prosecuted, digital media, journalists to urge them to change their editorial line when addressing issues that evidence the social crisis; this resulted in a total of 101 complaints of violations of freedom of expression and opinion. The year with the highest number of cases was 2020 with 21, the second is 2018 with 13 cases, the third is 2019 with 10 and 2017 with one case⁷ .
13. During 2018, at least 40 print media went out of circulation indefinitely. The economic crisis and the government monopoly in the sale and distribution of newsprint, through Complejo Editorial Alfredo Maneiro, generated as a consequence at least 10 states in the country without newspapers: Amazonas, Apure, Barinas, Cojedes, Delta Amacuro, Falcón, Monagas, Portuguesa, Sucre and Trujillo⁸ .
14. In 2020, there were at least 105 cases and 250 complaints of violations directly linked to COVID-19. Forty-one percent of the violations were intimidation, 22% cases of censorship, 12% threats, 11% judicial harassment, 7% administrative restrictions, 4% verbal harassment and 3% assaults. Out of a total of 140 victims, the most affected were journalists and reporters with 39%.
15. During the month of April 2020 there were 25 arrests motivated by the searching and dissemination of information, most of these were made to citizens for making comments on social networks, and in the case of journalists, for the publication of information regarding COVID-19. One of these cases was

⁴Access to public information and DESCA. Retrieved on 09/06/2021 at: <http://espaciopublico.org/wp-content/uploads/2015/05/Acceso-a-la-Informacio%CC%81n-Pu%CC%81blica-y-Desca.-Amado-Vivas-Espacio-Pu%CC%81blico-2017.pdf>

⁵Public Space annual reports 2017-2020. Retrieved 12/06/2021 at: http://espaciopublico.org/category/informes_anuales/

⁶Report 2017: Three daily blows against freedom of expression in Venezuela. Retrieved on 01/06/2021 at: <http://espaciopublico.org/informe-anual-2017/>

⁷Balance on the use of the "anti-hate law". Retrieved 12/06/2021 at <http://espaciopublico.org/a-tres-anos-de-la-ley-contra-el-odio/>

⁸Data 2018: Status of freedom of expression and information in Venezuela. Retrieved 12/06/2021 at: <http://espaciopublico.org/informe-2018-situacion-del-derecho-a-la-libertad-de-expresion-html/>

that of professor Fernando Marcano, arrested by officers of the National Anti-Extortion and Kidnapping Command (Conas) of the Bolivarian National Guard (GNB) after publishing messages on his social networks where he expressed his dissatisfaction with the government for the management of the pandemic of the new coronavirus⁹.

16. In 2020, 18 radio stations, 4 print media and 2 digital media were closed in procedures carried out mainly by Conatel, together with state security forces¹⁰.

Freedom of expression and the Internet

17. Between 2017 and 2020, Espacio Público documented 308 complaints related to violations of freedom of expression on the Internet. The cases registered regarding information disseminated online range from harassment by public officials against individuals, journalists, or organizations, to media blocking of web pages or platforms for publishing content¹¹.
18. In 2017, a year of high conflict and human rights violations in Venezuela, channels broadcast via *streaming* the development of public demonstrations. Information portals such as *Vivo Play*, *Venezolanos Por la Información (VPI)* and *Capitolio TV* were blocked.
19. In 2019 the national telecommunications operator Compañía Anónima Nacional Teléfonos de Venezuela (Cantv), blocked 93 times access to websites and platforms such as *Youtube*, *Soundcloud*, *Twitter* and *Instagram*¹².
20. Massive blackouts since March 7, 2019, have affected the work of regional media, digital media and radio stations, consequently, the right of citizens to timely information was limited or completely restricted during these fluctuations. Successive blackouts have caused damage to the telephone service, resulting in prolonged service limitations, even after the restoration of electric power. Similar damage was recorded with Internet services, which were inoperative in some cases, after the return of electricity.
21. By 2020, at least 120 cases were registered on the Internet, which is equivalent to 30% of the total number of registrations, a higher number than in any region of the country. This data suggests an increase in surveillance on social networks towards opinions or information that question the government's management¹³.
22. Likewise, during 2020, at least 67 episodes of online blockades were registered, of which 22 were applied to media outlets and 45 to other types of digital platforms. These measures were mainly exercised by the Compañía Anónima Nacional Teléfonos de Venezuela (CANTV) and private telecommunications operators.

Right to peaceful protest

23. Article 68 of the National Constitution guarantees the right to demonstrate peacefully, prohibits the use of firearms and toxic substances to control protests. Article 38 of the Law of Political Parties, Public Meetings and Demonstrations states that demonstrators must notify the first civil authority of the jurisdiction at least 24 hours in advance of the protest.

⁹ Teacher arrested for posting anti-government messages on Facebook. Retrieved on 22/06/2021 at <http://espaciopublico.org/detienen-a-profesor-por-publicar-en-facebook-mensajes-contra-el-gobierno/>

¹⁰ Report 2020: General situation of the right to freedom of expression in Venezuela. Retrieved on 22/06/2021 at: <http://espaciopublico.org/informe-2020-situacion-general-del-derecho-a-la-libertad-de-expresion-en-venezuela/>

¹¹ Public Space annual reports 2017-2020. Retrieved 12/06/2021 at: http://espaciopublico.org/category/informes_anuales/

¹² Internet: between blockages and blackouts. Retrieved on 12/06/2021 at: <http://espaciopublico.org/informe-2019-situacion-general-del-derecho-a-la-libertad-de-expresion-en-venezuela/>

¹³ Idem

24. Following the series of protests registered at the beginning of February 2017, the State responded with repressive actions that were disproportionate to the total number of violent protests registered. On April 18, 2017, Nicolás Maduro publicly announced the implementation of Plan Zamora, a civic-military strategic plan based on "the joint operation of the armed forces, militias and popular forces", "in the face of possible internal and external attacks that threaten the peace and sovereignty of the country"¹⁴.
25. In general terms, Plan Zamora contemplated two structural flaws in terms of human rights standards. The first, the illegitimate incursion of armed civilians and military forces in public security operations; by constitutional and international mandate, only duly trained and qualified civilian police forces are authorized to manage public meetings, as established in Articles 332 and 329 of the Constitution and cases of the Inter-American Court against Venezuela, such as Montero Aranguren and others (Retén de Catia). The second, the use of State weapons by armed civilian and military groups to defend a political-partisan partisanship, to the detriment of the rights of the demonstrating population regarding integrity, life, personal freedom, freedom of assembly and expression, due process and political participation.
26. The monitoring and documentation work evidenced that during the April-July 2017 protest cycle, 47 people were killed, 893 detained and 1244 injured as a result of actions aimed at curtailing public demonstrations throughout the country.
27. Residential areas and urbanizations were not excluded from these repressive acts. The data showed that 5.30% (66 persons) of the records correspond to persons who were injured mainly in residential areas. Likewise, 12.31% (110 persons) of the arrests made during the April-July cycle of protests were executed mainly in urbanizations and residential complexes.
28. In 2019, a total of 46 public workers were recorded as victims of harassment, threats or persecution for participating in public demonstrations, denouncing cases of corruption in state institutions or for refusing to sign documents favorable to the ruling party¹⁵.
29. Among the main perpetrators are the security forces, who were responsible on 159 occasions. In this regard, the Bolivarian National Guard (GNB), the Bolivarian National Intelligence Service (Sebin) and the General Directorate of Military Counterintelligence (DGCIM) accumulated the largest number of violations. The actions of the State security forces were mainly characterized by impeding the coverage of journalists in public demonstrations, through intimidation and harassment, as well as by their participation in processes such as raids or inspections of media outlets¹⁶.

Recommendations

30. Promulge a law and develop public policies that effectively guarantee access to public information in all the corresponding instances and levels, with mechanisms in accordance with international standards on the matter, which ensure the simplicity, free of charge and speed of the process.
31. Adapt domestic legislation to the parameters established by international systems for the protection of human rights. Specifically, repeal unconstitutional laws such as the "law against hatred, for peaceful coexistence and tolerance".
32. Guarantee the necessary resources for the free development and circulation of the media, and improve Internet conditions in order to guarantee freedom of expression in accordance with international human rights standards.

¹⁴ VENEZUELA 2017: Balance on the situation of the right to assembly and demonstration in Venezuela in 2017. Retrieved on 16/06/2021 at: <http://espaciopublico.org/balance-sobre-la-situacion-del-derecho-a-la-reunion-y-manifestacion-en-venezuela-en-2017/>

¹⁵ Situation of Freedom of Expression in Venezuela 2019. Retrieved on 06/18/2021 at: <http://espaciopublico.org/informe-2019-situacion-general-del-derecho-a-la-libertad-de-expresion-en-venezuela/>

¹⁶ Idem

33. To guarantee the updating, improvement and maintenance of the Internet service and infrastructure. Under this pandemic context, its importance has increased. Universal access to the Internet will generate the ideal spaces for citizens to get their hands on information of public interest.
34. Protect the freedom of expression and information of all people, especially civil society organizations, media and political parties without being repressed, imprisoned or persecuted.
35. Allow the official visit of the United Nations Special Rapporteurs to Venezuela in order to verify the human rights situation in the country.

Index of annexes (in Spanish)

- Access to public information and ESCER. Annual report on the situation of the right to freedom of expression and information in Venezuela 2017.
- Indefinite silence through precautionary measures. Annual report on the situation of the right to freedom of expression and information in Venezuela 2017.
- Balance 2016-2018. Access to public information in Venezuela. Annual report on the situation of the right to freedom of expression and information in Venezuela 2018.
- Online arrests. Prisoners for using social networks. Annual report on the situation of the right to freedom of expression and information in Venezuela 2018.
- Walled Internet. Restricted access in Venezuela. Annual report on the situation of the right to freedom of expression and information in Venezuela 2019.
- Prior sentencing. Criminal justice against free expression. 2019.
- Digital gender violence against women in Venezuela. 2021.