

Observations on the State of Indigenous Human Rights in Venezuela

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CULTURAL SURVIVAL

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*; and on its website: www.cs.org

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I. Executive Summary

Venezuela is unique in its incorporation of Indigenous rights concepts in national law, and has included Indigenous Peoples in its constitution. However, Venezuela has made very little progress in implementing these laws and ensuring that Indigenous Peoples enjoy the same human rights as non-Indigenous Venezuelans.

A major threat to the rights of Indigenous Peoples in Venezuela is the expansion of mining activities that are being fast-tracked as an alternative to Venezuela's waning petroleum industry. The mining projects have been developed without the Free, Prior and Informed Consent of Indigenous Peoples. The State's support for and development of extractive industries, along with a lack of response to threats faced by the Indigenous communities, has halted the demarcation of Indigenous lands, led to invasion of the territories of recognized Indigenous territories, exposed Indigenous Peoples to disease, and caused severe environmental destruction which threatens access to water, food security, and livelihoods of Indigenous Peoples. The mining activities are protected by armed groups, whose presence has led to sexual and labor exploitation, increased rates of violence and cross-border migration, has threatened Indigenous Peoples' right to self-determination, and impeded on their land rights. A lack of access to adequate health care and the increasing rates of disease among Indigenous communities are also of great concern.

II. Background

Venezuela is located in northern South America and is bound on the north by the Atlantic Ocean and Caribbean Sea. The geography of Venezuela consists of mountainous regions that extend to the Colombian Border, plains delineated by the Orinoco River, and the coastal region. Venezuela has at least 57 distinct Indigenous Peoples inhabiting all 23 states. The Indigenous population in Venezuela makes up 2.7% of the nation's population according to a 2011 census¹, however, many more Venezuelans recognize their mixed ancestry. 61% of Indigenous people in Venezuela live in the state of Zulia, of which 91% are Wayuu. 63% of Indigenous people in Venezuela currently live in urban areas. AfroVenezuelans are highly concentrated along the Caribbean coast and Indigenous people are the majority in the Amazonian region. The most populous Indigenous Peoples are the Wayúu, Warao, Kari'ña, and Pemón, followed by the Barí, Yupka, Yabarana, Yanomami, Yukuana. Venezuela is considered a state with extremely high biodiversity, currently ranked 7th in the world's list of the nations with the most number of species, with habitats ranging from the Andes Mountains in the west to the Amazon basin rainforest in the south, via extensive llanos plains and the Orinoco River Delta in the east.

For decades, Venezuela has had the world's largest oil reserves, and its economy has been heavily dependent on oil exports. However, declines in oil production, decreasing value of oil, and exacerbating U.S. sanctions from the Trump administration, have plummeted Venezuela into an economic crisis: the country's GDP shrank by roughly two-thirds between 2014 and 2019, and annual inflation has soared to 6,500 percent.² As a result of this economic collapse, a 2019 Human Rights Watch report documents rising maternal and infant death, spread of preventable diseases, food insecurity, and child malnutrition.³ These issues have continued to deepen

throughout the COVID-19 pandemic.

Venezuela ratified the International Labor Organization (ILO) Convention 169 in 2000 and endorsed the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. Indigenous Peoples are included 1999 Constitution, and Venezuela and has enacted a set of laws to develop the specific rights of Indigenous Peoples, such as the Law on Demarcation and Guarantee of the Habitat and Lands of Indigenous Peoples (2001), the Law on Indigenous Peoples and Communities (2005), and the Indigenous Languages Act (2007). However, many of these laws remain to be implemented. Venezuela has also created institutions devoted to overseeing public policy formulation in Indigenous affairs, such as the Ministry of Popular Power for Indigenous Peoples.

III. Previous Relevant UPR Recommendations

Venezuela accepted the following recommendations in the 2nd cycle pertaining to Indigenous Peoples that have not been fully implemented.

1. Continue to implement the necessary measures to achieve sustainable management of its natural resources, in line with the respect for environmental rights and the rights of Indigenous Peoples [Bolivia]
2. Continue moving forward in land demarcation and indigenous environment, taking into consideration the characteristics of each indigenous people [Yemen]
3. Continue implementing mechanisms for the prior consultation and participation of indigenous peoples in decision-making related to the enjoyment of their ancestral rights in accordance with its domestic law [Cuba]
4. Continue enhancing the school infrastructure for indigenous communities in order to guarantee an increase in intercultural and bilingual education centers [South Sudan]
5. Protect the rights of indigenous peoples through the implementation of prior consultation mechanisms as established in the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) [Peru]
6. Ensure full and equal access to modern contraceptives throughout its territory, including in peri-urban, rural and indigenous territories [Denmark]
7. Expedite and systematize the process of demarcation of indigenous collective lands and habitat, and update the census data of indigenous communities and peoples, ensuring the participation of communities in this process (Ecuador)

IV. Ongoing Violations against Indigenous Peoples in Venezuela

A. Violations to Indigenous Rights resulting from Extractive Industry

Violating UNDRIP Articles 1,2 3, 5, 7, 8, 10, 11,15, 17, 18, 19, 20, 21, 24, 29, 31, 32

1. Orinoco Mining Arc

The Venezuelan State created the Orinoco's Mining Arc (AMO) National Strategic Development Zone in 2016, which is a mega-mining project focused on gold extraction as well as bauxite, coltan, and diamonds, and is heavily promoted by President Maduro as an alternative to economic dependence on oil.⁴⁵ Occupying 12.2% Venezuelan land⁶, the project is located south of the Orinoco River and is located on the homelands of several Indigenous Peoples, specifically the Kari'ña, Warao, Arawak, Pemón, Ye'kwana, Sanemá o Hoti, Eñe'pa, Panare, Wánai, Mapoyo, Piaroa and Hiwi.⁷ The project has infringed upon the Indigenous Peoples' rights to life, health, and a safe, healthy sustainable environment. Many international and local NGOs have documented the negative impacts the mining has had on the land, such as the contamination of rivers and the increased rates of diseases such as Malaria.⁸ Several Indigenous organizations and other social movements have expressed concern and rejected the AMO project.⁹ The State has failed to obtain the Free, Prior and Informed Consent (FPIC) of Indigenous Peoples before beginning the mining projects in the AMO and has actively withheld its plans from the groups living in these areas. Under Venezuelan law and United Nations and International Labor Organization's treaties and conventions ratified by Venezuela, Indigenous Peoples have a legal and human right to consultation. However, the State did not consult any Indigenous Peoples about the implementation of the AMO.¹⁰ As mining activities continue to expand, Indigenous lands are being taken from the communities without FPIC at increasing rates.¹¹ The AMO project runs through Caura National Park and Alto Cauro-Erebato, which are inhabited by the Hoti and Yanomami Indigenous communities. The park is protected by the constitution of Venezuela, but that has not changed the boundaries of the mining projects which encroach on the park lands, and contains the principal forest and water reserves used by the Indigenous Peoples,¹² further threatening their access to a safe, healthy sustainable environment. The Orinoco, Atabapo, Guainía, Sipapo - Guayapo, Parú, Asita, Siapa rivers and the Yapacana National Park have suffered substantial environmental destruction: the rivers have been heavily polluted with mercury, which has diminished the fish population and contaminated a crucial food source for Indigenous Peoples.¹³ Mercury poisoning from the contaminated fish is now a prevalent health problem among Indigenous Peoples.¹⁴

2. Illegal mining

A UNESCO Heritage site¹⁵, the Canaima National Park, is home to the Pemón Indigenous People. As Venezuela's inflation rates spiraled out of control and government response has been insufficient to uphold the right to an adequate standard of living, increased food insecurity has forced many impoverished Pemón people to turn to small-scale mining as a means to survive, selling gold for basic commodities like flour and oil.¹⁶ In addition to being physically dangerous, the work has massive health and environmental implications due to the use of mercury for extracting gold, and erodes the cultural value system of the Pemón people. Although in early stages operations were carried out at a small scale by individuals, between 2018-2020 external criminal groups, including gangs and the FARC and ELN of Colombia, gained control of operations.¹⁷ This has been well documented in the southern Venezuelan state of Bolívar, where Human Rights Watch reported that in 2020 "The various syndicates that control the mines exert

strict control over the populations who live and work there, impose abusive working conditions, and viciously treat those accused of theft and other offenses – in the worst cases, they have dismembered and killed alleged offenders in front of other workers”¹⁸ Multiple sources confirm that state officials are aware of the problem and either actively ignore it and/or accept bribes to continue to allow it.^{19 20}

In July 2020, an oil spill in Morrocoy National Park was caused by the El Palito refinery, a government-owned facility, a finding which has been denied by the Venezuelan State.²¹²² The spill threatens the flora and fauna of the region, which in turn threatens the lives of the Indigenous Peoples who rely on these ecosystems for their water, food, and livelihoods. The State has failed to properly remediate the Morrocoy spill and continues to ignore reports of other potential oil spill risks in the Paria area.²³

B. Failure to Demarcate Indigenous Lands

UNDRIP Articles 1, 2, 3, 5, 8, 10, 11, 17, 18, 19, 20, 26, 27, 28, 29, 32

A local Venezuelan NGO, Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA), reports that the State has shown no progress as of July of 2020 in the demarcation and protection of Indigenous lands since the last UPR cycle in 2016.²⁴ Despite Venezuela’s Constitution containing interim provisions which require the state to demarcate Indigenous territories, reports from Indigenous Peoples say the lands provided thus far has not exceeded 13% of the total.²⁵ The national demarcation process was in place until about 2015; but between 2015 and 2020 there were no further demarcations of Indigenous territories. The Venezuelan agency in charge of this process, the Ministry of Indigenous Peoples, blames the halt on a lack of funding. But the expansion of state extractivism and mining projects in Indigenous territories suggest that the lack of progress is the result of a lack of political will to effectively delineate lands belonging to Indigenous Peoples, which would limit the lands available for these types of governmental actions.²⁶

The mega-mining project in the Orinoco Mining Arc is a major challenge to the land rights of Indigenous Peoples, as it overlaps with several Indigenous territories.²⁷ Due to the failure to recognize the land rights of Indigenous Peoples in the Orinoco Mining Arc, the communities are forced further and further away from their traditional lands as mining activities expand. Mining proponents go so far as to violently remove the Indigenous Peoples that are in opposition to the projects.²⁸ Indigenous Peoples are becoming increasingly more isolated, putting them at a greater health risk as well as threatening their traditional livelihoods as they lose access to the traditional ecosystems on their lands.²⁹

There has been some progress in the granting of land titles to Indigenous Peoples. The Bari people of the Zulia state obtained a community land title³⁰ and Caura National Park, whose legal

grant recognizes some Indigenous lands, was created.³¹ However, the AMO runs through the Caura National Park despite its legal status,³² a cause for concern that the legislative progress is largely symbolic.

C. Increased Militarization and Violence

UNDRIP Articles 1, 3, 4, 5, 7, 8, 10, 17, 22, 30, 32

When Indigenous Peoples voice their opposition and concerns, they are met with violence.³³ Indigenous leaders and human rights activists are targeted and attacked, and there exist persistent allegations of extrajudicial punishment, forced disappearances, and arbitrary killings.³⁴ The Human Rights Measurement Initiative's Rights Tracker reported that Indigenous Peoples in Venezuela, particularly those in the Orinoco Mining Arc, are especially vulnerable to arbitrary or political arrest and detention by government agents. Overall, Venezuela scored a 2 on a scale of 10 for the right to safety suggesting that many people are not safe from arbitrary arrest, torture, disappearance execution or extrajudicial killing.³⁵

Violence and crime has increased due to the mining activities in the AMO: criminal organizations and guerrilla and paramilitary groups are present in the zone, alongside an expanded presence of the Venezuelan State military."³⁶ The armed forces in these areas derive much of their income from illegal mining profits³⁷ and seek to enforce obedience through violent measures. The Venezuelan State has taken no measures to solve this problem.³⁸ The loss of control over their traditional territories to these armed groups has a substantial impact on the Indigenous Peoples' right to self-determination and land rights.³⁹

Since March 12, 2021, Indigenous Peoples in the Munduruku Indigenous Territory have reported that illegal miners protected by armed groups increasingly encroach upon their lands. Indigenous Organization of the Uwottüja of Sipapo (OIPUS) has been calling on different civil and military authorities of the Venezuelan state to take action to clear the area and put a halt to all mining activities in the region.⁴⁰

In the Bolivar state, there are serious, increasing tensions between the armed forces and Indigenous Peoples. The lands of the Ye'kwana and Sanöma Indigenous Peoples in the Caura river basin and the Pemón People on the Gran Sabana, Alto Paragua and Ikabarú sector have been completely taken over by illegal and legal mining activities. The problem in the Pemón territory specifically worsened significantly in 2020 "when communities and military or external armed groups" clashed in "disputes over the control of areas rich in minerals."⁴¹

On February 22-23, 2019, uniformed members of the Venezuelan military used excessive force against the Pemón Indigenous community of Kamaracupay, San Francisco de Yuruani, located along the border with Brazil. According to community reports verified by the Inter-American Commission on Human Rights (IACHR), at least 4 Pemón were killed in the attack. The military had allegedly been sent to the border to prevent the entry of humanitarian aid across the border.⁴²

The attack appeared to be retaliation against the Pemón who had organized an action to facilitate the smuggling of humanitarian aid across the border from Brazil. The incident was investigated by the IACHR, which authorized precautionary measures to protect the Pemón people.⁴³ The IACHR “asked the State of Venezuela to ensure that its officers respect beneficiaries’ rights and refrain from using force in any way incompatible with the applicable international standards;... to implement culturally appropriate security measures in the area,...to implement protection measures for the families of Pemón indigenous persons killed on February 22-23, 2019; and to provide adequate medical assistance to Pemón indigenous persons in the community who were injured in the area on February 22-23, 2019.”⁴⁴ Yet, Venezuela did not implement these measures and instead, a massive and repressive military presence has been in place without consultation with the community, which has affected the Pemón community’s right to freedom of movement.⁴⁵

D. Health and the COVID-19 Pandemic

UNDRIP Articles 1, 2, 7, 21, 24

Health of Indigenous Peoples continues to be a pressing problem and diseases are on the rise within Indigenous communities. The Yanomami infant mortality rate is ten times higher than the national average in Venezuela and ranges between 30% and 50% of live births among the Pumé ethnicity.⁴⁶ The Warao have a high incidence of tuberculosis.⁴⁷ and HIV/AIDS rates among the Warao People are increasing dramatically, with ten out of every hundred Warao suffering from the disease.⁴⁸

Increased mining activities are correlated to increased rates of diseases such as malaria, tuberculosis, hepatitis, gastrointestinal and respiratory diseases, as well as epidemics of measles and, since 2020, COVID-19. Standing water and unsanitary conditions at mine sites have exponentially increased water- and mosquito-borne diseases in Indigenous communities.⁴⁹ Although Venezuela has previously eradicated malaria within its borders, the WHO reported 323,392 cases of malaria in Venezuela between January and October 2019, and 10 percent of the population in Bolívar state tested positive for the disease.⁵⁰ Malaria causes 21 percent of deaths in Amazonas state and 25 percent of deaths in Bolívar state.⁵¹ Medication is often difficult to procure, although it is available for purchase with gold on the black market.⁵² Conditions near the mines have also contributed to spikes of diphtheria, yellow fever, dengue, and chikungunya.

The AMO has some of the highest rates of COVID-19.⁵³ The State has failed to provide adequate response to the pandemic in the Indigenous territories in the area. Medical facilities established to treat COVID-19 patients are located far from Indigenous communities, and the lack of petrol⁵⁴ in the country further complicates Indigenous people’ abilities to get treatment. The State’s response is criticized for not being culturally relevant, with Indigenous leaders complaining of a lack of COVID-19 tests and accusing the State of manipulating data to mask the realities of the pandemic in these regions.⁵⁵

In 2018, a measles outbreak devastated the Yanomami, but due to inadequate reporting, exact death tolls cannot be provided.⁵⁶ A source in the ministry of health, who remains anonymous due to fear of reprisal from the State, stated that medical teams arrived too late to save the Yanomami people affected.⁵⁷ D.K., a representative of the Yanomami, stated that the State did nothing to prevent the outbreak or help treat it.⁵⁸ Due to the isolation of many Indigenous Peoples in the region, their immune systems are more vulnerable to diseases they have not previously been exposed to.⁵⁹ A representative of the Venezuelan organization the Wataniba Socio-environmental Work Group for the Amazon, said the measles outbreak occurred close in time to a complaint about a settlement of Brazilian illegal miners on the border between Venezuela and Brazil.⁶⁰ “It is thought that people with measles were in the camp and that frequent encounters with Venezuelan Yanomami in the area could have contributed to the epidemic.”⁶¹

Furthermore, by contaminating the rivers in and around Indigenous territories, the extractive activities are “affecting the nervous, digestive, respiratory and immune systems of many inhabitants of communities near the mines” which report high rates of diabetes, high blood pressure, and other chronic diseases.⁶² There is a lack of adequate health infrastructure on Indigenous lands, and existing medical facilities do not have adequate staff and supplies to provide even basic medical care.⁶³ Indigenous communities have voiced their concerns but have not received assistance from the State: Indigenous Peoples of the communities of Alto Caura and Erebató, in the Sucre Municipality of Bolívar State made complaints claiming their right to health, fuel and urgent humanitarian aid from the State⁶⁴ and 300 Yukpa people held a protest in response to the detrimental health and housing situation they are facing.⁶⁵

E. Indigenous Women

UNDRIP Articles 21, 22

Indigenous women and children face higher rates of sexual and labor exploitation and gender-based violence in the context of mining activities. A report issued by the UN High Commissioner for Human Rights shows a “a sharp increase since 2016 in prostitution, sexual exploitation and trafficking in mining areas, including of adolescent girls.”⁶⁶

Indigenous women experience unique reproductive health issues as a result of mercury contamination in their water and food sources such as fish and game. In the Caura river basin, a tributary to the Orinoco, 92 percent of Indigenous women had elevated levels of mercury.⁶⁷ The long term effects of mercury exposure related to gold mining have been well documented, including in a study in neighboring Colombia, (citations in context) “Findings have shown that children who are exposed prenatally to high levels of MeHg can be affected in various ways, including reduced brain size; cortical blindness; motor deficiencies; impaired auditory function, language development and memory; low IQ; impaired visual-spatial abilities; and mental retardation [8,9,10,11]. These effects may become evident over the medium- or long-term and are potentially irreversible [12].... Some studies have shown effects on both human and animal

reproduction after exposure to mercury, including an increase in miscarriages with high levels of mercury in the urine. Other findings include associations with stillbirths, birth defects, and menstrual disorders (irregular and painful periods and bleeding) [8,14,15]”⁶⁸

F. Education

UNDRIP Articles 14, 15, 17, 21

According to the UN’s 3rd volume of the State of the World’s Indigenous Peoples, children from poor Indigenous families and rural areas in Central and South America are half as likely as children from urban areas to gain access to early education centers, and Indigenous children are much more likely to fall behind throughout the course of their studies.⁶⁹

Venezuela’s constitution, in articles 102, 103, 104, and 108, guarantees the right to education for Indigenous communities, as does Venezuela’s Law on Indigenous Peoples and Communities. Also in effect is the 2007 Indigenous Languages Act. Despite this ample legal framework, there continues to be major gaps in education levels between Indigenous and non-Indigenous children and adults, largely due to problems that stem from poor infrastructure, low pay for teachers, and high levels of poverty among families that prevent Indigenous students from staying in school, according to a 2019 report on student desertion among Indigenous students in Amazonas, Bolivar, and Delta Amacuro.⁷⁰ In these areas, the conditions of the schools themselves are often unsafe or inadequate, either without ceilings, walls, functional toilets, and many students lack basic school supplies and adequate clothing to wear to school.⁷¹

As mining activities increase on traditionally Indigenous lands, more and more adolescents are dropping out of school, particularly between the ages of 13 to 17, to go work in the mines.⁷² These mining operations also monopolize fuel, preventing students from being able to get to school as well as hindering the transportation of school meals and supplies.⁷³ This lack of food and transportation frequently prevents children from attending school altogether, as is the case with the Warao children in the Delta Amacuro region. Because they cannot attend school in their region, many families are forced to migrate to Brazil and enroll in schools there.⁷⁴

As a result of the high rates of migration of Warao children in particular, schools in the Delta Amacuro region are closing. Five Indigenous schools in the municipality of Antonio Díaz were closed due to a lack of students and in some cases, insufficient upkeep is allowing rising river and bush levels to overwhelm the school buildings and render them unusable.⁷⁵

The situation has only been made worse by the global pandemic, as in-person classes have been moved online. Due to lack of internet access in Indigenous communities, children who have been attending school are much more at risk of falling behind. The Venezuelan organization Kape Kape reports that “In Indigenous communities, distance education via tele-communications is impossible, given that in almost all cases, there is no phone or internet service in Indigenous communities, in addition to unreliable electricity. For this reason, many teachers are forced to

visit students at their homes to assign work.”⁷⁶ These efforts are made despite teachers continuing to be grossly underpaid; in 2020 teachers reported not earning enough money to pay for their own food and basic necessities, nor can they afford materials for their classrooms: experienced Indigenous Warao teachers report being paid 780,000 bolivars monthly. The cost of a single notebook is 2,500,000 bolivars. Understandably, many teachers are forced to abandon their positions for work that pays a livable wage.⁷⁷

Literacy rates continue to be disproportionately lower for Indigenous Peoples (79.98% compared to a rate of 95.1% nationally).⁷⁸ For those over 65, rates of literacy among Indigenous people drops to 41.4%. As of the most recent census data, Indigenous youth were between 10-14% below the national average for rates of access to education between the ages of 3 and 25.

Another significant issue Indigenous youth face in school is a lack of focus on traditional Indigenous knowledge and teachings, and schools are not doing enough to stop the extinction of Indigenous languages throughout the region. Despite the existence, in theory, of intercultural and bilingual education, Indigenous children are unlikely to graduate from school with the ability to speak their native language: the World Bank reports that 67% of primary-age children in Venezuela were able to speak their mother tongue compared to a mere 2% of university-age youth.⁷⁹⁸⁰

G. Recommendations

We urge the members states to make the following recommendations to the State of Venezuela:

1. Repeal the Arco Minero decree until a process to gain the Free, Prior and Informed Consent of Indigenous Peoples in the region has taken place.
2. Accelerate the demarcation and titling of Indigenous ancestral territories.
3. Develop, with the participation of Indigenous Peoples, legislative frameworks for the implementation of the right to Free, Prior and Informed Consent regarding natural resource use on Indigenous territories, especially regarding extractive industries.
4. Offer immediate protection and humanitarian aid to Indigenous and local communities affected by illegal mining, and seek international aid to regulate illegal mining operations.
5. Provide financial investment in Indigenous-led economic and food sovereignty initiatives in areas currently affected by illegal mining, with particular emphasis on investment in the leadership of Indigenous women.
6. Carry out independent environmental and health assessments of mining operations and take immediate steps to mitigate and remediate mercury contamination.
7. Carry out culturally and linguistically relevant public health awareness campaigns targeting Indigenous women and children on the dangers and vehicles of mercury exposure.
8. Implement a process of Free, Prior and Informed Consent before any military activity takes place in Indigenous territories.

9. Facilitate the provision of external humanitarian aid to communities that are food insecure.
10. Invest in educational infrastructure and teachers' salaries to ensure all Indigenous children in Venezuela have access to education.
11. Take immediate steps to ensure equitable access to health services for Indigenous Peoples, including the COVID-19 vaccine, along with public health messaging that is culturally and linguistically relevant.
12. Take immediate steps to mobilize medical supplies and resources to treat the growing HIV/AIDS epidemic among Warao Peoples.
13. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples on an official country visit.
14. Create a National Action plan on implementing the rights of Indigenous Peoples based on the World Conference on Indigenous Peoples' Outcome Document.

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