

1. The Alianza por la Libertad de Expresión is a coalition of organizations, aimed at coordinated action for the defense and protection of the right to freedom of expression, opinion and information, based on international human rights standards and the obligations of the State established in the Constitution of the Bolivarian Republic of Venezuela.
2. The methodology used for the preparation of this presentation is based on the direct documentation of the cases; through interviews, videos and photographs; and the analysis of the facts based on the instruments, doctrine and jurisprudence of the international human rights system.
3. The presentation contains aspects related to the status of the guarantee of freedom of expression in Venezuela, related to the polarizing discourse of high-ranking officials against the media and journalists; attacks on journalists; impunity and slowness of investigations into attacks on journalists (reporters, photographers and technicians); legal restrictions on freedom of expression, prison sentences for crimes of opinion against officials; legal instruments incompatible with international human rights obligations and indirect restrictions due to the shortage of newsprint that affects the regular circulation of the media.

Speech of high-ranking officials that criminalizes

4. Verbal harassment by high-ranking officials is characterized by insults, disqualifications against the press that place it as a political adversary; threats to the integrity, property and family members of journalists and citizens for the dissemination or coverage of facts that are sensitive for the public opinion. In some cases journalists were accused of being involved in criminal acts as a form of retaliation for disseminating sensitive information for the national government. During a public act on August 2nd, 2017, Maduro indicated that opponents who tweeted against the National Constituent Assembly should go to jail "What did the opposition do on July 30th? They went crazy on Twitter, just with the tweets they published, they should be sent to jail for 30 years"¹.
5. In the period between the years 2017-2020, 376 occasions were recorded in which the government discourse, exceeded the limits of legitimate criticism of media and journalists, a situation that strengthened a climate of harassment and outrage against journalists and critical media². The hostile discourse on the part of officials coincides with violent attitudes of government supporters that prevent the search and dissemination of information by both journalists and citizens³.

¹30 años de cárcel por tuitear contra la ANC. Accessed 19.06.2021. At URL: <http://espaciopublico.org/30-anos-carcel-tuitear-la-anc/>

² Annual reports Situation of Freedom of Expression in Venezuela, accessed on 19.06.2021. At URL: http://espaciopublico.org/category/informes_anuales/

³ Reporte anual IPYSve 2020. El virus de la censura.. Accessed 26.06.2021. At URL: <https://ipysvenezuela.org/2021/03/01/limitaciones-informativas-fueron-un-virus-en-2020-segun-reporte-anual-de-ipys-venezuela/>

Impunity in the face of attacks on media and journalists

6. Between 2017 and 2020, more than 400 attacks and aggressions against journalists and media were recorded. Aggressions occur especially against digital and audiovisual media communicators, graphic reporters and television cameramen, and are executed both by private individuals and by security forces that retain equipment, make arrests and destroy audiovisual material⁴.
7. The aggressions are linked to the impediment of coverage of sensitive issues for the public opinion that question the government's management. In 2017, in a critical social situation where shortages of basic goods, lack of medicines and a growing inflation; Venezuelans protested massively. This year at least 61 press workers were robbed while performing reporting duties, most of them during the coverage of protests⁵. The assaults were perpetrated by state security forces, specifically the Bolivarian National Police (PNB), the Bolivarian National Guard (GNB) and groups of armed civilians⁶. Espacio Público accompanied 19 of these cases of robberies and associated aggressions to the Public Prosecutor's Office. None received a timely response.
8. Arbitrary detentions are a common mechanism within the modalities implemented by State security forces to silence or minimize uncomfortable opinions to the authorities. In some cases, after ending the detention, the judicial process against the victims is not concluded.
9. Most of the journalists or citizens who were detained did not have sentences against them and were released after a few hours of their detention, but also the use of the citizen security system (whistleblowers) and the administration of justice was used to repress those who reported on the violence that was occurring in the demonstrations of 2017⁷.
10. Impunity is maintained when the courts dismiss cases or delay proceedings, or due to the omission of government spokespersons in a context where critical media are identified as "political enemies".
11. Harassment and acts of intimidation were the most recurrent risks that press workers had to face in 2020. The security, freedom and integrity of the communicators and the media were affected by threats, insults, beatings, robberies, harassment, confiscations, raids, attacks and even murders⁸. The latter included the cases of José Carmelo Bislick and Andrés Eloy Nieves Zacarías, two media workers who were murdered for reasons that are still unknown.

⁴ Annual reports 2017-2020: General situation of the right to freedom of expression in Venezuela. Accessed 19.06.2021. At URL: http://espaciopublico.org/category/informes_anuales/

⁵ Cobertura bajo riesgo. Protestas 2017. Accessed 19.06.2021. At URL: <https://ipysvenezuela.org/2017/05/22/cobertura-riesgo-protestas-2017/>

⁶ Robos e Impunidad.. Accessed on 19.06.2021 at URL: <http://espaciopublico.org/wp-content/uploads/2015/05/Situacio%CC%81n-del-derecho-a-la-libertad-de-expresio%CC%81n-e-informacio%CC%81n-en-Venezuela-2017-Espacio-Pu%CC%81blico.pdf>

⁷ Control remoto. Índice de libertades periodísticas 2017. Retrieved on 19.06.2021 from URL: <https://ipysvenezuela.org/2018/02/28/control-remoto-indice-libertades-periodisticas-2017/>

⁸ Reporte anual IPYSve 2020. El virus de la censura. Accessed 26.06.2021. At URL: <https://ipysvenezuela.org/2021/03/01/limitaciones-informativas-fueron-un-virus-en-2020-segun-reporte-anual-de-ipys-venezuela/>

Judicial restrictions

12. The Venezuelan Penal Code classifies contempt and vilification as crimes. The 2005 reform of this Code⁹ increased sentences and incorporated other officials to protect their honor and reputation. Judges have a wide range to decide which action fits as a crime while citizens' control over the management of public resources by officials is hindered.
13. Since 2009, Venezuela has prohibited the media from making statements through precautionary measures. The following are some examples:
14. A widely known case in Venezuela is that of Judge María Lourdes Afiuni. In December 2009, she applied the recommendation of the United Nations Working Group on Arbitrary Detentions which questioned the situation of the banker Eligio Cedeño, and granted him conditional release since after three years in detention his trial had not yet begun. This action provoked a public order from President Chávez, which subjected the judge to a judicial process with delays and multiple irregularities, and a detention with episodes of torture and lack of medical assistance. Afiuni was conditionally released in June 2013 so that she could undergo medical check-ups. However, judges Rita Hernández, Yris Cabrera and John Parody of the 6th Court of Appeals decided to prohibit her from "communicating using any existing or yet to be invented social network"¹⁰.
15. Opposition politicians Antonio Ledezma and Leopoldo López were also prohibited from making statements to the media as a condition for maintaining the benefit of house arrest.
16. Carlos Julio Rojas is a journalist and social activist from La Candelaria, in Caracas, who was arrested on July 10th, 2017 while walking home after buying food at the end of a peaceful protest called by the Mesa de la Unidad Democrática (MUD). He was charged with "treason against the integrity, independence and freedom of the nation", tried by a military court and held in the Ramo Verde military prison. While in detention, Rojas was overcrowded with other common prisoners, he was kept for 15 days in a cell of two by two meters punished together with other inmates, he was physically tortured, he was six days without being able to use a toilet to evacuate, which together with the lack of drinking water and food for two days caused him to faint. After 45 days and 20 kg less, Rojas was released with precautionary measures that, in principle, included the prohibition to testify to the media. After a long debate with the military judge, the Court withdrew this measure considering that, being a journalist, his right to work would be violated; he was still forbidden to talk about his case and his stay in Ramo Verde.
17. Added to these cases, the human rights activist Lisbeth Añez, known as "Mama Lis". On May 11th, 2017, she was arrested by officials of the General Directorate of Military Counterintelligence (DGCIM) at the International Airport of Maiquetia, when she was going to travel to the United States to receive treatment for Hepatitis C. The irregularities in her judicial process begin with an arrest warrant that according to her defenders "lacks elements of conviction". She was charged by a military court without being so, and accused of "collaborating with people who organize protests, whose evidence would be conversations and Whatsapp audios found in her cell phone, illegally searched". After 118 days of being detained at the headquarters of the Bolivarian National Intelligence Service

⁹ Penal Code of Venezuela. Official Gazette No. 5768E of August 13, 2005. Available at: <http://www.ministeriopublico.gob.ve/web/guest/codigo-penal>

¹⁰ Silencio indefinido a través de medidas cautelares. Accessed on 19.06.2021 at URL: <http://espaciopublico.org/silencio-indefinido-a-traves-de-medidas-cautelares/>

(Sebin), she is forbidden to make statements to the media through precautionary measures, after being released.

18. Luis Carlos Díaz¹¹ was arbitrarily detained on March 11th, 2019, disappeared and presented before courts in a process where he was accused of "public instigation", for giving advice to the population on what to do in case of a news *blackout through* an internet channel. After being released from the Sebin El Helicoide facilities, he was forbidden to leave the country, to make statements to the media about his case, and was placed under a presentation regime. The precautionary measures limit Diaz's personal freedom, which maintains the violation of his rights; the prohibition to declare to the media about the case is extended to his lawyers and represents a censorship measure that seeks to prevent the conditions of imprisonment, the treatment he was subjected to, and to make public knowledge of the irregularities of the case.
19. Another type of judicial harassment occurs when officials involve journalists in criminal acts as a way of discrediting those who report on sensitive issues for the national government. Insults or public disqualifications are usually accompanied by threats of denunciations that in some cases materialize. Between 2017 and 2021, 139 complaints related to judicial harassment of some kind (threats to initiate legal proceedings or their concretion) were registered against journalists and infocitizens linked to the dissemination of information, with a significant increase in 2020 when it rose from 28 to 63 cases in relation to 2019. This incidence is high with respect to the historical patterns of registration, and are exacerbated in periods of significant social and political conflict.
20. On November 8th, 2017, the unconstitutional "law against hatred, for peaceful coexistence and tolerance" was approved¹² by the illegitimate National Constituent Assembly and published in the Official Gazette under No. 41.274. Among the measures applied are: the blocking of internet sites, the revocation of media licenses and free official messages on radio stations, among others (Articles 22 and 23)¹³.
21. Up to 20 years in prison, blocking of websites, closure of radio and television stations for expressing opinions or disseminating information, are part of the sanctions of this law that punishes hate speech, but does not define it or establish clear categories of those who could qualify an expression of this type.
22. In practice, this instrument has generated a policy of persecution of uncomfortable or critical expressions against certain sectors of society that hold power. This law seeks to justify the practice of arrests, raids, arbitrary judicial proceedings, complaints to the Public Prosecutor's Office, summons to security forces, physical aggressions, direct orders to enforce the law, harassment, dismissal by public institutions, among other actions.
23. Since 2017, at least 45 cases were recorded in which the "law against hate" was used or invoked against people for expressing themselves; this resulted in a total of 101 violations of freedom of expression and opinion. The year with the highest number of cases was 2020 with 21, the second was 2018 with 13 cases, the third was 2019 with 10 and 2017 with one case.

¹¹ Luis Carlos Díaz tiene dos años silenciado sin pruebas, y sin sentencia. Accessed on 19.06.2021 at URL: <http://espaciopublico.org/luis-carlos-diaz-tiene-dos-anos-silenciado-sin-pruebas-y-sin-sentencia/>

¹²El presunto odio como excusa para censurar. Accessed on 19.06.2021 at URL: <http://espaciopublico.org/presunto-odio-excusa-censurar/>

¹³ A tres años de la "ley contra el odio". Accessed on 19.06.2021 at URL: <http://espaciopublico.org/a-tres-anos-de-la-ley-contra-el-odio>

24. Among the dozens of victims identified in the last three years of its application are public workers, media and press workers¹⁴, activists, NGO members and citizen journalists.
25. The pattern of registered cases shows the regular use of other pre-existing categories of offenses in conjunction with the "anti-hate law" regulations. "Public instigation" is often alleged, which specifically refers to Article 285. The Penal Code literally states, "Whoever instigates disobedience of the laws or hatred among its inhabitants or makes apologies for facts that the law foresees as crimes, in a way that endangers public tranquility, shall be punished with imprisonment from three years to six years."
26. In this sense, the invocation of the so-called hate crimes does not have its origin in the enactment of the 2017 law, however, art. 285 was already commonly used under the current qualification of public instigation, in alleged punishable acts associated with allegations of corruption, the exercise of peaceful demonstration or the dissemination of information of public interest. The emergence of the "law against hate" added a new media and judicial mechanism to criminalize the public debate, legitimate and protected in democratic contexts.

Administrative restrictions

27. They are mainly linked to the closure of news spaces or media outlets, as well as the confiscation or elimination of journalistic material by the authorities.
28. In 2017 the National Telecommunications Commission (Conatel) closed 8 television channels, and 54 radio stations. In the same year 17 newspapers ceased to circulate due to lack of newsprint, 6 of them indefinitely.
29. In five years, between 2013 and 2018, the total number of circulating newspapers fell by 68%¹⁵. At least 40 print media went out of circulation indefinitely. Among these, 10 ceased due to the impossibility of sustaining salaries after the adoption of economic measures announced by the Executive in August of that year. The worsening of the newsprint shortage and the existing economic crisis resulted in 10 states in the country without newspapers: Amazonas, Apure, Barinas, Cojedes, Delta Amacuro, Falcón, Monagas, Portuguesa, Sucre and Trujillo.
30. Twenty-seven radio stations were closed in different states of the country during 2019; in most cases the procedures were carried out irregularly, without prior notice and without court orders or explanations from government officials¹⁶. The case of Radio Caracas Radio, the oldest radio station in the country, which was forced to cease operations on April 30th, by express order of the National Telecommunications Commission (Conatel) stands out¹⁷.
31. During 2020, at least 18 radio stations, four newspapers and two digital media were closed in procedures carried out mainly by the National Telecommunications Commission (Conatel), together with state security forces.

¹⁴ Reporte Especial IPYSve. Normativa contra el odio: la censura hecha ley. Retrieved on 19.06.2021 from URL: <https://ipysvenezuela.org/2020/11/19/reporte-especial-ipysve-normativa-contra-el-odio-la-censura-hecha-ley/>

¹⁵ Periódicos en Venezuela: datos de una crisis. Accessed on 19.06.2021 at URL: <https://ipysvenezuela.org/2018/12/16/periodicos-en-venezuela-datos-de-una-crisis/>

¹⁶ 2019: situación general del derecho a la libertad de expresión en Venezuela. Retrieved 26.06.2021, from URL: <http://espaciopublico.org/informe-2019-situacion-general-del-derecho-a-la-libertad-de-expresion-en-venezuela/>

¹⁷ Voces en el paredón. Reporte Anual IPYSve 2019. Accessed 26.06.2021. At URL: <https://ipysvenezuela.org/2020/02/26/voces-en-el-paredon-reporte-anual-ipysve-2019/>

32. The Law of Social Responsibility in Radio, Television and Electronic Media contains vague and imprecise elements that allow excessive discretion to Conatel to sanction media outlets based on their editorial line. Furthermore, the composition of the Board of Directors of Social Responsibility is politically biased, since most of its members are appointed by the President of the Republic.

Absence of public information

33. Over the course of approximately 10 years, government institutions have designed quasi-discretionary laws that restrict access to public information¹⁸, and promote opacity through regular practices that contravene national and international standards on the subject¹⁹.

34. In 2020, despite the precarious situation of the telecommunications service that has been evident for some years, the State opted to use the Internet as the main channel to inform about the Covid-19 situation. The main means used to keep society updated on the data and measures to be applied to face the virus are: the official website <https://covid19.patria.org.ve/>, Twitter and, to a lesser extent, mandatory radio and television broadcasts²⁰.

35. The lack of information on the health situation in Venezuela by the Ministry of Health is acute: the last epidemiological bulletin was formally published²¹ in 2016 and the mortality yearbook in 2014²². Likewise, there is no clear and updated information on the number of people killed by Covid-19, disaggregated by age group.

36. The Venezuelan State continues with its policy of maintaining control of information of public interest in relation to Covid-19. Such is the case of journalist Darvinson Rojas, who was judicially harassed, allegedly for publishing figures on the virus²³. Even, by means of a joint resolution between the Ministry of Health and the Ministry of Science and Technology, disproportionate and contrary to human rights prerequisites are established for the approval of the development of any research related to Covid-19²⁴. This situation materialized when public officials criminalized the report published by the Academy of Physical, Mathematical and Natural Sciences of Venezuela.

37. Venezuela suffers from a Complex Humanitarian Emergency, to which is added the lack of information by the State on existing epidemic data in the country (eradicated in other

¹⁸ Opacidad: La regla impuesta desde el alto gobierno. Accessed on 26.06.2021, at URL:

<https://transparencia.org.ve/project/opacidad-la-regla-impuesta-desde-alto-gobierno/>

¹⁹ Es legal pero injusto. Accessed on 26.06.2021, at URL: <https://transparencia.org.ve/wp-content/uploads/2018/10/Es-Legal-Pero-Injusto.pdf>

²⁰ Acceso a la información pública en línea en tiempos de Covid-19. Accessed on 26.06.2021, at URL:

<http://espaciopublico.org/acceso-a-la-informacion-publica-en-linea-en-tiempos-de-covid-19>

²¹ Destituida Ministra de Salud tras publicación de boletines epidemiológicos. Accessed on 26.06.2021, at URL:

<http://espaciopublico.org/destituida-ministra-salud-publicacion-boletin/>

²² Ministerio de Salud debe publicar informes epidemiológicos. Accessed on 26.06.2021, at URL:

<http://espaciopublico.org/ministerio-de-salud-debe-publicar-informes-epidemiologicos/>

²³ Imputaron al periodista Darvinson Rojas por delitos de la «ley» del odio. Retrieved 26.06.2021, from URL:

<http://espaciopublico.org/imputaron-al-periodista-darvinson-rojas-por-delitos-de-la-ley-del-odio/>

²⁴ G.O. N° 41.864. Resolution No. 083 of the Ministry of People's Power for Health and Resolution No. 093 of the Ministry of People's Power for Science and Technology, dated April 22, 2020. Consulted on 06.26.2021, at URL: <https://alertas.directoriolegislativo.org/wp-content/uploads/2020/06/VEN.-Investigacion-COVID-19.pdf>

nations), because it does not establish an adequate health program to treat them, nor a vaccination scheme for their prevention. Nor does it reflect data on how this situation affects the most vulnerable groups in the country. These groups range from pregnant women and newborns to children, especially those living in poverty²⁵.

38. In 90 municipalities of the country there is insufficient news coverage by radio stations, television stations, newspapers and digital portals. This means that more than 5 million Venezuelans cannot access local news in a timely manner because they live in what is known as an information desert²⁶.

Freedom of expression online

39. The enforcement of regressive laws, police and military persecution, attacks on civil organizations and media portals, damages and failures against the telecommunications infrastructure, connectivity deficiencies, arbitrary detentions, network *blackouts*, and the hostile discourse of the State have all violated fundamental freedoms on the Internet²⁷ in recent years.
40. In the midst of a tense political situation, registered mainly during the first quarter of 2019, Internet blockades and restrictions imposed by the State and mainly by the Compañía Anónima Nacional Teléfonos de Venezuela (CANTV) became massive, preventing access to digital platforms, media and social networks. That same year, the lack of maintenance and investment in the national electric system caused electric blackouts of up to five days that affected 22 of the 23 states of the country, which generated the consequent fall of the Internet and the information²⁸ *blackout*.
41. As a result of the confinement due to the COVID-19 pandemic, Internet access in Venezuela experienced greater restrictions; to the deficient state of the infrastructure were added historical levels of demand that put the response capacity of private and public operators to the limit. This adds to the blocking or restriction of access to web platforms; harassment and arbitrary arrests for disseminating opinions or information online.
42. In 2020, violations of online safeguards included at least 27 attacks affecting journalists and media servers, 25 reported blocking of digital news platforms and social networks, and 23 restrictions on online expressions²⁹.

²⁵ Acceso a la información pública en línea en tiempos de Covid-19. Accessed on 26.06.2021, at URL: <http://espaciopublico.org/acceso-a-la-informacion-publica-en-linea-en-tiempos-de-covid-19>

²⁶ Reporte anual IPYSve 2020. El virus de la censura. Accessed 26.06.2021. At URL: <https://ipysvenezuela.org/2021/03/01/limitaciones-informativas-fueron-un-virus-en-2020-segun-reporte-anual-de-ipys-venezuela/>

²⁷ Internet con la bota puesta. Informe anual Derechos Digitales 2017. Accessed 26.06.2021. At URL: <https://ipysvenezuela.org/2018/05/14/internet-con-la-bota-puesta-informe-anual-derechos-digitales-2017-ipys-venezuela/>

²⁸ Internet amurallado. Acceso restringido en Venezuela. Accessed 26.06.2021. At URL: <http://espaciopublico.org/internet-amurallado-acceso-restringido-en-venezuela/>

²⁹ Reporte anual IPYSve 2020. El virus de la censura. Accessed 26.06.2021. At URL: <https://ipysvenezuela.org/2021/03/01/limitaciones-informativas-fueron-un-virus-en-2020-segun-reporte-anual-de-ipys-venezuela/>

43. At least 31 people were arrested during 2020 for disseminating critical messages against the government or questioning public authorities, either in the context of the pandemic actions or in general, for information or opinions linked to high-ranking officials and their close circle. Most of them were citizens who are not professionally engaged in communication, but who use online platforms to issue opinions, report facts or share ideas; among them teachers, lawyers and engineers; these total 18 victims, which represents 58% of the total number of detainees³⁰.

Recommendations

1. Eliminate speeches and pronouncements by high-ranking officials that intimidate the exercise of journalism and other media workers.
2. Establish mechanisms for adequate investigation and punishment of those responsible for attacks on journalists, reporters and the media.
3. Repeal the "Law against hate, for peaceful coexistence and tolerance" and the contempt offenses contained in the Penal Code and the Law of Social Responsibility in Radio, Television and Electronic Media to adjust it to international human rights standards, and follow the recommendations of the protection bodies of the Inter-American Human Rights System and the UN.
4. Discuss, approve and implement a law on access to public information that effectively guarantees access at all levels of government through the development of public policies in accordance with human rights protection standards.
5. Establish reasonable timeframes and forms of responses by the State to requests for information. Additionally, the exercise of this right should be guaranteed through all institutional channels of the State, including digital platforms. To this end, the provisions of Article 5 of the Organic Law of Administrative Procedures must be taken into account.

³⁰ Internet amurallado. Acceso restringido en Venezuela. Accessed 26.06.2021. At URL: <http://espaciopublico.org/internet-amurallado-acceso-restringido-en-venezuela/>