

Contribution for the Third Cycle of the Universal Periodic Review of Period of Sessions No. 40 of the United Nations Human Rights Council on Venezuela

**Situation of the right to peaceful assembly and demonstration in Venezuela:
criminalization and repression**

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**Venezuelan Observatory of Social Conflict (OVCS)
Foundation year: 2011**

The Venezuelan Observatory of Social Conflict (OVCS by its Spanish acronym) is an independent non-governmental organization (NGO), based in Venezuela. Dedicated to the promotion and defense of human rights, **with an emphasis on monitoring, documenting and disseminating the situation of the human right to peaceful assembly and demonstration.** Likewise, the OVCS is dedicated to supporting communities, educational institutions, non-governmental organizations and civil society in general in understanding and characterizing Venezuelan social processes in the demand for rights and search for dignity. The Observatory contributes, with lines of research with a human rights approach, to the development of a society in which its members have quality of life and the full validity of their human rights.

Contact: coordinacion@observatoriodeconflictos.org.ve

I. EXECUTIVE SUMMARY AND METHODOLOGY

1. In the second cycle of the Universal Periodic Review, the Venezuelan State received 10 recommendationsⁱ in relation to the respect, protection, and guarantee of the right to peaceful demonstration, as well as the prohibition of excessive use of force and arbitrary detentions; However, the State, instead of accepting the recommendations, has strengthened the policy of criminalization and repression of the peaceful demonstration.

2. This contribution is prepared in order to provide information regarding the right to peaceful demonstration in Venezuela. The contributions presented are based on the work of the OVCS in monitoring and documenting protests, and in analyzing trends, context, and social, political, and legal environment. In this sense, information related to: a) the situation of the right to peaceful demonstration is addressed; b) the regulatory framework that criminalizes peaceful demonstration; c) the documented pattern of repression; d) the deepening of social control and; e) the lack of implementation of recommendations issued by international protection organizations in relation to the right to peaceful demonstration.

II. SITUATION OF THE RIGHT TO PEACEFUL DEMONSTRATION

3. Since the second cycle, and up to date, **the OVCS has documented a total of 50.928 peaceful protests across the country**ⁱⁱ. 2019 stands out as the year with the highest number, with a total of 16.739 actionsⁱⁱⁱ taken at the national level demanding the vindication of social rights and the recovery of fundamental freedoms and validity of the Constitution.

4. From January 2017 to June 2021, state repression and violence left 251 people killed^{iv} in the context of peaceful protests in Venezuela.

5. The current Venezuelan context is characterized by a Complex Humanitarian Emergency, derived from situations such as crisis and deficiency of basic services, the weak purchasing power of wages, shortage and high cost of food and first basic supplies, authoritarianism, impunity, repression, social control and erosion of the Rule of Law. Faced with these situations, Venezuelans have resorted to peaceful demonstrations as a way to demand the vindication of their rights.

6. In light with the legitimate exercise of the right to peaceful assembly and demonstration, the Venezuelan State has adopted a policy of criminalization and repression of protest. Starting from an official speech that stigmatizes and criminalizes those who resort to peaceful protest to demand vindication of their rights and express discontent with government management, those who carry out these activities have been identified as "internal enemies" or "traitors to the nation" and "terrorists". Within the framework of this speech, calls for violence have been made to the armed forces, police agencies, intelligence bodies, and civilians to armed forces, urging them to act to repress peaceful demonstrations, under the assumption of control of public order and protection of the peace and national sovereignty.

7. There is also a regulatory framework that supports and justifies the criminalization and repression of peaceful demonstrations and protests. Pretending to validate itself in the protection of sovereignty, the security of the nation, and the "need" to "neutralize" those who carry out "destabilizing activities". A legal framework has been established that, among other things, grants public order control functions to armed civilians, members of the Popular System for the Protection of Peace (SP3 by its Spanish name) created by the State; it promotes the militarization of public order, encourages repression, and strengthens and perfects the structures of control, denunciation, and social intelligence.

8. The events described above have resulted in the consolidation of a Policy of Criminalization of the right to peaceful demonstration and protest, resulting in the establishment of a system of repression and social control in response to the demands and exigencies of citizens, whose responsibility, both by action and by omission, falls on all levels of the State and its institutions.

9. The OVCS documented that, given the policy of criminalization and repression of the peaceful demonstration, the justice institutions failed to comply with their international obligations by not carrying out investigations in an independent, transparent, and expeditious manner to punish those responsible for these events. On the contrary, in the absence of the regime of separation of powers, and the consequent instrumentalization of justice, the Judicial Power is one of those responsible for executing the repression.

III. REGULATORY FRAMEWORK THAT CRIMINALIZES THE RIGHT TO PEACEFUL DEMONSTRATION

10. In the last cycle, the State received recommendations regarding the guarantee of the right to peaceful assembly and demonstration, and on the adaptation of the domestic legal system in accordance with international standards on the matter. However, Venezuela did not accept these recommendations, and on the contrary continued to establish the legal framework that criminalizes this right, establishing new instruments such as:

a. Decree of State of Exception and Economic Emergency^y: During its period of validity, the exceptional situation allowed and justified the repressive response of the State in the framework of peaceful demonstrations, endorsing the discretion and arbitrariness of the security forces under arguments of protection of the nation of people considered "internal enemies" or "destabilizing agents".

b. Plan Cívico Militar Zamora 200 (2017)^{vi}: it was designed as a civil-military operation, in which the armed forces, security agencies, militiamen, and armed civilians take part, called "popular forces", made up of community councils, armed groups, and the Bolívar Chávez Battle Units (UBCh by its Spanish name).

Based on the logic of the existence of an internal enemy, these forces are called to exercise public order functions in protest activities because they are considered "destabilizing" activities. After the entry into force of the Plan, the repression and violence in the demonstrations increased and there were greater violations of the rights to integrity and personal liberty, and life.

c. Constitutional Law against Hate, for Peaceful Coexistence and Tolerance^{vii}, approved unanimously by the National Constituent Assembly (ANC by its Spanish name), made up exclusively of official members and published in Official Gazette No. 41,274, of November 8, 2017.

d. Creation of the National Body Against Terrorism, by presidential decree No. 4,135 and National Plan against Terrorism 2020-2022, by decree No. 4,1356, published in Official Gazette No. 41,828^{viii}.

e. Popular System of Protection for Peace (SP3)^{ix}: through which it is established as a structure for the articulation and integration of public powers with organized communities in the form of Communal Councils, Communes, and other grassroots organizations and popular intelligence. Within the framework of SP3, the Popular Subsystem is created, under which social intelligence, security, and community surveillance functions are delegated to the organizations that comprise it, in order to "defend" the country against internal threats. Subsequently, the Network of Articulation and Socio-Political Action (RAAS by its Spanish name)^x was created, as a fundamental component of the Popular Subsystem to exercise public order, intelligence, and monitoring functions in the communities. In relation to the right to peaceful demonstration, these structures have been part of the repressive apparatus of the State, particularly the armed paramilitary groups, being called to act in the context of community protests.

f. State of Alarm for COVID-19 Pandemic^{xi}. Under the validity of the State of Alarm for Covid-19, the acts of repression in the context of peaceful demonstrations were protected, under the justification of protecting and addressing the needs of the population in the face of the Covid-19 pandemic.

11. We also reiterate that the Organic Law of security of the Nation^{xii} continues to be applied; the reforms carried out in 2005 to the Penal Code^{xiii} to accuse and charge people detained in the context of protests; Organic Law Against Organized Crime and Terrorism Financing^{xiv}; the requirement of permission to demonstrate in accordance with decision No. 276 of the Constitutional Chamber of the Supreme Court of Justice remains in force^{xv}; Resolution No. 008610^{xvi}, which empowers the Armed Forces to act in public order control functions and allows them to use firearms, despite not being the specialized and empowered body. Among other regulations that violate this right.

IV. REPRESSION SYSTEM

12. The OVCS has documented a pattern of repression of the peaceful demonstration in Venezuela which has been consolidated in the course of this study period, with the aim of deepening the criminalization and establishing a policy of terror and persecution against those who demand human rights in the exercise of this right.

13. The repression and violence of the State have resulted in **a total of 251^{xvii} people dead in the context of peaceful protests** between January 2017 and June 2021.

14. OVCS has documented the following actions that constitute the pattern of repression have been identified: **a) excessive, systematic and disproportionate use of force through the use of toxic substances and weapons of fire; b) practice of cruel, inhuman or ill-treatment; c) torture and sexual abuse of protesters; d) arbitrary detentions; e) illegal raids; f) aggression against journalists while covering demonstrations; g) persecution of protesters, social leaders, trade unions, students and leaders of opposition parties; h) arrests and assaults in residential areas; i) prosecution of civilians in military courts; j) Selective Extrajudicial Executions of protesters; and k) joint actions between armed civilians and State agencies.**

15. One of the most critical years of the study period was 2017. 160 people died in the context of repression and violence exercised by the State, during a day of massive demonstrations that took place between April and September^{xviii}.

16. The Bolivarian National Guard (GNB by its Spanish name) stand out as the main responsible parties; the Bolivarian National Police (PNB by its Spanish name); the state and municipal police of each entity; the PNB Special Actions Forces (FAES by its Spanish name), the Bolivarian National Intelligence Service (SEBIN by its Spanish name), the Military Counter-Intelligence Directorate (DGCIM by its Spanish name); and the armed groups and popular forces that are members of the SP3.

V. MECHANISMS AND STRUCTURES OF SOCIAL CONTROL AS PART OF THE REPRESSIVE SYSTEM

17. With the strengthening of the Popular System for the Protection of Peace (SP3), social control has been deepened. Due to the territorial and community nature of these structures, they carry out social intelligence tasks, through which they seek to identify people who disagree, or are presumed to disagree with the current government management through protest.

18. These structures have been created by the State and act with its full knowledge and acquiescence. Thus, motivated to the delegation of public order control functions to them, under justifications of safeguarding the security and peace of the nation, **the armed groups have been responsible for the repression of at least 714 protests from 2017 to the current date.**

VI. NON-COMPLIANCE WITH RECOMMENDATIONS AND LACK OF COOPERATION WITH INTERNATIONAL PROTECTION ORGANIZATIONS

19. Since 2019, the Office of the High Commissioner for Human Rights has issued 2^{xix} recommendations regarding the right to peaceful demonstration. The same has been done by the International Fact-Finding Mission^{xx}, with 4 recommendations on the subject; However, the State has not complied and has focused on deepening the repressive policy and perfecting the system of repression against the peaceful demonstration.

20. In this regard, it highlights that the mandate of Fact-Finding Mission, established in resolutions 42/25^{xxi} and 45/20^{xxii}, covers human rights violations committed in the context of peaceful demonstrations since 2014; however, even though it is the State's duty to cooperate with the Mission's mandate, in order for the facts to be investigated and clarified, it has denied entry into the country and has discredited the findings presented, as well as stigmatized and attacked the organizations that we cooperate with its mandate.

21. Likewise, since the last cycle, the Special Procedures have issued 7^{xxiii} statements and communications to the Venezuelan State requesting information and calling on the State to cease the repression and guarantee the full exercise of the peaceful demonstration. These have been ignored and publicly discredited by high-rank State officials.

22. It is evident not only the absence of the will of the State to guarantee, protect and respect the right to freedom of assembly and peaceful demonstration, but it has also shown no intention to cooperate with the international protection mechanisms of the United Nations for the safeguarding of these rights.

VII. RECOMMENDATIONS

23. Cease the policy of repression, criminalization, and state violence.

24. Repeal and dismantle the legal and factual measures that violate the right to peaceful assembly and demonstration.

25. Carry out transparent investigations in cases of violation of human rights in the context of peaceful demonstrations and punish those responsible appropriately and proportionally.

26. Make reparations for the victims and relatives of human rights violations in the context of repression of the peaceful demonstration and guarantee the establishment of policies to guarantee non-repetition.

27. Design and implement citizen security policies for the management of public order based on international standards for the protection of human rights.

28. Fully cooperate with the International Organizations for the Protection of human rights, to guarantee the full exercise of the right to peaceful assembly and demonstration.

NOTES

ⁱ A/HRC/34/6. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/441/47/PDF/G1644147.pdf?OpenElement>

ⁱⁱ Venezuelan Observatory of Social Conflict. Social Conflict in Venezuela in 2017. Available at:

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ⁱⁱⁱ Venezuelan Observatory of Social Conflict. Social Conflict in Venezuela in 2019. Available at:

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^v Extraordinary Official Gazette No. 6.227 of May 16, 2016. In: <https://albaciudad.org/wp-content/uploads/2016/05/312792311-Gaceta-Oficial-Extraordinaria-N%C2%BA-6-227-pdf.pdf>

^{vi} AVN: Civic-military exercise Zamora 200 strengthens the union between the FANB and the Venezuelan people. 01/13/2017:

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^{viii} Official Gazette No. 41.828 of February 27, 2020. In: <https://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2021/07/41828-1-terrorismo.pdf>

^{ix} Official Gazette N 40.582 of January 16, 2015. Available at: <https://dhqrdotme.files.wordpress.com/2015/01/sistema-popular-de-proteccion-3b3n-para-la-paz.pdf>

^x Twitter United Socialist Party of Venezuela announces the creation of the RAAS on its social networks. 2018. Available at:

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^{xi} Decreto N° 4.160, Gaceta Oficial N° 6.519 del 13 de marzo de 2020.

^{xii} Official Gazette No. 37,594 dated December 18, 2002. In: http://www.mindefensa.gob.ve/emcofanb/wp-content/uploads/2016/09/Ley_Seguridad_Nacion.pdf

^{xiii} Extraordinary Official Gazette No. 5,768 of April 13, 2005. In:

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^{xiv} Official Gazette No. 39,912 of April 30, 2012. In: http://www.asambleanacional.gob.ve/documentos_leyes/ley-organica-contra-la-delincuencia-organizada-y-financiamiento-al-terrorismo.pdf

^{xv} Supreme Court of Justice, Constitutional Chamber, judgment No. 276, File 14-0277 of April 24, 2014.

<http://www.tsj.gov.ve/decisiones/scon/abril/163222-276-24414-2014-14-0277.HTML>

^{xvi} Official Gazette No. 40.589, Resolution No. 008610 of January 23, 2015. In: <https://es.scribd.com/document/254224935/Gaceta-oficial-N%C2%BA-40-589-del-01-27-2015>

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^{xviii} Venezuelan Observatory of Social Conflict. Social Conflict in Venezuela in 2017. Available at: <https://www.observatoriodeconflictos.org.ve/tendencia-de-la-conflictividad/conflictividad-social-en-venezuela-en-2017>

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A / HRC / 44/20. Available at: https://www.ohchr.org/Documents/Countries/VE/A_HRC_44_20_UnofficialVersion_SP.pdf

^{xx} A / HRC / 45.CRP.11. Available at: https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11_SP.pdf

^{xxi} A/HRC/RES/42/35. At: <https://undocs.org/A/HRC/RES/42/35>

^{xxii} A/HRC/RES/45/20. An: <https://undocs.org/es/A/HRC/RES/45/20>

^{xxiii} Civilis. UN Venezuela Exam. Recommendations base. Available at: <http://baserecomendacionesddhh.examenonu.com/Relatoriasbuscador.aspx>