
VENEZUELA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

Venezuela continued its process of institutional reform, which affects Government bodies that are independent from State's control, particularly through the Executive's progressive co-optation of judicial power, which could threaten the guarantee to uphold and respect fundamental rights¹. The Government and other State institutions' refusal to commit to the international system of human rights protection was also cause for concern, and could have negative repercussions on the work of defenders in a context of increasing violence², criminalisation of social protests and deplorable conditions for prisoners and restrictions on freedom of expression.

On December 18, 2008, the constitutional section of the Supreme Court of Justice of Venezuela declared that a sentence from the Inter-American Court of Human Rights (IACtHR)³ was "inexecutable" because it was "violating the sovereignty of the Venezuelan State"⁴. Furthermore, the Venezuelan State refused to discuss the communication sent by the United Nations Special Rapporteur on the matter⁵, and questioned the impartiality of the Inter-American Commission on Human Rights (IACHR)

1/ See Inter-American Commission on Human Rights (IACHR), *Annual Report 2008*, Document OEA/Ser.L/V/II.134, Doc. 5 rev. 1, February 25, 2009.

2/ In accordance with the official figures from the Office of Penal, Scientific and Criminal Investigations (*Cuerpo de Investigaciones Penales, Científicas y Criminalísticas*), affiliated to the Ministry of the Interior and Justice, 16,094 homicides, excluding extrajudicial executions, were recorded in 2009, while 14,735 and 14,829 homicides were respectively recorded in 2007 and 2008. According to the Public Ministry, during the first 90 days of 2009, 155 people lost their lives at the hands of police agents during alleged confrontations or executions. On June 2, 2009, the Minister of Internal Affairs and Justice, Mr. Tareck El Aissami, acknowledged that 20% of crimes in Venezuela were committed by the police.

3/ This sentence ordered the reappointment of the former Judges of the Administrative Court of First Instance, Ms. Anna María Ruggeri Cova, Mr. Perkins Rocha Contreras and Mr. Juan Carlos Apitz Barbera, who had been arbitrarily dismissed in October 2003, in violation of their right to due process and judicial protection, which are recognised in the American Convention on Human Rights. This sentence also urged the Executive power to denounce this treaty. See Sentence Series C No. 182 of the IACtHR, Apitz Barbera and others Case (*Administrative Court of First Instance*), August 5, 2008.

4/ See Sentence No. 1939, File No. 08-1572 of the Supreme Court of Justice - Constitutional Section of the Bolivarian Republic of Venezuela, December 18, 2008.

5/ See Human Rights Council, *Report of the Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy*, United Nations Document A/HRC/11/41/Add.1, May 19, 2009.

in its treatment of various matters featured in its 2008 Annual Report⁶. Moreover, the Government confirmed that it would not allow the IACHR to visit Venezuela “until it corrected its biased view”⁷.

In terms of freedom of expression, on July 3, 2009, the Director of the National Commission for Telecommunications (*Comisión Nacional para las Telecomunicaciones* – CONATEL) announced that 240 AM and FM radio stations would be subjected to administrative proceedings for not having completed their registration⁸. On July 31, 2009, the threat was carried out and the first 32 radio stations and two television channels were immediately closed⁹. Furthermore, in July 2009, the Venezuelan Public Prosecutor’s Office presented a Special Bill on “Media Crime” in order to criminally punish those who attack “social peace, national security and independence, the security of State institutions, the health and public morale of Venezuelans”. Legislators did not approve this bill. However, it adds to Venezuela’s unfavourable situation with respect to freedom of expression. In this context, national organisations reported that some journalists preferred to refrain from providing certain information for fear of retaliation¹⁰.

Furthermore, although violence in prisons presents a challenge for Venezuelan authorities, there was no significant improvement in 2009, with a total of 366 deaths and 635 injuries that year¹¹. The situation was further complicated by the fact that complaints of human rights violations committed in prisons provoked retaliation from the authorities. Besides the high rates of violence, inmates also confronted awful living conditions and overcrowding¹².

6 / Such is the case of the Press Release published on May 9, 2009 by the Venezuelan Ministry of Foreign Affairs, which mentions “the manipulation and lies from bodies of the Inter-American System of Human Rights” and the “inaccurate, malicious and false” nature of the IACHR 2008 Annual Report.

7 / See IACHR, *2008 Annual Report*, Document OEA/Ser.L/V/II.134, Doc. 5 rev. 1, February 25, 2009.

8 / In 2000, an Organic Law on Telecommunications was approved, establishing a two-year period to change the concession of radio stations. There could be a change in ownership if necessary - for example, in the event of the death of the original owner of the concession. Many of the radio stations that underwent these changes and changed ownership did not receive a response for more than 10 years. As such, when filling out the list of updated information, which CONATEL demanded of individuals and corporations with radio broadcasts in May 2009, it became apparent that many radio stations had not been able to complete the process because of inaction on the part of the authorities.

9 / See Public Space organisation (*Espacio Público*).

10 / *Idem*.

11 / See Venezuela Prison Observatory (OVP), *Situación carcelaria en Venezuela, Informe 2009*, 2010.

12 / This led the IACHR to adopt provisional measures in favour of the prisoners at the La Pica, El Rodeo, Uribana and Yare I and II penitentiaries in Venezuela, which remained in effect for three years.

Obstacles to freedom of association

In 2009, the National Assembly continued to debate a new Law on International Cooperation. The law was passed when it was first discussed in the National Assembly on June 13, 2006, at the urging of the Legislative Commission on Foreign Policy, and the President of the National Assembly thought that its final approval should top the agenda in 2009. This bill proposes that the work of non-governmental organisations (NGOs) – including national and international human rights organisations that operate in Venezuela – adapt to the State's development projects and foreign policy in order to access international cooperation funds¹³. Furthermore, this bill would force the organisations to provide confidential information that would place their beneficiaries and even human rights defenders themselves in danger¹⁴. NGOs complained that this bill was being used to impede their work, in as much as it would become much more difficult for them to receive funding and authorisation to exist as organisations. In early 2010, the President of the National Assembly for External Affairs publicly announced that the adoption of this law was a priority on the legislative agenda for the year¹⁵.

Slander campaigns, threats and harassment of human rights defenders by various State authorities

In its 2008 Annual Report, the IACHR noted that slanderous statements and acts of harassment by Venezuelan State authorities continued. In 2009, civil society organisations complained that this trend against human rights defenders did not subside.

Defenders who spoke out against the conditions in penitentiaries were often the victims of these statements. For example, the Director of the Venezuelan Prison Observatory (*Observatorio Venezolano de Prisiones – OVP*)¹⁶, Mr. **Humberto Prado**, was once again the victim of slanderous statements and harassment¹⁷. On March 17, 2009, on the *Globovisión* news channel, Mr. Gerson Pérez, a militant political leader of the official United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela – PSUV*) accused Mr. Prado of being behind the protests in the “La Planta”

13/ See Committee of Family Members of the Victims of the events that occurred between February 27 and the first days of March of 1989 (COFAVIC).

14/ *Idem*.

15/ *Idem*.

16/ OVP documents cases of violations of prisoners' human rights in order to present them before national and international organisations.

17/ Since 2006, Mr. Prado has been the object of slander campaigns, death threats and assaults because of the “La Pica prison” case that was brought before the IACHR, and because of which he was granted provisional protection measures.

prison and of financing strikes in certain penitentiaries. Mr. Pérez insisted that he had proof to support his accusations: “We have the investigation and documents, as well as direct indications from inmates. If these acts continue, we will take matters into our own hands”¹⁸. Furthermore, the Public Ministry requested information about Mr. Prado’s financial accounts throughout the country on various occasions, beginning in February 2007. In addition, on September 30, 2009, during a hearing on the situation of inmates in various Venezuelan prisons before the IACtHR in San José, Costa Rica, Mr. Germán Saltron, State agent for the inter-American system, attacked Mr. Prado’s moral integrity. Mr. Saltron accused Mr. Prado of corruption, taking advantage of prisoners and being responsible for prison violence, among other things¹⁹. On November 24, 2009, the IACtHR recommended that provisional measures be adopted to protect Mr. Prado²⁰, but the Venezuelan State has not done so. The harassment that Mr. Prado suffered also included acts of intimidation such as death threats over the telephone. Similarly, Mr. **Carlos Nieto Palma**, Director of the NGO called “A Window to Freedom” (*“Una Ventana a la Libertad”*), has been the victim of acts of intimidation since 2003. On August 19, 2009, three members of the metropolitan police paid Mr. Nieto a visit at his house and asked him: “Why don’t you just shut your mouth? (...) You should stop taking these things from the Minister”, in reference to his reports on the irregularities in the country’s penitentiaries²¹.

Furthermore, the Venezuelan Programme of Education-Action in Human Rights (*Programa Venezolano de Educación Acción en Derechos Humanos* – PROVEA) and the Committee of Family Members of the Victims of the events that occurred between February 27 and the first days of March of 1989 (*Comité de Familiares de Víctimas de los sucesos ocurridos entre el 27 de febrero y los primeros días de marzo de 1989* – COFAVIC) reported being the victims of slander campaigns because of their work. They were accused of working against the revolution because, for example, they receive funding from other countries. For instance, COFAVIC reported that 20 years after the Caracazo events²², some Government officials and

18/ See COFAVIC.

19/ See Archdiocese of Caracas Episcopal Vicariate of Human Rights (*Vicaría Episcopal de Derechos Humanos de la Arquidiócesis de Caracas*).

20/ See IACtHR Resolution, *Provisional Measures with Respect to the Bolivarian Republic of Venezuela*, November 24, 2009.

21/ See Venezuelan Programme of Education-Action in Human Rights (PROVEA) and COFAVIC.

22/ The Caracazo was a revolt that broke out on February 27, 1989 against the neoliberal economic policies of the Government of former President Carlos Andrés Pérez. The revolt culminated the next day with a massacre in the city of Caracas when the metropolitan police’s security forces, the army and

journalists discredited their work. On February 26, 2009, television host Mr. Mario Silva claimed that COFAVIC was part of a conspiracy that was plotting to break up the civil-military union. He also accused Ms. **Liliana Ortega**, President of COFAVIC, of wanting to steal indemnities to the victims of the Caracazo. On June 9, 2009, the IACtHR decided to lift the provisional measures in favour of Ms. Ortega and COFAVIC, a decision that was appealed by the organisation since human rights defenders in Venezuela were still being persecuted²³.

Even more serious was the attempted assassination of Mr. **José Urbano**, President of the NGO called Pro-defence of the Right to Education (*Pro-defensa del Derecho a la Educación*), who was attacked on August 27, 2009 when driving a motorcycle on a motorway in the city of Barcelona, in the State of Anzoátegui. Two male strangers riding a motorcycle blocked him and one of them shot at Mr. Urbano, who got down off his motorcycle and fled to a nearby wooded area. The hit men also fled, taking Mr. Urbano's motorcycle with them. Mr. Urbano had already been the victim of an assault in February 2007 and received a bullet wound. There was never any investigation into the attack, nor was there one for his attempted murder in 2009. Furthermore, Mr. Urbano was not provided with any measure of protection. The attacks on him seem to be related to his public criticism of the quality of education that Venezuelan minors who lack financial resources receive, as well as his denouncement of corruption²⁴.

Obstacles and retaliation against defenders who participate in the international human rights system

In 2009, the Venezuelan Government retaliated against those who had followed recommendations from international human rights bodies. Such was the case of Judge **María Lourdes Afiuni**, who was arrested by police intelligence agents on December 10, 2009, not long after having ordered the conditional release of Mr. Eligio Cedeño, based on the assessment and recommendations of the United Nations Working Group on Arbitrary Detention²⁵. Judge Afiuni was still being detained as of the end of 2009

23/ See COFAVIC.

24/ *Idem*.

25/ Mr. Eligio Cedeño is a Venezuelan businessman accused of financial fraud, whose arrest was declared arbitrary by the UN Working Group on September 1, 2009. On December 10, 2009, the team of defence lawyers for Mr. Cedeño presented the opinion of the UN experts in a hearing before Judge Afiuni, and Mr. Cedeño was released after spending almost three years in prison awaiting trial. Mr. Cedeño is currently in the United States seeking political asylum.

and prosecuted for her alleged participation in the release and eventual flight of Mr. Cedeño²⁶.

Furthermore, Venezuela, along with Nicaragua, tried to impede the participation of civil society organisations in the Organisation of American States (OAS) meeting that was held in San Pedro Sula, Honduras, in June 2009. Over the past three years, it has also managed to prevent an organisation called Transparency Venezuela (*Transparencia Venezuela*) from participating in the dialogue between civil society and the Government that was established by the Inter-American Convention Against Corruption, because it receives funding from the organisation Transparency International.

Criminalisation of protests of labour rights defenders

In 2009, there was a gradual increase in the criminalisation of peaceful demonstrations through criminal trials against demonstrators, especially labour rights defenders²⁷. For example, on April 20, 2009, Messrs. **José Solano, Asdrúbal Solórzano, Federy Radosky, Pedro Pérez and Ronald Marciano**, workers from the PDVSA contractor, Vincler Sodinsa Consortium, staged a peaceful siege of the offices of the Ministry of People's Power for Labour and Social Security in order to protest the Minister's decision to revoke the administrative decision of the Anaco Office of Labour Inspection. Metropolitan police officers broke up the protest using tear gas and kicking the workers. Messrs. Solano, Solórzano, Radosky, Pérez and Marciano were accused of being caught in the act of a misdeed by the Public Ministry and were imprisoned at the La Planta penitentiary until May 19, 2009, following the ruling of the Tenth Court of First Instance in Penal Affairs Acting as a Review for the Judicial Criminal Circuit in the Metropolitan Area of Caracas²⁸. Likewise, in May 2009, eleven workers from a contracting company of State-owned Venezuela Petroleum (*Petróleos de Venezuela*) were imprisoned after holding a peaceful protest in the headquarters of the Ministry of People's Power for Labour because they had been laid off. The Public Ministry charged them with "aggravated damage to public property", "illegitimate deprivation of liberty", "aggravated resistance to authority", "active obstruction to the functioning of legally-established institutions", "insulting a public servant", "incitement to commit a crime", "intentionally aggravated

26 / The arrest of the Judge received the support of the Venezuelan President. See Chairperson-Rapporteur of the Working Group on Arbitrary Detention, Special Rapporteur on the Independence of Judges and Lawyers and Special Rapporteur on the Situation of Human Rights Defenders Joint Press Release, December 16, 2009.

27 / See PROVEA and Public Space Report, *Manifestaciones públicas: enero - diciembre 2009*, March 2010.

28 / See Archdiocese of Caracas Episcopal Vicariate of Human Rights Report, *Informe sobre la Situación de los Defensores y Defensoras de Derechos Humanos en Venezuela*, 2009.

personal injuries”, “use of children to commit a crime”, “provision of supplies” and “concurrence of crimes”²⁹. Furthermore, on September 24, 2009, Mr. **Rubén González**, Secretary General of the Orinoco Iron Ore Workers’ Union (*Sindicato de Trabajadores de Ferrominera Orinoco*), was arrested during a strike that was held in August 2009 at the Orinoco Iron Ore plant in Piar city in order to demand the fulfilment of a collective bargaining agreement. Mr. González was accused of “provision of supplies”, “damage to public patrimony”, “restricted access to a work site” and “closure of public roads”. As of the end of 2009, he was still being detained for these crimes³⁰. Labour rights defenders were also harassed through laying-off trade union leaders. According to PROVEA, between October 2008 and September 2009, 473 people were laid off for having participated in union activities or for belonging to a union-related organisation³¹.

Obstacles to freedom of expression for independent journalists

Freedom of expression, on which the work of independent journalists depends, was an area of concern throughout 2009, a year that began and ended with the murder of independent journalists or activists involved in divulging information. On January 16, 2009, journalist **Orel Sambrano**, Director of the weekly newspaper *ABC de la semana* and of *Radio América*, was murdered in the city of Valencia by an unknown person³². The journalist died as a result of a bullet wound to the back of the neck. In his journalistic work, the reporter systematically reported on events related to drug trafficking and local corruption. At the end of 2009, the Office of Scientific, Penal and Criminal Investigations and the prosecutors assigned to lead the investigation had been able to identify several people involved in the crime, but only two had been arrested. On November 26, 2009, Mr. **Mijail Martínez**, a human rights defender and member of the Committee of Victims Against Impunity (*Comité de Víctimas contra la Impunidad* – CVCI), an organisation that publicly denounced alleged cases of serious human rights violations in the State of Lara in which public servants and leaders of State security bodies are directly and criminally involved, was killed. Mr. Martínez was an audiovisual producer and was working on a documentary that told the stories of victims of human rights violations at the hands of police agents from the State of Lara, and

29 / See COFAVIC.

30 / See PROVEA Report, *Informe Anual 2009 - Situación de los Derechos Humanos en Venezuela, Informe Anual octubre 2008 / Septiembre 2009*, December 9, 2009, and Public Space.

31 / See PROVEA Report, *Informe Anual 2009 - Situación de los Derechos Humanos en Venezuela, Informe Anual octubre 2008 / Septiembre 2009*, December 9, 2009.

32 / See Public Space. The IACHR Office of the Special Rapporteur for Freedom of Expression “deplore[d] the murder of Orel Sambrano [...] and] urge[d] Venezuelan authorities to investigate this crime promptly and effectively, and to duly prosecute those responsible”.

on numerous occasions had reported cases of mass executions, torture, enforced disappearances and other serious crimes to the Public Ministry and the media. A few days after his murder, a young man named Jairo José Ollavez confessed that he had been hired to kill Mr. Martínez. After lengthy judicial deliberation, Mr. Ollavez was released on probation, and at the end of 2009, was a fugitive³³. In late 2009, there were no leads in the investigation and there was a request to transfer the case to the National Public Prosecutor's Office so that an impartial, quick, exhaustive and transparent investigation could be conducted at a national level.

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Nicaraguan and Venezuelan NGOs	Obstacles to freedom of association	Press Release	May 29, 2009
Mr. Mijail Martínez	Assassination	Urgent Appeal VEN 001/1209/OBS 195	December 21, 2009