

Democratización



Year 3, Issue 13

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Venezuela

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(1999-2021)

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Introduction

The United Nations Human Rights Council has currently installed eight independent investigations that address the cases of Libya, Burma, Yemen, Burundi, Syria, South Sudan, the Democratic Republic of the Congo and Venezuela. These are countries with little democratic tradition that have experienced armed conflicts of various kinds. For this reason, the name of Venezuela stands out among them. Our case surprises –and sets off alarms– because it is an expression of a democratic decline that has led to an iron dictatorship that systematically violates human rights.

The violation of Human Rights in Venezuela is a strident reality. The Chavista revolution has become a perverse machine that constantly and systematically attacks Venezuelans. They are not isolated cases or ardors of bureaucrats or men-at-arms who overreach their functions. It is a context of violence that conditions political evolution. For this reason, we have decided to dedicate this issue of *Democratización* to this topic. In this new edition, we bring forward four articles that describe the current situation and its impact on the political and social fabric. Below we present a brief overview of each one.

Professor Andrea Santacruz directs the Human Rights Center of the Metropolitan University (Caracas, Venezuela). From her position, she has assisted victims of Human Rights violations and offers training workshops on the subject. She is an academic and she is an activist, a valuable and necessary profile for the times we live in. Her article is titled *Human Rights defenders criminalized in present-day Venezuela*, and it describes the courage of those who

put their technique and humanity at the service of those who find themselves in a defenseless situation in the face of the apparent omnipotence of the State.

Juan Alberto Berríos Ortigoza is a Doctor of Law graduated from the Spanish National University of Distance Education and is currently a professor at the University of Zulia (Maracaibo, Venezuela). He is also co-director of the Civil Association Commission for Human Rights of the State of Zulia (Codhez), where he assists victims of human rights violations. His essay is titled *Human Rights in Venezuela (1999-2021)* and it is a description of the involution of this matter in our country. In his conclusion, he establishes a necessary relationship: the violation of Human Rights is the origin of the complex humanitarian crisis that we are suffering. This statement is of utmost importance, because it indicates a fundamental principle for political life: human progress is only possible within a democracy. Without Human Rights, there can be no integral development.

Totalitarian domination, citizen organizations and Human Rights. An approach to the case of Venezuela is an essay by Miguel Ángel Martínez Meucci, Doctor in Political Conflict and Pacification Processes from the Complutense University, currently working as a professor of Political Studies at the Austral University of Chile. A Venezuelan, he knows the existential dimensions of the country's problems. His article is a deep and necessary reflection on the social and political effects of the Chavista desire for domination. He talks about countries that have suffered similar contexts and, from those experiences (and ours), describes the social dissolution that we suffer and the environment of "simulation" that we have configured. Finally, he proposes the restitution of the social fabric based on the firm decision of citizens to "live within the truth". It is a piece to reflect, as well as to debate upon.

The state of Apure has been the focus of conflict in recent weeks. Guerrilla, military actions, displaced people and death. Kilometers of this territory have been dominated by violence and serious complaints of human rights violations. In the midst of misinformation and opacity, the work of Javier Tarazona and Fundaredes on the border stands out. His capacity for dissemination have made visible the actions of irregular groups and the National Armed Forces against civilians. The interview conducted by Pedro Pablo Peñaloza describes his work, the ideas that guide him, and his commitment to justice and peace.

Human Rights defenders criminalized in present-day Venezuela

Andrea Santacruz Salazar

Human rights defenders in Venezuela are the men and women who dedicate their lives to promoting and seeking the protection and realization of human rights and fundamental freedoms, peacefully, both in the country and internationally. They do not have to be lawyers, nor do they need to have a university degree that accredits them in that sense; it can be anyone, whether professionalized or not. The parents of Juan Pablo Pernalet, Elvira and José Gregorio Pernalet, an accountant and engineer, are examples of this. Ever since their son was murdered, they have dedicated themselves to promoting the right to life, freedom of expression, peaceful demonstration and assembly.

The right to defend human rights is indicated in article 1 of the *Declaration on the Right and Duty of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, where it is established that it is a right that every person has, individually and collectively.

The right to defend human rights is, in turn, related to the right to freedom of expression and thought, association, assembly, life and physical integrity. All are recognized in the International Covenant on Civil and Political Rights, in its articles 19 and 18, 22, 21, 6 and 7, respectively; as well as in the American Convention on

Human Rights, in articles 13, 16, 15, 4 and 5, respectively. Likewise, they are indicated in the Universal Declaration of Human Rights and in the American Declaration of the Rights and Duties of Man. Therefore, States are obliged under international human rights law to protect human rights defenders and guarantee the exercise of their activities.

With the purpose of “*promoting the effective implementation of the UN Declaration on Human Rights Defenders in cooperation and dialogue with governments, relevant interlocutors and other actors*”¹, among other aspects, the United Nations Special Rapporteurship on the situation of human rights defenders was created in 2000.

The Rapporteurship on Human Rights Defenders and Justice Operators was created in the Inter-American System for the Protection of Human Rights in 2011, which among its functions has: to support the specialized analysis of complaints or individual petitions presented before the Inter-American Commission on Human Rights (IACHR) related to human rights violations against human rights defenders, to carry out specialized studies, on-site visits, among other activities².

We can thus appreciate the importance given by the systems that protect human rights to human rights defenders, who are fundamental “*for the full existence of democracy and the rule of law*”³. It is also necessary to highlight the words of Jesús María Casal:

1 United Nations Special Rapporteur on the situation of human rights defenders, accessed March 20, 2021, <https://www.ohchr.org/sp/issues/srhrdefenders/pages/srhrdefendersindex.aspx>

2 Functions and initiatives of the Rapporteurship on Human Rights Defenders and Justice Operators, accessed March 20, 2021, <http://www.oas.org/es/cidh/defensores/mandato/funciones.asp>

3 Comisión Interamericana de Derechos Humanos, *Criminalización de la labor de las defensoras y los defensores de derechos humanos*, accessed March

An unbreakable bond has been forged between democracy, human rights and the rule of law. Today, it is not possible to understand a democratic form of government if it does not include the guarantee of the fundamental freedoms of the people, through the mechanisms and principles of the rule of law...⁴

It is foreseeable, then, that when the rule of law is broken in a State and democracy is undermined, serious human rights violations will be commonplace and will represent a greater challenge for human rights defenders in terms of their work, as well as a greater risk of them becoming victims of State persecution.

a) Constitutional rule of law in Venezuela

When we speak of the Constitutional State of Law, in general, we are referring to a model of State in which it is limited by valid laws, understood as those that have complied with the necessary formalities for its creation and, in addition, those whose content is consistent with the Constitution⁵.

Every Constitutional State of Law is also characterized by the separation of powers and guarantees and respect for human rights.

Explaining in detail the situation of the Constitutional State of Venezuelan Law goes beyond the purpose of this text, but it is

20, 2021, <http://www.oas.org/es/cidh/informes/pdfs/criminalizacion2016.pdf>, 24.

4 Jesús María Casal, *El derecho a vivir en Democracia*, accessed April 23, 2021, <https://elucabista.com/wp-content/uploads/2020/11/El-derecho-a-vivir-en-Democracia-Bases-teoricas.pdf>, 18. Own translation.

5 Luigi Ferrajoli, *Derechos y Garantías* (Madrid: Editorial Trotta, 2010), 26.

necessary to point out that there is no Constitutional State of Law in the country.

This statement is supported on the basis of what has been repeatedly stated by the Inter-American Commission on Human Rights (IACHR)⁶ and the Office of the United Nations High Commissioner for Human Rights (OHCHR)⁷, which have expressed the lack of impartiality and independence of the Judicial Power, subject to the interests of the National Executive Power, for which there is no separation of powers; as well as the deep concern of the international community about Human Rights in the country, specifically about the serious, systematic and generalized violations of them, which has led to the creation of the Special Follow-up Mechanism for Venezuela (MESEVE)⁸ in the in the Inter-American Protection System, and the Independent International Mission to Determine the Facts about the Bolivarian Republic of Venezuela (MIIDH)⁹.

6 Comisión Interamericana de Derechos Humanos, de la Organización de Estados Americanos, *Institucionalidad democrática, Estado de derecho y derechos humanos en Venezuela, Informe de País*, accessed April 20, 2021, <http://www.oas.org/es/cidh/informes/pdfs/venezuela2018-es.pdf>

7 ACNUDH, *Independencia del sistema judicial y acceso a la justicia en la República Bolivariana de Venezuela, también respecto de las violaciones de los derechos económicos y sociales, y situación de los derechos humanos en la región del Arco Minero del Orinoco* (Consejo de Derechos Humanos: A/HRC/44/54, September 29, 2020)

8 Mecanismo Especial de Seguimiento para Venezuela (MESEVE), accessed April 20, 2021, <https://www.oas.org/es/CIDH/jsForm/?File=/es/cidh/meseve/default.asp>

9 Misión Internacional Independiente de la Determinación de los Hechos sobre la República Bolivariana de Venezuela (MIIDH), accessed April 20, 2021, <https://www.ohchr.org/SP/HRBodies/HRC/FFMV/Pages/Index.aspx>

What the MIIDH states in its detailed conclusions, published on September 15, 2020, is particularly relevant¹⁰: they confirmed that they had reasonable grounds to believe that human rights violations have occurred in Venezuela and that some of them were crimes against humanity.

The latter had already been considered by the Office of the Prosecutor of the International Criminal Court (OTP), which initiated a preliminary examination ex officio on February 8, 2018, and then received the referral of six States which were part of the Rome Statute. This preliminary examination is known today as Venezuela I, and is in phase three of the four phases that such examination has¹¹.

b) “Inside enemy”

Crimes against humanity are defined in article 7 of the Rome Statute, which establishes the following contextual elements:

1. Acts must be committed as part of an attack.
2. That attack must be systematic or generalized.
3. Against a civilian population.

The same Statute defines an attack as *“a course of conduct involving the multiple commission of acts referred to in paragraph 1*

10 Misión internacional independiente de determinación de los hechos sobre la República Bolivariana de Venezuela, *Conclusiones detalladas de la Misión internacional independiente de determinación de los hechos sobre la República Bolivariana de Venezuela*, accessed April 24, 2021, https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11_SP.pdf

11 Oficina de la Fiscalía de la Corte Penal Internacional, *Informe sobre las actividades de examen preliminar 2020*, accessed April 24, 2021, <https://www.icc-cpi.int/itemsDocuments/2020-PE/2020-pe-report-ven-i-spa.pdf>

against a civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack”¹².

The acts established in paragraph 1 are imprisonment, torture and persecution in connection with any act established in the same article of the Statute¹³.

It is predictable that, when the rule of law is broken, human rights defenders will become victims of persecution, defined in the Rome Statute as *“the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity”*¹⁴.

MIIDH, in its detailed conclusions, indicated that it had reasonable grounds to believe that some of the crimes against humanity that have occurred in Venezuela are imprisonment, torture¹⁵, among others; which occur in its understanding as part of an attack against the civilian population and in compliance with two state policies. Here, we will highlight one:

“silencing, discouraging and stifling the opposition to the Government of President Maduro, including targeting people who, through various means, demonstrated their disagreement with the Government or were perceived as

12 Estatuto de Roma de la Corte Penal Internacional, accessed April 24, 2021, [https://www.un.org/spanish/law/icc/statute/spanish/rome_statute\(s\).pdf](https://www.un.org/spanish/law/icc/statute/spanish/rome_statute(s).pdf)

13 Idem.

14 Idem.

15 Misión internacional independiente de determinación de los hechos sobre la República Bolivariana de Venezuela, *Conclusiones detalladas de la Misión internacional independiente de determinación de los hechos sobre la República Bolivariana de Venezuela*, accessed April 24, 2021, https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11_SP.pdf, 434.

contrary to it, as well as their family and friends for being associated with them..."¹⁶

These people are considered inside enemies. The MIIDH's detailed conclusions indicate that on April 1, 2015, General Néstor Reverol –at that time General Commander of the National Guard– circulated a manual containing rules and procedures for the control of public order. In it, the inside enemy was defined as "those individuals who may be nationals or foreigners who are in the national territory and maintain stances opposed to the policies of the national government"¹⁷.

The OMCT, COFAVIC, the Caracas Vicariate for Human Rights and the Center for Defenders and Justice, in their report Venezuela, define "inside enemies" as "any person who opposes, criticizes or questions the government's authority"¹⁸, as well as highlight that:

"The State articulates a discourse of conflict and discredit any person or organization that is not aligned with certain criteria, generating a climate of extreme hostility, in this case towards defenders, limiting their operation and consequently

16 Misión internacional independiente de determinación de los hechos sobre la República Bolivariana de Venezuela..., 435.

17 Misión internacional independiente de determinación de los hechos sobre la República Bolivariana de Venezuela, *Conclusiones detalladas de la Misión internacional independiente de determinación de los hechos sobre la República Bolivariana de Venezuela*, accessed April 24, 2021, https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP.11_SP.pdf, 60.

18 OMCT, COFAVIC, la Vicaría de Derechos Humanos de Caracas y el Centro para los Defensores y la Justicia, Venezuela "enemigos internos", accessed April 24, 2021, https://www.omct.org/files/2005/03/25728/venezuela_informe_2020.03_informe_completo.pdf, 47.

affecting the rights of the victims and the search for truth, justice and reparation”¹⁹.

On March 10, 2021, during its oral update, the MIIDH professed concern about the expansion of the term “inside enemy” in Venezuela and the growing persecution “of people and non-governmental organizations dedicated to humanitarian and human rights work”²⁰.

c) Criminalization for defending rights

In 2015, the IACHR published a report entitled *Criminalization of the work of human rights defenders*²¹, which suggests that, in the region, human rights defenders are systematically subjected to criminal proceedings without any reason, with the sole purpose of “paralyzing or delegitimizing the causes they pursue”²².

The situation in Venezuela seems to be particularly alarming since said criminalization occurs in a context of Complex Humanitarian Emergency, in which there has been an institutional breakdown that does not allow victims of human rights violations to access instances of justice and reparation

19 OMCT, COFAVIC, la Vicaría de Derechos Humanos de Caracas y el Centro para los Defensores y la Justicia, ..., 47.

20 Misión Internacional Independiente de Determinación de los Hechos sobre la República Bolivariana de Venezuela, *Declaración de Marta Valiñas, Presidenta de la Misión Internacional Independiente de determinación de los hechos sobre la República Bolivariana de Venezuela, en la 46ª sesión del Consejo de Derechos Humanos*, accessed April 25, 2021, <https://www.ohchr.org/SP/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26872&LangID=S>

21 Comisión Interamericana de Derechos Humanos, *Criminalización de la labor de las defensoras y los defensores de derechos humanos*, accessed March 20, 2021, <http://www.oas.org/es/cidh/informes/pdfs/criminalizacion2016.pdf>

22 Comisión Interamericana de Derechos Humanos, *Criminalización de la labor de las defensoras y los defensores de derechos humanos*, accessed March 20, 2021, <http://www.oas.org/es/cidh/informes/pdfs/criminalizacion2016.pdf>, 12.

since the criminal justice system is used as a tool for political persecution –together with a non-Constitutional State of Law, and with serious, systematic and generalized human rights violations, some of which have even reached the threshold of crimes against humanity, as expressed by the MIIDH and the OTP.

The use of the criminal justice system as a tool for political persecution is evidenced in the constant arbitrary detentions, short-term forced disappearances and other illegal acts endorsed and even promoted by the Public Ministry and the courts of the Republic, as per the victims' testimonies, collected from their professional practice and what has been stated in different reports from both the OHCHR, the IACHR and the MIIDH.

For example, in 2018, the General Director of the Community Ambassadors Foundation was transferred to the headquarters of the Bolivarian National Intelligence Service (SEBIN) in Helicoide. He was deceived by the officials, who assured him that he would only go in for an interview. He was arbitrarily detained from January 31 to June 1, even though they had a judicial release ticket from April 2. The criminal process against him for the alleged conduct of public instigation and conspiracy is still being processed, even though he has not committed any crime.

More recently, on January 12, 2021, five members of the organization Azul Positivo from Zulia were arbitrarily detained. They were allegedly charged for money laundering, fraudulent use of smart cards with payment cards and association to commit a crime for their humanitarian work known and supported by United Nations agencies such as UNAIDS²³. Various international

23 For more information about this case, see: <https://accesoalajusticia.org/criminalizacion-de-la-asistencia-humanitaria-en-venezuela-el-caso-azul-positivo/>

organizations spoke about this case, but one statement from OHCHR stands out:

“This is the second time in the last two months that the office of a humanitarian NGO has been raided and its staff questioned, allegedly due to funding received from abroad. States should not impose undue restrictions on the ability of NGOs to access funding from domestic, foreign or international sources. It is even more disconcerting that these incursions are accompanied by statements by public officials calling for the criminalization of civil society organizations and their staff”²⁴.

In its 2020 annual report, the Center for Defenders and Justice indicated that it had documented 303 attacks and security incidents against human rights defenders or organizations. 272 occurred after the declaration of a state of alarm due to the COVID-19 pandemic, most of the cases being stigmatization (198), intimidation and harassment (47). But, it should be noted that there were 5 raids and 3 criminal or judicial processes²⁵.

It is highly worrying that this same organization reported on January and February 2021 99 and 28 cases, respectively, which shows that at the beginning of 2021 there has been a “sharpening

24 OHCHR, Comment of the spokesperson for the UN Office for Human Rights Marta Hurtado on Venezuela, accessed April 25, 2021, <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=26660&LangID=S>

25 Centro para los defensores y la justicia, Situación de las personas defensoras de Derechos Humanos en Venezuela, accessed April 25, 2021, <https://centrodefensores.org.ve/wp-content/uploads/2021/03/INFORMECDJ-2020.pdf>

of the Criminalization Policy for the defense and demand of human rights”²⁶.

Human rights defenders are not anyone’s enemies, they are not criminals, they are people who by exercising their right to defend rights help others in the search for justice, truth, reparation and guarantees of non-repetition. In addition, they are a key element for the rule of law and democracy. Attacking them through criminalization evidences the nature of the State today.

26 Centro para los defensores y la justicia, *REPORTE CDJ | Situación de las personas defensoras de derechos humanos en Venezuela – ENERO 2021*, accessed April 25, 2021, <https://centrodefensores.org.ve/?p=153> y *REPORTE CDJ | Situación de las personas defensoras de derechos humanos en Venezuela – FEBRERO 2021*, accessed April 25, 2021, <https://centrodefensores.org.ve/?p=156>

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ACNUDH, *Comentario de la portavoz de la Oficina de la ONU para los Derechos Humanos Marta Hurtado sobre Venezuela*, accessed April 25, 2021, <https://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=26660&LangID=S>

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Jesús María Casal, *El derecho a vivir en Democracia*, accessed April 23, 2021, <https://elucabista.com/wp-content/uploads/2020/11/El-derecho-a-vivir-en-Democracia-Bases-teoricas.pdf>, 18

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Misión Internacional Independiente de Determinación de los Hechos sobre la República Bolivariana de Venezuela, *Declaración de Marta Valiñas, Presidenta de la Misión Internacional Independiente de determinación de los hechos sobre la República Bolivariana de Venezuela, en la 46ª sesión del Consejo de Derechos Humanos*, accessed April 25, 2021, <https://www.ohchr.org/SP/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26872&LangID=S>

OMCT, COFAVIC, la Vicaría de Derechos Humanos de Caracas y el Centro para los Defensores y la Justicia, *Venezuela "enemigos internos"*, accessed April 24, 2021, https://www.omct.org/files/2005/03/25728/venezuela_informe_2020.03_informe_completo.pdf, 47.

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Human rights in Venezuela (1999-2021)

Juan Alberto Berrios Ortigoza

The erosion of human rights guarantees provided for in the 1999 Constitution has been the result of a series of actions aimed at preserving political power by the elite that has ruled the country throughout the last two decades. Both facts and legislative acts, executive decrees and judicial decisions have converged in restricting or suppressing freedoms and equality, which are rights-values whose protection, respect and guarantee are fundamental to achieve individual and collective well-being. This essay makes a brief reference to some situations that have led to the complex humanitarian emergency that Venezuela suffers. Some of these situations imply that if the emergency is not addressed promptly, it could prolong its effects due to the structural nature that is evident in the disregard of rights.

I. Human rights in the 1999 Constitution

The characteristic feature of the constitutional protection of human rights is its fundamental meaning for the order established in the Constitution. Article 2 establishes that *“Venezuela is a democratic and social State of Law and Justice, which advocates for life, freedom, justice, equality, solidarity, democracy, social responsibility and, in general, the pre-eminence of human rights, ethics and political pluralism as superior values of its legal system and its actions”*. In agreement with this premise, article 3 contemplates that *“The*

State has the essential purpose to ensure the defense and development of the people and respect for their dignity, the democratic exercise of the popular will, the construction of a just society and devotee of peace, the promotion of prosperity and well-being of the people, and the guarantee of compliance with the principles, rights and duties enshrined in this Constitution”.

The catalog of human rights is broad, heterogeneous and open, since not only does it include the content of the treaties ratified by the republic on this matter, but also because constitutional protection extends to those rights inherent to the human person that are not expressed specifically in any normative instrument, and does not condition its enforceability on its regulation (Article 22). These issues correspond to a conception of rights based on the principle of progressivity, mentioned along with the principles of non-discrimination, inalienability, indivisibility and interdependence, among the foundations of the guarantees that the Venezuelan State must provide (Article 19). These guarantees are specified, among other means, in specific enforceability instruments such as protection (Article 27) and petition before international bodies (Article 31).

However, from the outset, the Constitutional Chamber of the Supreme Court of Justice limited the scope of this protection. Although the Chamber cleared the implementation of some judicial remedies that were not regulated (such as the review of sentences or the protection of collective or diffuse rights and interests), its conception on the guarantee of rights was based on an alleged antagonism between the Constitution and international law that had to be resolved by ensuring the prevalence of the domestic legal order (among others, judgments 1309/2001, of July 19, and 1942/2003, of July 15). This conditioned the value of the treaties and the decisions of international bodies for the

protection of human rights and laid the basis for the arguments to declare as unenforceable some decisions of the Inter-American Court of Human Rights (Inter-American Court) (among others, judgments 1939/2008, of December 18, on the *Apitz Barbera et al.* case; 1547/2011, of October 17, on the *Leopoldo López Mendoza* case; and 1175/2015, of September 10, on the *Granier et al.* case), as well such as the decision to denounce the American Convention on Human Rights in September 2012, and the Charter of the Organization of American States in 2017.

Other structural aspects affected the independence of the judicial branch, made up mostly of provisional judges, and that of other control bodies such as the Ombudsman's Office and the Public Ministry, led by officials close to the government elite. As a consequence, the guaranteeing purpose of these institutions was diverted towards the preservation of political power.

II. Overview of the situation on human rights

The issue of human rights in the country has gradually worsened. Their disregard and their guarantees have had several phases, with various manifestations. In fact, during the first decade, controls, restrictions and eventual suppressions of certain freedoms, such as economic ones, were justified by the government in the need to ensure social welfare. This social welfare would have been evidenced in greater food security, better access to education, health and social security services, more employment, increased consumption of goods and services, among other demands that government propaganda still proclaims. Altogether, according to the official discourse, endorsed by agencies such as UNDP, UNESCO or FAO, historical inequality gaps would have been reduced. However, this apparent well-being could not be sustained because it depended on the high oil income of this

time, not on controls or restrictions. In fact, at the end of the oil boom, such controls and restrictions intensified in an increasingly authoritarian context and widespread corruption practices that have resulted in a lack of awareness of all rights and their guarantees.

By way of illustrating the systematic violation of freedoms and equality as rights-values, some situations that have arisen in the last two decades (1999-2021) will be presented, surely not exhaustively.

1. Constant threats to life and freedom

The dignity of human life is a constant idea in the constitutional text. It's a "*superior value of the legal system*", such as freedom and equality, which serves as the basis for the democratic and social State of law and justice. In an absolute sense, the Constitution stipulates that "*The right to life is inviolable. No law may establish the death penalty, or any authority to apply it*" (Article 43). Despite this commandment, a policy of extrajudicial executions has defined citizen security plans, highlighting the development of the Operation for the Liberation of the People (2015-2017) and, more recently, the creation of the Special Actions Forces of the Bolivarian National Police (FAES), whose operations tend to be of excessive violence.

Likewise, practices contrary to due process, in violation of personal freedoms, have been carried out to control the population and punish any manifestation of dissent. Cases of raids, arbitrary detentions, torture, cruel, inhuman or degrading treatment –on which the Inter-American Court ruled in the Díaz Peña case (June 26, 2012)– and forced disappearances have been routine, even more so since the antigovernment protests of 2014. This has meant that the Office of the United Nations High Commissioner for Human

Rights (OACNUDH) has devoted its attention to the national situation since 2017 through the publication of several reports¹, as well as the United Nations Human Rights Council, which created an Independent International Mission to Determine the Facts about Venezuela with the objective of investigating this type of violations, concluding in a first report released in September 2020 that had “*reasonable grounds to believe*” that crimes against humanity have been committed². Likewise, at the regional level, the Inter-American Commission on Human Rights (IACHR) has published successive reports and alerts on the general situation of rights in the country³, and a Panel of Independent International Experts found “*sufficient grounds*” on crimes against humanity in 2018⁴.

On the other hand, cases of human trafficking and modern slavery have increased, affecting girls and women to a greater extent, especially in areas controlled by organized crime groups in Guajira, Guayana, the west coast and the northeast.

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- 1 The first of them, “Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from April 1 to July 31, 2017”, can be consulted at https://www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_SP.pdf. The last one, distributed on July 2, 2020, contains the “Results of the investigation of the complaints of possible violations of the human rights to life, liberty and physical and moral integrity in the Bolivarian Republic of Venezuela” between June 2019 and May 2020, can be read at https://www.ohchr.org/Documents/Countries/VE/A_HRC_44_20_UnofficialVersion_SP.pdf. The Oacnudh has an office in Venezuela since mid-2019.
 - 2 Detailed Mission findings can be reviewed at https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFMV/A_HRC_45_CRP11_SP.pdf.
 - 3 The last of these reports is chapter IV.B of the 2020 annual report, the content of which can be consulted at <https://www.oas.org/es/cidh/docs/anual/2020/capitulos/IA2020cap.4b-VE-es.pdf>.
 - 4 Both the report and its executive summary are available at https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-031%2F18.

Specifically, the protection of the personal integrity and life of women is an obligation that has not been met by the Venezuelan State. In this regard, the case of Linda Loaiza López Soto stands out, which was heard by the Inter-American Court (September 26, 2018), in the midst of an excessive increase in femicides and other forms of violence against girls and women, more intensified during the pandemic.

Identity has also been a right whose violation has been persistent in recent years. Corruption is common to process any identity document, in particular birth, marriage and death certificates, identity cards and passports, affecting both Venezuelans in the country and abroad as they are subjected to situations of extortion or defenselessness.

2. A country without access to justice

The right to due process and, in particular, to judicial protection has been violated in various ways. The political dependence of judges, as well as the precarious training of judicial officials, and the neglect of court facilities –some without electricity service–, among other problems that are now very visible, have led to an unprecedented crisis of the judicial branch. In fact, in some regions its operation has been intermittent for some years, seriously violating the right to effective judicial protection in a permanent context of legal insecurity, corruption and abuse of power.

3. Economic freedom and property amid increasing state interventionism

Socialism as a state ideology has been imposed by laws and executive decrees. This has been supported, although without clear mentions of socialism, through judicial decisions of the Constitutional Chamber that have authorized State

interventionism and the submission of the Central Bank of Venezuela to the will of the government⁵.

Although the power of economic regulation is provided for in the Constitution, its execution has been disproportionate: controls on the exchange rate, prices, imports and exports, production and demand for goods and services have been established without any correspondence to technical criteria. Meanwhile, the policy of expropriations and reserve declarations has also been developed arbitrarily, in violation of the constitutional guarantees of property and economic freedom⁶. An impoverished population, with humanitarian needs, has been the result of all this.

4. Reduction of civic space and obstacles to citizen participation for political change

The right to association, essential for the development of civic space, has also been interpreted restrictively by the Constitutional Chamber. These interpretations have referred to the financing of civil society organizations with foreign funds (judgment 1395/2000, of November 21) and, specifically, to consider that, under certain circumstances, those who had this support do

5 J.A. Berríos Ortigoza, "Interpretación judicial de los derechos económicos en Venezuela (2000-2016)" in *Cuestiones Jurídicas* Vol. 11 Number. 2 (Maracaibo: Universidad Rafael Urdaneta, 2017), 11-52.

6 In more recent years, certain companies that had been expropriated by the government have been privatized, among others, the Bicentenario supply chain, without having transcended the conditions of these negotiations. As an example of this, in the Official Gazette number 41,275, of November 9, 2017, the ruling number 002-2017 of the Ministry for Food was published, "by means of which the Bidding Committee for the Sale and Exchange of Public Goods of the mercantile company Red de Abastos Bicentenario, SA, (RABSA), made up of the citizens mentioned therein, is constituted".

not have the right to present petitions before courts (judgment 796/2010, of July 22).

Subsequently, regulations regarding international cooperation have been issued through the *Law for the defense of sovereignty and national self-determination*, which prohibits it for civil society organizations that promote political rights⁷; a decree of state of exception that instructed the audit of agreements signed by individuals and civil organizations for the execution of projects with foreign financing⁸, and an administrative ruling that obliges civil organizations to sign up in a registry related to organized crime and terrorism⁹, all this outside of international standards¹⁰. At the same time, there have been raids and arrests of human rights activists and humanitarian workers from United Nations partner organizations within the framework of the humanitarian response that has been taking place since 2019.

7 Published in the extraordinary number 6,013 of the Official Gazette of the Republic, of December 23, 2010.

8 Article 2.18 of Decree No. 2,323, of State of Exception and Economic Emergency, published in the 6,227th extraordinary number of the Official Gazette of the Republic, of May 13, 2016..

9 It is the order of the National Office against Organized Crime and Terrorism Financing number ONCDOFT-001-2021 “by means of which the Regulations for the Unified Registry of Obligated Subjects before the National Office against Organized Crime and Terrorism Financing is issued. (RUSO-ONCDOFT) ”. It was published in number 40,098 of the Official Gazette of the Republic, of March 30, 2021. It was reprinted “due to failure in the originals” through ruling ONCDOFT-002-2021, published in number 42,118 of the Official Gazette of the Republic, of May 3, 2021.

10 Among the standards, the document “Protection of Civic Space and Right of Access to Resources” stands out, which was published in 2015 by the United Nations Special Rapporteur on the right to freedom of peaceful assembly and association (2015), the content of which can be consulted in <http://freeassembly.net/wp-content/uploads/2015/03/Principios-Generales-Spanish-Nov-13.pdf>.

These actions correspond to a policy of social control and persecution whose first objective was to obstruct and then prevent the participation of activists and opposition political parties through various strategies that have involved the National Electoral Council, the Supreme Court of Justice and the Comptroller General of the Republic. Thus, among other measures, in the context of electoral processes, the registration of political parties by the CNE has been denied, and boards of directors have been intervened through judicial decisions.

These are actions that have the purpose of preventing political change, including the postponement or advancement of elections, or the allocation of seats in contravention of the principle of proportionality. But not only have the conditions under which the elections have been held deteriorated to discourage participation, but the authority of elected officials from opposition parties has also been disregarded in various ways. Emblematic cases are those of the National Assembly of 2015, or the suppression of the Metropolitan District of Caracas, for being under opposition management.

However, not only have leaders been persecuted through disqualifications or criminal trials (even, in ignorance of parliamentary immunity), but, in general, any critical, individual or collective manifestation or initiative contrary to the interests of the governmental elite poses a risk of persecution. This persecution of citizens, at a time implemented through databases containing the identity of those who requested the 2004 presidential recall referendum (on what the Inter-American Court ruled in the San Miguel Sosa case and others through a judgment of 8 February 2018), has evolved with the homeland system, a registry with a totalitarian vocation that is presented as a means for social protection. The nationalization of the forms of community

organization through the laws on communal power issued since 2006 has also been of a totalitarian nature.

The obstacles have also violated the right to demonstrate and have been expressed in a policy of disproportionate repression carried out by both the police and the military, as well as armed civilian groups loyal to the government. The experience of the national days of protest of 2002, 2013, 2014 and 2017 shows that the government's reactions have been increasingly violent, but maintaining the pattern of cases of raids, arbitrary detentions, torture, cruel inhuman or degrading treatment, forced disappearances, homicides, among other serious human rights violations, while the responsible officials have not been investigated or punished. It should be noted that the right to demonstrate is regulated in the *Law on political parties, public meetings, and demonstrations* (published on December 23, 2010), providing that for its exercise it is only required to notify the first civil authority of the locality, with the purpose of ensuring security conditions for the protest. However, the Constitutional Chamber in judgment 276/2014, of April 24, established that it was mandatory to request an authorization without the granting of which the demonstration was illegal. In addition to this unconstitutional restriction, the defense ministry issued a resolution (number 008610, of January 27, 2015) that authorized the carrying and use of firearms to control demonstrations, despite the fact that the National Armed Forces have no constitutional competences relating to public order (Article 332 of the Constitution).

The right of assembly has also been limited in practice in spaces managed by State entities, be it squares, parks or cultural centers, when it is considered that the organizers or the activity contravene the political ideology of the ruling elite.

5. Policy of censorship of free expression of thought

Free expression, and with it the rights to inform and express opinions, have also been subject to illegitimate restrictions that have smoothed the transition to authoritarianism. The censorship has guided both interpretations of the Constitutional Chamber on the scope of these rights (judgments 1013/2001, of June 12, and 1942/2003, of July 15), as well as laws of sanctioning purpose such as the *Law of social responsibility of radio and television* (which would be extended to electronic media in 2011¹¹), and the *Law against hatred, for peaceful coexistence and tolerance* (issued by the National Constituent Assembly of 2017¹²).

A diversity of practices have also been enforced in order to curtail the freedom to inform¹³, to prosecute journalists, cartoonists and columnists, or people who issue critical messages on social media or private communication applications, to shut down radio and television stations –sometimes breaking into their headquarters and confiscating their production and broadcasting equipment–, or to prohibit cable television systems from offering some channels under the threat of revoking their permits. Also, administrative or judicial procedures have been implemented to force the sale of communication media to groups of businessmen linked to the government. The written press has almost disappeared due to the state monopoly on the import and sale of paper, having to migrate to web platforms that, in certain cases, have been blocked for access from Venezuela. As a result, in recent years, the way to access information has been limited to

11 Published in number 39,610 of the Official Gazette of the Republic of February 7, 2011.

12 Published in number 41,274 of the Official Gazette of the Republic of November 8, 2017.

13 In this regard, the Ríos et al. and Perozo et al. cases, decided by the Inter-American Court on January 28, 2009, can be consulted.

radio and television stations run by the state while privately run ones are subject to censorship.

On the other hand, free expression of thought, ideas or opinions finds no place in State institutions. Public officials and employees have been forced to participate in public demonstrations in support of the government, as well as to use certain slogans in official or internal communications, including the military sphere with the endorsement of the Constitutional Chamber (judgment 651/2014, of 11 of June).

6. Vulnerability at work

Work conditions have also worsened throughout the past two decades, in a context of government decisions that have not been in agreement with either workers or employers. The government has ignored trade unions of worker or business organizations, persecuted their leaders and formed others to impose collective agreements or salary scales. In 2012, the President of the Republic reformed the organic labor law by decree-law, despite the fact that according to the fourth transitory provision of the Constitution, this was the duty of the National Assembly.

Over time, the minimum wage –the basis for wage scales and pensions– has become increasingly derisory, encouraging modern slavery practices, both in urban and rural areas, or groups of workers, such as those in public education, to leave their jobs. In fact, the organic law on social security, amended on various occasions between 2002 and 2012, has not been implemented. Instead, a policy of social missions was developed, which, in recent years, has been linked to the *homeland system*, so that instead of responding to an idea of universal social protection, it is used to discriminate for political reasons.

7. Poor education

In recent years and, even more so, during the pandemic, structural failures have been evidenced at all levels and modalities of education. There is notable inequality between the few services that maintain their quality standards and many others, either private or public, urban or rural, affected by the massive desertion of students and teachers, and the deterioration or abandonment of their facilities. Announced achievements such as the total literacy of the population, or greater educational coverage, were supported by social programs of dubious quality, such as educational missions or the creation of universities without an academic project or infrastructure. The latter also ensured a political majority for the government within the National Council of Universities, reducing the self-government of autonomous public universities.

This university autonomy, moreover, has been disregarded through executive resolutions and judicial decisions. For this purpose, the government has appointed rectorial authorities to be elected and, more recently, has assumed the financial administration of university personnel. Before that, it reformed the organic law of education in 2009 and tried to modify the university law in 2010 to broaden the definition of the concept of university community and seek a political advantage in the elections of its authorities. After a series of judicial and political disputes, there have been no elections in autonomous public universities.

8. A country without a health system

The pandemic has revealed the precariousness of health services. The most important hospitals, considered so due to their installed capacity for care, have suffered serious deteriorations

throughout the last two decades. Problems not only include corruption in the management of these centers: contaminated facilities, shortage of supplies and medicines, insufficient medical equipment, outdated or damaged technology, failures in the provision of drinking water and electricity, are some of the aspects that stand out, as well as the emigration of health personnel, especially medical specialists. Persecution against medical and nursing personnel who protest or disclose this type of situation has also been common.

Meanwhile, vulnerable groups are often neglected: among others, children, pregnant women, older adults and people with chronic diseases. There are no policies that respond to their particular needs. Likewise, the food insecurity suffered by most families has resulted in situations of malnutrition that are compromising, in particular child development and, therefore, the future of the country.

9. Environmental damage

Although it does not usually stand out from the human rights violations that have been committed in the country in the last two decades, the environmental situation is one of the most worrying. The consequences of an extractive economic policy without considering the environmental impact are notable in oil areas where, among other pieces of evidence, it is common to observe permanent spills in bodies of water.

Faced with the crisis in the national hydrocarbon industry, the State opted for mining exploitation in the Orinoco region, which is under the control of organized crime groups, damaging not only the Guiana ecosystem but also the indigenous peoples who live there, in a context where violations of all kinds are committed,

as well as the most severe cases of modern slavery and human trafficking practices documented.

On the other hand, the deficient management of garbage and waste by local governments has generated an environmental problem of contamination that further affects the precarious quality of life of Venezuelans.

10. Discrimination and marginalization of indigenous peoples

Ignorance of indigenous peoples and their rights has been recurrent. Their habitats have not yet been demarcated. Instead, their territories have been militarized and occupied for the exploitation of the natural resources found there. Since 2010, the border security policy has involved the transfer of a greater number of military officials to indigenous areas, where all kinds of abuses have been documented, among others, raids, arbitrary detentions, extrajudicial executions and forced disappearances, especially in Guajira, Guayana and Amazonas, where there are also often struggles for territorial control between organized crime groups.

Hunger, unhealthy conditions, poverty, lack of opportunities for life projects and isolation define the marginalization to which these peoples have been subjected.

On the other hand, electoral regulation has affected its representativeness. This has been more noticeable since 2015, when the election of some of its representatives was disregarded in order to annul the National Assembly with an opposition majority, and then in 2017 and 2020 when the voting of the representatives before the constituent assembly and the National Assembly was carried out through a mechanism not provided for

in the electoral law and contrary to the traditions of the indigenous peoples, which involved, among other irregularities, indirect and non-secret voting.

III. Final considerations

The result of these years of persistent human rights violations has led to a complex humanitarian emergency in the midst of an ongoing political persecution. The response to the emergency, managed by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), with the participation of UNHCR, FAO and UNICEF, has been insufficient, and their local partners often face obstacles in carrying out humanitarian work. In fact, in January 2020, the headquarters of an organization in Zulia, Azul Positivo, was raided and five of its activists arrested and prosecuted because, in the government's opinion, they had committed the crime of money laundering for implementing a money transfer program for food in vulnerable communities. As a consequence, by the decision of OCHA, this type of program was suspended across the country. It is evident that in these circumstances it is even more difficult for the emergency to be solved.

The role of the Oacnudh, as well as the Human Rights Council, and the Independent International Mission to Determine the Facts about Venezuela, is fundamental to ensure that the validity of human rights is restored in the country. The same can be said of instances such as the IACHR and the Inter-American Court. Even more so is the action of civil society organizations, whose perseverance and firmness have managed to fix the attention of these international organizations in Venezuela. Safeguarding them from government harassment is a guarantee that the country can have a better future.

The investigation of the human rights violations that have occurred, as well as the punishment of those responsible, and reparation to the victims, is the main challenge of this time and will mark the fate of the next Venezuelan century.

Totalitarian domination, citizen organizations and human rights: approaching the case of Venezuela

Miguel Ángel Martínez Meucci

I. The totalitarian will of Chavismo

The consequences of more than two decades under the Chavista regime have been devastating for Venezuela. What for many years was the subject of warnings often taken for fantastic is not even disputed today: the voice of facts is now gravely imposed. However, the particular nature of the *logic of power* that hides behind Chavismo has not ever been easy to identify, given its changing appearance and the supposed popularity of its project. Behind green uniforms and red flannels, massive concentrations and endless broadcasts, anti-elitist rhetoric and anti-imperialist fury, behind the apotheosis of “popular power” and the communal state, experts have incessantly characterized and labeled the regime, sometimes even incurring in apparent contradictions.

Depending on the focus of specialists, Chavismo has been considered a militarist or praetorian regime, a populist dynamic and government, an initiative aimed at implanting a more participatory democracy, or a hybrid regime that experiences a

significant democratic deficit by virtue of its illiberal character. Furthermore, as of 2017, there has been an important consensus regarding the clearly authoritarian will of the Chavista regime. Other scholars have insisted on its revolutionary and socialist character, a description that coincides with the perception that the Chavista movement and government has of itself. More recently, the essentially kleptocratic and gangster drift that is becoming more evident day by day has also been highlighted.

I have personally tried to emphasize the value of all the previous characterizations, as each one of them captures a defining and certainly present aspect of the Chavista regime. Nonetheless, I have also insisted on the importance of finding a description that, on the one hand, harmonizes and integrates notions instead of contradicting each other, but that, on the other hand, is able to identify that which remains constant in the midst of apparent change. If every definition intends to answer the question of *what it is*, and if the *being* or *nature* of something corresponds to that which tends to remain in the midst of progressive changes and passing appearances, then the essence of Chavismo will involve, primarily, those traits that have always been present.

In this sense, I count myself among those who have spent the past decade systematically insisting on the determining nature of the *totalitarian* features of Chavismo. From my point of view, its totalitarian traits are not secondary, accidental or superficial, but absolutely essential in the Chavista movement/party/regime/State. And although I do not mean to affirm that a *totalitarian regime* has been established in Venezuela in all the sense and scope of the term (understanding regime as a system of clearly established formal and informal rules that fully correspond to an idea that can be characterized), I do consider that the presence of a *totalitarian logic* that inspires the ideas, speeches, actions and

objectives of the main leaders of Chavismo is clear and decisive. The existence of this logic indicates that its protagonists act rather constantly in accordance with it, despite the fact that the results of their actions are not always fully capable of generating those which they aspire to.

Additionally, it should be borne in mind that, since totalitarianism is so closely linked to the evolution of ideologies and technical potentialities, the totalitarian logics of the 21st century necessarily evidence novelties and differences with respect to those that prevailed in the mid 20th century. It cannot be otherwise when both the ideologies and the technical means for political control have undergone important changes since then. Now, if on the one hand it is true that ideology and technique make totalitarian domination possible, it is also true that both have an instrumental character. What does not vary, what has an essential and permanent character in totalitarianism, has more to do with a logic of power according to which an absolute truth assumed to be embodied in the people –understood as a single and compact subject– has to break through a permanent revolution that incorporates every individual and eliminates all dissent, in an attempt to fully homogenize and discipline people (*Gleichschaltung*).

Said incorporation and homogenization of individuals implies the absolute loss or cancellation of their moral autonomy, and the imposition of processes and movements on reasons and ends. The annulment of reason, the punishment of pluralism and the apotheosis of the collective and disciplined movement, justified by ideology and facilitated by the exhaustive control allowed by this technique, endow totalitarianism with that inevitable irrational and self-destructive character, but not before leaving the most cruel and mediocre characters in power. Totalitarianism is

the tragic, ephemeral and suicidal victory of “the administration of things” over the empire of reason and of “communicative action”, if by such we understand –in Habermasian terms– the sphere of intersubjectivity that emerges from the participation of free individuals. This totalitarian victory is only possible after breaking almost all natural and social ties on which a society has gradually been built. It is not by chance that its unavoidable result is –as Arendt insisted– plunging people into the deepest loneliness, substituting all spontaneous action for routines and absurd protocols that the totalitarian regime seeks through its single or hegemonic party.

As Juan Linz points out, this is completely different from what happens with conventional –not totalitarian– autocracies, whose logic of power is limited to guaranteeing the general obedience of the population and which has no particular desire to lead the population into sharing a single idea about the state of things. This is why it has a scant interest in ideology and perpetual mobilization, as well as a lesser emphasis on building a single or clearly hegemonic party. In the case of Venezuela, as we will express below, totalitarian tendencies are still present.

II. Social dissolution and “life in lies”

Although the results obtained by Chavismo’s domination model differ notably from those of Nazi Germany, the USSR, Castro’s Cuba, Cambodia under the Khmer Rouge or North Korea’s Kim dynasty (in each case for different reasons), I would not hesitate to affirm that its logic of power, its way of understanding politics and its primary objectives are not too far from those that inspired the leaders of those political processes. A political, economic, social and demographic collapse like the one our country is currently experiencing does not happen under fairly

normal circumstances, and not even under most anti-democratic regimes, but rather implies submission to a brutal totalitarian logic of power during a prolonged period of time. From my point of view, the power logic applied in Venezuela for more than two decades is inherently totalitarian, without necessarily detracting from other characterizations elaborated thus far.

Despite differences, many of the aspects that make up people's daily lives in Venezuela today remarkably resemble the realities of various totalitarian regimes, such as those that prevailed in the second half of the 20th century in Central and Eastern Europe or in Castro's Cuba. I am especially referring to the portrayals of personal testimonies or great writers, which are usually more vivid and meaningful than the often dry language of contemporary political science. Much could be said about the way in which authors such as Pasternak from Russia, Marai from Hungary, or Kundera from the Czech Republic have reflected the vicissitudes of life under the advance of Soviet power. We could extract much from the reflections of people like Svetlana Aleksievich, Masha Gessen or Anne Applebaum, and above all from the direct testimony of anyone who has lived under such regimes. Here, I will only refer to the singular testimony that a leading protagonist like Vaclav Havel bequeathed us in his work *El poder de los sin poder*, or *The power of the powerless*, using his reflections to comment on challenges and situations that Venezuelans today would find familiar.

In the first pages of his famous text, Havel explains the importance of distinguishing the "post-totalitarian" system in which he lives (according to him, in the absence of better definitions) from a classical or conventional dictatorship. In a post-totalitarian reality, ideology plays a fundamental role because it establishes the official system of meanings that, in turn, uphold

the ubiquity of terror that guarantees obedience. Later on, that ideology no longer even has to be believed in for it to work; it is maintained through the rituals imposed over time. In a post-totalitarian phase, the regime no longer rests on popular support but on the validity of that control system that, managed by a few but sustained by many, is expressed through meanings reinforced over and over again by the repetitive formulas of official speeches and symbols. Even when very few believe in the official creed, its continuous repetition is effective because it seeks to communicate other points of view, thus reminding us of the constant presence of control mechanisms.

Havel calls daily life within that system “life in lies”: when individuals no longer find any possibility of freely expressing themselves without fear of reprisals. The problem of submitting to the lie again and again, of making it a habit, is that it ends up pushing the truth far into the depths of conscience. The fear of retaliation makes people deprive themselves from saying what they really think and from sharing freely with others who do dare to speak openly, while they are surrounded by a subdued press and constant surveillance in the work environment. The sudden or progressive dissolution of all autonomous organizations at the hands of official repression increasingly frustrates genuine motives for social cooperation, resulting in human beings living an ever-growing situation of loneliness, devoid of the necessary spontaneity in their social relationships. Our entire lives thus become a crude simulacrum.

Any wise reader will still notice that times have changed since then: Havel describes the Czechoslovak reality of the 80s, and since then ideologies have undergone important modifications, not to mention the extraordinary leap in technologies, especially ICTs. In other words, the technical means of totalitarian domination

have changed significantly in the midst of a global context that has generally been marked by the expansion of democracy and freedoms in the last three decades. However, this does not mean that totalitarian threats have been completely annulled; rather, it reveals how the way they present themselves and their means of control have evolved.

Even though we can find relevant differences in today's Venezuela when compared to Havel's experience, the framework of the situation may not be so different. Venezuela currently has more than one political party, but the political organizations that rival the hegemonic United Socialist Party of Venezuela (PSUV) have been infiltrated and subdued by the regime to the point of withdrawing control of their cards in electoral processes. Rather than holding elections, we are offered mock election processes. Similarly, there are still a number of more or less independent media outlets, but the vast majority of them operate under terror and, sooner or later, end up being controlled by the regime. In other words, free press is merely a facade. And although greater economic freedoms have been offered more recently, the only actors who can really access that benefit are attached to the current regime. Once again, we are facing nothing short of a simulation, this time of economic freedom.

Despite the ubiquitous control that tends to reach out through the most varied mechanisms, such as the "Sistema Patria", the "CLAP", the "communal state" and other initiatives of the movement-party-State, one could think that the breakthrough of social networks has consolidated an inaccessible space for the regime, as well as one to exercise personal freedom. But even this is only partially true, since social networks also provide unsuspected possibilities for supervision and control. China is the clearest example of how a post-totalitarian State is able to

use its own social networks to maintain exhaustive control of the population, designing algorithms to delve into the deepest thoughts of people. In Venezuela, a much less sophisticated case, we see the arbitrary detention of people merely for having publicly issued an insubordinate and independent opinion. And what is worse: while the degrees of self-censorship rise in various virtual spaces, we also observe the diffusion –guided by organs of the regime and its allies to a much greater extent than what could at first be suspected– of all kinds of fake news and opinions that inadvertently batter the relationship between word and reality, emptying language of content and dividing us into a multiplicity of tribes incapable of acting according to a minimum set of shared references.

Along with the effect previously described in the field of ICTs, the ideologies of our time have also undergone notable changes. Surely they are no longer great logical systems or “meta-stories” of a general interpretation of political reality, but rather, by virtue of evolution, they seem to sacrifice logical density for persuasion capacity through symbolic referents. If ideology is, as authors as dissimilar as Arendt and Sartori argue, a kind of “*lever for action*”, its effectiveness will be all the greater to the extent that it is capable of being transformed into propaganda, and as long as questioning syllogisms becomes more unlikely. In this sense, there is nothing in our time that contravenes the role that ideology already played in the totalitarianisms of the 20th century; quite the contrary: ideology has become more and more subtle and imperceptible, and it continues to strengthen ties with propaganda to become more and more persuasive.

Thus, totalitarianism of the 21th century are surely more insidious than those of the 20th century, insofar as the former make use of new techniques that allow them to better camouflage

themselves with the habitual clothes of democratic societies. The means are different, but the effect is remarkably similar and responds to a logic of power that, in essence, remains the same. In the case of Venezuela, the dynamics have reached the point of causing an economic disaster and a mass exodus, the greatest collapse experienced by a modern nation without the mediation of a warlike conflict or a natural disaster. In the midst of such a collapse, the loneliness of the individual is constantly deepening in a political context that, despite all its precariousness, continues to advance towards a situation of increasingly brutal domination. The Covid-19 pandemic has been an invaluable tool for the Chavista regime in its desire to isolate Venezuelan citizens, reducing them more and more to the ineffable world of social networks while the medical emergency unfolds without any attention or care from the State. After all, what characterizes totalitarianism is not systematic genocide, but rather, as Arendt said, a situation in which the human being has become completely superfluous. Unfortunately, present-day Venezuelans know too well what it means to be condemned to such superfluity.

III. Social and political rearticulation to “live within the truth”

The multiple forms of citizen association that make up a free and democratic social fabric are the clearest indicators of its health and strength. After his visit to the young American democracy, Tocqueville sensed that there cannot be any free and vigorous society if its citizens do not strive to spontaneously form multiple free associations for the most varied purposes. That autonomy for free association is one of the main objectives that a totalitarian logic sets out to destroy. This dismantling takes shape in the constant penalization of said associations and in the co-option and alignment of all forms of popular participation within the various organs of the movement-party-State.

For these reasons, the only way to resist totalitarian attacks lies in preserving and strengthening the vigor of the spaces and mechanisms of spontaneous association of citizens as much as possible in each circumstance. We could classify such spaces and mechanisms in different ways, but for the moment we are interested in dividing them into two large spaces: those that propose the conformation and seizure of political power –identified during Modernity as State structures– and those that do not aspire to that, at least directly and explicitly. The former correspond to *political parties*, while the latter encompass the rest of civil society organizations.

It can thus be deduced that political parties are not a foreign entity to civil society, but are part of it. They are simply distinguished by their explicit and exclusively political purpose. By virtue of that particular specialization, political parties are in all likelihood the only effective way in which civil society can legitimately and democratically organize itself to participate in political affairs, in such a way that citizens are not just limited to requesting or requiring their leaders to do or stop doing this or that, but also to be able to directly take over the management of State agencies. Other forms of political participation that emerge in civil society, such as social movements or *nongovernmental organizations* (NGOs), can exert pressure on government decisions or fulfill functions complementary to the State, but are not specifically oriented to the management of its structures and institutions.

This especially applies in democratic societies in which a constitutional order and a rule of law already prevail, expressly aimed at safeguarding freedom and autonomy of citizen initiatives. Nonetheless, we have already seen that if under more or less conventional authoritarianism the free functioning of

political parties and other civil society organizations is hindered or prevented, then under a totalitarian system the aspiration is that every manifestation of citizens' will is predominantly similar in language, value system and political purposes to that preferred by the regime. To this end, actors who share the totalitarian logic strive to create "new institutions" that lack autonomy since they fully align themselves with the aims of the totalitarian movement/party/State.

Said organizations are not part *stricto sensu* either of the State or civil society. Its function within the totalitarian logic is –aligned with what Arendt called "the rise of the social" in the contemporary world, as opposed to the classic division of the world into public-private spheres– to simultaneously *privatize public spaces while nationalizing private ones*, thus violating the limits that guarantee both public freedom (positive according to Isaiah Berlin, regarding action and participation in common affairs) and private freedom (negative, aimed at protecting the dimension most intimate of human reality). Totalitarian logic seeks to monitor the intimate sphere of life of people as much as possible, taking the so-called "biopower" to the extreme to simultaneously put all the individual's powers at the service of its political objectives, isolated after being stripped of their most primary and natural affective ties (usually linked to the private sphere and the most elementary citizen associations).

The relationship that Arendt found between the modern "rise of the social" and the logic of totalitarianism led to situations sharply described by Havel in central and eastern Europe. According to the intellectual and later president of the Czech Republic, systems such as post-totalitarianism managed to reach a situation in which no one was totally guilty or totally innocent, since everyone contributed in some way to keeping a "life within

lies". In this context, opposing political parties managed to lose all their capacity to represent society and to embody a political option different from the regime, since they accepted to carry out their tasks within the rituals imposed by the totalitarian regime, even knowing that these rules would never allow them to access power. Likewise, people were terrorized into concealing or lightening the content of any discourse contrary to the regime –and its control rituals– and to create political programs that, instead of directly fighting lies, favored coexistence with it. Rhetoric that aimed to "improve socialism" and the like did nothing but contribute to sustain the system.

This type of situation generated a progressive distancing of people from politics, an attitude that Havel thought was a natural consequence. The author considered there was a wisp of healthy common sense, that is, people realized that, in reality, everything was different and thus everything had to be done differently¹. Havel saw in this progressive rejection of politics the expression of a fundamental human need, which was "life within the truth". In order to regain fundamental freedom, human beings first had to regain the relationship between discourse and reality, between public expression and personal feeling, between action and moral autonomy. In other words, we would say that this distrust of politics expressed the need to recover *logos* as the foundation of politics, in order to give it meaning and relevance again.

The option that Havel chose as the beginning and foundation of this general recovery of politics was to start with people themselves and with their most basic needs. The option to "live within the truth" was based on the profound need for authenticity as a basis for free action, an action that in turn required reliance

1 Vaclav Havel, *El poder de los sin* (Madrid: Ediciones Encuentro; 1990 [1979]), 60.

on a language that completely and radically departed from “newspeak” –in Orwellian terms– and the rituals of totalitarian power. Only people who had the courage to completely escape from this atmosphere of generalized mendacity, even knowing that this would completely remove them from any possibility of rearrangement in said totalitarian society, would be able to recover the deep meaning of their lives and, eventually, found a different political action, really oriented to a significant change.

In this way, Havel and his companions from *Charter 77*, determined to build a “parallel polis” where it was possible to “live within the truth”, found in human rights, and in the window that would be opened through the so-called “*Helsinki Process*”, the opportunity for the development of a public action of great political impact. All really meaningful politics required starting with people and their most basic requirements, and not from the calculations of the political rationality of the parties that struggled to preserve supposed power without radically questioning the bases of the totalitarian system. The proof of all this is that, when the opportunity for political change that led to the progressive collapse of the Soviet Union presented itself, it was those who promoted the Civic Forum –reconverted into a political party during the political transition– who had the necessary credibility to obtain popular favor in the first free elections after the end of communism.

It is probable that in present day Venezuela the totalitarian will to establish a system of social control as exhaustive and mechanical as those that prevailed in the Soviet bloc –a will that is evidenced in the repetition of many of its practices– has not obtained similar results. However, and as I pointed out in previous paragraphs, we must warn that the evolution of the technique, as well as the changes registered in the nature of ideologies,

necessarily point towards new forms of operation by totalitarian logics. If totalitarian domination takes hold where citizens lose the ability to exercise their moral autonomy, while –as a consequence of terror, the absence of truly critical options and opportunities to publicly exercise the power of judgment– they inadvertently tend to reproduce the discourses and rituals of totalitarian power, then the effectiveness of said domination will be directly related to the inability of citizens to perceive its mechanisms and tools.

It is worrisome that in Venezuela, in a more or less involuntary way, certain types of discourses and practices are being naturalized, which, observed from a more independent or external perspective –or less clouded by terror and automatic solidarity–, clearly contribute to hide reality. The advance of the Chavista newspeak, expressed not only in a particular lexicon and in the dissemination of a series of common places, but also in a whole diversity of discursive practices increasingly shared by the whole of Venezuelan society, is complemented by various intimidating mechanisms to have a devastating effect on the basic need to “live within the truth”. The harmful effect of these practices is now extraordinarily enhanced, in an unprecedented way and on a completely unpredictable scale, by the effect of social networks, which have become precisely the maximum expression of the “rise of the social”, which enables the mutual emptying of the public and private spheres on which totalitarian domination is established.

In unison with how Havel described his nation, a good part of Venezuelan political parties have been infiltrated, folded or neutralized by the movement-party-State, while various civil society organizations contribute involuntarily to reinforce some of the topics and practices that naturalize the current systems of control and domination. In the midst of all of this, the dissolving

effects of this situation are worsened, which is feeding the idea that a form of cooperation between political parties and other civil society organizations that goes further from the terms established by the Chavista regime is impossible or inconvenient. This may be the ultimate proof of the isolation and social fragmentation over which the totalitarian logic of power prevails.

In today's Venezuela, where formal politics have been progressively emptied of meaning, and where human existence not only takes place within lies, but is increasingly subjected to extreme vulnerability as a result, political action requires rediscovering its foundation in truth, rethinking itself from the existential reality of local citizens. There is no doubt that the uncompromising defense of human rights is an essential part of this struggle, insofar as they constitute –for our time– the clearest and most universal expression of the defense of the integrity of every individual. It is clear that any attempt to re-signify the political struggle involves actively defending human rights. But this struggle also extends to the defense and preservation of all spaces for meeting, deliberation and autonomous organization of society. Furthermore, within the political parties, a deep reflection on the nature of their work is required, which cannot be limited to formal action within the narrow and sterilizing parameters imposed by the regime's rituals.

Javier Tarazona: “NGO activity is the response to perverse actions that seek to silence dissident voices”

Pedro Pablo Peñaloza

Under circumstances marked by repression, the director of Funda-redes stresses that by speak-ing up people will be able to mitigate the chances of more people becoming victims.

True to its ways, the Chavista regime has avoided naming the group it is confronting in the state of Apure. When any accusations suggest the Colombian guerrilla, the ruling party tends to evade identifying the enemy. In the end, they make use of any figure or euphemism to blame the oligarchy and imperialism for the clashes that are convulsing the border with Colombia.

However, in the midst of the conflict, there are two targets clearly defined by those who wield power: non-governmental organizations (NGOs) and independent media, accused of “infocinating” the population to smear the image of the National Bolivarian Armed Forces (FANB) and favor irregular groups.

“The role NGOs are playing in this operation is striking, which simply seeks to keep violence in Venezuela at bay as well as drug trafficking from Colombia, to maintain peace and

to guarantee the sovereignty of our homeland. That is what we are doing in Apure”, was the answer Defense Minister Vladimir Padrino López gave on March 27 to reports of massacres and human rights violations in the area.

At the forefront of the NGO Fundaredes, Javier Tarazona (1983, San Cristóbal) is keeping record of the events in towns in Apure that lay at the crossfire between Venezuelan militaries and the guerrillas. Professor, specialist in Political Science with a PhD in Education, Tarazona stresses the need to speak up about the threats in order to stop violence from scaling.

–How would you describe the situation that has stirred Apure?

What we are seeing in Apure is not only the opacity imposed by the State, but the persecution of everyone. We are all suspects. There is a prevailing context of disinformation and violence against civil society in the region. The State takes on an evasive position and the Ministry of Defense does not know how to come forth or offer details, despite the fact that, since March 21, the longest dispute in that territory was sparked between the Tenth Front of the Revolutionary Armed Forces of Colombia (FARC) and the FANB.

–Fundaredes has denounced the presence of the guerrillas and other irregular groups in the Venezuelan border. Can facts prove you right?

We have been working with Fundaredes for 19 years, but for more than those 19 years we have exercised local leadership to denounce extortions, kidnappings and hired killings on behalf of these irregular groups, the National Liberation Army (ELN), the FARC and paramilitaries, which have taken place in the

state of Táchira. The entire border started to share that common denominator. We have filed complaints to national authorities, to the inter-American system and to the International Criminal Court. They denied them and criminalized and prosecuted members of our organization, as is the case of Alexis Bustamante, a prisoner in the Ramo Verde military prison, accused of treason for rejecting the presence of guerrillas in Venezuela. The regime's plan is to continue denying the presence of these groups, but the Apure conflict has forced them to acknowledge it.

—In the midst of the context you describe, how difficult is it for Fundaredes and NGOs to carry out their work?

We have been harassed from the start. I remember when we began to denounce hitmen in the state of Táchira between the years 2001 and 2002; we were said to be envoys from the United States, but we still showed the numbers of deaths at the hands of hitmen and each one of the victims' names. The regime has never been able to support with evidence their claims for criminalizing and prosecuting us, stating that "this" or "that" are setups, that they are false, that they are a lie. From then on, the entire discourse of those in power has been to deny the presence and their relationship with irregular armed terrorist groups such as the ELN and the FARC. We have experienced physical harassment, the arbitrary detention of activists from our organization, such as Alexis Bustamante, who is serving three years in detention in Ramo Verde, and our activists who tried to document events in Apure together with two journalists from NTN24 in March and who were arbitrarily arrested and even disappeared for a few hours under staged pretense.

–The Chavista regime increases legal restrictions against NGOs. Can you keep up your work despite increased repression?

We carry on because we believe in our principles: human dignity, the common good and solidarity. Like the sun, truth cannot be covered with a finger. We are assisted by truth, reason and rectitude. We raise our voices aspiring to contribute to a society that can integrate, grow, debate, discuss and, above all, build a different Venezuela than the one we are living in.

–In recent years, NGOs have assumed a relevant role in public debate. In your opinion, what are the causes of this phenomenon?

Civil society has been organizing itself in response to the fragmentation of the country and the criminalization and prosecution of political parties and leaders, something that NGOs have also suffered. It is the expression of totalitarianism in Venezuela. The organic activity of NGOs in Venezuela is the response to perverse actions that seek to silence dissident voices, the voices of the rights and aspirations of the people. We are assisted by the conviction that by speaking up we will be able to mitigate the chances of more people becoming victims. Above all, it is the route to rebuild the social memory that facilitates the development of our people and the overcoming of crime and terrorism as a way of doing politics.

–Much is said about the tension that exists between civil society organizations and political parties. Do they compete amongst each other or is there room for an alliance between the parties to fight for a shared goal?

Javier Tarazona: "NGO activity is the response to perverse actions that seek to silence dissident voices"

Without a doubt, there is a clear intention to fragment and divide. However, there are also articulation efforts. I believe that problems have united many sectors and actors in the country. Difficulties have made us look for strengths within organizations, and that has allowed us to weave the fabric that can become a concrete alternative for the transformation of society.

Conclusion

Thus concludes the thirteenth issue of *Democratización*, dedicated to Human Rights in Venezuela as we open our pages to the efforts of people and institutions that work to achieve justice in our country. The four articles included in this issue offer keys for reflection and collect testimonies that will feed our historical memory. At the FORMA Institute, we understand that the systematization of information and its subsequent analysis are antidotes against painful silence and harmful forgetfulness. This is our way of accompanying those who suffer the most and raising awareness about the seriousness of the present moment.

It is difficult to estimate the real impact of the sustained and systematic violation of Human Rights in our country. Knowing the depth of the damage caused and its personal and social dimensions requires in-depth studies. We want to encourage researchers, politicians and intellectuals not to rest on this purpose. The history of countries that have overcome episodes of repression and violence like ours teaches us that this work is valuable and irreplaceable. The first step towards healing is knowing the truth. In this sense, Venezuelan Human Rights defenders are the precursors of the necessary reconciliation that our country will eventually demand.

From what has been stated in previous pages, we can narrow down three ideas that we consider fundamental. First, the complex humanitarian crisis is a consequence of the systematic violation of the Human Rights of Venezuelans. Second, the abusive disposition of the Venezuelan State seriously affects the social fabric and imposes challenges for political articulation. And

third, civil society and the political community are irreplaceable spaces for gathering information, accompanying the victims and alleviating the pain caused.

Autors

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Index

Introduction	2
Human Rights defenders criminalized in present-day Venezuela	
Andrea Santacruz Salazar	5
Human rights in Venezuela (1999-2021)	
Juan Alberto Berríos Ortigoza	20
Totalitarian domination, citizen organizations and human rights: approaching the case of Venezuela	
Miguel Ángel Martínez Meucci	37
Javier Tarazona: “NGO activity is the response to perverse actions that seek to silence dissident voices”	
Pedro Pablo Peñaloza	52
Conclusion	57
Autors	59