



Human Rights Watch Submission to the UN
Committee on Economic, Social and Cultural Rights
in Advance of its Review on Venezuela
May 2015

We write in advance of the United Nations Committee on Economic, Social and Cultural Rights (“the Committee”) review of Venezuela to highlight the government’s failure to ensure that essential medicines and medical supplies are available and accessible to all in the country. We hope to see the Committee take up this issue as part of its examination of the Venezuelan government’s (“the government”) implementation of the International Covenant on Economic, Social and Cultural Rights (“the Covenant”).

For additional information about our work on Venezuela, please see Human Rights Watch’s Venezuela page: <http://www.hrw.org/americas/venezuela>

The Right of Everyone to the Enjoyment of the Highest Attainable Standard of Health (Covenant article 12)

The lives and health of tens of thousands of Venezuelans are at risk, given the lack of access to basic medicines and supplies in the country, both in the private and public healthcare systems.

On visits to Venezuela in November 2014 and March 2015, [Human Rights Watch](#) found shortages of medications to treat pain, asthma, hypertension, diabetes and heart diseases, among others. Syringes, gauze and needles were in short supply, and absence of supplies meant that even basic lab tests could not be performed. Human Rights Watch submits that this situation is attributable to government policies that have impeded the acquisition and accessibility of medicines and supplies.

In March 2015, [Doctors for Health](#), a network of medical residents working in public hospitals all over the country, reported results from a survey of 130 public hospitals in 19 states that found that 44 percent of operating rooms were not operational and 94

percent of labs did not have the materials they needed to operate properly. They also found that 60 percent of routinely stocked medicines or medical supplies were entirely or partially unavailable in the hospitals, and that a majority of medicines included in the World Health Organization's [Model List of Essential Medicines](#) were not available in pharmacies.

At the end of 2014, public hospitals were wait-listing approximately 20,000 patients for surgery, including 4,000 at the University Hospital of Caracas, according to Doctors for Health. In January, after more than 10 patients waiting for surgery [reportedly](#) died at that hospital, it closed its cardiology unit and sent the remaining patients home. The unit briefly re-opened in February 2015 after media coverage of the deaths led health authorities to provide some new supplies of medications. But it closed again two weeks later.

At the pediatrics area of the University Hospital, doctors sterilize and re-use masks for treatment of children with respiratory conditions. At the J.M. de los Ríos Hospital, the main children's hospital in Caracas, physicians told Human Rights Watch they faced significant diagnostic challenges because they lack supplies like lab tubes or test kits.

As in other countries in the region, Venezuela has had sharp increases in mosquito-transmitted viral diseases, with more than 34,000 [suspected cases of chikungunya](#), and 75,000 [suspected cases of dengue](#) estimated in 2014, according to Pan American Health Organization statistics. Independent experts suspect there may be many more cases, given the large number of patients with fever who lack a proper diagnosis. Doctors and patients told us that despite government pledges to import medicines to treat the pain and fever of these illnesses, Venezuelans were often unable to get the medicines, particularly during peaks of demand.

Our research shows that government policies are directly interfering with the ability of Venezuelans to have access to basic medicines and supplies.

Venezuela does not have a strong pharmaceutical industry, so the country has to import most medications and medical supplies. Even for medications that are made locally, the raw materials often come from abroad.

The government procures some medicines and supplies directly from other countries through bilateral agreements, including with [Argentina](#), [Cuba](#), [Uruguay and China](#), but repeated mistakes have been identified in the government handling of these

procurements that have contributed to the acute shortage of supplies. Specifically, several recent reports by Venezuela's own Comptroller General's Office criticized poor planning and storage conditions, and found that many medicines had to be thrown away because they had expired. In its [2011 report](#), for example, the office reported that it had found medicines and surgical supplies in public hospitals that had expired up to six years earlier. In 2013, the [office's report](#) found that the Health Ministry had failed to release pharmaceutical products promptly from customs, leading to delays of up to 168 days. By September, the ministry had only been able to obtain 0.84 percent of medicines planned for the year, while the chronogram for 2013 stated that 74 percent should have been available by then. Similarly, a [2014 report](#) on the children's hospital in Caracas stated that 10 out of 11 areas were not providing adequate services due to "lack of medical personnel, equipment, supplies, as well as a deteriorating infrastructure."

For most medications and medical supplies, Venezuela depends on commercial pharmaceutical suppliers. But currency exchange rules and price controls the government has imposed interfere with the process, resulting in a grossly inadequate supply of essential medications and medical supplies. While Human Rights Watch does not dispute the authority of Venezuela's government to regulate its currency or prices of goods sold in the country, it has to ensure that such regulations does not interfere with the adequate availability and accessibility of essential medicines and medical supplies.

Foreign suppliers of medicines and medical supplies demand payment in hard currency, but dollars are hard to get since the government keeps tight control over the limited amount it appears to have. Private pharmaceutical companies in Venezuela [need government authorization](#) to purchase dollars to pay foreign vendors. Once that authorization to obtain dollars is granted, they must request the [Central Bank of Venezuela](#) to actually deliver them. This is often riddled with long delays, resulting in late payments. And foreign suppliers refuse to send new shipments to Venezuela until the debt is paid.

As the [law prohibits buying dollars outside this system](#), pharmaceutical companies cannot legally purchase hard currency elsewhere. But even if it were legal, it would not be economically viable. Venezuelan law imposes a [maximum price](#) for medicines sold there based on the official exchange rate, which is about 3 percent of the black market price. If companies were to buy dollars outside of the official procedure, they would end up paying much more for medicines and supplies than they could charge for them.

Under international human rights law, governments have a core obligation to ensure that basic medicines are available and accessible to all without discrimination. The Committee has held that state policies that “interfere with the enjoyment of any of the components of the right to health” and “are likely to result in bodily harm, unnecessary morbidity and preventable mortality” violate the right to health. It also affirmed that States have “a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the covenant, including essential primary health care.”¹

The UN Human Rights Council, for its part, has repeatedly stressed that States have the responsibility to “ensure access to all, without discrimination, of medicines, in particular essential medicines that are affordable, safe, effective, and of good quality.”²

Moreover, in 2013, the UN Special rapporteur on the highest attainable standard of physical and mental health stated that, “[w]hile several aspects of the right to health are understood to be progressively realizable, certain core obligations cast immediate obligations on States, including the provision of essential medicines to all persons in a non-discriminatory manner.”³ This core obligation, according to the rapporteur, includes essential medicines such as painkillers, anti-infectives, anti-bacterials, anti-tuberculosis, anti-retrovirals, blood products, cardiovascular medicines, vaccines, and vitamins.

Recommendations for Steps the Venezuelan Government Should Take to Address the Above Concerns:

The government of Venezuela should ensure that essential medicines and supplies are available and accessible to all Venezuelans. Specifically, it should:

- Produce a comprehensive, detailed diagnosis of which basic medicines and supplies are unavailable or unaccessible in the country, after consulting with all relevant stakeholders;
- Urgently put in place measures to secure sufficient quantities of such medicines and supplies to cover at least immediate needs of Venezuelans, and oversee their distribution, to temporarily limit their scarcity in the country;

¹ Committee on Economic, Social and Cultural Rights, General Comment 14, E/C.12/2000/4, August 11, 2000, paras. 43 and 50.

² Human Rights Council, A/HRC/RES/12/24, October 2, 2009.

³ Report Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/23/42, May 1, 2013, paras. 3 and 40.

- Ensure that the future import of basic medicines and medical supplies are not subject to arbitrary delays; and
- Act on the findings by the Comptroller General's Office that there was poor planning when importing medicines, as well as poor storage conditions that forced authorities to throw away medicines that had expired to ensure that there is no repetition of this situation.