



Contributions: Committee on the Elimination of Racial Discrimination

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ABSTRACT:

Espacio Público (EP) is a Venezuelan non-governmental human rights organization that has been dedicated for more than 20 years to the investigation, promotion and defense of the right to freedom of expression and information, association and peaceful protest.

The Venezuelan State executes a systematic and generalized policy of persecuting, criminalizing and generating a violent, hostile and discriminatory environment against any person exercising freedom of expression, especially when dealing with matters of public interest, public officials, and even expressions that are uncomfortable for certain power groups.

Among the unconstitutional, illegal and rights-violating regulations are the following “*ley contra el odio, por la convivencia pacífica y la tolerancia*” (*la ley contra el odio*) and the draft law “**ley contra el fascismo, neofascismo y expresiones similares**” (**proyecto de ley contra el fascismo**).

The “**ley contra el odio**” is an unconstitutional regulation due to the fact that it was approved on November 08, 2017 by the national constituent assembly (anc) created in an electoral process without transparency and participation, which attributed to itself the exclusive competence of the democratically elected National Assembly in 2015, in order to legislate on criminal matters.

The legislation is unconstitutional because it does not comply with the criteria of legality, proportionality and necessity, so that in its application it violates human rights and criminalizes freedom of expression through prison sentences, blocking of web portals, in addition to attributing responsibility to intermediaries for the opinion of third parties.

The provisions prohibiting "hate" are broad and vague. This allows censorship and criminalization of protected expressions, which facilitates the application of arbitrary practices by the State. In Venezuela, the present law serves to "fortify the official line of censoring any expression critical or independent of the national government under the



rationale of sowing peace", which translates into grave violations of human rights in the country.

Since the enactment of this regulation in 2017 until December 2023, 162 complaints of violations of freedom of expression were recorded, derived from 63 cases. The most frequently repeated types of complaints are: 73 judicial harassments, 62 intimidations that materialize in arbitrary detentions and 15 violations through censorship.

Moreover, the most common victims are individuals with 32 cases (citizens, people of various professions, not communication professionals, who freely disseminate content of public interest), public workers with 21, journalists with 17 and members of non-governmental organizations (NGOs), with 8 cases.

In a growing political repression, on April 2, 2024, the national assembly (na) approved in first discussion the draft "**ley contra el fascismo**" to silence critical sectors and legitimize persecutory practices by the Venezuelan State, such as the "ley contra el odio".

During the creation process, the draft law did not comply with the minimum requirements of the Internal Regulations and Debates of the NA, because its approval in first discussion was configured without a public debate and with a wide opacity, reflecting the absence of a substantial and diverse participation of different sectors of civil society.

The "ley contra el fascismo" restricts: i) the exercise of freedom of expression, by imposing obligations for the providers of radio, television, electronic media and print media, public, private and community, to enforce prior censorship through the duty to "guarantee spaces free from fascist or similar messages"; ii) the right to association by granting the State broad and discretionary powers to prohibit the constitution of social and political organizations, as well as to dissolve political organizations that supposedly promote or advocate fascism.

The draft law has implications on the exercise of political rights, since it does not allow those who have allegedly adopted conducts that promote or make apology of fascism, neo-fascism and similar expressions, to obtain public office, and it also contemplates the political disqualification by the Supreme Court of Justice for those who are considered responsible for such prohibited acts.



It establishes disproportionate fines to natural or legal persons that finance political or private organizations, which in its opinion incur in fascist acts, which could imply an undue interference by the State in matters of international cooperation, in violation of the principle of autonomy as a guarantee of free association.

The Venezuelan State has a policy of political discrimination for the legitimate exercise of freedom of expression. The narrative of the "internal enemy" is deepening, increasing in turn threats to vulnerable and dissident groups of people by the application of these criminalizing "laws" and through the following pattern:

- The absence of court warrants at the time of arresting the criminalized victims or non-compliance with essential requirements of the judicial record, which translates into an illegitimate deprivation of personal liberty.
- After the arrest, victims are subjected to enforced disappearance practices, they do not inform where they will be transferred to, nor do they communicate with their relatives and lawyers. In the detention centers and courts, they deny information to the relatives.
- During the period of time of disappearance, on multiple occasions they are transferred to clandestine detention centers, described by the Fact-Finding Mission as torture centers, where the victims are subjected to torture, cruel and inhuman treatment.
- In addition, victims are threatened or subjected to rape and other forms of sexual violence by officials in charge of the custody.
- Victims are brought before the judicial authorities and they are subjected to a public defense that is part of the State structure, who pressures them to "confess to crimes" in exchange for supposed procedural benefits, which are not fulfilled.