



Alternative report to the Fifth Review of Venezuela of the International Covenant on Civil and Political Rights

Abstract: This alternative report is presented by the Mérida Feminist Network with information collected through field work and systematization of experiences of support for victims and survivors of gender violence. The information presented focuses on forms of discrimination and violence towards women in marriage unions and during the divorce process.

Feminist Mérida Network: is an independent organization that since 2018 has promoted actions for the prevention and eradication of all forms of gender violence against all women. We provide psychosocial support and case management services to victims and survivors of Gender Violence in Mérida state with an intersectional approach. We also carry out educational activities with a preventive focus on gender violence.

Gender equality (arts. 3 and 26)

Although the Venezuelan State carried out a reform in 2021 to the Organic Law on the Right of Women to a Life Free of Violence (LOSDMVLV), the national legal framework regarding gender equality and protection of girls and women continues to be insufficient.

Regarding the protection of girls, the Civil Code of Venezuela used to establish in its article 46: “A woman who has not reached fourteen (14) years of age and a man who has not reached the age of sixteen (16) cannot validly contract marriage”. This norm was discriminatory since it was based on gender roles and stereotypes, and it established a lower minimum age for marriage in the case of women.

This norm was declared partially null by Sentence No. 1353/2014¹ of the Constitutional Chamber of the Supreme Court of Justice, equating the minimum age for marriage to 16 years of age, the age established for men in the norm. However, in said 2014 ruling, the Constitutional Chamber urges the National Assembly to carry out a complete review of the norm and raise the minimum age of marriage to the age of 18 years for men and women without discrimination, which has not occurred until the present date.

Although the ruling partially annulled article 46 of the Civil Code, Article 62 of the same rule remains in force, which establishes that:

The age prescribed in article 46 will not be required:

1st. To a female minor who has given birth to a child or who is pregnant.

2nd. To a male minor when the woman he intends to marry has conceived a child that he recognizes as his or that has been judicially declared as such.

The validity of this article legalizes the possibility of marriages in adolescents much younger than the minimum age established in ruling 1353/2014, being applicable to girls and adolescents in situations of pregnancy or early motherhood, increasing the situation of vulnerability to non-consensual marriages and other forms of gender violence.

In the article 44, the Civil Code of Venezuela contemplates that legal marriage only can be celebrated “between a man and a woman”, being a discriminatory norm on the basis of sexual orientation.

The laws related to divorce have also been recently modified, with the intention of simplifying and reducing the time of this legal process. Article 185 of the Civil Code used to establish as a mandatory requirement the couple separation for one year prior to the divorce decree, while article 185A established the possibility of requesting divorce immediately if the spouses had had a separation of 5 years or more. This rule was subject to review in ruling No. 1070, dated 12/09/2016, issued by the Constitutional Chamber of the Supreme Court of Justice. This ruling establishes that either spouse can request a divorce due to disaffection towards their partner, without the need for evidence or a minimum period of time of marital separation.

¹ TSJ/SC, sent. N.° 1353, of date 16 October 14.

https://oig.cepal.org/sites/default/files/2014_sentencia1353_ven.pdf

This ruling is national jurisprudence and simplifies, in theory, the divorce process for all citizens.

However, we have observed with concern that despite the existence of this jurisprudence, the divorce process entails expenses due to professional legal fees that, in the context of the current Complex Humanitarian Crisis, cannot be afforded by a large part of the population.

In our support services for victims and survivors of gender violence, we have documented multiple cases in which victims have not been able to conclude their marriage due to lack of economic resources, a situation that forces them to remain married to their attackers.

For the purposes of this research, we consulted various public organizations in the Libertador Municipality of the state of Mérida about Free Legal Consulting services that could support survivors of gender violence in the divorce process. We documented only one service from Corpomerida, a public institution that provides free divorce services. Nevertheless, this service prioritizes divorces of couples with underage child, being insufficient.

Despite the fact that article 6 of the Organic Law on the Right of Women to a Life Free of Violence (LOSDMVLV) establishes that: “The associations of lawyers, doctors, psychologists, nurses from the different states must establish free comprehensive specialized advisory services for women victims of gender-based violence”, we do not document any free advisory service for female survivors in the state of Mérida. The Venezuelan State has not established any monitoring mechanism to guarantee the applicability of this standard.

We also consulted the costs of professional fees with lawyers in the city of Mérida, documenting that the cost of professional legal services in divorce cases can go from \$200 up to \$800, depending on the characteristics of the marital union (number of children, number of joint property).

These amounts of money are extremely difficult to cover for most of the population, given that the national minimum wage is located at 1800 bolivars or \$54 at the current rate at the time of writing this report²; and that according to studies by the Venezuelan Finance Observatory, the average salary during the second quarter of 2023 was \$161³.

² Oficial Data, Central Bank of Venezuela. Available: <https://www.bcv.org.ve/notas-de-prensa/ejecutivo-fija-salario-minimo-de-los-venezolanos-en-bss-1800#:~:text=Ejecutivo%20fija%20salario%20m%C3%ADnimo%20de%20los%20venezolanos%20en%20Bs.S%201.800>

³ Venezuelan Finance Observatory. <https://observatoriodefianzas.com/caen-las-remuneraciones-reales-en-el-segundo-trimestre-de-2023/>

Thus, access to divorce services in the current Venezuelan context is a right to which only a part of the population has sufficient resources to access it.

Regarding marital rights, we have also observed with concern that in the cases that we have accompanied through our support services, Economic and Patrimonial Violence tends to be omitted in the accusations of the Public Prosecutor's Office, prioritizing other forms of gender violence, such as physical injuries or forms of violence where there is tangible evidence (for example, harassment or threats through messaging). Economic and patrimonial violence seems to go unnoticed in the reporting processes, especially in cases of violence that occur in contexts of marital separation or dissolution of a stable de facto union.

We have also observed that women in stable de facto or concubinage unions tend to be more vulnerable to economic and property violence given the ease with which their partners can transfer assets to third parties without their consent.

Likewise, the legal processes to compensate for the damage caused by the sale of joint property of stable de facto unions is a long and expensive civil process, which is also an impediment to obtaining justice in these cases of property damage.

Recommendations:

Request the State to review the Civil Code of Venezuela, especially Title I, referring to Marriage, to guarantee the right to marriage to all citizens, without discrimination for reasons of gender identity or sexual orientation; and protect children and adolescents from early marriages.

Request the Venezuelan State to implement mechanisms to monitor the implementation of the provisions of the Organic Law on the Right of Women to a Life Free of Violence (LOSDMVLV) that involve other civil society actors, and improve the willingness to establish mechanisms of cooperation in favor of the rights of girls and women.

Request the Venezuelan State to include free legal services within the institutions for women survivors of gender violence aimed to providing support during divorce processes and dissolution of stable de facto unions.