

ALTERNATIVE REPORT ON THE IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION IN THE BOLIVARIAN REPUBLIC OF VENEZUELA.

Sures Civil Association is a Venezuelan non-governmental organization dedicated to studying, promoting, educating, and defending human rights from critical, emancipatory, and alternative visions. It is a non-profit, independent, non-partisan, and non-denominational organization. Our mandate extends to all environmental, civil, cultural, economic, social, and political human rights recognized in the Constitution of the Bolivarian Republic of Venezuela and the international treaties ratified by our country.

We are pleased to address the Committee on the Elimination of Racial Discrimination, as a civil society organization in Venezuela, to formally submit the Alternative Report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination in the Bolivarian Republic of Venezuela, within the framework of the 113th session to be held from August 5 to 23, 2024, where the combined 22nd to 24th periodic reports of the Bolivarian Republic of Venezuela will be examined.

Definition of racial discrimination

1. The Bolivarian Republic of Venezuela (CRBV) Constitution contemplates the principle of non-discrimination for the unrenounceable, indivisible, and interdependent enjoyment and exercise of human rights. Considering that the CRBV is framed in the progressiveness in the observance, freedoms, and guarantees of human rights, Article 21 establishes the equality of all persons as a fundamental right, prohibiting discrimination based on race, sex, creed, social condition, or those founded to negate or undermine the recognition, enjoyment or exercise of human rights under conditions of equality.¹ This provision also promotes affirmative measures in favor of persons or groups that may be excluded, marginalized, or

¹ Constitution of the Bolivarian Republic of Venezuela, 1999. Available at: https://www.oas.org/dil/esp/constitucion_venezuela.pdf

vulnerable to provide special protection to persons or segments of the population in conditions of overt weakness.

2. The definition of racial discrimination was modified in the Organic Law against Racial Discrimination's reform, sanctioned on October 27, 2021, by the National Assembly,² adjusting it to the Convention, given that the State followed the recommendations in response to the concluding observations of the Committee. In this sense, the inclusion of the principle of intersectionality, contemplated in the reform, addresses more holistically the various forms in which racial discrimination may occur.

Demographic information and ethnic indicators

3. The Bolivarian Republic of Venezuela recognizes itself as a multi-ethnic and pluricultural nation; therefore, as of the XIV Population and Housing Census of 2011, questions for self-identification as indigenous and Afro-descendant were included. 49.9% of the population recognized themselves as brown, 42.2% as white, 2.8% as black, and 0.7% as Afro-descendant. Census results show an indigenous population of 724,592 persons, which represents 2.8% of the population born in the country; the states of Zulia, Amazonas, Bolivar, Delta Amacuro, Anzoátegui, Sucre, and Monagas are the federal entities with the highest percentage of indigenous population.³ Regarding Afro-Venezuelan populations, the results show that the states with the highest number of Afro-descendants or black populations are Miranda, Zulia, Carabobo, Capital District, Aragua, Bolivar, Anzoátegui, and Falcón.

4. Although the latest censuses include in their general questionnaires a self-recognition question to identify the indigenous and Afro-descendant population, it is imperative to publish and fully disseminate the results and information on these populations. The Law against Racial Discrimination (LOCDRA) establishes the State's obligation to identify all vulnerable persons and groups for statistical purposes. The

² Gaceta Oficial N°6.657 Extraordinario del 28 de octubre de 2021. Véase: <https://www.asambleanacional.gob.ve/storage/documentos/leyes/ley-organica-de-reforma-parcial-de-la-ley-organica-contra-la-discriminacion-racial-20211116185007.pdf>

³ Población indígena por área, según entidad federal, Censo 2011. Disponible en: http://www.ine.gob.ve/index.php?option=com_content&view=category&id=95&Itemid=26#

inclusion of demographic and ethnic indicators must be disaggregated by gender, age, and geographic location and be public to develop and implement public policies for the protection of these populations and programs aimed at preventing and eradicating racial discrimination.

Economic, political and social context

5. Venezuela has been subject to the application of unilateral coercive measures imposed mainly by the United States of America since December 2014, when the U.S. Congress sanctions Public Law 113-278, entitled the Public Law for the Defense of Human Rights and Civil Society Act.⁴ The imposition of this sanctioning scheme against Venezuela aims to change the political regime and the economic, social, and cultural development model through imposing restrictions, obstacles, freezing of assets, and confiscation, among other mechanisms. The economic, financial, and commercial blockade has affected the entire population, with greater emphasis on historically and structurally vulnerable segments of the population, such as women, children, and adolescents, the elderly and Indigenous communities and peoples, as well as populations in greater conditions of social and economic exclusion, due to the decrease in income and the obstacles faced to obtain the necessary resources that were once destined to social programs.⁵

6. Despite those mentioned above, the Venezuelan State has continued to comply with its human rights obligations to the extent of its capacities, which have been restricted due to the negative impact of unilateral coercive measures since the end of 2014. However, we must emphasize that the threats of imposition of secondary sanctions against non-U.S. actors, coupled with over-compliance with unilateral coercive measures by private actors and entities, are related phenomena that

⁴ Public Law 113-278 published on December 18, 2014, this law could be referred as Law for the Defense of Human Rights and Civil Society Act in Venezuela". Available at: <https://www.govinfo.gov/app/details/PLAW-113publ278/summary>

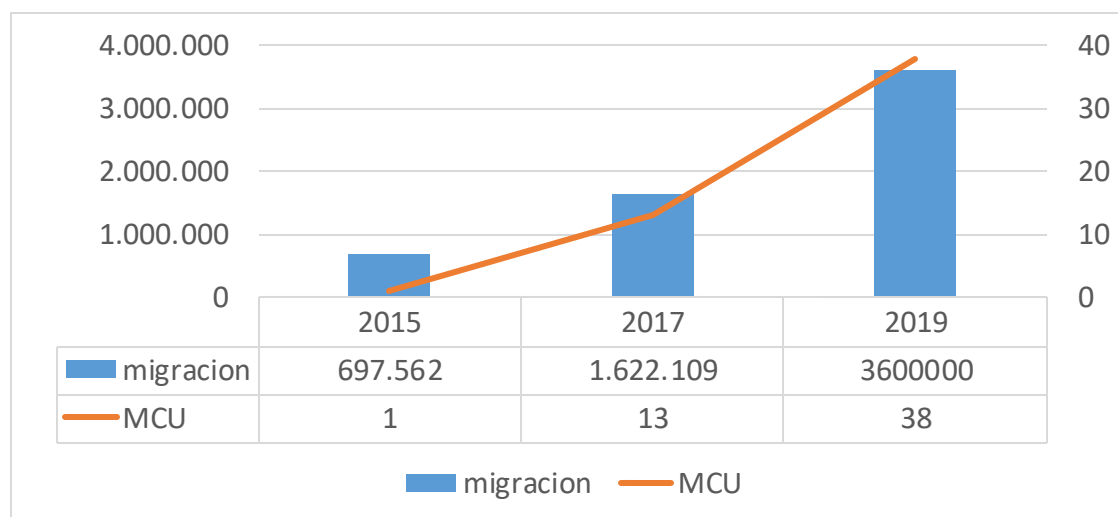
⁵ Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, following her visit to Venezuela from 1 to 12 February 2021, please consult Human Rights Council Resolution A/HRC/48/59/Add.2

discourage foreign investment and the expansion of markets that would energize the Venezuelan economy.⁶

Human Mobility Process in Venezuela

7. The imposition of unilateral coercive measures, both formal (laws, decrees, and legal acts) as well as non-formal (secondary sanctions against third States, private, financial, and commercial entities), associated with over-compliance, has a directly proportional relationship in the abrupt departure movement and flows of Venezuelan people who have emigrated from the country. Until 2017, Venezuela was a host country for migrants coming primarily from European and South American nations, demonstrating an unprecedented change in human mobility patterns. In 2015, there were 697,562 Venezuelan migrants abroad; in 2017, this figure increased to 1,622,109 migrants, and in 2019, it increased to 3.6 million, according to figures from the International Organization for Migration, coinciding with the pressure applied by the U.S. government, which went from one (1) measure applied in 2015, to 13 in 2017 and 38 coercive measures in 2019.

Graph 1. Impact of unilateral coercive measures on emigration flows in Venezuela, 2015-2019



Source: Asociación Civil Sures, based on data by IOM.

⁶ Sures Civil Association (2023). Secondary sanctions, over-compliance and the impact of unilateral coercive measures on the right to health. Available at: <https://sures.org.ve/sanciones-secundarias-sobrecumplimiento-derecho-a-la-salud/>

8. The abrupt, irregular, and disorderly increase in migration is mainly due to economic reasons. Additionally, there has been a higher percentage of Venezuelan migrants who are victims of human trafficking, going from being a transit country, especially in Margarita Island (in the state of Nueva Esparta, in the northeast of the territory), to a country of origin of victims of human trafficking. Our organization has established that the economic impact generated is linked to the violation and deprivation of human rights because the abrupt decrease in State revenues affected social policies and missions, as well as wages and salaries, being that the economic precariousness of the population is a risk factor for transnational trafficking organizations and individual traffickers. Our field survey and the field research we conducted at the Colombian-Venezuelan border at the end of 2021 coincide with these data, where we were able to confirm the presence of criminal groups that recruit Venezuelan migrant women in Colombia, especially in the border area between the two countries.⁷

9. The Consular Relations Office of the People's Ministry of Foreign Affairs of Venezuela has developed a series of actions to strengthen the protocols and processes of attention to cases of alleged victims of human trafficking in different countries of destination. According to data from this instance, one hundred and ninety-nine (199) have been attended from 2019 to May 2023 in twenty-three (23) countries, mainly in Trinidad and Tobago, Peru, Belize, Mexico, and Chile, carrying out one hundred and eleven (111) repatriations of presumed victims of human trafficking, in the period 2019-2023. We believe that it is crucial to have disaggregated information and statistical data from the Venezuelan authorities for better care of victims of human trafficking, as well as to establish mechanisms for coordination and consultation with civil society organizations working in this area.

10. The conclusions of the United Nations Special Rapporteur on trafficking in persons, especially women, and girls, Siobhán Mullally, after her visit to Colombia in May 2023, highlights that trafficking in persons, regardless of its purpose, committed by armed groups and criminal organizations, has a particular impact on Afro-

⁷ Sures Civil Association. (2021). Between Táchira and Cúcuta. Report on the situation in the Colombian-Venezuelan Border. Véase: <https://sures.org.ve/entre-tachira-y-cucuta-informe-sobre-la-frontera-colombo-venezolana/>

descendant populations, rural communities, indigenous peoples and Venezuelan migrants. On this last point, girls, adolescents, and young women of Venezuelan nationality are at greater risk of being victims of trafficking for sexual exploitation, both in border areas and in the rest of the Colombian territory. Likewise, the situation of domestic workers deserves particular emphasis, as they are at greater risk of being treated as forced labor, which is much more prevalent among women of African descent and Venezuelan migrant women.⁸

11. Regarding international relations, the difficulties faced by Venezuelan nationals abroad have been exacerbated by situations of rupture of bilateral ties and lack of recognition of the national government, which has led to the closure of consulates and embassies, as well as the impossibility of carrying out a series of procedures to renew identification and travel documents for people who are outside the country with expired documents. We have received complaints from Venezuelan migrants about the difficulties encountered in registering the births of their children in the countries of destination, as well as in the procedures for the recognition of legal personality. Creating more expeditious mechanisms for regularizing and registering children born abroad is necessary to avoid magnifying family separation processes and facilitate access to education and health systems.

Racial discrimination based on national origin of Venezuelan migrants

12. Xenophobia has increased worldwide, affecting migrants and their families, asylum seekers, refugees, and stateless persons, leading to human rights violations resulting from discrimination based on national origin, migratory status and gender inequalities, race, and socioeconomic status, among others. The Venezuelan State implemented in September 2018 the "Return to the Homeland Plan," which consists of humanitarian bridges, mainly by air but also by land and sea, to facilitate the repatriation of Venezuelan people who were victims of xenophobia, discrimination, and situations of vulnerability in destination countries. According to the monitoring

⁸ Statements at the end of the visit to Colombia of the Special Rapporteur on trafficking in persons, especially women and girls, May 21-30, 2023. Available at: <https://www.ohchr.org/sites/default/files/documents/issues/trafficking/statements/20230530-eom-colombia-sr-trafficking-en.pdf>

carried out by our organization until the beginning of January 2024, 32,232 people have returned to Venezuela. However, it is estimated that hundreds of thousands of people have returned voluntarily, including those who entered the territory through non-regular channels due to mobility restrictions and the closure of international borders during the pandemic. The Demographic Observatory of the Economic Commission for Latin America and the Caribbean (ECLAC) admits there will be a gradual return movement starting in 2022. Our organization has been monitoring the return flows, as well as research with returnees from several countries in the region and the world, witnessing this movement since 2019 due to the conditions of socioeconomic precariousness and xenophobia that a considerable number of Venezuelan migrants faced in the receiving countries.

13. It is crucial to highlight some obstacles that have arisen in repatriation trips, unilateral coercive measures against the State, and the fears generated by secondary sanctions on other States and private sector companies have had an impact on the prohibition of landing and overflight permits⁹ and fuel supply to the state airline CONVIASA¹⁰ following Executive Order No. 13,884 decreed in August 2019. The fleet of aircraft was added to the List of Specially Designated Nationals of the Office of Foreign Assets Control (OFAC) of the U.S. Treasury Department to ensure enhanced compliance with U.S. sanctions.¹¹ In this way, the right of migrants to return to their State of origin has been violated, as well as the guarantee of cooperation between States for the adoption of measures related to voluntary, safe, and orderly return, especially for those migrants who have been victims of racial discrimination, xenophobia, and related intolerance.

14. In the research conducted by our organization on the returning population in the Transit Health Centers of the Bolivarian State of Miranda (PASI) in 2020, 24.4% declared having been victims of discrimination during their stay abroad. An example

⁹ Venezuela denounces Argentina for not granting flight permits for the Return to the Homeland Plan, see: <https://www.telesurtv.net/news/venezuela-denuncia-argentina-impedir-vuelo-vuelta-a-la-patria-20190411-0035.html>

¹⁰ Peru hinders flights of the Return to the Homeland Plan, see: <https://mppre.gob.pe/2019/05/18/peru-obstaculiza-vuelta-patria-conviasa/>

¹¹ Treasury Department Press Releases: "Treasury Pressures Illegitimate Maduro Regime by Identifying Blocked National Airline". Action to Enhance Compliance with Broad Venezuela Sanctions Program. February 7, 2020. Available at: <https://home.treasury.gov/news/press-releases/sm903>

of this was discriminatory treatment when renting housing or looking for a job, and there are reports of cases of discrimination victimization with physical violence. In addition, migrant women, especially those of reproductive age, felt more frequently and intensely the discrimination and different, unequal treatment, as they were not nationals in access to health care, where 58% expressed not having received the same treatment as nationals in health care during the pandemic, as well as access to the vaccine against COVID-19.¹²

15. Taking into account the above, the Venezuelan State should also include racial discrimination based on national origin, xenophobia, and related forms of intolerance within the regulatory framework on human mobility, citizenship, and migration through a process of consultation with Venezuelan civil society organizations and various sectors. We believe that the recent creation of the Vice-Ministry of Foreign Affairs for the Integral Attention of Migrants could be a space for articulation and dialogue between the national government, civil society organizations, and other institutions to develop actions that favor migrants, returnees, and the immigrant population in Venezuela. Likewise, this new instance must establish intersectional strategies to address xenophobia and its impact on Venezuelan migrants and their families, as well as immigrant communities residing in our country.

Rights of Indigenous Peoples

16. It is necessary to emphasize that the rights of indigenous peoples involve recognizing a constellation of rights that are interpreted in light of a double standard. On the one hand, general rights are granted to the country's entire population, which also has non-exclusive enjoyment and exercise. On the other hand, the rights are specific to their indigenous condition, whose enjoyment and exercise are exclusive to the indigenous population.¹³ Although we at Sures have denounced that the

¹² Study on the characterization of migration in Venezuela and the returning population in the Transit Health Centers of the Bolivarian state of Miranda, December 2020. See: <https://sures.org.ve/caracterizacion-migraciones-venezuela-poblacion-de-retorno-en-centros-sanitarios-transito-estado-miranda/>

¹³ Gutiérrez, Erick (2011) Interculturality in the Venezuelan State: the human rights of indigenous peoples and communities. Office of the Ombudsman of Venezuela. Available at: http://www.defensoria.gob.ve/images/pdfs/librosDDHH/Interculturalidad_v2.pdf

economic, financial, and commercial blockade has a negative, broad, and indiscriminate impact on the entire population, it is essential to provide information on the repercussions it has on Indigenous peoples and communities, putting into context their particular condition and the historical and structural violence that the native populations have suffered.

17. Venezuela relied almost entirely on medicines and vaccines imported from abroad to guarantee the life and health of its inhabitants: 34% were purchased from the U.S., 7% from Spain, and 5% from Italy, totaling 46%. For 2015, the amount of imported packaged medicines from the U.S. was \$77 million; \$54.5 million was for medical and surgical instruments, and material and supplies for X-Rays equipment (approximately \$25 million). Fifty percent of the imports from Switzerland were packaged medicines, with 9.6% corresponding to human or animal blood, unpackaged medicines, antibiotics, and laboratory reagents.¹⁴ Some data show the setback and slowing down of social indicators in health, which began to be verified concurrently with the drastic decrease in the income of PDVSA and its subsidiaries, on which the distributive social policy and missions was based. The country faced a severe shortage of vaccines against measles, yellow fever, and malaria in 2017-2018; the latter disease has developed endemic features in states such as Amazonas and Bolivar, with a 95% morbidity rate among the Karíña, Yanomami, Sanemá and Pemón peoples.

18. Although the Pan-American Health Organization estimated that by 2020, the rate of new diagnoses of HIV infection would reach 6.7 per 100,000 inhabitants, during the period 2000-2019, this indicator had decreased by 36.3%. HIV risks and infection among the most affected indigenous populations in Venezuela are the Yanomami and the Warao (in the latter, 55 HIV-positive indigenous people were registered, with a prevalence of 9.55%, doubling its size since 2005).¹⁵

¹⁴ The Observatory of Economic Complexity. Recuperable: https://atlas.media.mit.edu/es/visualize-tree_map/hs92/-import/ven/usa/show/2015/

¹⁵ Gottopo, Luis Felipe (2016) Current cultural patterns of the Warao indigenous people in the area of sexual and reproductive health, from the perspective of the human rights of indigenous peoples, and recommendations for policies for the prevention of HIV/AIDS, STIs and teenage pregnancy. Ombudsman's Office/ UNICEF.

19. Indigenous populations are exposed to different social situations of vulnerability, often derived not only by their condition but also by the geographical areas they occupy; their territories are located primarily in areas of difficult access, without infrastructure or health services nearby, nor with trained health personnel for timely care, such is the case of indigenous peoples in the Sierra de Perijá, Alta Guajira, the Orinoco delta. In addition, extractive activities in Bolivar and Amazonas states threaten their lives, traditions, traditional values, practices, and territories. This situation increases the degree of vulnerability of the indigenous population in regions where the provision of health centers is already inadequate and insufficient in terms of medicines, equipment, and medical personnel¹⁶ and where deficits of attention persist.¹⁷

20. On September 13, 2021, the Law of Partial Reform of the Law of Indigenous Languages was published in the Official Gazette, which was reformed to expand the competencies of the National Institute of Indigenous Languages and to incorporate elements such as ethnolinguistic areas, as training spaces outside the school environment for the reproduction and learning of native languages, ancestral culture, and traditional cultural values. Creating, operating, and promoting ethnolinguistic areas is vital for preserving native languages. The participation, articulation, and co-responsibility of the organs of the State, the families, and the indigenous peoples and communities themselves are crucial to advancing the preservation of native languages.

Institutional framework and public policies

21. As stipulated in Article 5 of the Convention, the Organic Law against Racial Discrimination establishes the prohibition of acts of racial discrimination, including those inspired by ideas based on the superiority of a race or group of a specific color or ethnic origin. Likewise, it establishes the crime of racial discrimination with a

¹⁶ Gottopo (2016: 96).

¹⁷ Tillett, Aimé (2011) The implementation of the right to integral health of indigenous peoples and the recognition of traditional medicine, in: Bello, Luis (2011) The State before the Multiethnic and Pluricultural Society: Public Policies and Rights of Indigenous Peoples in Venezuela. (1999-2010). IWGIA.

maximum penalty of three years' imprisonment, contemplating an accessory penalty of two hundred to six hundred hours of community social service, and establishing compensation for the victims of this crime. On the other hand, the Constitutional Law against Hatred, for Peaceful Coexistence and Tolerance establishes the prohibition of war propaganda and messages of intolerance and hate (Article 13), which prohibits all propaganda and messages in favor of war and all advocacy of national, racial, ethnic, religious, political, social, ideological, gender, sexual orientation, gender identity, gender expression and of any other nature that constitutes incitement to discrimination, intolerance or violence. In this sense, it also establishes sanctions for the dissemination of messages in favor of national, racial, religious, political, or any other kind of hatred in radio or television services will be sanctioned with the revocation of the concession, with the possibility of sanctioning those who disseminate such messages through social networks and electronic media.

22. Finally, it is imperative that the State make efforts to combat and prevent racial discrimination within the educational system, particularly concerning school bullying, which may well be based on racial or ethnic origin. The articulation between the National Institute against Racial Discrimination and other institutions with competence in education is necessary to develop practical actions and programs in this area, ensuring the funding of the governing body on racial discrimination and the educational resources required to sensitize, raise awareness, and inform children, adolescents, and young people on this issue.

Recommendations

1. We urge the Venezuelan State to develop comprehensive public policies to address, prevent, and eradicate racial discrimination, xenophobia, and other related forms of intolerance, including follow-up mechanisms and broad participation of organizations, social movements, and other sectors of Venezuelan society.
2. We urge the Venezuelan State to reinforce the actions undertaken to combat racial or any other type of discrimination by law enforcement officials or security forces to fight the criminalization of poverty and biases in police,

criminal, or judicial investigations based on racial or phenotypical profiles or stereotypes.

3. We request the Venezuelan government to continue its cooperation with the Committee to make visible the progress, challenges, and opportunities for the prevention, fight, and eradication of racial discrimination, xenophobia, and other related forms of intolerance. We recommend the updating of a series of normative instruments, particularly in the area of migration and foreigners, which should include xenophobia and the fight against racial discrimination in their corpus, for the comprehensive protection of Venezuelan migrant populations.
4. We recommend that the Venezuelan State establish a system for the systematic collection of statistical data on indicators, especially regarding access to health, as well as the measurement of other variables that account for the characteristics and human rights situation of indigenous peoples and Afro-Venezuelan populations, encouraging the public dissemination of data and information so that civil society organizations can analyze and contribute to processes and mechanisms for consultation, public policy development and attention to the Venezuelan migrant population.

Recommendations to the States Parties

1. We demand that the States Parties cease and ultimately lift the unilateral coercive measures against the Bolivarian Republic of Venezuela, which has become an economic, financial, and commercial blockade that hinders the human rights of the entire population, primarily indigenous peoples and Afro-Venezuelan populations.
2. We urge the States Parties to guarantee the rights of migrants of Venezuelan nationality in their respective territories and to investigate human rights violations and racial discrimination based on national origin, xenophobia, and related forms of intolerance, as well as to establish international cooperation mechanisms to guarantee the safe return of Venezuelan migrants.
3. We request the States Parties to implement public policies to prevent and eradicate racial discrimination, using a holistic and intersectional approach, a

gender and age perspective, and exceptional attention to the promotion of cultural diversity, following the guidelines of the Committee, the Universal Declaration of Human Rights, the Charter of the United Nations, and the Sustainable Development Goals.