



**“VOLUNTARY CONTRIBUTION TO THE THIRD UPR  
OF THE BOLIVARIAN REPUBLIC OF VENEZUELA”**

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The Venezuelan Association of Jurists (AVJ, by its Spanish acronyms) is a group of lawyers, from various legal specialties, that have been working for over 10 years in the promotion and defense of human rights in the Bolivarian Republic of Venezuela.

Among the fundamental objectives of the AVJ are the defense of the principle of self-determination of people, human right to live in peace and without any form of discrimination. We promote solidarity and the strengthening of democratic values, fundamental freedoms and social justice in our country, cooperating with public and private institutions, associations, and non-governmental organizations in different areas for the defense of all human rights.

Our work focuses on research, dissemination, education and defense of human rights, democracy, peace, self-determination of people, equality among States, international solidarity and cooperation between Nations, through the organization and participation of our jurists in activities in the Bolivarian Republic of Venezuela, as well as in the international arena and United Nations events.

### **Unilateral coercive measures**

From AVJ we have been monitoring the unilateral coercive measures applied by the United States Government and its allies from 2014 until today, which constitute a massive violation of human rights, especially for the most vulnerable people, such as women, girls, boys, adolescents, the elderly and people with disabilities.

Currently, one hundred and three (103) unilateral coercive measures have been applied against Venezuela by the United States (USA), Canada, United Kingdom, Switzerland, England, Panama and the European Union. This prevents and hinders the economic and commercial relations of the Venezuelan State, companies and social organizations with economic actors that are within the territory or jurisdiction of these countries, and violate the rights of the Venezuelan people.

Violation of the **Right to Self-Determination**: it contravenes the right to freely choose the political system that will govern the destiny of the people and to pursue their economic, social, spiritual and cultural development, as well as preventing from freely disposing its wealth, natural resources and means of subsistence to achieve a better standard of living in conditions of freedom and dignity.

Violation of **economic and social development**, since measures have been imposed against the state company *Petróleos de Venezuela* (PDVSA, by its Spanish acronyms) and its subsidiaries, which had the monopoly of the exploitation of all the hydrocarbons and generated more than 95% of the country income, necessary for investment in social policies. In this regard, since 2016, Venezuela has not been able to receive the



profits of Citgo Petroleum Corporation, which is an oil refiner and marketer of gasoline, lubricants and petrochemicals, owned by Venezuela and it is PDVSA subsidiary in the United States. In 2018, the United States authorized Crystallex to seize assets from Citgo, to fulfil an alleged claim for damages. In 2019 the US seized this company, which represented approximately the confiscation of around 20,000 million US dollars.

Violation of **the right to health**: since it prevents timely access by the State to medicines, supplies and health equipment to Venezuelans. It is important to highlight that Venezuela imports most of the medicines it requires to guarantee the life and health of its inhabitants. Until 2015, the Global Economic Observatory of the Massachusetts Institute of Technology reported that Venezuela imported medicines and health supplies 34% from US, 7% from Spain, and 5% from Italy, representing that 46% of the countries that have applied unilateral coercive measures against Venezuela were the sources of imported medicines and surgical supplies.

During the last five years, imports from Venezuela have decreased at an annualized rate of -31.2%, from USD 58.7B in 2012 to USD 9.1B in 2017. These imports are practically zero by 2017, therefore the unilateral coercive measures have affected greatly the access to drugs and medical technologies, equipment and supplies by the Venezuelan State.

In a recent study, by researchers Mark Weisbrot and Jeffrey Sachs, of the Center for Economic and Policy Research in Washington, DC, have pointed out that the sanctions amount to "a death sentence for tens of thousands of Venezuelans" and pointed to a 31 percent increase in the overall mortality from 2017 to 2018, translating into more than 40,000 deaths. Likewise, the same Venezuelan State has reported that the prevalence of undernourishment has shifted from low to moderately low, going from 2.0% in 2013 to 13.4% in 2018.

Violation of the **right to food**: it already prevents the Venezuelan population from regularly, permanently and freely accessing basic food products or the means to obtain them. The economic measures against Venezuela have hampered the commercial and financial operations of the Republic in international banking, affecting the importation of food to the country since 2015 and have focused in limiting the imports of food distributed through the Local Supply Committees and Production (CLAP, by its Spanish acronyms), the Venezuelan government's flagship program to address poverty.

It is important to highlight that Venezuela imported most of the processed foods by 2015. Out of which 33% of imports was from the US and 12% from Canada. That is, 45% of food imports came from States that have maintained a more confrontational policy and have applied the greatest number of economic sanctions against Venezuela.

The measures applied during the pandemic against activities related to the production, exploitation, purchase and sale of oil and the naval and maritime blockade against Venezuela, have hampered the importation of goods such as medicines and hospital supplies. Despite calls from the United Nations to cease the imposition of measures, at least during the period of the COVID-19 pandemic, the US government has acted in the opposite direction, broadening and deepening the economic blockade against our country. Even by persecuting the facts, military actions activities aimed at blockading the acquisition of industrial supplies for PDVSA or exporting its hydrocarbons.

### **Reform of the administrative justice system**

The AVJ has been conducting investigations around the procedural delays and the consequent impunity that it entails in the justice system, in line with the Memorandum of Understanding signed between the Venezuelan State and the Office of the High Commissioner for Human Rights in 2019. Therefore, the decision announced by the Executive Power on June 21<sup>st</sup>, 2021 to decree a deep and accelerate the reform of the administrative justice system is indispensable at the present time.

The Special Commission for the Judicial Reform (a joint effort between the Executive and Judicial Power) must address and carry out structural changes in the administrative justice system in Venezuela, which may include solutions to procedural delay, relieving detention centers occupancy, organize public competitions for selecting judges, improvement of the computerized system for monitoring the cases, among other legal aspects.

The AVJ considers that one of the most emblematic entities in this process is the National Assembly, since it has the arduous task of legislating in fundamental aspects, thus the judicial reform has important advances and can be executed in a viable way. Our association will request to participate in the legislative debates.

Social comptrollership is essential throughout the process and duration of the study for the transformation of the judicial system, since civil society has been permanently monitoring the main failures of the penitentiary system, particularly in the preventive detention centers, derived mainly from the existing procedural delay.

The AVJ considers of great importance to deepen a reform of the administrative justice system based on what was proposed by the Executive, taking into consideration that the Judicial Power in Venezuela advanced significantly in recent years. However, the AVJ considers that it is necessary to renew the current structures, update them to the political and social current reality, allowing in this sense to guarantee an effective judicial protection, on the basis of a fast, timely and fair justice.

### **Pandemic, state of alarm and access to justice**

The suspension of work for seven (7) months in the judicial system, due to the COVID-19 pandemic, was an element that further aggravated the procedural delay that afflicts the Venezuelan judicial system. That is why, although late, we salute the extraordinary measures issued by the Judicial Power that allowed expediting the judicial processes, which seeks to guarantee access to justice and due process to the Venezuelans.

These measures were focused on resolving the issues through mechanisms of conflict resolution, such as negotiation, mediation and conciliation, where applicable, as well as the usage of new technologies (electronic mail, via telephone, video calls, chats and video conferences, and the combination among these). This last measure is notorious since in the civil, social, constitutional jurisdiction, only admit the processes written in physical.

In this regard, measures were issued to guarantee the judicial inspections, hearings and in-person acts, adhere to the protocols of biosecurity, as well as using technological means to guarantee the health of the servers, users and judicial servants, and everyone involve in the judicial process.

In this regard, the Judicial Chambers announced:

- The Civil Cassation Chamber issued its resolution No. 03-2020 of July 28, 2020, to start the Virtual Dispatch Pilot Plan in three (3) states (Aragua, Anzoátegui and Nueva Esparta), which sought to advance in the processing of files, through the digital system for new causes. Anticipating that citizens who file actions such as divorce or causes related to mercantile companies, successions or lawsuits for damage can be done during business hours, via email and in PDF format through the corresponding court.
- Following up, the Civil Cassation Chamber, in judgment No. 125, dated August 27 2020, allowed citizens to present extraordinary appealing through via email, in order to adjust to the problems caused by the pandemic, and to ensure the defendants the right to defense, the right to be heard, the right to petition, as well the due process and effective judicial protection.
- The measures adopted by the Social Cassation Chamber established the Guidelines for the functioning of the judges of the jurisdiction of Protection of Children and Adolescents in the framework of the measures of health protection «social distancing», allowing the courts of first Instance to process urgent matters, such as

protection measures, family placement, adoption, restitution of custody, child support or travel authorizations using email, phone, video calls, chats and video conferences, and the combination of these. The topics related to guardianship, divorce or separation of bodies proceedings when there are boys or girls and other matters agreed between the parties related, may be processed by the judges in the same manner.

- The Constitutional Chamber, by ruling No. 144, dated September 22<sup>nd</sup> of 2020, resolved six amparo actions and their corresponding evidence, were submitted by email, which highlights the use of the new communication technologies in judicial processes.
- Subsequently, the Plenary Chamber of the Supreme Court of Justice of the Bolivarian Republic of Venezuela in its resolution number 2020-08, published in October 1<sup>st</sup>, 2020, it resolved that all the country's courts work during the week of flexibility, having to process and sentence all the new and ongoing business. During the week of radical quarantine the courts will remain closed and the cases on hold, as well as the procedural lapses, except for causes that can be decided by telematics means, information technology and communication available.
- Likewise, the Criminal Chamber authorized the criminal courts to hold uninterrupted hearings during radical and flexible weeks.

Undoubtedly, these decisions were the most appropriate and are in tune with the national and world situation. However, the application of these provisions have found difficulties. On one hand, the judicial system is adapted to legal instruments that only admit written and in-person proceedings, which makes technological resources deficient. On the other hand, the constant interruptions of electricity have been aggravated by the imposition of the economic, financial and commercial blockade applied against our country. This difficulty is evident in the acquisition of the equipment and spare parts necessary for the maintenance of public services, among others.

### **In the legislative framework**

In an effort to adapt the national legal system, in January 2021 the National Assembly approved the National Legislative Plan 2021, which contemplated thirty-five (35) bills of interest to the country, adding to that list four (4) draft laws presented by the National Executive.

AVJ considers the proposal presented by the National Assembly will allow to update the legal system to the new constitutional, social, economic and political realities that Venezuelan society requires.

In this regard, we recommend:

- To elaborate a work plan for the five (5) years of legislative functions with the thirty-nine (39) proposals, in open-ended working tables in order to allow the participation of all stakeholders involved.
- To prioritize the discussions of the Civil Procedure and Criminal Codes in order to adjust them to the principles enshrined in the Constitution of the Bolivarian Republic of Venezuela.
- Likewise, the Commercial Code, which was approved in 1952 under a socio-economic reality and a constitutional framework different from the current one.
- Approval of the Second Reform to the Law on the Right to Women to a Life Free of Violence, a legal instrument that presents important difficulties for its applicability, incorporating political and vicarious violence, among others. The creation of the National Defender for the Rights of Women, as an autonomous institute and other aspects that requires its modification.