

# CONTEXT

The Human Rights situation within the Social, Political, Economical and Institutional contexts in the Bolivarian Republic of Venezuela are featured by some opportunities, some advances and some drawing backs that affect the Human Rights in their benefits and their practice to all the Venezuelan Citizens. In relation to the period in which the analysis and evaluation were done by the office of the High Commissioner for Human Rights (OHCHR) in The Bolivarian Republic of Venezuela, the following facts were noticeable:

- The obstruction in relation to the fight against the poverty.
- The use of the electoral strategies as the Democratic-political action mechanisms.
- The establishment of a legal but unconstitutional and non-democratic law context by the hegemonic forces in possession of the power with the aim to impose the XXI Century Socialism
- The increased amount of processes in demand of the Citizens rights.
- The advances in the processes of the creation of a new model of police which respects the Human dignity in all the areas involved.
- The launching of the “La Gran Misión Vivienda” as an initiative which its main aim is to pay the social debt contracted with the population in relation to the housing area.

## **A NON-DEMOCRATIC GOVERNMENTAL PLAN OF ACTION GOES IN DEPTH; THE 21<sup>st</sup> CENTURY SOCIALISM PROJECT**

Since 2007 when the Venezuelan Government made the proposal to modify the Constitution to create a state of Law and Justice in favor to the purpose to introduce to the Country a socialism system, It was noticed that the changes and mechanisms promoted by those changes have a sort of undemocratic content that announced some risks against to the aim to maintain what has been known as a plural society<sup>1</sup> The proposal was rejected massively by the population<sup>2</sup>. However, the Venezuelan Government opposed to the population's common will and transgressing some articles what are established in the Bolivarian Republic of Venezuela Constitution, the Government has been continued with the arrangement and imposition of the programmed Socialism Project by the creation of a legal framework which have caused certain consequences that could be seen as exclusion, centralism, changes in social organizations and the restrain or narrowing of the opportunities to give opinions characterized for being criticisms to the development of the current governmental actions. December 2010 was an emblematic time point in relation to the risks that could affect Democracy and the Political pluralism. The big amount of Oficialism activists as Deputies at the parliament or “National Assembly” had promulgated without asking the Venezuelan Population more than 20 Law texts that modified unconstitutionally the way in which the Public Powers and the States around the Country are organized in relation to the population voting, all of this happened in the two months previous to the 2010 National Assembly Elections. After that election the Assembly has a significative representation of opposition parties deputies<sup>3</sup>. In relation to this fact the Civilian Association called “Civilis”

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1 PROVEA: Situación de los Derechos Humanos en Venezuela. Informe Anual octubre 2009-septiembre 2010. Caracas 2010. Pág. 15

2 In the year 2007 the constitutional reform proposal was presented under the figure of popular referenda and the population majority voted against it.

3 In the September 2010 Assembly Elections the Opposition Parties obtained seats to 65 Deputies and the Governmental party obtained 98 Deputies

expressed the following: “The intention to implant another kind of State by the creation of new laws that are featured by a lacking of legality and legitimacy. A State different from the State which characteristics have to be a democratic one, a civilian one, an uncentralized and federal one that has to be based in justice by its own right as it is established by the law, there is not any other problem but a fraud against to the Bolivarian Republic of Venezuela Constitution that implies a break up with the State of Rights. It does not matter that the different State could mean the use of a 'constitutional language', all of this only implies that this fact could drive the Venezuelan population to the harmful risk of will not see realized their rights to life, their rights to freedom, their rights to equality and to solidarity, the rights to live in Democracy and to have Political pluralism”<sup>4</sup>.

One of the laws approved in an irregular way was the Law of defense of the Political Sovereignty and National Self-Determination <sup>5</sup> This rule criminalizes the organizations which defend the political rights and prohibits from receive the international cooperation or fundings under the figure of stop interventions from other Countries by the donations made by them to the Venezuelan Civilian Organizations<sup>6</sup>. The law is drawn within the State Policy to obstaculize the actions developed by the independent Organizations<sup>7</sup>.

The antidemocratic attitude of the National Assembly (AN) deputies that finished their period in those positions in 2010 was showed and increased when under the urge of the Venezuela's president Mr. Hugo Chavez, the Executive Power asked the National Assembly to approve an Enabling Law that delegates to the Executive the power to sanction laws for a period of 18 months. The deputies of the National Assembly promulgated the enabling law on date 12/17/2010 that law authorized and delegated on the President to sanction laws in the Country for the requested period in an extraordinary or uncommon way.<sup>8</sup> The enabling law was otorged as a wide mesurement that delegates on the President Chávez the faculties to have far-reaching decree powers that could restrain the Human Rights and could tipify delictive actions<sup>9</sup>. The situation of emergency that was lived in all the Country at the end of 2010 as a consequence of the persistent and intense rains alongside Venezuela was intended as an excuse to the public oppinion in order they could accept the delegation of powers on the President by the enabling law as a legitimate one, under the figure that it was necessary to assist as soon as possible all the families which homes were damaged as

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4 CIVILIS: Situación de los derechos humanos y la democracia en Venezuela ante las recientes medidas legislativas [on line] <<http://goo.gl/OjaNA>> Consulta del 23.09.10

5 Gaceta Oficial N° 6013 Extraordinario del 23.12.10

6 Example: The article number 6 of this Law establishes: “The directives, managers or anonymous people who in behalf of political organizations or the organizations that defend political rights that receive financial donations from foreign Countries people or foreign Countries organizations will be punished with fees equivalent to the double of the amount received by them from the others without detriment in the application of the sanctions forseen in other laws.”

7 PROVEA considers legal and convenient that the State could exercise controls on the reception of national and international funding by organizations that defend political rights. In fact, there are absolute controls in this sense, but that is completely different to criminalize and to disqualify the political organizations which receive those financial fundings or different the fact to consider liable or to suspect about all the organizations that ask for or receive international cooperation fundings.

8 The article number 203 of the Bolivarian Republic of Venezuela Constitution (CRBV) established that the laws which delegate in a President the legislative faculty of dictate rules with the range, the value and the strength of the law have to establish the aims, purposes and the context of the subject or subjects which are his or her responsibility and to fix the term of time in which those subjects are his or her exclusive responsibility.

9 Gaceta Oficial Extraordinaria N° 6.009 del 17.12.10.(12/17/2010) The law authorizes the President the faculties to legislate amongst the following sceneries: emergencies caused by rains and floods; facilities and public services; housing and habitat; territorial arrangement; financial and tributary laws; civilian y legislative; security and integral defense; international cooperation; economical system. The president has the faculties to dictate decrets with the range of jerarquical organical laws.

a consequence of the rain and the floods<sup>10</sup>. After five years of the officialism's parliamentary hegemony, the outgoing Assembly diminished the authority of the incoming parliament, plural by the decision of the popular sovereignty, to legislate by the decree of the enabling law before they could be in democratic possession of their seats<sup>11</sup>.

The coalition of Human Rights organizations as “Foro por la vida” and the net of organizations “Sinergia” expressed in conjunction their concern about the implications of that law against the Human Rights: “ The enabling law can place in a serious risk the Human Rights which have to be respected and guaranteed by the State as it is established in the Bolivarian Republic of Venezuela Constitution and the International Human Rights instruments. The Legislative Power is the one that is constitutionally called to regulate those rights because it offers conditions of democratic pluralism and deliberation that the Executive Power can not offer. The enabling law opens the doors to the limitation by law decree of Human Rights in different sceneries” (...)

The enabling law was accepted by social organizations and individuals who support the political process that the President Chávez directs “ ¿ How to face a such complex situation with common tools that belong only to a peace process with a fifth columnist burocracy which has limited resources? It is not possible, it could pass 50 years out and only a few steps could be advanced, It was necessary to legislate in an extraordinary way and revolutionary parliament finishes in January, It comes a new combination in which the presence of 65 extreme right deputies, perhaps they are not the majority could damp and could make longer the time to approve laws that are vital to be outof the crisis”<sup>12</sup>.

## The Extractivism is kept as the developmental model to the Country

From different instances of the “High Government”, including the president from Miraflores Palace are calling the political project promoted nowadays as “The Oil Socialism”<sup>13</sup>. This notion keeps the idea of the progress as economical development in a lineal and perpetual evolution that claims a bigger efficiency in relation to the appropriation of the natural resources and in its debate is tried to be diferenciaded from the past projects in regards to the distribution of the obtained benefits. In the case of Venezuela as in other Countries of the region, the economical movements are constituted by the exporting of energy resources, this is a kind of a primary economical activity that is named “extractivism”. In contrast with the model developed in the 1990's, the time of the neoliberalism attack, the progresist neo-extractivism gives a bigger character to the Nation and increases the amount of energy resources offered in the world market with the explanation that those incomes will be

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10 Despite we agree that the emergency situation needed a quick answer from the Government Institutions, that answer could be guaranteed without giving special faculties to the president.

11 Until September 2011 and by allowing the President Chávez through the enabling law, during the period he had dictated 20 laws among them the following ones: The special law of worthy shelters to protect the population in case of emergencies or disasters, The organic law of the Bolivarian Armed Forces, the organic law of the financial management for the public sector. The National Assembly in its side, only had sanctioned three laws as the Organic Law against the Racial Discrimination.

12 Humberto Gómez García: La Ley Habilitante, instrumento para la transformación [en línea] “The enabling law, an instrument to transformation [on line] <<http://goo.gl/WBYJX>>

13 “The socialism has a lot of components , it has a lot of fronts of battle. In the Venezuelan case, our socialist project has to be and has to have in the medulla or in its essence, the oil component. Oil Socialism”. Hugo Chávez: Dos años profundizanoel Socialismo Petrolero [en línea] [on line] <<http://www.pdvsa.com/interfase.sp/database/fichero/publicacion/4705/530.PDF>>

destinated to the plans which fight against to the poverty<sup>14</sup>. In the year 2010 there were 34 extrction points in the Country under the figure of mixed enterprises<sup>15</sup>, those extractive points preserve an actionary majority to the Nation but they constitute a sort of regresion in relation to the oil nationalization had done in the 1970's.

In the 2011 Budget law, the 27.6% of the income to the Venezuelan National Treasury came from the oil industry incomes. However, the extraordinary assignations that are part of paralel budget to make the Country work in a proper way come from the extra incomes obtained by oil sales, too<sup>16</sup>. In the 2012 Budget Law project that has not been approved to the moment in which this inform has been closed the 29.9% of the income are going to be the product of the oil sellings in which each barrel price is valued in \$50 but the real list price is over the \$100.

This extractivism as a Country development model contrasts with the Enviromental rights and the aboriginal population rights. Although, it is a Constitutional right, the process of the aboriginal territory delimitation has advanced only in an a rate of 2.4% in one decade, this stagnation can be explained in some way, by the existence of mineral and oil deposits in almost all the aboiginal territory. As it occur in other Countries of the region, the searching of economical benefits is ranked on its social and environmental impact. As an example; during the period in which this inform has been done the Kariña de Tascabaña aborigins, located in Anzoategui State in Venezuela continued claiming a solution to PDVSA because of the water polution caused by the oil spills and the gas emanation<sup>17</sup>. On the other hand, the instruntalization of nature delays the implementation of policies to defend and regenerate the environment. The the latest know statistical figures show that deforestation exceeds 2.8% yearly, that means that 1,300 millions of hectares of rees were felled every year<sup>18</sup>. Venezuela is the biggest emissor of Carbon dioxide (CO<sub>2</sub>) per inhabitant, ranked as the 55<sup>th</sup> in the world<sup>19</sup>. In comparison to the other Countries of the region, Venezuela has not assumed the correct strategies to adapt and to mitigate the climate changes fenomena, the lack of planning and prevision which influenced all of this could cause the repetition of problems like those that occured in December 2010 when at least 34 people died as a consequence of the rain in those days.

To be dependent of the rents that are obtained from an oil based economy can affect the development of a diversified, ecological, self-sufficient and endogenous economy, something that in itself can block the enjoyment of the benefits of certain rights as the one to be feeded.

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- 14 Eduardo Gudynas: Diez tesis urgentes sobre el nuevo extractivismo, Contextos y demandas bajo el progresismo sudamericano actual [en línea] (NT) Ten urgent thesis about the new extractivism, contexts and demands under the current Southamerican development [on line] <<http://transiciones.org/taller2011/introduccion/docs/GudynasExtractivismoSociedadDesarrollo09.pdf>>
- 15 Venezuela: Transnacionales, militarismo y resistencias [en línea] [on line] <<http://issuu.com/ellibertario/docs/mapa2011>> Consulta del 01.10.2011
- 16 The diferences between the price of the oil barrel established in the budget law and the real price in the market. e.g. The 2010 budget law rated the price of each oil barrel in \$40, but its real price in the market during that year oscillated between \$70 or \$80. This paralel budget is refractory to the Social Attorney accountability.
- 17 Argel Fernández: En Tascabaña tienen 3años esperando una fuente de agua [en línea] (TN:In Tascabaña town they have about 3 years waiting for a clean water source) [on line] <<http://eltiempo.comve/locales/zonasur/comunidad/en-tascabana-tienen-esperando-una-fuente-de-agua/33146>>
- 18 Juan Linares: La destrucción de los bosques en Venezuela [en línea] (TN: The destruction of the forests in Venezuela) [on line] <<http://www.aporrea.org/actualidad/a102491.html>>
- 19 Honty Gerardo: Cambio climático: negociaciones y consecuencias para América Latina. [on line] (TN:Climate changes, negotiation and consequences to Latinamerica) [on line] <<http://energiasur.com/taller2011/energia/docs/CambioClimatico-Atlat.pdf>>

The statistics obtained from the Food Ministry show that from the total of food obtained by Venezuela in the year 2010, the imported food is in the rate of the 77.9%.

## **The fight against poverty is stagnated and the military expenses have been increased**

In the previous report it was observed that the fight against poverty had a tendency to decrease<sup>20</sup>, being this tendency of reducing poverty, one of the positive factors in regards to the respect of the Human Rights observed in Venezuela. The official data provided by the Venezuelan National Statistics Institute (INE) indicates that the fight against poverty is stagnated, as this report presents in its analysis for the first semester of the year 2011, there was some increasing indicators. The poor households clasified by their income line represented the amount of 27.5% in the first semester of the year 2007. After four years, in the first semester of 2011 those households represented the 27.4% but compared with the year 2010 in which the amount was represented by a 26.8% it implies that the amount increased in a 0.6%. The extreme poverty in the first semester of 2007 was represented by the 7.6% and to the same term in 2011 it was the 7.3% it means that it decreased in a rate of 0.3% but in comparison to 2010 in which it was the 7.1% what the rate increased in 0.2%<sup>21</sup>. If the poor household clasified by unsatisfied basic needs are analized, it could be found a similar tendency to the one found in the poor households clasified by income line. In four years the amount of poor households decreased in a rate of 2.1% and the extreme poverty in a rate of 1.6%. It is important to remark that tis stagnation occurs before that the moment in which the Government recognized the existence of the economical crisis and in a period of time in which the Country had obtained high incomes as a product of the oil sales<sup>22</sup>. If the poor households by income line and by State are analized, it could be found that in 17 of the 23 Venezuelan States, poverty was increased in a mild or in a severe way, this result was obtained at the moment to make a comparison between the percentages from 2007 first semester and the percentages from 2011 first semester. Poverty was increased in the capital District, too. In contrast to the states like Aragua, Barinas, Bolivar, Carabobo, Táchira and Zulia in which the poverty decresed positively in the same four years period.

The stagnation of the fight against poverty analized on people and not by households shows similar results. Whereas to the 2007 first semester there were in the Country a total of 8,717,639 individuals in poverty conditions and to the 2011 first semester the figure incresed to 9,3365,895 individuals, as it is showed by the data provided by INE. If the 2010 and 2011 data is compared it is noticeable a mild increasing of the amount related to poor individuals<sup>23</sup>.

The stagnation of the fight against poverty has its negative impact so in the quality of life

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20 PROVEA: Informe Anual 2009-2010 Pág.14. (PROVEA: Yearly Report 2009-2010, page 14)

21 The amounts are more negative if the data is obtained from the Integrated System of Social Indicators SISOV or in Spanish Sistema Integrado de Indicadores Sociales (Sisov). From the sight of this oficial source, the poor households in the second semester of 2007 were represented by a 28.5% and to the second semester of the year 2010 those households had increased in a 32.5%, that means an increased amount of a 4%. The extreme poverty in its side, was represented by a 7.9% in 2007 second semester and in the 2010 second semester it was 8.6%

22 From 2007 the oil prices wer kept up to the price of \$5. In 2009 as the oficial figures indicate, the annual media was about \$57.1 in 2010 it was \$71.97 and to 2010 second semester it was \$92.05.

23 As the figures provided by the INE show; to the 2010 first semester there was a total of 9,036,516 individuals in poverty conditions and in a year later the amount increased to 9,365,825 it means that in the term of a year 325.565 individuals entered in the boundaries of poverty.

of Venezuelan people as in the enjoyment of certain specific rights. An example of those specific rights is the one related to get employment with decent salaries. The fight against unemployment was stagnated, too. In 2007 first semester the unemployment percentage was 9.2% equivalent to 1,125,599 individuals. After four years, in 2011 first semester, the percentage was 8.8% that was equivalent to 1,157,670 individuals<sup>24</sup>. This means that in four years of high oil prices the unemployment only decreased in a rate of only 0.4%. A sort of different Statistical studies reflect employment lackings in the popular sectors of the population. The research "Valoraciones sociales en Venezuela" (Social evaluation in Venezuela) Research made by the Centro Gumilla on April 2011, the mentioned research confirmed that in families and individuals that belong to the sectors classified as C, D and E the employment is the main lacking as it is showed by the 40.5% of the answers given by the interviewed individuals. The other two main aspects that are noticeable as big problems that affect the Venezuelan society are the insecurity in relation to delinquency in a rate of 29.9% and the lacking of public health policies in a range of the 22.6%<sup>25</sup>. On the other hand, in the survey called "Estructura social del gusto: Una aproximación para caracterizar los gustos de la sociedad venezolana" name that can be translated as: "Social taste structure; an approximation to classify the tastes of the Venezuelan population". Study made by the research group called "Siglo XXI" (21<sup>st</sup> Century) in October 2011, study that placed the unemployment and the lacking of jobs as the aspect of life that "makes people the most unhappy" item that obtained a 19% in the survey and which was followed in position by the material things lacking with a 17% and the common family problems in a 10%<sup>26</sup>.

In the Universal Periodic Review (UPR) the Bolivarian Republic of Venezuela presented records that reflect one reality but hid another: "the achievements of the Venezuela State in this subject have been the decreasing of the extreme poverty which rates changed from 21% in the year 1998 to 7,1% in the year 2010, according to the the research made by the Venezuelan Statistics Institute (INE)<sup>27</sup>. While is true that one of the main advances in Human Rights matters is the decreasing of the poverty amount in Venezuela, it is necessary to remark -as it was done in the previous report- and as it is confirmed in this opportunity from the official records, that the fight against poverty has been stagnered from 2007. The rate of human development (RHD) has showed a slight regression of some of the social indicators registered for Venezuela. To the ranking that correspond to the year 2011, Venezuela occupied the place 73<sup>rd</sup> among 187 Countries while to the year 2009 it was ranked in the 58<sup>th</sup> position after being in the 74<sup>th</sup> position in 2007-2008 period<sup>28</sup>.

This stagnation is worsened due to the fact that most of the social policies have been experienced a decreasing of the investment as in the GPN percentage from the year 2007 as it is observed by the Integrated System of Social Indicators of Venezuela [Sistema Integrado

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24 In 2004, the Government created the mission "Vuelvan Caras" which promised to decrease the unemployment rate which was 16.6% in the first semester of that year, in a range of 5% to the end of the same year. However, it only was reduced in a range of 2.7%. In 2005 the unemployment rate was 11.4%. In 2006 it was 9.3%. In 2007 it was 7.5%. In the year 2008 the unemployment rate was positioned in a rate of 6.9%. In 2009 was slightly increased to the range of 8.5% and to the 2011 first semester the unemployment rate was placed in a 8.8% percentage which demonstrates an increasing of this area. The promise to place the unemployment in a rate of 5% never was accomplished and after seven years of facts this promise is very far to be accomplished.

25 Luis Salamanca: A pesar de todo, el optimismo se desborda [en línea] (TN: "No matters what is happening; There is a flood of optimism") [On line] <<http://www.gumilla.org/?p=article&id=13172563125559&entid=article>> Consulta del 01.11.11 (TN: researched in 11/01/2011)

26 [on line] <<http://www.gisxxx.org/wp-content/uploads/2011/11/Estructura-social-del-gusto.pdf>>

27 Report presented by the the Bolivarian Republic of Venezuela to the UPR Work Group of the OHCHR in July 19<sup>th</sup> 2011

28 PNUD: Informes sobre Desarrollo Humano [en línea] <<http://hdr.undp.org/es/informes/mundial/idh2011/>>

UNDP: Human Development reports [on line] <<http://hdr.undp.org/en/reports/global/hdr2011/>>



de Indicadores Sociales de Venezuela (SisoV)]. The public investment reached its zenith in the year 2006 (6.8% of the GPN) but to the year 2010 the public investment was the lowest of the decade (3.4%). In relation to the Health sector, the figures were the highest of the decennial, when it reached the 4.47% of the GNP but in 2010 it was the 2.48%. In the Housing sector, the area classified as a “problem of State”, the year 2006 was the one with the highest investment in a rate of the 3.84%, after that year the money for residential investment has a deficit till the point to be positioned in a 1.38%. In the Education sector, in which there are remarkable amounts dedicated to its budget, as it was seen in previous reports, in the year 2010 has been registered the lowest investment in relation to the analyzed in the last ten years, this sector has a 4.77% of the investment. The only one indicator that has remained stable from 2006 is the one that correspond to the Social Security, in the year 2010 it was the 4.94%<sup>29</sup>.

In contradistinction, It has been experiencing an increasing of the expenses destined to the purchase of armament to the Armed Forces as it is included in the 2011 budget Law, The Venezuelan Ministry of Defense was the eighth Institution that most resources had received from the Government budget. This Institution is only under of four government dependencies which are responsible of Social policies like are the ones responsible of Education, Health, Social Security and University Education: The other Institutions in charge to apply social policies received less resources than the others mentioned above. It was more noticeable in the Ministerio del Poder Popular para la Mujer e Igualdad de Género translated as Ministry of Popular Power for Women and Gender Equality which received 33.2 times less than in other opportunities. Ministerio del Poder Popular para los Pueblos Indígenas translated as Ministry of Popular Power for Indigenous People which received 70 times less than in other opportunities: An analysis of the project of the 2012 Budget Law confirms that this tendency is not only remaining, it is deeper in the current budget project. To the new fiscal year the Venezuelan Ministry of People's Power for Defense is going to double its budget, obtaining in this way Bs. 21,299,025,105. The military Institution would be placed in the fourth position among the ones that would receive the biggest budgets. The differences are raised in comparison with the Ministry of Popular Power for Women and Gender Equality and the Ministry of Popular Power for Indigenous People. The Ministry of Popular Power for Women and Gender Equality would receive 53.9 times less money in its budget while the Ministry of Popular Power for Indigenous People would receive 113.8 times less money than the military Institution<sup>30</sup>.

On the other hand, the President Chávez on date; August 11<sup>th</sup> 2011 announced that he would assign four thousand million Dollars<sup>31</sup> to “the equipment and training” of the military component, in a credit negotiation with Russia<sup>32</sup>. In the last ten years, Venezuela has bought armament from the Russian Federation for 2.068 million dollars, 89.6% of the total that

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29 SISOV: Indicadores [en línea] Indicators [on line] <<http://sisov.mpd.gob.ve/> indicadores/> Consulta del 01.10.11 (researched on October 1<sup>st</sup> 2011)

30 Asamblea Nacional: Proyecto de Ley de Presupuesto 2012 [en línea] <[http://www.asambleanacional.gob.ve/index.php?option=com\\_docman&task=doc\\_download&gid=3600&Itemid=185&lang=es](http://www.asambleanacional.gob.ve/index.php?option=com_docman&task=doc_download&gid=3600&Itemid=185&lang=es)>

31 CORREO DEL ORINOCO: Venezuela recibirá crédito ruso por US\$ 4 mil millones para cooperación técnica militar. (en línea) <http://www.correodelorinoco.gob.ve/economia/venezuela-recibira-credito-ruso-por-us-4-mil-millones-para-cooperacion-tecnica-militar/> >06.10.2011

32 Agencia Venezolana de Noticias: Venezuela gestiona crédito con Rusia para equipar y adiestrar a la FANB [en línea] <<http://www.avn.info.ve/node/72108>> Consulta del 05.11.11. Venezuelan News Agency: Venezuela manages credit with Russia to equip and train the FANB [online] <<http://www.avn.info.ve/node/72108>> Consultation 11/05/2011.

Russia has been sold to Latin America<sup>33</sup>. In 2010 Venezuela was the main buyer of Spanish weapons, acquiring 1.6 million Euros in riot gear, including tear-gas and 212 million Euros in two two surveillance vessels and unloaded ammunition for cargo ships<sup>34</sup>. To the year 2012 is planned the opening of the factory AK 103-a variant of the AK 47 - in the city of Maracay, as part of the agreement after the acquisition of 100 000 Kalashnikov in the year 2005 from the Russian government<sup>35</sup>. This would be the first AK plant in Latin America .

## **The UPR: an opportunity for dialogue that was wasted**

In 2011 Venezuela would have their first experience in a comprehensive assessment of Human Rights done by the UNHRC<sup>36</sup>. This mechanism which is applied to evaluate all states that are part of the UN is seen as a situation that allows Countries to discuss and analyze the obligations of the State to satisfy the rights of people under its jurisdiction<sup>37</sup>, and based on the assessment results to define policies and measures that allow the involved in order to strengthen the State's ability to satisfy the rights and overcome the existing deficit. It was a great opportunity to the development of a national debate where the State officials and the civil society could exchange ideas and opinions to find all the best ways to improve the human rights situation in the Country.

For many years, The Human Rights organizations have remarked the need to establish levels of cooperation between State and civil society to design policies for the enforcement of the Human Rights. In that purpose the organizations have presented proposals for policies and measures<sup>38</sup>. The attitude of the Veneuelan National Executive and other branches of the Government is characterized by not opening up enough spaces for dialogue. The space offered by the UPR was an opportunity to rectify and establish channels of cooperation.

However, the government advanced the process with sectarianism, something that prevented the approaching and the teamwork with one part of the civil society featured for having a broad experience in themes related with development and Human Rights. The government took the process as a battle to defeat the "NGO's payed by the Empire", "The truth will crush

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33 Rafael Uzcátegui: Desarmar el discurso, desarmar al Estado. En SIC, edición 739, noviembre 2011.

Rafael Uzcátegui: Disarm the speech, disarm the state. In SIC, Issue 739, November 2011.

34 Ministerio de Industria, Comercio y Turismo de España: Estadísticas españolas de exportación de material de defensa, de otro material y de productos y tecnologías de doble uso, año 2010 [en línea] Ministry of Industry, Trade and Tourism of Spain: Spanish Statistics export of defense equipment, other material and products and dual-use technologies, 2010 [online] <<http://www.comercio.mityc.es/es-ES/comercio-exterior/informacion-sectorial/material-de-defensa-y-de-doble-uso/PDF/publicaciones/INFORMEESTAD%C3%8DSTICAS20106.6.11.pdf>>

35 Europa Press: Venezuela producirá en 2012 fusiles de asalto Kalashnikov AK-103 con el apoyo de Rusia [en línea] Europa Press: In 2012 Venezuela will produce Kalashnikov assault rifles, AK-103 with the support of Russia [online] <<http://www.europapress.es/latam/venezuela/noticia-venezuela-venezuela-producira-2012-fusiles-asalto-kalashnikov-ak-103-apoyo-rusia-20110916221801.html>>

36 Para consultar un número importante de informes presentados por las organizaciones de la sociedad civil independiente y el Informe del Estado [en línea] <<http://goo.gl/8sUo4>>

For consult an important number of reports submitted by independent civil society organizations and the State Report [online] <<http://goo.gl/8sUo4>>

37 The Human Rights Council calls upon all States to ensure that the process could be developed with the active participation of all stakeholders, including all civil society organizations.

38 In 2008 the coalition of human rights organizations "Foro por la vida" developed and published the "Agenda for Democracy and Human Rights for a dignified life for all the population", with 104 proposals to improve the Human Rights situation in the Country.



them, it will fall over them"<sup>39</sup>, with an approach completely deviated from the spirit of the process in this International instance where it has to prevail the dialogue and the respect among the participants. Using the disqualification as strategy, the Venezuelan Government underestimated the work of hundreds of social organizations that only have the will to provide their input and knowledge to the Human Rights cause.

However, we value as positive the fact that the Venezuelan government has accepted the mechanism of the HRC. Being the Venezuelan Government adverse to the comptrollership of the international Organizations for the Human Rights protection. It is showed a positive balance to the control and the defense of the human rights that the Venezuelan Government has taken precise commitments that they shall report in four years. It is an equally positive fact that the State had accepted 95 recommendations and 10 commitments that made it to assume the responsibility to adopt policies to transform these recommendations and commitments in positive impacts for the effectiveness of the human rights in the country<sup>40</sup>.

This positive attitude with the HRC contrasts with the permanent disqualification to the instances of the Inter-American System of protection of the Human Rights. Once again, during the period under analysis the Inter-American Commission (IACHR) and Inter-American Court (IACHR) were called "organizations that serve the Empire"<sup>41</sup>. The Venezuelan Government attitude do not respect the boundaries to question and even insulting the members of the two instances, and maintains a pattern of non-compliance in relation to the statements and the interim measures made by the Court, and the recommendations and their precautionary measures made by the Commission<sup>42</sup>. We insist in the fact that the campaign against the organizations that protect the human rights does not harm any particular individual or organization, but that campaigning could harm the victims of violations of their rights regardless of their age, social status or political motivation and make the farthest the possibilities for warrant the truth, the justice and the fixing of the damages that affected their rights.

## **It is kept a complicated high-conflict situation in the Country**

One of the characteristics of the so called "Bolivarian Revolution" has been the creation of great expectations in the population especially in the popular sectors. "In Venezuela people expects a lot from the State and it- as any other, before- has a political and constitutional

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39 Agencia Venezolana de Noticias: *Maduro en la ONU: Derrotaremos con la verdad a las ONG financiadas por el imperio* [en línea] <<http://www.avn.info.ve/node/80959>> Consulta del 08.10.11.

Venezuelan News Agency: Maduro at the UN: the truth will defeat the NGO's financed by the Empire [online] <<http://www.avn.info.ve/node/80959>> Consultation 10/08/2011.

40 Organización de las Naciones Unidas. Asamblea General. Consejo de Derechos Humanos. Proyecto de Informe del Grupo de Trabajo sobre el Examen Periódico Universal. 11.10.11 [en línea] <<http://goo.gl/t13ya>>

Organization of the United Nations. General Assembly. Human Rights Council. Draft Report of the Working Group on the Universal Periodic Review. 11.10.11 [online] <<http://goo.gl/t13ya>>

41 MINISTERIO DEL PODER POPULAR PARA LA COMUNICACIÓN E INFORMACIÓN: Gobierno Bolivariano rechaza ataque de la CIDH contra democracia venezolana [en línea] <<http://goo.gl/A9C1Q>> Consulta del 26.09.11. MINISTRY OF POPULAR POWER TO THE COMMUNICATION AND INFORMATION: Bolivarian Republic of Venezuela Government rejects attacks against Venezuelan democracy by the Inter-American Commission [online] <<http://goo.gl/A9C1Q>> Consultation: 09/26/2011

42 Among the sentences that are not fully met by the Venezuelan State are the one related to the Detention Center of Catia and the one about the Missing people from Vargas. Five other sentences are also in complete failure. In statements related to the "El Caracazo" and the Slaughter of "El Amparo" only have been paid the compensations and it is pending the investigation and the punishment of those who are responsible in the mentioned cases.

obligation to satisfy those expectations. Therefore, the capability of management of the State to respond to such expectations is crucial. The frustration of these expectations can lead to irritation, social explosive behaviors and political realignment"<sup>43</sup>. The lack of responses by the Venezuelan National Executive Power to the demands of the population has caused the tendency of the progressive increase of peaceful demonstrations sustained in the last recent years in the Country. In the period covered by this report There were registered an average of 14.4 daily protests, the largest number of all the administration of President Chávez<sup>44</sup>. As it has been a constant since 1958, the protests demanding social rights are the main motivation for demonstrations and they are the 61% of the total of actions to claimt for rights<sup>45</sup>. In its previous report, PROVEA alerted about the discovery of evidence that was pointing to the radicalization of the social protest, a tendency that has continued to the present period, when there were 139 hunger strikes across the Country, some of them accompanied by desperate actions like to sew the lips by some protesters<sup>46</sup>.

The lack of specificity of the expectations created as a consequence of a guarantor discourse in regards to social rights has generated a situation of generalized and scattered indignation, with few correlates and and a lacking of synchronization with the political parties, and until this moment so fragmented in delimited and concrete demands. However, there were initiatives that demonstrate a a raising juncture based on the common problems and the depletion of the polarizing logic of the oficialism-oposition. During the period there were 7 civilian strikes against insecurity. In addition, the union "Platform Front in Defense of Self-Employment, Wages and the Union (Fadess) held a national protest on October, 20<sup>th</sup> 2011, in which were coordinated actions in favor of the labor rights in some cities of the Country. Here remains the question of whether the 2012 elections will slow or catalyze the process of recovery of the autonomy of social movements in the fight for their rights. As a positive aspect, it is important to remark the enactment of the "Guidelines about the performance of the Police forces in their different territorial political areas to assure the public order, the social peace and coexistence among citizens in public meetings and demonstrations, a step in the configuration of a democratic public policy to maintain public order attached to the respect of the human rights, something that possibly affected the decrease in relation to the number of protests suppressed during the period when there were registered 134 cases. Nevertheless, it is important to highlight that this decrease can be also explained as the selection of strategies of mobilization made by the demonstrators, strategies that diminish the possibility of confrontation to the authorities. Concentrations were the most common way to protest used in the Country, followed by two other ways like the street closures and the strikes of workers.

The process of criminalization of the social protest is mantained in Venezuela by the Government the most remarkable case in the period of analysis was the faced by the trade unionist Rubén González<sup>47</sup>, who was detained for 14 months because he supported a strike at the FMO (Ferrominera del Orinoco). At the end of this edition, the union leader was the subject of a new process of harassment, which included charges of masterminding the killing of the worker Renny Rojas and charges for dismissal alleged against the same worker. All

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43 Luis Salamanca: A pesar de todo... Op.cit. [en línea] <<http://www.gumilla.org/?p=article&id=13172563125559&entid=article>> Consulta del 01.11.11. Luis Salamanca: Still ... Op. [online] <<http://www.gumilla.org/?p=article&id=13172563125559&entid=article>> Consultation 11/01/2011.

44 From October 2010 to September 2011 were registered 4553 demonstrations nationwide.

45 Various studies about social conflicts and protest in Venezuela since 1958 indicate that the struggle for social rights have prevailed, something that has been further developed over the past four years.

46 See in this Report the Chapter related to the Right to Peaceful Demonstration.

47 More information about the case Ruben Gonzalez in the Chapter about Labor Rights in this report.

those charges attempted to the union freedom intending to stop his right to be reelected as a leader of the union to which he belongs, violating in this way his freedom of association. In addition to the existing regulations, which impede to exercise the peaceful protest, it must be added to this process of criminalization the approval in the first discussion of the Reform of the Organic Law against Organized Crime, which establishes a controversial definition<sup>48</sup> of terrorist act with potential discretionary use against the critics of the Government actions.

## Political actors agree about elections for democratic resolution of differences

Unlike to the situation that occurred between 2002 and 2004. Since last year, PROVEA has seen that political actors in the Country have supported the democratic way of participation in elections to solve antagonisms in a peacefully and institutional way. With the call for presidential elections in October 2012, the various party-political organizations have recognized the legitimacy of the National Electoral Council (CNE) as the arbiter of the votation, which that, it seems that the insurrection and coup strategy that a sector of the opposition endorsed at one time has been finished. In this context, however, the option that promoted the reelection of President Chávez participates in the elections with the advantage of the discretionary use of the public funds and the use of social policies as tools to ensure political support, as noted by the historian Margarita Lopez Maya, "It is also advancing the standardization of the popular social tissue and its attachment to the State, or more precisely to the President. This tissue serves as a manager arm of public policies, as a distribution channel of fiscal resources and an instrument for electoral mobilization in favor of the President"<sup>49</sup>. An example of the blurring boundaries between the ruling party and the State is revealed by the announcement of "Mission October 7<sup>th</sup>," through the one the president hopes to reach 10 million votes in the next election<sup>50</sup>, using the adjective that distinguishes the social policies implemented by the government in recent years. The absence of boundaries between community organizations and the state is assumed for the initiatives that support President Chavez: "The Great Patriotic Pole<sup>51</sup> will prioritize the construction of the Popular Power (community councils, communes, workers' councils, student's councils) and all organizational expression of the people and of the Community State"<sup>52</sup>.

Regardless of the results of October 2012, PROVEA will ask the elected government the continuation and improvement of social policies aimed to the benefit of the popular sectors

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48 "Concerning to individual or associative behavior, by action or by omission, intended to subvert the constitutional order or institutional order of a Country, the serious disrupt of the public peace or to intimidate a population or compel a government or an international organization to do an act or to refrain from doing so." AN: Exposición de motivos de la Ley de Reforma de la Ley Orgánica contra la Delincuencia Organizada [en línea] [online] <[http://www.asambleanacional.gob.ve/index.php?option=com\\_docman&task=doc\\_view&gid=3624&tmpl=component&format=raw&Itemid=185&lang=es](http://www.asambleanacional.gob.ve/index.php?option=com_docman&task=doc_view&gid=3624&tmpl=component&format=raw&Itemid=185&lang=es)>

49 Margarita López Maya: *El populismo venezolano y sus tendencias actuales* [en línea] Margarita Lopez Maya: The Venezuelan populism and its current trends [online] <<http://www.innovaven.org/quepasa/polopi17.pdf>>

50 Prensa PSUV: Chávez lanza la Misión 7 de Octubre en procura de 10 millones de votos [en línea] <<http://www.psuve.org.ve/portada/chavez-mision-7-octubre-10-millones-votos/>>

PSUV Newspapers: Chavez launches October 7th Mission in search of 10 million votes [online] <<http://www.psuve.org.ve/portada/chavez-mision-7-octubre-10-millones-votos/>>

51 Patriotic Pole is the official name of the organizations supporting the reelection of President Chavez, and in fact is run by the United Socialist Party of Venezuela (PSUV).

52 Periódico Proceso: Con la unidad popular, ahora el Polo Patriótico sí va, por la defensa y profundización de la revolución bolivariana [en línea] ProcessNewspaper: With the popular union now, the Patriotic Pole, goes thought itself for the defense and deepening of the Bolivarian revolution [online]<[http://www.periodicoproceso.com.ve/index.php?option=com\\_content&view=article&id=335:qcon-la-unidad-popular-ahora-el-polo-patriotico-si-va-por-la-defensa-y-profundizacion-de-la-revolucion-bolivarianaq-por-equipo-proceso](http://www.periodicoproceso.com.ve/index.php?option=com_content&view=article&id=335:qcon-la-unidad-popular-ahora-el-polo-patriotico-si-va-por-la-defensa-y-profundizacion-de-la-revolucion-bolivarianaq-por-equipo-proceso)>

and the development of a National Human Rights Plan which defines policies and measures of short, medium and long term to improve the human rights situation in the Country and strengthen the Democracy.

## **Signs of progress against impunity and preventing human rights violations**

The high levels of impunity in the Country, repeatedly denounced by Human Rights organizations and partially recognized by the Public Authorities spokesmanships are an aspect that favors repetition of arbitrary and illegal actions by State officials.

Four years ago, in presenting its Annual Report to the National Assembly, the General Attorney Luisa Ortega Díaz said, referring to impunity:

"It's a problem that is really serious and can be more serious if it is magnified and manipulated. In this sense, the issue has been maneuvered into two levels: the objective, consisting of more or less real rates of the phenomenon, and the subjective consisting in constructions of media, produced by factors of power that look for desestabilize, for the crisis, for the ungovernability and the weakening of the institutions, to argue about an alleged fragility, where the target is always to get the Presidency of the Republic..."

"The strategy has not stopped. The impunity is still used as a weapon of combat. The insecurity and the impunity continue being flags of the struggle to destabilize the State. And indeed, both are situations where the State's responsibility is the responsibility of several institutions. Public safety, prisons, the prosecuted, the convicted and the delay in the administration of justice are involved with the National Executive, with governors, mayors, police, criminal investigation and, somehow, all of them - for reasons of State are closely linked to the Executive Power, to the Legislative Branch, the Judiciary and Citizen Power..."<sup>53</sup>

Beyond the slanted handling of the problem of impunity by the General Attorney, the most important is the recognition that the phenomenon exists. Four years later, the situation has not changed significantly. However, with the management of the Fiscal Ortega Díaz there has been some serious efforts in the fight against impunity, especially in those cases which involve human rights. Including the establishment and gradual consolidation of the Criminalistics Unit Against Violation of Fundamental Rights, and the advances in the investigation of serious human rights violations that occurred in the early 80's, particularly in the cases of the massacres of Cantaura and Yumare<sup>54</sup>. During this evaluated period several police officers were charged with being involved in executions in 2009, 2010 and 2011<sup>55</sup>. We recognize an adequate prosecution of the Public Ministry in the case of the suspected deaths caused applying torture in the dungeons of the headquarters of the CICPC the Scientific

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53 MINISTERIO PÚBLICO: Seis años construyendo otro Ministerio Público. Discurso de la Fiscal General ante la AN [en línea] <<http://bit.ly/sAgAsT>> 09.08.07.

PUBLIC MINISTRY: Six years building other Public Ministry. Speech of the General Attorney to the NA [online] <<http://bit.ly/sAgAsT>> 09.08.07.

54 Although the slaughter of El Amparo occurred in the same decade, there is a little political will shown by the Public Prosecutor for investigation. Such situation may occur because there are involved officials that now occupies or recently occupied positions in the State structure. On the other hand, PROVEA has requested to the Cantaura case the blocking of deputy immunity for Roger Cordero Lara (PSUV) because his confessed participation in the events.

55 The monitoring conducted to the website of the Public Ministry it was observed the performance relatively quickly in the investigation of several cases where police officers and military officers are involved in violations to the right to life.

police of Venezuela, located in El Rosal, Caracas.<sup>56</sup>.

The NA in turn promulgated the Law for Punishment of Crimes, Disappearances, Torture and other violations of Human Rights for political reasons in the period from 1958 to 1998. The investigation and punishment for violations that occurred in the past has been to finish a debt with the families of the victims and the survivors, this is why we value the law as a positive one. We believe that the fight against the past impunity should serve to advance in the fight against impunity for the Human Rights violations that occurred after 1998. The reports made by NGO defenders of Human Rights, the Prosecutor and the Office of Public Defense confirmed that after 1998 there has been a significant number of serious human rights violations: torture, forced disappearances and executions, among others<sup>57</sup>.

Moreover, the National Executive continued advancing in the process of building a new police model which the respect for human rights is the transverse axis of the whole process. On the occasion of the UPR, in its report, the Venezuelan State said:

*"With this purpose it was established in 2006 the National Commission for Police Reform (Conarepol), which had as an order the construction of a new police model that could be adequate to the constitutional norms, international principles of human rights protection and the integration of the requirements to obtain an equal police service to all the population..."*

"The hard and scientific work performed by the Conarepol led to a rigorous analysis of the characteristics of the all police corpses, the analysis of victimization surveys, the public consultation on the demands of the community about this issue, and a set of recommendations, giving a path to follow in the year 2009, to the Organic Law of Police Service and the Bolivarian National Police and the Code of behavior for civil or military officers who accomplish police functions in the national, state and municipal areas"<sup>58</sup>.

The progress to the present moment with the police reform process indicates that there are reasons to be optimistic in relation to reduce progressively human rights violations sometimes perpetrated by law enforcement officers and officials and in the cases in which they could occur, there could be easier the possibility to access to better investigation process and to fair punishment.

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56 On March 26<sup>th</sup> 2011 three people died in the dungeons of the Scientific police force. Witnesses stated that these people were tortured to death. The Public Ministry investigations were made promptly and four officers and a pathologist who allegedly altered the results of the autopsy were charged for those actions.

57 In 2007, in the report to the National Assembly, the General Attorney recognized that between 2000 and February 2007, MP in the Country had registered 6,068 cases of so-called "fightings or executions", it means almost a thousand executions per year.

58 Este Informe del Estado puede ser consultado en el link <<http://bit.ly/ozuYkN>>  
This State Report can be viewed at the link <<http://bit.ly/ozuYkN>>





