



The Venezuelan Program of Education and Action on Human Rights, PROVEA is pleased to present its third International Bulletin.

This time, in the global topic, we analyze the situation of labor unrest and difficulties being faced by independent unions during negotiations of collective bargaining agreements.

In specific topic will address the complaint of the American Convention on Human Rights, which made Venezuela, this denunciation will take effect on September 10. In this same topic will take the opportunity to ask the government to give up its claims in this matter.

In the conjuncture topic, we refer to the criminalization of social protest through the application of national safety standards and the recent Venezuelan anti-terrorism law.

Our newsletter is available in Spanish, Portuguese, English and French on our website <http://www.derechos.org.ve>. We welcome your suggestions and comments to the e-mail boletin@derechos.org.ve.

Want to know the 20 human rights landscape in the **past 15 years in Venezuela**? See our special report "15 years on human rights: social inclusion, political exclusion"

> **GLOBAL TOPIC**

Labor rights are in arrears

There is a contradictory situation of labor rights in Venezuela. On the one hand, policies that generate positive results and on the other, policies that violate rights and affect the level of life of men and women workers.

For about five years, PROVEA registered in its Annual Report on the Situation of Human Rights in Venezuela that the demonstration on the breach of labor rights in the country has grown. Meanwhile, figures from the Venezuelan Observatory of Social Conflict, recorded in May 2011 presented a sustained upward trend of these protests, a trend that continued in 2012, totaling 2,256 labor claims manifestations within a general context of 5,486 peaceful protests. The most repeated demands are the discussion and signing of collective agreements in the public sector, followed by the appropriate wage claim and reinstatement to arbitrarily dismissed workers and trade unionists.

In a country where the state formally employed 2,491,476 people, according to the National Institute of Statistics (INE), it is extremely important to update the collective agreement on working conditions. And in this regard, Venezuelan state policies are not consistent. The State employs discretionary criteria in his performance. Since 2004, the main trade union organization representing Venezuelan state officials (the National Federation of Public Sector Workers (FENTRASEP) has not achieved the recognition of his directive by the National Electoral Council. This prevents them from discussing and conclude collective agreements. In Venezuela, union elections required the endorsement of the National Electoral Council (CNE) until May 2012 when it came into force a new Labor Law. A Similar situation



Photo: correodelorinoco.gob.ve

occurs in most health sector unions, and in the federation of faculty associations, which maintains a collective labor dispute since May 2013 that led to the suspension of activities at several universities.

The exclusion for political reasons, also affects collective bargaining, because in Venezuela the government authorities recognize, discuss and sign agreements with unions that have managers who are wholly or largely in favor of the government. Such is the case of the Petroleum Federation (FUTPV), whose secretary, José Bodas, was excluded from the negotiation of the

collective agreement by not supporting the government. Another example of political exclusion is military criminal prosecution of union leaders for exercising their constitutional right to protest and the right to strike. One emblematic case is the arrest of General Secretary of “SINTRAFERROMINERA,” Ruben Gonzalez, for 18 months as well as the continuation of a trial that keeps the union leader on probation. Ferrominera del Orinoco is the main iron processing company located in the south of the country. This company was militarized the 06/13/13 to pressure their workers and the union to suspend a strike [for labor claims](#).

In contrast to the collective rights situation in the public sector, the annual report 2011 of the Ministry for Labor and Social Security (MPPTRASS) indicates that 452 collective agreements were signed benefiting 742 647 workers. Of all collective agreements signed, 131 belonged to public, according to the [2012 Report conducted by PROVEA](#). For its part, the Ministry’s annual report, also notes that 147,000 people joined social security, these people became old-age pension beneficiaries. Security conditions in workplaces also improved in the private sector.

In 2012 it was not possible to collect official data on this subject. There are difficulties in access to information from government agencies on their own management. While National

Tips

- By April 2013 a total of 1,086,681 people were unemployed.
- The minimum wage in May 2013 was Bs 2.457,02.
- The official standard food basket from May to April 2013 was Bs 2.620,62.
- The official minimum wage guarantees only cover a 93.76% of the official food basket.
- The food basket according to unofficial estimates is Bs. 4.284,84.
- The minimum wage covers only 57.34% of the unofficial food basket.

Institute of Statistics (INE) data indicate a decline in unemployment in the country, (in April 2013 stood at 7.9%), the purchasing power of wages fell dramatically as a [result of inflation](#), which in May was 6 %. The socio-economic situation continues to generate protests to demand labor rights. At the same time the State prevents dialogue, disrespects freedom of association, this has been the source of [several complaints to the Committee on Freedom of Association of the International Labour Organization](#) (case numbers: 2763 and 2827).

> SPECIFIC TOPIC

The denunciation of the American Convention on Human Rights: setbacks and uncertainties

The Venezuelan government denounced the American Convention on Human Rights (CA) on September 10, 2012. The possibility of denouncing this international treaty is laid down in Article 78. The main consequence of this claim is that cases whose initial events occurring after September 10, cannot be taken to the Inter-American Court of Human Rights. Meanwhile, The Inter-American Commission on Human Rights, will continue to hear cases after that date, because Venezuela will remain part of the OAS.

Under the institutional weakness of the Venezuelan judicial structure, international bodies have been for many victims the last hope for truth, justice and reparation.

The Venezuelan State denouncing the Convention seriously weakens the protection of human rights in Venezuela, generating a protection gap. Indeed, the United Nations system lacks jurisdictional instances as the Inter-American Court of Human Rights and also, at the regional level, the other instances of integration, especially Mercosur and Unasur, just have some construction proposed in this matter. The Venezuelan state in its [note of denunciation](#) accused the Inter-American System to avoid their own change and transformation, unlike the United Nations system that has come to rethink itself and favoring changes in its own structure and response forms. It also accuses the Inter-American system to accept complaints against Venezuela



Foto: Lapatilla.com

without the exhaustion of domestic remedies (Article 46.1 CA), but with omissions regarding events that occurred before 1999, also, to protect through their decisions to coup and terrorists and to affect state sovereignty.

The note of denunciation was the last link in a chain woven from different branches of the Venezuelan state. Since the Supreme Court of Justice (TSJ), that in a 2008 decision declared unenforceable a judgment of the Court HR, and invited the National Executive to “expose” the Convention by a “[clear usurpation of powers](#)” committed by the Court. President Chavez and his subordinate officials meanwhile accused the Inter-American Court and Commission to act as mafias and in complicity with those who destabilize Venezuela’s democracy. But, officials who

should defend human rights and act independently under the Constitution joined the chorus of the Executive, as did the Ombudsman and the Attorney General's Office proposing the creation of a Council replacing the current Inter American system.

Several activists and human rights organizations filed a nullity action in the Constitutional Chamber of the Supreme Court of Justice against the denunciation of the Convention. This action is based on violations of constitutional rules and principles relating to the hierarchy and constitutional supremacy of treaties on human rights under international law and protection of human rights in states of emergency, and human rights as a principle governing the Venezuelan State's international relations and the principle of progressivity or progressive development of human rights, enshrined in Articles 23, 333, 339, 31, 152 and 19 of the Venezuelan Constitution. This nullity action has not yet been resolved by the Constitutional Court, which was the same as that suggested to the President that he should withdraw from the Convention.

The Office of the UN High Commissioner for Human Rights, referring to the denunciation of the Convention, invited the Government to avoid taking actions which result in "weaken the protection of human rights, not only in Venezuela but also with potentially negative ramifications for people across the

Amnesty International has launched a campaign inviting to exercise virtual activism against the denunciation made by the Venezuelan government on the American Convention on Human Rights.
We invite you to join the campaign

continent". Meanwhile, intellectuals, academics and human rights advocates have asked the Venezuelan State to desist from the act of denunciation before September 10, 2013. The clock is counting down and for the government of President Maduro (who signed the note of denunciation of the convention when he was chancellor in 2012), it is still possible to rectify and reverse the decision, which could generate a protection gap for Venezuelan population. However, this change of direction, a decision based more on a political agenda, which in a human rights, should be encouraged by the voices of the international community, especially the regional community and the peoples concerned about the future of human rights in Venezuela. In particular, human rights organizations in the region should join the voices of protest in solidarity with Venezuela and potentially negative ramifications on the continent. It should take into account previous denunciations of the American Convention by the Governments of Trinidad and Tobago and the government of Alberto Fujimori in Peru.

> ISSUES ON NATIONAL CIRCUMSTANCES

Criminalization of social protest in Venezuela

Since 2004 The Venezuelan Program of Education and Action on Human Rights, PROVEA, has been warning about a progressive policy of criminalization of protest in the country. Article 68 of the Constitution of the Bolivarian Republic of Venezuela guarantees the right to peaceful demonstration: "Everyone has the right to hold public demonstrations, when they are peaceful and unarmed". Also prohibits the use of firearms or considered toxic gases to control peaceful demonstrations.

Despite the constitutional recognition, since 2004 the National Executive has been adopting different laws that restrict the effective exercise of this right. In 2005 the Venezuelan Penal Code was amended, establishing a penalty of between 4 and 6 years in prison for those who close or obstruct roads, one of the historical tools of Venezuelan popular protest movement. Also imposes a fine of 100 to 500 tax units when there is disruption of public meetings through "screams, shouts or loud means" incorporating three to four months' imprisonment if the act has been committed against a public official.

Two years earlier, in 2002, the Organic Law on National Security was passed, which created the position of "security zones" and prohibiting disorderly conduct or the conduct of demonstrations there. As security zones have been declared military installations, sea shores, basic industries, strategic and essential services, among others. The NGO "Control Ciudadada-



Yendrick Sánchez is transferred to the prison of Coro. Photo: El Universal

no" (Citizen Watchers) has calculated that 32% of the national territory has been called safety zone.

In 2009 PROVEA estimated that a total of 2,400 social activists were on probation in court after being deprived of their

liberty in the context of a demonstration for offenses under the Criminal Code for “safety zone violation.” In addition, many of the cases were prosecuted for crimes present in laws to ensure access to food and combating commodity shortages: The “Law for the Defense of People’s Access to Goods and Services” and “Special Law of Popular Defense against hoarding, boycott and any other conduct affecting the consumption of food or products subject to price controls.” What is the crime? That the closure of streets or protest can prevent food distribution qualified as “essential”.

New threats are added to these laws that have been hindering the right to protest in Venezuela. The Reform of the Organic Law of the Bolivarian National Armed Force, in 2009, creates the so-called “combat corps” in Article 50, militarized units in public and private companies whose objective could be to prevent the stoppage of production, which according to Provea prevent the right to strike using the “fighters” as scabs or shock groups. This militarization of labor conditions seems ratified with the announcement by President Nicolas Maduro for the creation of so-called “workers’ militias”, held last 05/23/13: “The working class is increasingly respected and will be increasingly respected if workers militias reach 300.000, 500.000, one or two millions of men and women workers, armed and ready to defend our country.”

In May 2012 the National Assembly passed the “Law against

Organized Crime and Terrorism Financing”, a law that PROVEA denounced as a potential violator of human rights because of its ambiguous definition of “terrorist act” and “organized crime”. The Attorney General of the Republic, Luisa Ortega Díaz, requested on 16.04.13 that the law was applied against persons deprived of their liberty, including teenagers, in the context of demonstrations by the results of the national elections of April 14. The most emblematic case of the application of the Terrorism Act has been to Yendrick Sanchez, a young man who interrupted the inauguration ceremony of President Maduro last 15.04.13. However, his motives were not political but exhibitionists, having interrupted other sporting, cultural and political events in the past.

It may show that the Venezuelan State has progressively been weaving a restrictive legal framework for social protest. However, despite the criminal trial involving the use of military justice, social protest in the country has not stopped. According to figures of the Venezuelan Observatory of Social Conflict during 2012 there were 15 daily protests across the country, for a total of 5,483 claims, the highest figure in the entire government term of former President Hugo Chavez. It seems that the protests will continue to grow in the country, for which we need a democratic policy of maintaining public order, with the ability to keep channels of dialogue with the protesters for meeting their demands.



It is available the 2012 Annual Report on the situation of Human Rights in Venezuela, may be consulted on the website of PROVEA: www.derechos.org.ve.

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