



## **PEN International - NGO in Consultative Status with ECOSOC**

### **Contribution to the Universal Periodic Review (UPR) 12th Session of the UPR Working Group (October 2011)**

#### **Report on attacks and restrictions on freedom of expression and opinion and on the free circulation of ideas and books in Venezuela, produced by PEN Venezuela**

**March 2011**

The Venezuelan PEN Centre is grateful for the opportunity it has been given by the Office of the High Commissioner for Human Rights to express its deep concern regarding the actions promoted by the Government of the Bolivarian Republic of Venezuela, in a clear breach of the Constitution of the Republic, the International Covenant on Civil and Political Rights and the Inter-American Convention on Human Rights, disturbingly attacking and limiting freedom of expression and opinion, and the free circulation of ideas and books and journals in our country.

A report on **freedom of expression in Venezuela** must begin by saying that in the last five years limits have been placed on citizens' right to access information on various aspects of national life, through different controls already in force, and by certain laws which are currently being debated by the National Assembly, with the threat that these could be approved directly by the President of the Republic using the Enabling Law which, for the fourth time in 11 years, authorises the President to legislate by decree on matters which affect all sectors and citizens of the country. Approved for a period of 18 months until June 2012, it transfers this power to one man, excluding all civil sectors involved and bypassing legitimate legislation by democratically elected deputies.

The Venezuelan government is known for maintaining apparently democratic behaviour which complies with the law, whereas in fact there are constant breaches of political, social and human rights. This causes considerable confusion, both for foreign observers and for the country's citizens. We can confidently state that the current government in Venezuela is following the guidelines for neo-dictatorships, which show formal elements of democracy, such as elections, but in practice adopt authoritarian behaviour.

The field of **freedom of information** has, for several years, recorded various irregularities which we will mention without addressing them all. The **restrictions which prevent journalists from accessing sources from state organisations to find out information on public policies**, have worsened considerably in 2011, because it is absolutely forbidden for the private media to attend national political events. This is the case for the National Assembly, whose debates we can only hear about through state television, which completely biases the information; it limits it because they often only record the deputies sympathetic to the Government, and prevent journalists from having free access to the building so that they cannot freely interview the deputies, either in government or in opposition. This has reached such extremes that in a meeting with the Federal Council of the Government, the private media were asked to leave the room when an opposition governor took the floor (Henry Falcon, of the *Patria Para Todos* party, previously supportive of the government, now against). Preventing journalists from commercial TV channels from accessing official sources

absolutely restricts commentators' right to inform and the people's right to receive information on aspects of public administration which should be in the public domain.

Secondly, **private communications companies (radio, TV, international TV circuits, internet, etc.) all depend on the State granting and renewing their operating licence. In practice this has turned into self-censorship**, because they are constantly in danger of losing their licence if the government believes the information they are transmitting is unsuitable.

We should point out that **news bulletins on the official channels - Venezolana de Televisión (VTV, channel 8), Televisora Venezolana Social (TVES: a channel transmitting on the signal of the former private channel Radio Caracas Televisión or RCTV, channel 2, since its licence for the signal was revoked in 2007) and Fundación Televisora de la Asamblea Nacional (ANTV) – have also become a space for propaganda**, where there is no place for real journalistic accounts which supply balanced versions of newsworthy events, seeking the opinion of all the people or parties involved in the event. Watching the news on any of the government channels is to be misinformed by media manipulation, which presents events showing only one side of the coin. In Venezuela today, not even by watching the news on different channels can people get a balanced and diverse view of what is happening in the country or in the world, because the informative agendas of the government and private media, and their versions of events, are so different that there is no way to find any middle ground which comes close to balanced information. On top of all this there is the endless abuse of his dominant position by the President of the Republic who compels public and private broadcasters to retransmit his speeches “simultaneously”, which has already happened on more than 2,000 occasions, for some 3,750 hours, at a rate of 56 minutes per day<sup>1</sup>, which is the only case of its kind in the world. The three factors reported above seriously distort the outlook of communications in Venezuela and make it less democratic by the day, with no way of predicting how these media will survive if they remain true to the cause of democracy.

Another aspect is **the discretion with which the Government manages statistics in various areas**, because this is also an attack on the people's freedom of information. By way of example, in the area of health, the Ministry of Health's “*Boletín Epidemiológico*” (Epidemiological Journal) has not been published since July 2007. The Journal was suspended by the then Health Minister Jesus Mantilla, who decided that epidemiological information would no longer be in the public domain because, in his opinion, the figures were being used and interpreted for political purposes. Therefore neither the doctors nor the people know the real figures for illnesses, or the damage caused by epidemics of diseases which, having been controlled and even eradicated in the country, have reappeared due to a lack of health checks and maintenance of vaccination campaigns, as is the case for tuberculosis and leishmaniasis (leprosy). Similarly, the “Penal and Criminal Investigations Department”, responsible for providing official figures on deaths caused by violence, in a country with levels of criminality as high as Venezuela, has stopped providing them. According to the Vice-president, it is not State policy to give out “death” figures.

**Criminal proceedings are commonly used against journalists who criticise official policies. In 2010, two journalists endured long periods of provisional detention** for charges which were apparently invented and a third received a criminal sentence for supposed defamation, as below:

- **Leocenis GARCÍA**, editor of the journal *Sexto Poder* and a journalist for the newspaper *Reporte Diario de la Economía*, was provisionally detained for 26 months, from 3 May 2008 to 6 July 2010 for allegedly causing damage to property, possessing a weapon without a

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<sup>1</sup> Source: Public Communiqué “La Alianza Por La Libertad De Expresión Al País” (Alliance for freedom of expression for the country) (Caracas, 23/01/2011)

licence, and resisting arrest. It is feared that this case could, in fact, have come about as a result of Garcia's critical journalism, including suspected corruption in the national oil company, Petróleos de Venezuela (PDVSA). Garcia maintains that he was tortured while he was in police custody, and his lawyer has cited a series of irregularities in the legal case against him.

- **Gustavo AZÓCAR**, correspondent for the national newspaper *El Universal*, blogger and host of a political debate programme who was detained for nearly nine months awaiting trial for alleged corruption and fraud in the allocation of an advertising contract in 2000. In March 2010, he was sentenced to two and a half years in prison, but was released on parole. Azócar, who is actively involved in the opposition movement, was excluded from standing for public office.
- **Francisco "Pancho" PÉREZ**, columnist for the daily newspaper *El Carabobeño*, was found guilty of defamation on 9 July 2010 on the basis of articles in which he said that a mayor had appointed members of his family to public office and was sentenced to three years and nine months in prison. Perez was allowed to serve his sentence under house arrest but was forbidden from working in journalism for the duration of his sentence and was fined 94,000 Venezuelan Bolivares (approx. USD \$21,000). The ruling was annulled by the Court of Appeal on 30 November 2010.

**In the area of freedom of information through books and journals, the situation in Venezuela has deteriorated due to policies on importing these items.** There is no law which prohibits importing or selling any type of books, and in this sense the Government proclaims that there is full freedom of information, but in practice the facts show a constant reduction in reading and information options for Venezuelans. The high cost of importing books has had the tangible effect of many noted book shops and distributors closing down, for the following reasons:

- For a book importer to be able to bring foreign books into Venezuela, they must show a Non-Production Certificate, that is, proof that these books were not produced in the country. The processes and procedures are so difficult that once they have been properly followed there will not be enough time left to buy the books because the certificate is only valid for six months.
- For buying books abroad you have the right, theoretically, to buy them with official dollars, but, since this purchase is impossible because the office responsible for giving them out will not authorise it in time, you are obliged to use unofficial dollars, which assumes such a high cost that it makes them very difficult to sell. The only way foreign books easily enter Venezuela is when they are bought simply and directly from a distributor or bookseller who brings them into the country in their luggage.

- Books were removed from the list of priority goods for obtaining preferential dollars, as foreign exchange controls are maintained in the country.

This situation has impoverished and this indirectly placed controls on the range of books available in the country, since very few contemporary international titles are accessible and because of the high costs very few people can buy them, which has turned the book into a “luxury item” rather than a “cultural asset”. This is also the case for scientific publications, which means that universities and other research institutions are falling out of step with international knowledge. The reasons are the same: they do not have access to preferential dollars which allow them to import them more cheaply, and as this access is also very limited for individuals, teachers and researchers, they have even had to cancel their subscription to specialist international journals.

Restrictions on importing books and journals place the country in an unprecedented position of isolation and backwardness, also affecting the education sector from preschool to university, which means that we have no researchers, no updating of knowledge and a lack of a diverse and creative education system which respects differences. And this is not just a worry for those committed adults who responsibly dedicate themselves to the cultivation of ideas and the arts, it is also a concern for children and young people who embody an uncertain future – where these restrictions continue to be imposed – and the real threat of imposing a “single mindset” and the “penalisation of dissent”.

Another important aspect is the **closure of cultural and community centres (government-run or private)** because their budgets have been cancelled, their missions or visions changed, and / or other measures have been taken. Writers, researchers, copy editors and editors have been affected by redundancies and the closure of sources of work in these centres. A significant and emblematic case is that of the *Fundación para la Cultura Urbana* (Urban Culture Foundation), a private organisation which for 10 years did important work disseminating ideas through conferences and publications, and by inviting intellectuals from abroad. As this Foundation was sponsored by a financial institution which was placed in administration and dissolved (for alleged fraudulent acts, still before the courts), the Administrators decided to take over the Foundation as well, even though it was formally an independent organisation. On 20 July 2010, by order of the National Securities Commission, the Foundation’s headquarters was closed down. In the process more than 30,000 books were “seized” or “sequestered” without their authors being able to gain access to them.

Another case: in May 2009, the **Ateneo de Caracas**, an arts and sciences association which is the country’s leading private cultural institute founded 70 years ago, lost its premises, a building in central Caracas owned by the State, because it had not renewed its legal permit to occupy it after 26 years. The same situation has been experienced by theatre and dance groups, which have not fallen in line with the government, restricting or inhibiting the right to work of scriptwriters, screenwriters, theatre directors, editors, and writers in general who worked in the various departments of this institution. It is also important to point out that the government finances certain publishing houses, as well as cultural institutions, but they are all subject to rigorous control which means they can only publish and sell books, and distribute cultural information which comply with the Marxist ideological leanings of the government.

Within the loss of freedom of information in Venezuela today, we can also mention the case of the **Asociación Venezolana para una Educación Sexual Alternativa (Avesa)** (Venezuelan association for alternative sex education), an institution which is more than 30 years old, dedicated to providing information and guidance for citizens, especially women, on methods of family planning and what to do in the event of domestic violence and rape. Its closure, which took place in February 2011, is directly due to the fact that the Ministry of Health, with no warning or explanation, stopped sponsoring the institution, without transferring to it the funding approved in the national budget for

2010, and having excluded this association from the budget for this year, which represented the main part of Avesa's operating funds, supplemented by contributions and donations from some private sponsors. Avesa helps people with very little means of support, whom it offers free assistance on this sensitive issue, which is why its closure is a considerable loss of resources.

Another important case we should mention is **the change in the use of the country's museums**, which have been significantly affected by these policies. Many of the most important museums in Caracas, such as the **Museo del Oeste "Jacobo Borges"** in the densely populated area of Catia, which runs cultural and literary projects specifically targeted at women, young people and children, has been stripped of its contents (with no information on the destination of the works, and books from the documentation centres), closing its doors to the public, and has temporarily been converted into refuges for victims of the recent flooding, despite not having suitable facilities for housing families, and without taking the proper precautions for safeguarding the Nation's artistic heritage which had been preserved there. Another significant case, which affects Venezuela's entire scientific community, researchers in the arts, but also historians and anthropologists, is the emblematic case of the **Museum of Natural Sciences**, one of the oldest in the country, which informs its visitors that anthropology is a Eurocentric and racist science which should not continue to be studied.

**Recommendations:** The Venezuelan PEN Centre urges the Venezuelan government to:

- Protect the right of citizens to access information on diverse aspects of national life; revise the restrictions which prevent private media journalists from accessing sources from state organisations; ensure that the media presents a balanced and diverse view of what is happening in the country and in the world; and ensure the publication of official figures in various areas such as health and crime;
- Refrain from bringing unjustified criminal proceedings against journalists who are critical of the government and official policies; when proceedings do go ahead, ensure that the accused receives a fair trial and is not given a disproportionately heavy sentence;
- Reassign books as priority items to be imported into Venezuela and ensure that the administrative processes for importing books are revised to avoid delays and cost increases which have a negative impact on the right to read and to be informed;
- Stop closing cultural and community institutions via state action, and revise the closure of institutions such as the *Fundación para la Cultura Urbana*, *Ateneo de Caracas* and the *Asociación Venezolana para una Educación Sexual Alternativa*; stop changing the use of museums for apparently political purposes.