Human Rights Committee
114th session

Summary record of the 3166th meeting
Held at the Palais Wilson, Geneva, on Tuesday, 30 June, at 3 p.m.

Chairperson: Mr. Salvioli

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Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Fourth periodic report of Venezuela (continued) (CCPR/C/VEN/4; CCPR/C/VEN/Q/4 and Add 1)

1. Ms. Ochoa (Bolivarian Republic of Venezuela), replying to questions posed by members of the Committee, said that several ministries had been established in 2008 to design social protection policies and develop methods of public consultation aimed at guaranteeing the constitutional principle of social co-responsibility based on citizen participation in all matters affecting the population.

2. One result had been the creation of the Neighbourhood Children Mission to develop procedures for dealing with violations of children’s rights and devise measures for child protection. The phenomenon of street children had been virtually eliminated as the result of Government measures to deploy street educators and multidisciplinary teams with the aim of reintegrating children in society. Community centres for the comprehensive protection of children at risk had been set up with the participation of mothers from the communities concerned under the guidance of a multidisciplinary technical staff. The Mission formed part of a preventive pedagogical strategy central to a revolutionary political process based on co-responsibility for solving the major problems confronting Venezuelan society. Another innovation had been the creation of a national system providing free treatment for addictions, available to young persons as well as adults. The physical and mental integrity of any young person suffering from substance addiction and undergoing treatment in a specialized centre was guaranteed through policies established by the National Council for Children’s and Adolescents’ Rights (IDENNA). Additionally, following extensive public consultation and as part of the drive to eradicate material and spiritual poverty, legislation had been amended to focus on preventive rather than punitive measures for children in conflict with the law.

3. The Government had recognized the need to promote policymaking relating to the lesbian, gay, bisexual, transsexual/transgender and intersex (LGBTTI) community. Discussion forums were being created to confront the discriminatory attitudes that were embedded in Latin American culture and in religious and other institutions. The participation of the general public was critical, and the President had met with representatives of relevant organizations in March 2015 following the submission to the National Assembly of a bill to support marriage for all. People’s councils had been convened in close cooperation with the LGBTTI community to facilitate public debate and formulate an agenda regarding future legislative and institutional measures. It was important to note that legislating on the matter would require a reform of the civil registration system, entailing an amendment to the Constitution through a national referendum. The country currently had a very wide-ranging series of legislative texts prohibiting discrimination against persons in general, and protection measures were in place for the LGBTTI community. A unit dedicated to LGBTTI matters had been set up within the Ombudsman’s Office and training was provided to the national police concerning crimes relating to gender and sexual orientation.

4. Mr. Devoe (Bolivarian Republic of Venezuela) said that, as a result of governmental efforts, levels of violence in the Venezuelan penitentiary system had shown a dramatic decrease since 1998. A ministry responsible for penitentiary affairs had been instituted and a policy introducing a new prison regime had been developed, focused on the rehabilitation of detainees. The new regime had been introduced in 87 per cent of Venezuelan prisons with the remaining prisons in a phase of transition. The
new policy promoted national values through discipline and physical exercise and encompassed a comprehensive system to control the movement of weapons, which had been virtually eradicated in prisons. The new system bore no resemblance to a military regime and no training was given in the use of weapons or other military techniques.

5. It could not be said that Venezuelan prisons were the most violent in Latin America. Recent statistics in fact showed a steady decrease in violence in penitentiary units, with most of the 111 cases of deaths reported in 2015 having occurred in prisons in transition to the new regime. Furthermore, the new penitentiary regime addressed issues of overcrowding, reconstruction and refurbishment with a view to ensuring adequate living conditions for detainees. Current prison capacity stood at over 51,000 places and it was expected that by the end of 2015 it would increase to more than 53,000. The Rodeo II Capital Detention Centre had been inaugurated in December 2012 for the detention of foreign nationals in accordance with international standards and guaranteed, inter alia, communication with officials in the detainees’ own languages.

6. The provisions of the Criminal Code classifying abortion as an offence were not applied in practice in the State party, and no investigations or prosecutions had taken place in that regard. Under the Gran Misión a Toda Vida Venezuela programme, a comprehensive reform of the Criminal Code was envisaged, to include wide public consultation on the issue of abortion. Lastly, in the framework of the National Human Rights Plan, a National Human Rights Council composed of high-level officials had been set up in April 2014 with the aim of coordinating and implementing national human rights policies.

7. **Ms. Calderón Guerrero** (Bolivarian Republic of Venezuela) said that, under the Constitution, judicial power was vested in the Supreme Court, which was an independent institution with budgetary autonomy. The most recent national competitive examination for the recruitment of judges had been held in 2006 and there were currently 2,331 judges in Venezuela, of whom 34 per cent held tenured positions. In general, the number of judges had been increasing since 2005, corresponding in part to the establishment of new courts with specialized jurisdiction to which new judges had been assigned. A new examination for the recruitment of judges could take place following the adoption of a bill submitted to the National Assembly by the Supreme Court to regularize judicial functions, covering conditions of recruitment and the standardization of tenure. The competitive examination required significant administrative planning and consisted of rigorous psychological, medical, written and oral tests.

8. A commission had been set up in 2000 to overhaul the judicial system in conformity with the provisions contained in the American Convention on Human Rights. Preliminary hearing judges were no longer appointed by the Ministry of Justice, reflecting the independence of the current judicial system. The Judicial Disciplinary Court was fully functional and had heard 123 cases to date, while the Inspectorate-General of Courts was responsible for supervising the activities of judicial officials. Judges were entitled to appeal decisions of the Judicial Disciplinary Court, including through the amparo procedure, and 25 judges had so far been reinstated following appeal. Both permanent and temporary judges enjoyed employment stability, full exercise of their labour rights and entitlement to retirement benefits. The National School of the Judiciary was responsible for the basic and continuous training of judges, all of whom had received specialized training.

9. Regarding the case of the lawyer José Amalio Graterol, the trial judge in the state of Vargas had requested him to leave the court room, where he had been defending a murder suspect, in view of his constant interruptions and lack of respect for the court. Since Mr. Graterol had continued to disrupt proceedings, he had been detained and
sentenced to a six-month prison term for obstructing the course of justice, in accordance with the law.

10. **Ms. Ventresca** (Bolivarian Republic of Venezuela), stressing that little attention had been paid to the rights of indigenous peoples prior to the Bolivarian Revolution, said that the 2009 Indigenous Peoples and Communities Act provided for consultations with indigenous peoples and communities before the adoption of measures concerning them. Specific regulations were currently in preparation requiring the consultation processes to be coordinated by the Ministry of People’s Power for Indigenous Peoples, established in 2007, and for them to include issues of compensation for previous failures to consult. The Indigenous Peoples and Communities Act specified that any community whose rights had been affected by the development of a project on which it had not been consulted could submit an application for *amparo*. A presidential council comprising a national network of indigenous representatives had been established as a body responsible for promoting, framing and evaluating public policies. It was a forum unlike any other in the world where indigenous peoples and communities could debate directly with the Head of State regarding policies affecting the indigenous population.

11. Following centuries of neglect, huge progress had been made in the recognition of collective property rights and Venezuela’s historical debt to its indigenous peoples. Thanks in large measure to former President Hugo Chavez, 93 new collective land titles had been delivered, representing some two thirds of all applications submitted. The demarcation of ancestral lands was governed by the principle of self-demarcation and community self-identification. The process, undertaken in close and exclusive consultation with the indigenous peoples themselves, represented an ongoing political challenge and a qualitative cultural and social advance.

12. With regard to the military decree affecting the Guajira region, the Government had established a high-level special commission to strengthen the protection of indigenous peoples against the illegal mining of their lands and cross-border smuggling. It had subsequently increased financing in the Guajira region for banking, labour and other activities. The indigenous peoples were vehemently opposed to the mining activities and had expressed their total support for the Government’s actions. A comprehensive programme had likewise been drawn up for the protection of the Yukpa people. The programme focused among other things on bolstering security and territorial integrity in Yukpa-inhabited areas through an increase in government and military personnel and on improvements in the areas of work, housing and human rights.

13. **Mr. Molina** (Bolivarian Republic of Venezuela) said that, in denouncing the American Convention on Human Rights, his country had invoked the discretionary right of States parties to renounce treaties under article 78 of that Convention. In 2001, the Bolivarian Republic of Venezuela had sought to contribute to reform of the Inter-American human rights system, which it perceived to be biased and politically selective. The secretariat of the Inter-American Commission on Human Rights had endorsed a failed coup d’etat against Hugo Chavez in 2002, and the Inter-American Court of Human Rights had made a number of rulings violating the Convention. Between 1977 and 1998, the Court had issued only four rulings against Venezuela, despite the gross and systematic violations of human rights during that period. On the other hand, it had published 163 documents between 1999 and 2014 involving rulings, opinions and measures of various kinds relating to Venezuela. Moreover, the Commission had always been quick to process Venezuelan cases whereas complaints concerning other States could take years to reach the Court.

14. All NGOs in Venezuela were allowed to register as civil associations and enjoyed complete freedom of association in law and in practice. The number of such
organizations had increased significantly in recent years. They received substantial external funding for their activities, and their members left and entered the country constantly and participated in international bodies, including political forums that were in no way neutral and issued reports used as tools by the Venezuelan opposition. In the context of political debate essential to democracy, the Government challenged and contested the positions adopted by such organizations, but without recourse to harassment or persecution. In democracy, such debate was essential, as a prelude to a synthesis in the form of a majority decision. Such NGO groups did not have a monopoly in the extensive field of human rights. Venezuela, as a participatory democracy, had thousands of grass-roots organizations working critically and constructively with the State towards the full realization of human rights.

15. He deplored the pejorative labelling of pro-Government organizations, including references to paramilitary organizations or “gangs”. Certain value judgements by members of the Committee during exchanges with the delegation had been negative and selective, calling into question the Committee’s independence, trustworthiness and credibility.

16. The Chairperson, thanking the delegation for the valuable information it had provided, said that remarks by the last speaker required him to stress that the Committee was impartial and treated all delegations equally. Mutual respect between the Committee and delegations was indispensable.

17. Mr. Shany noted that, according to paragraph 248 of Venezuela’s replies to the list of issues, the National Telecommunications Commission (CONATEL) had issued thousands of warnings concerning alleged violations of the Act on Social Responsibility in Radio, Television and Electronic Media, some of which had led to administrative disciplinary proceedings. He feared that the extensive minatory monitoring undertaken by CONATEL could be more serious in its effects on media freedom than the relatively few cases in which legal proceedings had been initiated.

18. He said he would welcome a response by the delegation to concerns expressed by the United Nations Working Group on Arbitrary Detentions regarding the detention of opposition politicians, including Leopoldo López, Antonio Ledezma and Daniel Cabellos in the wake of the events of 2014. He would be grateful in particular if the delegation could respond to the 2014 decision of the Working Group concerning the procedure and charges relating to the detention of Mr. López.

19. Mr. Rodriguez-Rescia said that many of the misunderstandings that had arisen during exchanges with the Committee at the current session had resulted from a lack of official statistics. He noted in that connection that one civil society organization had reportedly made numerous requests for information relating to the Committee’s agenda, to which the State party had never responded. It was essential to improve public access to information, including for the purpose of informing the Committee’s discussions. He asked whether it might be possible for a number of United Nations rapporteurs, together perhaps with representatives of the Office of the High Commissioner for Human Rights, to be given access to official data in order to follow up in association with the State party certain outstanding questions arising from the current consultation.

20. Mr. de Frouville expressed regret at remarks by some members of the delegation suggesting bias on the part of the Committee with regard to Venezuela. Such a response to criticism by Committee members was unfortunate in that it might reflect unfavourably on the official reaction to criticism within the country itself. He repeated his request for a guarantee that nobody would be at risk of reprisals following the current dialogue. With regard to the right to legal representation for detainees, he asked for information on Marcelo Crovato, arrested and held in difficult conditions
while working as a lawyer in a place of detention, as well as on the proceedings against the prominent critic of the Government, Alfredo Romero.

21. **Mr. Politi** drew attention to article 40, paragraph 4, of the Judicial Service Act, providing for the dismissal of a judge deemed by the Appeal Court, High Court or the Supreme Court to have committed a serious and inexcusable judicial error. He asked whether such judicial errors normally involved a judge’s interpretation of the legal significance of the facts or evidence submitted to the court and whether the request for dismissal should be made by a court or whether it could also come from the prosecutor or a party to the proceedings.

22. He expressed concern at the apparent expansion of the jurisdiction of military courts to include non-military offences.

23. **Mr. Vardzelashvili**, noting that the Judicial Disciplinary Tribunal dealt with cases involving permanently appointed judges whereas the Judicial Commission dealt with all other cases, asked why such a distinction was considered necessary and whether different grounds for disciplinary sanctions or dismissal were applied to the two categories of judges.

24. **Ms. Ortega Díaz** (Bolivarian Republic of Venezuela) said that the State party would provide answers in writing to the questions raised.

25. Regarding support for victims and witnesses, during the period from 2012 to May 2015 the competent courts had approved 9,158 out of a total of 10,115 requests for protective measures. Protective measures had for example been provided to Humberto Prado, Coordinator General of the Venezuela Prison Observatory, who in 2011 had submitted a complaint to the Public Prosecution Service concerning death threats allegedly made against him.

26. The authorities were keen to engage in a constructive dialogue with human rights defenders and NGOs. She had personally held a meeting with the wife of Leopoldo López. The Public Prosecution Service had ensured that the criminal proceedings against Mr. López were fair and transparent and that his conditions of detention complied fully with human rights standards.

27. She reiterated the interest of the Bolivarian Republic of Venezuela in maintaining a constructive dialogue with the Committee.

28. The **Chairperson** welcomed the statement that the Venezuelan authorities wished to engage in a constructive dialogue with human rights defenders. He was thereby reassured that there would be no reprisals against individuals or organizations that had submitted information to the Committee.

*The meeting was suspended at 4.40 p.m. and resumed at 5 p.m.*

**Organizational and other matters, including the adoption of the report of the pre-sessional working group on individual communications**

29. The **Chairperson** invited the Secretariat to report to the Committee on preparations for the fiftieth anniversary of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights on 16 December 2016.

30. **Mr. Walker** (Secretariat) said that the Bureau of the Committee had initiated the preparatory process a year previously and that the Secretariat had submitted a concept note to the Bureau in late 2014. The Committee had appointed Sir Nigel Rodley as its focal point and the Committee on Economic, Social and Cultural Rights had also selected a focal point.
31. The proposed two-track process would consist of an anniversary celebration for the general public, especially children and adolescents, focusing on human rights education, and a celebration involving bodies such as the Human Rights Council, the General Assembly and the two Committees.

32. The High Commissioner had agreed that the celebrations should be launched on 10 December 2015, Human Rights Day. It had also been decided, following discussions within the Secretariat and with the focal points, to focus on the concept of freedom, including freedom from fear and freedom from want, which was highlighted in the Universal Declaration of Human Rights and the two Covenants. A number of important messages would thus be underscored, such as the indivisibility of the Covenants and the interdependence of different rights and freedoms.

33. The Secretariat would set up a website on the anniversaries and would prepare a video later in the year. There were plans to organize a poster competition for schools on the theme, to develop a human rights game for children and to issue a booklet on the Covenants entitled “Rights in Your Pocket”.

34. The Secretariat was seeking to identify positive stories on the impact of the Covenants and the Committees’ work, for instance human rights remedies provided through communications or reporting procedures. The two Committees’ summer sessions would overlap in 2016, permitting a three-hour or six-hour joint meeting to discuss topics for the anniversary celebrations.

35. There were plans to hold an event during the Human Rights Council session in March 2016 and at some point during the General Assembly session. The Human Rights Council would adopt a resolution to that effect at the end of its current session.

36. Sir Nigel Rodley, speaking as the Committee’s focal point, commended the Secretariat on its work.

37. The anniversary celebrations could play a key role in challenging the anti-human-rights rhetoric that was being employed in many societies, especially in the media and among politicians. It was essential to promote a more positive discourse and to highlight the accomplishments of the past half century.

38. Mr. Shany asked why the Secretariat had focused on freedom from fear and from want. He emphasized the importance, for example, of freedom of worship. The notion of dignity was also highlighted in the International Covenant on Economic, Social and Cultural Rights.

39. He strongly recommended holding a session of the Committee in New York to mark the anniversary. The decision to confine its sessions to Geneva perpetuated the Committee’s marginalization from mainstream international politics.

40. Mr. Fathalla said that 115 heads of State and a large number of NGOs would be attending the Summit for the Adoption of the Post-2015 Development Agenda to be held from 25 to 27 September 2015 in New York. The 2015 session of the General Assembly would begin immediately afterwards and the high-level segment would end just before the Committee’s October session. It would therefore be highly appropriate to hold that session in New York.

41. The Chairperson said he feared it would be impossible to reschedule the October session at such a late stage.

42. Ms. Cleveland expressed support for the idea of holding a session in New York. Three faculty members of Colombia University had been members of the Human Rights Committee and the University would probably be willing to hold a parallel event with academic content.
43. **Mr. Rodríguez-Rescia** also expressed support for the proposal to hold a session in New York with a view to enhancing the visibility of the celebrations and forging links with regional mechanisms.

44. **The Chairperson** noted that the Committee invariably submitted its Annual Report to the General Assembly at its October session.

45. **Mr. Politi** said that the Committee should insist on holding one session in New York in 2016.

46. **Sir Nigel Rodley** said that the fact that the Secretariat was able to unilaterally determine where the Committee should meet constituted a serious structural problem. He was in favour of scheduling a session in New York to coincide with that of the Third Committee of the General Assembly. That would enable Committee members to meet with diplomats involved in the work of the Third Committee and locally based NGOs.

47. **Mr. Fathalla** said that the Secretariat had ruled out Committee sessions in New York on financial grounds. However, in view of the fact that 2016 marked the fiftieth anniversary of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, the Committee could perhaps invite the Secretariat to seek funding for a session in New York to coincide with the October meeting of the General Assembly.

48. **The Chairperson** said that the two anniversaries provided an opportunity to launch a major campaign promoting universal ratification of both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. In addition, as pointed out by Mr. Fathalla, 2016 marked the fiftieth anniversary of the Optional Protocol to the Covenant, which should perhaps be reflected in the celebrations.

49. **Mr. Walker** (Secretariat) said that freedom had been chosen as a topic because a number of campaigns on discrimination had already been launched. The “four freedoms” had been selected as a basis for the anniversary celebrations because they had served as a springboard for the Universal Declaration of Human Rights and the Covenants, would attract media interest and would allow for a wide-ranging debate on topics of relevance to both Covenants. Other freedoms, such as the freedom from hunger, had also been included.

50. The Office of the High Commissioner for Human Rights (OHCHR) currently had no regular budget funding for a session outside Geneva and the limited level of extrabudgetary funding available to the Human Rights Treaties Division meant that it would be impossible to send Secretariat staff to New York for a Committee session.

51. Efforts had already been made to reach out to civil society organizations and academic institutions that might wish to take part in the anniversary celebrations and the involvement of Columbia University in that regard would be most welcome.

52. The Office was considering focusing on the ratification of and reporting under the two Covenants as a part of the Annual Treaty Event of the General Assembly in September 2016. However, Denmark was currently spearheading a 10-year campaign promoting the ratification of the Convention against Torture, which could clash with any fresh efforts to encourage universal ratification.

53. **Sir Nigel Rodley** asked the Secretariat to give some indication of the extra cost involved in holding a session in New York. Governments could be requested to provide funding for that session.
Provisional agenda for the meeting with States parties (item 1)

54. The Chairperson said that there were six items on the provisional agenda for the meeting with States parties: adoption of the general comment on article 9; update on working methods in the light of the treaty body strengthening process, including the simplified reporting procedure based on replies to lists of issues prior to reporting; resources; follow-up to concluding observations and views; the anniversary of the Covenant in 2016; and any other matters. He asked the Committee members if they wished any other items for discussion with the States parties to be included on the provisional agenda.

55. Mr. de Frouville said that the issue of reprisals in the context of the Guidelines against intimidation or reprisals (San José Guidelines) prepared at the 2015 Annual Meeting of Chairpersons of Human Rights Treaty Bodies in San José, Costa Rica, might be added to the provisional agenda.

56. Mr. Fathalla asked whether the San José Guidelines had already been adopted and whether the Committee could examine them and establish a clear stance regarding them prior to any discussions with States parties.

57. The Chairperson said that, under the Addis Ababa guidelines, any texts adopted at the Annual Meeting of Chairpersons of Human Rights Treaty Bodies must be submitted to the corresponding Committees for consideration and eventual adoption. The San José Guidelines had only recently been adopted and transmitted to the Committee. The text did not have binding force and Committee members would have the opportunity to discuss and adopt or reject it. During discussions with the States parties, a general reference could be made to the Committee’s concerns relating to reprisals against persons cooperating with human rights treaty bodies.

58. Mr. Shany said that the recent appointment of a Special Rapporteur on Reprisals should be included on the agenda as a separate item. The provisional agenda should also reflect the launching of the process for the adoption of general comment No. 36 and information could be provided to the States parties on how they could contribute to that process.

59. It was so decided.

60. The provisional agenda, as amended, was adopted.

Provisional agenda and speakers list for the half-day of discussion on general comment No. 36 (item 2)

61. Mr. Shany said that the topics had been divided thematically and time had been allocated equally according to the number of organizations wishing to speak on the topics concerned.

62. Mr. Ben Achour asked whether the NGOs’ written contributions for the half-day of discussion had been posted on the Committee’s website.

63. The Chairperson said that the NGOs’ written contributions had been so posted. The half-day discussion was an opportunity to listen to the comments of NGOs, civil society bodies, members of academia and other actors.

64. The provision agenda and list of speakers were adopted.
Debriefing on the 2015 Annual Meeting of Chairpersons of Human Rights Treaty Bodies (item 4)

65. **The Chairperson** said that a large number of off-agenda events had been held alongside the Annual Meeting of Chairpersons of Human Rights Treaty Bodies. The Chairpersons had attended a working dinner with the President of Costa Rica, at which he had made a series of commitments relating to follow-up to treaty body and Inter-American human rights system decisions. Discussions had been held with Costa Rican parliamentarians on how best to comply with the obligations arising from the various Conventions and article 2 of the Covenant had been discussed. A meeting had been held with the Central American Council of Human Rights Prosecutors on the role of Ombudsmen’s Offices in following up the implementation of treaty body decisions. The Chairpersons had also met with over 60 civil society bodies from across Central America to discuss issues including government obstruction of their work. Two public sessions with the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights had been held, during which views had been exchanged on similarities and differences between the Inter-American system and the treaty bodies and on how best to approach the question of reprisals. Private meetings had also been held with the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights to discuss working methods, approaches to specific issues and reparations in individual cases.

66. As a part of the Annual Meeting of Chairpersons of Human Rights Treaty Bodies, the participants had discussed the treaty body strengthening process and compliance with the corresponding resolution of the General Assembly. The San José Guidelines had been adopted, along with a number of guidelines on the adoption of general comments. The Joint Statement of the Treaty Body Chairpersons on Human Rights and the Post-2015 Development Agenda had been adopted in order to link the issue of human rights more closely to the Post-2015 Development Agenda, given that development issues tended to attract much more funding.

67. He thanked the Committee members for their cooperation and patience in recent days in sometimes challenging circumstances.

*The meeting rose at 6.05 p.m.*