**CONTRIBUTION OF THE DEFENSORÍA DEL PUEBLO TO THE HUMAN RIGHTS COMMITTEE IN THE CONTEXT OF THE SUBMISSION AND DEFENSE OF THE FOURTH PERIODIC REPORT OF THE VENEZUELAN STATE UNDER ARTICLE 40 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

**Introduction**

1. The Defensoría del Pueblo, in compliance with its constitutional promotion, protection and monitoring of human rights and its legal obligation to foster the implementation of treaties, agreements and conventions on human rights; the Venezuelan NHRI has taken a series of actions aimed at the effective protection of the population in our country, in adherence to the content and observations of the Human Rights Committee under the International Covenant on Civil and Political Rights, signed by Venezuela on June 24, 1969 and ratified on May 10, 1978. In this regard, the Defensoría del Pueblo wants to mention such actions in a synthesized way, whilst conducting an assessment of the State's actions in this matter.

**About the Defensoría del Pueblo**

2. Defensoría del Pueblo (“DdP” by its initials in Spanish) is the National Institution for the Promotion and Protection of Human Rights of the Bolivarian Republic of Venezuela. It was established from the constitutional process that was developed in the country in 1999. It is part of the Citizen Power (exercised by the Republican Moral Council), and enjoys functional, financial and administrative autonomy, in accordance with the provisions of the Constitution of the Bolivarian Republic of Venezuela (CRBV for its initials). In 2014 it received its reaccreditation certificate as an "A" Class institution by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC). During that same period, it held the Presidency of the Network of the National Institutions of the American Continent.

3. The DdP has an Organic Law[[1]](#footnote-1) governing its nature and organization performance. Similarly, there are functions that are conferred to it by the current national law order, such as: Criminal Procedure Code[[2]](#footnote-2), the Organic Law on the Right of Women to a Life Free of Violence[[3]](#footnote-3), National Youth Law[[4]](#footnote-4), Organic Law of Peoples and Indigenous Communities[[5]](#footnote-5), Law on Refugees and Asylum Seekers[[6]](#footnote-6), Organic Law for the Protection of Children and Adolescents[[7]](#footnote-7), Organic Law of Police Service and National Bolivarian Police Body[[8]](#footnote-8), Law of the Justice System[[9]](#footnote-9), Organic Law of Civil Registry[[10]](#footnote-10), Law to Punish Crimes, disappearances, torture and other violations of human rights for Political Reasons in the Period 1958-1998[[11]](#footnote-11) , and the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman or Degrading Treatments[[12]](#footnote-12).

4. The organizational structure of the DdP is comprised by the Directorate of Special Care Matters, which is responsible for coordinating the work of the Special Defensorías with National Jurisdiction "On the Rights of Women"; "Area of ​​Protection of Children and Adolescents"; "Area of ​​Protection of the Rights of Indigenous Peoples"; "Youth Protection Area"; and "Prison Regime" among others.

**Reception of complaints, claims and petitions**

5. Between 2005 and 2014 the DdP, through its on-line Information System, *Mobile Human Rights Defensorías* and the telephone line 0-8000 PUEBLO, has received a total of 60,905 complaints, claims and petitions related to the civil rights rights, being the largest number, those related to the right to personal integrity (21,910), the right to make requests to public administration and to obtain timely and adequate response (11,461) and the right to due process (9,899). There have been 1,016 complaints, claims and petitions and political rights related to petitions, establishing itself as the main violated right, the right to vote with 492 complaints, claims and petitions.

**The Defensoría del Pueblo's Office and the Criminal Justice System**

6. The DdP, as established in the constitutional provision is not part of the justice system itself[[13]](#footnote-13). However, the institution maintains a natural relationship of coexistence with the Venezuelan judicial system, which has allowed the institution within the framework of institutional cooperation, be notified by the judiciary to assist in the technical aspects of interest and related their objectives.

7. The relationship between the Defensoría del Pueblo and the Criminal Justice System is specified in the procedural level; developed in three aspects: the locus standi of the Defensoría to file actions and appeals in court, the right to raise complaints against officials in the Public Ministry, and the power to ensure the guarantees of due process and effective judicial protection, in concurrence with the Public Ministry, responsible for ensuring the rights and guarantees associated with the process.

8. These partnerships involve, in turn, legal representation in judicial processes for interpretation of a constitutional provision, annulment of a constitutional provision, constitutional amparo actions, actions on public services, protective actions human rights, habeas data and habeas corpus. In this regard, the call for the DdP and their presence in the cases cited, it meets the mission of ensuring the observance of human rights in the Venezuelan judicial system.

**Third party and prosecution**

9. The institution has jurisdiction to intervene in the judicial proceedings brought by actions filed by persons other than the DdP, as third adjunct to any party. In these cases, the performance follows the request of the plaintiff or driven part by the notification made by the court that is hearing the matter raised, or motivation office of the institution itself; and is specific to the finding in the record of the need to protect a right or interest that is being violated or threatened imminently.

10. The DdP is entitled to file a criminal complaint (Articles 123 and 124 COPP). The lawsuit is one way of starting the criminal proceedings established in the Code of Criminal Procedure (COPP), where the victim, a relative of the victim, the Defensoría del Pueblo or any non-governmental human rights organization, where covered under the law, become active and gifted of rights, duties and charges, in the preparatory phase of the criminal process.

**Actions taken by the Defensoría del Pueblo**

**Voting rights**

11. The Defensoría del Pueblo has participated in the various elections held in the country. The organization attests a mature electoral system with the experience of having performed since 2000 a total of four presidential elections (2000 re-legitimization of the different Powers, 2006, 2013 and 2014), a recall referendum for President (2004), three Parliamentary elections (2000, 2005 and 2010), five full and partial regional elections (2000, 2004, 2008, 2010 and 2012) and four municipal elections (2004, 2008, 2010 and 2013). During 2014, the institution activated its staff in the municipalities of San Cristobal and San Diego of Carabobo and Táchira states, respectively, to observe the conduct of the elections of mayors in those municipalities, as well as protecting the rights of people to elect their local representatives.

12. It has developed guidelines and formats for data collection to be used by the regional offices, in order to systematize and develop the necessary reports in order to act in a faster manner before possible violations of human rights in these processes. Thus, it has been deployed throughout the country, and has participated in each of the phases of the electoral process (installation and creation of tables, voting, closing and citizenship verification[[14]](#footnote-14)).

13. In 2010, it designed the campaign “*Derechito a Votar*” (“Straight to Vote”), to encourage civic duty to exercise the right to vote. Recent data are the "Facilitator Manual: vote Workshop " and the 2012 Electoral Law Compilation, which has been developed in order to contribute to strengthening a democratic culture in our country and the conscious exercise of the right of suffrage by everybody.

14. In 2013, the DdP recommended to the National Electoral Council to develop regulations on the guarantees to be provided by this agency for people with disabilities to fully exercise their political rights in accordance with the Organic Law of Electoral Processes; continue implementing measures to provide greater independence to people with disabilities in exercising their right to vote and; perform, together with the National Council for Persons with Disabilities (Conapdis), inspections of polling stations, in order to make ratings on accessibility offering, in order to offer voters with disabilities to ask the CNE enrollment in schools considered most suitable, depending on the type of disability they have.

**Right to due process**

15. In 2008 and since its performance in the Human Rights Council Rodeo I and II Prison, DdP promoted the realization of the Inter-Agency Committee for the Defence of due process, in which representatives of the Public Ministry, the Ministry of Popular Power for Interior and Justice, Supreme Court and the National Assembly participated. Through this roundtable, prisoners given a document raised some proposals to reform several articles of the COPP. Moreover, the need for more humane prisons and eliminate procedural delay, by establishing a policy that gives greater speed to criminal proceedings was also shown.

**Rights of detainees**

16. The Defensoría del Pueblo was a member since 2008 of the National Commission of Pardons, inter space where the Judiciary, the Public Ministry, the Public Defender, the governing body of the prison system and the DdP worked on reviewing the requirements and parameters for the selection of detainees for a presidential pardon also be managed a labor destination, providing them with a post-prison care.

17. The Institution has undertaken a series of actions within the prison system and the penal system of responsibility of teenagers, ranging from advocacy and human rights education of the prison population to inspecting preventive detention, detention establishments, and institutions of social and educational care for adolescents in conflict with the law, including tracking multiple acts of violence, the voluntary and involuntary detention of persons and hunger strikes and the riots recorded in the country's prisons. Remarkably, the DdP produced in 2009 some guidelines to optimize performance defensorial work of monitoring human rights in detention centers, prisons, and institutions of social and educational care for adolescents in conflict with the law.

18. This NHRI also presented to different institutions of the Executive and the NGOs the initiative “*Granja Integral de Reinserción Deuteronomio”* (*Integral Rehabilitation Farm Deuteronomy*); which aims to persons who have served their sentence in the prison Uribana West Center, to work in agricultural areas, livestock, crafts, among others. The project was jointly prepared by the Defensoría with the NGOs integrated by people who had some type of custodial measure.

19. In 2009 and 2010 the DdP actively participated in the Prison Council, which served as a forum for high-level inter seeking solutions to the critical problems of the prison system, including procedural delays, overcrowding and prison violence. In this regard, the institution collaborated on different days of comprehensive care for the detainees will be provided with legal, medical, dental and psychological assistance, to ensure the strict the respect of their rights.

20. Similarly, participated in “*Operación Fuerza Justa-Justicia Fuerte*” in order to ensure that the security of the State, employed the progressive, rational and lawful use of force under the context of the rescue of the Capital Region Penitentiary Center Yare I, in order to restore the internal order and undertake recovery work of physical infrastructure, in order to improve the living conditions of the detainees held in that prison.

21. In 2011, regarding the events raised in the *Internado Judicial Capital* "El Rodeo", the Defensoría deployed actions to ensure respect for the human rights of detainees, scheduling a number of surveillance operations that allowed to promote and verify the implementation by the competent bodies, measures to guarantee the rights to health and food, and the right to humane treatment of prisoners.

22. In 2012, the DdP exercised its mediation for the inmates at the *Casa de Reeducación y Rehabilitación e Internado Judicial El Paraíso* (La Planta); and Judicial Internship Choir were evicted peacefully and in compliance with the guarantee and protection of human rights. It kept constant monitoring of the situation of the Prison in the Andean region where riots were raised with women located in the annex of the center, in order to ensure the effective protection of the rights of detainees, and took different actions of mediation and conciliation with the inmates that were conducting the conflict.

23. It has participated in workshops organized by various State bodies, particularly, it has worked with the Autonomous Institute National Council for the Rights of Children and Adolescents (IDENNA), in order to make possible the national proposal to regularize visits by children and teenagers to prisons.

24. The DdP within its constitutional and legal powers defined in Art. 170 A, paragraph "J" of the Organic Law for the Protection of Children and Adolescents (Lopnna), strengthened in 2009 with the support coach of the United Nations Fund for Children (UNICEF) the defensorial instruments of inspection meant to inspect the socio-educational entities for adolescents where measures detention and semi-freedom are met. Similarly, the formation of more than 37 officials nationwide on defensorial action, in order to optimize the advocacy and monitoring of human rights of this population was also achieved with UNICEF in 2013.

25. During 2015, it attended several individual cases in order to protect life, health and the due process of detainees: Marcelo Crovato, member of the Venezuelan Penal Forum Civil Association, Miguel Angel Nieto, Leopoldo Lopez, Antonio Ledezma, Daniel Ceballos, Lorent Saleh Gómez, Gabriel Valles, Christian Holdack, José de Jesús Gámez Bustamante, Maria Magali Contreras, Pablo Clemente Estrada Izaguirre, Daniel and Jeremiah Silva Cortez, Erick Echegaray, Mohammad Bagherzadeh and Rolando Guevara.

**Women's rights to a life free of violence**

26. The DdP in collaboration with the United Nations Population Fund, also published the "Recommendations to Optimize receiving complaints of violence against women". Publication that becomes a tool aimed at the receptor Complaint organs (ORD), and seeks to help these bodies provide quality and warmth care to improve access to justice for women victims of gender-based violence. In 2013, in partnership with the Ministry of Popular Power for Interior, Justice and Peace it was conducted a nationwide tour to disseminate the Recommendations, we have the participation of more than 800 servers and public servants across the country; that serving in Receptor Bodies Complaint to guarantee women their right to a life free of violence.

27. As part of the proceedings of the DdP regarding the strengthening of the new policing model, in 2012, the representation of the DdP was sworn to the Council of Equality and Gender Equity. This advisory body, attached to the Vice Ministry of the Integrated Police MPPRIJ, will contribute in the sharing of the focus of gender in the police, in which there were about 11,800 police officers. In this space, the Defensoría provides advice to ensure the realization, protection and enjoyment of human rights of women that are part of the police, as well as attending to request police assistance or who are subject to arrest.

28. As a contribution to the struggle for the right of women to a life free of violence, the same year as the Violentómetro tools, which allows us to appreciate, identify and establish levels of violence that a person can have against a woman ; and the poster for the right to give birth with quality and warmth, as a means of promoting the right to a life free of violence in the context of labor.

**Right to Good Treatment**

29. The DdP is a member of the National Rector System for the Integral Protection of Children and Adolescents-SRNPINNA (art. 117 LOPNNA), which must meet various powers (arts. 169-A, 212, 278 and 321 LOPNNA). As such, it promotes, disseminates and implements educational and research activities for the dissemination and effective protection of human rights of children and adolescents, promotes citizen participation to ensure these rights and guarantees, inspects care institutions, programs protection, public defenders and advocates or defenders of children and adolescents, as well as ensures the proper functioning of the other members of SRNPINNA.

30. Since 2010, it carries out the "Right to Good Treatment" program, which has been implemented in 19 states of the country. From that year until 2014 they have taught 8,310 children and adolescents and 3,536 adults between the managers, mothers, fathers, teachers, representatives and community leaders.

31. In addition, it is being develop the "Defenders School Program" designed to promote the organization and training of children and adolescents as multipliers in the promotion and dissemination of human rights in schools. It incorporates the support National Governing System for the Integral Protection of Children and Adolescents, and plans to inform children about this whole bodies before which they can go to enforce their rights. It has national coverage and till date it has been developed in 41 schools in 16 State Authority delegated defenders. Thus, it has trained a total of 1,483 children and adolescents and 41 Councils of School Defenders have been created.

**Refugee Law**

32. The Defensoría del Pueblo is part of the National Refugee Commission (entity that is responsible for processing refugee claims, and the decision on recognition) from the time of its installation in 2003[[15]](#footnote-15). Hence, it has been working on behalf of asylum seekers and refugees at the national level, through the delegates Defenders of the border states.

33. These delegates, provide proper guidance and assistance to asylum seekers and refugees who come to the headquarters, in order to obtain information on the application procedure of refuge or register a complaint in particular, either rape or threat in violation of their human rights. In order to carry out this work, the DdP has provided a document containing Instructional Guidelines on Refugee and Asylum Seekers, to ensure that the actions taken by the delegates Defenders State Authority are under current regulations in the field.

34. In 2012 the DdP signed a work plan with the UNHCR[[16]](#footnote-16) in order to strengthen the process of monitoring and defense of refugees in the country, and improve the mechanisms of cooperation and mutual assistance and training to officers of the institution. Although these activities were already being carried out together, especially in the border states, this plan comes to realize the relations with the UN agency.

35. In 2014, the Defensoría noted the intensification of military operations to combat drug trafficking, organized transnational crime, illegal mining, contraband, and foreign paramilitaries in the Venezuelan border during that year. At the same time, it was informed of the increase in measures of deportation and expulsion of foreigners from the Venezuelan territory. To verify this, on two occasions, the Institution organization requested information to the general director of Saime about deportation and expulsion procedures processed during 2013 and the first half of 2014, in order to estimate their impact on the enjoyment of human rights of the foreigners, including refugees, with no response[[17]](#footnote-17).

36. In this regard, the Defensoría asked the authorities to respect the principles of No Return, No Punishment and Family Unity that are attending refugees and asylum seekers in the country, respect the due process provisions of the Law on Foreigners and Migration, in cases of expulsion and deportation. Furthermore, in cases where a child is involved and adolescents should prevail the Absolute Priority principles and best interests contained in the Organic Law for the Protection of Children and Adolescents (Lopnna).

**Attention particularly relevant cases. Franklin Brito Case**

37. The Defensoría del Pueblo in exercise of its constitutional powers, started at least 50 Defender's performances and conducted an intensive follow up of the case of the citizen Franklin José Brito Rodríguez, in order to ensure respect for human rights, in particular, his right to life, as it is the ontological assumption without which no other rights have any existence, given that his health was deteriorating. In the opinion of the Defensoría del Pueblo, it became clear that the State, through the relevant institutions assured Mr. Franklin José Brito Rodríguez, access to justice in claiming his requests through administrative and legal channels; this was expressly acknowledged at the time by the Resident Coordinator of the Programme United Nations Venezuela[[18]](#footnote-18).

**Proceedings**

38. The Institution has pursued and participated in various legal actions to protect the rights of detainees as well as the rights to equality and non-discrimination, personal freedom, the right to legal aid and the right to due process.

39. In their lawsuits, the Institution got free withdrawal and replacement of breast implants PIP, in cases where the fluid of the prostheses started to filtratate, and also ordered that the sale of hookah and cut tobacco to children and adolescents throughout the country. He also got the use and application of fillers (biopolymers, polymers and related) treatments for cosmetic purposes is prohibited; and that the eviction, disqualification and demolition of buildings 9, 10, 11, 12 and 13 of the first stage of the residential complex Terrazas de La Vega was issued, prohibiting the development of housing units in the sector.

**Legislative Initiative**

40. In 2010, the DdP submitted a draft amendment of the Organic Law on Protection of Constitutional Rights, in order to bring the law to the case law supervening CRBV and other instruments and turn it into an effective tool for those who go to the Judiciary Guarantees to seek help for their constitutional rights and guarantees. The proposal incorporated the discharge criteria in the jurisprudence of the Constitutional Chamber of the Supreme Court in this matter and contains, inter alia, the following innovations: a) the ability to create temporary or permanent courts in matters of defense; b) technical assistance to the Defensoría when the plaintiff alleging the violation of human rights; c) a body no additional penalty for cases of contempt of decisions of constitutional protection, currently seen as a lack punishable by a fine under the Penal Code.

**Age difference and equality in marriage**

41. On February 9, 2010, the DdP exercised before the Constitutional Chamber of the Supreme Court an appeal for annulment for reasons of unconstitutionality against Article 46 of the Civil Code, published in Official Gazette no. Extraordinary 2,990 of July 26, 1982[[19]](#footnote-19), which establishes the age requirements for the marriage. They argued that it violates that article flagrantly and direct the right to equality and non-discrimination under Article 21 of the CRBV and absolute equality of rights of spouses, enshrined in Article 77 eiusdem, setting differential treatment on the minimum age for marriage based exclusively on age sex. In October 2012, the Chamber admits the appeal and refered the case to the Court of Substantiation, in order to practice the summons of the President of the National Assembly.

42. That same day, an appeal for annulment on grounds of unconstitutionality was brought before the Constitutional Chamber of the Supreme Court, together with a request for injunction against Article 57 of the Civil Code, published in Official Gazette No. 2,990 Extraordinary on July 26th  1982, on the ground that that article establishes an absolute impediment to marry which affects only women and therefore violates flagrantly and directly the right to equality and non-discrimination under Article 21 of the CRBV . Indeed, under Article 57 of the Civil Code once dissolved a marriage relationship the man is authorized by law to proceed to remarry immediately, however, women are barred from remarrying for a period of ten (10) months, unless during that period has given birth or present medical evidence that she is not pregnant.

43. On November 3rd, 2010, the Constitutional Chamber admitted the current action and in July 2013 the invalidity action was upheld for contradicting in a clear way articles 21 and 77 of the Constitution of the Bolivarian Republic of Venezuela, by establishing differenced conditionings in function of genre and equality between spouses, in terms of, consistent to the constitutional principles and rights established in the Fundamental Text It should be recalled that“the woman has no legal impediment to remarry after the annulment or dissolution of prior marriage”[[20]](#footnote-20)

**Defensoria del Pueblo and the National Commission for the Prevention of Tortures and other degrading treatments**

44. In June, 2013, the Special Law to Prevent and Penalize Torture and other Cruel Treatments[[21]](#footnote-21) was approved at the National Assembly. The Special Law foresees in its article 11, the creation of National Commission, integrated into the organizational structure of the Defensoria del Pueblo which objective is coordination, promotion, supervision

 and national control of the policies and national plans for prevention of torture and other cruel inhuman and degrading treatments, the monitoring of human rights of persons deprived of their libertyand ensure the fulfillment of the law, the guaranty of the right to physical, mental and moral integrity, and the prohibition of torture and other cruel, inhuman and degrading treatments.

45. To do so, the DdP (Defensoria del Pueblo) performed a series of activities during 2013 in order to strengthen the job that, based on the matter, has been developed in the country, among which we can find: the National Plan for he Prevention on Torture and other Cruel, Inhuman and Degrading Treatments, The Forum on the “Special Law for the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatments”, and the development of a “General Guideline on the Action carried out by the Defensoria del Pueblo within the Framework of the Special Law to Prevent and Punish Torture and Other Cruel, Inhuman and Degrading Treatments”.

**Commission for Justice and the Truth**

46. Since February 27th, 2013, the DdP is part of the Commission for the Justice and Truth, a Decentralized Agency with functional autonomy and an administrative and budget dependence of the Republican Moral Council and which duration will be three years, renewable for a year; in order to serve as organizational and informative platform to the organisms of the Justice System to coordinate; denounce; inform, organize and manage all matters relating the fulfillment of the before mentioned responsibilities in the Law to Punish Crimes, Disappearances, Tortures and Violations of Human Rights for Political Reasons from 1958 – 1998. This Law was edited by the DdP and handed out to those present at the Celebration of the Human Rights Week.

**Permanent education in matters of human rights.**

47. The DdP has promoted a culture of human rights since 2008, through protagonist participation and organization of communities in order to advance towards a Social Justice State. In this sense, through the Human Rights School, the Juan Vives Suria foundation and the *Haciendo Comunidad* Program, the DdP has developed courses, diplomas, workshops, forums, seminars and discussions on the content and justiciability of civil and political rights in Venezuela, as well as human rights of children and adolescents, and respect to the Penal System of Responsibility of Adolescents, addressed to officers of the State Security Forces, the National Armed Force, organized communities (Communes, Commune Councils, Committees of Citizens for Police Control, etc), students and public in general. To date, more than 15.000 people have participated.

48. In the same way, the Institution presented in 2012 the Hemerographic exposition *“Violación Sistemática de los Derechos Humanos en Venezuela 1958-1998”* (Systematic Violation of Human Rights in Venezuela 1958-1998), an investigation conducted by the institution against forgetfulness and impunity, massive violations of human rights during the before mentioned dates, and the discussions “the role of media in violation of human rights” “ Massacre, Torture and other Violations to Human Rights” and “ Student Repression and role of repressive forces”, all circumscribed to period 1958-1998.

**Annual, ombudsman and international reports.**

# 49. Since 2001 the DdP is developing Chapters “Rights of Indigenous peoples” “Rights of Children and Adolescents”, “Rights of Women”, “Rights of people with Disabilities”, “Rights of Young people”, “Citizen Security and Police Action”, “Right to life, personal freedom and personal integrity” “Right to justice and due process”, “Rights of persons deprived of their liberty” and “Right to refuge and asylum”, among others, disposed in its Annual Reports (AR). From 2011, the Institution incorporates the Chapter “afro-descendant and Human Rights” and in 2013, it dedicates a chapter to the situation of human rights in LGBT.

# 50. It has also prepared Reports on Human Rights, "Chapter Venezuela" presented at the Iberoamerican Federation of Ombudsman-FIO (2008-2013). Similarly, the DdP has responded to questionnaires sent by FIO and agencies of the United Nations concerning civil and political rights.

# 51. In accordance with Article 15.13 of the OLDdP, the Defensoria is competent to "conduct studies and research in order to initiate legislation, or ordinances, or recommendations".

52. DdP’s research and reports that have given an account of the situation of civil and political rights in the country and the Ombudsman's performance in this respect are, among others: Human Trafficking (2005), Special Report: Violence in the Field (2006) "18 years after El Caracazo: Thirst for Justice (2007) urban transport in Caracas: a review from the perspective of human rights (2010), Bolivarian National Police. a year in office 2010 Report of the DdP, Case: Mr. Franklin José Brito Rodríguez (2010)[[22]](#footnote-22) Voting rights: Presidential Elections, October 7, 2012 (2012), Proceedings of the Defensoria del Pueblo for the Protection of Children and Adolescents 2008-2012 (2012) April 14th, 2013 Presidential election (2013) and the preliminary report in February 2014: a Coup to Peace (2014).

**Publications on Human Rights**

53. The publications constitute one of the strategic areas of the DdP. Through the Juan Vives Suriá Foundation and the School of Human Rights, the dissemination of lines of thought with critical view has been boosted. With *El Perro y la Rana* Publishing material has been edited such as "Human Rights Series", with publications like "Human Rights: History and Basic Concepts", "Human Rights in the International Field", "The Doctrine of Integral Protection "," right of women to live a life free of violence "," specific Protection System for Children and Adolescents "," Towards a multicultural state "," Sexual Minorities: Elements and Psychosocial Concepts for Defense Policy "," Protection of Human Rights of Sexual Minorities ". There is also a children Magazine called “Festival of Rights”, which in 2013 released his 2nd issue, dedicated to the Right to Participation.

54. In the editorial "Critical Perspective", the book "Human Rights from the critical approach: Exploring the approach of the Venezuelan and Latin American reality" was published and the plays "The Coup Documents" were reprinted and "The 27- F forever in the memory of our people ". In addition, through its Magazine “*Lapiz del Pueblo*” the DdP has exposed different considerations on civil and political rights in Venezuela.

**No memory no justice campaign**

55. *No memory No Justice* is a campaign fostered by the DdP, with the purpose of witnessing the tragic events that marked the political and social history of Venezuela during the 60s-90s of the twentieth century. For this purpose investigations were performed with documented newspapers references and with the full support of family and surviving victims. In this context, the DdP and the *Perro y la Rana* published the books "The social struggle and the armed struggle in Venezuela" as well as "Systematic Violation of Human Rights in Venezuela 1958-1998"; "Guerra y Millan: The massacre in Sanz School ". Maturin 1962 "; and "The Cantaura Massacre. 30 years after ".

**Participation in Interagency spaces.**

56. The DdP has been participating in the Technical Inter-Agency Committee on Population and Development sponsored by the Ministry of Popular Power for Planning and Finance and the United Nations Population Fund (UNFPA), which is defined as a permanent space for dialogue and strengthening of the capacities for the institutions that make life in the public sphere for the analysis of demographic trends in the country and its relationship with economic, social, cultural and political approaches from gender, human rights, life cycle, ethnicity, community participation and local development areas, for their incorporation into development plans and in the process of implementation of public policies.

57. At the same time, it participates actively in working roundtables of Sub Committees of Statistics of Children, adolescents and youth and Gender, led by the National Statistics Institute (INE (Initials in Spanish)). Among the important contributions of the DdP to these subcommittees, we can find the formulation of indicators of civil and political rights of children, adolescents and youth, and the design and delivery of training activities "Workshop on Statistics with a gender perspective" and "Metainformation Workshop and Presentation of Indicators".

58. The Institution has a presence in other inter agencies which is part of or has been invited to participate, among which we can find: the Presidential Commission for the Prevention and Elimination of Racial Discrimination and Other Distintions in the Venezuelan Educational System, the Inter-Agency Committee to Prevent and punish Trafficking in Persons and Fully Attend Victims, and it has been a judge in the First and Second Contest for Best Police practices. In the General Police Council, the DdP has participated in the discussion and adoption of resolutions on the performance of police duties, making observations and recommendations to strengthen the human rights approach of these instruments.

59. Among the resolutions debated and adopted in 2012, we have: (i) the Resolution on unique system of licenses and permits; (ii) rules on integration, organization and operation of the disciplinary councils of the Bolivarian National Police Corps and other bodies of state and municipal police and; (iii) Rules and Guarantees Relating to the Rights of Women, equality and gender equity in the Bolivarian National Police Corps and Other Bodies of State and Municipal Police.

60. The DdP also participates in the Research Network and centers of knowledge production in the citizen security and coexistence area of the National Experimental Security University (UNES (Initials in Spanish), through which it has presented his research and advances in monitoring public security policies promoted by the Venezuelan government in recent years.

61. In 2013, the Ombudsman in close cooperation with the NHRI of the Republic of Ecuador, hosted a meeting entitled: " The School International Seminar: a place for peace and good treatment". It was attended by the United Nations Children's Fund (UNICEF) and was organized within the framework of the Network of National Institutions for the Promotion and Protection of Human Rights for the American Continent, under the auspices of the International Coordinating Committee and the Office of the High Commissioner of the United Nations for Human Rights. There, spokespeople from the NHRIs of Argentina, Bolivia, Canadá, Colombia, Costa Rica, Chile, Ecuador, Mexico, Nicaragua, Panama and Venezuela exchanged experiences in order to promote the right of children, and adolescents to a life free of violence in schools.

**Community organization for Human Rights.**

62. The DdP has the Making Community for Human Rights Program, which represents a mechanism for generating processes of collective construction of policies and actions for the conquest of human rights. One goal of the program is to contribute to the strengthening and revitalization of the social fabric by promoting socio-institutional Networks for the defense of human rights through the establishment of the Councils for the Defense of Human Rights. The program is divided into several sub-programs: Communities, Indigenous and Penitentiary[[23]](#footnote-23).

**Participation in international human rights events**

63. The DdP was present at the Second International Congress Ombudsman and Democracy and the Regional Program in Support for the NHRIs in Latin America in 2013, held in Madrid, Spain. There, Institution submitted various communications, among which we can find: "Role of the Ombudsman in the electoral processes of Venezuela" and "Contributions of the Defensoria to strengthen citizen participation in Venezuela".

 **National Balance**

**System of Justice**

64. The DdP has observed the progress of the State to strengthen its justice system. The CRBV recognizes the right of everyone to access the organs of administration of justice and the right to an effective remedy and obtain promptly the decision (Art. 26 of the Constitution), and recognizes legitimate authorities of indigenous peoples the right to apply in their habitat instances of justice based on their ancestral traditions and affecting their members only (Art. 260 Constitution). LOPCI ensure specific rights in process ventilated before the ordinary courts when these involve indigenous population. These rights include the use of own language and respect for their culture during all phases of the process.

**Citizen security. Police Reform**

65. The DdP appreciates positively that the Venezuelan State has carried out a comprehensive police reform process initiated in 2006 and launched a new model in 2009 focused on a vision of human rights. It welcomes the progress in professionalization and control of police activity, and the law applied to it: Police Service Law and the Bolivarian National Police Corps (LOSPCPNB) Statute Law of the Police Service and the resolutions issued from the Police General Council (PGC).

66. The Institution values the establishment of the National Experimental Security University (UNES), the deepening of the standardization of the entire operation of the police forces and the creation of instances for police internal control: Policing Control Office, the Response Office to Police Offence the Police Disciplinary Council. It recognizes the progress in the reform of police investigation, and the new law governing its activities, the Organic Law of the Police Service of Investigation[[24]](#footnote-24).

**Citizen Security. A Toda Vida Venezuela Program.**

67. The DdP welcomes the creation of the *"A Toda Vida Venezuela!* Program ", which rises as ca comprehensive plan for ensuring the protection of the State through the public security organs, where active participation of communities and the entire state apparatus is fundamental for the good life of people that live in the country. Articulated on six vertices of action, this great mission aims to generate higher security levels in the country, as well as implementing programs to develop values and strengthening the social fabric in Venezuela.

**Right to Identity and Identification**

68. The DdP notes with satisfaction that the National Executive, in order to guarantee the right to identity and part of the *Identity* Program, created the way for Certificates of Indigenous Peoples in order to give all persons recognized as indigenous an identity card, a document containing information on the indigenous, community and language.

69. The organization welcomes in a positive way the content of the Organic Law on Civil Registration (OLCR)[[25]](#footnote-25) which introduces an automated registry regulated and implemented by the National Electoral Council (CNE) through a Commission of Civil and Electoral Registry. To do so, there is a Municipal Civil Registry office, units in parishes, public and private health centers and cemeteries. It notes with great satisfaction that the CNE has established among its registration policies, the creation and administration of a website to ensure access to the data loaded into the digital automated file.

70. It also recognizes the State's efforts to guarantee the right of children and adolescents to identity and knowledge of their biological parents, as established in the CRBV, to establish registry mechanisms in maternities in the country, the possibility by law for the mother to register the birth of the child without presenting the father’s or alleged father's identity card pointed by the mother, it also gives the possibility to the father to acknowledge or deny paternity attributed to him and to request an DNA test if appropriate.

71. The DdP recognizes the registry via administrative registration of 1,698 older adults who did not have birth certificates, restoring their rights as Venezuelan citizens and denotes the importance of every person, according to the Organic Law Of Civil Registry, to have the possibility to change its name, for once, when it is infamous, when the person is subject to public shame, it undermines his moral integrity, honor and reputation, or does not match their gender, affecting the free development of his personality (art. 146).

**Right to vote**

72. The DdP welcomes the active participation of people over 18 in Venezuela, in the various elections held in the country over the last ten years. In the 2012 presidential election one of the highest shares in the electoral history of the country was registered, since more than 15 million electors came to exercise their right to vote, representing more than 80% of people registered in the Electoral Registry (ER). The democratic spirit and confidence of the population of the country in the Electoral Power was reaffirmed, which resulted in the lowest abstention in the history of the Venezuelan Electoral Power, reaching 19.33% of the Electoral Registry, ie, 3.596.214 people.

**Right of women to a life free of violence**

73. The DdP considers very importance the Organic Law on the Right of Women to a Life Free of Violence, with which the procedural framework is strengthened by establishing a special procedure for their lapses, resources and own jurisdiction; the establishment of safety and security measures as well as precautionary measures, which are of immediate and preferential application to those established in the Law for Protection of victims, Witnesses and other parties to proceedings, and the creation of specialized offices for complaints receptions of violence against women.

74. The DdP welcomes the actions that have then followed by the enactment of this law: creation of the National Commission on Gender Justice of the Supreme Court in order to ensure the development and design aimed at optimizing the justice system of gender judicial policies and strengthening the link between the Courts of Violence against Women and Community Councils; the creation of the Department of Women Defense of the Public Ministry with 61 public prosecutors attached, 42 dependent commissioned Offices on the Direction of Common Crimes and 17 municipal prosecutor, for a total of 120 prosecutors to ensure adequate care for women victims of violence.

75. The institution positively values the various campaigns that are designed to raise awareness about violence against women and ways to prevent it: "Count to Three Count, Get the Best of You" (2006) and "Let's subtract Violence. Let’s add Respect "(2008).

**Human trafficking**

76. Internationally, the Venezuelan government has signed and ratified a number of treaties, conventions, protocols and other international agreements directly linked to the fight against the human trafficking crime and respect for human rights of the victims of this crime.

77. Among them: the 29th Convention of the International Labor Organization (CILO) on forced labor, the Convention for the Repression of Human Trafficking and Exploitation of the Prostitution of others the Covenant on Civil and Political Rights, the American Convention on Human Rights, the Convention on the Elimination of All Forms of Violence against Women, the Convention 138 of the (CILO) on the minimum Age to Work, the Convection on the Rights of the Child, the Convention on the Prevention, Punishment and Eradication of Violence against Women, the Rome Statute, the 182 Convention on the Worst Forms of Child Labour, the United Nations Convention against Organized Transnational Delinquency, the Protocol to Prevent, Suppress and Punish Human Trafficking, especially Women and Children, the Optional Protocol to the Convention on the Rights of the Child related to Sale of Children, Child prostitution and child pornography, the Protocol against the Smuggling of Migrants by Land, Sea and Air, and the Plan of Action against Trafficking in Persons between States Parties to the MERCOSUR and Associated States.

78. The DdP welcomes that in the legislative matter, the Venezuelan State has a wide legislation to punish human trafficking and protect victims of this criminal type, especially children, adolescents and women, in compliance with the provisions of Article 23 and 54 of the CRVB. However, despite the discussion and approval of the "Draft Law against Human Trafficking" are pending by the Legislature, Venezuela[[26]](#footnote-26), has different legal instruments that typify, prohibit and punish this criminal category. Among them we can mention, Article 41 of the Organic Law Against Organized Crime and Terrorism Financing[[27]](#footnote-27); Articles 33, 38, 40, 231, 238, 255, 256, 266, 267 and 268 of the *Lopnna*; Article 15 paragraph 19 and 56 of the Organic Law on the Right of Women to a Life Free of Violence[[28]](#footnote-28); art. 53 of Immigration Law[[29]](#footnote-29), and Articles 173, 174, and 387 of the Penal Code[[30]](#footnote-30).

79. The DdP appreciates that the Venezuelan State, through the Ministry in charge of public safety has appointed the General Direction of Crime Prevention as "central authority for the preparation, coordination and implementation of preventive measures and cooperation provided in Art . 9 of the Protocol to Prevent, Suppress and Punish Human Trafficking, especially Women and children, which the United Nations Convention Against Transnational Organized Crime (Palermo Protocol, 2000) "and the implementation of a National Plan on the matter. In this regard, the Defensoria del Pueblo actively participated in inter-agency meetings to design a national plan to prevent, combat and punish human trafficking, as well as to assist [comprehensively](http://www.linguee.es/ingles-espanol/traduccion/comprehensively.html) to victims of this crime[[31]](#footnote-31).

80. It is noteworthy that in 2013 this responsibility was taken by the Vice-Minister of the Integrated System of Criminal Investigation of the Ministry of Popular Power for the Interior, Justice and Peace, through the National Office Against Organized Crime and Terrorism Financing.

**Participation of Women in public authorities**

81. The organization recognizes the efforts made by all the women who remain in public office of great importance for the country. In all branches of government, there is female presence, emphasizing that are the maximum representatives of the Judiciary and the Electoral Power. However, it is concerning that women's participation in Parliament and various areas of the Executive Power, they do not even reach the 50/50 parity.

**Participation of women in community management**

82. The DdP highlights the incorporation of women into new forms of political and community participation in popular venues. Figures from the Ministry of Communes and Social Protection emphasizes that women accounted for 54.40% of all members of the Community Councils in the first quarter of 2012. The participation of women in community-based organizations is significant. By September 2013, "the country has 40.035 Community Councils, 1,401 communes, 1,294 rooms for Social Battle 28.791 Social Movements".

**Rights of children and adolescents**

83. The organization welcomes that the Public Defense count on 158 defensores in the protection of children and adolescents, to provide advice, assistance and free representation to children and adolescents and other stakeholders in any judicial or administrative procedure to defend the individual, collective or diffuse rights, interests and guarantees related to family institutions contemplated in the Constitution of the Bolivarian Republic of Venezuela, the international conventions and the law governing the matter, being the main goal the interests of the child or adolescent. The DdP Commends the 117 public defenders on criminal responsibility of adolescents, who defend the rights and judicial guarantees of adolescents before the Criminal Responsibility System.

**Right to vote**

84. The DdP welcomes the opening in 2013 of the Special Day of Reconsiderations in cases of widespread violence, in compliance with the statements emanating from Mercosur and the 1984 Cartagena Declaration. It also assesses the implementation of inclusion clauses on gender-based and sexual orientation and gender identity. But it is worrying the obstacles that currently exist for the obtaining and renewal of identity cards of refugees to the national immigration authorities.

**National legislation for the promotion of citizen and community participation**

85. The organization considers positive the State’s progress in ensuring greater participation and involvement of people in public affairs through new forms of organization such as Community Councils and Communities, established by national legislation.

**Law against racial discrimination**

86. The Defensoria del Pueblo (DdP) welcomes that Venezuela counts on the Organic Law Against Racial Discrimination (OLARD)[[32]](#footnote-32) which establishes mechanisms to prevent, address, punish and eradicate discrimination, and it recognizes cultural diversity of Venezuelan society, essential point for the development of proper public policies to the realities of each population / cultural group.

87. The DdP values that (OLARD) criminalizes racial discrimination (art. 37) where any act or omission that distinguishes or exclude one or more persons because of their ethnicity, national origin or phenotypic traits is framed, with the aim of nullifying or damaging the enjoyment or exercise of their human rights recognized in the Constitution, treaties, agreements and international conventions signed and ratified by the Republic.

**Persons deprived of their liberty**

88. The DdP values the creation and operation of the Ministry of Popular Power for the Prison Service while encouraging actions carried out by this agency from the beginning of its administration, facing a consistent attention, consequential and comprehensive of the reality of prisons in Venezuela.

**Reform of the Organic Penal Process Code**

89. The DdP values ​​positively OPPC reform, since the justice system (criminal proceedings) is adapted to the principles and precepts of the CRBV and therefore the performance of each of the institutions that compose it can be improved and assist the transformation of the Venezuelan prison system. It considers it important to include the principle of citizen participation in the administration of criminal justice, both for the selection and appointment of judges as to the assistance and social control, in oral proceedings, in addition to monitoring the application of alternative formulas to the continuation of process and execution of the sentence. However, it has been observed that a punitive culture that contributes to the free trial persists being this the exception and not the rule what implies a breach of Article 9 of the OPPC; and in the implementation phase, the refusal to alternative ways of serving a sentence, which contravenes Article 272 of the CRBV.

**Organic Penitentiary Code**

90. The Defensoria welcomes the adoption of the Organic Penitentiary Code[[33]](#footnote-33) by the National Assembly in 2013, which develops the precepts of the prison system established in the Constitution of the Bolivarian Republic of Venezuela, as well as international treaties, pacts and agreements signed and ratified by the Republic on human rights of detainees, and it unifies in a single legal structure all regulatory laws of the Venezuelan prison system[[34]](#footnote-34). This newest standard aims to regulating and developing the organization, management and operation of the Venezuelan prison system and it ensures the detainees their comprehensive rehabilitation, respecting their human rights and their reintegration into society.

1. Organic Law of the Defensoría del Pueblo. Official Gazette no. 37,995, August 5, 2004. [↑](#footnote-ref-1)
2. Official Gazette n. ° 6,078 Extraordinary, June 15, 2012. [↑](#footnote-ref-2)
3. Official Gazette no. 38,770, September 17, 2007. [↑](#footnote-ref-3)
4. Official Gazette no. 37,404, March 14, 2002. [↑](#footnote-ref-4)
5. Official Gazette n. ° 38.344, December 27, 2005. [↑](#footnote-ref-5)
6. Official Gazette no. 37 296, October 3, 2001. [↑](#footnote-ref-6)
7. Official Gazette n. ° 5,266, Extraordinary on September 2, 1999. Reformed according to Official Gazette no. 5.859, on December 10, 2007. [↑](#footnote-ref-7)
8. Official Gazette n. ° 5,914 Extraordinary, December 7, 2009. [↑](#footnote-ref-8)
9. Gaceta Oficial n.° 39.276, 1 de octubre de 2009. [↑](#footnote-ref-9)
10. Gaceta Oficial n.° 39.264, 15 de septiembre de 2009. [↑](#footnote-ref-10)
11. Official Gazette no. 39 808, November 25, 2011 [↑](#footnote-ref-11)
12. Official Gazette. No. 40,212, 22de July 2013. [↑](#footnote-ref-12)
13. Judgment No. 163 Constitutional Chamber, Case no. No. 07-0124 of February 28, 2008 [↑](#footnote-ref-13)
14. For more information about the Defensoría del Pueblo's performance in each of the electoral events, see the Annual Reports of the Defensoría del Pueblo 2001, 2004, 2005, 2006, 2008, 2010, 2012 and the Special Report "Presidential Elections April 14, 2013, all available on the website of the institution, through the following link: <http://www.defensoria.gob.ve/dp/index.php/publicaciones>. [↑](#footnote-ref-14)
15. The DdP has a representative to the aforementioned commission, with the right to speak and vote. [↑](#footnote-ref-15)
16. <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2012/8984>. Consultado el 11 de octubre de 2012. [↑](#footnote-ref-16)
17. The La Defensoría got to know about 39 deportations in 2012, 59 in 2013, and 37 in the first semester of 2014, to Saime bodies. It is probable, then, that measures of these type are being conducted out of the law, due to the low number registered. [↑](#footnote-ref-17)
18. See report of the Defensoría Sr. Franklin Brito Rodríguez. Available at: <http://www.defensoria.gob.ve/dp/index.php/publicaciones/informes-especiales/1466-informe-brito>. [↑](#footnote-ref-18)
19. Judgment 1.406, 24 de octubre de 2012. En: <http://www.tsj.gov.ve/decisiones/scon/octubre/1406-241012-2012-10-0161.HTML>. [↑](#footnote-ref-19)
20. Judgment n. ° 953, July 16, 2013. At <http://www.tsj.gov.ve/decisiones/scon/julio/953-16713-2013-10-0238.HTML>. [↑](#footnote-ref-20)
21. Official Gazette. n° 40,212, July 22, 2013. [↑](#footnote-ref-21)
22. In 2012, the DdP through its Direction for Analysis and Research in Human Rights and the Juan Vives Suriá Foundation presented to the National Science Found, Technology and Innovation, to be eligible for funding, the proposal for research "Bolivarian National Police: Results from the monitoring work of the Defensoria 2013-2014 ", which has the overall objective to evaluate the performance of the BNP (Bolivarian National Police) in Aragua, Anzoategui, Carabobo, Capital, Lara, Miranda, Tachira and Zulia states from a human rights approach, by following the recommendations made by the DdP in 2010, the comparison of the perception in Sucre parish (2010 and 2013), and the analysis of the new police deployment since the A toda Vida Venezuela!. In this sense, by the end of 2013, the Fund granted the requested resources for conducting research that is under implementation of instruments for data collection. [↑](#footnote-ref-22)
23. Program results can be seen in the various annual reports of the Defensoria (2008-2013) published on its website, through the following link: <http://www.defensoria.gob.ve/dp/index php / publications />-annual reports. [↑](#footnote-ref-23)
24. Official Gazette 6079, Extraordinary, June 15, 2012. [↑](#footnote-ref-24)
25. Official Gazette 39.264, September 15th, 2009 [↑](#footnote-ref-25)
26. Regarding the DdP in 2012, it urged the Legislature to expedite the discussion and approval of this bill submitted by the Executive. [↑](#footnote-ref-26)
27. Official Gazette. No. 39,912, April 30, 2012 [↑](#footnote-ref-27)
28. Official Gazette, No. 38,770, September, 2007. [↑](#footnote-ref-28)
29. Official Gazette, No. 37 944 May 2004. [↑](#footnote-ref-29)
30. Official Gazette, No. 38 412 May 2006 [↑](#footnote-ref-30)
31. In 2012, the DdP urged the Ministry of Popular Power for Interior and Justice to expedite the signing of the National Plan by the participating institutions. And commitments are necessary to consolidate a state policy that contributes to prevent, suppress and punish this crime against humanity in our country as well as comprehensive assistance to victims of trafficking. [↑](#footnote-ref-31)
32. Official Gazette 39,823, December 19, 2011. [↑](#footnote-ref-32)
33. NATIONAL ASSEMBLY. AN sanctioned Organic Penitentiary Code. At: <http://www.asambleanacional.gob.ve/noticia/show/id/4210> . Consulted on November 7, 2013. [↑](#footnote-ref-33)
34. Among them: Penitentiary System Law. Official Gazette. n ° 36 975, July 19, 2000; Judicial redemption of sentence for work and study. Official Gazette n. ° 4,623, Extraordinary of September 3, 1993. [↑](#footnote-ref-34)