

Academic Freedom in Venezuela: Context, Restrictions and Challenges*

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Abstract

This article aims to analyze the situation regarding academic freedom and autonomy within higher education institutions in Venezuela between 2010-2018, identifying main restrictions, reprisals, threats and challenges. The research is focused on the grounds of international human rights law standards. Likewise, it analyzes the legislative and institutional framework in Venezuela and assesses the compatibility of domestic law and the practice from the branches of the Public Power with international standards on academic freedom and autonomy of higher education institutions. The research identified a restrictive policy against academic freedom and university autonomy in Venezuela, which is made visible through the normative-institutional framework, budget asphyxiation against universities, criminalization of protest and discrimination against professors and university students, the usurpation by ministerial authorities within the competences of the Public Autonomous Universities, the siege of the Judicial Power against universities and generalized practices to intervene higher education institutions. However, the situation has worsened in the context of the complex humanitarian emergency in Venezuela, which comprehensively affects the University as a key institution for democracy and its key actors: professors-researchers and students. Methodologically, the research is document-based. For the analytical process, this research made use of comparison and qualitative strategies. Research interviews with academic experts, faculties-investigators, students, university authorities and human rights advocates, were conducted as sources of credible data.

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Libertad Académica en Venezuela: Contexto, Restricciones y Desafíos

Resumen

El presente artículo tiene por objeto analizar la situación de la libertad académica y la autonomía de las instituciones de Educación Superior en la República Bolivariana de Venezuela entre 2010 y 2018, identificando sus principales restricciones, represalias, amenazas y desafíos. La investigación está basada en los estándares del derecho internacional de los derechos humanos. En este contexto, se analiza el marco legislativo e institucional en el Estado Venezolano y se realiza una valoración sobre la compatibilidad o no del derecho interno, así como de las acciones emanadas de las ramas del Poder Público, con los estándares internacionales en materia de libertad académica y autonomía de las instituciones de Educación Superior. Se identifica una política restrictiva contra la libertad académica y la autonomía de las instituciones de Educación Superior, la cual se manifiesta a través del plano normativo-institucional, la asfixia presupuestaria contra las universidades, la criminalización de la protesta y discriminación contra profesores y estudiantes, la usurpación por parte de autoridades ministeriales de algunas competencias propias de las universidades autónomas, el asedio del Poder Judicial contra las universidades, así como la práctica generalizada dirigida a intervenir las instituciones de Educación Superior. La situación se ha agravado en el contexto de la emergencia humanitaria compleja en Venezuela, el cual afecta integralmente a la Universidad como institución medular para la democracia y a sus actores claves: profesores-investigadores y estudiantes. Metodológicamente la investigación tiene carácter documental. A los fines de cumplir con el proceso de análisis, la presente investigación se basó en el uso de estrategias comparativas y cualitativas. A los fines investigativos fueron conducidas entrevistas a expertos académicos, profesores-investigadores, estudiantes, autoridades universitarias y defensores de derechos humanos, como fuentes para la obtención de información confiable científicamente.

Palabras clave: Libertad académica; autonomía de las instituciones de Educación Superior; restricciones, represalias, amenazas y desafíos; Emergencia humanitaria Compleja, Derecho Internacional de los Derechos Humanos; Derecho Venezolano.

Context

While the deep political and complex humanitarian crisis in Venezuela advances, the deinstitutionalization of the State and the massive human rights violations keep ensuing in 2018. Notwithstanding the duty of the State in guaranteeing a safe and free academia towards a democratic society, many concerns regarding restrictions and reprisals against academic freedom and university's institutional autonomy have arisen in Venezuela since the early 2000s in terms of normative and institutional framework, criminalization of protest, discrimination against academicians as well as scholars, and violations of human rights within the university environment. It is in this context where the international human rights bodies have broadened their approaches on matters such as academic freedom, and consequently the guarantee of human rights within the university environment has been gradually given in order to protect them.

The Venezuelan political, economic and social crisis affects almost every aspect of the lives of Venezuelans. University scholars and students in Venezuela do not escape from being affected by the worst crisis in the country's history. Likewise, Venezuelan civil society organizations have proved that the government has implemented a policy directed to violate human rights within university environments and academicians' human rights, as well. Patterns such as criminalization of protests, persecution and government interventions against university scholars and students, scholar withdrawals and students dropouts have been identified, violating academic freedom and the autonomy of the Higher Education institutions, among others. Since 2010 more than 50 decisions from the judiciary have been registered for violating academic freedom and intervening universities. During 2017, 21 invasions from police and military forces into

university campuses were documented, 17 university scholars and 339 university students were arbitrarily detained and university scholars as well as student dropouts have been calculated ranging from 30% to 50% in the same year¹.

In order to examine the recent history of international advocacy on academic freedom, reports were submitted before the United Nations Committee against Torture (CAT, 2014) and Committee on Civil and Political Rights (CCPR, 2015), which denounced different concerns regarding some patterns and practices on criminalization of student protests as well as assaults on university campuses committed by police and military forces in Venezuela². In 2016, a specialized report on restrictions and reprisals against academic freedom and autonomy of the Higher Education institutions in Venezuela was sent to the United Nations Human Rights Council as a contribution to the second cycle of Universal Periodic Review (UPR) in the 26th session by a coalition of Venezuelan university human rights centers from University of Zulia, University of The Andes and Catholic University Andres Bello³. In a similar approach, different States issued recommendations to Venezuela related to rights such as, freedom of expression, education and academic freedom, among others, which reflects the interest from international community on the matter.

The Inter American Commission on Human Rights (IACHR) 165th Period of sessions, held in Montevideo on October 2017, deserves special mention. The issue on academic freedom was discussed for the

¹ See “Venezuela denounces the university crisis in Venezuela before the IACHR”, (2017) <http://aulaabiervenezuela.org/index.php/2017/10/25/aula-abierta-venezuela-denuncia-la-crisis-universitaria-en-venezuela-ante-la-cidh/>; Violations and abuses of human rights to the university community in Venezuela during the protests of March-August 2017, (2017) <http://aulaabiervenezuela.org/wp-content/uploads/2017/09/INFORME-NACIONAL.pdf>. (Regarding the situation of academic freedom in Venezuela and Latin-America, a coalition of NGOs and university human rights centers, have issued reports on practices that directly affect university communities rights. The issue of restrictions and reprisals against academic freedom and university autonomy in Venezuela was addressed for the first time at the 165th session of the Inter-American Commission on Human Rights (IACHR) that was held in Montevideo, Uruguay on October 24 (2017). See <https://www.youtube.com/watch?v=tA6i8t8OR6c>. Likewise, the Inter American Commission of Human Rights addressed in its report “Situation of Human Rights: Democratic Institutions, the Rule of Law and Human Rights in Venezuela” (2017) several concerns about academic freedom, university autonomy and other human rights.)

² Both reports were issued by the Human Rights Commission of the Faculty of Law and Political Science of University of Zulia, among others.

³ Available in [http://w2.ucab.edu.ve/tl_files/CDH/imagenes/Epu%20Vzla%202016/Libertad%20academica%20EPU%20VEN%20Resumen%20\(1\).pdf](http://w2.ucab.edu.ve/tl_files/CDH/imagenes/Epu%20Vzla%202016/Libertad%20academica%20EPU%20VEN%20Resumen%20(1).pdf).

first time at an IACHR hearing on the right to education in Venezuela. Furthermore, the IACHR on the report “Democratic Institutions, the Rule of Law and Human Rights in Venezuela”⁴, interestingly, included the term “academic freedom” as a specific category, and the importance of Higher Education institutions was also valued. “The Commission expresses its concern at the allegations of interference in university autonomy. Though not expressly mentioned in the American Declaration, the IACHR emphasizes that university autonomy is an essential prerequisite for academic freedom, which, in turn, is necessary for full enjoyment of the right to education recognized at Article XII of the American Declaration. Therefore, the Commission urges the State to review and modify, as appropriate, any measures that undermine the independence of universities. The Commission also expresses its repudiation to allegations of politically motivated expulsion and arbitrary reprisals against students and urges the State to refrain from such acts and to investigate and, as applicable, punish them.”⁵ The interest on situation of academic freedom in Venezuela has gained attention from different spaces⁶.

More recently, the IACHR has also observed, through the Special Follow-up Mechanism for Nicaragua (MESENI), the enlargement of

⁴ See report: Democratic Institutions, the Rule of Law and Human Rights in Venezuela (2018), OAS, available at <http://www.oas.org/en/iachr/reports/pdfs/Venezuela2018-en.pdf>. The IACHR report included the term ‘academic freedom’ and the issues related to it in Venezuela. Even though the report doesn’t expand on the concept itself, it does cite the work of NGOs focused on academic freedom such as the “Preliminary report on the situation of human rights in the state of Zulia in the context of protests: July-August 2017” prepared by the Venezuelan NGO Aula Abierta, available at <http://aulaabiirtavenezuela.org/wp-content/uploads/2018/01/informe-preliminar-estado-zulia.pdf>. See footnote quotes 548, 550, 552, 555, 556, 563 and 565 of the IACHR transcript. The preliminary report was also cited in the “Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the possible perpetration of crimes against humanity in Venezuela” (2018), available at <http://www.oas.org/documents/eng/press/Informe-Panel-Independiente-Venezuela-EN.pdf>. See quotes 649, 651, 653, 656, 837, 839.

⁵ IACHR quotes United Nations Committee on Economic, Social and Cultural Rights (CESCR) –General Comment No. 13 on the right to education (1999). See pages 237-238, paragraph No. 458.

⁶ Isaac Nahon (professor at University of Ottawa) stated at the Conference of the Americas on Academic Freedom held in Caracas on November 12th and 13th (2018) that the “Statement of the International Association for Media and Communication Research (IAMCR) in favor of academic freedom in Venezuela signed on June 2018 in Eugene, Oregon (USA), ratifies the importance of the opinion from international universities to defend the cause of academic freedom and the rights of professor and students in Venezuela. See: <http://aulaabiirtavenezuela.org/index.php/2018/08/02/la-asociacion-internacional-para-la-investigacion-de-medios-y-comunicacion-iamcr-instala-gobierno-venezolano-a-respetar-la-libertad-academica/>

the human rights crisis occurred since April 18th, 2018. The Special Rapporteur on Economic, Social, Cultural and Environmental Rights (SRESCER) on September 10th, 2018 expressed its concerns about new reports of recurring threats and possible violations to social rights in Nicaragua⁷. The Special Rapporteur focuses on the reports of arbitrary dismissals, persecution and harassment of students and staff in both health and education sectors. This Special Rapporteur reminds the Nicaraguan State, as pointed by the IACHR, that academic freedom and autonomy of Higher Education institutions are fundamental pillars for the establishment of democratic structures and the prevention of external pressure and intervention inside the university spaces.

The General Secretariat of the Organization of American States (OAS) and the Panel of Independent International Experts issued a report on the possible perpetration of crimes against humanity in Venezuela on May 29th, 2018. The report highlighted the institutional persecution against any individual who expressed or has expressed contrary points of views to the ideology of the Bolivarian Government as the issues regarding academic freedom and autonomy in Venezuelan universities⁸. In it, the OAS expresses its preoccupation for the rights of students and university staff.

Progressively, the interest on the rights linked to university environments gains traction among the international human rights bodies. The Office of the High Commissioner for Human Rights (OHCHR) issued the report “Human Rights Violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight” on June 22nd, 2018. Its scope extends beyond the human rights violations committed in the context of the 2017 wave of mass demonstrations, in order to provide a more comprehensive overview of the human rights situation in the Bolivarian Republic of Venezuela. The OHCHR expressed clear concerns for the rights of students and their safety in the middle of the political

⁷ OAS press release, SRESCER views with serious concern information about arbitrary dismissals and harassment against medical personnel, university professors and students in Nicaragua, http://www.oas.org/en/iachr/media_center/PReleases/2018/203.asp. (Last visited on Sep. 12, 2018) (An important recognition of the issues that academic freedom is facing in Nicaragua and the rest of Latin America)

⁸ See OAS, Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the possible perpetration of crimes against humanity in Venezuela (2018), available at <http://www.oas.org/documents/eng/press/Informe-Panel-Independiente-Venezuela-EN.pdf>. See quotes 222-226 on pages 177-178

and institutional crisis that ensues the country. Even though the term academic freedom is not directly addressed in the report, the fact of documenting the violation of student and academic rights, is a positive step in the recognition of the autonomous character of public higher education institutions and the road for a fairer educational system⁹.

Special mention deserves that the IACHR has accepted the request for a thematic hearing for its 171 Period of Sessions (held in Bolivia on February 15th, 2019), focused on restrictions and reprisals against academic freedom and autonomy of Higher Education institutions in The Americas, which was issued by Ngo Aula Abierta (www.derecho-suniversitarios.org), University of Ottawa Human Rights Research and Education Centre (www.cdp-hrc.uottawa.ca), and Centro Iberoamericano de Formación en Derecho Internacional y Derechos Humanos (www.ci-fodidh.org).

I. Academic Freedom, Human Rights Law and Democracy

The Lima Declaration on Academic Freedom and Autonomy of Institutions of Higher Education¹⁰, defines academic freedom as the “freedom of members of the academic community, individually or collectively, in the pursuit, development, and transmission of knowledge, through research, study, discussion, documentation, production, creation, teaching, lecturing, and writing”. It estates that academic freedom is an essential precondition for those education, research, administrative, and service functions with which universities and other institutions of higher education are entrusted. All members of the academic community have the right to fulfill their functions without discrimination of any kind and without fear of interference or repression from the State or any other source¹¹.

⁹ See High Commissioner of the United Nations for Human Rights, Human Rights Violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight, available at https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf. The High Commissioner of the United Nations for Human Rights dealt with cases linked to the university environment rights. The High Commissioner did not mention the category “academic freedom” but quoted reports linked to the subject (See page 35, footnote 181). See also Aula Abierta, Preliminary report: Attacks and repression against professors and university students in Venezuela (February-October 2017), available at <http://aulaabiertavenezuela.org/wp-content/uploads/2017/08/Aula-Abierta-Venezuela.-Restricciones-y-represalias-contra-estudiantes-y-profesores-universitarios-en-Venezuela-Febrero-Julio-2017-CON-IMAGENES-1-1.pdf> [2017]

¹⁰ Issued in Lima, September 10th, 1988

¹¹ See Principle 3, Lima Declaration

Academic freedom finds its grounds on the International Human Rights Law. Such freedom to teach and learn without fear of persecution is recognized in the Universal Declaration of Human Rights¹² and in the American Declaration of the Rights and Duties of Man¹³. It is also recognized in Articles 13¹⁴ and 15¹⁵ of the International Covenant on Economic, Social and Cultural Rights, Article 13 of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights “Protocol of San Salvador”¹⁶ and in the Recommendation Concerning the Status of Higher-Education Teaching Personnel¹⁷, among others. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) guarantees that: “2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. 3. The exercise of the rights provided (...) carries with it special duties and responsibilities”. According to the UNESCO Recommendation concerning the Status of Higher-Education Teaching Personnel (1997) academic freedom is conceived within the rights and freedoms of higher-education teaching personnel¹⁸.

The relationship between academic freedom and democracy is undeniable. Historically, universities have been the cradle for the critical and plural thinking of a nation, where ideas are generated from a

¹² See articles 19 and 26 (Universal Declaration of Human Rights).

¹³ See article IV (Right to freedom of investigation, opinion, expression and dissemination).

¹⁴ Article 13. 1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.

¹⁵ Article 15. 1. The States Parties to the present Covenant recognize the right of everyone: (a) To take part in cultural life; (b) To enjoy the benefits of scientific progress and its applications; (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

¹⁶ Article 13. Right to Education. 1. Everyone has the right to education.

¹⁷ In paragraphs 17-21, the UNESCO recommendation establishes: A. Institutional autonomy. Later in paragraphs 25-30 it establishes: VI. Rights and freedoms of higher-education teaching personnel. A. Individual rights and freedoms: civil rights, academic freedom, publication rights, and the international exchange of information.

¹⁸ See section VI “Rights and freedoms of higher-education teaching personnel”: A. Individual rights and freedoms: civil rights, academic freedom, publication rights, and the international exchange of information”. Available in http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_TOPIC&URL_SECTION=201.html

scientific-academic process from which they emerge directly and foster democracy itself, being this the reason why totalitarian regimes target universities as their main enemy. The “democratic idea” is inseparable from respecting, promoting and guaranteeing human rights in general, but especially guaranteeing academic freedom as an individual and collective human right necessary for the configuration of the “democratic society”, given the importance of “University” as an essential space of critical thinking for the production of scientific knowledge and development in favor of society. In nutshell, the democratic notion of academic freedom is reflected in the words of Albornoz (2007:166), the notion of academic freedom refers to the right of academics, individually or collectively speaking, to teach and discuss, do research, disseminate and publish the results thereof; express freely without pressure or intimidation, their opinions and criteria about the society where they reside and the educational system where they work. To be free of censorship at institutional and social level, and participate in the representative bodies of the academy without fear of reprisals, pressures that through threats generate fear, persecution or violence; not to be discriminated against by the doctrines that in a given moment become official discourse¹⁹.

II. Situation of Academic Freedom and Autonomy of Higher Education Institutions in Venezuela

The situation of academic freedom and autonomy of Higher Education institutions in Venezuela is complex, because although academic freedom is legally and constitutionally recognized, it has been restricted since the early 2000s through a policy developed by the National Executive branch that limits and regulates the freedom of education and thought. In this context, Hocevar-Gómez-Rivas (2017) recall the moment where Hugo Chávez endorsed back in 2003 the creation of non-autonomous university

¹⁹ Free translation of primary source in Spanish: “en términos internacionales, la noción de libertad académica se refiere al derecho de los académicos, individuales o colectivamente hablando, para enseñar y discutir, hacer investigación, diseminar y publicar el resultado de las mismas; expresar libremente sin presiones ni intimidaciones, sus opiniones y criterios acerca de la sociedad en donde residen y del sistema educativo en donde trabajan. Para ser libres de censura a nivel institucional y social, y participar en los cuerpos representativos de la academia sin temor a represalias, presiones que mediante amenazas generen miedo, persecución o violencia; a no ser discriminados por las doctrinas que en un momento dado se conviertan en discurso oficial” (Albornoz, 2007:166)

institutions, in an evident attempt to impose a sole political way of thought for the consolidation of “Socialism of the XXI Century”. “The new university became a political and indoctrination echo chamber rather than a scenario for the free discussion of ideas”²⁰.

A. Autonomy of Higher Education Institutions and Academic Freedom under the Venezuelan Domestic Law. Institutional Framework

The autonomy of Higher Education institutions, the right to education and academic freedom are recognized in Articles 102 and 109 of the Constitution of the Bolivarian Republic of Venezuela²¹, Articles 6, 7 and 9 of the University Law Act²² (LU by its Spanish acronym), effective since 1970, and Article 36 of the Organic Law of Education²³ (LOE by its Spanish acronym). This framework is consistent with Articles 13 and 15 of the International Covenant on Economic, Social and Cultural Rights and UNESCO’s Recommendation concerning the Status of Higher-Education Teaching Personnel. However, according to the report “Restrictions and Reprisals against Autonomy and Academic Freedom in

²⁰ See Hocevar, Gómez and Rivas “Threats to Academic Freedom in Venezuela: Legislative Impositions and Patterns of Discrimination towards University Teachers and Students (2017)”, University of Salento, University Librarian Informatics Services (SIBA), Italy.

²¹ Article 109 CRBV: “The State recognizes university autonomy as a principle and status that allows teachers, professors, students and graduates in their community to the pursuit of knowledge through scientific, humanistic and technological research, for spiritual and material benefit of the Nation. Autonomous universities shall have their own rules of governance and operation and efficient management of its assets under the control and monitoring for these purposes established by law. University autonomy to plan, organize, develop and update programs of research, teaching and extension is guaranteed. The inviolability of the campus is established. Experimental national universities shall attain their autonomy in accordance with the law”. (Emphasis added). Article 102 CRBV: “Education is a public service based on respect for all currents of thought in order to develop the potential of every human being and the full exercise of their personality in a democratic society based on ethical evaluation of work and active, conscious and joint participation in the processes of social transformation embodied with the values of national identity and a Latin American and universal vision” (Emphasis added).

²² Article 9, LU: “Universities are autonomous”. Within the provisions of this law and its regulations they have: 1. Organizational autonomy, under which they may adopt internal rules”. (Emphasis added). Available at http://www.oei.es/quipu/venezuela/Ley_de_universidades.pdf

²³ Organic Law of Education (LOE), available at http://planipolis.iiep.UNESCO.org/upload/Venezuela/Venezuela_Ley_Organica_Educacion.pdf

Higher Education System in Venezuela”²⁴, through the LOE -amended in 2009- the State applies some articles violating universities’ autonomy and academic freedom, derived from a draft reform of the Organic Law on Higher Education²⁵ approved by the National Assembly (AN by its Spanish acronym) on December 2010 but vetoed by the President in January 2011.

Despite this and various appeals filled by the universities before the Supreme Court requesting the annulment of the previously mentioned articles (not resolved to date), they still apply to all universities²⁶. Article 6 of the LOE creates the “*Estado Docente*” (*Teacher State*)²⁷, which assigns to the National Executive Power competences of control over universities’ rules and policies of government, income and training. Article 34 (LOE) states that autonomy of Higher Education institutions must be interpreted; (a) in “academia”, as the subordination of training programs and research to the plans of the National Executive Power and the priority needs of the country; (b) in the administrative and self-government level, as the obligation to include the administrative staff and workers in the election of university authorities and student representatives; and (c) in the economic sphere, as the centralized State control over investment and expenditure of universities. Similarly, Articles 37 and 38, reserves to the State the functions of formulation, regulation, monitoring and control of professors training policies.

Regarding the new non-autonomous institutionalism in Higher Education policies, the report “Restrictions and Reprisals against Autonomy and Academic Freedom in Higher Education System in Venezuela” states that: “4. In Venezuela there are seven public national

²⁴ The report was presented by the Human Rights Observatory of the University of Los Andes (ODH-ULA), the Centre for Human Rights at the Catholic University Andres Bello (CDH-UCAB) and the Commission on Human Rights of the Faculty of Law and Political Sciences of the University of Zulia (LUZ), as a contribution for the second cycle of Universal Periodic Review of Venezuela, in the 26th session of the United Nations Human Rights Council.

²⁵ The PLEU is the law that currently regulates and controls the higher education system in Venezuela, available at [http://www.matematica.ciens.ucv.ve/files/Normativas/Proyecto_de_Ley_de_Educacion_Universitaria_\(2010\).pdf](http://www.matematica.ciens.ucv.ve/files/Normativas/Proyecto_de_Ley_de_Educacion_Universitaria_(2010).pdf)

²⁶ See Pronunciation of the University Council of the UCV before the sentences of the TSJ on Electoral Regulations <http://notiadmin.ucv.ve/wp-content/uploads/2012/06/UNIVERSIDAD-CENTRAL-DE-VENEZUELA-pronunciamiento-1-6.pdf> (UCV authorities develop the foundations on the unconstitutionality of the LOE and reiterate their autonomous nature.)

²⁷ Through the figure of “*Estado Docente*” (Teaching State), the state regulates, monitors and controls the entire educational activity at all levels of public and private education.

universities with 365,000 students²⁸ and 27 private universities with an enrollment of 290,000 students²⁹, which are guided by the principle of autonomy of Higher Education institutions. Although the Constitution requires that all universities should progress towards the adoption of this principle, still 32 universities (national, experimental and polytechnics) are not considering it because the National Executive Power persists in a policy aimed at undermining the institutional autonomy of Higher Education. 5.

The policy against autonomy began in 2003 with a parallel system of Higher Education subordinated to the State, under the name of *Sucre Mission*, which absorbed all universities lacking autonomous status where the State has created a *pensée unique* (single thought)³⁰ university model³¹. This system also allows exclusion of autonomous universities from Higher Education Policies and has been used for purposes of proselytism and indoctrination. 6.

The application of this policy to the entire university sector was made explicit in the Plan of the Homeland 2013-2019³¹, which condenses the policy guidelines of the National Executive Power and unconstitutionally became law on December 4th, 2013. The Plan provides for the university transformation in order to link it with the objectives of the national project, which lies on deepening and radicalizing the revolution under the Bolivarian socialism (article 2.2.12.10) and establishes that scientific research should serve to the construction of a socialist production model and socialist ethics (article 1.5.1). 7. To implement the Plan of the homeland in Higher Education and achieve its goals within “the greatest political efficiency and revolutionary quality in the construction of socialism”, in 2014 the National Executive Power transformed the executive body of Higher Education into the Ministry of Popular Power

²⁸ UCV, Universidad Central de Venezuela; UCLA, Universidad Centro Occidental Lisandro Alvarado; UCA, Universidad de Carabobo; ULA, Universidad de Los Andes; UDO, Universidad de Oriente; LUZ, Universidad del Zulia; y USB, Universidad Simón Bolívar.

²⁹ Ministry of People’s Power for Higher Education, Science and Technology. Report and Accounts, 2014 and 2015.

³⁰ *Pensée unique* (single thought) means the imposition of an ideology that is proposed as the only and unquestionable truth and a set of ideas as the only valid and justified objective.

³¹ Plan for the Homeland. See <https://observatorioplanificacion.cepal.org/es/planes/plan-de-la-patria-2013-2019-de-venezuela>

for Higher Education, Science and Technology³² with three vice-ministries³³, whose responsibilities empower them to issue decrees without any consultation in policies, plans and training programs, student admissions and research priorities of higher education; usurping functions that, for their autonomy, correspond to universities³⁴.

³² Decree N° 1.226, of September 3, 2014. Official Gazette N° 40.489 of the same date. MPPEUCT Mission at: <http://www.mppeuct.gob.ve/ministerio/sobre-nosotros>

³³ The deputy ministers are of university education, of research and application of knowledge and, of institutional strengthening, connectivity and knowledge exchange. http://www.mp.gob.ve/c/document_library/get_file?p_l_id=10240&folderId=5490756&name=DLFE-7988.pdf

³⁴ Juan Carlos Delgado, former Vice Chancellor of Trujillo campus of the University of Los Andes stated: "...Higher Education subsystem is governed by means of decrees, obviating the current Universities Act (...) Ministry of People's Power for Higher Education, Science and Technology, governed by the Organic Law of Education, bases its relationship with universities from the perspective of the Estado Docente centralizing, in an overwhelming and interventionist way, decisions and programs previously taken by institutions of higher education autonomously and independently, such as system design and implementation of the budget, development plans and investment system, research and scientific exchange, training-curricular plan, the plan of student admission, the election system of its chancellors and deans authorities..." See <http://aconteceronline.blogspot.com/2013/12/discurso-de-orden-del-doctor-juan.html>

B. Attacks on Campuses by State Security Forces. Selective Detention of University Professors and Students, and Application of Military Justice in Contravention to International Human Rights Standards and Domestic Law

According to different reports from university human rights institutes³⁵, at least 17 professors³⁶ were arbitrarily detained in 2017 in Venezuela³⁷, due to different motives: from publication of critical ideas against government's public policies to participation in demonstrations against the current administration. Furthermore, 92 demonstrations convened by the academic community were suppressed. The main repressive body was the Bolivarian National Guard (GNB by its Spanish acronym), being responsible for repressing 82% of the demonstrations. Allegations of raids on the campus were received without any warrant or justification based on exceptional situations declared or notified in advance according

³⁵ See Preliminary report: Attacks and repression against professors and university students in Venezuela (February-October 2017). Aula Abierta, Human Rights Commission of the Faculty of Legal and Political Sciences of the University of Zulia, Center for Peace and Human Rights of the Central University of Venezuela and Observatory of Human Rights of University of The Andes, available at <http://aulaabiertavenezuela.org/wp-content/uploads/2017/08/Aula-Abierta-Venezuela.-Restricciones-y-represalias-contra-estudiantes-y-profesores-universitarios-en-Venezuela-Febrero-Julio-2017-CON-IMAGENES-1-1.pdf> (2017). (This work has been cited by the Group of Independent Experts appointed by the Secretary General of the Organization of American States in its work "Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the possible perpetration of crimes against humanity in Venezuela", available at <http://www.oas.org/documents/eng/press/Informe-Panel-Independiente-Venezuela-EN.pdf>. See page 151 and citations 222, 223, 224, 225, 226. The initial report made by Aula Abierta summarizes different situations linked to human rights violations in which the target victims are university actors: professors and students, in addition to the facilities of the university campuses in a context that represents the violation by the state authorities, and / or paramilitary groups, of academic freedom, autonomy of Higher Education institutions, life, physical, mental and moral integrity, personal freedom, due process, the free development of personality and other rights contemplated in the various international treaties in matters of human rights. In this sense, a summary of the material documented by Aula Abierta from February to October 2017, related to the criminalization of university students' protest, is established. The summary is subsumed as a suggestion based in some clauses of the article 7 in the Statute of Rome, which deals with crimes against humanity.)

³⁶ 8 professors were brought before military courts, 6 before ordinary courts and 3 released from State Security Forces detention centers.

³⁷ See Aula Abierta, Academic community warns about specific detentions against university professors in Venezuela, (December 2017) <http://aulaabiertavenezuela.org/wp-content/uploads/2017/12/INFORME-DE-PROFESORES-DETENIDOS-ACTUALIZADO-Diciembre-2017.pdf>

to national and international standards. Reports from the NGO “Aula Abierta”³⁸ stated that there were 21 attacks or break-ins in campuses between April and July 2017. The GNB was responsible for the largest number of break-ins, with 41% to their account.

The Constitution of the Bolivarian Republic of Venezuela establishes³⁹ that every person has the right to be judged by his or her natural judges of ordinary or special competence, with the guarantees established in this Constitution and by law. No person shall be put on trial without knowing the identity of the party judging him or her, nor be adjudged by exceptional courts or commissions created for such purpose. On the other hand, it is important to highlight that the constitutional Article 261 establishes that: “Military criminal jurisdiction is an integral part of the Judicial Power, and its judges (...) shall be selected by a competitive process. Its sphere of competence, organization and modes of operation shall be governed by the accusatory system and in accordance with the Organic Code of Military Justice. The commission of common crimes, human rights violations and violations of humanity rights shall be judged by the courts of the ordinary jurisdiction. Military courts jurisdiction is limited to offenses of a military nature”.

As far as the application of military justice to civilians in Venezuela concerns, it is important to emphasize that the Organic Code of Military Justice (COJM by its acronym in Spanish) has a marked inquisitive character, which is far from the contemporary principles of International Human Rights Law. Therefore, the intervention of Executive Power in military justice completely violates the due process of any civil or military citizen that could be the object of the qualifier term “traitor to the

³⁸ See “University Students in Venezuela: Repression and Deaths During 2017”, Aula Abierta Press, <http://aulaabiertavenezuela.org/index.php/2017/12/24/universitarios-en-venezuela-ataque-represion-y-muerte-durante-el-2017/> (2017)

³⁹ Article 49, fourth paragraph.

homeland”, thus being able to be labeled as any political enemy, giving way to curtail of their fundamental rights. Furthermore, the interference of the Executive Power in the determination of military courts prevents the application of impartial justice⁴⁰.

Contradictory, the aforementioned repressive context has been developed on the grounds of the normative and case-law precedents produced by the judiciary in Venezuela. Despite normative constitutional provisions compatible with respect of human rights, an *infra*-constitutional regulatory rules have been developed since 2014, both in judicial decisions from the Supreme Court of Justice, and through decrees and resolutions from the National Executive branch, which has been used as domestic law framework to justify the actions of the security forces in the excessive control of the protests. Alerts have been recurrent on the main concerns regarding the following normative instruments that favor the criminalization of protest in Venezuela: 1) Sentence No. 276 of April 24th, 2014 (Constitutional Chamber -TSJ) on the interpretation of the article 68 of the Constitution of the Bolivarian Republic of Venezuela and articles 41, 43, 44, 46 and 50 of the Law on Political Parties, Public Meetings and Manifestations⁴¹. 2) Resolution No. 008610 from the Ministry of

⁴⁰ Likewise, the following are some aspects that characterize military justice in Venezuela: i. Prosecutors in the military jurisdiction are elected by the President of the Republic and must be active officers of the armed force (Article 71 of the Organic Code of Military Justice). On the other hand, in an ordinary proceeding, the Public Ministry is autonomous and independent of the other State bodies. ii. Military justice empowers the President of the Republic and the Minister of Defence to organize and elect military judges. For its part, the Judiciary and its organization are determined by Article 255 of the Constitution. While, in an ordinary procedure, the Public Ministry is autonomous and independent from the other State bodies. ii. Military justice empowers the President of the Republic and the Minister of Defense to organize and elect military judges. For its part, the Judicial Branch and its organization are determined by Article 255 of the Constitution.

⁴¹ In the aforementioned ruling, the Constitutional Chamber stated a prohibition that prevents the exercise of the right to demonstrate without the authorization of the first civil authority. The Chamber warned that obviating this authorization implies a criminal offense; whereby citizens could be deprived of their liberty for demonstrating without the prior authorization from Mayors. In addition, the Chamber holds that any concentration, demonstration or public meeting that does not have the prior approval of the authorization may “lead to the police and security forces in the control of public order (...) act dispersing these concentrations with the use of the most appropriate mechanisms for this”.

Defense on: “Rules on the performance of the Bolivarian National Armed Forces in functions of control of public order, social peace and citizen coexistence in public meetings and demonstrations. 3) Plan Zamora and 4) Marco -unconstitutional- of the states of exception in Venezuela⁴².”

C. Discriminatory Practices in the Higher Education System

Discrimination in the Higher Education System has been increasing in Venezuela in recent years. According to different reports from human rights organizations, between June 21st and July 3rd, 2016, 896 students from The State of Zulia were temporarily suspended from the government’s Jesus Enrique Lossada scholarship program (JEL by its Spanish acronym scholarships). It was within the context of the process of collecting signatures in favor of the activation of the recall referendum against President Nicolás Maduro⁴³. Such disincorporation was related to actions and practices of reprisals and political discrimination exercised by the Governor of the State of Zulia, who was a political ally of the National Government. On September 2017, complaints were received denouncing that the Governor of the State of Zulia coerced students to subscribe to voter registration forms in favor of his candidacy to the regional elections process of October 2017.

Some cases of discrimination on political grounds have been documented, including students from the National Polytechnic Experimental

⁴²See Gómez (2017).

⁴³On September 12th, 2018, President Nicolás Maduro decreed a new State of Emergency throughout the country, which configures a new State of Exception in Venezuela. At least ten times the last declaratory of State of Exception was extended since January 14th, 2016, without having the approval of the National Assembly constitutionally demanded. See: http://www.el-nacional.com/noticias/politica/maduro-decreto-nuevo-estado-excepcion-por-dias_182573, http://www.el-nacional.com/noticias/politica/maduro-decreto-nuevo-estado-excepcion-por-dias_182573, <http://www.panorama.com.ve/politicayeconomia/Lea-lo-que-establece-la-Constitucion-sobre-el-Estado-de-Excepcion--20150821-0070.html>. Likewise, the Decree of the State of Exception issued on May 13th, 2016, conferred to the community organizations (identified as people’s power) the capacity to intervene together with the police and the armed forces, carrying out tasks of public order and security (article 2 number 9). Civil Society organizations have recurrently denounced the perils on the conformation of a para-military forces in Venezuela. See: http://w2.ucab.edu.ve/tl_files/CDH/imagenes/Epu%20Vzla%202016/Para%20entender%20el%20Plan%20Zamora.pdfhttp://www.el-nacional.com/noticias/bbc-mundo/que-plan-zamora-por-que-detenidos-responden-ante-tribunal-militar_181314

⁴³ See “Students unincorporated from JEL scholarship for validating signature of impeachment recall”, Aula Abierta Press, <http://aulaabiertavenezuela.org/index.php/2016/09/15/desincorporados-de-beca-jel-por-validar-firma-al-revocatorio/> (2016)

University of the National Armed Forces (UNEFA), the Bolivarian University of Venezuela, among others, in retaliatory actions against them for having manifested some criticism against the National Government or belonging to some political opposition grouping⁴⁴. In all cases, the violation of the due process has been reiterated.

D. Siege from the Venezuelan Judiciary against universities

Since 2010, more than 50 judgments from judiciary have been registered by different organizations which directly violate the content of academic freedom, university institutional autonomy and consequently the right to quality of education in cases related to electoral processes within universities, selection of professors and university authorities, student admissions, among others⁴⁵.

The report “Restrictions and reprisals against autonomy and academic freedom in Higher Education System in Venezuela”⁴⁶ denounced that since Decision No. 110 of 2010 issued by the Electoral Chamber of the Supreme Court of Justice, it has ordered the suspension of elections of university and student authorities in Venezuela. The electoral processes of 9 universities are currently suspended at a national level, to elect presidents, deans, representatives of professors before the University Council, representatives of professors before the Councils of Faculties and Schools, Council of Appeals, representative of the graduates before the University Council and the student elections of Government and Co-government University. Through the National Council of Universities (CNU by its acronym in Spanish) and other State bodies, the Venezuelan government has intervened in the designation of university authorities. The National Council of Universities arbitrarily appointed a military officer as the new Academic Vice-Rector in charge of Simón Bolívar University in July

⁴⁴ See “UNT denounces that UNEFA expelled students for protesting”, *El Nacional*, http://www.el-nacional.com/noticias/politica/unt-denuncio-que-unefa-expulso-estudiantes-por-participar-protesta_43627 (2016)

⁴⁵ See Gómez, Villalobos and Romero (2019), “Restricciones a la libertad académica y la autonomía universitaria en la Jurisprudencia Venezolana (2010-2018)”. Frónesis. University of Zulia. Faculty of Law and Political Science.

⁴⁶ The report was presented by the Human Rights Observatory of the University of Los Andes (ODH-UULA), the Centre for Human Rights at the Catholic University Andres Bello (CDH-UCAB) and the Commission on Human Rights of the Faculty of Law and Political Sciences of the University of Zulia (LUZ), as a contribution for the second cycle of Universal Periodic Review of Venezuela, in the 26th session of the United Nations Human Rights Council.

2017. Furthermore, the CNU established a commission to verify the validity of the nomination process of Nelly Velasquez as the new President of Center-Occidental University Alvarado (UCLA by its acronym in Spanish), thus questioning the decision issued on September 1st, 2017 by the University Council of this university. During 2017 Administrative Law Courts in the state of Merida and the Capital District ordered the Venezuela Central University and The Andes University to suspend the academic competitions for new professor positions. Different NGOs and University human rights centers denounced the Twitter profile of the judge who decided on some cases on The Andes University, indicating that she defines herself as a “soldier of the socialist revolution”.

Special mention on university electoral matters deserves the Decision No. 2 issued by the Electoral Chamber of The Supreme Court of Justice on January 28th 2010 (Case Universidad Nacional Abierta –UNA)⁴⁷, and Decision No. 120 issued by such chamber on August 11th 2010 (Case Universidad Centrooccidental Lissandro Alvarado –UCLA)⁴⁸. We recommend to see also some decisions from Electoral Chamber of the Supreme Court with similar arguments, as well: Decision No. 108⁴⁹ (July 21st 2010), Case Universidad de Oriente (UDO), Decision No. 104⁵⁰ (August 10th 2010), Case Universidad Central de Venezuela, Decision No. 134⁵¹ (November 24th, 2011), Case: Universidad del Zulia (LUZ), Decision No. 86⁵² (June 05th 2012), Case: Universidad de Los Andes (ULA), Decision No. 49⁵³ (March 28th 2012), Case: Universidad Nacional Experimental Politécnica Antonio Jose de Sucre. Regarding some student elections, see also the following judicial decisions from Electoral Chamber: Decision No.79 (May 21st 2008), Decision No. 179

⁴⁷ Decision No.2 issued by Electoral Chamber of the Supreme Court of Justice on January 28th 2010, available in: <http://historico.tsj.gob.ve/decisiones/selec/enero/2-28110-2010-10-000004.HTML>

⁴⁸ Decision No. 120 issued on August 11th 2010, Case: Universidad Centrooccidental Lissandro Alvarado. Available in: <http://historico.tsj.gob.ve/decisiones/selec/agosto/120-11810-2010-10-000044.HTML>.

⁴⁹ Available in: <http://historico.tsj.gob.ve/decisiones/selec/julio/108-21710-2010-10-000069.HTML>

⁵⁰ Available in: <http://historico.tsj.gob.ve/decisiones/selec/agosto/104-10811-2011-2011-000033.HTML>

⁵¹ Available in: <http://historico.tsj.gob.ve/decisiones/selec/noviembre/134-241111-2011-2011-000022.HTML>

⁵² Available in: <http://historico.tsj.gob.ve/decisiones/selec/junio/86-5612-2012-AA70-E-2012-039.HTML>

⁵³ Available in: <http://historico.tsj.gob.ve/decisiones/selec/marzo/49-28312-2012-AA70-E-2010-070.HTML>

(November 5th 2008), Decision No. 1 (June 29th 2010), Decision No 39 (May 24th 2011), Decision No. 110 (October 25th, 2011), Decision No. 10 (February 14th 2017); and Decision of July 12th from a Monagas State Court (Juzgado Segundo de Primera Instancia en lo Civil, Mercantil de la Circunscripción Judicial del Estado Monagas), as well. Special mention deserves Decision No. 102 (November 27, 2018), issued by Electoral Chamber of the Supreme Court of Justice, which intervened the student electoral process held on November 14th, 2018 at the University of Carabobo declaring nonexistent and without legal effects the acts carried out by Luis Eduardo León (President of the Student Electoral Commission) in the student electoral process of the aforementioned University in whose context the student Marlon Díaz had been proclaimed President of the Federation of University Centers before the academic authorities of that University. In other context, about some restrictions on student admissions, see also the Decision No. 831, Constitutional Chamber of The Supreme Court of Justice (July 07th 2015⁵⁴). Regarding other issues on autonomy of Higher Education institutions see also the decision issued by the Zulia State Administrative Court on February 2015, which ruled University of Zulia to restart classes during protests, contravening some University Council decisions⁵⁵, the decision issued on November 28th 2017 by a Court in Caracas (Juzgado Superior Séptimo en lo Contencioso Administrativo de la Región Capital⁵⁶), which restricted the capacity of the Central University of Venezuela regarding the participation of one student in a graduation ceremony. See also the decision issued on October 17th by a Court in Caracas (Tribunal 10mo de lo Contencioso-Administrativo de la Región Capital⁵⁷) which ruled the Central University of Venezuela to suspend every opposition competition to select professors on different subjects, and the decision issued

⁵⁴ Available in: <http://historico.tsj.gob.ve/decisiones/scon/julio/179242-831-7715-2015-15-0572.HTML>

⁵⁵ See: <http://f2.panorama.com.ve/ciudad/TSJ-ordeno-reinicio-inmediato-de-clases-en-LUZ-20140501-0160.html>

⁵⁶ Decision issued on November 28th 2017 by the Court: “Juzgado Superior Séptimo en lo Contencioso Administrativo de la Región Capital”. Available in: <http://caracas.tsj.gob.ve/DECISIONES/2017/NOVIEMBRE/2112-28-4005-17-.HTML>

⁵⁷ Decision issued on October 17th 2017 by the Court: “Tribunal 10mo de lo Contencioso Administrativo de la Región Capital”. Available in: <http://caracas.tsj.gob.ve/DECISIONES/2017/OCTUBRE/2258-17-2987-17-180-17.HTML>

on November 6th 2017 by a Court in Merida State (Juzgado Superior Estadal Contencioso Administrativo de la Circunscripción Judicial del Estado Bolivariano de Mérida), which annulled the call for new professor competitions in the Faculty of Law and Politics.

III. Complex Humanitarian Emergency in Venezuela and Threats to Educational Quality⁵⁸

The Venezuelan political, economic and social crisis affects almost every aspect of the lives of Venezuelans. The former United Nations High Commissioner for Human Rights, Zeid Ra'ad al Hussein, spoke on March 7th, 2018 before the United Nations Human Rights Council where he stated his opinion summarizing the basic concerns about the lack of democracy and human rights violations in Venezuela. He said, “human rights situation in Venezuela is deeply alarming. Malnutrition has increased dramatically in the country affecting in particular children and the

⁵⁸ In order to study some “complex humanitarian emergencies” since a factual approach, but also theoretically, see: Emergencias complejas: refugiados y otras poblaciones / Michael J. Toole. in: <http://helid.digicollection.org/en/d/Jwho71s/8.6.html>; Emergencias complejas (Diccionario de acción humanitaria y cooperación al desarrollo de Icaria – Hegoa) in: <http://www.dicc.hegoa.ehu.es/listar/mostrar/85> and <http://www.dicc.hegoa.ehu.es/>; Emergencia política compleja (ALNAP Glosario), in: https://www.alnap.org/system/files/content/resource/files/main/fann02bb_0.pdf; Los derechos humanos primero. Naciones Unidas, in: http://www.un.org/es/sg/pdf/RuFAP-summary-General-Assembly_es.pdf; Normas mínimas para la educación en situaciones de emergencia, crisis crónicas y reconstrucción temprana (INEE), in: https://www.unicef.org/paraguay/spanish/MR_5_inee-esp.pdf; Manual para situaciones de emergencia sobre el terreno. Una guía para el personal de UNICEF, in: https://www.unicef.org/spanish/publications/files/UNICEF_Emergency_Field_Handbook_SP.PDF; Protección: Una guía de ALNAP para las agencias humanitarias (ALNAP), in: <http://www.psicosocial.net/grupoaccion-comunitaria/centro-de-documentacion-gac/areas-y-poblaciones-especificas-de-trabajo/desgaste-y-seguridad-paraactivistas/359-proteccion-una-guia-de-alnap-para-las-agencias-humanitarias/file>; Guía de orientación sobre el uso del enfoque de grupo sectorial (“cluster approach”) para fortalecer la respuesta humanitaria (IASC), in: <http://www.bvsde.paho.org/texcom/desastres/iascesfr.pdf>; Nota de orientación sobre derechos humanos para coordinadores humanitarios. IASC, in: https://interagencystandingcommittee.org/system/files/legacy_files/IASC%20HR%20guidance%20note%20for%20HCs%20Final%20June%202006.pdf; Glosario de Términos Humanitarios. ReliefWeb, in: <https://reliefweb.int/sites/reliefweb.int/files/resources/4F99A3C28EC37D0EC12574A4002E89B4-reliefweb-aug2008.pdf>; Asistencia Humanitaria en Conflictos y Emergencias Complejas (WFP), in: <https://documents.wfp.org/stellent/groups/public/documents/communications/wfp225450.pdf>; Principios Humanitarios (OCHA), in: https://www.unocha.org/sites/dms/Documents/OOM_HumPrinciple_Spanish.pdf; 2011 – Carta Humanitaria y Normas Mínimas para la Respuesta Humanitaria (Proyecto Esfera), in: <http://www.acnur.org/fileadmin/Documentos/Publicaciones/2011/8206.pdf>; S/F – 3W - ¿Quién hace qué, dónde? (Humanitarian Response), in: <https://www.humanitarianresponse.info/es/applications/tools/category/3w-who-does-what-where>

elderly. A credible report indicates that government assistance programs are often conditioned under political considerations. I am deeply alarmed by possible crimes against humanity that have been committed and by the erosion of democratic institutions. The fundamental principle of separation of powers has been severely compromised. My office has also received credible reports of hundreds of extrajudicial killings in recent years during protests and security operations. I am seriously concerned that this context does not fulfill the minimum conditions for free elections. I am deeply disturbed by the growing exodus of Venezuelans from their country, many of them seeking access to food and basic services”⁵⁹.

The preliminary report about situation of academicians in the context of the complex humanitarian emergency in Venezuela⁶⁰ published in November 2018 by Ngo Aula Abierta (*Open Class*) with the collaboration of the human rights institutes from University of Zulia (LUZ), University of Los Andes (ULA) and Central University of Venezuela (UCV), highlighted the situation of budgetary asphyxia from the Government⁶¹, the

⁵⁹ See UN High Commissioner for Human Rights in <https://www.youtube.com/watch?v=N4wdKwjI75s>. (VenEuropa Canal, YouTube video, 1:17. Posted: March 7, 2018, consulted on March 20, 2018).

⁶⁰ See: Informe preliminar: Universitarios en el marco de la emergencia humanitaria compleja venezolana, Enero-Noviembre 2018, in <http://aulaabiirtavenezuela.org/wp-content/uploads/2019/01/La-Universidad-venezolana-en-el-marco-de-la-Emergencia-Humanitaria-Compleja.pdf>

⁶¹ In relation to the budgetary asphyxia induced by the State, the report denounces that at least since 2010 there has been a State policy aimed at generating budget insufficiency in the nation's public universities. The Popular Ministry for University Education, Science and Technology has disproportionately disregarded the budget projects that have presented them, when approving budget items that suffer from a deficit ranging between 50% and 70% in relation to the requirements real universities. The report denounces for example that: 1. The University of Los Andes only received from the Ministry (MPPEUCT) the 26% of the budget requested for 2018 (See: <http://prensa.ula.ve/2018/10/15/gobierno-nacional-impone-presupuesto-deficitario-la-ula>). 2. The Central University of Venezuela (UCV) requested from the Ministry a budget of which only 20% was approved (See: <http://www.eluniversal.com/politica/15631/rectora-de-ucv-comento-que-el-salario-de-profesores-no-alcanza-para-comprar-productos-de-primera>). 3. The University of Carabobo requested from the Ministry a budget of which only 11% was approved.

collapse of student services⁶², the lack of support for scientific research, the massive violation of the labor and health rights of university professors⁶³, among other problems, which entail serious consequences in the exercise of academic freedom, university autonomy and, consequently, the right to a quality education. Regarding the budgetary asphyxia is remarkable that the budget for the University of Zulia in 2019 have a deficit

⁶² In relation to the student transport service, the preliminary report about situation of academicians in the context of the complex humanitarian emergency in Venezuela denounces that it is only counted as of December 04th, 2018 with 11 transport units operating nationwide to mobilize approximately 124,000 students belonging to the universities: ULA (approximately 23,00049), UCV (approximately 32,00050), LUZ (approximately 43,00051) and UDO (approximately 24,70052).

¹n relation to the crisis of university student canteens, the preliminary report mentioned that the cost of the student menu is equivalent to BsS. 113.13, however, the maximum amount of the tray imposed by the aforementioned Ministry is BsS. 0.10. In this sense, the University of Los Andes, for example, has been unable to provide a student menu with the necessary nutritional elements before the financial collapse that produces the deficit in the cost structure of the student dining room. By 2018, the canteen of the UCV presented a first period of inactivity of about 4 months (January-May). Subsequently, from September to November 2018 a second period of inactivity was recorded, and a total of 7 months of inactivity of the Student dining room during 2018. The causes of their inactivity were varied, being able to highlight the lack of supply of food by the MPPEUCT. Additionally, during 2017, the boilers broke down and as of December 30, 2018, they remained inoperative due to lack of budget for their repair. In the University of Zulia in 2018 between 2 thousand and 3 thousand students were affected by the closure of the dining rooms. In relation to the Universidad de Oriente, some dependencies do not have student canteens, due to budget deficit and because the MPPEUCT does not provide inputs on a regular basis in Island of Margarita (Capital of Nueva Esparta). Within the Sucre campus they have been without the dining room for more than 1 year due to repairs by the MPPEUCT, affecting more than 5 thousand students.

In relation to the student scholarships, as of August 20, 2018, due to the monetary reconversion ordered by the National Executive, the amount of the student scholarship was established in BsS.4 whose currency equivalence was \$ 0.14 (According to parallel exchange rate of BsS. 288 for 1 USD). On November 15th, 2018, officials of the National Executive announced the increase of student scholarships previously from BsS. 4 to BsS. 720, having as a consequence the current student scholarship a currency equivalent of \$ 1.44 to December 05, 2018 (according to the parallel exchange rate of BsS 500 for 1 USD).

⁶³ The preliminary report about situation of academicians in the context of the complex humanitarian emergency in Venezuela denounced the crisis of “academician healthcare system”. Until February 2017, public universities had managed the health care service for university professors in the exercise of university autonomy recognized in the National Constitution and the current University Law. However, in March 2017, the Ministry for University Education, Science and Technology announced, through Circular 000413, the creation of the “Comprehensive Health System of the Ministry of University Education (SISMEU)” which would be planned directly by the University Sector Planning Office (OPSU). Coverage before medical emergencies or those derived from basic health needs are laughable. Each one oscillates between the equivalent of US \$ 2 and US \$ 4 for emergencies, primary care and pharmacy expenses.

of 99.86%. The university required Bs. 667,849,997,430 for its operation during 2019, however only Bs. 933,583,563 were approved and assigned, barely 0.14%. This amount approved by the National Government becomes the highest deficit allocation in the history of Venezuela⁶⁴. According to the mentioned report, the budget deficit of public universities in Venezuela for 2019 ranges between 70% and 99.8%.

The budget deficit seriously impacts the development of scientific research in universities. Dramatically, in Venezuela, economic assignments for research projects (both individual and collective) in universities range from the equivalent of U.S.\$ 0,0010 and U.S.\$ 0,15. Assignations for a project managed by a university institute with various researchers enrolled is the equivalent of U.S.\$ 0,02⁶⁵.

On September 25th 2018, the National Assembly officially declared the humanitarian emergency situation of the education in Venezuela⁶⁶. Consequently, the main public autonomous universities have denounced the humanitarian crisis in the context of every university through statements issued on October 3th 2018 by Central University of Venezuela (UCV)⁶⁷, October 15th 2018 by university of Zulia (LUZ)⁶⁸, among others. The Federation of Associations of University Professors of Venezuela (FAPUV) denounced the humanitarian situation faced by academicians on November 15th 2018⁶⁹.

⁶⁴ See: www.agenciadenoticias.luz.edu.ve/index.php?option=com_content&task=view&id=7086&Itemid=148

⁶⁵ See preliminary report in: <http://aulaabiervenezuela.org/wp-content/uploads/2019/01/La-Universidad-venezolana-en-el-marco-de-la-Emergencia-Humanitaria-Compleja.pdf>. See also: Directorio del Cdcha aprobó incrementos en Financiamientos a la Investigación. 27/Marc/2017. Disponible en <http://prensa.ula.ve/2017/03/27/directorio-del-cdcha-aprob%C3%B3-incrementos-en-financiamientos-la-investigaci%C3%B3n>

⁶⁶ See <http://aulaabiervenezuela.org/index.php/2018/10/22/la-universidad-del-zulia-declara-sobre-la-emergencia-humanitaria-compleja-en-el-sector-educativo-en-venezuela/>

⁶⁷ See <http://aulaabiervenezuela.org/index.php/2018/10/05/declarada-emergencia-humanitaria-compleja-en-la-ucv/>

⁶⁸ See <http://aulaabiervenezuela.org/index.php/2018/10/22/la-universidad-del-zulia-declara-sobre-la-emergencia-humanitaria-compleja-en-el-sector-educativo-en-venezuela/>

⁶⁹ See: <https://www.lapatilla.com/2018/11/16/educacion-venezolana-se-declara-en-emergencia-humanitaria-compleja-entre-condiciones-precarias-y-bajos-sueldos/>

A. A public policy of “misinformation” in matters of Higher Education System in Venezuela

While the socioeconomic context affects the education in Venezuela, neither Education Ministry nor Higher Education Ministry presented credible “Accountability Annual Reports” since 2016. It seems to be facing a public policy of disinformation, folded in many cases of information without sustenance and even contradictory. On April 2016, the Minister of Higher Education has said that 410,189 university places were allocated: 75% public lyceum, 56% women, 3,127 indigenous groups (0,8%) and 1301 disabilities (0, 3%). Contradictory, on July 2016 the Minister has given other figures: Applications: 317,723; Assigned: 222,999; Remaining: 94,684 –which would be granted on September- (Provea, 2016). In addition, Unesco has said that school ages of level tertiary in Venezuela vary between 17 and 21 years old, approximately 2.762.897 student. But, the accessibility to higher education amount according to PROVEA (2016) was about 2.222.013 students. According to the Ministry of Popular Power for University Education, Science and Technology. (MPPPEUCT) the High Education System Population in 2016 was 2.800.000 students, which were apparently distributed in: 7 National universities⁷⁰ (365,000 student), 27 Private Universities (290.000 student), Mission Sucre⁷¹ (200,000 student) and Experimental universities, University colleges, University institutes and Institutes of advanced studies. On January 10th, 2019, President Nicolas Maduro declared in an official speech that the student population in Venezuela by 2018 (basic level and higher education level) is 10.4 million students, but the figure is inconsistent.

Regarding inclusion of Groups with Special Protection Needs, notwithstanding the Constitution (1999) recognizes guarantee of equal protection to persons with special needs or disabilities and the Law for Persons with Disabilities (2006) states the protection to educational rights of persons with disabilities, attributing responsibility to the State in order to regulate and execute modalities for education of people with

⁷⁰ Universidad Central de Venezuela; Universidad Centro Occidental Lisandro Alvarado; Universidad de Carabobo; Universidad de Los Andes; Universidad de Oriente; Universidad del Zulia and Universidad Simón Bolívar.

⁷¹ Parallel system: Bolivarian University of Venezuela and UNEFA

disabilities, the inclusion figures are very low⁷². In relation to women access to education, rates ranged between 45% and 65% in public autonomous universities in Venezuela. It is remarkable the enrollment of women in careers traditionally recognized for men, such as engineering studies. It is also remarkable the participation of women in management positions at the public universities in Venezuela.

B. Alarming professors and students dropout rates

In the context of the deep political, economic, social, and humanitarian crisis, Venezuela is facing an alarming professors dropout rates, as part of a massive citizen outflow, which has been described by international human rights bodies as the largest exodus in the Continent during the last 70 years. The United Nations High Commissioner for Human Rights, on March 7th, 2018 stated he was deeply disturbed by the growing exodus of Venezuelans, many of them seeking access to food and basic services⁷³. The United Nations High Commissioner for Refugees (UNHCR) has identified the current situation as “One of the largest population outflow

⁷² In 2012 the University of Zulia only attended 168 students with disabilities, which represented 0,2% of its student population. Likewise, in this university 700 were indigenous student, which represents 7,3% of student population. In University of Zulia, the indigenous program developed between 2000-2012, graduated 236 (bachelor in Education), 81 (bachelor in Economic Science) and 72 (bachelor in Law and Political Sciences). Student population of Central University of Venezuela (UCV) between 2008 and 2012 was 44,975.6, attending 0,26% students with disabilities (see: Report UCV Secretariat in http://www.ucv.ve/fileadmin/user_upload/secretaria/Boletin_2012.pdf). In 2016 UCV had 120 students with disabilities: 70 men y 50 women. The faculty of education had more students with disabilities and the type disability more common was partial visual with 45 students. Special mention deserves that many places of higher education institutions do not have the minimum conditions of accessibility and walkability for people with disabilities. Regarding LGBTI students, there is not a consistent inclusion policy on the matter.

⁷³ “VENEZUELA. ONU High Commissioner for Human Rights, VenEuropa Canal, YouTube video, 1:17. Posted March 7, 2018, See <https://www.youtube.com/watch?v=N4wdKwjI75s>.

in the region (The Americas) since the creation of UNHCR (1950)⁷⁴.

A research work produced at Simon Bolivar University in Venezuela concluded that around 4 million of Venezuelans have left the country⁷⁵.

The Inter-American Commission on Human Rights (IACHR), in its report “Democratic Institutions, the Rule of Law and Human Rights in Venezuela”, and in its Resolution 2-18⁷⁶ considers that there are massive violations of human rights in Venezuela and a serious crisis as a result of the shortage of food and medicines, causing an exponential growth of hundreds of thousands of Venezuelans who have been forced to migrate to other countries within the region in recent years as a survival strategy that allows them and their families to preserve rights such as: life, personal integrity, personal freedom, healthcare, and food, among others⁷⁷.

In relation to the alarming emigration of highly remarkable Venezuelan professors and students and the brain drain in Venezuela, some human rights organizations have denounced that due to the precarious salary conditions, university professors, who are highly skilled professionals with great experience, are emigrating from Venezuela in search of job

⁷⁴ UNHCR: Venezuelans who migrate from their country need international protection”, Gabriel Bastidas, YouTube video, 8:13. Posted March 13, 2018, (last visited Mar. 20, 2018), See <https://www.youtube.com/watch?v=Ga2GDkAio3c>

⁷⁵ concerning a very significant portion of Venezuelans, UNHCR has identified an outflow of around 1.5 million Venezuelans into neighboring countries and beyond. The number of arrivals in neighboring States has steadily increased to 5,000 a day in the early 2018. The newspaper “El País” published a report, in which it denounced that the economic, political and social decomposition in Venezuela generates an exodus that has forced 1.6 million of Venezuelans to emigrate. One million have left the country since 2015, according to the latest data compiled by the International Organization for Migration (IOM). In parallel, asylum applications have also risen: 145,000 worldwide. Many have overcome every obstacle, as shown in the following figures: there are 600,000 residents in Colombia; almost 300,000 in the United States, about 120,000 in Chile. Nevertheless, the outflow has also reached the other side of the Atlantic, with 210,000 in Spain and 50,000 in Italy. See “Radiography of the great Venezuelan exodus” El País, (last visited Mar. 28, 2018) https://elpais.com/internacional/2018/03/25/actualidad/1521972911_769205.html

⁷⁶ The research identifies two large waves of displacement by Venezuelans, the first one between 2000 -2014 and the second one between 2014 and 2017. See “Research on the USB estimates that 4 million Venezuelans have emigrated” Contrapunto, (last visited Apr. 8, 2018) <http://contrapunto.com/noticia/investigacion-en-la-usb-estima-que-han-emigrado-4-millones-de-venezolanos-194953/>

⁷⁷ See “Resolution 2/18 forced migration of Venezuelans”, OAS, (last visited Mar. 20, 2018), available at <http://www.oas.org/en/iachr/decisions/pdf/Resolution-2-18-en.pdf>

⁷⁷ The United Nations High Commissioner for Refugees (UNHCR) has identified a variety of reasons for the Venezuelan outflow: threats by armed groups, fear of being targeted on account of political opinions real or perceived, insecurity and violence, lack of food, medicine or access to essential social services as well as loss of income.

opportunities abroad⁷⁸. Regarding salaries, a full-time academic in a Venezuelan university earns a salary equivalent to \$8.70 (until March 19th, 2018), while a full-time professor earns \$6.04. According to a survey carried out by *Ngo Aula Abierta* on the situation of university professors (September-December 2018), the 84.8 % of professors (1.036) affirmed that they had thought about migrating to another country due to the salary situation they suffer in Venezuela. The report concluded about a close relationship could be estimated between the low salaries and the phenomenon of forced migration of university professors⁷⁹. This leaves the economic factor as one of the triggers of the flight of intellectual talent. Another factor influencing the professor exodus phenomenon, is the lack of contributions for professors dedicated to scientific research. For example, within the Research and Innovation Stimulus Program (PEII by its acronym in Spanish), a level “C” researcher (who needs to have a doctorate degree), receives about €0.87 (according to official rate of 54,020.63 x €1). The salary situation of university professors is aggravated because the Government does not incorporate the requests of the professor union groups, only attending the requests of pro-government groups in the context of the implementation of the parallel system⁸⁰. The preliminary report about situation of academicians in the context of

⁷⁸ At least 288 professors left The Andes University (ULA by its Spanish acronym). In 2017, figures were at 143 by the end of September. The Central University of Venezuela (UCV by its Spanish acronym) and The Orient University (UDO) have the most alarming dropout figures with an estimate between 20% and 50%. At The Orient University, a figure of 20% was obtained, which only has 120 university professors in an enrollment of 2,500 students (in a separate branch at San Felix) in 2016 only. For Carabobo University (UC) and The Andes University (ULA) the dropout rate is placed between 30% and 40%. In the University of Zulia (School of Agronomy) professorial attrition is about 35%. In the last two years more than 30 concourses were offered, in which only 2 - 3 applicants attended on average. See “International Alarm Before the Exodus of Venezuelan University Professors”, *Aula Abierta Press* (2018) <http://aulaabiertavenezuela.org/index.php/2018/03/30/international-alarm-before-the-exodus-of-venezuelan-university-professors/>

⁷⁹ See: Preliminary report about situation of academicians in the context of the complex humanitarian emergency in Venezuela (2018) in <http://aulaabiertavenezuela.org/wp-content/uploads/2019/01/La-Universidad-venezolana-en-el-marco-de-la-Emergencia-Humanitaria-Compleja.pdf>

⁸⁰ In order to understand the implementation of the parallel system in Venezuela during 2003-2017, see: Hocevar, Gómez and Rivas “Threats to Academic Freedom in Venezuela: Legislative Impositions and Patterns of Discrimination towards University Teachers and Students (2017)”, University of Salento, University Librarian Informatics Services (SIBA), Italy; in <https://www.scholarsatrisk.org/wp-content/uploads/2018/01/Threats-to-Academic-Freedom-in-Venezuela.pdf>

the complex humanitarian emergency in Venezuela⁸¹ denounced actions by the government of discrimination and violation of collective agreements, by the exclusion of the Federation of Associations of University Professors of Venezuela (FAPUV) from the spaces to demand the rights of academicians⁸².

In relation to the existence of a high percentage student's dropout, between 2011 and 2016 rates have ranged from 10% to 30% of the total student population. However, in 2017-2018 figures have increased considerably since the allocation of the quotas of public universities in the country has been centralized in the Office of Planning of the University Sector (OPSU) in 2015, contravening Higher Education institutional autonomy. According to official data, 4.241.000 (18 and 24 years old university students) were enrolled by August 2017. From that, 2.546.000 were reported did not attend classes, and 1.602.000 students did attend classes. According to different university human rights institutes, percentage student's dropout in University of Oriente (UDO), University of Zulia (LUZ), University of Los Andes (ULA) and Central University of Venezuela (UCV) ranged between 30% and 60% in 2018.

C. Inaccessibility to Internet, electricity and communication services

In relation to limitations of internet access, during 2017 the constant, systematic and accelerated deterioration of Internet and telephone service provided by both the government company "Compañía Anónima Nacional de Teléfonos de Venezuela" (CANTV by its Spanish acronym) and private companies has been evidenced throughout the country. According to a report by the Economic Commission for Latin America and the Caribbean (ECLAC) in 2016, Venezuela was ranked as the

⁸¹ See: Informe preliminar: Universitarios en el marco de la emergencia humanitaria compleja venezolana, Enero-Noviembre 2018, in <http://aulaabiervenezuela.org/wp-content/uploads/2019/01/La-Universidad-venezolana-en-el-marco-de-la-Emergencia-Humanitaria-Compleja.pdf>

⁸² On September 6th, 2018, the MPPEUCT sent an instruction to Venezuelan public universities indicating how they should perform the calculation for the payment of university personnel. The instructive referral was rejected by the universities for violating the labor rights enshrined in the III Collective Convention for the University Sector. The preliminary Report indicates that one of the main violations is the decrease in the base for the calculation of the university professorial scale from 4.75 minimum wages (enshrined in the current collective agreement) to 1.33 minimum wages. See: <http://aulaabiervenezuela.org/wp-content/uploads/2019/01/La-Universidad-venezolana-en-el-marco-de-la-Emergencia-Humanitaria-Compleja.pdf>

country with the lowest access to Internet connection with a speed of 1.9 Mbps. The Internet service in universities is slow and intermittent (0.4 Mbps, while in the Latin American average it is 6.7), which means that access is practically nil. In some cases, the problem was much more serious than Internet access; the Orient University (UDO by its acronym in Spanish) did not have electricity service for one year (2017-2018).

The constant interruptions of the electrical service nationwide have created impediments that make students unable to learn under ideal conditions. Therefore, the right to receive a quality education is violated. University students are also affected by the crisis that has extended over other services like public transportation, shortage of cashflow and has also severely limited internet access. Students and educators alike have lived under this environment for years and this has forced them to seek a better quality of life outside the country⁸³. This humanitarian crisis that Venezuelan society is experiencing, also extends to the university sector, and it is characterized by recurrent conflicts, weak government, continuous food crisis, collapse of livelihoods and little institutional capacity to react to these difficulties⁸⁴. The government has not shown the ability to renew itself in the face of the complex humanitarian crisis. No efforts have been coordinated with the international organizations and experts from Venezuelan universities to initiate the early recovery and rehabilitation of political, economic and social development, with the aim of reducing the vulnerability of society.

Final Comments

Despite the fact that both International Law and Venezuelan Domestic Law provide normative protection, situation of academic freedom and autonomy of higher education institutions in Venezuela is seriously under threat, which compromises the international responsibility of the State. In Venezuela, a restrictive policy against university autonomy and academic freedom has been developed by different branches of the Public Power. This policy has been developed through the national government and other State authorities since the beginning of the 2000s, but it got

⁸³ See Aula Abierta Press, Limitations on access to goods and services undermines quality education in Venezuela, available at <http://aulaabiertavenezuela.org/index.php/2018/03/15/limitaciones-al-acceso-a-bienes-y-servicios-atenta-contra-la-educacion-de-calidad-en-venezuela/>

⁸⁴ See Aula Abierta Press, The complex university emergency, <http://aulaabiertavenezuela.org/index.php/2018/05/07/la-compleja-emergencia-universitaria/> (2018)

worse between 2010 and 2018. The above mentioned restrictive policy is manifested in the following levels: 1. Normative-institutional, through the creation of a regulatory system and parallel system of university government. 2. Budget asphyxiation against universities. 3. Criminalization of the protest against professors and university students. 4. Usurpation of functions by the ministerial authorities of the competences of the Public Autonomous Universities; 5. Siege of the Judicial Power against universities; and 6. Generalized practices to intervene higher education institutions. The situation has worsened in the context of the complex humanitarian emergency in Venezuela, which comprehensively affects the university as a key institution for democracy and its key actors: professors-researchers and students. It annihilates the possibility of having quality education in the country, the production of scientific knowledge, the potential development necessary for present and future generations, and consequently democracy itself.

Protecting academic freedom is essential for democracy and development due to the importance of knowledge production, the creation of science, the benefits derived from scientific and technological advances for societies. The relationship between academic freedom and democracy is inherent and reciprocal. The university represents for democracy the necessary space for the birth and the proliferation of scientific knowledge, as well as the ideas from the academician debate between professors, researchers, students and different societal actors. Latin American history vindicates the importance of academic freedom due to the grim legacy of dictatorships that closed universities and imprisoned faculties.

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