

BOLIVARIAN REPUBLIC OF VENEZUELA

1. Discriminatory family code

Article 46 of the Civil Code provides that the **legal minimum age for marriage** is 14 years for women and 16 years for men.¹ This provision was criticised in the last report (2004) to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) because it violates Article 16 of the Convention. Venezuela was urged to take steps to raise the minimum age for marriage to 18 for both men and women.²

In regards to **early marriage**, 17.1% of girls aged 15-19 are married, widowed, or divorced.³ In 1990, 18% of girls aged between 15 and 19 were married, divorced or widowed.⁴ It is reported that in 2001 around 15% of adolescent females were mothers.⁵

There is some evidence to indicate that polygamy is practiced by some indigenous groups, for instance the Yanomami and the Pume in Venezuela. The 36 indigenous groups (approximately 2.2% of the population⁶) are granted full recognition under the Constitution.⁷ It is unclear whether customs and traditions in these groups affect the minimum age of marriage. One of these groups, the Wayuu, is said to be organised under a matrilineal system, namely, members are linked by ties of consanguinity on the maternal side.⁸

Reform of the Civil Code in 1982 established equality between men and women in relation to **parental authority**, effectively overriding the long-held principle that husbands had authority over their wives.⁹ Article 77 of the Constitution established equal rights and responsibilities for men and women within a marriage, as well as registered de facto unions.¹⁰ Furthermore, Article 76 of the Constitution provides men and women with equal responsibility for their children's education and development.¹¹ The Organic Law on the Protection of Children and Adolescents (1998) upholds the "best interest of the child" as the prevailing principle for decision-making about children.¹²

¹ CEDAW (2004), p. 47

² CEDAW (2006d), pp. 7-8

³ OECD (2014), Gender, Institutions and Development Database, <http://stats.oecd.org>

⁴ United Nations Department of Economic and Social Affairs, Population Division (2008)

⁵ Economic Commission for Latin America and the Caribbean (2010), p. 37

⁶ Minority Rights Group International (n.d.)

⁷ Articles 119-125, FAO (n.d.)

⁸ http://gobiernoenlinea.gob.ve/home/poblacion_indigena.dot (accessed 01/27/2014)

⁹ CEDAW (2004), p. 45

¹⁰ CEDAW (2004), p. 47

¹¹ CEDAW (2004), p. 47

¹² CEDAW (2004), p. 47

In Venezuela, there are no laws restricting women as heads of household.¹³ Article 75 of the Constitution recognises both men and women as heads of the household.¹⁴ Data indicates that women's role in the family has changed in Venezuela in recent decades. Although this could be attributed to economic necessity, it also suggests that there may be a shift in attitudes around women's role in the family. Between 1994 and 2007, the percentage of women aged 15 or over who did not work outside the home fell from 45.9% to 30.7%.¹⁵

Legally, women and men in Venezuela have the same **inheritance** rights.¹⁶

The Venezuelan Civil Code provides both spouses with the **right to initiate divorce**. Moreover, Article 192 provides for women to be the legal guardian of children under the age of 7, allowing for visitation rights for the father.

2. Restricted physical integrity

In 2007, Venezuela enacted the *Ley Orgánica Sobre el Derecho de las Mujeres a Una Vida Libre de Violencia*¹⁷ (Organic Law on the Right of Women to Be Free from Violence).¹⁸ The law prohibits rape, marital rape, domestic violence and sexual harassment. The law has been noted for its broad definition of violence, citing 19 forms of violence¹⁹ and including: violence in relation to assets, obstetric violence, forced sterilisation, institutional violence, trafficking of women and others.²⁰ Only 10% of sexual violence cases are reported to the police.²¹ In addition to punishment and prosecution, the 2007 law requires the authorities to implement a far-reaching programme to raise awareness and challenge public attitudes which condone or conceal this under-reported crime. For example, it calls on the Ministry of Infrastructure and the National Commission for Telecommunications to ensure that programming includes broadcasts aimed at preventing and ending violence against women.²²

In the 2007 law, **domestic violence** is defined as any behaviour, by action or omission, constant or not, engaging in the use of physical force or psychological violence, intimidation, persecution or threat against women by the spouse, cohabitant, former spouse, former cohabitant, person with whom he has or had an emotional relationship, ascendants, descendants and other relatives. The law requires police to report domestic violence to judicial authorities and obligates hospital personnel to notify the authorities when they admit patients who are victims of domestic abuse.²³ Penalties for domestic violence range from 6 to 12 months in prison.²⁴ Further, Article 117 of the law provides for the establishment of *Tribunales de Violencia contra la Mujer* (Specialist Courts for Violence against Women). In 2010, the government reported that more than 100,000 complaints of violence against women across the country had been received by those courts.²⁵

¹³ World Bank (2013)

¹⁴ FAO (n.d.)

¹⁵ Economic Commission for Latin America and the Caribbean (2010) p. 34

¹⁶ Article 767, FAO (n.d.)

¹⁷ Law N° 38.668

¹⁸ Amnesty International (2008)

¹⁹ OAS (2012), p. 110

²⁰ Bolivarian Republic of Venezuela Permanent Mission to the United Nations (2010)

²¹ Preamble of Organic Law on the Right of Women to Be Free from Violence, 2007

²² Amnesty International (2008), p. 7

²³ US Department of State (2010)

²⁴ Organic Law on the Right of Women to Be Free from Violence, 2007

²⁵ Bolivarian Republic of Venezuela Permanent Mission to the United Nations (2010)

Statistics indicate high levels of violence against women in Venezuela. According to Amnesty International, in 2005, 36,777 women reported abuse by partners or former partners to non-governmental organisations and women’s services – an average of one woman every 15 minutes.²⁶ In 2006, the CEDAW Committee expressed particular concern about the level of domestic violence in Venezuela, linking it to the persistence of gender-based stereotypes and the idea that domestic violence is a “private” issue.²⁷ Similarly, Amnesty International’s 2008 report notes that shame and social stigma continue to prevent women from seeking help or reporting violence. Moreover, Amnesty International also commented that, although the 2007 law holds great promise in improving women’s safety, obstacles to its successful implementation persist. These obstacles include: lack of public awareness, information and education about the issue; inadequate data collection; insufficient shelters for victims; and a poorly resourced police and judicial infrastructure.²⁸ In terms of recent initiatives to address these shortcomings, the Public Ministry reported in their annual reports having received 73,599 claims of gender-based violence in 2012²⁹ and 102,676 claims in 2013.³⁰ The 2012 report highlights dozens of state initiatives to raise awareness about gender-based violence, such as the National Conference on Matters regarding the Integral Defence of Women,³¹ the Programme for Training, Awareness-raising and Prevention on Women’s Defence within the National Police,³² and the Training Workshop on Defence for Women aimed for Educational Personnel.³³ In 2013, the Public Ministry drafted the Special Program for Prevention and Treatment of Domestic Violence³⁴ and submitted it to the Ministry of Popular Power for Education and the Ministry of Popular Power for University Education, in order for it to be included in the academic curriculums, seeking to raise awareness on the issue.³⁵

The 2007 law provides that **rape** is punishable with 10 to 15 years’ imprisonment. The Scientific, Penal and Criminal Investigations Team reports approximately 3,000 cases of sexual violence every year.³⁶ On the 2009 report, the Inter-American Commission on Human Rights (IACHR) offers diverse data to support the existence of a culture of impunity surrounding violence against women in Venezuela.³⁷ The IACHR also noted that the Venezuelan Penal Code still included discriminatory laws against women, for example, through the provision of excusing the crimes of rape, prostitution, or “offenses against modesty” by marrying the victim (Article 395).³⁸

Harassment is included both under Articles 40 and 41 of the law, which addresses the “persecution or harassment attempting against the emotional, labour, financial, family or educational stability of women” and under Article 48, where **sexual harassment** is defined as “taking advantage of a higher ranking position in the workplace, in the area of education, or situations arising in the exercise of

²⁶ Amnesty International (2008), p. 6

²⁷ CEDAW (2006b), para.25

²⁸ Amnesty International (2008), p. 9

²⁹ Public Ministry (2013), p. 57

³⁰ Public Ministry (2014), p. 80

³¹ Jornada Nacional en Materia de Defensa Integral de la Mujer

³² Programa de Capacitación, Sensibilización y Prevención en materia de Defensa para la Mujer

³³ Taller de Formación en materia de Defensa para la Mujer dirigido al Personal Docente

³⁴ Programa Especial de Prevención y Atención de la Violencia de Género

³⁵ Public Ministry (2014), p. 82

³⁶ Amnesty International (2008), p. 15

³⁷ IACHR (2009), Section C, 4

³⁸ IACHR (2009), Section C, 1, 923

their profession.”³⁹ Furthermore, the 2012 Presidential Labour Decree establishes in its Article 528 that sexual harassment by the employer is punishable by a fine.⁴⁰

Female genital mutilation is reportedly not a common practice in Venezuela.

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Human **trafficking** is addressed under Article 56 of the 2007 law.⁴¹ Venezuela is a source, destination, and transit country for women and children trafficked for the purposes of commercial sexual exploitation and forced labour. Women and children are reportedly trafficked internally and to Western Europe, particularly Spain and the Netherlands, and to destinations in the region such as Mexico, Aruba, Curacao, the Dominican Republic, and Trinidad and Tobago for commercial sexual exploitation. Women and children from poor areas are particularly at risk of being trafficked.⁴²

Limitations on women’s **reproductive rights** also infringe upon women’s physical integrity in Venezuela. Despite the constitutional guarantee of sexual and reproductive rights and the inclusion of “forced sterilisation” and “obstetric violence” in the 2007 law,⁴³ abortions are generally illegal under the Venezuelan Criminal Code, except to save a woman’s life.⁴⁴ The government reported in 2004 that unsafe abortion is the third most common cause of maternal death in the country.⁴⁵ The World Economic Forum reports that 70% of married women use contraception.⁴⁶

3. Son bias

The male-to-female **sex ratio** at birth in 2013 is 1.05 and for the working age population (15-64 years old) 0.97.⁴⁷ There is no evidence to suggest that Venezuela is a country of concern in relation to **missing women**.

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Based on 2012 data, there are more female children out of school than male.⁴⁸ UNICEF provides data on education from 2008 to 2012. Females are more likely to attend pre-primary education than males, but males are slightly more likely to attend primary school than females. For secondary education, the gender gap benefits females over males.⁴⁹

The data on child labour from 2002 to 2012 suggests that this issue affects males more than females.⁵⁰

³⁹ Law N° 38.668; OAS (2012), p. 119

⁴⁰ Decreto Con Rango, Valor Y Fuerza De Ley Orgánica Del Trabajo, Los Trabajadores Y Las Trabajadoras N° 8.938 (2012) <http://www.correodelorinoco.gob.ve/wp-content/uploads/2012/04/DECRETO-LEY-ORGANICA-DEL-TRABAJO-ENVIADA.pdf>

⁴¹ OAS (2012), p. 119

⁴² US Department of State (2010)

⁴³ OAS (2012), p. 38; obstetric violence is defined as “the appropriation of a woman’s body and reproductive processes by health personnel, in the form of dehumanizing treatment, abusive medicalization and pathologization of natural processes, involving a woman’s loss of autonomy and of the capacity to freely make her own decisions about her body and her sexuality, which has negative consequences for a woman’s quality of life”

⁴⁴ United Nations Population Division (2011)

⁴⁵ CEDAW (2004), p. 40

⁴⁶ World Economic Forum (2010), p. 310

⁴⁷ CIA, <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 28/03/2014)

⁴⁸ World Bank (n.d.)

⁴⁹ UNICEF, http://www.unicef.org/infobycountry/venezuela_statistics.html (accessed 1/04/2014)

⁵⁰ UNICEF, http://www.unicef.org/infobycountry/venezuela_statistics.html (accessed 1/04/2014)

According to 2012 data, females are slightly more likely to be contributing family workers than males, that is, to hold "self-employment jobs" as own-account workers in a market-oriented establishment operated by a related person living in the same household. Moreover, in 2012, the labour force participation rate for males aged 15 to 24 is almost double that of females.

4. Restricted resources and assets

The government of Venezuela has taken steps to improve women's ownership rights. In regards to **access to land**, the 2001 Law on Land and Agricultural Development states that one priority is "to allocate land to women who are also heads of their household and who intend to cultivate a small area of land in order to sustain their family group".⁵¹ According to 2006 information by CEDAW, 10,000 families received land titles under this law.⁵²

Collective ownership is recognised under the 2005 Law for Indigenous Peoples, but there is no data on how this law affects women specifically.⁵³

The 1982 reform of the Civil Code improved women's **access to property other than land** by making provisions for the joint administration of a married couple's joint property. The reform also gave married women full legal capacity to enter into contracts. The Commercial Code explicitly stipulates that women can establish businesses regardless of marital status.⁵⁴

The Women's Development Bank was created in 2001 to improve women's **access to bank loans**. It is a public, micro-credit institution that provides loans and other financial and non-financial services to women living in poverty. The government reports that between September 2001 and 2004 the Women's Bank approved some 40,000 loans.⁵⁵ Approximately 120,000 potential jobs have been created in two and a half years, benefiting 600,000 persons throughout the country.⁵⁶ Further, the Microfinance Fund granted 3,235 loans to women between 2001 and 2003.⁵⁷ Besides providing credit opportunities for women, the Bank offered training and capacity building for women.⁵⁸

Despite these efforts, women remain under-represented as business owners. In 2010, the Economic Commission for Latin America and the Caribbean reported that women made up 18% of employers and 38% of the self-employed.⁵⁹ In 2011, women made up nearly half (49.06%) of microfinance borrowers throughout the country.⁶⁰

5. Restricted civil liberties

There are no reported legal restrictions on women's freedom of **access to public space** in Venezuela. However, as described in the Physical Integrity section, the threat of gender-based violence in Venezuela impinges upon women's freedom of movement. Further, members of certain communities are particularly restricted in their access to public space, such as transgender women.

⁵¹ CEDAW (2004), p. 7

⁵² CEDAW (2006d), p. 7

⁵³ FAO (n.d.)

⁵⁴ CEDAW (2004), pp. 46-48

⁵⁵ CEDAW (2004), p. 12

⁵⁶ CEDAW (2004), p. 12

⁵⁷ CEDAW (2004), p. 12

⁵⁸ CEDAW (2006d), p. 2

⁵⁹ Economic Commission for Latin America and the Caribbean (2010), p. 52

⁶⁰ Microfinance Information Exchange (2013)

Freedom of expression is protected under Article 57 of the Constitution of Venezuela.⁶¹ Similarly, freedom of assembly is granted under Article 53.⁶² No information was found in terms of discriminatory practices restricting women's freedom of expression, collective action or freedom of assembly.

With respect to women's **political voice**, women in Venezuela have the same rights as men to vote in all elections, to be elected and to participate in the political and public life of the country.⁶³ From 1997 to 1998 the government introduced a specific Campaign for 50/50 participation in arms of government to increase women's political participation. However, this law was declared unconstitutional in 1999.⁶⁴ Although Venezuela had passed gender **quota** in the past, it was declared unconstitutional in 2000.⁶⁵ In 2004 the *Consejo Nacional Electoral* (National Election Board) passed a resolution according to which political parties were instructed to have 50% female candidates on their electoral lists. The Board was to publicly denounce the parties that did not, but this was never accomplished.⁶⁶ There is no evidence of renewed efforts to put in place electoral quotas for women, and there are no voluntary party quotas.⁶⁷

According to 2014 data by the Inter-Parliamentary Union, there are 28 female representatives, out of 165 seats, which represents 17%.⁶⁸ In addition, the World Economic Forum (2013) reports that there are 39 women in ministerial positions, compared to 61 men.⁶⁹

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Article 88 of the Constitution provides that the State shall guarantee the equality and equity of men and women in the exercise of the **right to work**. It also provides that the government should recognise unpaid work as an economic activity which creates added value and produces wealth and social well-being.⁷⁰ Women's right to equal pay is also guaranteed in the Constitution.⁷¹

According to the World Economic Forum, women in Venezuela are entitled to 18 weeks paid **maternity leave**, at 100% of wages.⁷² The maternity protection provided by the Organic Labour Act applies to all workers in the private sector and also public sector. Maternity leave is financed by the Social Security System.⁷³

⁶¹ Berkley Center For Religion, Peace And World Affairs (2014)

⁶² Gobierno Bolivariano de Venezuela (2014)

⁶³ CEDAW (2004), p. 17

⁶⁴ CEDAW (2004), p. 8; The Quota Project

⁶⁵ Fundar (n.d.)

⁶⁶ Prince (2012)

⁶⁷ IDEA (2012)

⁶⁸ Inter-Parliamentary Union, <http://www.ipu.org/wmn-e/classif.htm> (accessed 02/04/2014)

⁶⁹ World Economic Forum (2013), p. 61

⁷⁰ CEDAW (2004), pp. 29, 31

⁷¹ CEDAW (2004), p. 30

⁷² World Economic Forum (2013), p. 375

⁷³ ILO (2011)

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