



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Consideration of reports submitted by States parties under articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights

Third periodic reports of States parties due in 2006

**Bolivarian Republic of Venezuela\***

[29 May 2013]

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## I. Introduction

1. The Venezuelan State, aware of the importance of promoting and protecting the human rights of all the country's inhabitants, submits to the Committee on Economic, Social and Cultural Rights its third periodic report on the application of the International Covenant on Economic, Social and Cultural Rights.

2. In accordance with article 1, paragraph 16, of the Covenant, Venezuela presents its third periodic report (2002–2010), detailing its achievements and efforts in protecting, safeguarding and realizing the human rights provided for in the Covenant. In this connection, title III, chapter I, article 23, of the Venezuelan Constitution states: "Human rights treaties, covenants and conventions signed and ratified by Venezuela have constitutional status and take precedence in domestic law, insofar as they contain provisions concerning the enjoyment and exercise of such rights that are more favourable than those established by this Constitution and the laws of the Republic, and are immediately and directly applicable by the courts and other public bodies."

3. The promulgation of the Constitution of the Bolivarian Republic of Venezuela establishes a democratic and social State governed by the rule of law and justice, which undertakes to ensure the well-being of its citizens and create the necessary conditions for their social and spiritual development in keeping with the principles of inclusion and equality, so that they may develop their personalities freely and enjoy to the full the human rights conducive to improvement of their quality of life.

4. A Constitution founded on the defence, protection and realization of human rights and establishing public policies for the implementation and sustained development of programmes and projects by all branches of Government represents a significant step towards the construction of a more democratic, participatory and proactive society. The present report is submitted pursuant to this goal and in keeping with the commitment to continuous self-evaluation of the effective implementation of national legislation and international human rights agreements duly signed by the Bolivarian Republic of Venezuela.

5. The Venezuelan State has promoted and progressively realized social justice by incorporating social sectors historically denied proper welfare conditions, by guaranteeing social rights on a universal and equitable basis, by improving income and wealth distribution, by promoting political and social participation across the board and by fostering joint responsibility for the observance of human rights and the transfer of power to the citizen in everyday matters of public interest, with a view to attaining the greatest possible happiness and well-being and a decent standard of living throughout a person's life.

6. In the period under review, significant changes have taken place in Venezuela, marked by the creation, renewal and transformation of institutions responsible for implementing and realizing human rights, by greater government legitimacy based on an inclusive approach to social policy on the part of the State and by significant advances with regard to the economic, social and cultural rights of all persons without discrimination, including majorities excluded for over five hundred years, while continuing to include the privileged sectors.

7. To this end, the State has made great human, economic and institutional efforts, exemplified by the planning and organization of the Social Missions. These came into being as projects for implementing public policies to safeguard people's human rights, in particular education in all its forms, comprehensive health care, appropriate and adequate food, identity, decent employment, culture, sport and recreation, housing and habitat,

focusing on sectors historically excluded while maintaining the entitlement of sectors already included. One of the basic elements for implementing public policies for realizing economic, social and cultural rights has been the active participation and leading role of the organized communities in promoting and fostering universal and effective respect for human rights.

8. During this period, the Venezuelan State has implemented the National Economic and Social Development Plan 2001–2007 and the Simón Bolívar National Project – National Social and Economic Development Plan for 2007–2013, providing for activities and goals for achieving balance and interdependence in the economic, social, political, national and international spheres, a process in which the State and local communities play a key role. It is not simply a matter of ensuring universal access to all human rights but also of transforming the public into agents of their own development process, which is entailing the structural transformation of society in the face of the historic injustices suffered by the majorities.

9. It must be borne in mind that during the period covered by this report Venezuela experienced two events harmful to the country and its people, which impacted directly on human rights. On 11 and 12 April 2002, democracy in Venezuela was the victim of a carefully planned coup d'état that led to the overthrow of the legitimate, democratic and constitutional government of Hugo Chávez, elected by a majority in a universal, direct and secret suffrage. The coup lasted scarcely 47 hours, during which time the Constitution and the Government were abolished and usurpers were appointed. This action was promoted and financed by imperialist elements in the Government of the United States of America and certain European states and carried out by the usual "insider" groups, privileged leaders of particular business organizations and of the employers' organization, the Venezuelan Federation of Chambers of Commerce (FEDECAMARAS). During the coup, it was in fact the President of FEDECAMARAS who was appointed and had himself proclaimed *de facto* President, with the backing of all the opposition parties, together with some senior members of the Catholic Church, union leaders within the Venezuelan Confederation of Workers (CTV), the self-styled senior staff and management of the country's main industry, Petróleos de Venezuela (PDVSA), certain high-ranking military personnel and misguided sections of the general public in a state of permanent opposition. The main support for the coup was provided by the large national and international business corporations controlling the television, radio and press media. The President was returned to power in the early hours of 13 April 2002 as a result of the intervention and mass mobilization of the Venezuelan people and the vast majority of the Bolivarian Armed Forces.

10. The second act in the so-called continuing coup d'état took place on 2 December 2002, in the form of a political attempt to destabilize and overturn the Government of President Hugo Chávez, this time through trade union activities rather than lawful industrial action. The same elements behind the coup d'état of April 2002, actively supported once again by the large media corporations, encouraged an unlawful and illegal work stoppage amounting to a general strike called by businessmen, union leaders of the Venezuelan Confederation of Workers and opposition political parties and joined by the senior staff and management of PDVSA. On 2 February 2003, they reluctantly acknowledged defeat without assuming responsibility for the massive injury to the human rights of the general public during the seventy-three days of the strike (including the blocking of streets, the closure of ports and airports and consequent interruption of food imports, fuel shortages resulting from the halting of oil production, calls for civil disobedience through the non-payment of taxes, and biased, manipulative and totalitarian news management by the private media corporations). The country suffered economic losses up to 2005 estimated at \$15 billion. The majority population, the Venezuelan State as a whole and human rights

leaders and institutions, far from being diminished, emerged stronger, a clear testimony to the participatory and proactive democracy promoted by the Bolivarian revolution.

11. Since 1999 profound changes have taken place in all aspects of national life. Despite the difficulties, this process has resulted in a substantial improvement in the living conditions of the Venezuelan people, experienced in a variety of ways, both objective and subjective. There have been many achievements, substantial progress has been made, and much remains to be done. The future is being shaped against the background of a strong demand for the consolidation of a society guided by the values of Bolivarian socialism and human rights as a whole, in other words, for progress towards inclusion, solidarity, equity, social justice, democracy and full equality.

## **Methodology**

12. The data used in drawing up this report derive from national censuses, official documents and the publications of government bodies responsible for monitoring and validating public policies implemented by the Venezuelan State.

13. This report has benefited greatly from the inputs used in drafting the Universal Periodic Review document prepared by the Bolivarian Republic of Venezuela and debated interactively in the United Nations Human Rights Council on 7 October 2001, as well as from Venezuela's reports to the various human rights treaty bodies.

14. The information presented here takes account of the Compilation of Guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties (HRI/GEN/2/Rev.6) and the Report on the working methods of the human rights treaty bodies relating to the State party reporting process (HRI/ICM/2010/2).

15. The main sources used in this report are the data supplied by institutions of the Venezuelan State and other bodies responsible for the different topics treated. The reports of the National Institute of Statistics, up to December 2010, have proved most valuable. All have been subjected to various audits to verify their professionalism, quality and truthfulness, which substantiate the undeniable advances in the field of economic, social and cultural rights. Another important and wholly verifiable source is the report "*Attaining the Millennium Goals 2010*".

16. The present report contains a qualitative and quantitative analysis of the different public policies implemented by the Venezuelan State over the last ten years having a direct bearing on the implementation of the economic, social and cultural rights guaranteed under the national and international legal instruments signed and ratified by the Bolivarian Republic of Venezuela.

## **II. Response to the Committee's previous concluding observations**

### **A. Response to the Committee's subjects of concern**

**The Committee is concerned at the State party's slowness in implementing its own National Plan of Action for Human Rights and that the Venezuelan society at large lacks awareness about rights enshrined in the Covenant.**

17. The Venezuelan State, committed to realizing human rights in practice, has gone far beyond the scope of national action plans on human rights, transcending what may be termed the traditional approach of States that disregard human rights and draw up reports to

comply with their commitments in writing or, on the other hand, the exclusivity and partiality of certain social sectors that presume to speak for “civil society” over the heads of people’s organizations and movements representing the great majority of the population. Some sections of “civil society” claim a monopoly of expertise with regard to certain human rights activities, arguing that plans, projects and policies in this field are inconceivable without the exclusive involvement of these human rights experts, excluding in the name of specialization the majorities permanently engaged in struggling, planning, criticizing and monitoring to make those rights a reality.

18. The promulgation in 1999 of the Constitution of the Bolivarian Republic of Venezuela, following a wide-ranging debate involving the direct and informed participation of the whole population, including public organizations and civil associations in the non-governmental and private sectors, entailed the adoption of the founding text by popular referendum. The recognition and consolidation of all human rights is central to the Constitution, the foundation for the establishment of public policies based on the defence of those rights and the principle underlying the policies, plans and programmes of the Venezuelan State in the period covered by this report.

19. In Venezuela, the solid achievements in the social sphere are based on a series of changes that have been taking place over the past decade, driven by structural and institutional reforms, involving the development of social policies with a human rights focus, which have found expression in specific plans reflecting the responsibilities of the relevant institutions allied to the permanent questioning, participation and suggestions of civil society and individuals.

20. Public policies in general, and economic, social and cultural policies in particular, have been adopted by the Venezuelan State with the firm commitment to ensuring full compliance with human rights, together with strong and effective social empowerment, so as to translate proactive participation into the wider dissemination and better application of human rights as a whole. Implementation of the provisions of the International Covenant on Economic, Social and Cultural Rights, the Constitution and the National Economic and Social Development Plans informs its ongoing and structural planning. However, turning the Covenant into a legal reality is a permanent challenge, despite the fact that the rights concerned are promoted in everyday practice.

21. In this connection, Venezuela has been successful in the complete eradication of poverty and the achievement of social inclusion, in moving from ethical commitment to statutory requirement with constitutional status, and thereby to effective realization. In this way, social protection and social security, health care, education, gender equality and social organization have been instituted as rights and translated into practice and have been incorporated in the structure of the State in the form of a National Action Plan on Human Rights.

22. The General Outline of the National Economic and Social Development Plan for 2001–2007 and the National Simón Bolívar Project – National Economic and Social Development Plan for 2007–2013 propose the creation of a project for a Bolivarian socialist ethic, whose goal is the forging of a new twenty-first century human being. These plans, which guide the activities of the organs of government as a whole, provide for the realization of all human rights included in the Constitution and the respective international instruments, conceived as an interdependent whole and enjoying equal status. Human rights in the Bolivarian Republic of Venezuela are thus conceived as enforceable and mandatory as regards compliance, universal and free with regard to access, and inclusive and indivisible in conception and implementation.

23. It emerges clearly from the foregoing that public policies over the last ten years have been developed with a focus on rights and based on a conception of the State’s

responsibility for public investment through the allocation of increased financial resources in successive national budgets in accordance with the principles of universality, free provision subject to entitlement, equality, solidarity, equity and social justice.

24. This focus on rights in the design, funding and implementation of public policies in the social, economic and cultural sphere has called for the establishment of an institutional structure, equipped with professional staff committed to human rights, that is cohesive and capable of ensuring full and effective realization of the provisions of national and international human rights instruments.

25. In the international sphere, Venezuela has defended the view that public policies of a social nature should include a human focus and should place the emphasis on equality and non-discrimination. The State has a duty to guarantee, through the promotion and provision of the necessary funding, the social and proactive participation of its population and a comprehensive and progressive approach to human rights, conceived as an indivisible whole.

*Institutions for the promotion and defence of human rights*

26. Established under the 1999 Constitution, the Ombudsman's Office is the national human rights institution of the Bolivarian Republic of Venezuela. The Office is the product of a unique process that took place on 15 December 1999, namely the adoption of an innovative constitutional text recognizing and guaranteeing human rights in a way that transcends the classic trilogy of executive, legislative and judicial public authority by introducing two new concepts, namely civil power and electoral power.

27. The Office of the Ombudsman is responsible for promoting, safeguarding and monitoring the rights and guarantees foreseen in the Constitution and international human rights treaties and the legitimate, collective and broad interests of citizens. The Office functions in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights,<sup>1</sup> which also gives it the institutional legitimacy to defend human rights at the international level, in coordination with the relevant international mechanisms and bodies and in accordance with the recommendations of international human rights bodies.

28. The Ombudsman, who is appointed for a single seven-year term, is in charge of and responsible for the Ombudsman's Office. The Ombudsman's functions include: ensuring full observance and protection of the human rights foreseen in the Constitution and international human rights treaties, conventions and agreements ratified by the Republic; investigating, officially or at the request of another party, complaints brought to his or her attention; ensuring the proper functioning of public services by supporting and protecting the rights and legitimate, collective and broad interests of individuals; bringing actions of unconstitutionality, *amparo*, *habeas corpus*, *habeas data* and other actions or remedies required for the exercise of his or her functions; urging the Attorney-General of the Republic to bring such actions or remedies as may be necessary in respect of public officials responsible for any violation or impairment of human rights; requesting the competent body to apply the appropriate corrective measures and penalties for violations of the rights of the consumer and user public, in accordance with the law; and promoting and implementing policies for the dissemination and effective protection of human rights.<sup>2</sup>

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<sup>1</sup> Commission on Human Rights resolution 1992/54 of 3 May 1992. Accredited to the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, with "A" status, in 2002 and 2008.

<sup>2</sup> Article 281 of the Constitution.

29. The system for protecting human rights also comprises other government bodies such as the Human Rights Department of the Ministry of People's Power for the Interior and Justice. The Department is responsible for monitoring, promoting and furthering human rights, with particular regard to prisons, the police and young people, and for safeguarding the rights of persons reporting to bodies attached to the Ministry. The Department operates as a mechanism for receiving complaints through 200 representatives at national level and carries out activities and provides educational and training workshops for organized communities, public officials and other interested persons, in accordance with the provisions of the Venezuelan Constitution and other international treaties.

30. The State Representative for Human Rights of the Ministry of People's Power for Foreign Affairs to the Inter-American System and the International Community participates in formulating and implementing human rights policies, responds to requests for information from international organizations and deals with complaints concerning human rights violations submitted in full accordance with the complaints procedures duly recognized by the Bolivarian Republic of Venezuela.

31. The Department of Human Rights and International Law of the Ministry of People's Power for Defence<sup>3</sup> is responsible for managing, coordinating and implementing activities related to human rights and international humanitarian law that are planned, decided or ordered by the Inspector-General of the National Bolivarian Armed Forces in order to promote, facilitate, protect and guarantee such rights within the military and the defence sector and to provide technical assistance to military and civilian personnel that require it. It also acts as a body for receiving individual complaints.

32. The Department for the Protection of Fundamental Rights attached to the Public Prosecution Service has as its overall objective to defend and protect the guarantees and fundamental rights embodied in national and international legal provisions. In the international sphere, the Department receives complaints of human rights violations lodged by international organizations, where such complaints relate to publicly actionable offences committed by civil servants. It also enforces the provisions of national prison legislation and the relevant international treaties. Lastly, the Department is responsible for complaints relating to violations of the freedoms protected by the right to invest in, produce and disseminate creative, scientific, technological and humanistic works.

33. For further information, please refer to the common core document of the Bolivarian Republic of Venezuela (HRI/CORE/VEN/2011).

**The Committee is concerned that the Ombudsman's Office does not place adequate emphasis on the monitoring of the enjoyment of economic, social and cultural rights by the citizens of Venezuela, especially by the indigenous people, and that there is no case law relating directly to the provisions of the International Covenant on Economic, Social and Cultural Rights.**

34. As already pointed out in the common core document submitted by the Bolivarian Republic of Venezuela on 5 July 2011, the Ombudsman's Office is responsible for promoting, defending and monitoring the rights and guarantees established in the Constitution and international human rights treaties and the legitimate, collective and broad

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<sup>3</sup> The Department was established by resolution DG-98818 of 17 October 1997 of the Ministry of People's Power for Defence, by order of the President of the Republic and on the basis of articles 133 to 136 of the National Bolivarian Armed Forces Act, in accordance with the guiding principles of the Constitution. The Department is attached to the Office of the Inspector-General of the National Bolivarian Armed Forces, under resolution DG-002936 of 8 August 2007.



interests of citizens,<sup>4</sup> in accordance with the principles of progressiveness, indivisibility and interdependence.

35. The Office's promotional activities consist in informing and educating citizens to know their rights and take appropriate measures to protect them, furthering the development of a culture of respect and observance, and encouraging the adoption of measures to prevent human rights violations. These objectives are achieved through the promotion and dissemination of information materials, campaigns to promote and encourage community ventures and collaboration with the media. The Ombudsman's Office has the legal authority to mediate, conciliate and act as facilitator in resolving conflicts within its sphere of competence. The petitioner, victim and witnesses have the right for their identity to be withheld if they so request. Where appropriate, the Office may take legal action to secure a favourable ruling by the courts. It also offers guidance on the judicial or extrajudicial alternatives available to the petitioner. Finally, its monitoring function involves receiving and processing complaints and accusations *ex officio* or at the request of a third party and in overseeing public bodies. In this way, the Ombudsman's Office notes bad administrative practices and can make recommendations and issue warnings to remedy them.

36. The Ombudsman's Office has established a nationwide network of state offices and sub-offices, which allows human rights complaints and incidents to be reported at first hand. These have been supplemented by Special Ombudsman's Offices covering health and social security, indigenous peoples, children and adolescents, women, the environment, persons with disabilities, public services, prison affairs, housing and youth.

37. With regard to the protection of the rights of indigenous peoples, the Ombudsman's Office has concentrated on the following areas during the reporting period. Regional and national indigenous organizations have been advised on the defence and demarcation of the habitat and communal lands, on the exploitation of natural resources and sustainable community development, on their constitutional rights and on the remit and functioning of the Ombudsman's Office. Specialized advice has been given to public bodies and institutions on the collective human rights of indigenous peoples and communities. The Office has promoted inter-agency coordination between national and regional government bodies to ensure that all cases received are dealt with fully and promptly. It has also developed training and dissemination measures through its School of Human Rights and has made recommendations to public bodies responsible for defending and protecting the rights of indigenous peoples.

38. Finally, with regard to assistance, monitoring and support in defence of the rights of indigenous peoples, the most notable cases dealt with by the Ombudsman's Office in the period 2001–2010 include: the case of the Yanomami child population affected by malaria in Amazonas State;<sup>5</sup> the conflict that arose between the Inmaculada Concepción de Píritu indigenous community and the municipal mayor's office in Anzoátegui State over recognition of the right to the collective ownership of community lands;<sup>6</sup> the case of eight Kariña communities lacking quality medical care, identity documents, protection services and a share in the profits from exploitation by concession-holding companies of the forest resources of their lands;<sup>7</sup> the problem of Wayúu associations and the marketing of fuel on the Colombian-Venezuelan border; the case concerning coal mining by concessionaire companies on the lands of the Barí, Yukpa and Wayúu peoples;<sup>8</sup> the case of the indigenous

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<sup>4</sup> Article 280 of the Constitution and the Office of the Ombudsman Act.

<sup>5</sup> For further information, see the Ombudsman's Office Yearbook 2001.

<sup>6</sup> For further information, see the Ombudsman's Office Yearbook 2002.

<sup>7</sup> For further information, see the Ombudsman's Office Yearbook 2003.

<sup>8</sup> For further information, see the Ombudsman's Office Yearbook 2004.

communities under the influence of the group known as the New Tribes Mission;<sup>9</sup> the issue of military service and the indigenous peoples;<sup>10</sup> and, finally, cases relating to the demarcation and titling of the lands of the indigenous peoples.<sup>11</sup>

*Relevant human rights jurisprudence*

39. Examples of jurisprudence directly related to the Covenant on Economic, Social and Cultural Rights include: the Judgement of 19 December 2002 by the Constitutional Division of the Supreme Court concerning a claim for constitutional protection submitted by a representative of the Venezuelan Petroleum Company (PDVSA), acting in his own name and in his function as Director, alleging violation of his constitutional rights, those of PDVSA and the collective and broad rights of the Venezuelan people, as a result of actions and omissions attributed to members of a civil association leading the petrol strike in that company, who were paralyzing the Nation's principal enterprise and its main source of income.

40. In its ruling in the matter, the Constitutional Division stated that broad rights and interests are objectively indeterminate since the legal object of such rights is an indeterminate benefit with respect to the possible beneficiaries of the activity in question. The case is analogous to that of positive rights such as the right to health, education or decent housing protected by the Constitution and the International Covenant on Economic, Social and Cultural Rights: such benefits do not involve non-interference (by the State) but rather the performance of a series of measures to guarantee their enjoyment; they require a positive action on the part of the State. Guaranteeing the right to health or the right to education presupposes (...) the building of hospitals, schools, universities, etc.; paying the wages of a large number of officials associated with such activities; and, in general, investing substantial resources to ensure access by all citizens to the goods that such rights represent.

41. The Constitutional Division accordingly decided to admit the appeal on the basis that the constitutional rights alleged to have been infringed, consequent upon the disruption and reduction of the economic and industrial activity of the commercial enterprise in question,<sup>12</sup> included: the right to life, to personal integrity and security, to protection of the family, to health care, to work, to wages, to employment stability, to a complete education, to pursuit of a person's preferred economic activity, to private property and to quality goods and services, which were protected by the Constitution and by the International Covenant on Economic, Social and Cultural Rights (Official Gazette, Special No. 2146, 28 January 1978).

42. Another example is Judgement No. 85 of 24 January 2002, case of *Asodeviprilara*, in which the Constitutional Division partially upheld the claim for broad or collective rights and interests brought against the Superintendency of Banks and Other Financial Institutions and the Governing Board of the Institute for the Defence and Education of the Consumer and the User, with regard to the granting of mortgage and commercial loans, involving title reservation or unsecured creditors, called "Wage-Indexed Mexican Loans" (Crédito Mexicano Indexado al Salario).

43. The Court based its ruling on an extensive analysis of conceptions of a State subject to the rule of law and a social State subject to the rule of law and on a detailed study of the constitutional and legal provisions at the time the loans were granted and of the current

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<sup>9</sup> For further information, see the Ombudsman's Office Yearbook 2005.

<sup>10</sup> For further information, see the Ombudsman's Office Yearbook 2006.

<sup>11</sup> For further information, see the Ombudsman's Office Yearbook 2007.

<sup>12</sup> Under article 4 of Decree No. 1510 with Force of Law on Hydrocarbons, published in the *Gaceta Oficial*, No. 37323, of 13 November 2001, it is said to be "of public and social interest".

regulations regarding the granting of such loans. On the basis of an assessment of the relevant jurisprudence, it concluded that, in the case of mortgage and commercial loans, the injury arose from the capitalization of interest charges, which generated additional interest at fluctuating rates. Those rates were sometimes excessive in relation to the rate fixed when the deal was concluded and converted the refinanced capital into a sum disproportionate to the capital actually received by a person previously recognized to have a limited repayment capacity. It was significant in that regard that the regulations governing the scheme made provision for a creditor rescue fund in anticipation of cases where the debtor was unable to pay. To avert the injury, the Court considered that an interest rate should be set at the mid-point between the market rates charged to borrowers since 1996 and the interest rate applied to social benefits by the Venezuelan Central Bank from 1996 onwards and that the rate in question should take into account the employment situation in the country and the income of Venezuelans.

44. The Court also noted that, in the case of loans for vehicle purchase, it was usurious and disproportionate that the monthly repayments should include a percentage sum representing a collection commission and that the amount in question should remain fixed to the detriment of the debtor, who was unable to amortize the capital sum by paying his or her monthly instalments since variable interest rates and the collection commission were charged to the instalment payments, the remaining amount being subsequently added to the capital sum. In this way, the system gave rise to a final instalment equal to the whole of the unliquidated capital. This capital in turn produced default interest if contributions were not paid on time, plus the addition of three annual percentage points to the applicable rate in force from the first day of default.

45. The Court therefore ordered that repayments under these contracts should be restructured so as to eliminate collection charges; that, in keeping with the practice of the Venezuelan Central Bank since 1996, the maximum monthly interest rate should be pegged to the market procurement rate with retention of title, and that interest should not be charged on a daily basis. In Judgements Nos. 313 and 961 of 21 February and 24 May 2002, the Constitutional Division responded *inter alia* to requests for clarifications and expansion on the rulings in question.

46. Finally, in its Judgement of 13 July 2007, the Constitutional Court declared itself competent to consider a request for constitutional protection (*amparo*) brought against the electrical company Elecentro with reference to the fundamental right of access to quality goods and services, to adequate and non-misleading information concerning the content and nature of products and services consumed or used, to freedom of choice, to fair and dignified treatment and to the production of goods and services that meet the public needs, basing its reasoning on the rights protected under the Constitution and the International Covenant on Economic, Social and Cultural Rights.

**The Committee is concerned that the non-issue of personal documentation to refugees and asylum-seekers by the State authorities seriously hinders their enjoyment of economic, social and cultural rights, including the rights to work, health and education. This situation prompted a decision by the Inter-American Commission on Human Rights in March 2001 ordering protective measures for 287 Colombian refugees.**

47. Article 56 of the Constitution provides that “Every person has the right to a name, to the family names of his father and mother and to know the identity of his father and mother. Every person has the right to be registered at birth in the civil register free of charge and to obtain public documents proving his biological identity in accordance with the law”.

48. The Venezuelan State, through the Identidad Mission organized by the Identification, Migration and Alien Affairs Service,<sup>13</sup> has issued identity documents promptly and efficiently to thousands of Venezuelans and foreign immigrants resident in the country for some time. Through the Identidad Mission set up in 2003 and the National Identity Card Plan, identity documents have been issued to excluded and legally vulnerable groups lacking identity papers.

49. As to the right of asylum and refuge, the question is inherently complex because of the movements along the extensive and volatile frontier between, essentially, Venezuela and the Republic of Colombia. This situation has given rise over the reporting period to a major movement of persons seeking temporary or permanent refuge. The refugee reception policy has led to the adoption of the Refugees and Asylum-Seekers Act and its regulations, the appointment of the National Commission for Refugees and the proposed establishment of regional technical committees.

50. As regards asylum and refuge cases, the recently developed identification system has enabled the Venezuelan State to respond promptly to residency applications. The Identification, Migration and Alien Affairs Service has carried out a rapid exercise to regularize the situation of some two million immigrants of Colombian nationality. Those successful in legalizing their situation in the country included refugees and asylum-seekers, who did not forfeit their refugee status or the possibility of applying for it since the regularization exercise offered them better protection than the granting of residency.

51. The National Commission for Refugees, with the aim of providing better protection for its users, has established three offices at strategic points on the Venezuelan border, namely the Apure, Táchira and Zulia Offices, so that persons entering the country through these border areas can have ready access to refugee application procedures. Between 2003 and July 2011, a total of 5,359 refugee applications were received (of which 899 were approved, 1,828 rejected, 1,667 withdrawn by the applicant and 965 await a decision).<sup>14</sup>

**The Committee deplores the discrimination against indigenous people, particularly with regard to access to land ownership, housing, health services and sanitation, education, work and adequate nutrition. The Committee is particularly concerned about the adverse effects of the economic activities connected with the exploitation of natural resources, such as mining in the Imataca Forest Reserve and coal-mining in the Sierra de Perijá, on the health, living environment and way of life of the indigenous populations living in these regions.**

*Normative framework*

52. The Venezuelan State defines itself as a multi-ethnic and multicultural society recognizing over forty indigenous peoples and granting official status to the use of indigenous languages. Chapter VIII of the Constitution is devoted to the Rights of Indigenous Peoples, specifying that the State recognizes the existence of indigenous people, their modes of social, political and economic organization and their rights to the lands they ancestrally and traditionally occupy. The subsequent articles are concerned with the form of exploitation of natural resources on indigenous lands, the right of indigenous peoples to practise traditional medicine, the right to maintain and promote their own economic practices, the protection and prohibition of patents with regard to ancestral indigenous knowledge and the right to participate in politics. Reference is made in this connection to the representation of indigenous communities in the National Assembly, provision being

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<sup>13</sup> Formerly the National Office of Identification and Alien Affairs (ONIDEX).

<sup>14</sup> Information supplied by the National Commission for Refugees (CONARE).

made for the participation of three indigenous deputies chosen according to their customary practice. Finally, it establishes an indigenous justice system and recognition of their traditional authorities.

53. In the legislative sphere, a set of laws and decrees has been developed to strengthen the rights of indigenous peoples. They include the decree establishing the National Commission on the Demarcation of the Habitat and Lands of Indigenous Peoples and Communities;<sup>15</sup> the Decree providing for the compulsory use of indigenous languages in educational institutions;<sup>16</sup> the Decree establishing the Partial Regulations of the Identification of Indigenous Persons Act, which has facilitated the acquisition of identity documents by indigenous adults;<sup>17</sup> the Indigenous Peoples Habitat and Lands Demarcation and Protection Act;<sup>18</sup> the Act adopting ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries;<sup>19</sup> the Local Councils Public Planning Act,<sup>20</sup> providing for the representation of the indigenous communities in the municipal realm; the promulgation in 2002 of the Constitutions of the States of Anzoátegui, Apure, Amazonas and Sucre, incorporating the rights of indigenous peoples; the Indigenous Peoples and Communities Act;<sup>21</sup> the Indigenous Languages Act;<sup>22</sup> and the Act on the Preservation, Rescue, and Dissemination of the Indigenous Cultural Heritage.<sup>23</sup>

#### *Recognition of original land rights*

54. Concerning recognition of the habitat and original land rights, the Constitution of the Bolivarian Republic of Venezuela expressly establishes the right of indigenous peoples to collective ownership of their lands in its original form. In keeping with the Constitution, the National Assembly has adopted two laws that set out the constitutional principles concerning the original land rights of indigenous peoples and communities and the demarcation process relating to their habitat and lands. The Indigenous Peoples Habitat and Lands Demarcation and Protection Act and the Indigenous Peoples and Communities Act were adopted in 2002 and 2005 respectively.<sup>24</sup>

55. Pursuant to the Demarcation Act, the Government set up the National Commission on the Demarcation of the Habitat and Lands of Indigenous Peoples and Communities,<sup>25</sup> with the aim of promoting, coordinating and assessing the national demarcation process. In May 2011, the Decree was partially amended to take account of certain submissions by the indigenous peoples.

56. The Indigenous Peoples and Communities Act, in addition to defining the substance of the right to collective ownership of the indigenous habitat and lands, establishes the procedure for carrying out the demarcation process. Over the last ten years, title deeds to lands totalling some 967,370 ha have been delivered to indigenous peoples in the States of Zulia, Delta Amacuro, Apure, Anzoátegui, Sucre and Monagas. To date, the delivery of

<sup>15</sup> Presidential Decree No. 1392 of 9 August 2001.

<sup>16</sup> Presidential Decree No. 1795 of 27 May 2002.

<sup>17</sup> Presidential Decree No. 2686.

<sup>18</sup> *Gaceta Oficial*, No. 7118, 12 January 2001.

<sup>19</sup> *Gaceta Oficial*, No. 37305, 17 October 2001.

<sup>20</sup> *Gaceta Oficial*, No. 37463, 12 June 2002.

<sup>21</sup> *Gaceta Oficial* No. 38344, 27 December 2005.

<sup>22</sup> *Gaceta Oficial*, No. 38981, 28 July 2008.

<sup>23</sup> *Gaceta Oficial*, No. 39115, 6 February 2009.

<sup>24</sup> *Gaceta Oficial*, No. 38344, 27 December 2005.

<sup>25</sup> Decree No. 1392, published in the *Gaceta Oficial*, No. 37257, 19 August 2001.

land titles is not yet complete, the aim being to conclude the process over the next two years.<sup>26</sup>

57. The Guacaipuro Mission<sup>27</sup> was established by the Venezuelan State with the aim of promoting and developing policies to repay the historical debt to the organized indigenous communities, in recognition of their human rights. On 8 January 2007, the Ministry of People's Power for Indigenous Peoples was set up to enable the communities to play a leading role in designing their future projects.

*The right to health*

58. With regard to health services, chapter VIII of the Constitution concerning the rights of indigenous peoples includes an article referring specifically to the right of indigenous peoples to health care and to recognition of their traditional medicines and alternative therapies. The Indigenous Peoples and Communities Act also includes a whole chapter on health and indigenous medicine.

59. In 2003, the Ministry of People's Power for Public Health established a Working Group on the health and social development of indigenous peoples and communities, as a first phase in the development of health-care policies for indigenous peoples. It was followed in 2004 by the creation of the Indigenous Peoples Intercultural Health Coordination, which began to draft guidelines on adapting immunization and nutrition programmes and developing infrastructures and services in indigenous communities. In December 2006, under the new regulations of the Ministry of Health, the Indigenous Health Directorate was established with responsibility for developing and implementing policies in this field.

60. This new impetus has helped to safeguard the right to health and improve the quality of life of the 40 indigenous peoples nationwide, located in 48 municipalities in the States of Amazonas, Anzoátegui, Apure, Bolívar, Delta Amacuro, Monagas, Sucre and Zulia. The Indigenous Health Directorate attached to the Ministry of People's Power for Public Health completed its fifth year of operation last June and has strengthened the processes of interculturality in its role of promoting health care in the indigenous communities.

61. The Health Plan for Indigenous Peoples involves a series of plans and projects to help to ensure quality services at the health system's three levels of care, including cultural and linguistic relevance.

62. One of the main activities under this Plan has been the opening by the Ministry of People's Power for Public Health of Offices of the Indigenous Care and Counselling Service (SAOI) in the nation's hospitals. The Offices are staffed by multi-ethnic and multidisciplinary teams, facilitating relations between the medical personnel and patients at the Indigenous Care and Counselling Service.<sup>28</sup>

63. In 2005, SAOI were established in various hospitals in the country, beginning in the State of Zulia and followed by the States of Bolívar and Apure. In 2006, eleven indigenous communities benefited from the Programme for the Distribution of Medicines to Indigenous Communities run by the Autonomous Pharmaceutical Processing Service, eleven new communities being added in 2007. The Service continues to deliver medicines free of charge up to the present time.

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<sup>26</sup> Information supplied by the Ministry of People's Power for Indigenous Peoples.

<sup>27</sup> Presidential Decree No. 3040 of 2004.

<sup>28</sup> As of 2010, 32 health-care centres had been set up in eleven States nationwide, each treating more than 200,000 patients on average.

64. The Venezuelan State has implemented health plans aimed specifically at indigenous peoples. The Yanomami Health Plan, for example, provides for the strengthening of existing health districts and health networks, serving 20 Yanomami communities (12,000 to 14,000 persons). Medical care has also been provided to over 44,000 persons belonging to the Yanomami people.<sup>29</sup>

65. The Apure Health Plan provides for strengthening the primary health-care network, training indigenous health staff and providing remote communities with comprehensive care through mobile teams. The Delta Amacuro Health Plan likewise includes projects offering care and lodging to indigenous Warao patients and their families, including outpatient medical treatment, nutritional care, reinforcement of traditional medicine, introduction and strengthening of comprehensive care for isolated communities, training of comprehensive community health workers; and restoring primary health-care infrastructures. Finally, the Andean Intercultural Health Plan is aimed at strengthening the development of intercultural health policies for the indigenous populations of the Andean subregion.<sup>30</sup>

66. With regard to health and safety in the workplace, the National Institute for Prevention, Health and Safety at Work (INPSASEL) has developed a technical guide based on the experience and knowledge of women belonging to the Piaroa and Jivi ethnic groups in Amazonas State, with the aim of informing housewives about health and safety in the home.

#### *The right to education*

67. With regard to access to education by indigenous peoples, there has been an important development in Venezuelan legislation. The Venezuelan State<sup>31</sup> has promoted greater use of indigenous languages by making them compulsory in schools, in both their oral and written forms. The Indigenous Peoples and Communities Act protects the right of indigenous people to their own form of education, and the Education Act and its regulations provide for a system of bilingual intercultural education for indigenous peoples.

68. Bilingual intercultural education has helped to develop a form of education specific to indigenous people and to strengthen and revitalize their languages and cultures through education. This modality is designed to ensure educational provision in the context of a multi-ethnic and multicultural society and in recognition of cultural diversity.

69. In the 2009/10 school year, 656 indigenous schools providing preschool, primary and secondary education were registered in the States of Amazonas, Anzoátegui, Apure, Bolívar, Delta Amacuro, Mérida, Monagas, Sucre and Zulia.<sup>32</sup> The number of indigenous pupils enrolled in the school year in question was 68,520.<sup>33</sup>

70. Outside the geographical area in which indigenous peoples are concentrated, indigenous pupils also account for 42,331 enrolments in 604 schools nationwide. Indigenous pupils in the basic education subsystem currently number 110,851.<sup>34</sup>

<sup>29</sup> Information supplied by the Ministry of People's Power for Public Health.

<sup>30</sup> For more information, see the questionnaire submitted by the Bolivarian Republic of Venezuela to the United Nations on 19 September 2009 under the Midterm Assessment of the Second International Decade of the World's Indigenous People, 2005–2014.

<sup>31</sup> Presidential Decrees Nos. 1795 and 1796 of 2002.

<sup>32</sup> States in which the majority of the indigenous population is concentrated.

<sup>33</sup> Voluntary national presentation by the Bolivarian Republic of Venezuela to the Economic and Social Council on the implementation of the internationally agreed goals and commitments on education, 5 July 2011.

<sup>34</sup> *Idem*.

71. The mass enrolment of high-school graduates in university education has similarly progressed. In 2010, enrolments increased with the admission of 128,382 candidates through the unified national university entrance system, including 2,702 indigenous students.<sup>35</sup> In the same year, 462,199 students (including 57,532 grant-holders and 10,047 from the indigenous population) were enrolled through the Sucre mission, which is aimed at bringing university education to every municipality in the country, consistent with the needs and potential of each region.<sup>36</sup>

72. Measures carried out include: the construction and rehabilitation of ecologically, culturally and linguistically relevant indigenous schools; the production and publication of printed and audiovisual educational materials in the different indigenous languages; the development of free software for generating programmes in the languages of the original peoples; and the provision of initial and in-service training for indigenous teachers and doctors from the Latin American School of Medicine.

73. Cooperation agreements developed in this area include: the agreement with the “Dr. Arnaldo Gabaldón” Institute of Higher Studies in Public Health to include intercultural materials in its programmes, beginning with postgraduate studies in public health;<sup>37</sup> the training of indigenous doctors in comprehensive health care under the Cuba-Venezuela Agreement at the Latin American School of Medicine in Havana;<sup>38</sup> and the agreement between the Ministry of People’s Power for Public Health and the National Experimental University of the Central Plains on the inclusion of 200 indigenous youngsters in the medical studies course. In addition, the Indigenous University of Venezuela was established.

74. Mention should also be made of the creation of the National Council for Education, Culture and Indigenous Languages, comprising two indigenous representatives from each indigenous village, which acts as a consultative and advisory body to the Ministry of People’s Power for Education.<sup>39</sup>

#### *The right to food*

75. With regard to the food situation of the indigenous peoples and communities, programmes on socio-productive financing for sustainable development have been developed through non-reimbursable loans at very low interest rates from the state bank. Emphasis has also been placed on agro-ecological training through training programmes aimed at indigenous leaders, the creation of training areas known as agro-ecological classrooms and the development of organoponic farm and vegetable plots under an agreement with the Government of Cuba.<sup>40</sup> Indigenous communities have also obtained seeds for the sowing of native species under the Siembra Plan of the Ministry of People’s Power for Agriculture and Lands.

76. The Bolivarian School Food Programme has been developed with the aim of increasing student retention rates and raising nutritional standards through the provision of food aid, with a socio-cultural focus.

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<sup>35</sup> *Idem.*

<sup>36</sup> *Idem.*

<sup>37</sup> The review, “Voces Indígenas”, No. 1, Ministry of People’s Power for Health, November 2006.

<sup>38</sup> Ministry of People’s Power for Health at <http://www.mpps.gob.ve/ms/modules.php?name=News&file=article&sid=2201>.

<sup>39</sup> Presidential Decree No. 1796 of 27 May 2002.

<sup>40</sup> Information supplied by the Ministry of People’s for Indigenous Peoples.



77. Finally, mention should be made of the designation of 12 October as National Indigenous Resistance Day and of its inclusion in the Republic's official school calendar.<sup>41</sup>

**The Committee is particularly concerned about the adverse effects of the economic activities connected with the exploitation of natural resources, such as mining in the Imataca Forest Reserve and coal-mining in the Sierra de Perijá, on the health, living environment and way of life of the indigenous populations living in these regions.**

*Imataca Forest Reserve*

78. On 22 September 2004, the Official Gazette No. 38028 published Presidential Decree No. 3110 setting out the Plan for the Land-Use Management and Regulation of the Imataca Forest Reserve (Bolívar and Delta Amacuro States). The Plan provides for the management and rational use of the resources and wealth of an area of approximately 3,800,000 ha. The Decree classifies the territory of the Reserve into ten zones, defined in terms of their ecological characteristics, actual and potential uses, presence of indigenous peoples and communities and the possibility of developing sustainable scientific and economic activities. Work has also begun on developing the technical bases for the Land-Use Management Plan for certain of the areas under special administration.

79. The Ministry of People's Power for the Environment in conjunction with the Ministry of People's Power for Energy and Petroleum, the Venezuelan Corporation of Guayana and the Tropical Zoology Institute of the Central University of Venezuela systematized information regarding use of the Reserve's soils and vegetation, enabling the area to be zoned, having regard to its natural heritage status.

80. An area of special focus was the Special Forest Management Mining Zone characterized by a high density of indigenous communities, who occupy 8.2 per cent of the Imataca Forest Reserve (307,845.2 ha), with its significant forest and mining potential in the form of major gold and base metals deposits. The forest regulation and management plans for this region include non-intervention areas dedicated to protection of the habitat and preservation of the activities and traditions of the indigenous peoples and communities.

81. Account was also taken of the Programme for the Protection and Preservation of Indigenous Communities and Other Human Settlements, which is aimed particularly at providing communities with the services necessary to protect their cultural identity by furthering training and participation in economic activities and developing projects in the areas of education, health, security and self-management.

82. To promote sustainable development in the Imataca Forest Reserve, its adjacent areas and the Sierra de Perijá, studies were undertaken in preparation for the drafting of the Plan for the Management and Regulated Use of Soils, Forests and Waters in the Protected Areas of the Basins of the Guasare, Socuy and Cachiri Rivers in Zulia State, which rise in the Sierra de Perijá and are flanked by indigenous settlements and numerous archaeological and paleontological sites. Under the draft Plan, the Government proposes to restrict coal mining to the two concessions currently operating (Paso Diablo and Mina Norte) so as to avoid environmental conflicts in the basins concerned, which are of strategic importance as a source of water for the city of Maracaibo and its surrounds. The draft plan is currently in a process of public consultation with a view to its subsequent adoption.

83. In the period 2000–2005, the process of revising and updating environmental rules was begun, involving the promulgation of the Hazardous Substances, Materials & Wastes Act, published in the Official Gazette No. 5554 of 13 November 2001; and the issuing of

<sup>41</sup> Presidential Decree No. 6496 of 28 October 2008, published in the *Gaceta Oficial*, No. 39046.

resolution No. 40 of the Ministry of People's Power for the Environment on the Requirements for the Registration and Authorization of Handlers of Dangerous Substances, Materials and Wastes.<sup>42</sup>

84. At the end of 2005, the Miner Retraining Programme was initiated with the aim of transferring mining activity from the Caroní River and La Paragua Basin to the Cuyuní River basin, in accordance with the provisions of Decree No. 3110 (7 September 2004), the Plan for the Land-Use Management and Regulations of the Imataca Forest Reserve, and other environmental regulations. The Caroní River and La Paragua Basin offer exceptional opportunities for the generation of hydroelectric power. In this connection, local communities have been canvassed regarding the replacement of mining practices by other productive activities with less environmental impact.

*Coal mining in the Perijá Sierra*

85. Consultations took place with the indigenous population in arriving at a decision in the case of the Yukpa and Bari peoples and the mining concessions. The Perijá Sierra in Zulia State contains coal deposits yielding 40,000,000 t annually in the Colombian mines of Cerrejón and Las Lomas, and almost 8,000,000 t annually in the Venezuelan part of the River Guasare. Carbozulia, a Venezuelan State enterprise, planned to expand production in the Sierra to 10,000,000 t annually and to construct two ports for exporting the mineral, one in Lake Maracaibo and the other in the Gulf of Venezuela. The coal-mining project had been opposed by the Wayúu indigenous nations, the most numerous ethnic group in Venezuela, located on the north-east frontier with Colombia.<sup>43</sup>

86. The Indigenous Peoples Habitat and Lands Demarcation and Protection Act obliges the State to consult with the indigenous communities and to take into account the boundaries identified by them as those of their territory. The Wayúu insisted that the State should recognize the lands claimed by them as their territory, should revoke the coal-mining concessions — said to involve 90,000 ha of the total lands claimed — and that the livestock owners should be paid for the improvements made on the farming lands used by the Barí for hunting and traditional activities.<sup>44</sup>

87. In March 200, following permanent consultations and exchanges with government bodies, the Ministry of People's Power for the Environment informed the indigenous communities at a general assembly of the total suspension of coal-mining concessions in the Perijá Sierra in order to protect water reserves and plant biodiversity. It was also decided not to grant permits that could place at risk the natural development of the communities and peoples concerned. This demonstrates the National Government's commitment to improving the quality of life of the indigenous peoples and limiting further development of the coal-mining project in the Perijá Sierra.<sup>45</sup>

**The Committee regrets the inadequacy of the information provided with regard to articles 6 and 7 of the Covenant. The Committee is concerned at the high rate of unemployment and lack of job security for workers as hiring practices become more flexible, driving many workers into the informal sector.**

<sup>42</sup> *Gaceta Oficial*, No. 37701, 29 May 2003.

<sup>43</sup> For more information, see the questionnaire submitted by the Bolivarian Republic of Venezuela to the United Nations on 19 September 2009 under the Mid-term Evaluation of the Second International Decade of the World's Indigenous People, 2005–2014.

<sup>44</sup> *Idem*.

<sup>45</sup> *Idem*.

*Policies for protecting the right to work*

88. Over the last ten years, the Venezuelan State has made progress in constructing a new legislative framework, based on the Bolivarian Constitution, which sets its sights in the social and labour field on the provision of decent work and employment and the inclusion of historically excluded sectors. Its goal has been to promote workers' dignity, restore their rights and improve the living conditions of the Venezuelan people. The policies implemented have tended to reverse the institutionalization of neoliberal measures adopted in the 1980s and 1990s, such as privatization, outsourcing and job insecurity.

89. The National Simón Bolívar Project – National Social and Economic Development Plan for 2007–2013 lays down that the policy of economic and social inclusion forms part of the socialist-oriented planning, production and distribution system. Its goal is the progressive development of social ownership of the means of production, the implementation of fair, equitable and mutually supportive exchange systems opposed to capitalism, the progressive elimination of differences and discrimination between physical and intellectual work and recognition of work as the only activity generating value and therefore legitimizing the right to ownership. All these measures are guided by the principle of from each according to his ability and to each according to his work.

90. Labour statistics are drawn up within the framework of the aforementioned objectives, as they relate to the guidelines concerning the Supreme Social Happiness and Socialist Model of Production.

91. In the interests of brevity, indices relating to the economically active population, unemployment and formal employment are included under article 6 of this report.

92. In 2006, temporary employment firms ceased to be bound by the Regulations of the Labour Code and their workers became entitled to benefits under the lead firm's collective agreements. In 2007, the number of disabled persons that firms were required to employ was increased from 2 per cent to 5 per cent of the payroll.<sup>46</sup>

93. Other legislative advances in the field of social and labour rights resulting from the promulgation and implementation of new instruments include: the Civil Service (Legal Status) Act; the Working Safeguards, Conditions and Environment Act; the Labour Procedure Act; the Social Security System Act; the Amended Regulations of the Labour Code; the Amendment to the Social Security Act; the Workers Food Act; the Family and Parental Protection Act; and the Disabled Persons Act. All these measures have resulted in a significant reduction in job insecurity, unemployment and employment rates in the informal economy, a large percentage of such jobs having moved to the structured or formal economic sector.

**Despite the stipulations in article 91 of the Constitution establishing the right of everyone to sufficient wages to support a worker and his family, and by which minimum wages are adjusted every year, the Committee is concerned that the minimum wage is still far short of meeting workers' basic requirements, and that there are disparities between urban and rural wages.**

94. The Constitution stipulates that:

“Every worker has the right to a salary sufficient to enable him or her to live with dignity and cover basic material, social and intellectual needs for himself or herself and his or her family. The payment of equal salary for equal work is guaranteed, and the share of the profits of a business enterprise to which workers are entitled shall be fixed. Salary is not subject to garnishment, and shall be paid periodically and

<sup>46</sup> Information supplied by the Ministry of People's Power for Work and Social Security.

promptly in legal tender, with the exception of the food allowance, in accordance with law. The State guarantees workers in both the public and the private sector a vital minimum salary which shall be adjusted each year, taking as one of the references the cost of a basic market basket...”

95. The minimum monthly wage in Venezuela as of 2010 is 1,223.8 bolívares, one of the highest in Latin America. Annual increases in the minimum wage take effect on 1 May, when Labour Day is commemorated, and the adjustments take account of the annual accumulated inflation rate, thereby ensuring that the purchasing power of wages is maintained, in particular the minimum wage. Policies on wage and salary increases are aimed at and have succeeded in decreasing poverty in the country.<sup>47</sup>

96. For many years, wages were frozen in Venezuela, despite the high levels of inflation at the time. In 1996, when inflation in the country was over 100 per cent, the minimum wage stood at US\$36, one of the lowest in the world, amounting to about 1 dollar per day. In 1998, the minimum wage reached US\$118.<sup>48</sup> At the start of 1999, it stood at 120 bolívares; subsequently workers' incomes continued to rise, to 321 bolívares (\$75 dollars) in 2004, 512 bolívares (\$119) in 2006, 799 bolívares (\$186) in 2008, reaching 1,223.89 bolívares (\$285) in 2010. It should be noted that since 2005 the minimum wage in rural areas has been equal to that in urban areas, that the survivor's benefits received by widows and widowers under their social security pensions are pegged to the minimum wage, and that these pensions are likewise equivalent to the minimum wage so that whenever the latter is adjusted or increased they are similarly adjusted or increased.<sup>49</sup> The pernicious discriminatory wage differential between urban and rural districts has disappeared.

**The Committee is concerned that following the national referendum of December 2000 on trade union reorganization, the entire leadership of the country's union federations and confederations was dismissed whereas only union members can elect or remove their leaders.**

97. With regard to the ILO recommendation to revoke the results of the December 2000 referendum on trade union reorganization, it is pointed out that — as the ILO supervisory bodies were informed — the Government expressed the need in Official Gazette No. 36904 of 2 March 2000 to establish an electoral process consistent with Convention No. 87 on Freedom of Association and Protection of the Right to Organize so as to guarantee universal, direct and secret suffrage. This Decree also provided for the establishment of a national trade union electoral commission to re-legitimize the union leadership.

98. Subsequently, in 2001, the union bodies as a whole agreed to the re-legitimization of the trade unions. In this regard, the spirit of the Convention is summarized in the Constitution itself; and the means to the end pursued in Convention No. 87 are accordingly strengthened by the presence of the Electoral Authority, which enjoys complete functional autonomy. The main aim of the National Electoral Council (CNE) is to ensure compliance with this constitutional mandate by ensuring respect for the electorate's wish to exercise its right to participate directly in union affairs through free elections and on an equal basis, without discrimination of any kind and in a climate of impartiality, transparency and trust in the electoral commissions and polling stations. Article 293 of the Constitution makes specific provision in this regard.

99. The re-legitimization process, endorsed by all the country's trade unions in the presence of CNE, was progressing insofar as the unions made their databases available and the Council was able to compare them with its own data from the permanent electoral

<sup>47</sup> Information supplied by the National Institute of Statistics.

<sup>48</sup> Information supplied by the Ministry of People's Power for Work and Social Security.

<sup>49</sup> *Idem.*

register. During this process, the Council drew up the Special Transitional Statute for the Renewal of Union Leadership in accordance with its constitutional mandate, following consultations with the relevant trade unions and the inclusion in their regulations of the relevant suggestions, without prejudice to the right of the unions to draw up their own statutes and internal regulations, in accordance with the provisions of the Constitution and ILO Convention No. 87.

100. It should also be noted that article 61 of the Special Statute stresses that the Act is transitional in nature, remaining in force until the appeals by the interested parties concerning the corresponding election have been resolved. The Statute takes account of amendments proposed to CNE by the trade unions at a round-table meeting.

101. With regard to the system of trade union elections foreseen in article 293 and in the Eighth Transitional Provision of the Venezuelan Constitution, the Electoral Authority Act published on 19 November 2002 provides that CNE has competence to organize the elections of trade union, respecting their autonomy and independence in accordance with international treaties, its main function being to provide technical support when invited to do so by the trade unions. This provision restricts the activity of the Council, making its involvement subject to the free and prior consent of the unions.

102. The aforementioned article thus makes any activity by CNE strictly conditional on the independence and autonomy of the trade unions, in keeping with the Republic's commitments under international human rights conventions and treaties (including ILO Conventions Nos. 87 and 98).

103. In accordance with article 23 of the Constitution, these treaties and conventions are to be applied promptly and preferentially, any participation by CNE being subject to the prior and voluntary consent of the unions. The entry into force of article 33.2 of the Electoral Authority Act entails the legal annulment of the Eighth Transitional Provision of the Venezuelan Constitution and the Special Transitional Statute for Renewal of Union Leadership, adopted by CNE.<sup>50</sup> The Council cannot therefore participate in the convening, monitoring and supervision process; its participation in the form of technical assistance is subject to a request being made by the trade unions to that effect.

104. It is also worth bearing in mind the judgement of the Social Court of Cassation of the Supreme Court on 17 June 2004 in proceedings brought by spokespersons of the Confederation of Workers of Venezuela (CTV), seeking a declaratory judgement recognizing the membership of CTV's Executive Committee and the results of the internal elections of the trade union confederation held on 25 October 2001, and also requesting that CTV be recognized as the largest of the organizations or confederations of workers unions in order to settle any dispute over representativeness. It should be noted that the Court dismissed CTV's claim. This judgement confirmed a previous incidental ruling by the Electoral Division of the Supreme Court on 7 January 2004, as well as previous decisions of the Supreme Court on the matter. It was thus established that the claim of those purporting to represent CTV's Executive Committee was not based on the 2001 electoral process and that the offices in question were being occupied through means other than those of popular consultation.

105. It should also be noted that, under resolution No. 90528-0264,<sup>51</sup> the National Electoral Council has issued Standards concerning Technical Advice and Logistical Support for Trade Union Elections. The entry into force of these standards involved the annulment of the Standards for the Election of Trade Union Authorities issued by the

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<sup>50</sup> Resolution 10418-113 of 18 April 2001.

<sup>51</sup> Published in the *Gaceta Electoral* of the Bolivarian Republic of Venezuela, No. 488, 29 May 2009.

Council under resolution No. 041220-1710.<sup>52</sup> Under resolution No. 090528-0265 bearing the same date as the previous one,<sup>53</sup> the Council has issued Standards to Safeguard the Human Rights of Workers in Trade Union Elections.

106. These standards were issued having regard to the recommendations of the monitoring bodies of the International Labour Organization and establish the parameters for the activities of the Electoral Authority when its technical advice and logistical support is requested *voluntarily* by trade union organizations for the organization of electoral processes. The standards in question thus safeguard the principles and human rights inherent in proactive participation, trade union democracy, the voting rights of union-affiliated workers and the free election and rotation of representatives of these organizations, and guarantee the reliability, equality, impartiality, transparency, procedural economy, efficiency and public nature of the processes being organized as well as respect for trade union freedom.

**The Committee is alarmed about the high rate of domestic violence and the extent of child prostitution and trafficking in children, and regrets the lack of available statistics on the number of street children. The Committee is deeply concerned about the extent of the sex trade involving children and the inability of the State party to address these issues.**

*Policies for the protection of children and adolescents*

107. The Constitution of the Bolivarian Republic of Venezuela provides for the creation of a National System for the Comprehensive Protection of Children and Adolescents. This provision is enacted through article 117 of the Child and Adolescent Protection Act, which defines the system as follows: “The National System for the Comprehensive Protection of Children and Adolescents comprises all the bodies, entities and services that draw up, coordinate, integrate, direct, supervise, evaluate and monitor policies, programmes and initiatives in the public interest at the national, state and municipal level. These policies, programmes and initiatives aim to protect and provide health care for all children and adolescents. They also establish the means to ensure that children and adolescents may effectively enjoy their rights and guarantees and provide for the fulfilment of the duties established in the Act.” The System operates through a coordinated set of intersectoral public service initiatives carried out by State bodies and by the community.<sup>54</sup>

108. In general terms, the programmes established under the Act for protecting, safeguarding and restoring the rights of children and adolescents involve:

- (a) Assistance: aimed at children, adolescents and their families suffering from poverty or victims of natural disasters and calamities;
- (b) Support and guidance: promoting the integration of children and adolescents in their families and in society;
- (c) Tracing and family placement: ensuring the reintegration of children and adolescents in their families of origin or, where this is not possible, organizing the placement of children and adolescents in substitute families;

<sup>52</sup> Published in the *Gaceta Electoral*, No. 229, 19 January 2005.

<sup>53</sup> Published in the *Gaceta Electoral*, No. 488.

<sup>54</sup> The system consists of: the Ministry of People’s Power for the Comprehensive Protection of Children and Adolescents; Councils for Children’s and Adolescents’ Rights; Children’s and Adolescents’ Rights Protection Councils; Courts for the Protection of Children and Adolescents; the Social Court of Cassation of the Supreme Court; the Public Prosecutor’s Office; the Ombudsman’s Office; the Public Defender’s Office; Offices of the Children’s and Adolescents’ Ombudsman; child care facilities; communal councils; and other peoples’ organizations.

- (d) Rehabilitation and prevention: forestalling risk situations and violation of the rights of children and adolescents, and restoring such rights;
- (e) Identification: ensuring that children and adolescents register in the State's civil register and obtain identity documents;
- (f) Education and training: helping to meet the need for a trained workforce;
- (g) Shelter: catering for children and adolescents subject to protection measures;
- (h) Communication: ensuring the availability of adequate information, announcements and programmes for this group;
- (i) Socio-educational measures: assisting adolescents subject to socio-educational measures;
- (j) Promotion and defence: making sure that adolescents know their rights and how to protect them;
- (k) Cultural programmes: furthering the observance and dissemination of local values and universal culture.

109. Concerning Venezuela's commitments in ratifying the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, a large number of measures have been taken in accordance with the Protocol's provisions. In the context of the campaign to eradicate the sexual exploitation of children and adolescents, Venezuela was signatory to the agreements at the Stockholm and Yokohama international summits. In partial fulfilment of these agreements, the Committee against Sexual Abuse and Exploitation was set up in 2001 at the initiative of the Autonomous Institute and National Council for Children's and Adolescents' Rights (IDENA). The membership of this working group consisted of governmental and non-governmental organizations closely concerned with the topic in question, with searching for solutions and with approaching the problem from various angles. The Committee's activities were the framework for the drafting of the National Plan of Action against Sexual Abuse and Commercial Sexual Exploitation.<sup>55</sup>

110. In the period 2001–2007, the Venezuelan State, through IDENA, took various preventive measures in coordination with other state bodies with the aim of providing children and adolescents with comprehensive care and protection.

111. The measures included the development of guidelines and directives for addressing this problem, such as the Guidelines on Authorizing Children and Adolescents to Travel Within and Outside Venezuela;<sup>56</sup> the General Guidelines for the Protection of Children and Adolescents from Sexual Abuse and Commercial Sexual Exploitation;<sup>57</sup> the Guidelines for the Protection of Child and Adolescent Victims of Child Pornography as a Form of Commercial Sexual Exploitation;<sup>58</sup> the General Guidelines on National and International Adoptions; the National Plan of Action against Sexual Abuse and Commercial Sexual Exploitation;<sup>59</sup> the Interagency Action Plan for the Comprehensive Protection of Children and Adolescents against Violence 2006–2007; and the National Identity Plan.<sup>60</sup>

<sup>55</sup> National Plan of Action against Sexual Abuse and Commercial Sexual Exploitation, *Gaceta Oficial*, No. 38631, 23 February 2007.

<sup>56</sup> *Gaceta Oficial*, No. 37476, 2 July 2002.

<sup>57</sup> *Gaceta Oficial*, No. 37815, 11 November 2003.

<sup>58</sup> *Gaceta Oficial*, No. 35640, 23 August 2007.

<sup>59</sup> *Gaceta Oficial*, No. 38631, 23 February 2007.

<sup>60</sup> Core document concerning the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, submitted by Venezuela on 5 July 2011.

112. Between 2000 and 2004, under the Plan against Child Pornography, agreements were concluded between various State bodies in the fight against pornography, sexual abuse and the commercial sexual exploitation of children and adolescents through the development of appropriate measures to progressively eradicate all forms of sexual abuse and commercial exploitation of children and adolescents. In 2007, a pilot project was set up to combat child pornography in educational establishments in the Metropolitan District of Caracas.

113. In February 2008, under the National Plan of Action against Sexual Abuse and Commercial Sexual Exploitation and the Interagency Plan of Action for the Comprehensive Protection of Children and Adolescents against Violence, IDENA launched a communication campaign to prevent and tackle these offences. The United Nations Children's Fund (UNICEF) played an active part in this campaign to combat violence against children, adolescents, women and the family, including the sexual abuse of children and adolescents.<sup>61</sup>

114. Other measures included the financing of institutions developing programmes on the prevention of sexual abuse and sexual and reproductive counselling, which provided support to 10,179 children and adolescents.<sup>62</sup>

115. Following the reform of the Child and Adolescent Protection Act in 2007 and the establishment of IDENA, a policy is currently being developed to democratize the National System for the Comprehensive Protection of Children and Adolescents, involving efforts to avoid children having their rights threatened or violated or being victims of violence. Launched in June 2008, the Neighbourhood Children Mission is contributing to this end through plans and programmes focused on prevention, protection and participation.<sup>63</sup>

116. The prevention programmes include the Communal Comprehensive Protection Centres, in which the communities, with the support of IDENA, cater for children aged 0 to 12 in situations of social risk by offering them comprehensive protection through educational, recreational, cultural and sporting activities representing alternative uses of leisure time and the publicizing, promotion and defence of the right to a life free from violence, abuse and commercial sexual exploitation.<sup>64</sup>

117. Another initiative is the Programme for Dignifying Adolescent Workers, which helps young people to make the transition to decent employment, based on a new collective morality, civic awareness, tolerance, and creative and productive work. The Comprehensive Protection Programme, aimed at protecting children and adolescents separated from their family environment, similarly offers young people a decent environment and temporary care pending reintegration in their families of origin or placement in substitute families. The Communal Shelter Programme is a similar project catering for children and adolescents subject to shelter measures ordered by the Protection Councils.<sup>65</sup>

118. A Programme of Counselling, Prevention and Treatment Centres has been developed to provide nationwide comprehensive outpatient assistance free of charge to anyone presenting psychosocial problems directly or indirectly related to drug consumption, behavioural difficulties and risk situations in general. Between 2000 and 2010, the Programme treated 18,891 cases, of which 937 were referred to other institutions and 10,854 involved the student population and the general public. Under its auspices, 1,269 therapy and family guidance groups were established and 628 workshops were

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<sup>61</sup> *Idem.*

<sup>62</sup> *Idem.*

<sup>63</sup> *Idem.*

<sup>64</sup> *Idem.*

<sup>65</sup> *Idem.*



organized on the topics of crime prevention, avoidance of drug use and abuse, family violence and child pornography, targeted at those being treated and their family members.<sup>66</sup>

119. Protective mechanisms have been set up under this heading to enable the public to report acts of violence against children and adolescents. They include the establishment and implementation of the Child and Adolescent Protection Councils and the Office of the Children's Ombudsman, which operate in various parts of the country and make it possible to respond to reports of violations among this vulnerable group; the introduction by the Public Prosecutor's Office of victim support units in various States and prosecutors specialized in the field; and the promotion of the 800-mujeres helpline established by the National Institute for Women and UNICEF.

120. The Venezuelan State, through the Scientific, Criminal and Forensic Investigation Unit, in particular the Investigation and Protection Division Responsible for Children, Adolescents, Women and the Family, is focusing its research on two particular areas — violence against women and the protection of children and adolescents. Between 2007 and 2010, the Division dealt with 105 cases of prostitution, pornography and trafficking involving children and adolescents.<sup>67</sup>

#### *Training programmes*

121. Between 2000 and 2010, the Autonomous Institute of the National Council for Children's and Adolescents' Rights (IDENA) assisted 3,232 public and private educational establishments and 355 Bolivarian schools through the provision of training for 18,385 teachers specializing in prevention and 255,288 pupils, parents and guardians at 18,609 training workshops dealing with crime prevention, school violence, drug use and abuse, human trafficking and the illicit traffic in migrants, prevention of child pornography, mistreatment of children, sexual abuse and early pregnancy and through the organization of educational projects on these topics. Educational software on the prevention of sexual abuse among adolescents was also produced and developed, along with an instructional design kit on sexual abuse 2004–2005.<sup>68</sup>

122. Other training activities on prevention were carried out through the Ministry of People's Power for the Interior and Justice, in particular the Directorate-General on Crime Prevention. Between 2000 and 2010, a total of 130,299 members of the community received training, involving the participation of 3,810 grassroots organizations. In addition, 2,677 training events were organized with the participation of 121,823 persons, resulting in the training of 4,591 instructors in prevention work and 1,012 volunteer groups comprising 11,652 instructors of prevention work in the communities.<sup>69</sup> The Human Rights Department of the same Ministry organized national programmes for children and adolescents, such as the "Back to school hand in hand with human rights" programme, which benefited 1,145 young people, and the "Back to school in a healthy environment" programme, benefiting 8,320 youngsters.

123. In the period 2000–2010, 6,241 officers, junior officers and other ranks in the National Armed Forces received training at 131 training workshops, and 1,777 workshops on the prevention of all forms of violence were held for officials from other institutions and the forces of law and order, with the participation of 39,480 persons.<sup>70</sup>

<sup>66</sup> *Idem.*

<sup>67</sup> *Idem.*

<sup>68</sup> *Idem.*

<sup>69</sup> *Idem.*

<sup>70</sup> *Idem.*

124. The Venezuelan State has implemented the programme “Semillero de la Patria Simón Bolívar”, involving the organization by IDENA of recreational, training, educational, sporting, cultural and ecological activities for children and adolescents between the ages of 6 and 17. The “Colmenita Bolivariana” is another cultural initiative implemented by the Neighbourhood Children Mission and the Corazón Adentro Cultural Mission, with the participation of Cuban cooperation workers from the Cuban Children’s Theater Company “La Colmenita”, recognized by UNICEF as goodwill ambassadors.

#### *Street children*

125. The Neighbourhood Children Mission was established in 2008 with the aim of defending and meeting the needs of street children and adolescents aged 0 to 17. The first part of the Mission, which is divided into two phases, is concerned with four groups within this broad sector: street children; children and adolescents in institutions; working children and adolescents; and children at risk. This latter group is the most numerous since it includes all sections of society. In the particular case of street children, the problem had virtually been eradicated by 2010.

126. The second part consists in bringing together children and adolescents between the ages of 6 and 17 to form the Venezuelan Children’s Organization. The Organization is to be headed by the children themselves, working with the communal protection centres to help strengthen social values so as to eradicate exploitation, harassment, abuse and physical and psychological ill-treatment.

#### *Violence against women*

127. The enactment in 2007 of the Act on Women’s Right to a Life Free from Violence breaks with the anarchic conception of violence against women as a private matter, making it a matter of public concern (*res publica*) by criminalizing all forms of gender-based violence, whatever form it takes, including: psychological violence, harassment, threats, physical violence, domestic violence, sexual violence, violent sexual penetration, forced prostitution, sexual slavery, sexual harassment, violence in the workplace, violence against property, economic violence, obstetric violence, forced sterilization, media violence, institutional violence, symbolic violence and trafficking in women, girls and adolescents.

128. This Act also establishes specific functions for the National Institute for Women (INAMUJER) and the National Ombudsman’s Office for Women’s Rights. Regarding access to justice, 38 special courts for the protection of women and gender equality have been established, as well as 59 special prosecutor’s offices for violence against women.<sup>71</sup>

129. In order to prevent the harassment and abuse of women, article 57 of the Equal Opportunities for Women Act stipulates that the State guarantees women’s rights against assaults that impair their dignity or their physical, sexual, emotional or psychological integrity, without prejudice to the provisions of specific legislation in that regard. To comply with this requirement, and avoid possible violations and abuses, the same Act provides for the creation of the National Ombudsman’s Office for Women’s Rights, responsible for appointing delegate defenders with additional functions, such as guaranteeing the legal, social, political and cultural rights of women and receiving and channelling complaints by any citizen or organization concerning legal infringements relating to programmes that incite violence and devalue women and the family.

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<sup>71</sup> In accordance with the international obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará).

130. According to the information provided by the Public Prosecutor and the Supreme Court, shelters have been established for women and children; various seminars and training courses on gender topics and violence against women have been organized, aimed particularly at police officers responsible for receiving complaints; and the Inter-institutional Plan for the Prevention of Gender Violence has been drawn up by a commission consisting of the Supreme Court, the Office of the Attorney-General of the Republic, the Office of the Ombudsman, the prefectures and the United Nations Population Fund. The Bolivarian Gender Observatory and the Ministry of People's Power for Women and Gender Equality have been established, the latter overseeing INAMUJER and its regional branches, the National Ombudsman's Office for Women's Rights, the Women's Development Bank (BANMUJER), the Neighbourhood Mothers Mission, offices providing assistance for women, and women's shelters. A combination of laws, institutions, budget allocations and qualified staff, together with court sanctions, have made it possible to regulate alarming conduct towards women, showing that while challenges remain it is possible for the State to regulate and eradicate gender violence and discrimination.

**The Committee is deeply concerned that the efforts of the State party to improve the situation of its people are inadequate, and that there is still an alarmingly high level of poverty in Venezuela, especially among the indigenous peoples, and that economic, social and cultural rights are not integrated into the Government's anti-poverty programme.**

131. Social policies in Venezuela, based on structural and institutional reforms, have placed the emphasis on human rights

132. The Venezuelan State has adopted these public policies in keeping with the obligation to ensure full compliance with human rights, linked to strong empowerment and social participation.

133. With the exercise of human rights as the goal, the eradication of poverty is an ethical commitment and a legal obligation with constitutional rank. In this way, social protection, social security, health, education, gender equality and social organization are provisions that have been enshrined as rights.

134. As can be seen, human rights in the Bolivarian Republic of Venezuela are enforceable and mandatory as regards compliance, universal and free with regard to access, and inclusive in conception and implementation.

135. The national development plans described in the General Outline of the National Economic and Social Development Plan 2001–2007 and the National Simón Bolívar Project – National Economic and Social Development Plan 2007–2013 have as their goal the implementation of a social policy focused on inclusion and social justice through the functioning of a broad network of public services directed towards historically excluded sectors of the population.

136. The country's vision of development is geared to overcoming the rentier culture through the construction of a society based on work, the achievement of full autonomy, national sovereignty over the use of national resources, in particular hydrocarbons, and a more equitable distribution of the profits from the exploitation of these resources. The development of an inclusive social policy has yielded results that are reflected in the positive trends in indicators such as the Human Development Index and those relating to the Millennium Development Goals, income distribution, poverty reduction, social security and employment.

137. With regard to the Millennium Development Goal of reducing by half the proportion of people living in extreme poverty between 1990 and 2015, the country met the target in 2006 with a 9.1 per cent reduction in those living in extreme poverty, down by over one

half compared with the 1990 level of 24.3 per cent. The extreme poverty line in Venezuela is above the international extreme poverty line suggested by UNDP, i.e. above one dollar per day.<sup>72</sup>

138. In 1998, the extreme poverty rate in Venezuela stood at 17.1 per cent. In 1999, the Venezuelan State initiated a process aimed at reducing extreme poverty. This was interrupted in the second half of 2001 as the result of political events that included the strike attempts by the Employers' Federation (December 2001), the April 2002 coup and the economic sabotage of the oil industry (December 2002), which had a negative effect on poverty reduction. From 2004 to the present time, extreme poverty has continued to decrease as a result of improvements in household purchasing power, reflecting the growth in employment rates and family income. In the second half of 2009, those living in extreme poverty represented 7.5 per cent as a result of the aforementioned factors. To sum up, there has been a considerable reduction in the number of households living in extreme poverty, down from 17.1 per cent in 1998 to 6.9 per cent in 2010 according to studies carried out by the National Institute of Statistics (INE).<sup>73</sup>

139. Special mention should be made here of policies to improve income and wealth distribution, successive rises in the minimum wage since 1999, increases in food allowances for wage earners, the rise in retirement pensions, the development of a wide gamut of social policies (Social Missions) and the progressive fall in the unemployment rate, all of which have impacted favourably on household income and the well-being of the people.

140. The Missions and other social projects have as their goal to safeguard the universal social rights to food, health, literacy, work training and education at all levels, thereby helping to guarantee effective access to social assets. This is reflected in the present Government's investments in the social sphere, which have risen from 11.3 per cent in 1998, the last year of neoliberal governments, to around 19 per cent in 2009, having touched 21.9 per cent in 2006. Cumulative social investment under the Bolivarian Government (1999–2009) is approximately US\$468,618 million, five times higher than cumulative investment in the period 1988–1998. It is equivalent to 60 per cent of cumulative public revenues, compared with 36 per cent in 1988–1998.<sup>74</sup>

141. During the first half of 2010, the Gini coefficient for Venezuela stood at 0.3898, making it the country with the lowest level of inequality in Latin America.<sup>75</sup>

142. As the preceding paragraphs clearly show, effective measures have been taken to repay the historic debt to the indigenous population. The main achievements in this regard include: the assurance of an immediate response to the indigenous communities settled in the national territory; the provision of food supplements to the most vulnerable indigenous communities in the States of Apure, Bolívar, Delta Amacuro and Zulia; the provision of medical, dental, nutritional, hygiene, school and production services to the most vulnerable indigenous communities; the organization of sports activities among the indigenous communities; the promotion, display and sale of handicrafts produced by the indigenous communities in Venezuela; the delivery of river transport to benefit the various indigenous communities; and the provision of care to the most vulnerable indigenous communities. From the institutional standpoint, the indigenous community benefited from the establishment of the Ministry of People's Power for Indigenous Peoples.

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<sup>72</sup> Information supplied by the National Institute of Statistics.

<sup>73</sup> *Idem.*

<sup>74</sup> *Idem.*

<sup>75</sup> *Idem.*

## B. Response to the Committee's suggestions and recommendations

**The Committee recommends that the State party seek advisory services from the Office of the United Nations High Commissioner for Human Rights concerning the overall implementation of the 1997 National Plan of Action for Human Rights, and in particular the inclusion of economic, social and cultural rights of the Plan.**

143. This recommendation, as well as similar ones adopted by organs of the United Nations and the Organization of American States, was taken into account in the 1999 Constitution as well as in the General Outline of the National Economic and Social Development Plan 2001–2007 and the National Simón Bolívar Project – National Economic and Social Development Plan 2007–2013. In this regard, the Venezuelan State guarantees the progressive realization of human rights and is effectively engaged in ensuring their full enjoyment, having put forward a national project that defends and promotes all human rights, having regard to the relevant international treaties and covenants signed by the Republic.

144. The aforementioned development plans, as noted previously, propose the construction of a Bolivarian socialist ethical project and the realization of the human rights embodied in the Constitution of the Republic and in international instruments, conceived as an interdependent and balanced whole.

145. The solid results in the social sphere are evident in a series of changes that have been taking shape over the last decade, linked to structural and institutional reforms and social policies embodying a human rights perspective. These policies have been adopted by Venezuela to ensure full compliance with the rights associated with effective social empowerment. From this standpoint, eradication of poverty is an ethical commitment and a legal obligation with constitutional rank; and social protection and security, health, education, gender equality, and social organization are among the provisions established as rights.

146. Title III, chapter V, of the Constitution, entitled Social and Family Rights, as well as reinforcing the rights embodied in the 1961 Constitution, includes other provisions such as: the proclamation of children and adolescents as full legal persons, in accordance with relevant human rights instruments; the establishment of extensive guarantees ensuring the access of senior citizens to full care and social security benefits; the definition of broad guarantees for persons with special needs; reinforcement of the right to health as part of the right to life; and the consecration of equality of opportunity and treatment to women and men in the exercise of the right to work and all related rights.

147. With regard to cultural and educational rights, the Constitution moves towards the consolidation of cultural identity, making education the fundamental reference for the construction of a new social model. Thus it provides for freedom of cultural creation; it establishes education as a right and social duty, a free and compulsory public service, open to all currents of thought and aimed at reinforcing its democratic character; and affirms the right to sports and recreation as activities beneficial to the life of the individual and the community.

148. With regard to economic rights, the Constitution recognises the right of workers and the community to develop associations of a social and participatory nature such as cooperatives, savings funds, mutual funds and other forms of association and the right of all persons to have access to quality goods and services and to adequate and transparent information.

149. It is important to note that the rights described are among those enshrined in the Constitution and correspond to a State policy promoted, defended and monitored by the Office of the Ombudsman and embodied in all the plans and programmes implemented by other public bodies. In the eleven years of the Bolivarian Government, public policies have accordingly been founded on a social and human rights approach and on the principles of universality, equality, free access, solidarity, equity and social justice.

150. Finally, Venezuela has strengthened its ties with the universal system of human rights and is working to improve cooperation through UNDP, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Office of the United Nations High Commissioner for Refugees, among others. Meetings have taken place at the highest level, allowing a better flow of information and assistance in this area, showing the Government's commitment to, compliance with, and respect for human rights, as well as its willingness to learn and to provide appropriate information on domestic progress in the field of human rights. Venezuela is gradually building a relationship with all the special procedure mandate holders and human rights treaty bodies.

151. This is illustrated by its request to OHCHR, currently pending, for cooperation in regard to the following:

(a) Technical assistance and training as regards the internal process of ratification and implementation of international human rights covenants not yet ratified by the Bolivarian Republic of Venezuela;

(b) Technical assistance and training in the drafting of reports for the committees of human rights treaty bodies;

(c) Systematic application of successful experience and good practice being promoted in the Bolivarian Republic of Venezuela with regard to public policies for the realization of economic, social and cultural rights.

**The Committee urges the State party to organize an awareness-raising campaign to educate the public at large on their economic, social and cultural rights, and to target in particular magistrates, police officers and other responsible officials.**

152. In the drafting of the 1999 Constitution, full protection of human rights was considered a fundamental issue. The Constitution stipulates that every person, in accordance with the principle of progressiveness and without discrimination of any kind, is guaranteed the irrevocable, indivisible and interdependent enjoyment and exercise of human rights. Public bodies are required to respect and guarantee these rights in accordance with the Constitution, the human rights treaties signed and ratified by the Republic and the laws giving effect to them.<sup>76</sup>

153. One element of the system for protecting human rights in Venezuela is the Office of the Ombudsman, which has been created as a body within the civil branch. It is responsible for the promotion, defence and monitoring of the rights and guarantees established in the Constitution and in international human rights instruments, as well as for defending the collective or broad interests of citizens. Within the Ombudsman's Office, there are advocacy services to help sectors of the population, including women, children and adolescents, indigenous peoples and people with disabilities, deal with such issues as public services, health care and prisons.

154. The promotion of human rights has taken the form of the submission of legislative proposals for the progressive protection of such rights, the design, promotion and

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<sup>76</sup> Article 19 of the Constitution.

implementation of dissemination policies, and the training of the public and officials belonging to the various operational units of the State security bodies and other public entities. During the period covered by this report the institution has conducted an extensive human rights awareness and training campaign aimed at the general public, human rights organizations, members of the State security forces (police and military) and government officials.

155. The Ombudsman's Office has also signed various cooperation agreements with, among others, government bodies, universities, national and international human rights organizations<sup>77</sup> and has set up the School of Human Rights, concerned with training, research and widespread publicizing of human rights topics and offering a wide range of courses and diplomas aimed at the State security forces, members of the legal profession and the community in general.

156. Government structures also include institutions responsible for promoting human rights, such as the National School of the Judiciary designed to contribute to improving the administration of justice in Venezuela through the organization of training programmes for judicial officials, and the National School of Prosecutors attached to the Public Prosecutor's Office, set up to train new prosecutors to a high professional standard enabling them to perform investigative and judicial work and to defend the institution's cases.

157. The National Experimental University for Security has recently been established with the aim of providing training for the national police force, traffic policemen, the fire service and civil defence personnel. The University is also responsible for training public security officials with regard to protecting individuals and their rights, promoting peaceful coexistence and safeguarding the common welfare, in keeping with the laws and sovereign development of the Republic.

158. The Venezuelan State, through the Ministry of People's Power for Communications and Information, states in its Strategic Plan that the Plan "should be the central pillar of Government policy on communications, information and publicity with a view to ensuring that all Venezuelans have access to timely, true, impartial and uncensored information" through reinforcement of the public communication platform, consisting of the National System of Public Media of Venezuela, State media and the National System of Public, Alternative and Community Communications, so that the public becomes the prime source of information.

159. Guided by this State policy, the editorial line of the Venezuelan News Agency is to raise awareness of and promote human rights. In cooperation with other State institutions, the Ministry has also published information on the progress and achievements of the Government's social programmes for promoting the greatest possible happiness of the population, in compliance with human rights principles.

**The Committee encourages the State party to proceed with the adoption of the Act establishing the Ombudsman's Office and urges the Ombudsman to attend closely to the promotion and protection of economic, social and cultural rights, in particular with respect to indigenous communities.**

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<sup>77</sup> They include the agreements with the National Experimental University of Guayana, the Ministry of Education, Culture and Sport, the Simón Rodríguez National Experimental University, the National Open University, the National School of Management and Public Finance, the Foundation for Community Development and Municipal Improvement, the National Experimental University of the Armed Forces, the National Experimental University for Security, and non-governmental human rights organizations (Support Network for Justice and Peace and the Episcopal Vicariate of Human Rights of the Archdiocese of Caracas).

160. The Ombudsman's Office is the product of an unprecedented constitutional procedure that took place on 15 December 1999, namely the adoption of a new, innovative constitutional document recognizing and guaranteeing human rights in a way that transcended the classic trilogy of executive, legislative and judicial public authority by introducing two new concepts, namely civil power and electoral power. The establishment of the Ombudsman's Office under the Constitution initiated a process of legal formulation to define the institution's functions, procedures and scope. On 15 June 2004, the National Assembly adopted at second reading the Act establishing the Ombudsman's Office, which was enacted on 8 July 2004 and published in the Official Gazette No. 37995 of 5 August 2004. The result was to reinforce the constitutional powers of the Ombudsman's Office following a long process of discussion and consultation that had begun in 2000.

161. The Ombudsman's Office is responsible for promoting, protecting and monitoring the rights and guarantees established in the Constitution and international human rights treaties and the legitimate, collective and broad interests of citizens. The Office functions in accordance with the Principles relating to the status of national human rights institutions (Paris Principles). In this context, the Office of the Ombudsman follows up the recommendations of international human rights bodies.

162. At the time the Committee made the comment in question, the National Assembly was experiencing a delay in adopting the legislative text. However, the Ombudsman's Office Act was promulgated on 5 August 2004.<sup>78</sup>

163. The Office's activities for the promotion of human rights have included the production of a number of special reports on human rights,<sup>79</sup> and the publication of its Yearbooks from 2001 to 2010. It also distributed the concluding observations of ECOSOC on Venezuela's second periodic report (E/C.12/1/Add.56).

164. Its activities for promoting, protecting and monitoring the rights of indigenous peoples were described in previous responses to the Committee's observations.

**The Committee encourages the State party to ratify the 1951 Convention relating to the Status of Refugees, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The Committee recommends that the State party issue personal documentation to asylum-seekers in order to enable them to enjoy their basic rights under the Covenant and to apply the protective measures recommended in March 2001 by the Inter-American Commission on Human Rights.**

165. On 19 September 1986, the Venezuelan State deposited with the United Nations the instrument of ratification of the Protocol relating to the Status of Refugees, which authorized the establishment in Caracas of an Office of the United Nations High Commissioner for Refugees (UNHCR). Given that the Protocol partially amends the

<sup>78</sup> *Gaceta Oficial*, No. 37995.

<sup>79</sup> Its numerous publications include: Crisis presupuestaria y accesibilidad de medicamentos (2003); Consecuencias laborales de la paralización de la industria petrolera (2003); Análisis de las medidas macroeconómicas frente a la crisis (2003); Las Misiones en Venezuela (2004); Tierras (2004); El Derecho a la Educación en Venezuela (2005); "A 18 años de El Caracazo: Sed de Justicia" (2007); Situación de los derechos en salud sexual y reproductiva de las adolescentes que acuden a los establecimientos asistenciales en Venezuela (2008); Avances de los Derechos Humanos de la Población de Lesbianas, Gays, Bisexuales, Transexuales, Transgéneros e Intersexuales (LGBTTI) (2010); El transporte urbano en Caracas: Una revisión desde la perspectiva de los derechos humanos (2010); Aportes de la Defensoría del Pueblo al Comité para la Eliminación de todas las formas de Discriminación Racial (2005); Informe alterno presentado por la Defensoría del Pueblo ante el Comité de los Derechos del Niño (2007). See Office of the Ombudsman, Annual Report, 2004, p. 149.



content of the 1951 Convention concerning the Status of Refugees, Venezuela automatically became a party to the Convention. In 2001 it accordingly promulgated the Refugees and Asylum-Seekers Act.

166. The failure to issue documents to refugees and asylum-seekers, about which the Committee has expressed concern, was remedied with the promulgation of the aforementioned Act in October 2001. The National Commission for Refugees was established with the aim of providing better protection for those concerned, and three strategic posts were created on the Venezuelan border, namely the Apure, Táchira and Zulia Offices, so that persons entering the country through these areas could have speedy access to procedures for asylum application. Between 2003 and July 2011, 5,359 refugee applications were received (899 approved, 1,828 rejected, 1,667 shelved — the application having been withdrawn — and 965 pending a decision).<sup>80</sup>

167. The Commission promoted the creation of regional technical secretariats in the states liable to receive refugee requests and these work in close cooperation with the Identification, Migration and Alien Affairs Service and the Office of the United Nations High Commissioner for Refugees in order to respond promptly to the cases submitted.

168. The Refugees and Asylum-Seekers Act provides that the National Commission for Refugees should issue a provisional document to persons seeking asylum and a decision should be reached on such requests within a maximum of 90 consecutive days. The provisional document is valid during those 90 days and may be extended for a further 90 days, in accordance with the Regulations of the Refugees and Asylum-Seekers Act.

169. The Venezuelan State also adopted a set of legislative provisions on the rights of refugees and other immigrant categories, including the Aliens and Immigration Act<sup>81</sup> and its regulations, under Decree No. 2491.<sup>82</sup> The significance of this provision is that it replaces the outdated and unconstitutional Aliens Act of 1937 by treating foreigners properly, in accordance with the Refugees and Asylum-Seekers Act. The Special Regulation on the Border Security Zones governing cross-border permits, and the Regulation on the Regularization and Naturalization of Aliens residing in the country, have enabled some one million people to become naturalized. The Organized Crime Act<sup>83</sup> defines specific types of offence such as human trafficking and the illicit traffic in migrants, offences often linked to asylum applications.

170. Another development was the implementation of the Andean passport from the first half of 2005, which facilitated the free circulation of persons within the Andean Community. Its adoption involved better monitoring of migrant flows and improved processing of refugee applications within the Andean region.

171. Finally, the Venezuelan State has integrated both asylum seekers and residents with refugee status in the country's economic system through its social programmes and missions, guaranteeing their right to work, health, education and equality as regards the rights and duties of foreigners, including children and adolescents. All these rights are guaranteed pending completion of the procedures for granting or refusing refugee status under the Refugees and Asylum-Seekers Act.

**The Committee requests the State party to provide, in its next periodic report, detailed information on the situation of indigenous peoples and on the efforts, if any, by the Government to acknowledge the specific economic, social and cultural rights of the indigenous people as a distinct minority group and to**

<sup>80</sup> Information supplied by the National Commission for Refugees.

<sup>81</sup> Dated 3 October 2001.

<sup>82</sup> Dated 4 July 2003.

<sup>83</sup> *Gaceta Oficial*, No. 38,281, 27 September 2005.

**improve their situation, in particular in the Imataca Forest Reserve and the Sierra de Perijá.**

172. As this report makes clear, ample information has been provided on the policies and programme of the Venezuelan State with regard to the situation of the indigenous peoples, in particular recognition of their economic social and cultural rights. In this regard, the Constitution devotes an entire chapter to the rights of the indigenous peoples, including recognition of those rights as they apply to the indigenous justice system, the use of natural resources on indigenous lands, the protection of indigenous identity, values and culture, indigenous languages and bilingual education, indigenous health care, indigenous economic practices, vocational training services for indigenous peoples and the labour rights of indigenous workers.

173. In recognition of these rights, the Venezuelan Government established the Day of Indigenous Resistance (12 October), the Guaicaipuro Mission and, subsequently, the Ministry of People's Power for Indigenous Peoples (2007), which is responsible for regulating, formulating, following up and monitoring the policies, strategic planning and conduct of the activities of the National Executive with regard to indigenous affairs. The Ombudsman's Office also has a special office dealing with indigenous affairs.

174. Concerning legislative measures, these have been covered in detail in the responses to the Committee's observations.

175. The progress made by the Venezuelan Government through the Ministry of People's Power for the Environment to promote sustainable development nationally and within the Imataca Forest Reserve and adjacent areas and the Sierra de Perijá, have been sufficiently described in previous paragraphs.

176. Other activities relating to indigenous affairs included the holding of the First International Congress of the Abya Yala Anti-Imperialist Indigenous Peoples and the Second Continental Summit of the Great Abya Yala Nation and the organization of an International Day on Cultural Diversity and Rights in Twenty-First Century Socialism and the Binational Encounter of the Bolivarian Brotherhood of the Indigenous Peoples of Venezuela.

**The Committee requests the State party to provide, in its next periodic report, detailed information on the situation of indigenous peoples and on the efforts, if any, by the Government to acknowledge the specific economic, social and cultural rights of the indigenous people as a distinct minority group and to improve their situation, in particular in the Imataca Forest Reserve and the Sierra de Perijá.**

*Labour inspection*

177. Articles 6, 7 and 8 of the Covenant are fully covered in the report by the Venezuelan State under the reply relating to the Committee's corresponding observations.

178. Concerning labour inspection activities in the Bolivarian Republic of Venezuela, compliance with ILO Labour Inspection Convention No. 81 concerning Labour Inspection in Industry and Commerce takes three main forms: investigations of work-related accidents and occupational diseases; general or special inspections; and promotion, training and advisory activities.

179. The investigation of work-related accidents is based on a classification of the events as minor, serious and fatal. Investigations of occupational diseases focus on identifying the causal relationship between the work process and the origin of the disease or on whether the latter is aggravated in the work place. The employer is responsible for diagnosing the diseases through the firm's health and safety at work department.

180. The functions of the work inspectors are clearly stipulated in article 589 ff. of the Labour Code:

- (a) Visiting workplaces within their jurisdiction and checking compliance with the relevant legal provisions;
- (b) Keeping secret their operational procedures during their visits or acts of inspection;
- (c) Maintaining absolute impartiality and refraining from taking up partisan and political positions;
- (d) Carrying out tests, investigations or examinations in the course of their inspections to verify full compliance with legal provisions;
- (e) Questioning the employers or staff, in the presence of witnesses or otherwise, and ensuring that the source and content of the information concerned remain confidential;
- (f) Requiring books, records and other documents to be presented;
- (g) Providing the Ministry of Labour, within the first ten days of each month, with information on the Inspectorate's activities during the previous month.

181. Investigations of work-related and occupational diseases, inspections of working conditions and environment, and the certification of occupational diseases are the core activities of the National Institute of Prevention, Health and Safety at Work (INPSASEL). In the period 2005–2010, the Institute carried out 20,206 accident investigations, 12,847 diseases investigations, 14,935 occupational disease certifications and 24,156 inspections. Occupational diseases are also recorded online and, beginning in 2010, the introduction of the “Declaration of Occupational Diseases” technical standard strengthens this requirement.<sup>84</sup>

#### *Health and safety at work*

182. Regarding health and safety at work, the adoption of the Working Safeguards, Conditions and Environment Act (LOPCYMAT)<sup>85</sup> has opened a new page in the long struggle of working people and charts the future for health and safety at work in the country. This Act, which promotes the implementation of the health and safety at work regime in the framework of the new social security system, covers the promotion of workers' health; the prevention of occupational diseases and work-related accidents; and worker care, rehabilitation and reintegration. It also provides for the payment of exceptional benefits for damage caused by occupational diseases and work-related accidents.

183. The Ministry of People's Power for Work and Social Security and INPSASEL have undertaken to monitor compliance with standards of safety, health and well-being in order to promote a working environment conducive to the full exercise of workers' physical and mental faculties. INPSASEL's organizational structure includes a decentralised operational level constituted by the State-level occupational health directorates and the health and safety at work committees. The State occupational health directorates provide direct care to users (workers and employers) through a comprehensive service comprising occupational medicine, health, hygiene, ergonomics, safety and labour law. It also assesses environmental and working conditions, investigates work-related accidents and processes occupational health certificates. The state directorates as a whole implement INPSASEL projects with the emphasis on creating a culture of prevention and health promotion in the

<sup>84</sup> Information supplied by the National Institute of Prevention, Health and Safety at Work.

<sup>85</sup> *Gaceta Oficial*, No. 38236, 26 July 2005.

workplace. They also have a comprehensive worker care facility, providing specialized technical advice in these areas.

184. The Working Safeguards, Conditions and Environment Act regulates in detail workers' rights of consultation, participation and monitoring rights in matters affecting their health and security at work. As a mechanism of social participation and monitoring, they provide for the democratic election of health and safety representatives in each workplace or operational unit within the different firms or public and private institutions. The functions of these representatives include representing the workers collectively on the Occupational Health and Safety Committee, promoting health and safety at work and monitoring the working conditions and environment; the Act grants them the necessary powers and safeguards to discharge their functions effectively. In the period 2005–2010, a total of 142,625 health and safety representatives were registered with the National Institute of Prevention, Health and Safety at Work.<sup>86</sup>

185. The representatives form part of the Occupational Health and Safety Committee (article 41 of LOPCYMAT) and their functions are laid down in article 42 of the Act: (a) to constitute jointly with the employers' representatives the Occupational Health and Safety Committee; (b) to receive workers' complaints concerning the working conditions and environment and the recreational, leisure and rest programmes and facilities, as well as the subsequent treatment of such complaints by the Occupational Health and Safety Committee; (c) to participate jointly with the employers and their representatives in improving preventive action and promoting health and safety at work; (d) to promote and stimulate cooperation by the workers on implementation of the regulations on the working conditions and environment; (e) to coordinate with the trade unions measures to safeguard, promote and monitor health and safety at work; and (f) to perform any other duties assigned under the present Act and prescribed by the Regulations.

186. The powers of the health and safety representatives include the right to:

(a) Accompany the firm's external technicians and advisers and the official inspectors in evaluating the working environment and infrastructure of the areas set aside for recreation, rest and social tourism.

(b) Accompany the work and social security inspectors and supervisors in their visits to check compliance with the regulations, with the right to make any comments they see fit in their presence.

(c) Have access, within the limits prescribed in the Act, to information and documentation on working conditions necessary for carrying out their duties. This information may be provided in a manner consistent with respect for confidentiality and industrial secrecy.

(d) Request information from the employer on the damage done to workers' health once this has become known, with the right to attend at any time the place where the events have occurred in order to know their circumstances.

(e) Request from the employer the reports from the persons or bodies responsible for the firm's health and security at work activities.

(f) Carry out visits to workplaces and recreation and rest areas to monitor and check the working conditions and environment, with the right to have access to any part of the workplace and to communicate during the day with the workers, without interruption to the normal productive process.

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<sup>86</sup> *Idem.*

(g) Carry out any other activities involving requests or demands that the employer adopt preventive measures for improving the level of security and the health of workers, with the aim of submitting proposals for assessment by the Occupational Health and Safety Committee.

187. Following the adoption in 2007 of the Partial Regulation of LOPCYMAT providing for the establishment of occupational health and safety committees, INPSASEL launched a strong campaign in the same year, resulting in the creation of 43,425 occupational health and safety committees between 2007 and 2010.<sup>87</sup>

**The Committee recommends that the State party take effective action to reduce the unemployment rate by *inter alia*, providing training for young people and protection against unwarranted dismissal for workers, and by conducting regular reviews of the minimum wage levels to enable workers to attain an adequate standard of living for themselves and their families.**

188. Having regard to what has been said previously, the employment rate has recovered between three and four points in relation to 1998, when unemployment reached 11 per cent. In the first quarter of 2001, unemployment affected 16 per cent of the population, while by the end of 2010 it showed a substantial reduction to 8.5 per cent. Venezuela thus maintains a low unemployment rate compared with other nations in the continent and with some developed countries. With the exception of 2002 and 2003, as a result of the coup d'état and the petrol sabotage, the performance of Venezuela's workforce indicator has remained steady and positive.<sup>88</sup>

189. Regarding protection against dismissal, a special job security scheme for workers in the public and private sectors was established under the Labour Code.<sup>89</sup> This scheme has been extended for seven years up to 31 December 2011. The most recent decree stipulates that "Workers protected by the extension of the special job security scheme cannot be dismissed, demoted or transferred without due cause, duly authorized by the relevant Labour Inspectorate, in accordance with the provisions of article 453 of the Labour Code. Failure to comply with this provision will entitle the worker to apply for reinstatement and to payment of lost wages. It does not exclude the possibility of agreements between employers and workers on staff reductions under the voluntary collective bargaining procedure provided for by law".

190. With regard to the minimum wage, a detailed reply has already been given in the response to the Committee's earlier concluding observations. It may however be added that annual increases in the minimum wage come into effect in our country on 1 May, when Labour Day is commemorated. Policies on wage and salary increases are all part of the effort to decrease poverty in the country. Even during the global crisis in 2009, a 20 per cent rise in the minimum salary was introduced and action was taken to promote and support basic sectors of the economy, especially manufacturing and agriculture. All this took place within the framework of a larger role for the State in the economy, with a view to diversifying and energizing the country's production system.

191. In short, the national minimum wage has increased steadily and has remained consistently above the cost of the standard food basket. Similarly, there is currently no disparity between the minimum wage of workers in urban and rural areas.

192. With the focus on young people aged 18 to 25, the Vuelvan Caras Youth Mission was established in 2006 to promote the integration of this sector of the population in the labour market through training and subsequent integration in productive employment in

<sup>87</sup> Information supplied by the Ministry of People's Power for Work and Social Security.

<sup>88</sup> Information supplied by the National Institute of Statistics.

<sup>89</sup> Presidential Decree, No. 3154, 30 September 2004.

cooperatives or micro-enterprises. Training programmes organized nationwide by the National Institute of Training and Socialist Education place the emphasis on the production of goods and services that meet the public's basic needs or represent elements in production chains.

193. Finally, it should be noted that a Special Employment Plan has been drawn up to reduce the loss of jobs as a result of the global economic crisis and to increase the employment capacity of the formal sector of the economy in the last quarter of 2009. This plan has been implemented in all the production sectors, particularly in the area of public works and housing construction.

**The Committee calls on the State party to comply with the recommendation of the International Labour Organization requesting the revocation of the results of the referendum on trade union reorganization and to refrain from making hostile declarations against independent trade union federations. It also recommends that the bill in preparation afford all workers trade union freedoms as required by article 8 of the Covenant.**

194. The information requested by the Committee has already been fully covered in the reply to the Committee's observations. It should however be emphasized that the National Electoral Council has issued standards on technical advice and logistical support with regard to trade union elections as well as standards guaranteeing the human rights of workers in trade union elections.

195. These standards were issued taking into account the recommendations of ILO monitoring bodies and established the parameters governing the activities of the Electoral Branch when its technical advice and logistics support for electoral processes are requested voluntarily by trade union bodies. These standards therefore safeguard the principles and rights of proactive participation, trade union democracy, the voting rights and freedom of choice of workers affiliated to trade unions and rotation of union representation and guarantee the reliability, equality, impartiality, transparency, openness, good faith, economy and efficiency of the processes involved and respect for trade union freedom.

196. Finally, it should be noted that between 1999 and 2010 a total of 5,723 trade union organizations were registered, compared with 3,770 in the period 1987 to 1998. This highlights the impetus given to the right to trade union membership during the current Government.

**The Committee calls on the State party to comply with the recommendation of the International Labour Organization requesting the revocation of the results of the referendum on trade union reorganization and to refrain from making hostile declarations against independent trade union federations. It also recommends that the bill in preparation afford all workers trade union freedoms as required by article 8 of the Covenant.**

197. The Bolivarian Republic of Venezuela has established appropriate mechanisms for guaranteeing the effective exercise of women's rights by introducing positive measures to strengthen their rights to non-discrimination and to the elimination of obstacles and prohibitions that can arise from sociocultural patterns deeply rooted in our society. These measures have been reinforced with the entry into force of the Act on Women's Right to a Life Free of Violence,<sup>90</sup> committing State institutions to set up specialized care facilities for women.

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<sup>90</sup> *Gaceta Oficial*, No. 38668, 20 April 2007.

198. One such innovation was the establishment of the Ministry of People's Power for Women and Gender Equality,<sup>91</sup> which oversees the National Institute for Women, the National Ombudsman's Office for Women's Rights, the Women's Development Bank, the "Josefa Joaquina Sánchez" Neighbourhood Mothers Mission Foundation and, within the states and municipalities, women's houses and women's shelters under the policy for guaranteeing women's rights.

199. In 2006, with the aim of strengthening public policies aimed at eradicating the violence and inequalities to which women are subject, the Venezuelan State established the Sub-Committee on Gender Statistics as a permanent organ of the Coordination Committee on Social and Environmental Statistics of the National Institute of Statistics. Its task was to ensure that national statistics incorporate a gender focus, are based on consultation, coordination and harmonization and are relevant and of the requisite quality.<sup>92</sup>

200. The main aim of the Subcommittee is to promote coordination and cooperation among sources of official or private statistics with a view to updating, integrating, standardizing and following up statistics that take account of gender issues. One of its main concerns in 2007 was the proposal for implementing a standard format for registering complaints of gender violence, regarded as the first systematic and coordinated effort to obtain figures on the phenomenon in Venezuela.<sup>93</sup>

201. Similarly, reinforcing the State's commitment to create the necessary public bodies and entities to address, punish and eradicate violence against women in all its forms, the Public Prosecutor's Office has established a nationwide network of public prosecutor's offices with special responsibilities in this field. It has also created units with the specific knowledge, understanding, analytical skills and competence to deal with this kind of complex criminal problem, such as the Specialized Technical Units for the Comprehensive Care of Female, Children and Adolescent Victims, and the Victim Care Units established in each federal entity. Since the introduction of the Act on Women's Right to a Life Free of Violence, the Office of the Public Prosecutor has established fifty-nine public prosecutor's offices throughout the Republic with responsibilities in this field.<sup>94</sup>

202. The Supreme Court has likewise instituted 38 specialized courts dealing with cases of violence against women as well as auxiliary services of these bodies staffed by interdisciplinary teams located in police complaints centres.<sup>95</sup>

203. The Venezuelan State, through various official bodies (including the National Institute for Women, the Office of the Public Prosecutor and the Supreme Court), provides continuous training for officials to sensitize and inform them on this subject. The dissemination of materials and organization of campaigns have also helped to underline the importance of this topic in the public mind.

**The Committee urges the State party to indicate, in its next periodic report, the measures it has undertaken to address the problem of street children and, in particular, the problem of their sexual exploitation.**

<sup>91</sup> Decree No. 6663 of 2 April 2009, published in the *Gaceta Oficial*, No. 39156, 13 April 2009.

<sup>92</sup> Bolivarian Republic of Venezuela, Ministry of People's Power for Foreign Affairs, State Agency for Human Rights, Office of the Rapporteur on the Rights of Women: Advances and challenges faced by women with respect to the exercise of their economic, social, and cultural rights. Questionnaire submitted to the Inter-American Commission on Human Rights by the Bolivarian Republic of Venezuela on 9 July 2010, Caracas, July 2010.

<sup>93</sup> *Idem*.

<sup>94</sup> Information supplied by the Public Prosecutor's Office.

<sup>95</sup> Information supplied by the Supreme Court.

204. The first part of the replies to the Committee's concluding observations has highlighted the measures taken by the State in this regard.

**The Committee urges the State party to seek international technical assistance in the implementation of its anti-poverty programme.**

205. State policies in this field have achieved a major reduction in the households living in extreme poverty: their number fell from 17.1 per cent in 1998 to 6.9 per cent in 2010, according to the studies carried out by the National Institute of Statistics.<sup>96</sup>

206. This decrease has been achieved by implementing public policies designed to improve income and wealth distribution, increase the minimum wage and pensions, provide more food vouchers for wage earners and gradually reduce the unemployment rate. This has led to an increase in the purchasing power of members of the households concerned and a reduction in inequality. The creation and implementation of the Social Missions on a large scale since 2003 have played a significant role in this regard.

207. In the last decade, Venezuela has invested a record amount in social programmes. Between 1999 and 2010, accumulated investment increased from US\$12,465,054 to US\$393,478,011, with a marked twofold rise between 2007 and 2010.<sup>97</sup>

208. The Economic Commission for Latin America and the Caribbean has found that Venezuela is one of the countries in the region that has reduced inequality and poverty the most in the last decade, a finding backed up by the United Nations Development Programme (UNDP). The Food and Agriculture Organization of the United Nations (FAO) ranked Venezuela tenth among the best nourished countries in the world.<sup>98</sup>

209. The Venezuelan State, with the power of the people behind it, has achieved the first target of the Millennium Development Goals, to reduce by half between 1990 and 2015 the number of persons living in extreme poverty.<sup>99</sup>

210. In pursuing its domestic policies and regional cooperation, Venezuela has transformed its approach to international affairs, promoted inter-State initiatives and fostered the emergence of innovative mechanisms. Venezuela is inspired by the principles of the sovereignty and self-determination of peoples and is creating mechanisms that States can use to eliminate the social divides caused by the long-standing exploitation and colonial and neocolonial domination still present in the region.

211. In consequence and in keeping with the pluripolar world currently taking shape, it has promoted the creation of the Bolivarian Alliance for the Peoples of Our America – Peoples' Trade Treaty (ALBA-TCP), the Union of South American Nations (UNASUR) and PetroCaribe.

**The Committee requests the State party to provide, in its next periodic report, detailed information about the functioning of the social security system, the privatization of the health-care system and the integration of vulnerable groups, including indigenous people, into the health-care system.**

<sup>96</sup> Information supplied by the National Institute of Statistics.

<sup>97</sup> Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.

<sup>98</sup> National report for the Universal Periodic Review of the Bolivarian Republic of Venezuela, submitted to the Human Rights Council in accordance with paragraph 15 (a) of the annex to resolution 5/1, Caracas, 4 July 2011.

<sup>99</sup> Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.



212. The right to social security is a fundamental and inalienable human right, guaranteed by the Venezuelan State to all Venezuelan nationals in the country and also to foreign nationals legally resident there, in accordance with the principles of social justice and progressiveness.

213. Comprehensive social security protection is guaranteed by a set of laws on the subject,<sup>100</sup> which include provisions for retirement and other pensions, such as old-age, incapacity, invalidity and survivor's pensions.

214. The State has taken a number of measures to ensure that groups normally excluded from coverage, such as fishermen,<sup>101</sup> peasants<sup>102</sup> and housewives,<sup>103</sup> benefit from social security. Some 70,000 people in these occupations receive a monthly pension equivalent to the minimum wage. The measures include exceptional payments of 60 per cent of the minimum wage to 100,000 Venezuelans who never paid social security contributions<sup>104</sup> and allowing anyone who has paid the required contributions within a certain period to receive a pension, which has benefited 42,994 Venezuelans.

215. Another vulnerable group concerns people affected by HIV. Measures in this regard include programmes for the free distribution of antiretroviral medicines, the prevention of HIV transmission through work-related accidents and the prevention of mother-to-child transmission of HIV/AIDS. Similarly, disabled children and adolescents and adults are given the special education and therapy they require through referral to a specialized centre providing individual care, enabling those concerned to pursue their schooling or strengthen their personal independence.<sup>105</sup>

216. As noted previously, measures to provide health care for the indigenous population include the establishment of the Indigenous Peoples Intercultural Healthcare Coordination, the Indigenous Health Directorate, the Indigenous Peoples Health Plan, the Yanomami Health Plan, the Apure Health Plan, the Delta Health Plan, and the Sierra de Perijá Health Plan. These plans include the provision of medicines, the training of primary healthcare community workers, vaccination plans, the training of health advocates and the establishment and rehabilitation of health-care infrastructures.

217. Another important advance provided for in the Constitution is the linking of the minimum wage and pensions, the latter being pegged to wage levels.

218. Finally, mention should be made of programmes to ensure free access to comprehensive medical care, non-contributors having previously been denied to the network of outpatient services and hospitals of the Venezuelan Social Security Institute.<sup>106</sup>

**The Committee recommends that the State party implement, with the assistance of the United Nations Educational, Scientific and Cultural**

<sup>100</sup> Social Security Act, published in the *Gaceta Oficial*, Special No. 5891, 31 July 2008. Partial Amendment to the Legal Status Act on the retirement and other pensions scheme of national, state and municipal civil servants and employees, published in the *Gaceta Oficial*, No. 38426, 28 April 2006.

<sup>101</sup> Decree No. 7402, published in the *Gaceta Oficial*, No. 39414, 30 April 2010.

<sup>102</sup> *Idem*.

<sup>103</sup> Decree No. 5370, published in the *Gaceta Oficial*, No. 38694, 30 May 2007.

<sup>104</sup> Decree No. 5310, published in the *Gaceta Oficial*, No. 38673, 30 April 2010.

<sup>105</sup> Further information may be found on the webpage of the Venezuelan Social Security Institute and the report submitted by the Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.

<sup>106</sup> The number of consultations at the 62 outpatient clinics and 36 hospitals of the Venezuelan Social Security Institute has increased, totalling 5,630,701 and 5,583,691 respectively in 2009. In the same year, a high-cost drug dispensary was inaugurated, for an initial investment of over US\$176,279,069.8, treating an average of 11,454 patients monthly.

**Organization, a comprehensive National Education for All Plan as required by the Dakar Framework for Action, and to reflect in the Plan articles 13 and 14 of the Covenant and the Committee's General Comments 11 and 13.**

219. The Millennium Declaration included among its goals the commitments agreed in Dakar the same year (Dakar Framework for Action). The Venezuelan State incorporated these goals in the General Outline of the National Social and Economic Development Plan 2001–2007 and the National Simón Bolívar Project – National Social and Economic Development Plan 2007–2013. It also took account of Articles 13 and 14 of the Covenant and the Observations of the Committee, as shown in this report.

220. In conformity with the Millennium Declaration Goals, the Bolivarian Republic of Venezuela will achieve universal primary education before 2015, while the target of eradicating illiteracy among young people has been already met. Universal primary education is reflected today in the increased net enrolment rate and the proportion of children that have completed sixth grade.<sup>107</sup>

221. The Government's commitment to improving the living conditions of Venezuelans has been reflected in a progressive increase in the education budget. The proportion of the country's GDP earmarked for education rose from 4 per cent in 1990 to 6.1 per cent in 2009.<sup>108</sup>

222. Another important step in Venezuelan education was the adoption of the Education Act of 15 August 2009 aimed at adapting the Venezuelan educational system to the National Simón Bolívar Project (2007–2013).

223. Primary-level enrolments in the 2000/01 and 2008/09 school years showed an increase in comparison with the 1990s. The trend in primary-school enrolments has been generally positive since the start of the 21st century. The average rate has remained around 91.4 per cent, rising to 92.3 per cent in 2008/09, compared with 86.6 per cent in 1993/94 and 1999/2000. Net primary-school enrolment rates are thus 5.6 percentage points higher than the corresponding figure for the 1990s.<sup>109</sup>

224. The main measures designed to achieve universal primary education include the Bandera Project (Simoncito schools, Bolivarian nursery, primary and secondary schools, Robinson and Zamora Technical Schools and bilingual intercultural education) and the Education Missions designed to speed up the process of mass social inclusion in education.

225. Literacy rates of men and women between 15 and 24 years of age have increased significantly, to the point where illiteracy has been practically eradicated from this population group. According to the Household Survey of the National Institute of Statistics, the illiteracy rate between 2000 and 2009 showed a positive trend, since the literacy rate in 2009 measured 98.65 per cent. Gender distribution revealed no significant differences in this regard, being limited to just one percentage point.<sup>110</sup>

226. The main policies aimed at closing the gap in primary education include the Robinson Mission, which started operations on 1 July 2003 with the aim of overcoming illiteracy in the country. It is worth noting in this regard that of the 1,880,000 people who learned to read and write in Venezuela between 1980 and 2009, just over 1,678,671 did so between 2003 and 2009. Other social missions created with the aim of pursuing the training

<sup>107</sup> Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.

<sup>108</sup> *Idem.*

<sup>109</sup> *Idem.*

<sup>110</sup> *Idem.*

effort include the Robinson Missions II and III, the Ribas Mission (middle-school education) and the Sucre Mission (university education).<sup>111</sup>

227. On 28 October 2005, UNESCO declared the Bolivarian Republic of Venezuela an “illiteracy-free territory”.

**The Committee urges the State party to develop a more elaborate system of national statistics on all the rights enshrined in the Covenant. In particular, the Committee requests the State party to provide, in its next periodic report, information including relevant statistics on the incidence of violence, the general housing situation, forced evictions, and on the status of land reform in Venezuela. The Committee further recommends that the State party provide information on the steps taken in these respects.**

*The Venezuelan statistical system*

228. The National Institute of Statistics (INE), in keeping with the far-reaching changes taking place in the country, has called on public bodies and social and economic entities making up the National Statistical System to implement the necessary measures to constitute a public statistical information system consistent with the demands of Venezuelan society, the requirements of public policy and the principles and rights established in the 1999 Constitution.

229. The National Statistical System is the body of interrelated principles, organizations, functions and resources through which the national, state and municipal branches of government produce statistical information of national relevance. It also comprises decentralised government bodies, State enterprises and any other body with functional autonomy that carries out activities in this area. It is responsible for the efficient coordination and integration of the structure, processes and resources of the statistical functions of the Venezuelan State.

230. The National Statistical System is organized in subsystems corresponding to the three levels of government, namely central, state and municipal. In this context, producers and users of the statistical information produced by government and by the social and economic sectors at state and municipal level join forces and take decisions on strengthening the production of the country’s statistical information.

231. Another important initiative by the National Institute of Statistics, begun in 2005, is the Inventory of Statistical Operations, which is aimed at systematizing and publicizing the statistical activities of the component parts of the National Statistical System and providing public decision-makers and planners with a freely accessible database organized by balance points, information sectors, levels of government (subsystems) and organizations.

232. The National Statistics Plan is the management and planning tool for creating and/or monitoring public policies. At the disposal of public and private sectors, it is drawn up by the National Institute of Statistics attached to the Ministry of People’s Power for Planning and Finance, in coordination with the other components of the National Statistical System. In accordance with article 28 of the Planning Act, the National Statistics Plan for 2010–2013 forms part of the National Social and Economic Development Plan for 2007–2013 and therefore contributes to the design, implementation and monitoring of State policies.

233. The Strategic Plan for 2009–2013 of the National Institute of Statistics is an instrument for strengthening institutional management capacities, geared to the development needs of the National Statistical System and the production of national

<sup>111</sup> *Idem.*

statistics of public interest. The Plan is focused on strengthening the National Institute of Statistics in its role as regulator and coordinator of the National Statistical System and its function as the producer of official statistics of national interest and relevance.

*The right to housing*

234. Since 1950, urban development in Venezuela has been characterized by accelerated and unplanned growth, sustained by income from the petroleum industry. Migration from the countryside has led to countless homes being built around cities and this fact, associated with a half-century absence of effective and efficient public housing policies, has meant that hundreds of families see their right to life and integrity under constant threat.

235. This right is guaranteed under the Constitution. However, the lack of public policies in this area for over a half a century, combined with the effects of climate change, have meant that the Government policies launched over the past decade have not been sufficient to meet the needs of the growing number of families struggling to find decent housing. The Great Venezuelan Housing Mission, planned for the years ahead, is a huge effort by the Venezuelan State to respond in a structured and decisive manner to the nation's housing deficit.

*Agrarian reform*

236. With regard to agrarian reform, the State is implementing the Zamora Mission<sup>112</sup> in support of action against the large estates by providing financial assistance to small and medium-sized producers and by rehabilitating and expanding agricultural infrastructure and services. Based on the vision of inclusive development, comprehensive agricultural health events are being organized (including vaccination projects) and efforts are being made to encourage the establishment of agro-industrial plant and to promote research into increased seed and laboratory production, together with the corresponding training and technical support.

237. Under the agrarian reform policies, a total of 5,895,872.61 ha were regularized by the National Land Institute between 2003 and the first quarter of 2011, involving the granting of various agricultural instruments such as rights to remain, agrarian charters and other forms of land titling, benefiting over 150,000 peasant families and small and medium-sized producers.<sup>113</sup>

238. With regard to agricultural infrastructure, measures were taken to enhance and consolidate agricultural processing plant in key areas such as cereals, milk, meat, legumes, oilseeds, fruit, vegetables, sugar, cocoa, coffee and fish; large-scale watering systems were constructed and rehabilitated;<sup>114</sup> and farm roads were restored, generating increased returns in the areas of sowing, harvesting and product marketing.<sup>115</sup>

<sup>112</sup> Initiated on 4 February 2003, the Zamora Plan became part of the Social Missions a year later and was renamed the Zamora Mission in honour of General Ezequiel Zamora (1817–1860), leader of the Federal Revolution. On 10 January 2005, Presidential Decree No. 3408 was signed, reorganizing agricultural land tenure and use in order to strengthen the campaign against the large estates.

<sup>113</sup> Information supplied by the Ministry of People's Power for Agriculture and Land.

<sup>114</sup> They include: the Río Guárico Socialist Agrarian Project, involving 412 km and a comprehensive development project including the construction of 1,000 housing units, a Bolivarian School and 16 communal works; the Río Tiznado Socialist Agrarian Project, involving over 74.25 km and a surface area of over 2,800 ha; the Planicie de Maracaibo Socialist Agrarian Project, involving 230 km and a surface area of over 20,000 ha; and the Las Majaguas Project, involving 12 km. and a surface area of approximately 500 ha.

<sup>115</sup> The measures also included the construction and repair of 1,441 water storage works; the construction of 1,441 infrastructure works together with the necessary equipment to provide support to the

239. In 1998, Venezuela produced 17,000,000 t of various agricultural products, while over the last twelve years the figure has risen to 24,686,018 t, representing an increase of 44 per cent. Poultry farming profits have reached their target with an increase of 106 per cent since 1999; milk production has risen by 68 per cent since 1998; and national profits have increased by 47 per cent since the same date.<sup>116</sup>

240. Projects are under way to provide training, support and technical and financial assistance to producers and community organizations,<sup>117</sup> socialist production units, endogenous development centres and Fundos Zamoranos.<sup>118</sup>

241. Over US\$25 million have been allocated to farmers in the form of direct financing, representing an increase of 12,000 per cent compared with the financing under previous governments.<sup>119</sup>

### III. Implementation of specific articles of the Covenant

#### Article 1

242. The Bolivarian Republic of Venezuela is irrevocably free and independent, and its moral heritage and values are founded on freedom, equality, justice and international peace in keeping with the doctrine of Simón Bolívar the Liberator. It likewise declares independence, freedom, sovereignty, immunity, territorial integrity and self-determination to be inalienable rights of the Nation.

243. In the international sphere, it calls for a new model of integration that places respect for sovereignty, self-determination and solidarity with fellow peoples over commercial and financial interests and is committed to the promotion of peaceful cooperation between nations in furtherance of integration, consistent with the principle of non-intervention and national self-determination, the democratization of international society, nuclear disarmament, ecological balance and proactive popular participation, based on the primacy of human rights.

244. In this revolutionary process that began in 1999 and is continuously reinventing and revising itself, the participation of the people is conceived as a fundamental goal. Through the direct exercise of sovereignty, the Venezuelan people are playing an active part in the political, economic, social and cultural life of the nation through community-based organizations known as communal councils. These bodies are responsible for formulating, implementing and monitoring local development plans and projects, ensuring that the results have a direct impact on the community of which they are part. They are also forums for participation, coordination and integration between citizens and the different community organizations and social and popular movements, enabling the people as an organized body

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communities for agricultural production; and the development of 164 investment projects. Information supplied by the Ministry of People's Power for Agriculture and Land.

<sup>116</sup> *Idem*.

<sup>117</sup> A total of 12,864 agricultural loans have been cleared, covering the areas of machinery, transport, plants, cattle ranching and fisheries, at a total cost of 1,165,871,704.39 bolívares, benefiting some 40,491 producers and generating 155,304 direct jobs. In addition, financing has been granted for crop sowing at a cost of 1,112,222.43 bolívares to further the productive development of 202,524 ha and benefiting some 50,837 producers.

<sup>118</sup> Technical assistance to 676,717 producers, benefiting 376,107 rural families located in 23 states in the country. Over 12,560 communities and 19,198 productive, community and financial organizations have been assisted (rural credit banks).

<sup>119</sup> Information supplied by the Ministry of People's Power for Agriculture and Land.

to exercise community government and participate in the building of a new socialist model of society based on equality, equity and social justice.<sup>120</sup>

245. The Venezuelan State places particular emphasis on citizen participation in political life, reflected in the power of the people to revoke the mandate of elected officials, including the President of the Republic.<sup>121</sup> An important example of this participation was the Presidential Recall Referendum, held on 15 August 2004, when 9,815,631 Venezuelans (69.92 per cent of the population)<sup>122</sup> went to the polls to cast their vote in support of a participatory and proactive form of democracy, which has been the emblem of the Venezuelan State since 1999.

246. In relation to article 1, paragraph 2, of the Covenant, the economic policy of the Bolivarian Republic of Venezuela has stimulated the development of groundwater production and the creation of a socio-productive network investing the country's economy with a high level of technology and greater international competitiveness and integration. The establishment of micro-enterprises, new kinds of cooperatives, peasant enterprises and socially owned production firms enjoying State support in the form of technical and financial assistance and training are evidence of a just and mutually supportive economic project geared to development.

247. To ensure full and continued sovereignty over the economic resources of the Nation and of the people in particular, the State maintains total control over the productive resources of strategic importance for the country's development. Given that the main focus of Venezuela's economic activity over the last century has been the exploitation of hydrocarbons, the responsibility for carrying out this activity rests with the Ministry of People's Power for Energy and Petroleum and *Petróleos de Venezuela Sociedad Anónima* (PDVSA).

248. In recent years, the emphasis has been placed on the strengthening of manufactures, services and food production and on comprehensive rural development. This development is not confined to food but includes plant, animal, forestry and fishery resources as well as the recovery of idle and unproductive land, as the key to agri-food sovereignty.

249. Through the Social Missions, the State has developed mass strategies and policies to guarantee the fundamental rights of the population, with particular emphasis on the most excluded groups and on the active and proactive participation of organized communities. The development of these inter-institutional and inter-ministerial initiatives, which receive special funding, is described throughout this report.

250. Concerning the right of indigenous peoples to non-discrimination, the measures to consolidate this right with regard to sovereignty over their lands and territories have been amply described in the replies to the Committee's concluding observations. Where consultation arrangements are concerned, indigenous participation in decision-making is currently ensured by bodies such as the Ministry of People's Power for Indigenous Peoples that issue guidelines promoting machinery for indigenous participation.<sup>123</sup>

<sup>120</sup> Their functions, structure and operation are defined in the Communal Councils Act, published in the *Gaceta Oficial*, No. 39335, 28 December 2009.

<sup>121</sup> In accordance with article 72 of the Constitution.

<sup>122</sup> National Electoral Council, Results of the Presidential Recall Referendum, August 2004.

<sup>123</sup> These include: encouraging the establishment, development and activation of the indigenous communal councils and social auditing bodies in keeping with the traditions and customs of those concerned; promoting empowerment of the indigenous peoples and communities through existing institutions; ensuring the proactive participation of indigenous peoples and communities; establishing ethical standards in the conduct of scientific, health-related, medical, social, economic and environmental research and practices in the indigenous habitat, in accordance with the relevant

251. The Standing Committee on Indigenous Peoples and its Sub-commission on Indigenous Law have been instrumental in furthering participation in the process of legislative production and consultation. The Ministry of People's Power for the Environment likewise promotes the participation of indigenous peoples in demarcation processes. The increased number of lands recognized in recent years to be the property of indigenous peoples, amounting to approximately 1,000,000 ha, illustrates the strength of Venezuela's commitment in this regard.

## Article 2

### *Normative framework*

252. The Constitution of the Bolivarian Republic of Venezuela provides in its preamble and in its articles 2 to 19 for a broad catalogue of human rights and for the mechanisms necessary to ensure that all persons living in the country may enjoy and exercise their economic, social and cultural rights, without discrimination of any kind. In accordance with the international human rights treaties signed and ratified by the Republic, the Constitution thus develops human rights in accordance with the principle of progressiveness and non-discrimination and makes it incumbent on all public bodies to respect and guarantee them.

253. The right to equality and non-discrimination is a human right recognized in article 21 of the Constitution, which states that all persons are equal before the law. The article expressly provides for the adoption of affirmative measures to benefit "any persons or groups who may be discriminated against, marginalized or vulnerable", in particular "persons who, because of any of the aforementioned circumstances, are in a manifestly weak position" and to "punish those who abuse or mistreat such persons" (art. 21.2). It goes on to state that "People shall be officially addressed as citizens, except in diplomatic forms of address" (art. 21.3) and that "No titles of nobility or hereditary distinctions shall be recognized" (art. 21.4). This places an obligation upon the State to observe, respect and protect the rights recognized in law, regardless of race, colour, sex, language, religion, political opinion, ethnic or social origin, economic status, birth or any other social condition of persons under its jurisdiction.

254. These legal provisions reinforce the obligation and commitment of the State to respect, safeguard and comply with the human rights and guarantees stipulated in the Covenant, which are duly reflected in a set of laws promulgated in the period covered by this report.<sup>124</sup>

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legislative provisions; furthering exercise of the right of indigenous people's power and its organizations to be consulted on local or communal issues liable to affect them directly or indirectly; and encouraging the participation of indigenous women in their villages and communities and in national and international public life.

<sup>124</sup> These include: the Indigenous Peoples Habitat and Lands Demarcation and Protection Act; the Single Social Fund Act; the Fisheries and Aquaculture Act; the Land and Agricultural Development Act; the Drinking Water and Sanitation Services Act; the Social Security System Act; the Act establishing the Office of the Ombudsman; the Prevention, Working Conditions and Working Environment Act; the Health Act; the Act on Women's Right to a Life Free of Violence; the Refugees and Asylum-Seekers Act; the Disabled Persons Act; the Child and Adolescent Protection Act. Guarantees of their effective implementation include: access to social and housing loan policies; a free health system and an adequate budget for achieving the objectives of health care provision; not to divert the resources set aside for the social security system; adequate provision for educational institutions and services; and the annulment of measures by employers that are contrary to the Constitution.

255. The Constitution likewise provides that everyone is entitled to have access to the organs of justice for the purpose of enforcing his or her rights and interests, including those of a collective or diffuse nature; to effective protection of those rights and interests; and to obtain a prompt decision in that regard through a justice system that is free of charge, accessible, impartial, appropriate, transparent, autonomous, independent, responsible, equitable and expeditious, that operates without undue delays, superfluous formalities or pointless repetitions and that provides for effective remedies and the corresponding appeal bodies.<sup>125</sup> It also establishes that any act on the part of the Government that violates or encroaches upon the rights guaranteed by the Constitution and by law is null and void, and that public employees ordering or implementing such acts shall incur criminal, civil and administrative liability, as applicable in each case, with no defence on the grounds of compliance with the orders of a superior.<sup>126</sup>

256. With specific reference to the right to non-discrimination, the Venezuelan State has taken a major legislative step with the recent adoption of the Racial Discrimination Act, promoting the equality of rights and freedoms.

*Relevant jurisprudence*

257. The Political-Administrative Division of the Supreme Court maintains that the right to equality has been interpreted as the right of citizens to the non-establishment of exceptions or privileges that deny to some what they grant to others, given equal circumstances.<sup>127</sup> In other words, differences should not be established between persons in the same situation. Genuine equality consists in treating equals equally and treating unequally those who cannot adduce the same conditions and circumstances prescribed by law, given that the latter do not obey interests of an individual nature but rather considerations of general utility.

258. A Judgement of the Constitutional Division of the Supreme Court of 17 October 2000<sup>128</sup> likewise states that the right to equality is understood “as the duty of public bodies to treat those in analogous or similar situations equally. That is to say, this right presumes that all citizens have the right on principle to be treated in an equal manner by the law and that discrimination is accordingly prohibited”.

259. At the same time, the ruling sets out instances where an individual or group may be treated unequally, provided that one or more of the following conditions is met: that the unequal treatment has a specific objective; that the individuals in question are in different situations; that the objective sought is reasonable; and that any difference in treatment is proportionate. The ruling states that in such cases, the unequal treatment, being a legal consequence, should be commensurate with the circumstances and with the purpose that justifies it. Where the aforementioned conditions are met, unequal treatment is permitted and, therefore, constitutionally lawful.

*Measures adopted for protecting the right to equality and non-discrimination*

260. These include the public policies on preschool, secondary and university education, known as the Robinson I, II and III, Rivas and Sucre Missions; the health-related Barrio Adentro I, II and III and Milagro Missions;<sup>129</sup> the Culture Mission; the Barrio Adentro

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<sup>125</sup> Article 26 of the Constitution.

<sup>126</sup> Article 25 of the Constitution.

<sup>127</sup> Judgement No. 01131 of the Political-Administrative Division of the Supreme Court, case file No. 16238, dated 24 September 2002.

<sup>128</sup> Judgement No. 1197 of the Constitutional Division of the Supreme Court, case file No. 00-1408.

<sup>129</sup> The Social Missions are mass strategies designed to guarantee the population’s basic rights, with the emphasis on excluded sectors. These policies receive substantial special funding. Coordination is



Sports Mission; the Neighbourhood Mothers Mission on the protection of women; the Guaicaipuro Mission on the safeguarding of indigenous peoples; and the Identity Mission on the realization of identity rights. Through these missions, millions of Venezuelans have benefited from public policies that were previously unavailable to them.

261. These policies aimed at eliminating inequalities have resulted in better income distribution. The Gini coefficient, which stood at 0.439 in 2000, by 2010 had declined to its minimum value for the period of 0.394, showing that inequality had decreased during the years in question.<sup>130</sup>

262. The Venezuelan State, with the power of the people behind it, has achieved the first target of the Millennium Development Goals, to reduce by half between 1990 and 2015 the number of persons living in extreme poverty.<sup>131</sup>

263. According to the country's income line, 59.6 per cent of Venezuela's population in 2000 were considered not poor, while 40.4 per cent were poor. Of these 40.4 per cent, 14.9 per cent were considered extremely poor: that is, their average incomes did not stretch to paying for the cost of a basket of food. In 2009, 73.1 per cent were not poor and 26.9 per cent were considered poor. Of the 26.7 per cent of poor people, 7.5 per cent were extremely poor. In 2010, 73.1 were not poor whereas 26.9 per cent of the population was considered poor. Of this 26.9 per cent of poor people, 69.5 per cent were extremely poor.<sup>132</sup> These statistics point to a very significant decrease in poverty, mainly due to the implementation of social and economic policies aimed at guaranteeing the population's human right to food by providing subsidies, price cuts and easy access to food through the Social Missions — the national Mercal network and the Venezuelan food production and distribution organization (PDVAL), from which over half the population benefits — and the growth in purchasing power, which improves the quality of life in nominal terms.<sup>133</sup>

264. These results also reflect improved income and wealth distribution; successive rises in the minimum wage, food allowances for wage-earning workers and pensions; and the steady fall in unemployment rates, which has improved the purchasing power of family members and reduced inequality among the population at large, with specific reference to equal access to rights by women and men.

265. With regard to equality of access to and enjoyment of political rights, the National Electoral Council in 2005 issued resolution No. 050401-179 requiring political organizations, electoral groups and civic associations to ensure that men and women candidates to national, municipal and parish deliberative bodies were submitted on the basis of parity and rotation.

266. Significant also are the Gender Equality Standards issued by the National Electoral Council, calling for gender parity (50/50) in voters' lists for public offices. These standards have helped to increase women's access to high-level political posts. In the course of 2009, four of the five statutory authorities in Venezuela were directed by women (the legislative, electoral, civil and judicial branches).

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inter-institutional and inter-ministerial, and the organized communities play an active role in their planning, implementation and follow up. Their essential purpose is to address the causes and consequences of poverty and exclusion, with the proactive participation of the people.

<sup>130</sup> Information supplied by the National Institute of Statistics.

<sup>131</sup> Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.

<sup>132</sup> Information supplied by the National Institute of Statistics.

<sup>133</sup> Information contained in the common core document submitted by the Bolivarian Republic of Venezuela on 5 July 2011 to the Secretariat of the Human Rights Council in Geneva, Switzerland.

267. Since 2001, the National Institute for Women (INAMUJER) has promoted a grassroots mechanism for political participation by women, called Inamujer Meeting Points. The main aim of these forums is to preserve the memory of the nation's heroines, to build networks of female solidarity, to further the direct participation of women in solving the problems of their communities, and to develop socio-economic projects for their communities.

268. The national human development, governance and gender equality project being developed by UNDP in Venezuela, in association with the Women's Development Bank, has been in progress since 2003. It is currently operating in thirteen Venezuelan municipalities and work has begun on extending this experiment to the nation as a whole. This initiative seeks to promote local leadership in support of gender equality, to increase women's productivity, to attain sustainable production levels enabling the women concerned to improve their income and quality of life, and to further the exchange and transfer of knowledge and models of communal coexistence, including in indigenous communities.<sup>134</sup>

269. The Bank has developed a strategy for strengthening production chains by granting impoverished women micro-credits that have a direct impact on improving their quality of life and that of their family group.<sup>135</sup> Eighty-five per cent of these credits have gone to women and 15 per cent to men.

270. The "Josefa Joaquina Sánchez" Neighbourhood Mothers Mission has been active in the creation of a popular women's organization called the Neighbourhood Mothers Committees.

#### *Progress in international cooperation*

271. International cooperation conventions and agreements have been developed and implemented in areas including socio-economic integration and technical assistance, with the aim of ensuring full realization of the rights embodied in the International Covenant on Economic, Social and Cultural Rights.

272. In this context, the Bolivarian Republic of Venezuela takes the view that public policies in the social sector must be focused on and motivated by the human being and must place the emphasis on equality and non-discrimination. New initiatives have been developed that promote regional rapprochement between States and foster the emergence of innovative mechanisms that, consistent with the principle of the sovereignty and self-determination of peoples, can serve as an instrument to eliminate the social divides caused by a long history of exploitation and colonial domination and their neocolonial aftermaths.

273. Since 2000, regional mechanisms for union, integration, dialogue and political cooperation in Latin America and the Caribbean have sought to include the social and political dimensions of mutual respect, solidarity and human rights in the union and integration agenda. These topics have been gradually developed in political and legally binding agreements within the framework of the Southern Common Market (MERCOSUR), the Bolivarian Alliance for the Peoples of Our America-Peoples' Trade

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<sup>134</sup> For more information, please consult: <http://www.pnud.org.ve/content/view/124/78/>.

<sup>135</sup> According to information supplied by the Ministry of People's Power for Women and Gender Equality, a total of 17,556 microcredits have been granted (46 per cent in the agricultural sector, 35 per cent in the manufacturing sector, 13 per cent for the Mercal programme, 4 per cent for the services sector and 2 per cent for the commerce sector).

Agreement (ALBA-TCP),<sup>136</sup> the Union of South American Nations (UNASUR) and the Community of Latin American and Caribbean States (CELAC).

274. Venezuela has also promoted a policy of brotherhood towards peoples experiencing difficult situations following natural catastrophes, as in the cases of Chile, Haiti, Honduras, Cuba and Japan. They have been provided with immediate support in the form of supplies of various kinds and economic and human resources.

275. Venezuela has strengthened its ties with the universal system of human rights and is working to improve cooperation through UNDP, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees and ILO. Meetings have taken place at the highest level, allowing a better flow of information and assistance in this area and demonstrating Venezuela's commitment to, observance of and respect for human rights and its readiness to learn from others and provide appropriate information on domestic progress in the human rights field. Venezuela is gradually building a relationship with all the special procedure mandate holders and human rights treaty bodies.

276. With regard to the Committee's General Comment No. 20 on non-discrimination and economic, social and cultural rights (art. 2, para. 2, of the International Covenant), the Venezuelan State has established a large number of government bodies and institutions during this reporting period with the aim of protecting the rights enshrined in the Covenant, in particular those tending to ensure the equal enjoyment of human rights. In keeping with the principle of positive discrimination prescribed in the Constitution, it has in this way taken effective measures to promote bodies designed to protect the most vulnerable population groups or sectors.<sup>137</sup>

277. Concerning General Comment No. 9 of the Committee, on "The duty to give effect to the Covenant in the domestic legal order", article 23 of the Venezuelan Constitution provides that "Human rights treaties, covenants and conventions signed and ratified by Venezuela shall have constitutional status and take precedence in domestic law, insofar as they contain provisions concerning the enjoyment and exercise of such rights which are more favourable than those established by this Constitution and the laws of the Republic, and shall be immediately and directly applicable by the courts and other public bodies".

278. Finally, Venezuela has signed most of the core human rights instruments of the United Nations and its specialized agencies and has recognized the jurisdiction of their courts.

### Article 3

279. In relation to this article, we shall refer — for the sake of brevity — to articles 6, 7 and 9 and the reply to the Committee's concluding observations.

<sup>136</sup> In 2004, the Bolivarian Alternative for the Americas – People's Trade Agreement (ALBA-TCP) was established as a countervailing alliance and geopolitical and economic project giving primacy to the social dimension in keeping with the multipolar world that is currently taking shape.

<sup>137</sup> These include: the Ministry of People's Power for Women and Gender Equality; the Women's Development Bank; the Neighbourhood Mothers Mission Foundation; the Ministry of People's Power for Indigenous Peoples; the Ministry of People's Power for Youth; the Ministry of the People's Power for Electrical Energy; the People's Sovereign Bank; the National Commission for Refugees, the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Venezuelan Education System; and the Subcommittee on Legislation, Participation, Duties and Rights of People of African Descent.

## Article 4

280. Since the entry into force of its Constitution, the Venezuelan State has jealously defended the human rights of all Venezuelans.

281. The State of Emergency Act<sup>138</sup> regulates such matters in their various manifestations — state of alert, economic emergency, disturbance of internal or external order or similar events jeopardizing the security of the nation or its citizens — as well as regulating the restoration of rights as rapidly as possible where they have been restricted. The promulgation of this legal instrument is indicative of the willingness of the Venezuelan State to establish clear limitations regarding the provision's application, in conformity with the present article of the Covenant.

282. It is important to mention that in the period 2002–2003 the Venezuelan economy suffered a severe blow. At the beginning of 2002 all the economic indicators pointed to a gradual economic recovery by the country. However, external elements, manipulated by political and economic sectors opposed to the Government's recovery plans, engineered a coup d'état, causing capital flight, speculation and tax evasion. This was followed by an illegal strike and sabotage of the petroleum industry, the country's main source of income, giving rise to a period of great shortage of basic foodstuffs.

283. Despite the crisis caused by these events, a state of emergency was not decreed on the grounds that human rights were more important than any political consideration.

## Article 5

284. The Bolivarian Republic of Venezuela defines itself as a democratic and social state based on the rule of law and justice, in which sovereignty rests inalienably with the people. None of the provisions in the domestic legal system assigns rights or concessions, powers or authority to the State, groups or individuals that are prejudicial to the rights or freedoms recognized in the Covenant. All Venezuelan citizens are equal before the law and have the same duties, rights and freedoms.

285. In the Constitution of the Bolivarian Republic of Venezuela, as in all modern constitutions, human rights treaties, covenants and conventions signed and ratified by Venezuela have constitutional status and take precedence in domestic law insofar as they embody provisions for the enjoyment and exercise of those rights that are more favourable than those established by the Constitution and the laws of the Republic.<sup>139</sup>

286. The Constitution also contains an open clause on human rights, which provides that the enunciation of the rights and guarantees contained in the constitutional text and in international agreements shall not be construed as negating other rights inherent to the human person not expressly referred to therein. The absence of a law regulating these rights shall not impair the exercise of those rights.

## Article 6

### *Normative framework governing the right to work*

287. The right to work is enshrined in article 87 of the Constitution of the Republic as an inalienable right of all human beings. Work is also said to be both a right and duty of all persons, within the limits of their abilities and potential, any discrimination based on age,

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<sup>138</sup> *Gaceta Oficial*, No. 37261, 15 August 2001.

<sup>139</sup> Article 23 of the Constitution of the Bolivarian Republic of Venezuela.

sex, race, civil status, religious beliefs, political allegiances or social circumstances being prohibited. These provisions are designed to exclude any discrimination in working conditions, which are themselves stipulated in article 26 of the Labour Code.<sup>140</sup> The same article states that every employer shall guarantee employees adequate safety, hygiene and environmental working conditions. It also requires the State to adopt measures and create institutions enabling it to monitor and promote these conditions.

288. The State guarantees the equality and equitable treatment of men and women in the exercise of the right to work and recognizes work at home as an economic activity that creates added value and produces social welfare and wealth.<sup>141</sup> Under the Venezuelan labour code, men and women must enjoy the same employment opportunities and be subject to the same selection criteria in matters of employment.<sup>142</sup>

289. The right to make a free choice of profession and employment, the right to promotion, stability of employment and all the benefits and other conditions of service, the right to access to vocational training and retraining, including learning, higher vocational training and periodic skills training, are conditions governing labour relations in the Venezuelan State.<sup>143</sup>

290. Other constitutional provisions concerning labour rights: prohibit work by adolescents in tasks that may affect their development;<sup>144</sup> stipulate the conditions governing the working day;<sup>145</sup> prohibit the imposition of overtime work;<sup>146</sup> prescribe the right to a weekly rest day;<sup>147</sup> establish the right to a decent wage and associated guarantees, such as the inviolable right to equal pay;<sup>148</sup> establish the right to social benefits;<sup>149</sup> prescribe stability of employment and the invalidity of dismissals contrary to the Constitution;<sup>150</sup> provide for trade union rights and the right to strike;<sup>151</sup> and guarantee the right to collective contracts.<sup>152</sup> In keeping with its international commitments, Venezuela has set the national minimum age for employment at 14 under the Child and Adolescent Protection Act.<sup>153</sup>

291. During the period covered by this report, various legislative measures have been adopted to strengthen the right to work and establish machinery to promote and protect that right. These include the Aliens and Immigration Act of 24 May 2004, aimed at avoiding any kind of discrimination based on nationality. Under this Act, the Minister in charge of labour affairs is responsible for issuing a work permit to all those having to enter the country to perform a work contract, which must be obtained through a contractor based in the country.

292. Other legal provisions include the Decree with Status of Law on the Establishment, Stimulation, Promotion and Development of the Micro-Finance System,<sup>154</sup> also aimed at giving the informal sector of the economy access to credit; the Cooperative Associations

<sup>140</sup> *Gaceta Oficial*, No. 5152, 19 June 1997.

<sup>141</sup> Article 88 of the Constitution of the Bolivarian Republic of Venezuela.

<sup>142</sup> Article 26 of the Labour Code.

<sup>143</sup> In accordance with articles 87, 88 and 89 of the Constitution and article 2 of the Labour Code.

<sup>144</sup> Article 89, para. 6, of the Constitution.

<sup>145</sup> Article 90 of the Constitution.

<sup>146</sup> *Idem*.

<sup>147</sup> *Idem*.

<sup>148</sup> *Idem*.

<sup>149</sup> Article 92 of the Constitution.

<sup>150</sup> Article 93 of the Constitution.

<sup>151</sup> Articles 95 and 97 of the Constitution.

<sup>152</sup> Article 96 of the Constitution.

<sup>153</sup> Article 96 of the Child and Adolescent Protection Act.

<sup>154</sup> *Gaceta Oficial*, No. 37164, 22 March 2001.

Act;<sup>155</sup> the Labour Code,<sup>156</sup> which establishes an autonomous, impartial and specialized labour jurisdiction aimed at facilitating the settlement of disputes within a five-month period as distinct from previous labour proceedings that could last up to eight years; the Social Security System Act<sup>157</sup> providing for an employment benefits system; the Working Safeguards, Conditions and Environment Act;<sup>158</sup> the Regulations of the Labour Code;<sup>159</sup> the Workers Food Act;<sup>160</sup> the Disabled Persons Act;<sup>161</sup> and the Family and Parenthood Protection Act.<sup>162</sup>

#### *Labour market trends*

293. Trends in activity rates in every branch of the economy remained stable over the period 2000–2010. A majority of the active population is concentrated in the “community, social and personal services” and “trade, restaurants and hotels” categories, while a minority is engaged in “unspecified and/or undeclared activities” and in the “oil, mining and quarrying” and “electricity, gas and water” categories. The economic sector showing the greatest variation in activity rates is the “trade, restaurants and hotels” category.<sup>163</sup>

294. In the period under consideration, the unemployment rate in the formal economic sector averaged 56.3 per cent, compared with 43.7 per cent in the informal sector. The percentage of the population employed in the formal sector has shown an upward trend since mid-2004 (51.3 per cent). Meanwhile, the percentage of workers in the informal sector declined from the start of the second half of 2004.<sup>164</sup>

295. Between 2001 and 2005, the proportion of women employed in the informal sector was greater than that of men, although both rates showed a similar trend. From 2007 onwards, the percentage of men employed in the informal sector was greater than that of women.<sup>165</sup>

296. From 2000 to 2007, the trend in employment rates by sex in the formal sector remained stable, although from 2001 to 2005 the proportion of men employed in the formal sector was greater than that of women; while from 2008 to 2010 the proportion of women employed in this sector was greater. The employment rate in the formal sector increased by 7.1 per cent compared with 1998, rising from 50.2 per cent to 56.3 per cent in December 2010, resulting in a decrease to 43.7 per cent in the informal sector and ensuring greater access to social security and quality employment.<sup>166</sup>

297. There has been a recovery of between three and four points in the unemployment rate compared with 1998, when unemployment reached 11.3 per cent. In the first quarter of 2009, in marked contrast to worldwide trends resulting from the global crisis of capitalism, increased unemployment and labour instability, anti-crisis measures were adopted enabling jobs to be preserved and unemployment to be restricted to 6.6 per cent at the close of that

<sup>155</sup> *Gaceta Oficial*, No. 37285, 18 September 2001.

<sup>156</sup> *Gaceta Oficial*, No. 37504, 13 August 2002.

<sup>157</sup> *Gaceta Oficial*, No. 37600, 30 September 2002.

<sup>158</sup> *Gaceta Oficial*, No. 38236, 26 July 2005.

<sup>159</sup> *Gaceta Oficial*, No. 38426, 28 April 2006.

<sup>160</sup> *Gaceta Oficial*, No. 38094, 27 December 2004, and the amended Act of 2011.

<sup>161</sup> *Gaceta Oficial*, No. 38598, 5 January 2007.

<sup>162</sup> *Gaceta Oficial*, No. 38773, 20 September 2007.

<sup>163</sup> Information contained in the common core document submitted by the Bolivarian Republic of Venezuela on 5 July 2011 to the Secretariat of the Human Rights Council in Geneva, Switzerland.

<sup>164</sup> Information supplied by the National Institute of Statistics.

<sup>165</sup> Information contained in the common core document submitted by the Bolivarian Republic of Venezuela on 5 July 2011 to the Secretariat of the Human Rights Council in Geneva, Switzerland.

<sup>166</sup> *Idem*.

year. Due to seasonal factors, the rate rose to 10.2 per cent in January 2010 and 28.7 per cent by 31 March, resuming the positive historical trend. In the period under consideration, the unemployment rate averaged 11.44 per cent, reaching its highest point (19.2 per cent) in 2002 and subsequently showing a downward trend in the following years. In 2009, the unemployment rate stood at 7.5 per cent.<sup>167</sup>

298. The proportion of unemployed women was greater than that of unemployed men. From the second half of 2001 to the first half of 2003, the figures showed an upward trend, with the unemployment rate for men reaching a maximum of 17.5 per cent and the rate for women 21.8 per cent during the period under consideration. In the following years, up to 2009, unemployment rates for both sexes tended to decline.<sup>168</sup>

299. The average economic dependency ratio for the period 2004–2009 was 79.4 per cent. This figure remained constant in the period from the second half of 2005 to the second half of 2006, then decreased, then increased and then remained constant in 2008, subsequently decreasing.<sup>169</sup>

300. The participation rate was higher for the 25 to 44 age group and, to a lesser extent, the 45 to 64 age group. It was lower for the 15 to 24 age group and those aged 65 and above.<sup>170</sup>

#### *Training and job promotion policies*

301. Employment counselling programmes are run by the National Employment Service of the Ministry of People's Power for Labour and Social Security through a nationwide network of 32 agencies. They consist of a series of activities and services within the framework of ILO Convention No. 88 concerning the Organization of the Employment Service.<sup>171</sup>

302. The labour intermediation service includes a register of workforces, job vacancies and firms and a cross-matching of supply and demand for the purposes of placement and follow-up. This system also caters for unemployed persons in search of work and provides information and support to persons made redundant who are seeking benefits for involuntary loss of employment or layoff. It also makes its staff recruitment and selection services available to employers free of charge.

303. These activities are aimed chiefly at persons excluded from the job market, for example the disabled, female heads of household with family responsibilities, young people and persons over 45. They also involve channelling requests from employers looking for foreign workers and handling the relevant work permits.<sup>172</sup>

<sup>167</sup> *Idem.*

<sup>168</sup> *Idem.*

<sup>169</sup> *Idem.*

<sup>170</sup> *Idem.*

<sup>171</sup> The programmes include: placement in the productive sector; worker counselling in social and labour matters; support to community organization for socio-employment and socio-productive integration; applications for professional and vocational training; caring for the disabled; catering for persons seeking benefits following involuntary loss of employment or layoff; information from the National Employment Service on labour migration and the job market; data base registration (Employment Reference Information System); information on the employment regulatory framework; staff recruitment and selection and employment analysis counselling. For further information, see the Memorandum on ILO Convention No. 88 concerning the Organization of the Employment Service submitted by the Government of the Bolivarian Republic of Venezuela in 2009.

<sup>172</sup> The programmes in question include: 1. A training project involving a short- and medium-term employment strategy, advising and informing the participant on training alternatives in keeping with his or her occupational profile and labour market trends. 2. Individualized job placement project

304. Concerning technical training programmes, the Che Guevara Mission<sup>173</sup> is developing a comprehensive project for training in productive activities, designed to accelerate the transformation from a capitalist economic model to a socialist model and to ensure social well-being and job placement in projects under the National Social and Economic Development Plan 2007–2013. The training process is organized by production sector and is followed by a process of coordination with State job-placement agencies and the financing of socio-productive projects developed during the training process.<sup>174</sup>

305. Specialized State institutions provide the framework for assessment, support and monitoring of the organization and functioning of social ownership and distribution units established during the training process, through to consolidation of the production phase based on the establishment of socio-productive networks and complementary distance training programmes.<sup>175</sup>

306. The Vuelvan Caras Youth Mission was established in 2006 with the aim of providing young people aged between 18 and 25 with training and subsequent placement in productive employment in cooperatives or micro-enterprises. The training programmes conducted by the National Institute of Socialist Educational Training throughout Venezuela prioritize the production of goods and services geared to satisfying the population's basic needs, while taking account of the different steps in the production chains.

307. The Venezuelan State has focused its efforts on the inclusion of historically unprotected people and collectives. An example, based on recognition of the value of work in the home, is the Neighbourhood Mothers Mission, which provides comprehensive care to women and families living in extreme poverty, guaranteeing access to their fundamental rights. The ultimate aim of this mission is to provide those concerned with the financial support enabling them to participate actively in the country's development. This programme assists those women who work in the home, who look after dependants (children, parents and other family members) and whose family does not receive any income or whose income is below the cost of the basic food basket. The Che Guevara Mission also provides financial support to participants during the work training process.

308. A Special Employment Plan has been developed to counter the loss of jobs as a result of the world economic crisis and increase the employment capacity of the formal sector of the economy in the last quarter of 2009. This plan has been implemented in all production sectors, in particular the construction of public works and housing.

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encouraging the participant to define his or her professional objectives and to evaluate these in relation to labour market supply and demand. 3. Examination of labour rights, in the context of a work relationship, with the aim of reducing the vulnerability of those rights. 4. Training in job-seeking techniques, aimed at advising and supporting job-seekers by offering them information on the interview process, psychometric testing and work skills, enabling them to find productive placement in the labour market.

<sup>173</sup> Previously known as the Vuelvan Caras Mission.

<sup>174</sup> State micro-credit institutions that support the funding of socio-productive projects developed during training include: the People's Sovereign Bank, the National Institute for the Development of Small and Medium-Sized Industry, the Women's Development Bank, the Industrial Credit Fund, the Agricultural Bank of Venezuela, the Socialist Agricultural Development Fund, the Micro-Credit Development Fund, among many others providing loans at very low interest rates or, in some cases, in the form of interest-free or non-reimbursable loans.

<sup>175</sup> They include the training programmes sponsored by the People's Sovereign Bank, the National Institute for the Development of Small and Medium-Sized Industry, the Women's Development Bank, the Agricultural Bank of Venezuela, and the Socialist Agricultural Development Fund.



*Policies to protect against arbitrary dismissal*

309. One of the characteristic features of the 1990s was the dramatic behaviour of social indicators: growth in unemployment, job insecurity and a marked decline in workers' incomes, particularly in the informal sector. To counter this situation, the Venezuelan State adopted a very significant measure with the approval of the Presidential Decree on Security of Employment, issued for the first time in 2001 and renewed successively up to 31 December 2011 (for the tenth time), providing workers with protection against arbitrary dismissal. From 2007 onwards, this measure covers workers who earn more than three times the minimum wage.

310. This Decree provides that workers protected by the extension of the special immunity from dismissal cannot be dismissed, demoted or transferred without due cause, authorized by the relevant Labour Inspectorate, in accordance with the provisions of article 453 of the Labour Code. Failure to comply with this provision will entitle the worker to seek reinstatement and payment of back wages.

311. This immunity decree does not apply to managers, workers with less than three months' seniority, employees in positions of trust, temporary, casual and occasional workers, workers earning more than three times the minimum monthly wage on the date of the Decree and officials working in the public sector who retain the security laid down in their statutory employment provisions.

312. The measures taken by the Venezuelan State to comply with the provisions of the Committee's General Comment No. 18 on "The right to work" have been focused in particular on increased protection of the most vulnerable groups, such as children and adolescents, women and the disabled. In this connection, it has created and strengthened all legislation relating to their protection, specifically to non-exploitation and non-discrimination in access to the right to gender equality and health and safety at work, and has adopted positive measures for the sustained improvement of the quality of life of this population group, as shown throughout this report.

**Article 7***Trends in the minimum wage*

313. Article 91 of the Constitution provides that "Every worker has the right to a salary sufficient to enable him or her to live with dignity and cover basic material, social and intellectual needs for himself or herself and his or her family. The State guarantees workers in both the public and the private sector a vital minimum salary which shall be adjusted each year, taking as one of the references the cost of a basic market basket...".

314. The minimum monthly wage in Venezuela, as of 2011, is approximately 1,584.21 bolívares (US\$368). It is one of the highest in Latin America. Annual increases in the minimum wage come into effect in the Bolivarian Republic of Venezuela on 1 May, when Labour Day is celebrated. Policies on wage and salary increases are all part of the effort to decrease poverty in the country.<sup>176</sup>

315. For many years wages remained frozen in Venezuela, despite the high rates of inflation at the time. In 1996, when inflation in the country exceeded 100 per cent, the minimum wage in Venezuela stood at US\$36 per month, one of the lowest in the world, representing little more than a dollar a day. In 1998 the minimum wage attained US\$118<sup>177</sup>

<sup>176</sup> Information contained in the common core document submitted by the Bolivarian Republic of Venezuela on 5 July 2010 to the Human Rights Council in Geneva, Switzerland.

<sup>177</sup> Information supplied by the Ministry of People's Power for Labour and Social Security.

and at the beginning of 1999 it stood at 120 bolívares (US\$28). Workers' incomes increased subsequently, to 321 bolívares (US\$75) in 2004, 512 bolívares in 2006 (US\$119), 799 bolívares (US\$186) in 200 and 1,223.89 bolívares (US\$285) in September 2010.

316. Since 2005, the minimum wage in rural areas has been equivalent to that in urban areas, just as pensions and survivors benefits paid to widows and widowers have been linked to the minimum wage.<sup>178</sup>

317. During the reporting period, the coverage of the minimum wage entitlement has been extended, taking in historically excluded sectors such as domestic workers, caretakers and rural workers. The national minimum income has grown steadily and has been set consistently above the cost of the standard food basket. Similarly, the retirement pensions paid by the Venezuelan Social Security Institute have been tied to the minimum monthly wage since 1999.<sup>179</sup> In addition, the Food Act was promulgated in 2004 (and its amendment in 2011) to safeguard and improve the nutritional state of workers.

318. The policy of increasing salaries and wages has been maintained over time, despite international crisis in 2009. A 20 per cent rise in the minimum salary was also introduced and action was taken to promote and support the basic sectors of the economy, especially manufacturing and agriculture. All this took place within the framework of a larger role for the State in the economy, with a view to diversifying and energizing the country's production system.

319. Lastly it can be said that the national minimum income has grown steadily and has been placed consistently above the cost of the standard food basket.

*Normative framework for protecting the right to equality and non-discrimination in the employment field*

320. The Constitution of the Bolivarian Republic of Venezuela states that all persons are equal before the law, and that no discrimination of any kind is allowed. It likewise guarantees the equality and equitable treatment of men and women in the exercise of the right to work. Employment legislation similarly prohibits any kind of discrimination based on age, sex, race, civil status, religious beliefs, political allegiances or social circumstances, while not considering special provisions for the protection of mothers and the family or the protection of children and adolescents, the elderly and persons with disabilities to be discriminatory. It furthermore provides that job offers cannot include references contrary to the provisions of the relevant article.

321. The right to equal remuneration, equal benefits and equal treatment with respect to work of equal value, as well as equality of treatment in the assessment of the quality of work, is developed in the Constitution, in accordance with ILO Convention No. 111 ratified by Venezuela.

322. The Labour Code establishes the principle that equal work performed in the same place and involving the same working hours and the same conditions shall receive equal remuneration. It thereby avoids wage discrimination based on sex and provides for equality of employment opportunities between men and women. It also provides that men and women must enjoy the same employment opportunities and must be subject to the same job selection criteria.<sup>180</sup> It likewise regulates the right to promotion, stability of employment and all the benefits and other conditions of service.

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<sup>178</sup> *Idem.*

<sup>179</sup> *Idem.*

<sup>180</sup> Article 26 of the Labour Code.

323. To avoid wage discrimination, the 1999 Equal Opportunities for Women Act<sup>181</sup> prescribes the statutory bases for women's place in the workplace, namely the right to urban and rural work, equal access to all jobs, posts, promotion and other opportunities, and equal pay for equal work, and makes it the duty of the State to develop policies, plans and programmes on the basis of a comprehensive social security system.

*Policies for protecting the most vulnerable groups*

324. To guarantee everyone the right to fair and satisfactory working conditions, the Disabled Persons Act,<sup>182</sup> promulgated in 2009, requires employer organizations to include no less than 5 per cent of disabled persons in their payroll.

325. With regard to persons with HIV/AIDS, the National Institute of Prevention, Health and Safety at Work issued a rule on the use of HIV testing in the employment field,<sup>183</sup> which prohibits the practice of HIV antibody testing in pre-employment examinations as a prerequisite for entry into any form of employment or in any type of periodic health examination during the employment relationship.

326. It also urges public and private laboratories to refrain from carrying out HIV antibody tests when so requested by employers on the basis of samples taken from workers or job seekers, particularly when the request is not made directly by the worker who owns the sample and who is moreover the only one authorized to be informed of the result of such tests.

327. The Venezuelan State has also implemented public policies in the area of gender equality. Since the promulgation of the 1999 Constitution, the gender perspective and non-sexist language have been integrated across the board. In the employment sphere in particular, domestic work is recognized as a creator of added value, wealth and social well-being and those working in this sector are granted the right to social security.

328. Since 2005, national budgets have embodied a gender-based approach,<sup>184</sup> with increasing impact on the 2007, 2008, 2009 and 2010 budgets.

329. The country has moved closer to parity in the workforce, women being increasingly employed and remunerated in the non-agricultural sector. Over the last twenty years, the female workforce has grown by 150 per cent and significantly so over the last ten years, representing on average 150,000 women per year. A breakdown of employment rates in the formal sector by sex shows that numbers remained steady from 2002 to 2007. It may, however, be noted that in the period between 2001 and 2005 the proportion of men employed in the formal sector was greater than that of women and that, from 2008 to 2010, the percentage of women employed in this sector was greater than that of men.

330. While the measures taken to protect pregnant and breastfeeding women are described in detail under article 10 in this Report,<sup>185</sup> mention may be made of the provision in the Labour Code granting pregnant women six weeks' leave prior to childbirth and twelve weeks following it, or for a longer period in the case of an illness medically certified to be the result of the pregnancy or childbirth and making her unfit for work. Under the Equal Opportunities for Women Act, it is unlawful to dismiss or pressure a woman, or diminish her rights, during or as a result of pregnancy. Similarly, the Act on the Promotion of Breastfeeding grants women the right to two daily rest periods of half an hour each for

<sup>181</sup> *Gaceta Oficial*, Special No. 5398, 26 October 1999.

<sup>182</sup> *Gaceta Oficial*, No. 38598, 5 January 2007.

<sup>183</sup> Ruling issued on 8 August 2007.

<sup>184</sup> On the basis of Presidential Proposal No. 273 of 21 May 2005.

<sup>185</sup> The Family and Parenthood Act and the Act on the Promotion of Breastfeeding were promulgated in 2007.

breastfeeding her infant in the childcare facility. In the absence of such a facility, the rest periods shall be of one hour each. This benefit is granted up to one year following the birth of the child.

331. By joint resolution of the Ministries of Labour and Health, the breastfeeding period was extended from 6 to 9 months, with a possible extension to 12 months, where no childcare facility exists or where warranted by the infant's state of health. Beginning in 2006, two daily periods of between half an hour and one hour were authorized for breastfeeding. From 2008, in a partial reform of the Social Security Act, the economic benefit or daily indemnity during the pre- or postnatal maternity or adoption leave was increased from two thirds of the normal monthly wage to the complete monthly wage and working parents were granted freedom from dismissal for one year under the 2007 Family and Parenthood Act.<sup>186</sup>

332. As for the sexual harassment of women workers, the Act on Women's Right to a Life Free from Violence establishes legal mechanisms for protection in the working environment, defining the forms of such violence, including harassment, threats and violence in the workplace. The latter is understood as discrimination against women in public or private workplaces that impedes their access to employment or stability of employment; requirements concerning civil status, age, sex, physical appearance and good presence; or demands making the granting of a contract conditional upon the results of laboratory examinations.<sup>187</sup>

333. The Act also establishes measures to guarantee labour rights where the woman is the victim of violence, allowing for a reduced or reorganized work schedule, geographical mobility, a change of workplace, suspension of the working relationship with reservation of post and justified absences due to physical or psychological causes resulting from gender violence.<sup>188</sup>

334. The Act also provides that anyone responsible for sexual harassment shall compensate the woman victim, while remaining liable to criminal and administrative sanctions. The Working Safeguards, Conditions and Environment Act establishes measures against pressures and intimidation of a sexual nature that are psychologically or morally harmful to women workers, prescribing civil, criminal, administrative or disciplinary penalties for the author of such violence.

335. A Plan for Women's Equality has been drawn up on the basis of the Equal Opportunities for Women Act, together with specific measures for the protection of women.<sup>189</sup>

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<sup>186</sup> *Gaceta Oficial*, No. 38773, 20 September 2007.

<sup>187</sup> Articles 14 and 15 of the Act on Women's Right to a Life Free from Violence.

<sup>188</sup> Article 4 of the Act on Women's Right to a Life Free from Violence.

<sup>189</sup> According to information supplied by the Public Prosecution Service and the Supreme Court, these involved the establishment of women's shelters; the organization of various seminars and training courses on gender and violence against women, aimed particularly at officials in police units responsible for receiving complaints; formulation of the Inter-institutional Plan for the Prevention of Gender Violence through a Commission composed of the Supreme Court, the Office of the Attorney-General of the Republic, the Office of the Ombudsman, the Prefectures and the United Nations Population Fund. The Bolivarian Gender Observatory was established in 2008 and the Ministry of People's Power for Women and Gender Equality in 2009. The Ministry oversees the National Institute for Women and its regional branches, the National Ombudsman's Office for Women's Rights, the Women's Development Bank, the Neighbourhood Mothers Mission Foundation, offices providing assistance to women and women's shelters.

*Policies for protecting health and safety at work*

336. With regard to worker health and safety, the various protection measures implemented by the Venezuelan State were strengthened with the inauguration of the National Institute of Prevention, Health and Safety at Work (INPSASEL) in 2002.<sup>190</sup>

337. These policies, as already noted, are reflected in the democratic election of the prevention officers registered in INPSASEL,<sup>191</sup> in the implementation of a Strategic Plan for Child and Adolescent Workers, in the establishment of a system for monitoring working conditions, reinforcing the inspection measures of the State and the participation and organization of the child and adolescent workers themselves, and in the establishment of Special Commissioners for Child and Adolescent Workers.

338. The Labour Code regulates the functions of the Labour Inspectors, which involve three main activities: inspection of work-related accidents and occupational diseases; general or special inspections; and promotion, training and advisory measures. All these activities are the responsibility of the Ministry of People's Power for Work and Social Security and the National Institute of Prevention, Health and Safety at Work.<sup>192</sup>

339. The adoption of the Working Safeguards, Conditions and Environment Act (LOPCYMAT)<sup>193</sup> has opened a new page in the history of the struggle of working people to assert their claims in this domain and has shaped the future of health and safety at work in Venezuela. LOPCYMAT promotes the implementation of the health and safety at work regulations under the new social security system. It also covers the promotion of worker health; the prevention of vocational diseases and accidents at work; care, rehabilitation and reintegration of workers; and monetary payments for damage caused by occupational diseases and work-related accidents.

340. The Occupational Health Directorates offer users (workers and employers) a comprehensive service at state level involving the assessment of working environments and conditions, the investigation of work-related accidents and the processing of occupational health service certificates. Working in combination, the Directorates implement the projects of the National Institute of Prevention, Health and Safety at Work, with the emphasis on creating a culture of prevention, promoting health in the workplace and providing comprehensive care for workers through specialized technical advice in these fields.

341. A further strategy for protecting workers rights involves the establishment of Health and Safety at Work Committees in every workplace, firm and unit, with the principle function of participating in the drafting, adoption, implementation and evaluation of the Health and Safety at Work Programme. These Committees are responsible for developing projects related to planning, work organization and the introduction of new technologies and for organizing and developing risk prevention and monitoring measures; establishing recreational, leisure, rest and social tourism activities; and providing, maintaining and protecting infrastructures in the designated areas and drawing up the associated

<sup>190</sup> Further information may be found in the memorandum submitted by the Bolivarian Republic of Venezuela to the International Labour Organization in accordance with the provisions of article 22 of the ILO Constitution, covering the period ending 1 September 2009, on the measures adopted to give effect to the provisions of Convention No. 182 on the Worst Forms of Child Labour.

<sup>191</sup> Information supplied by the National Institute of Prevention, Health and Safety at Work.

<sup>192</sup> According to the information supplied by the National Institute of Prevention, Health and Safety at Work, the following measures were carried out in the period 2005–2010: 20,206 accident investigations, 12,847 illness-related enquiries, 14,935 occupational diseases certifications and 24,156 inspections. In the case of the occupational diseases, these are also recorded online; and, from 2010 onwards, this requirement has been reinforced in application of the technical standard on the declaration of occupational diseases.

<sup>193</sup> *Gaceta Oficial*, No. 38236, 26 July 2005.

organizational and training plan. They are also in charge of promoting initiatives on methods and procedures for effectively monitoring dangerous working conditions by proposing improvements to existing monitoring systems or remedying identified shortcomings.<sup>194</sup>

## Article 8

### *Normative framework for freedom of association and the right to organize*

342. The Constitution of the Bolivarian Republic of Venezuela establishes that “Workers, without distinction of any kind and without the need for prior authorization, have the right freely to establish such union organizations as they may deem appropriate for the optimum protection of their rights and interests, as well as the right to join or not to join such bodies. These organizations are not subject to administrative dissolution, suspension or intervention and workers are protected against any act of discrimination or interference contrary to the exercise of this right. The promoters and the members of the board of directors of the union enjoy immunity from dismissal from their employment for the period and on the terms required to enable them to carry out their functions”.<sup>195</sup>

343. The Constitution also provides that “All workers in the public and private sector have the right to voluntary collective bargaining and to enter into collective bargaining agreements, subject only to such restrictions as may be established by law. The State guarantees this process, and shall establish appropriate provisions to encourage collective relations and the resolution of labour conflicts. Collective bargaining agreements cover all workers who are active as of the time they are signed, and those hired thereafter”.<sup>196</sup>

344. The Constitution further stipulates that all workers in the public and private sector have the right to strike, subject to such conditions as may be established by law.<sup>197</sup> The Labour Code provides for wide protection for workers’ rights and guarantees, in particular the right of workers, employers and their organizations to negotiate collectively and resolve conflicts peacefully as well as the right to strike. The conventions and collective agreement reached shall establish the system for regulating the services strictly necessary for ensuring the maintenance and security of the enterprise.

345. Workers involved in legal activities in the context of a labour dispute cannot be dismissed, transferred, demoted or have any other measure taken against them.

346. The Bolivarian Republic of Venezuela has ratified ILO Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize and Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively and regularly submits the corresponding memoranda to the Committee.

347. The Labour Code embodies all the values, principles and rights laid down in the Constitution and ILO Conventions No. 87 and No. 98 under provisions relating to trade union organization, specifically the protection of trade union freedom, negotiation, collective disputes, collective labour conventions and meetings on labour standards. The

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<sup>194</sup> A total of 43,425 Health and Safety at Work Committees were set up between 2007 and 2010.

<sup>195</sup> Article 95 of the Constitution.

<sup>196</sup> Article 96 of the Constitution.

<sup>197</sup> Article 97 of the Constitution.

Regulations of the Labour Code develop all the substantive items in the Labour Code relating to collective rights, in particular respect for trade union freedom.<sup>198</sup>

348. The Working Safeguards, Conditions and Environment Act promotes the strengthening of bipartite social dialogue as an essential condition and necessary mechanism for the existence of trade union freedom. This social dialogue takes place through the Health and Safety at Work Committee, which is a bipartite, collegiate and participatory body, whose members enjoy complete protection in keeping with the present Act.

349. The Partial Regulations of the Working Safeguards, Conditions and Environment Act provides for social dialogue by including on the Board of the National Institute of Prevention, Health and Safety at Work a representative of the most representative employers' and workers' associations and trade unions and of cooperatives and community organizations. The Regulations also specify the participation and social monitoring responsibilities of the health and safety representatives, as well as their functions and special rights (freedom from dismissal) in terms of employment stability, in keeping with ILO Convention No. 81.

350. The Science, Technology and Innovation Act has given an important new impetus to the country's development, with particular regard to social dialogue, by including the private sector in the Board of the National Fund for Science, Technology and Innovation, in the form of a representative of the business sector.

351. With regard to trade union election regimes,<sup>199</sup> the Act establishing the electoral branch of government provides that the National Electoral Council is responsible for ensuring the autonomy and independence of trade union elections, in accordance with international treaties, and with providing the necessary technical support with the prior consent of the trade unions.

352. The National Electoral Council has issued Standards with Regard to Technical Assistance and Logistical Support in Trade Union Elections and Standards to Guarantee the Human Rights of Men and Women Workers in Trade Union Elections.<sup>200</sup> These Standards were drawn up on the basis of the recommendations of the ILO inspection bodies and establish the parameters for the Council's role when its technical advice and logistical support for the organization of electoral processes is requested on the trade unions' own initiative.<sup>201</sup>

#### *Trends regarding protection of the right*

353. With regard to freedom of association and the right to organize trade unions, the number of new trade unions established and registered at local and national level between 1999 and 2010 totalled 5,709. This development was accompanied by a progressive democratization of the trade union movement, in a free and transparent process of

<sup>198</sup> Fundamental provisions relating to the statutory union election system, trade union activities, centralized collective bargaining, meetings on labour standards, decentralized collective bargaining, public-sector collective bargaining, collective disputes, strikes, union referenda, and protection of trade union freedom.

<sup>199</sup> See article 293 and the Eighth Transitional Provision of the Constitution of the Bolivarian Republic of Venezuela.

<sup>200</sup> Resolution No. 090528-0264 of 28 May 2009 and resolution No. 090528-0265 of the same date.

<sup>201</sup> They also protect the principles and human rights relating to proactive participation, trade union democracy, voting, men and women workers affiliated to trade unions, free elections and alternance of union representatives, guaranteeing the reliability, equality, impartiality, transparency, procedural economy, efficiency and public nature of the processes being organized as well as respect for trade union freedom.

participation between the different union movements. By way of reference, 3,770 trade unions were established between 1987 and 1998 alone.

354. A novel feature was the emergence of new organizational forms within private firms and State institutions. These bodies, while they did not replace traditional unions, were the result of a process of renewal and reshaping of union structures that did not reflect the interests of the working class. In this way, workers councils were formed to channel a larger proportion of the working class towards control of the means of production.

355. With regard to collective bargaining, almost all countries have in practice encountered various difficulties, including a constantly evolving workforce, the changing nature of work and the global financial crisis exerting a direct influence on the real economy and employment. In most industrialised economies, trade union membership and collective bargaining have lost ground or remained stable, and in many developing countries they involve only a small section of the workforce.

356. Collective bargaining has an important role to play in improving the economic situation of workers by ensuring more equitable wealth distribution and greater profit sharing, thereby furthering the comprehensive protection of human rights, avoiding exclusion and creating new scope for social dialogue founded on solidarity, transparency and democratic participation.

357. The Venezuelan State has pursued policies to improve earnings by strengthening collective bargaining, increasing the minimum wage and ensuring better income distribution. In the period from 1999 to 2010, it approved 7,454 collective bargaining agreements in the public and private sectors, benefiting 7,277,644 workers.<sup>202</sup>

358. Examples include the collective bargaining agreement in the education sector, discussed in 2009 by the National Syndicate of the United Teachers Force, the Educators Federation of Venezuela and the Venezuelan Teachers' Federation with the Ministry of People's Power for Education, which benefited over 417,000 workers; the collective bargaining agreement discussed in 2009 by the Federation of University Workers of Venezuela with the Ministry of People's Power for University Education, benefiting over 45,000 workers; and the collective bargaining agreement of Venezuela's national telecommunications company "Compañía Anónima Nacional de Teléfonos de Venezuela", discussed in 2010 by the Federation of Telecommunication Workers of Venezuela, benefiting over 12,000 workers.<sup>203</sup>

## Article 9

### *Normative framework for the right to social security*

359. The Constitution of the Bolivarian Republic of Venezuela provides that all persons have the right of access to social security as a non-profit public service ensuring protection in the following contingencies: fatherhood, illness, invalidity, catastrophic illness, disability, special needs, occupational risks, loss of employment, unemployment, old age, widowhood, loss of parents and any other social welfare circumstance.<sup>204</sup>

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<sup>202</sup> Information supplied by the Ministry of People's Power for Labour and Social Security.

<sup>203</sup> Further information may be found in the memorandum concerning ILO Convention No. 98 submitted in 2010 by the Government of the Bolivarian Republic of Venezuela pursuant to article 22 of the constitution of the International Labour Organization.

<sup>204</sup> Article 86 of the Constitution.



360. The Social Security Act<sup>205</sup> establishes that social security is a fundamental and inalienable human and social right, guaranteed by the State to all Venezuelans resident in the territory of the Republic and to foreigners legally resident in the country, irrespective of ability to pay, social status, nature and place of employment, wages, earned income and unearned income, in accordance with the principles of progressiveness and the provisions of the Constitution and the various national laws, treaties, covenants and conventions signed and ratified by Venezuela.<sup>206</sup>

361. The Social Security Act<sup>207</sup> covers the following benefits: motherhood, fatherhood, layoff, old-age pension, survivor's pension and invalidity pension (in the case of accidents, occupational diseases or ordinary illnesses). The following provisions apply:

(a) Incapacity is divided into temporary, partial and total invalidity. The type of incapacity is established on the basis of the percentage loss of work capacity, subject to certification by the Venezuelan Social Security Institute.

(b) In the case of old age pensions, benefits are subject to age requirements (a minimum of 55 years for women and 60 for men) and the payment of contributions by the employer and the insured party.

(c) With regard to occupational diseases and work-related accidents, the special standard for certifying the origin of the occupational disease or work accident is contained in the Working Safeguards, Conditions and Environment Act.

(d) The provisions governing maternity and paternity benefits are covered in detail in this report.

(e) The survivor's pension may be claimed by children under the age of 14, children under 18 if pursuing a regular course of study, persons of any age if they are totally incapacitated and by the insured party's spouse or common-law partner.

(f) Finally, when a worker is laid off, he or she has the right to a temporary cash benefit for up to five months, equivalent to 60 per cent of the average regular monthly salary used to calculate contributions over the previous twelve months.

#### *Relevant jurisprudence*

362. In its judgement of 6 April 2001, case of *Glenda López et al. vs. the Venezuelan Social Security Institute*, and that of 8 May 2002, case file 00-0995, the Constitutional Division of the Supreme Court ruled that the Venezuelan Social Security Institute should supply the medications known as Transcriptase inhibitors and Protease inhibitors on a regular periodic basis, in keeping with the medical prescriptions voluntarily issued by specialists of the Service of Immunology and Infectious Diseases of the Domingo Luciani Hospital, to all those registered with the Venezuelan Social Security Institute; that the persons concerned should have been diagnosed with the HIV/AIDS infection; that they met the legal requirements for obtaining benefits under the social security system; and that they had requested the authorities of the said Institute to deliver the necessary medications for treating the infections as well as any opportunistic infections and to cover the cost of the specialized medical examinations required to treat the latter.

363. It also ordered the Venezuelan Social Security Institute to carry out and cover the cost of the specialized examinations necessary to have access to the transcriptase inhibitor and protease inhibitor combination therapies and all the therapies reasonably available nationally for the treatment of HIV/AIDS and possible opportunistic infections.

<sup>205</sup> *Gaceta Oficial*, No. 37600, 30 December 2002.

<sup>206</sup> Article 4 of the Social Security Act.

<sup>207</sup> *Gaceta Oficial*, Special No. 5891, 31 July 2008.

364. Finally, the Constitutional Division ordered the Venezuelan Social Security Institute to supply all the necessary medications for the treatment of opportunistic infections, including antibiotic, antifungal, anti-diarrhoeal, chemotherapy, radiotherapy and cryotherapy treatments.

365. Judgement No. 1518 of the Constitutional Division of the Supreme Court of 20 July 2007, case of *Pedro Marcano Urriola*, underlined that it is the duty of the State to ensure that civil servants receive their retirement pensions, which are intended to provide a lasting non-transferable benefit to officials entitled to receive it. It follows that retirement pension rights should prevail over removal from office, relinquishment of post or dismissal.

*Policies protecting the right to social security*

366. Decree No. 424 issued in 1999 nullified the liquidation of the Venezuelan Social Security Institute (IVSS), which had been established some three years previously. This was the start of the expansion of medical care services for the public and the modernization of the entire health-care network by restoring the hospital infrastructure and introducing up-to-date equipment in IVSS's 92 centres throughout the country.

367. The Ministry of People's Power for Labour and Social Security is responsible for the decentralised operation of the social security system through its associated bodies, including the Venezuelan Social Security Institute, the National Institute of Prevention, Health and Safety at Work and the National Institute of Worker Training and Recreation.

368. A key role has also been played by state social security policies with a human rights focus known as Missions, which have made a vital contribution in such areas as combating poverty, eradicating illiteracy, promoting gender equality, research and prevention in the health field, the rational use of the country's environmental potential and international cooperation and exchanges.

369. Comprehensive medical assistance projects have been developed to protect insured persons, pensioners and qualified family members against the need for preventive and remedial care due to sickness and/or maternity.

370. In the period between 2008 in 2010, the Venezuelan Social Security Institute assisted 2,068,963 persons with a variety of needs (haemodialysis, high-cost drug treatment and disability), representing an investment equivalent to US\$1,452,978,152.2.<sup>208</sup>

371. Another important category is the treatment of AIDS patients and programmes for the free distribution of anti-viral medicines; programmes for the prevention of HIV transmission through work-related accidents; and the programme for the prevention of mother-to-child transmission of HIV/AIDS.<sup>209</sup>

372. With the adoption in 1999 of the new Constitution, the pension was set at the same level as the minimum salary, to which it was to be adjusted automatically. Previously the amounts paid to pensioners were inadequate since pension increases were decided by the Government and there were no criteria for doing so.

373. Under special measures introduced by the Government, pension rights have been extended to groups traditionally excluded such as fishermen,<sup>210</sup> peasants<sup>211</sup> and

<sup>208</sup> Information supplied by the Venezuelan Social Security Institute.

<sup>209</sup> For further information, see the Venezuelan Social Security Institute webpage ([www.ivss.gov.ve/](http://www.ivss.gov.ve/)) and the report submitted by the Bolivarian Republic of Venezuela, for further *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.

<sup>210</sup> Decree No. 7402, published in the *Gaceta Oficial*, No. 39414, 30 April 2010.

<sup>211</sup> *Idem*.

housewives.<sup>212</sup> These groups, representing a total of 70,000 pensioners, now receive a monthly benefit equivalent to the minimum wage, These measures also provide for the payment of a special allowance equivalent to 60 per cent of the minimum wage to 100,000 Venezuelans who have never contributed to the social security system,<sup>213</sup> and also grant pension rights to those meeting their contribution requirements within a specified time, a measure benefiting 42,994 Venezuelans.

374. The number of pensioners in Venezuela has grown considerably, from 387,007 in 1998 to 12,157,710 at the present time, of whom 7,188,203 are men and 4,969,507 women.<sup>214</sup>

375. Between 1999 and the present time, over one million people have been brought within the pension system. Survivor's pensions have also been linked to the national minimum wage and beneficiary rights have been extended to safeguard living conditions. This has involved a partial modification of the Social Security Act and the statute governing the national, state and municipal civil service pension scheme.

376. Between 1999 and 2009, the percentage of gross domestic product devoted to social security increased by 3.88 per cent compared with the previous decade. The percentage of social investment in social security has similarly been rising since 1999 and has reached 9.26 per cent.<sup>215</sup>

377. The National Assembly is currently debating the fundamental reform of the Social Security Act, specifically the article referring to the optional continuation of compulsory social security in the case of self-employed workers, those remaining jobless on termination of their employment and also housewives.

378. With regard to General Comment No. 19 of the Committee on Economic, Social and Cultural Rights on the right to social security, reforms of the social security system in Latin America have been characterized by loss of the services, with the State playing a subsidiary role as regulator and inspector, that is to say the human right to social security has been privatized.

379. The Venezuelan State broke with this approach a decade ago and has developed a new health policy whereby the public sector takes priority over the private sector and the State is directly responsible for realizing the right to social security.

380. In this context, improvements have been made in the availability, quality and efficiency of the services and in codification of the right. These have involved: establishing universal cover, introducing positive discrimination policies, increasing the health budget, improving material resources (equipment, infrastructures, new information technologies and communications), intervention by the State to reduce drug prices, improving the training and remuneration of health workers, providing for interlinked social policies, prioritizing primary health services as a comprehensive health care model and, above all, treating health as a social and human right rather than as a commodity.

## Article 10

### *Normative framework for protection of the family*

381. The Constitution of the Bolivarian Republic of Venezuela protects families as the natural form of association within society, and as vital to the rounded development of

<sup>212</sup> Decree No. 7402, published in the *Gaceta Oficial*, No. 39414, 30 April 2010.

<sup>213</sup> Decree No. 5316, published in the *Gaceta Oficial*, No. 38673, 30 April 2007.

<sup>214</sup> Information supplied by the Ministry of People's Power for Labour and Social Security.

<sup>215</sup> National Budget Office. Central Bank of Venezuela.

individuals. Family relationships are based on equality of rights and duties, solidarity, common effort, mutual understanding and reciprocal respect among family members. The State likewise guarantees protection to the mother, father or other person acting as head of household.<sup>216</sup>

382. Similarly, children and adolescents have the right to live with, be raised by and develop in their family of origin and, where this is impossible or contrary to the child's best interests, to live with, be raised by and develop in a foster family. Adoption has effects similar to those of parenthood, and is established in all cases for the benefit of the adoptee.

383. Parenthood is fully protected, whatever the marital status of the parents. Couples have the right to decide freely and responsibly how many children they wish to conceive, and are entitled to access to the information and means necessary to guarantee the exercise of this right. The State guarantees overall assistance and protection for motherhood, in general from the moment of conception, throughout pregnancy, delivery and the puerperal period, and guarantees full family planning services based on ethical and scientific values.

384. The parents have the shared and inescapable obligation of raising, training, educating, maintaining and caring for their children, and the children have the duty to assist them when the parents are unable to do so by themselves. Marriage, which is based on free consent and on absolute equality of rights and duties of the spouses, is likewise protected. It is also established that a stable *de facto* union between a man and a woman has the same effects as marriage.<sup>217</sup>

385. Concerning the rights of the elderly, the Venezuelan State guarantees comprehensive care and social security benefits to improve and ensure their quality of life. Senior citizens are guaranteed the right to decent work, if they express a wish to work and are capable of working. Also, all persons with disabilities or special needs have the right to the full and autonomous exercise of their capacities and to integration within their family and the community.<sup>218</sup>

#### *Relevant jurisprudence*

386. In Judgement No. 1682 of 15 July 2005, case of *Carmela Mampieri Giuliani*, the Constitutional Division of the Supreme Court issued a definitive ruling on the request for an interpretation of article 77 of the Constitution concerning application of the effects of marriage to a "stable *de facto* union", stating that: (a) For it to have the civil effects of marriage, a "stable union" has to have been the subject of a lawful declaration and legally binding decision; (b) Marriage — because of its formal character — is an institution distinct from consensual union or any other stable union in the manner in which it is contracted, which is why the latter cannot be wholly equated with marriage and why it cannot be claimed that all the effects of marriage automatically apply to a "stable *de facto* union".

387. It accordingly found that:

(a) The duties of cohabitation and fidelity imposed on the spouses by article 137 of the Code of Civil Procedure, and which constitute grounds for divorce when violated, do not apply to consensual or other types of union;

(b) The obligation of mutual assistance stipulated in the same Code is applicable to any type of union;

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<sup>216</sup> Article 75 of the Constitution.

<sup>217</sup> Article 76 of the Constitution.

<sup>218</sup> Articles 80 and 81 of the Constitution.

(c) The tokens of civil status, such as use of the husband's surname by the woman, cannot in the judgement of the Constitutional Division be used by a person who has not contracted marriage;

(d) To be equated with marriage, a "stable *de facto* union" must include a property regime, in accordance with article 767 of the Civil Code relating to consensual union but applicable by analogy to *de facto* unions, namely a community of goods acquired during the existence of the union;

(e) The foregoing interpretation is without prejudice to the rights of indigenous peoples and communities as regards their forms of social organization, uses and customs, recognized in article 119 of the Constitution.

388. Judgement No. 1456 of 27 July 2006, case of *Yamilex Coromoto Núñez Godoy*, involved an instance that was without legal precedent in the country, not only because of the plaintiff's expectation that she could have an *in vitro* fertilization but also because of the circumstance of her spouse's death. The Court based its analysis on: (a) The rights claimed to have been infringed, namely: the right to procreate, to free development of the personality, and to motherhood, without discrimination of any kind; (b) Assisted reproduction, its forms (including *in vitro* fertilization), the establishment of affiliation in the case of assisted reproduction, reference to paid donors and cases of surrogate mothers, fertilization without consent, and the capacity to inherit; and (c) the evidence in the case file.

389. The Court considered that the delivery of a seminal sample to a fertility clinic specializing in assisted fertilisation implied the direct and express wish of the spouse (subsequently deceased) for one of the methods of assisted reproduction to be used and for his wife to be the person receiving the semen; and that for anyone to cast doubt on the validity of that expression of will, it would be necessary for the husband to have stated in writing that his sperm should be destroyed before his death, which was not the case in the present instance.

390. The Court also indicated that the exercise of the plaintiff's right to procreate did not mean that the future offspring would have to negotiate in any way the civil and social rights to which he or she was entitled, in keeping with the Constitution and the law, since the person concerned would be a descendant of the marriage union.

391. The Constitutional Division<sup>219</sup> ruled that articles 75 and 76 of the Constitution, contained in the chapter on Social and Family Rights, provided for the protection of the family and parenthood, underlining that such protection was also foreseen in the core international human rights instruments, which stated that the family is the natural and fundamental constituent of society and, as such, had the right to be protected as a part of society and of the State (Universal Declaration of Human Rights, art. 16.3; International Covenant on Civil and Political Rights, art. 23.1; American Convention on Human Rights, art. 17.1), and stressing that it should be accorded the "widest possible protection and assistance (...), particularly for its establishment and while it was responsible for the care and education of dependent children" (International Covenant on Economic, Social and Cultural Rights, art. 10.1).

392. Under this constitutional protection of the family institution, special protection was accorded to: (a) the person acting as head of the family, whether the father, mother or any other member of the family group; and (b) parenthood, without any distinction as to civil status. Particularly relevant in this regard is the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 29 November 1989, which recognizes

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<sup>219</sup> Supreme Court Judgement No. 232 of 4 March 2011, case of *Félix Daniel Lugo Yndriago*.

the fundamental role of the family and the parents in the child's protection and the obligation of the State to help them in fulfilling their duties. Having regard to the great importance given to protection of the family by international instruments and the Constitution, the Venezuelan State has adopted the Family and Parenthood Protection Act, regulating some novel approaches to parenthood, including labour protection and the recognition of parenthood.

*Methods adopted for protection of the family*

393. The implementation of social policies in Venezuela is based on a comprehensive approach that recognizes the complexity of social issues and seeks to take account of their different dimensions. The efforts of all branches of Government are accordingly coordinated with a view to optimizing strategies for action.

394. From management through to the coordination of human and economic resources, integrated working methods and projects have been developed to generate proposals that transcend piecemeal action.

395. An example of this is the establishment of the Permanent Commission on the Family within the National Assembly, with responsibility for all matters relating to protection of the family and its comprehensive development, based on common effort, the equality of rights and duties, reciprocal respect among family members, the protection of parenthood and also of marriage and *de facto* stable unions.

*The elderly*

396. The National Social Services Institute (INASS), a body dependent on the Ministry of People's Power for Communes and Social Protection, is responsible for ensuring the well-being, social inclusion and respect for the rights of adults, the elderly and other categories of persons through their active involvement in society. It implements policies for the development of a culture of integration, protection and respect with regard to senior citizens and other categories of people, in coordination with various public and private bodies sharing the values and principles of social justice, co-responsibility and autonomy.

397. The Institute offers a free medical service, financial support for surgical operations, technical assistance, economic aid and access to facilities for a variety of activities conducive to an active old age and promoting a culture that integrates adults and senior citizens in the family and the community.

398. A national network of social service centres has also been created to provide comprehensive care for the elderly to further their physical, psychological and social well-being. These centres are in some cases residential, catering for the abandoned, homeless or those lacking proper accommodation; others are outpatient facilities for those who, while they are in need, have access to a home. Another venture is the SOS Villages (*Aldeas de Encuentro*), where people can share and exchange their experience and knowledge with the family and community and participate in various activities in the presence of a highly qualified and committed staff ready to provide them with care and understanding in a variety of areas (including nutrition, health, culture, recreation and sport).<sup>220</sup>

399. In this way, the Venezuelan State has been giving practical expression to the rights and measures described in the Committee's General Comment No. 6 on the economic, social and cultural rights of older persons, as regards ensuring their independence, dignity

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<sup>220</sup> For further information, see the INASS webpage at: [www.inass.gob.ve/](http://www.inass.gob.ve/).

and development in relation to the right to work, social security, health and, in short, the development of an adequate living standard.

400. In accordance with the guidelines contained in General Comment No. 6, the protection and realization of this right are based specifically on the provision of the technical tools for improving the quality of life of elderly persons who lack the means to pay for them, such as wheelchairs, walking frames, crutches, walking sticks, mattresses, orthopaedic shoes, clinical beds and orthopaedic prostheses, hearing aids, dental equipment and medicines.

401. In accordance with article 39 of the Social Services Act, financial support ranging from a minimum of 60 per cent to a maximum 80 per cent of the minimum wage is also provided to needy adults and elderly persons lacking any pension provision, to needy persons under 60 years of age without any family members or totally disabled, to families suffering economic hardship, to housewives and to indigenous peoples in need.

#### *Working mothers*

402. The period covered by this report has seen the development of extensive legislative provision for maternity protection, making Venezuela one of the most advanced Latin American countries in this regard. The Social Services Act covers the following aspects related to the protection of pregnant and breastfeeding women.

403. An employed woman who is pregnant may not be moved from her job for a year following the birth or dismissed without a prior review by a labour inspector. She is also excused from work requiring physical exertion that may cause her to miscarry or to prevent the normal development of the foetus and her refusal to perform such work may not result in a change in her working conditions.<sup>221</sup>

404. She may not be transferred from her place of work, unless this is required for operational reasons and provided the transfer is not harmful to her pregnancy, and her wages may not be reduced or her working conditions worsened in consequence.<sup>222</sup>

405. The pregnant woman worker is entitled to a period of leave of six weeks before the birth and 12 weeks after, or for a longer time in the event of illness medically certified to result from the pregnancy or the birth or that incapacitates her for work.<sup>223</sup>

406. When she does not use all the prenatal leave, with medical authorization or because the childbirth is premature, or for any other reason, the unutilized time accumulates for the postnatal leave period. Maternal leave may not be waived.<sup>224</sup>

407. If she adopts a child aged less than 3 years, she is entitled to maternity leave for a maximum period of 10 weeks, counting from the date on which family placement takes place.<sup>225</sup>

408. Where annual leave to which she is entitled is requested immediately after her maternity leave, an employer is obliged to grant that request.<sup>226</sup>

409. While she is breastfeeding, she is entitled to two half-hour breaks per day for each breastfeeding session in the relevant care centre. If there is no care centre, breaks shall be of one hour each.<sup>227</sup>

<sup>221</sup> Article 384 of the Labour Code.

<sup>222</sup> Article 383 of the Labour Code.

<sup>223</sup> Article 385 of the Labour Code.

<sup>224</sup> Article 386 of the Labour Code.

<sup>225</sup> Article 387 of the Labour Code.

<sup>226</sup> Article 388 of the Labour Code.

410. No distinction may be made between the salary of a worker who is pregnant or breastfeeding and the salary of others who do equal work in the same establishment.<sup>228</sup>

411. Under the Equal Opportunities for Women Act,<sup>229</sup> a pregnant woman may not be dismissed. No pressure may be put on her, and her rights may not be impaired, during or on the grounds of pregnancy. In the event of her rights being infringed in this way, she may invoke her right to protection and redress under the Constitution. Similarly, pregnancy may not be grounds for discrimination and employers must refrain from requiring or conducting medical examinations of women seeking employment or of existing employees in order to determine whether or not they are pregnant, with a view to accepting or rejecting them for new employment or confirming them in existing employment.

412. The Venezuelan State includes the protection of paternity as a factor in comprehensive protection of the family. The Family and Parenthood Act,<sup>230</sup> stipulates that a father, whatever his civil status, has the right, like the mother, to security of employment for one year following the birth of his child and may not be dismissed, transferred or demoted without just cause, as verified by the Labour Inspector.

413. The Act also stipulates that a father is granted remunerated paternity leave for 14 successive days following the birth of the child in order to enable him to assume the obligations and responsibilities of care and assistance on an equal footing with the mother, and provides for the possibility of extending the paternity leave for 21 successive days in the event of the child's illness.

414. To ensure the child enjoys proper care and treatment during the first year of life, the Regulations of the Working Safeguards, Conditions and Environment Act provide for the right of the working father or mother to take one day's paid leave per month to attend the childcare centre; this leave is to be paid by the employer as if the working mother or father had actually worked the day in question.

415. The Social Security Act establishes that an insured woman is entitled to such medical benefits as prove necessary when she becomes a mother and is also entitled to remunerated leave, consisting in daily compensation during the six weeks' prenatal leave and 12-week postnatal leave.

416. The purpose of the Act on the Promotion of Breastfeeding<sup>231</sup> is to promote, protect and support breastfeeding as the ideal way of providing adequate food for babies in order to assure them a healthy life and full development.

#### *Children and adolescents*

417. Concerning protection of the rights of children and adolescents, the Constitution provides that Children and adolescents are full legal persons and shall be protected by specialized legislation, organs and courts and by such international treaties as the Republic has signed and ratified. The State, families and society shall give absolute priority to ensuring their full protection, taking into account their best interests in decisions and actions concerning them. Similarly, work by adolescents at tasks that may affect their overall development is prohibited. The State shall protect them against any form of economic and social exploitation.<sup>232</sup>

<sup>227</sup> Article 393 of the Labour Code.

<sup>228</sup> Article 394 of the Labour Code.

<sup>229</sup> *Gaceta Oficial*, Special No. 5398, 26 October 1999.

<sup>230</sup> *Gaceta Oficial*, No. 38773, 20 September 2007.

<sup>231</sup> *Gaceta Oficial*, No. 38763, 6 September 2007.

<sup>232</sup> Article 78 of the Constitution.



418. The National Child Protection System, which is overseen by the Autonomous Institute of the National Council for Children's and Adolescents' Rights attached to the Ministry of People's Power for Communes and Social Protection, has become more effective since the promulgation of the Child Protection Act (LOPNNA).<sup>233</sup>

419. Public policies on children and young people are based on a set of legal provisions,<sup>234</sup> decisions, agreements and actions implemented by the Government in conjunction with organized society to ensure that the rights of children and young people, especially those in situations of vulnerability and social risk, are fully realized. In this respect, a key role is played by the Neighbourhood Children Mission, which was established by the Government in 2008 with a view to providing rapid comprehensive protection for children and youngsters living on the street, at risk, in institutions<sup>77</sup> or working.

420. Protection for this most sensitive age group is supplemented by 164 specialized courts, public prosecutor's offices, 275 public defender's offices, administrative protection bodies; and the Intersectoral Commission on the Sexual Abuse and Exploitation of Children and Adolescents.<sup>235</sup>

421. In the labour field, the Child Protection Act (LOPNNA) establishes the right to protection by the State, the family and society, especially against economic exploitation and any work that could hinder their education or which could be dangerous or harmful to their health or comprehensive development. The State likewise gives priority to monitoring compliance with regulations on the minimum age, authorization to work and supervision of adolescents' work.

422. The minimum working age is set at 14 years and the Government can establish by decree minimum ages above this limit for dangerous or harmful work. Persons who have reached the minimum age and are under eighteen cannot perform any type of work specifically prohibited by law and in case of any infringement of this minimum working age those concerned are entitled to all the rights, benefits and remuneration corresponding to the employment relationship.<sup>236</sup>

423. The Council for the Protection of Children and Adolescents may, when justified by circumstances, authorize work by adolescents below the minimum age, provided the activity concerned does not prejudice their right to education, is not dangerous or harmful to their health or comprehensive development and is not expressly prohibited by law. However, before authorization is granted, the adolescents should undergo a thorough medical examination attesting to their health and physical and mental fitness for carrying

<sup>233</sup> The main purpose of this Act is to guarantee to all children and adolescents within the national territory the exercise and the full and effective enjoyment of their rights and guarantees, through the comprehensive protection that the State, society and the family must provide for them from the moment of their conception. The "best interests of the child", as the guiding principle in the implementation of this Act, must be observed in the adoption of any decisions concerning them, with the aim of ensuring their comprehensive development.

<sup>234</sup> The legal instruments promulgated include: the Civil Register Act, which enacts the constitutional guarantee of the right of all persons to identity and to be included in the civil register free of charge, guaranteeing the social inclusion of children; the Act on the Protection of Children and Adolescents in Places for Internet, Videogames and other Multimedia Uses; and the Act on the Prohibition of Warlike Video Games and Toys.

<sup>235</sup> National report for the Universal Periodic Review of the Bolivarian Republic of Venezuela, submitted to the Human Rights Council in accordance with paragraph 15 (a) of the annex to resolution 5/1. Caracas, 4 July 2011.

<sup>236</sup> For further information, see the memorandum on Convention No. 138 concerning the "Minimum Age for Admission to Employment", submitted by the Government of the Bolivarian Republic of Venezuela in 2009, in accordance with the provisions of article 22 of the ILO Constitution.

out the work concerned and should hear the opinion of the adolescents, and their father, mother, representatives or persons responsible for them.<sup>237</sup>

424. The working day for adolescents may not exceed six hours per day and must be divided into two periods, neither of which must be greater than four hours, and must include a rest period of one hour. The working week must not exceed thirty hours. Overtime work by adolescents is likewise forbidden.<sup>238</sup>

425. The Act stipulates that working adolescents must undergo a comprehensive medical examination every year to identify possible effects of the work on their health and non-dependent working adolescents must undergo a comprehensive medical examination annually in a public health service or centre free of charge.<sup>239</sup>

426. This protection system expressly prohibits slavery, servitude and forced labour and provides for criminal sanctions in such cases.<sup>240</sup>

427. The Partial Regulation of the Working Safeguards, Conditions and Environment Act (LOPCYMAT) likewise categorizes as unsafe and unhealthy conditions in which the employer does not ensure the protection of mothers, working adolescents or apprentices and individuals subject to special protection.<sup>241</sup>

428. The Neighbourhood Children Mission cares, among others, for adolescent workers, and the Autonomous Institute of the National Council for Children's and Adolescents' Rights (IDENNA) is responsible for the Programme to Dignify Working Children and Adolescents, whose main aim is to promote the organization and proactive participation of adolescents in the creation of social production units.<sup>242</sup>

429. Other programmes and projects being developed by IDENNA are:

(a) Therapeutic and detoxification care for adolescents with problems of addiction to psychoactive substances, aimed at providing them with rehabilitation and comprehensive protection, involving inclusive assessment, treatment and follow-up by a multidisciplinary team.

(b) Communal shelters for children and adolescents subject to 30-day referral orders by the Municipal Protection Council. Separated from their family environment, these children are guaranteed full exercise of their rights in the areas of health, education, sport and recreation.

(c) Community centres providing comprehensive care in the form of educational, cultural and sporting development, medical and dental services and educational support in reading, writing and mathematics.

(d) National Plan for Family Inclusion promotes substitute families, through family placement or adoption, as a means of ensuring the comprehensive development of children and adolescents in care centres under protection measures.

<sup>237</sup> Article 96 of LOPNNA.

<sup>238</sup> Article 102 of LOPNNA.

<sup>239</sup> Article 105 of LOPNNA.

<sup>240</sup> Article 38 of LOPNNA.

<sup>241</sup> Article 12.3 of the Partial Regulation of LOPCYMAT.

<sup>242</sup> An example in 2008 was the project to dignify persons working and living on rubbish tips and the surrounding areas, in which IDENNA analysed and collected information on the child and adolescent population working in conditions harmful to their health. The rubbish tips visited included ones located in the States of Nueva Esparta, Aragua, Lara and Mérida. For further information, see the aforementioned memorandum on Convention No. 138 concerning the "Minimum Age for Admission to Employment".

(e) Mobile IDENNA is a support unit for training, recreational and cultural activities, which helps create closer links between the Neighbourhood Children Mission and the community by promoting and strengthening the rights of children and adolescents.

(f) The Semillero de la Patria organization is a national movement promoting the participation and critical awareness of children and adolescents in the defence and advocacy of their rights.

(g) Comprehensive Protection Units protect children and adolescents separated from their family environments and create the conditions enabling them to exercise their rights fully pending their return to their families of origin or placement in substitute families. These units provide children and adolescents with comprehensive care, guaranteeing their right to health, sports, recreation, culture and education.

(h) Spokespersons of the mass communication teams of the Infanto Juvenil del Semillero de la Patria organization.

(i) The Bolivarian Colmenita, a cultural collective and UNICEF goodwill ambassador, enables children and adolescents to develop their knowledge of the cultural and indigenous values of Venezuela, in keeping with the Bolivarian ideal.

430. It emerges from the report *No más trabajo infantil: una meta posible de alcanzar*<sup>243</sup> that the rates of working children aged from 10 to 14 varied between countries, Venezuela having one of the lowest rates. In a study carried out by UNICEF and ECLAC in eleven Latin American countries, Venezuela was similarly placed second in terms of the percentage of children and adolescents aged 10 to 14 years reported to be working at the time of the enquiry. With between some 2 and 6 per cent of working children, Venezuela was one of the countries with the lowest rates of child labour.

431. The study interestingly showed an increase in children and adolescents who study and work without dropping out of school, which corroborates some positive trends in national variables concerning education and employment among children and adolescents. They include rising levels of school attendance, a reduction in the number of children falling behind at school and a sustained reduction in the absolute and relative incidence of child labour, with reference to both sexes and all age groups. This situation should lead to the early attainment of the United Nations Millennium Declaration Goals and other goals to which the Bolivarian Republic of Venezuela is committed.

## Article 11

### *Normative framework for protecting the right to food*

432. The Constitution of the Bolivarian Republic of Venezuela establishes that the right to food consists primarily in safeguarding and ensuring access to nutritious food by the whole population, without discrimination of any kind. To this end, the State undertakes to “promote sustainable agriculture as the strategic basis for overall rural development so as to guarantee the population a secure food supply”.<sup>244</sup>

433. The Food Security and Sovereignty Act<sup>245</sup> likewise guarantees the availability of and timely access to adequate quantities of good quality food. It defines food security as the effective ability of the State, in cooperation with the national agricultural sector, to

<sup>243</sup> Study on education and child labour in the Bolivarian Republic of Venezuela, submitted by UNICEF in the framework of the Country Programme Action Plan, concluded between the Government of the Bolivarian Republic of Venezuela and UNICEF for the period 2009–2013.

<sup>244</sup> Article 305 of the Constitution.

<sup>245</sup> *Gaceta Oficial*, No. 5889, 31 July 2008.

guarantee the availability, exchange and equitable distribution of food to the whole population on a stable basis so as to ensure the physical and emotional conditions for integral and sustainable human development. Interchange, complementarity and economic integration between peoples and nations are recognized to be an essential ingredient in guaranteeing the right to food.

434. According to FAO,<sup>246</sup> Venezuela is the fifth country in the world to acknowledge the right to nutrition in its legislation.

435. Legislative measures adopted in recent years to define and protect the right to food include: the Land and Agricultural Development Act,<sup>247</sup> Agricultural Marketing Act,<sup>248</sup> Aquatic and Insular Spaces Act,<sup>249</sup> Fisheries and Aquaculture Act,<sup>250</sup> Act on Benefits and Payment Facilities Relating to Agricultural Debts in Strategic Sectors for Food Security and Sovereignty,<sup>251</sup> Agricultural Credit Act,<sup>252</sup> Agricultural Bank of Venezuela Act,<sup>253</sup> Agricultural Comprehensive Health Act,<sup>254</sup> and the Act amending the Decree with Status and Rank of Law on Land and Agrarian Development.<sup>255</sup>

#### *Relevant jurisprudence*

436. With regard to food security, the Constitutional Division of the Supreme Court<sup>256</sup> has ruled that:

(a) As a right essential to the sustainable development of the Nation, food security should take the form of a guarantee to consumers concerning the “timely and uninterrupted access to foods by the consumer public” and to producers — including traders — concerning the “adequate and stable availability of food at the national level”, which implies the possibility of having access to the means for developing the production and marketing of the corresponding agricultural products.

(b) This dual aspect of the right to food security arises from the fact that the development of agricultural activity does not depend exclusively and directly on activity in rural areas but is equally dependent on agro-industrial and commercial activity and on consumer behaviour. This is why Venezuelan legislation has developed the concept of the agro-productive chain, involving the relationship between agricultural, agro-industrial and agro-commercial producers. The latter relationship includes the economic agents and factors that play a direct part in the production, transfer, transformation and wholesale distribution of a given agricultural product — see article 5(c) of the Agricultural Marketing Act, published in the Official Gazette No. 37389 of 21 February 2002.

(c) In this connection, effective judicial protection of the right to food security should not be confined to redressing legal infringements by any of the links in the agro-productive chain but should focus primarily on the exercise of judicial powers to ensure the sustainability of the relevant agro-productive sector with a view to protecting the

<sup>246</sup> FAO, Annual Report.

<sup>247</sup> *Gaceta Oficial*, No. 37323, 13 November 2001.

<sup>248</sup> *Gaceta Oficial*, No. 37389, 21 February 2002.

<sup>249</sup> *Gaceta Oficial*, No. 37596, 20 December 2002.

<sup>250</sup> *Gaceta Oficial*, No. 38891, 14 March 2008.

<sup>251</sup> *Gaceta Oficial*, Special No. 5891, 31 July 2008.

<sup>252</sup> *Gaceta Oficial*, Special No. 5890, 31 July 2008.

<sup>253</sup> *Gaceta Oficial*, Special No. 5891, 31 July 2008.

<sup>254</sup> *Gaceta Oficial*, Special No. 5890, 31 July 2008.

<sup>255</sup> *Gaceta Oficial*, Special No. 5991, 27 July 2010.

<sup>256</sup> Judgement No. 1444 of 14 August 2008, case of *Cámara Venezolana de Almacenes Generales y Depósitos*.

rights of future generations in order to reinforce the Nation's sovereignty and independence — see Judgement No. 692/2005 of the Constitutional Division of the Supreme Court.

437. It follows from this systemic vision of food security that any action or omission that directly or indirectly, totally or partially, disrupts a given agro-productive chain constitutes a matter of public order and national interest and must be subject to the jurisdiction of the courts, irrespective of whether the threat or damage derives from an individual or legal entity of a public or private nature to the extent that the action or omission is a threat or proves in practice harmful to the maintenance and sustainable development of domestic agricultural production. The Constitution shows how food security is dependent on the development and protection of domestic farming production, understood as production deriving from the activities of agriculture, livestock, fishing and aquaculture. However, it also establishes that the minimum means that the State should adopt to this end should include the use of measures in the areas of finance, commerce, technology transfer, land tenancy, infrastructure, manpower training and the promotion at national and international level of economic actions to compensate for shortcomings in the agricultural field as well as any other actions needed to ensure strategic levels of self-sufficiency. With regard to the financial and commercial measures (linked in the present case), it should be emphasized that, in accordance with articles 299, 305 and 308 of the Constitution, these do not simply correspond to the guarantee of economic freedom but also to the State's obligation to establish a legal framework for the sustainable development of agricultural activities.

438. The Constitutional Division of the Supreme Court<sup>257</sup> declared:

(a) If food security is defined as the adequate and stable availability of food nationally and the timely and uninterrupted access to food by consumers, conducive to the effective exercise of popular sovereignty, and if the Bolivarian Republic of Venezuela establishes itself as a free and independent State, any activity that leads directly or indirectly — including through abstentions or partial interventions in a given agricultural chain, whether by individuals or legal entities of a public or private nature — to a deterioration of the sustainable maintenance or development of domestic agricultural production constitutes a matter of public order and national interest and should be subject to the jurisdiction of the courts in accordance with the provisions of article 305 of the Constitution;

(b) Effective judicial oversight of the right to food security cannot therefore be limited to determining whether in the immediate the claims of the producers are satisfied but must also take into account the nature of this right, which like environmental rights is distinctive in that protection of the right is essentially directed towards safeguarding future generations;

(c) In the opinion of the Constitutional Division, the systemic character of the exercise of agricultural activity and particularly of the necessary relationship between the different links in the agro-productive chain have fundamental implications for the interpretation and scope of the functions of the organizational structures responsible for decisions on the development of the activity in question; the Constitutional Division therefore concludes that, in accordance with the Agricultural Marketing Act, the National Boards are competent to discuss and fix support prices by sector or crop, their decisions being binding subject to compliance with the requirements laid down in the relevant Act and its Partial Regulations, given that their structure is a guarantee of the universal character enabling the people to play an active part in the integral development plans of the State, not only through consultation but also through the adoption and implementation of decisions.

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<sup>257</sup> Judgement No. 471 of 10 March 2006, case of *Gaetano Minuta Arena and others*.

*Policies for promoting and protecting the right to food*

439. Created with the aim of guaranteeing the right to adequate food, the Ministry of People's Power for Food<sup>258</sup> is responsible for formulating and monitoring policies, standards and procedures relating to the organization, management and monitoring of the production, import, export, transformation, distribution and marketing of food products nationally. This enables it to draw up the national balance sheet and to establish the operational and strategic food stocks to ensure the food security of the population.

440. Relevant also in this regard is the work of the Institute for the Defence of People's Access to Goods and Services (INDEPABIS), which is entrusted with enforcing the current legal framework related to food marketing and distribution.

441. Another initiative has been the establishment of the Food Mission<sup>259</sup> as part of a food supply policy that has promoted food programmes and nationwide distribution networks of reasonably priced foodstuffs. The average saving for members of the public using these distribution centres is 42 per cent, compared with the prices charged at other commercial outlets.

442. This food policy prioritizing vulnerable groups and those socially and economically at risk is implemented through a series of public institutions coordinated by the Ministry of People's Power for Food. They include the Venezuelan Food Production and Distribution Service (PDVAL)<sup>260</sup> of the Strategic Food Programme Foundation,<sup>261</sup> the Venezuelan Food Company,<sup>262</sup> the National Nutrition Institute (INN), the sales outlets,<sup>263</sup> the National Agricultural Silos, Warehouses, and Depots Authority, and the Bicentennial Food Markets network.

443. The food networks are aimed at the most vulnerable sectors of the population and operate through food kitchens and community cooking facilities. As well as relying on a fleet of State vehicles, the food distribution process has drawn on the services of cooperatives and small transport firms, which have facilitated and expanded the distribution process as well as creating sources of employment for the population.

444. The School Meals Programme (PAE), which benefited 4,055,135 pupils in 2010, up from 119,512 in 1998, representing an increase of 3,293 per cent over the last eleven years, is aimed essentially at catering for the food and nutritional needs of children, adolescents and young students within the Bolivarian education system.<sup>264</sup>

445. Implementation of these policies over the last decade has meant that 5 million Venezuelan citizens, including children, elderly people and the homeless, have had access

<sup>258</sup> *Gaceta Oficial*, No. 38024 of 16 September 2004.

<sup>259</sup> Initiated in 2004 with the principle aim of commercializing and marketing basic foodstuffs. It continues to promote food security for the low-income Venezuelan population.

<sup>260</sup> On 6 January 2008, the President of the Bolivarian Republic of Venezuela announced the creation of the Venezuelan Food Production and Distribution Service (PDVAL) with the aim of guaranteeing food supplies.

<sup>261</sup> Its aim is the provision of direct subsidies to the least protected sectors of the population, in the form of agricultural products regarded as strategic for their high calorific and protein content. Between 2004 and 2008, the soup kitchen network assisted 4,146,000 persons of limited financial means.

<sup>262</sup> It provides services for the processing, packaging, storage and distribution of raw materials, finished products and agricultural produce.

<sup>263</sup> Supplies products at a cost below the market price. There are two types of Mercal outlets besides the *Bodegas* (small shops), mobile *Bodegas*, *Megamercales* (open-air supermarkets) and *Centros de Acopio* (food depots). There are 16,992 distribution points and 115 food depots nationwide.

<sup>264</sup> Voluntary presentation by the Bolivarian Republic of Venezuela to the Economic and Social Council (ECOSOC) on "Implementing the internationally agreed goals and commitments in regard to education": "Venezuela: the world's largest classroom", 5 July 2011.

to free daily nourishment. Equally, subsidies provided by the countrywide Mercal network have reached 12 million inhabitants. Thanks to these measures, the daily food intake of Venezuelan citizens has reached 2,790 kcal per head, an increase of 40 per cent with respect to 1998.

446. These measures for improving access to foodstuffs are linked to policies designed to increase the purchasing power of the population, notably the increase in the minimum wage, the decree on job security, subsidies to food producers and the regulation of food prices. In its 2010 report, FAO included Venezuelan in the second category of countries with the highest level of food security, reflecting the success of national policies.

447. Halving the proportion of people suffering from hunger is one of the Millennium Development Goals, and it is evaluated by means of nutritional deficit indicators (overall malnutrition) and the prevalence of undernourishment. Venezuela, it should be noted, has almost achieved this goal prior to the target year of 2015. It has also reduced the number of households living in extreme poverty, down from 21 per cent in 1998 to 7.1 per cent in 2010.<sup>265</sup> All this is the result of public policies aimed at improving income and wealth distribution through an historic social investment over the course of this decade, up from US\$12,465,054 in 1999 to a cumulative investment of US\$393,478,011 in 2010.<sup>266</sup>

#### *Adequate nutrition*

448. Sufficient food of adequate quality is a key element in maintaining good health. While it is important throughout life, infants and schoolchildren are a particularly vulnerable group given the impact of nutritional imbalances on their physical and mental development. It is important therefore to strengthen coordination measures within and between sectors to help reduce the morbidity and mortality associated with malnutrition and micronutrient deficiencies.

449. The National Nutrition Institute has carried out a descriptive and analytical diagnosis of the problems and key factors relating to the food and nutritional profile, highlighting geographical areas, social segments and biological groups at greater risk, through monitoring of primary healthcare, the hospital network, schools and nutritional statistics and evaluating nutritional anthropometrics at the primary healthcare level, food habits and food balance sheets.

450. An initiative is underway to promote a new nutritional culture by presenting food groups in a graphic and user-friendly manner. The “Spinning Top Food Guide” strategy, and a similar strategy for indigenous communities, assembles information in visual form on the values that make up a rational and healthy diet, and enables the peasant producer to plan his crop and, among other things, standardize the criteria for the import and selection of food for consumption. The Spinning Top is also being included in the new curriculum structure for primary and secondary education in order to promote sound eating habits.

451. The studies carried out by the National Nutrition Institute on the feeding of children during the first two years of life, on the status of iodine and associated factors in pregnant women in the Andean region of Venezuela in 2008, and on the prevalence of overweight and obesity in the Venezuelan population aged 7 to 40, together with the efforts made since 1999 through policies on the production, distribution and sale of foodstuffs and the nutritional protection of vulnerable groups, have helped to improve nutrition levels among the population.

<sup>265</sup> Studies carried out by the National Institute of Statistics.

<sup>266</sup> National report for the Universal Periodic Review of the Bolivarian Republic of Venezuela, submitted to the Human Rights Council in accordance with paragraph 15 (a) of the annex to resolution 5/1, Caracas, 4 July 2011.

452. The nutritional deficit by weight/age in children under five, which relates the weight of a child under 5 years of age to the reference for the same age and weight, stood at 7.7 per cent in 1990 and then progressively fell to 5.3 per cent in 1998. In recent years, the indicator has continued to fall, reaching 4.5 per cent in 2001. As a result of reinforced nutritional policies since 2003, it recorded 3.7 per cent in 2008 and 3.2 per cent in 2009.<sup>267</sup>

453. Concerning the Committee's General Comment No. 12 on the right to adequate food, the Venezuelan State has placed special emphasis on this topic. Under the "Oil-Sowing Plan", it has strengthened investments in agriculture and in the recovery of fallow and unproductive land, and has promoted extensive agricultural reform. It has also prioritized strategic alliances with countries in the region with wide experience in the field, such as Argentina, Brazil Uruguay, as well as with specialized organizations such as FAO, with the aim of making the right to adequate food more accessible and improving infrastructure and technology in that regard.

*The right to water*

454. The Millennium Development Goals include a commitment to halve by 2015 the proportion of people without sustainable access to safe drinking water. Venezuela achieved the target of safe drinking water coverage in 2001, reducing the deficit of the population without access to clean water networks to 15.2 per cent.<sup>268</sup>

455. The target of wastewater coverage was reached in 2005, reducing the deficit of the population with no sewage collection through networks to 21.1 per cent.

456. Over 90 per cent of the population has access to drinking water. One task that has traditionally proved difficult and expensive is to bring safe water and sanitation to the poorest sectors and those living in remote areas, especially rural settlements, and slums. Venezuela now has a strong infrastructure for collection, purification and distribution of drinking water, with a total production capacity sufficient to supply water to a population of 30 million and has also made significant progress in reducing existing basic sanitation deficits.

457. In 1990, 32 per cent of the population lacked domestic drinking water services, and the commitment was to ensure that by 2015 84 per cent of the population would have access to the service. Similarly, 48 per cent of the population was excluded from the sewage disposal networks and the commitment was to reach 76 per cent by the same year.<sup>269</sup>

458. These major infrastructure investments account for the increased coverage of household drinking water networks between 1999 and 2001. The latter was the year in which coverage of 84.8 per cent of the country's total population was achieved in advance of the Millennium Development Goal of halving the proportion of the Venezuelan population without access to safe drinking water by 2015, based on the 1990 estimate. Since the end of 2005, a very important water-related strategy has been adopted, involving the financing of projects implemented by the communities themselves, in the form of technical committees<sup>270</sup> on water responsible for checking water supply failures, drinking water, sewage leaks, etc.<sup>271</sup>

<sup>267</sup> Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.

<sup>268</sup> *Idem.*

<sup>269</sup> *Idem.*

<sup>270</sup> As of 2010, 7,452 technical committees on water had been set up throughout the country.

<sup>271</sup> Bolivarian Republic of Venezuela, *Attaining the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.



459. In addition, extension of the public network has continued at a steady rate, while existing services have been improved, ensuring that by the end of 2009 95 per cent of households will be connected to drinking water supply systems.

460. The achievements in advance of the 2015 target date have been matched by a significant reduction in the loss of environmental resources. The country's system of "areas subject to a special system of administration" currently covers over 60,000,000 ha, equivalent to 72.77 per cent of the national territory. Recognition of these areas helps to ensure that the biological diversity they contain is preserved.

461. In relation to the Committee's General Comment No. 15 on the right to water, the Venezuelan State has taken specific measures that have had an immediate impact on the realization of the right. As a result, the relevant Millennium Development Goal has been achieved before time. However, great efforts continue to be made to ensure that every population group and person benefits fully from this right.

462. Venezuela has achieved the target of improved sanitation, reaching coverage levels of 84.4 per cent, through the National Plan to Expand Coverage of Clean Water Supply and Sanitation, thereby ensuring that drinking water meets the requirements established in the regulations and that wastewater is returned to natural sources within the parameters set by the agency with jurisdiction over environmental matters.<sup>272</sup>

### *The right to adequate housing*

#### *Normative framework*

463. The Constitution provides that "all persons have the right of access to adequate, safe, comfortable and hygienic housing, with essential basic services, including a habitat tending to humanize relationships within the family, neighbourhood and community. The progressive meeting of this requirement is the shared responsibility of citizens and the State in all areas. The State is required to give priority to families and to guarantee them, especially those with meagre resources, the possibility of access to social policies and credit for the construction, purchase or enlargement of dwellings".<sup>273</sup>

464. The right to housing is regulated through a wide range of instruments, including: the Social Security Act; the Urban Planning Act;<sup>274</sup> the Environment Act;<sup>275</sup> the 2002 Decree Regularizing Land Tenancy in Working-Class Urban Settlements and its various amendments; and the Decree with Force of Law Concerning the Housing Policy Subsystem, repealed in 2005 to make way for the Housing and Habitat Loans Scheme Act.

465. This Act consolidates the individual's right of access to policies, plans, programmes, projects and measures developed by the State in the area of housing and habitat, priority being given to families with limited resources and other specially designated population groups, as defined in the Housing and Habitat Loans Scheme Act and the Social Security Act. The Housing and Habitat Loans System is overseen by the Ministry of People's Power for Housing and Habitat.

466. In 2002, the Government issued Decree No. 1666 providing for the delivery of property titles in working-class urban districts through a process of land regularization. Under this Decree, the protagonists and principal executors were the local communities, organized in Urban Land Committees (CTU) responsible for the proper implementation of the relevant strategies. The Committees ensure that the local community plays a part in all

<sup>272</sup> *Idem.*

<sup>273</sup> Article 82 of the Constitution.

<sup>274</sup> *Gaceta Oficial*, No. 33868, 16 December 1987.

<sup>275</sup> *Gaceta Oficial*, Special No. 5833, 22 December 2006.

the decisions, processes and tasks involved in the regularization process and in the measures to implement it fully, serving as the regulator of community life and of the urban and social development of the self-constituted neighbourhoods.

467. Similarly, under the Decree with Rank, Value and Status of Special Law on the Comprehensive Regularization of Land Tenure in Urban and Suburban Settlements, issued with the aim of regulating the tenure of land in the possession of the inhabitants of well-established urban and suburban settlements through the proper titling of public and private land, the aim is to progress towards the satisfaction of the human right to land, decent housing and a sustainable habitat.<sup>276</sup>

468. Venezuela has not escaped the phenomenon of migration from the countryside to the large cities, which has led to the proliferation of homes on their outskirts. This, associated with a half-century absence of effective and efficient public housing policies, has meant that hundreds of families have seen their right to life and integrity under constant threat.

469. Since the end of 2010, the entire country has been experiencing one of the heaviest rainy seasons of the last decade. Added to soil saturation, which is a product of environmental problems, this has led to landslides, rivers breaking their banks, gullies and flooding, chiefly affecting those same family groups, many of whom have been made homeless.

470. At the same time, citizens have acquired a right which, though not explicitly mentioned in the Constitution, is inherent to every person in the terms of article 22, namely the right to decent shelter, especially designed for the population in emergencies and regulated by a special law.<sup>277</sup>

471. In order to tackle this emergency by means of structural rather than mere stopgap measures, the Government sought an enabling act, which has allowed the Venezuelan State to guarantee immediately the basic needs of this population group through the adoption of appropriate legislation and the launching of the Great Venezuelan Housing Mission.

472. Aimed at making good a housing deficit inherited from previous governments, the Mission defines itself as a social programme providing for the construction of two million housing units between 2011 and 2017.

473. Its five main lines cover all aspects of the problem. The first provides for a national register identifying accurately those Venezuelan families lacking a home of their own or living precariously. The second foresees a land register; and the third a register of national and international construction firms, workers and communal work enterprises. The fourth concerns financing and the fifth construction materials.

474. With the launching of the Great Venezuelan Housing Mission, the Venezuelan State is adopting a new approach to mass housing construction in the country, based on long-term planning and technification of the process. The Great Venezuelan Housing Mission is one of the Government initiatives with the greatest social impact in the political history of the country. The aim is to eliminate at long last the deficit of 2 million homes currently affecting Venezuelan men and women, the majority from the most vulnerable population groups.

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<sup>276</sup> Decree No. 8198 of 5 May 2011.

<sup>277</sup> Decree with Rank, Value and Status of Special Law on Adequate Shelters to Protect the Public in the Case of Emergencies or Natural Disasters (*Gaceta Oficial*, No. 39599, 21 January 2011), aimed at regulating measures concerning the shared responsibility of the people and Government, in the framework of a democratic and social State governed by the rule of law and justice, with regard to the construction, rehabilitation, refurbishment, organization, upkeep and management of shelters nationwide to protect the population in emergencies or disaster situations.

475. This Mission has fulfilled 94 per cent of its target for 2010, set at 153,000 decent housing units for Venezuelans affected by past floods. Under this initiative, over 60,000 homes are being built through the Self-Construction Brigades, with the participation of the Ministry of People's Power for Communes and Social Protection and the Ribas Mission and with the support of Venezuela's State oil company PDVSA.

*Relevant jurisprudence*

476. The Constitutional Division of the Supreme Court<sup>278</sup> found the action for separate and joint rights brought against the Superintendency of Banks and Other Financial Institutions and the Governing Board of the Institute for the Defence of Consumer and User Rights and Education (today INDEPABIS) to be partially founded with respect to the granting of mortgages and commercial loans, unsecured or with retention of title, called Wage-Indexed Mexican Loans (*Crédito Mexicano Indexado al Salario*).

477. The Court based its decision on a broad analysis of concepts of the rule of law and of the social rule of law and on a detailed study of the constitutional and legal provisions at the time the loans were granted and under the existing provisions before proceeding, on the basis of an evaluation of the relevant jurisprudence, to conclude among other things:

(a) That, in the case of mortgage and commercial loans, the injury arose from the capitalization of interest charges, generating additional interest at fluctuating rates, sometimes disproportionate to the interest rate fixed when the deal was concluded, which transformed the refinanced capital in a manner out of proportion to the capital actually received by someone previously recognized to have a limited repayment capacity, to the point where the laws governing the system made provision for a creditor rescue fund in anticipation of cases where the debtor was unable to pay.

(b) That the injury would be avoided if the interest rate were set at the mid-point between the market rates charged to borrowers since 1996 and the interest rate applied to social benefits by the Venezuelan Central Bank from 1996 onwards and that the rate in question should take into account the employment situation in the country and the income levels of Venezuelans.

(c) That, in the case of loans for vehicle purchase, it was usurious and disproportionate for the monthly repayments to include a proportion representing a collection commission and that this should remain fixed to the detriment of the debtor, who was unable to amortize the capital sum by paying the monthly instalments since interest at variable rates and the collection commission were charged to the instalment payments, and the remaining amount was then credited to the capital sum. The result was that the system generated a final instalment equal to the whole of the unliquidated capital. This capital in turn produced default interest if contributions were not paid on time, plus the addition of three annual percentage points to the applicable rate in force from the first day of default.

(d) That repayments under these contracts should be restructured so as to eliminate collection charges; that, in keeping with the practice of the Venezuelan Central Bank since 1996, the maximum monthly interest rate should be pegged to the procurement market rate with retention of title, and that interest could not be charged on a daily basis.

478. One of the challenges faced by the Venezuelan Government is the right to decent housing. However, the lack of public policies in this area for over a half a century, combined with the effects of climate change, have meant that the Government policies launched over the past decade have not been sufficient to meet the needs of the growing number of families struggling to find decent housing. The Great Venezuelan Housing

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<sup>278</sup> Judgement No. 85 of 24 January 2002, case of *Asodeviprilara*.

Mission, due to be rolled out over the coming years, represents a huge effort by the Government to find a definitive structural solution to the housing shortage in the country.

## Article 12

### *Normative framework governing the right to health*

479. The Constitution of the Bolivarian Republic of Venezuela provides that “Health is a fundamental social right and the responsibility of the State, which shall guarantee it as part of the right to life. The State shall promote and develop policies oriented toward improving the quality of life, common welfare and access to services. All persons have the right to protection of health, as well as the duty to participate actively in the furtherance and protection of that right, and to comply with such health and hygiene measures as may be established by law and in accordance with international conventions and treaties signed and ratified by the Republic”.<sup>279</sup>

480. The Constitution likewise stipulates that the right is to take the form of the establishment, under the supervision of the Ministry of People’s Power for Health, of a national public health system that is intersectoral, decentralized and participatory, integrated with the social security system and governed by the principles of no cost, universality, comprehensiveness, fairness, social integration, solidarity, participation and multi-ethnic and multicultural relevance so as to ensure that health is a right accessible to all without any form of discrimination and to make the State responsible for its financing.<sup>280</sup>

481. The Social Security Act provides that the system will consist of benefits schemes in the areas of health, social security, housing and habitat, specifying that these schemes should be decentralized, coordinated and intersectoral in nature. At the same time, the Working Safeguards, Conditions and Environment Act guarantees workers conditions conducive to health, security and well-being in the working environment.

482. A body of laws has been adopted over the last ten years to protect this right, including: the Medicines Act;<sup>281</sup> the Hazardous Substances, Materials and Waste Act;<sup>282</sup> the Drinking Water and Sanitation Services Act;<sup>283</sup> Decree No. 1532 with Force of Law on the Creation of the Single Social Fund;<sup>284</sup> Decree No. 366 with Rank and Status of Law regulating the Subsystem of Unemployment Insurance and Work Training;<sup>285</sup> the Social Services for the Elderly Act;<sup>286</sup> the Technical Standards and Quality Control Act;<sup>287</sup> the

<sup>279</sup> Article 83 of the Constitution.

<sup>280</sup> Articles 84 and 85 of the Constitution.

<sup>281</sup> *Gaceta Oficial*, No. 37006, 3 August 2000. This Act regulates all matters relating to pharmaceutical policy with the aim of ensuring the availability and accessibility of effective, safe and good quality medicines and their rational use by all sections of the public in the framework of a national health policy.

<sup>282</sup> *Gaceta Oficial*, Special No. 5554, 13 November 2001.

<sup>283</sup> *Gaceta Oficial*, No. 5568, 31 December 2001.

<sup>284</sup> *Gaceta Oficial*, No. 37322, 12 November 2001, amending Decree No. 364 of 5 October 1999, *Gaceta Oficial*, No. 5398, 26 October 1999.

<sup>285</sup> *Gaceta Oficial*, No. 37322, 12 November 2001, amending Decree No. 364 of 5 October 1999, *Gaceta Oficial*, No. 5398 of 26 October 1999.

<sup>286</sup> Social Services Act, published in the *Gaceta Oficial*, No. 38270, 12 September 2005. This Act is designed to regulate the new social service benefits scheme for the elderly and other categories of person, mentioned initially in the Basic Social Services Act. It provides for the creation of the National Social Services Institute as the implementing authority.

<sup>287</sup> *Gaceta Oficial*, No. 37555, 23 October 2002.

amended Social Security Act;<sup>288</sup> the Act adopting ILO Convention No. 161 concerning Occupational Health Services; and the Immunizations Act.

*Policies for promoting and protecting the right to health*

483. As a result of public policies with a human rights focus promoted over the last ten years, Venezuela can today point to significant progress in the areas of human development and poverty reduction. The trend is towards the sustained growth of social well-being and increased possibilities for self-improvement in the Bolivarian Republic of Venezuela. This human development is reflected in particular in health indicators, which attest to improved and expanded social health provision for the Venezuelan people.

484. The strategies aimed at realizing the right to health find expression in the expansion of free and responsive health services; the reduction in mother-and-child mortality and in deaths of children under five; improved disease prevention and control; greater pharmaceutical security and sovereignty; the promotion of accident and violence prevention; and improvements in the prevention of drug consumption and the treatment and rehabilitation of drug users.

485. Some of the greatest achievements in public policy-making have been the creation of the Social Missions in the health field. They include: the Barrio Adentro I, II, III and IV Missions; the José Gregorio Hernández Mission to ensure access to health care for the disabled; the Milagro Mission to care for people suffering from eye conditions; and the Sonrisa Mission to equip the public with dentures.

486. The health policies developed through the Missions fulfil the constitutional mandate of building a National Public Health System governed by the principles of no cost, universality, comprehensiveness, fairness, social integration and solidarity, in which the proactive participation of the public plays a fundamental role. The policies are based on the concept of comprehensive health care, which transcends the old reductive vision that associates health care exclusively with medical help. Health is also closely linked with the social economy, culture, sport, the environment, education and food security, hence the importance of community organization and the daily presence of doctors living in and with the community. The aim is to bring about a profound shift in social policies by providing quality care to the most deprived population groups in Venezuela.

487. At the present time, 24 million Venezuelans, representing 80 per cent of the population, are receiving free medical care dispensed at a total of 13,510 public health centres.<sup>289</sup>

488. In 2003, the Barrio Adentro I Mission was established with the aim of meeting the social needs of the population, especially the excluded members, through a comprehensive health management model and the introduction of popular clinics within the communities themselves.

489. It was followed in 2005 by the Barrio Adentro II Mission aimed at providing an inclusive service free of charge to all citizens through comprehensive diagnostic, comprehensive rehabilitation and high technology centres, as well as through traditional outpatient and hospital services.

490. The comprehensive diagnostic centres operate 24 hours a day, providing intensive therapy, vital support, electrocardiograms with an emergency cardiology service,

<sup>288</sup> *Gaceta Oficial*, No. 37472, 26 July 2002.

<sup>289</sup> National report for the Universal Periodic Review of the Bolivarian Republic of Venezuela, submitted to the Human Rights Council in accordance with paragraph 15 (a) of the annex to resolution 5/1, Caracas, 4 July 2011.

consultations, an ophthalmology clinic, ultrasound, endoscopy, x-rays, ultra-micro analysis and patient observation services. Specialized physical medicine and rehabilitation rooms provide a rehabilitation service to persons with a variety of deficiencies and disabilities — motor, communicational, psycho-educational, visceral, degenerative, generalized, local, etc. — with the aim of restoring their lost potential resulting from injury.

491. Under the Barrio Adentro I and II Missions, 6,172 people's dispensaries, 533 diagnostic centres, 570 rehabilitation centres, 31 high-technology centres (for free, highly complex medical examinations), 4,781 dentist's surgeries and 459 people's opticians have been established in Venezuela. By 2010, thanks to these programmes, 284 million consultations had been held and there were 60 doctors per 100,000 inhabitants.<sup>290</sup>

492. The Barrio Adentro III Mission is similarly based on an inclusive vision of hospital assistance, involving the reshaping of assistance and management models and the modernization of public hospital infrastructure and technology. Under this programme more than 7 million patients have been treated in hospital emergency rooms and 6 million in outpatient clinics, and more than 300,000 surgeries have been performed, thereby improving the health of the general population.<sup>291</sup>

493. The Barrio Adentro IV Mission was established in 2006 with the inauguration of specialized centres such as a child cardiology hospital, which considerably increased the country's capacity to deal with child cardiology cases, from 141 cases in 1998 to the current rate of 600 cases per year. The hospital also treats children from other countries in the region.<sup>292</sup>

494. The Milagro Mission was set up under agreements signed between the Governments of Cuba and Venezuela. Initially it only treated Venezuelan patients but it has now been extended to other countries of Latin America. It focuses on people excluded as the result of degenerative visual conditions that limit their autonomy, particularly elderly people, and 1,247,125 operations have been carried out over the last five years, averaging 249,543 annually.<sup>293</sup>

495. The José Gregorio Hernández Mission was established in 2008 to provide health care to persons suffering from some form of disability. Doctors and specialists carry out studies to determine the cause of the problem and, in the case of genetic and hereditary causes, apply preventive programmes. Secondly, strategies are implemented to treat the patient in the family and social setting. The implementation of this policy has cared for 13,072 people on a house-to-house basis and has supplied equipment and appliances to 16,672 more.<sup>294</sup>

496. The Ministry of People's Power for Health is developing five flagship programmes: the National Comprehensive Care Programme for Children and Adolescents; the Cardiovascular Health Programme; the Diabetes Programme; the HIV Prevention Programme; and the National Programme for the Promotion of Breastfeeding and Immunization Programme.<sup>295</sup>

497. Following the strengthening of the Venezuelan Social Security Institute, assistance policies have been implemented at national level, including: care for kidney patients through 137 haemodialysis units with a capacity for 10,541 persons; pharmaceutical services, with special provision for high-cost drug treatment for degenerative diseases; a

<sup>290</sup> *Idem.*

<sup>291</sup> *Idem.*

<sup>292</sup> *Idem.*

<sup>293</sup> *Idem.*

<sup>294</sup> *Idem.*

<sup>295</sup> For more information, see the webpage of the Ministry of People's Power for Health.

network of 68 clinics for patients needing long periods of hospitalization, with a capacity for 4,455 persons; educational and therapeutic care, provided under agreement, for persons with special auditory or motor needs; and no-cost comprehensive clinical and dental laboratory services.

#### *Child mortality*

498. In 2008, the mortality rate among children under five stood at 16.36 per 1,000 registered live births.

499. Mortality among children under one fell by 11.9 percentage points between 1990 and 2008, representing a reduction of 46.1 per cent. This decrease is due to the implementation of effective policies, including access to clean water, parent education, universal immunization, and access to humane and quality health services. The reduction in neonatal mortality reflects investments in more specialized technology and reorientation of the health service network.<sup>296</sup> The State has thus initiated policies aimed at significantly reducing mortality in children under 1 and under 5 years of age.<sup>297</sup>

500. The Extended Immunization Programme is impacting directly on the Millennium Development Goals, in terms of reducing infant and maternal mortality, through compliance with the official vaccination schedule, with vaccines designed to protect children under 5 and women of childbearing age or pregnant against vaccine-preventable diseases.<sup>298</sup> The Pan-American Health Organization has recognized Venezuela as the country that has invested the most in vaccines throughout America.

#### *Maternal mortality*

501. The maternal mortality rate has fluctuated during the 1990–2008 period. Between 1994 and 2002, there were major increases, resulting in yearly rates of 69.91 and 68.0 per 100,000 live births, respectively. In 2008, the rate stood at 63.5 per 100,000 live births, which is still a high value. Thus, caring for pregnant women in all aspects has become a high priority for the national government. The leading causes of deaths are associated with hypertensive disorders during pregnancy, childbirth complications and unsafe abortions. The largest proportion of deaths is in the group of women between 20 and 39 years of age (80 per cent).<sup>299</sup>

502. With regard to health policies, work has begun on implementing programmes and standards<sup>300</sup> aimed at providing care for mothers, children, adolescents and improving and

<sup>296</sup> Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.

<sup>297</sup> These policies include: application of the handbook on norms and standards for caring for the nursing and preschool child; implementation of the norm on neonatal scanning; implementation of the Act on the Promotion and Protection of Maternal Breastfeeding; provision of specialized hospitals to cater for this population group; health education and optimum obstetrics and neonatal care in the People's Clinics and Comprehensive Diagnosis Centres, in support of the services already provided in other establishments of the National Public Health System; improvement, expansion and construction of the hospital services network with a focus on gynaecology and obstetrics, involving large investments in the country's main maternity hospital; consolidation and implementation of the vaccination scheme for this population group; reduction of risk diseases affecting the population aged 0–5, through improved access to drinking water and the collection of human waste.

<sup>298</sup> Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.

<sup>299</sup> *Idem*.

<sup>300</sup> For example, the Madre Project; the 2004 Venezuelan Official Standard for Comprehensive Sexual and Reproductive Healthcare; the 2003 Official Standard for Comprehensive Care of Adolescents; and the National Sexual and Reproductive Health Programme.

extending the health care network in the country through the Barrio Adentro I, II and III Missions. Similarly, there is an extensive network of health services, providing training, guidance and information about contraception for the exercise of free but informed reproductive rights.

503. In this regard, the Niño Jesús Mission<sup>301</sup> seeks to improve care for pregnant women, newborns and children under five, with respect to appropriate delivery conditions, the construction of maternal shelters, the creation of regulatory systems for ambulance administration and the provision of rooms in hospitals for pregnant women.

504. To achieve progress in this area, various agreements have been signed with international and multilateral organizations for the provision of technical support for intervention strategies and for the acquisition of low-cost supplies and equipment for State health centres.<sup>302</sup> It has also been possible through the Integral Cooperation Agreement which the Government has been developing since 2000 with the Government of the Republic of Cuba to expand and strengthen the Comprehensive Health System, making it accessible to the more vulnerable sections of the population.

*Programmes for the prevention and treatment of diseases*

505. The Venezuelan State has developed a legal framework favourable to human rights with regard to the prevention and treatment of HIV/AIDS. There is no regulation, decree or law limiting access to prevention, care, treatment and support in this regard. Up-to-date standards of care and treatment exist. Mechanisms also exist to report violations of human rights in this field.

506. Social movements and the organized community participate in framing prevention strategies, formulating projects and new legal standards, caring for certain groups and helping to design research and drafting protocols for the 2010 Report of the General Assembly Special Session on HIV/AIDS.

507. The target of halting and reversing the incidence of HIV/AIDS poses major challenges for Venezuelan society as a whole. In relation to the spread of the disease, the Venezuelan strategy to combat the disease seeks to reduce its impact on different groups, so that by the year 2015 none of them shows rates above 5 per cent, the aim being to turn the disease from a concentrated to a low-level epidemiological situation, according to the current UNAIDS classification.

508. There has been a steady increase in the Bolivarian Republic of Venezuela in the budget for the National STI/AIDS Programme, enabling the coverage of comprehensive treatment for people with HIV to be extended. The launching took place in 2003 of the National HIV/AIDS Strategic Plan, aimed at the population as a whole.<sup>303</sup>

509. With regard to prevention of the vertical transmission of HIV, project financing in Venezuela has been matched by preventive education, communication and information activities to prevent HIV infection. These activities include: prevention programmes aimed young people in school, sex workers and the homosexual population; AIDS prevention, diagnosis and treatment; the prevention of mother-to-child transmission; and universal precautions and post-exposure prophylaxis. Information campaigns have also been launched on topics such as delaying the start of sexual relations, promoting the use of

<sup>301</sup> Inaugurated on 23 December 2009.

<sup>302</sup> They include the Pan-American Health Organization, the United Nations Population Fund, UNICEF and many others.

<sup>303</sup> Bolivarian Republic of Venezuela, *Achieving the Millennium Goals 2010*, Caracas, September 2010. ISBN 980-6456-12-2.



contraceptives, practising safe sex, combating violence against women, preventing mother-to-child transmission, and HIV education for children and adolescents in school.<sup>304</sup>

510. The National Blood Bank Programme is responsible for guaranteeing the quality of blood units entering the country's blood banks, both public and private, with the aim of detecting the presence of transmissible infections, especially HIV, thereby reducing the transmission of the virus to patients receiving blood products.

511. Venezuela has guaranteed universal free access to anti-viral medicines to combat opportunistic infections and other sexually transmitted infections, laboratory testing reagents, birth kits and nutritional supplements. In the last three years, spending on HIV in the Bolivarian Republic of Venezuela has exceeded US\$230,000,000.<sup>305</sup>

512. The incidence of malaria has shown a downward trend. According to projections, it will tend to stabilize over the next four years, with some fluctuations occurring between 2010 and 2015. In the case of this disease, as with dengue, there is good epidemiological surveillance in the country with a broad network of laboratories, which has kept mortality below 0.12 per cent in the country. Due to intensification of the programme's control measures from 2005, there was a significant decrease (170.5), and the year 2009 ended with a rate of 128.8.<sup>306</sup>

513. The campaign against dengue has been characterized by increased epidemiological surveillance, the active participation of the community in prevention and selective control of transmission sites and greater involvement of local governments in the comprehensive sanitation of the environment.<sup>307</sup>

514. In the case of tuberculosis, mortality is decreasing. The recorded mortality rate of 4.1 per 100,000 inhabitants in 1990 fell to 2.30 per 100,000 inhabitants in 2008, representing a 44 per cent decrease.<sup>308</sup> The reported prevalence of tuberculosis was reduced by 17.5 per cent (28 per 100,000 inhabitants in 1990 to 23 per 100,000 inhabitants in 2009) and the incidence rate has shown a slight but steady downward trend in the last five years.

515. A majority of the population also has access to safe blood transfusions, systematic analysis of tuberculosis in patients with HIV/AIDS, HIV screening in patients with tuberculosis, and post-exposure prophylaxis and treatment of tuberculosis. Strong measures have also been adopted to comply with standards for the avoidance of vertical transmission and the provision of reproductive health services.

516. It should be noted that, under a decision by the Ministry of the People's Power for Health, smoking is prohibited in the workplace and inside public buildings.<sup>309</sup>

517. Concerning the Committee's General Comment No. 14 on the right to the highest attainable standard of health, since the adoption of the Constitution in 1999 and the introduction of the Social Missions a vigorous policy has been pursued to extend and improve health infrastructures to make them accessible to the most vulnerable sectors of the population through the establishment of people's dispensaries located in the most economically disadvantaged parts of the country.

518. As a result of this increased investment in the public health system, the right to health, in the form of quality health care, is today available to the population as a whole,

<sup>304</sup> *Idem.*

<sup>305</sup> *Idem.*

<sup>306</sup> *Idem.*

<sup>307</sup> *Idem.*

<sup>308</sup> *Idem.*

<sup>309</sup> *Gaceta Oficial*, No. 39627, 2 March 2011.

without discrimination of any kind. Nevertheless, in keeping with its progressive nature, the State is continuing to make improvements to the public health system.

### **Article 13**

#### *Normative framework for the right to education*

519. According to the Constitution, education is a public service that is pluralistic and grounded in respect for all currents of universal thought. The purpose of education is to promote the full development of the personality for the greater enjoyment of a life of dignity sustained by an awareness of the ethical value of work and active participation by human beings in all processes of social change, on the basis of solidarity and a Latin American, Caribbean and universal vision. This calls for an inclusive and lifelong education of high quality that is accessible to all, especially the disabled, indigenous persons, women, migrants, detainees and other vulnerable groups.<sup>310</sup>

520. The Constitution equally provides that "... Education is obligatory at all levels, from preschool to the diversified secondary level. Educational provision at State institutions is free of charge up to the undergraduate level. To this end, the State shall make a priority investment in accordance with United Nations recommendations. The State shall create and sustain institutions and services sufficiently equipped to ensure the entry, retention and completion of students in the education system. The law shall ensure that equal attention is paid to persons with special needs or disabilities and to those deprived of their freedom or lacking the basic requirements for entering or remaining in the education system".<sup>311</sup>

521. In the General Outline of the National Social and Economic Development Plan 2001–2007 and the National Simón Bolívar Project – Social and Economic Development Plan 2007–2013, the strategies for guaranteeing the right to education are described as follows: "The main policies for promoting the universalization of Bolivarian education are: (a) To extend school enrolment to the whole population, with the emphasis on excluded sectors; (b) To ensure that pupils remain and pursue their studies in the education system; (c) To guarantee access to knowledge through a universal and relevant higher education system."

522. The Education Act<sup>312</sup> innovates by incorporating preschool education in the educational subsystem and by granting boys and girls equal status and an equal opportunity to benefit from a quality education, and it ensures the functioning of the Educational Missions in their various forms.

#### *Relevant jurisprudence*

523. The Constitutional Division of the Supreme Court<sup>313</sup> ruled that the right to education provided for in articles 102 and 103 of the Constitution, which the applicant claimed to have been breached to his own detriment and that of all the students enrolled in course II-2002 in the Puerto Ordaz Experimental Unit of the Núcleo Bolívar de la Universidad de Oriente, given the anticipated indefinite closure of the said institution, constitutes a benefit that the State has a duty to provide by developing institutions and services enabling all citizens to have access to, pursue and complete their education together with the

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<sup>310</sup> Articles 102 and 103 of the Constitution.

<sup>311</sup> Article 103 of the Constitution.

<sup>312</sup> *Gaceta Oficial*, Special No. 5929, 15 August 2009.

<sup>313</sup> Judgement No. 149 of the Constitutional Division of the Supreme Court, case file No. 03-0433, 16 February 2004.

mechanisms for managing, monitoring and safeguarding the effective enjoyment of that right.

524. The ruling goes on to highlight that the right of all citizens to education, conceived as a human right, social duty, public service and instrument of scientific, humanistic and technical knowledge in the service of society (article 102 of the Constitution), and given its collective dimension, presupposes the existence of a supra-individual interest having importance in its own right and transcending the sum of the subjective rights and interests of the individuals claiming to have suffered a specific harmful effect.

525. In a ruling<sup>314</sup> designed to protect the rights to equality and education embodied in articles 21, 102 and 103 of the Constitution, the Constitutional Division of the Supreme Court considered it necessary to order a precautionary measure aimed at ensuring the continuity of the university education of undergraduate students and, to that end, to order the Central University of Venezuela, through its University Board, as well as the authorities of its various Faculties and Schools, to refrain from continuing to charge the students concerned tuition fees and other payments on which their continued presence in that educational institution depended, and to take the relevant measures to ensure that the students continued to exercise their rights and duties in the same way as “regular” students, as set out in the Constitution of the Bolivarian Republic of Venezuela, the University Act and the regulatory instruments adopted by the University Board.

*Policies to promote and protect the right to education*

526. During the past decade, the State has undertaken a number of policies and actions to guarantee equality of opportunity in access to education. The most important of them are: (a) eliminating tuition fees at all levels and in all types of State education, up to undergraduate level; (b) building new facilities and maintaining existing ones, as well as providing comprehensive care for students, with a full eight-hour day, medical care and dietary supervision; (c) strengthening the curriculum by incorporating such key subjects as environment and overall health, interculturality, work as emancipation, information technology and communication, language, human rights, a culture of peace, and the sovereignty and defence of the nation; (d) encouraging teachers to undertake advanced training and update their knowledge, and offering them job security; (e) including people with disabilities by creating infrastructures to offer them equal opportunities; (f) decentralizing university education and recognizing the autonomy of universities; and (g) developing science and technology, as well as sports and recreation, as part of an education and public health policy.

527. One of the main achievements in the educational field is the fact that out of the country’s 28,384,132 inhabitants, 10,384,132, or 37.46 per cent of the total population, are currently enrolled in educational programmes of one kind or another at the various levels of the education system. At the same time, 1,706,145 men and women have learned to read and write, increasing the net initial education rate by 28 percentage points, with over 1,400,000 boys and girls having been integrated in the education system between 1999 and 2010. The net primary education rate has risen by 7 percentage points, the general secondary education rate by 24 percentage points and enrolment in the university subsystem by 192 per cent.<sup>315</sup>

<sup>314</sup> Judgement No. 1114 of the Supreme Court, 12 November 2012, case of *Otoniel Goncalvez Portillo and others*.

<sup>315</sup> Voluntary national presentation by the Bolivarian Republic of Venezuela to the Economic and Social Council on the implementation of the internationally agreed goals and commitments on education: “Venezuela: the world’s largest classroom”, 5 July 2011.

528. With the aim of meeting the social needs of the people, particularly in the education field, Venezuela has increased educational investment; in 1999 it accounted for less than 3 per cent of GDP while in 2011, adding together the budget allocations for the Ministry of People's Power for Education and the Ministry of People's Power for University Education, it stood at more than 6.1 per cent.<sup>316</sup>

529. Through this ongoing social investment, the Venezuelan State has ensured that education is available for all and compulsory from the preschool level to the intermediate and diversified levels. It is also free up to the undergraduate level. Education has thus become a foundation stone for the purposes of the State, in accordance with the recommendations of UNESCO. A series of measures have also been taken to expand coverage in the education field, notably the launching of the educational Social Missions.

*The education system: basic education*

530. The Venezuelan education system is an organic, structured entity comprising a number of subsystems, levels and modalities corresponding to the successive stages in human development. It is divided into two subsystems, the basic education subsystem and the university education subsystem.

531. Basic education is organized into different educational levels: preschool, primary and intermediate. The preschool level comprises the kindergarten and pre-primary levels, which are for children between 0 and 6 years of age. The primary level comprises six grades and leads to the primary education certificate. The intermediate level is divided into two options: general intermediate education, which is a five-year programme, and technical intermediate education, which comprises six grades.<sup>317</sup>

532. The Education Act also establishes that the education system is organized into modalities, which include special education, youth and adult education, frontier education, rural education, art education, military education, intercultural education and bilingual intercultural education.<sup>318</sup>

533. A total of 7,735,815 students were enrolled in the basic education subsystem in 2009–2010, including 6,078,510 who were enrolled in State-run schools and 1,657,305 in private schools. A breakdown by educational level and modality shows that there were 1,563,117 children in preschool education, 3,428,351 in primary education, 2,254,935 in intermediate education, 282,147 in youth and adult education, and 207,265 in special education.<sup>319</sup>

534. In the 2009/10 school year, there were 28,692 schools in the basic education subsystem in the country as a whole. Of these, 82.67 per cent (23,719 schools) were State-run, while 17.33 per cent (4,973 schools) were privately run. During this Government, the number of teachers showed an increase of 161 per cent, rising from 189,172 in 1998 to 494,534 in the 2009/10 school year.<sup>320</sup>

<sup>316</sup> National report for the Universal Periodic Review of the Bolivarian Republic of Venezuela, submitted to the Human Rights Council in accordance with paragraph 15 (a) of the annex to resolution 5/1, Caracas, 4 July 2011.

<sup>317</sup> Article 25 of the Education Act.

<sup>318</sup> Article 26 of the Education Act.

<sup>319</sup> Voluntary national presentation by the Bolivarian Republic of Venezuela to the Economic and Social Council on the implementation of the internationally agreed goals and commitments on education: "Venezuela: the world's largest classroom", 5 July 2011.

<sup>320</sup> Information supplied by the Ministry of People's Power for Education. Voluntary national presentation by the Bolivarian Republic of Venezuela to the Economic and Social Council on the

535. The provision of food is guaranteed under the School Meals Programme, which benefited some 3,971,885 children nationwide in 2009.<sup>321</sup>

#### *Preschool education*

536. Over the last eleven years, the net preschool enrolment ratio has increased by 28 percentage points, from 43 per cent in the 1998/99 school year to 71 per cent in the 2009/10 school year. During the preceding period, from 1988/89 to 1998/99, the ratio increased by only six percentage points, from 38 per cent to 43 per cent.<sup>322</sup>

537. The net preschool enrolment ratio grew five times as fast as the corresponding figure for the period preceding the present Government. This achievement was due, first, to the Constitution's recognition of preschool education as the first compulsory level; second, to the abolition of registration fees at State-run institutions at that level; third, to the strengthening of the school meals programme; and, finally, to the implementation of Project Simoncito. This project is aimed at ensuring that all children between 0 and 6 years of age enjoy social, educational and dietary conditions enabling them to grow, develop fully and advance to the primary education stage under conditions of equal opportunity.<sup>323</sup>

#### *Primary education*

538. In the 2009/10 school year, the net primary-school enrolment ratio was 93 per cent. That is to say, out of every 100 children between 6 and 11 years of age who should have been attending school, 93 were actually doing so. This represents a 7 per cent increase over the 1998/99 school year. This upward trend in the net primary-school enrolment ratio is in contrast to the trend observed during the preceding period, when the ratio declined by 4 per cent, on average, from 90 per cent in the 1990/91 school year to 86 per cent in 1998/99.<sup>324</sup>

539. Between the 2004/05 and 2009/10 school years, 85 per cent of all pupils completed primary school in six years. However, taking the repetition factor into account, we find that over 97 per cent of all pupils completed primary school in six to eight years.<sup>325</sup>

540. Over the last eleven years, there has been an 18 per cent increase in the number of pupils who begin Grade 1 and continue to the final grade of primary school in six years, whereas the corresponding increase during the preceding period was a mere 1 per cent.

541. For the 2008/09 school year, the completion rate for primary education was 95 per cent. During the 1990s, the average value of this indicator was 85 per cent, while during the present Government it has been 92 per cent, a figure that represents a 7 per cent increase. The school dropout rate for the primary level averaged 2 per cent between 1998/99

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implementation of the internationally agreed goals and commitments on education: "Venezuela: the world's largest classroom", 5 July 2011.

<sup>321</sup> National report for the Universal Periodic Review of the Bolivarian Republic of Venezuela, submitted to the Human Rights Council in accordance with paragraph 15 (a) of the annex to resolution 5/1. Caracas, 4 July 2011.

<sup>322</sup> Information supplied by the Ministry of People's Power for Education.

<sup>323</sup> At the beginning of 1999, preschool education was provided in 11,546 establishments; over the last eleven years, with the introduction of the Simoncito Project, it has been available in 16,972 establishments.

<sup>324</sup> Voluntary national presentation of the Bolivarian Republic of Venezuela to the Economic and Social Council on the implementation of the internationally agreed goals and commitments on education: "Venezuela: the world's largest classroom", 5 July 2011.

<sup>325</sup> *Idem*.

and 2009/10, compared to 5 per cent in the previous decade. That is, there has been a 3 per cent decline as between the two periods.<sup>326</sup>

542. A policy that has played an important part in realizing the right to education has been the creation of the Bolivarian Schools. These are characterized by all-day operation, so that children can spend the entire day at the school; this is a means of addressing a number of external factors that contribute to exclusion, such as poor nutrition and extreme poverty.<sup>327</sup> Mention should also be made of the Canaima educational project under which teachers and pupils at the primary level are supplied with portable school computers with digitized educational content. Canaimas are used in State-run schools throughout the country, and also at private schools subsidized by the State.<sup>328</sup>

*Policies aimed at increasing the literacy rate*

543. Literacy policies are a major achievement of the Venezuelan State. Literacy rates for men and women between 15 and 24 years of age increased from 97.59 per cent in 1999 to 98.55 per cent in 2009. This increase is due to the success of the first Robinson Mission (Robinson I), which was launched in 2003 as a means of liquidating the country's social debt in the area of education and reducing the high social exclusion rates. Between the Mission's inception and 2010, a total of 1,706,145 Venezuelans have learned to read and write, and 14,829 people are currently enrolled in Robinson I.<sup>329</sup>

544. The second Robinson Mission (Robinson II) was launched in 2003 as a means of ensuring that pupils continued to Grade 6, including not only graduates from Robinson I, but all persons who had dropped out of formal education for any reason. This phase of the mission is based on the "Yes I can continue" method.<sup>330</sup> In the framework of Robinson II, 577,483 Venezuelans had reached Grade 6 as of 2010. In that year, 297,833 individuals enrolled under the mission with a view to completing their primary education.<sup>331</sup>

*Policies aimed at vulnerable groups*

545. Indigenous peoples<sup>332</sup> have been singled out for special attention in this regard: a total of 68,495 individuals, 55 per cent women and 45 per cent men, had received literacy training as of 2010. To ensure accessibility, educational materials were translated into

<sup>326</sup> *Idem.*

<sup>327</sup> Up to the 2009/10 school year, 5,749 Bolivarian schools have been established, including 5,495 primary schools and 254 special schools.

<sup>328</sup> The Canaima Project is being executed under the cooperation agreement with the Republic of Portugal in 2009 and has two components: (a) "Canaima at school", with the portable computers being kept at the school; and (b) "Taking Canaima home with me", with every primary-school pupil from Grade 2 through Grade 6 having a portable school computer, with educational content appropriate to his or her grade, at his or her disposal at all times.

<sup>329</sup> The aim of Robinson I is the eradication of illiteracy. It has been implemented with the support of the Republic of Cuba in the form of consultancy services and its "Yes I can" literacy method, which won a UNESCO literacy prize. The mission, which is the largest mass literacy programme organized in recent years, has developed in various settings in communities, including State schools, community facilities and public buildings.

<sup>330</sup> This method uses television, video-classes and back-up leaflets as an educational strategy.

<sup>331</sup> Voluntary national presentation of the Bolivarian Republic of Venezuela to the Economic and Social Council on the implementation of the internationally agreed goals and commitments on education: "Venezuela: the world's largest classroom", 5 July 2011.

<sup>332</sup> From the following ethnic groups: Kariña, Wuayúu, Piaroa, Yanomami, Guaraó, Piapoco, Guarequena, Bari, Arauco, Pemón, Maquiritare, Yukpa, Pume, Ye'Kwana and Jivi.

native languages. There are currently 32,880 indigenous persons enrolled in the Robinson I Mission.<sup>333</sup>

546. Another important initiative has been the inclusion of the prison population in the Robinson I and II Missions, the Ribas Mission (middle-school education) and the Sucre Mission (university education). As of 2010, 992 prison detainees had participated in Robinson I and II, and 2,050 were studying at all levels.

547. Under the programme catering for the special educational needs of disabled persons (including those with visual, motor and hearing related impairments), textbooks specially designed for this group have been developed. As of 2010, a total of 7,154 people with hearing, visual, motor and cognitive difficulties had received training. The Robinson Mission has been successful in teaching persons with Down's syndrome and other learning difficulties to read and write by adapting programme contents to individual needs and providing personalized care.<sup>334</sup>

#### *Secondary education*

548. For the 2009/10 school year, the net enrolment ratio at the secondary level was 72 per cent, a figure that represents a 24 per cent increase over the 48 per cent observed for the 1998/99 school year. During the decade preceding the Bolivarian Revolution, that ratio had increased by a mere 3 per cent, from 45 per cent to 48 per cent in 1998/99. Dropout rates have similarly shown a downward trend over the last eleven years, averaging 10 per cent since 1999, whereas the corresponding figure for the preceding decade was 17 per cent. A comparison of the two periods thus shows a 7 per cent reduction. For the 2008/09 school year, the dropout rate for the secondary level was 9 per cent.<sup>335</sup>

549. There was a significant gain of 98 per cent in secondary-education enrolments, which increased from 322,075 students during the 1997/98 school year to 654,553 in 2009/10. The corresponding figure for technical training was 76 per cent, with enrolments totalling 122,027 in the 2009/10 school year, up from 66,881 in 1997/98.<sup>336</sup>

550. Policies implemented at this educational level include the establishment of:

(a) Bolivarian secondary schools, aimed at ensuring that students are prepared for the production system with a view to meeting human needs, through the development of sustainable, productive educational projects with sociocultural relevance. In the 2009/10 school year, there was a total of 1,549 Bolivarian secondary schools, attended by 667,087 students.<sup>337</sup>

(b) Robinsonian Technical Schools, in which education and work are treated as processes that are fundamental to the task of maintaining and developing individuals and ensuring respect for human dignity. In 1998, when the Bolivarian Revolution began, Venezuela had 103 technical schools; by the 2009/10 school year, the total had grown to 340, representing an increase of 230 per cent over that period. Two hundred and twenty-six of the country's technical schools, i.e. 67 per cent of the total, are Robinsonian schools.<sup>338</sup>

<sup>333</sup> Voluntary national presentation of the Bolivarian Republic of Venezuela to the Economic and Social Council on the implementation of the internationally agreed goals and commitments on education: "Venezuela: the world's largest classroom", 5 July 2011.

<sup>334</sup> *Idem.*

<sup>335</sup> *Idem.*

<sup>336</sup> *Idem.*

<sup>337</sup> *Idem.*

<sup>338</sup> *Idem.*

(c) The Ribas Mission, which has been developed on the basis of innovative distance education methods with the support of facilitators, people's organizations and official bodies, has enabled 632,623 Venezuelans to complete their secondary education. A total of 462,251 students are currently enrolled in the mission.<sup>339</sup>

*Policies aimed at vulnerable groups*

551. Measures taken to reinforce bilingual intercultural education include:

(a) The obligatory use of indigenous languages at all State and private schools located in indigenous areas, including urban areas inhabited by indigenous people;

(b) The construction and rehabilitation of indigenous schools made ecologically, culturally and linguistically relevant;

(c) The production and publication of educational materials, both printed and audio-visual, in indigenous languages and in bilingual editions;

(d) Initial and continuing training for indigenous teachers.

552. In the 2009/10 school year, 656 indigenous schools providing preschool, primary and secondary education were registered in the geographical areas where indigenous peoples live. The number of indigenous pupils enrolled in the school year in question was 68,520. Outside the geographical area of the indigenous peoples, a total of 42,331 pupils were enrolled nationally in 604 establishments Indigenous pupils in the basic education subsystem currently number 110,851.<sup>340</sup>

553. In the 2009/10 school year, 207,265 children, young people and adults were enrolled in the different kinds of special education schools and units. Between the 1998/99 and 2009/10 school years, special education enrolment increased by 257 per cent, from 67,883 persons to 207,265. In 2010, 956 special education institutes and units and 3,130 integrated classrooms were registered in the basic education subsystem.<sup>341</sup>

554. On 28 October 2005, UNESCO declared Venezuela to be an illiteracy-free territory, a total of 1,484,543 people having become literate.

*The education system: university education*

555. The transformation of the university education system was a necessity for the Venezuelan State, given the changes that have taken place in recent years in the political, cultural, social, economic and educational life of the country. By the same token, the model of university education had to adapt to new realities so as to minimize potential obstacles to the rounded development of the country.

556. One of the main strategies in this regard was the promotion of mass education, while not neglecting educational quality. It was based on the premise that education with social roots should be broad, inclusive, participatory and conducive to the shaping of an outlook on which to build a culture fostering solidarity, participation, national engagement, creativity, spiritual growth and the protection of national identity.

557. Between 1998 and 2010, university enrolment grew by 192 per cent. In 1990, there were 537,698 students attending university, in 1998 there were 785,285, but by 2010 the total had grown to 2,293,914. Of all university students in 2010, 70.3 per cent were attending State-run institutions, while 29.7 per cent were attending private institutions. In 2010, total university enrolment was 76 per 1,000 population, while the weighted average

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<sup>339</sup> *Idem.*

<sup>340</sup> *Idem.*

<sup>341</sup> *Ibid.*, p. 19.



for the 11 years in question was 50 per 1,000 population. This is double the corresponding figure for the preceding decade, in which total university enrolment was 27 per 1,000 population.<sup>342</sup>

558. The municipalization and regionalization of education has been one of the fundamental guidelines and core strategies of the policy of making university education universal by bringing the university closer to the community. In 2003, this policy was put into practice through the so-called Sucre Mission. “University villages” were created, enabling university enrolment to be expanded.

559. In 2004, there were 42,913 students enrolled in the Sucre Mission; by 2010, that figure had increased to 462,199, including 57,532 scholarship holders and 10,047 members of the indigenous population. Between 2008 and 2010, 128,410 students graduated under the Sucre Mission.<sup>343</sup>

560. In 2009, the Government launched the Alma Mater Mission, responsible for the establishment of specialized universities. These include the Experimental University of the Arts, the National Experimental University of Security, the Bolivarian Military University of Venezuela, the Venezuelan University of Hydrocarbons, the Jesús Rivero Bolivarian Workers’ University and the Sports University of the South. Two indigenous universities have also been founded: the Amazonas Regional University and the Tauca Indigenous University. Other specialized institutions of university education have been established as well, including the Paulo Freire Latin American Institute for Agroecology and the Mayor (AV) Miguel Rodríguez Technical University Institute of Civil Aviation.<sup>344</sup> Finally, six regional universities have been set up: the Regional Polytechnic Universities of the States of Aragua, Barlovento, Alto Apure, Barinas, Lara and Táchira.

561. An example of the policy of educational inclusion is the raising of the university entry quota. In 2010, a total of 128,382 applicants were admitted under the National Single University Education Registration System, including 1,217 persons with disabilities and 2,702 indigenous students. Of these secondary-school graduates, 2,335 had graduated from the Ribas Mission. Moreover, 52.4 per cent of the university places (67,323) were assigned to high-school graduates from lower socioeconomic social strata, testifying to substantial progress towards the integration of historically excluded persons.

562. Through the Gran Mariscal de Ayacucho Foundation, the Venezuelan State offers undergraduate and postgraduate training programmes in the form of grants for students needing financial support to pursue their studies under cooperation agreements with university institutions in Latin America, Europe, Africa and Asia. In 2010 the Foundation allocated grants to 217,193 university students.<sup>345</sup>

563. Mention should be made finally of the creation on 8 January 2002 of the Ministry of People’s Power for University Education,<sup>346</sup> and UNESCO’s recognition of Venezuela as the fifth-ranking country in the world, and second-ranking in Latin America and the Caribbean, in terms of its gross university enrolment rate, standing at 85 per cent.

564. Foremost among the challenges confronting the Venezuelan State is the need to continue making progress with the rehabilitation of State-run school buildings used for preschool, primary and secondary education, including Simoncitos, Bolivarian schools, Bolivarian secondary schools and Robinsonian technical schools, respectively.

<sup>342</sup> *Idem.*

<sup>343</sup> *Idem.*

<sup>344</sup> *Idem.*

<sup>345</sup> Statistical Bulletin 2010 of the Gran Mariscal de Ayacucho Foundation.

<sup>346</sup> Renamed the Ministry of People’s Power for University Education with the adoption of the Education Act in 2009.

565. A second challenge is the need to reduce the number of pupils per classroom at the basic education level, mainly in urban areas. This will entail the construction of new school buildings.

566. Another task is continue to make progress in curriculum design based on humanistic values, respect for cultural diversity and multiculturalism, due regard for the social dimension of science, the promotion of love for one's country, and the pursuit of sustainable development.

567. In the case of the university subsystem, one of the main challenges facing the Venezuelan State is the universalization of higher education. Increased access to postgraduate studies and diversification at that level are also important, in accordance with the National Development Plan (2007–2013).

568. The task of integrating the large contingent of university graduates into the workforce is a further challenge facing the State, together with extending the Bilingual Intercultural modality to as many indigenous persons as possible.

## Article 15

### *Normative framework for protecting the right to culture*

569. The Constitution of the Bolivarian Republic of Venezuela provides that: "Cultural creation is free. This freedom includes the right to invest in, produce and disseminate creative, scientific, technical and humanistic works, as well as legal protection of the author's rights in his works. The State recognizes and protects intellectual property rights in scientific, literary and artistic works, inventions, innovations, trade names, patents, trademarks and slogans, in accordance with the conditions and exceptions established by law and the international treaties executed and ratified by the Republic in this field."<sup>347</sup>

570. The Constitution likewise stipulates that cultural rights constitute fundamental and inalienable rights of the Venezuelan people, which the State has the duty to promote and guarantee; popular cultures are recognized to form part of Venezuela's national identity and enjoy special protection by the State, with due regard to interculturality based on the principle of the equality of cultures. In accordance with these precepts, cultural rights have been conceived since 1999 as constituents of our nationality, our system of values, beliefs, traditions and modes of life.<sup>348</sup>

571. A law on culture currently under discussion, in keeping with the cultural changes taking place in the Bolivarian Republic of Venezuela, reflects an historical aspiration of the creators of popular culture, recognized during the constitutional drafting process and in article 100 of the Constitution.

### *Measures for promoting and strengthening this right*

572. A decade ago, the Venezuelan Government initiated a process of cultural inclusion in which the most diverse cultural sectors participated. The right to culture, once invisible because it was reserved for the elite, is now exercised by all Venezuelans, as they have become aware of the leading creative and patriotic role played by culture. The strengthening of cultural institutions allowed projects to be consolidated, institutions reshaped and venues democratized.

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<sup>347</sup> Article 98 of the Constitution.

<sup>348</sup> Articles 99 and 100 of the Constitution.

573. In 2005, the Ministry of People's Power for Culture was established, initiating far-reaching changes in a number of institutions under its auspices, with the aim of reshaping the country's cultural sector. In this way, a new conception of the institution was born, one that sought to transform the Ministry into an instrument of State for raising awareness and enhancing creative capacity.<sup>349</sup>

574. Four cultural platforms were established: the cinema and audio-visual media platform; the book, thought and documentary heritage platform; the performing and musical arts and cultural diversity platform; and the visual and spatial arts platform. These platforms are formed by the different branches within the cultural sector and are responsible, through their constituent bodies, for supervising and monitoring the guidelines and policies laid down for the culture sector and for administering the Cultural Financing Plan.

575. Tangible progress has been made over the last eleven years towards the goal of democratizing culture and integrating sectors of the population traditionally excluded from the cultural sphere.

576. The results of these policies are apparent in the establishment of 24 printing presses serving to democratize books as an educational tool; the creation of a national network of 52 bookshops distributing low-cost editions; and the development of international book festivals. A cultural printing press has also been inaugurated, producing 20 million copies annually.<sup>350</sup>

577. Communal public libraries have been strengthened nationwide, with the creation of a large number of branches serving 8,275,690 users annually in the different services of the National Network of Public Libraries. The Basic Thematic Library has been inaugurated and 25 million titles distributed free of charge.<sup>351</sup>

578. An institution called the Villa del Cine<sup>352</sup> was established to promote Venezuelan cinema and 144 community cinemas were opened in all states of the nation. A National Centre for the Record Industry has also been inaugurated for disseminating music, particularly Venezuelan music.

<sup>349</sup> The following institutions are attached to the Ministry: the National Autonomous Centre of Cinematography, National Cinematographic Foundation, Villa del Cine Foundation, Amazonia Films Distributor, Institute of the Cultural Heritage, Cultural Diversity Centre, Autonomous National Library and Library Service Institute, Musical and Performing Arts Institute, House of the Artist Foundation, Teresa Carreño Theatre Foundation, Vicente Emilio Sojo Foundation, National Theatre Company, National Dance Company, Imagery and Space Arts Institute, National Venezuelan Photography Centre Foundation, National Museums Foundation, Network of Art Foundation, Culture Mission Foundation, National Book Centre Autonomous Institute, Librerías del Sur Foundation, Ayacucho Library Foundation, Venezuelan Book Distributor, Fundación Editorial "El Perro y La Rana", Monte Ávila Editores Latinoamericana C.A, Andrés Bello National House of Letters, Rómulo Gallegos Centre for Latin American Studies Foundation, National Experimental University of the Arts, National History Centre, National Centre for the Record Industry, Culture Press and National Company of Music.

<sup>350</sup> Information supplied by the Ministry of Popular Power for Culture.

<sup>351</sup> The Autonomous National Library and Library Service Institute is a Cultural Platform housing a five-million strong bibliographical collection, recently increased by valuable additions from the Political Publishing Platform comprising mass publication enterprises such as the Basic Library of Venezuelan Authors, the Basic Thematic Library and Don Quijote de la Mancha y Cada Día un Libro, supported by State publishing houses such as Monte Ávila Editores, Fundación Biblioteca Ayacucho, Editorial el Perro y la Rana, Casa Nacional de las letras and the CELARG Foundation.

<sup>352</sup> The Villa del Cine has produced 378 feature-length and short films and financed 303 films.

579. Museums, art galleries, archaeological parks and cultural diversity centres have been promoted and 44 art shops where popular artists can sell their products have been established nationally.

580. The Culture Mission<sup>353</sup> is aimed at consolidating national identity as part of a process of decentralizing and democratizing culture. It seeks to promote institutional synergy for encouraging community participation, ensuring mass access to culture and furthering the dissemination and creation of popular cultural expressions through community participation in shaping the criteria of cultural value. It is also establishing an innovative system for protecting and preserving the cultural heritage and cultural identity.

581. This Mission has inaugurated a degree in education specializing in cultural development, which has produced graduates who are promoting cultural activities in 98 per cent of municipalities, including in indigenous communities and communities of African descent.

582. Achievements in the cultural sphere include the Simón Bolívar Musical Foundation (Fundamusical Bolívar), coming under the Ministry of People's Power for the President's Office to which the National System of Youth and Children's Orchestras and Choirs of Venezuela is attached. The Foundation represents one of the Venezuelan State's largest social inclusion projects. Dedicated to the pedagogical, vocational and ethical development of children and young people, it uses group instruction and the practice of music to help educate, protect and rehabilitate youth from the most vulnerable sectors of Venezuelan society. It currently runs 11 orchestras in Venezuela and 13 centres attended by thousands of children and young people from all parts of the country.

583. UNDP has worked on programmes and mechanisms for social inclusion aimed at adolescents, young people and disabled persons through the Fundamusical Bolívar. In 2010, training in the different musical disciplines was received by 5,600 orchestra members through 1,236 master classes given by international musicians of repute.

584. Since 2009, the Simón Bolívar Musical Foundation (Fundamusical) has provided information, disaggregated by age and sex, on participants in training sessions through projects conducted in cooperation with UNDP. It is noteworthy that, in 2010, distribution by sex of young people undergoing training was 56 per cent men and 44 per cent women. This represents a 7 per cent increase in the participation of women in master classes compared with the figures for 2009, which showed a ratio of 63 per cent men to 37 per cent women.

585. The Music Mission<sup>354</sup> was created in order to strengthen this system and encourage the learning of music by children and young people from the most vulnerable sectors of the country. Its aim is to promote Venezuelan musical talent through the creation of Centres for Social Action through Music, within the framework of Communal Councils and Bolivarian Schools, so as to give children access to choirs, orchestras and instruments.

586. UNDP, in cooperation with the Venezuelan State, has worked on programmes and mechanisms for social inclusion aimed at adolescents, young people and disabled persons through the Fundamusical Bolívar. Training in the various musical disciplines has been provided to 5,600 orchestra members at 1,236 master classes given by international musicians of repute.

587. All these positive actions by the State are intended to comply with the Committee's guidelines in its General Comment No. 21 on the right of everyone to take part in cultural life and to ensure that this right is available, accessible, suitable and acceptable in form. At

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<sup>353</sup> Created in 2004.

<sup>354</sup> Came into being in November 2007.

the same time, the State's policies have been aimed at protecting and realizing not only the cultural rights of the individual but also those of groups and organizations. It has furthermore endeavoured to offer special protection to the most vulnerable population groups by eliminating obstacles to access and by adopting positive and proactive implementation and protection strategies.

### **Access to science and technology**

#### *Normative framework governing protection of the right*

588. The Constitution of the Bolivarian Republic of Venezuela states that "The State shall recognize science, technology, knowledge, innovation and its applications and the necessary information services as being in the public interest since they are fundamental tools for the country's economic, social and political development, as well as for national sovereignty and security. It shall therefore allocate sufficient resources and shall create a national science and technology system in accordance with law, to which the private sector shall also contribute resources. The State shall also ensure compliance with the ethical and legal principles that must govern scientific, humanistic and technological research".<sup>355</sup>

589. The Science, Technology and Innovation Act (LOCTI), for its part, sets out guidelines for the generation of science, technology, innovation and its applications on the basis of full national sovereignty, participatory and proactive democracy, justice, social equality, respect for the environment and cultural diversity, through the application of popular and scientific knowledge. To this end, public policies geared to solving practical social problems will be carried out through the coordination and involvement of those active in the fields of science, technology, innovation and its applications as a necessary condition for the consolidation of popular power.<sup>356</sup>

#### *Measures to protect the right*

590. The Ministry of People's Power for Science, Technology and Intermediate Industries<sup>357</sup> was set up in 1999 with the aim of responding to processes of global change in which science, technology and innovation are instrumental.

591. The strategic policies of the Ministry are financed by the National Fund for Science, Technology and Innovation (FONACIT). The main measures being developed involve:

(a) Innovation and transfer, supporting innovative initiatives for developing the scientific and industrial system through strategic programmes chosen by the Ministry of People's Power for Science, Technology and Intermediate Industries, addressing priority areas for the nation;

(b) Talent training: training fourth-level talent for inclusion in the National System of Science, Technology and Innovation through inclusive policies designed by the Ministry;

(c) Research and development: selecting and following up research projects in fields of knowledge yielding public benefits, the development of the scientific sector and the promotion of Venezuela's international relations.

592. The Venezuelan State has strongly promoted the widespread dissemination and use of information and communication technology at all levels of society, particularly among

<sup>355</sup> Article 110 of the Constitution.

<sup>356</sup> Article 1 of the Science, Technology and Innovation Act, published in the *Gaceta Oficial*, No. 39575, 16 December 2010.

<sup>357</sup> Currently the Ministry of People's Power for Science and Technology.

the most excluded groups. Strategies and policies in this domain have led to the establishment of the National System of Science, Technology and Innovation and to the reinforcement of scientific culture in accordance with the Constitution.

593. The National System of Science, Technology and Innovation has been strengthened with the adoption of the Programme for Encouraging and Strengthening Scientific, Technological and Innovative Research and the promulgation of the new Science, Technology and Innovation Act. The construction of the new socialist model of production involves a system of incentives for scientific, technological and innovative activity, linked to development of the different scientific, technological and industrial lines of emphasis, with the aim of generating knowledge for solving the problems affecting the Venezuelan population. This activity concerns not only academic researchers and innovators but also all those self-taught persons whose creative skills reinforce the national scientific and technological potential.

594. Venezuela's National Registry currently includes the names of over 10,800 researchers. The reform of the Science, Technology and Innovation Act has resulted in a quantitative leap in the number of researchers in the country, breaking with the culture in which science was governed solely by elites. The aim is to have one scientist for every 10,000 inhabitants, a projection that is close to being realized since there are already 0.9 scientists for every 10,000 inhabitants.<sup>358</sup>

595. With the adoption of the new legislation, it is hoped to increase significantly revenues from the taxes due from public and private companies. In the past, most of these resources remained in private companies, which avoided paying taxes serving to promote knowledge. The Venezuelan State has therefore strengthened its collection and monitoring systems in this regard.

596. Previously, only 0.5 per cent of GDP was devoted to science and technology; in the last few years, 2.2 per cent of GDP has been invested for development in this field.<sup>359</sup>

597. The new system has been strengthened by changes to institutions and the creation of new ones. State-run university institutes and colleges have been modified, making way for the National Experimental Universities. In 2010 the first six regional polytechnic universities were set up in Apure, Aragua, Barinas, Barlovento, Lara and North Táchira through the conversion of six university institutes of technology.<sup>360</sup>

598. Another policy of key importance in this regard was the launching of the Science Mission,<sup>361</sup> aimed at forging a new scientific and technological culture and promoting the collective organization of science, a knowledge dialogue and the participation of a diversity of actors within the framework of the country's scientific and technological development, with a view to achieving a higher degree of sovereignty.

599. This Mission hopes to bring about an unprecedented integration and coordination of social and institutional actors through the development of economic, social, academic and political networks for the extensive and intensive use of knowledge in the service of endogenous development, integration and the National Simón Bolívar Project.

<sup>358</sup> Further information is available at: <http://www.locti.co.ve/inicio/noticias-ley-ciencia-tecnologia/3065-venezuela-cuenta-con-más-de-10-700-investigadores-inscritos-en-el-registro-nacional.html>.

<sup>359</sup> Further information is available at: <http://www.locti.co.ve/inicio/noticias-ley-ciencia-tecnologia/2335-desarrollo-científico-dio-salto-cualitativo--cuantitativo-gracias-a-la-revolución-bolivariana.html>.

<sup>360</sup> Voluntary national presentation of the Bolivarian Republic of Venezuela to the Economic and Social Council on the implementation of the internationally agreed goals and commitments on education: "Venezuela: the world's largest classroom", 5 July 2011.

<sup>361</sup> Initiated in 2006.

600. With regard to industry, new socialist factories have been set up,<sup>362</sup> while others continue to be built, generating direct and indirect employment and benefiting the communities close to the enterprises concerned. The State has proceeded with the nationalization of companies for strategic purposes, with the aim of strengthening and leveraging downstream production chains.

601. The Simón Bolívar satellite marked a great achievement for the Venezuelan State in the area of science and technology. The launch of Venesat-1 into orbit was a landmark in the development of telecommunications in Venezuela, since, in addition to the leap forward represented by having its own satellite, the use of the satellite for telemedicine and distance education purposes ties in with the concept of technological development with a social component, as proposed in the National Development Plan 2007–2013.

602. The use of technology for literacy training has been boosted by the establishment of the Infocentro Foundation,<sup>363</sup> to which over 1 million Venezuelans have access. There are 737 Infocentres<sup>364</sup> operating in all parts of the country; 434 of them are connected to Venesat-1. The foundation received the UNESCO Hamad Bin Isa Al-Khalifa prize for social inclusion in 2010.<sup>365</sup>

603. The statistics on telecommunications growth and access compiled by the National Telecommunications Commission (CONATEL) show that 31 out of every 100 residents, representing about 8.8 million people, have access to the Internet. In 2000, there were 273,534 Internet subscriptions, whereas by the fourth quarter of 2009 there were 2,033,858 Internet users, an increase of 600 per cent. The statistics also show that the biggest increase in telecommunications involved the use of mobile phones; there are 28.2 million mobile phone connections in Venezuela, serving 95 per cent of the population.<sup>366</sup>

604. A total of 1,191 telecommunications technical round tables have been organized this year, enabling some 900 organized communities and other organizations to participate with the State in exploring approaches to the development of telecommunications services

<sup>362</sup> Advances in the socio-productive sector involve the construction of 35 socialist factories, aimed mainly at agro-industrial production.

<sup>363</sup> The Infocentro Foundation was established in 2007 under Presidential Decree No. 5263, published in the *Gaceta Oficial*, No. 38648 of 20 March 2007. It was aimed at strengthening the development of local potential, social networks and people's power, facilitating the assimilation of new information and communication technologies by working-class neighbourhoods through the strengthening of community technological facilities that further collective knowledge construction and transfer, collaborative relationships, the generation of networks and popular communication, so as to make this technological platform a tool for problem solving and transforming reality.

<sup>364</sup> Infocentro was set up in September 2000. In 2001, the State launched 240 infocentres throughout the country in keeping with Decree 825, which officialized Internet use as a priority for the cultural, economic, social and political development of the Bolivarian Republic of Venezuela. The initial investment was 17 million bolívares, aimed mainly at democratizing the Internet as a cost-free service. In May 2007, the Infocentro Foundation was established as the responsible body, attached to the Ministry of People's Power for Science and Technology. Its role was to provide for the physical infrastructure (infocentres, mobile infocentre units, information points), the technological infrastructure (computers and other devices), the human capital (foundation staff, coordinators, supervisors and social network facilitators), networks constituting the Foundation's communication grid, and the community responsible for socio-technological training. All this formed part of a plan integrating and coordinating the different projects embodying the Foundation's policies, geared to achieving its fundamental objectives.

<sup>365</sup> National report for the Universal Periodic Review of the Bolivarian Republic of Venezuela, submitted to the Human Rights Council in accordance with paragraph 15 (a) of the annex to resolution 5/1, Caracas, 4 July 2011.

<sup>366</sup> *Idem*.

through the establishment of nodes, public telephones, communal communication centres, radio bases and satellite connections.

### **Development of sports**

#### *Normative framework*

605. The Constitution of the Bolivarian Republic of Venezuela stipulates that “All persons have a right to sports and recreation as activities beneficial to the individual and collective quality of life. The State assumes responsibility for sports and recreation as an education and public health policy, and guarantees the resources for their promotion. Physical education and sports play a fundamental role in the overall education of childhood and adolescents. Sports instruction is obligatory at all levels of State and private education up to the diversified cycle, with such exceptions as may be established by law. The State undertakes to be fully attentive to the needs of athletes without discrimination of any kind, to support high-level competitive sports and to evaluate and regulate sports organizations in both the public and the private sector, in accordance with the law”.<sup>367</sup>

606. The Sports, Physical Activity, and Physical Education Act<sup>368</sup> provides that the promotion, organization and administration of sports, physical activity and physical education, and its management as an economic activity with social ends consistent with the Act’s provisions, is governed by the principles of sovereignty, national identity, participatory and proactive democracy, justice, honesty, freedom, respect for human rights, equality, loyalty to the homeland and its symbols, gender equality, cooperation, self-management, co-responsibility, solidarity, social oversight of policies and resources, protection of the environment, productivity, expeditiousness, efficacy, efficiency, transparency, probity, accountability and responsibility.

#### *Relevant jurisprudence*

607. The Constitutional Division of the Supreme Court<sup>369</sup> has interpreted the right to sport, pointing out that the 1999 Constitution recognizes that sport is associated, on the one hand, with the right to health and, on the other, with a fundamental and independent claim, namely the intrinsic right of the human being to engage in sporting activities. These considerations are of such importance that the Constitution stipulates that the State itself undertakes to be fully attentive to the needs of athletes without discrimination of any kind, to support high-level competitive sports and to evaluate and regulate sports organizations in both the public and the private sector, in accordance with the law. Sports activities thus constitute a fundamental right from these twin standpoints.

608. The Constitutional Division went on to affirm that, from the standpoint of the principle of freedom, “All persons have a right to sports and recreation as activities beneficial to the individual and the collective quality of life”; and that, from the standpoint of the principle of equality, the Constitution guarantees that “The State shall assume responsibility for sports and recreation as part of its educational and public health policy, and shall guarantee the resources for their promotion”. Accordingly, from a legal perspective, individual and collective scope exists for citizens to practise their preferred forms of sport; and, from an economic and political perspective, the Government is given the task of planning and financing the necessary services to ensure that the right to practise sport on an equal basis is real, attainable and effective in the terms of the Social State clause.

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<sup>367</sup> Article 111 of the Constitution.

<sup>368</sup> *Gaceta Oficial*, No. 39741, 24 August 2011.

<sup>369</sup> Judgement No. 255 of the Constitutional Division, case file No. 05-0487, 15 March 2005.



*Policies for promoting and strengthening the right*

609. Over the past few years, under the Socialist Sports System Plan for 2007–2013, the Ministry of People’s Power for Sport<sup>370</sup> has developed a policy designed to raise performance levels and the popularization of sport. The result has been to expand and strengthen all aspects of national sport — organizational, managerial, technical, financial and regulatory — and to restore, extend, improve and modernize the sporting infrastructure and the use of innovative technology and sports medicine.

610. The forging of a new culture with regard to managing and administering the resources for promoting sports activities has taken place through community sports committees, with the technical and financial assistance and encouragement of the State.

611. The policy developed by the Barrio Adentro Sports Mission, designed to foster greater community involvement and participation in physical and sporting activity, has had an impact in this area. The Mission’s aims include encouraging co-operation between governmental and non-governmental bodies in support of the mass practice of sport. Another aim is to establish recreational multi-sports community schools and train community sports promoters with the necessary knowledge, skills and motivation with regard to physical activity.

612. The nation’s reserves of sporting talent have been boosted by financial and technical support for its detection, selection and all-round development (academic, medical, social and sporting) in sports considered of strategic importance in the country’s sporting structure at national level.

613. With regard to the application of scientific advances to the training and improved performance of high-performance athletes, the following services have improved: medical monitoring of training, comprehensive medical assistance, promotion of health, assessment, applied science and teaching and research that have benefited 81,350 athletes. In addition, 6,569,237 boys, girls, adolescents and adult men and women have been involved in the systematic practice of physical activity, sport and recreation.

614. For the first time, Venezuela has staged world events such as the America Cup in 2007, the Women’s World Softball and World Baseball Championships, and the Women’s Football event in the Central American and Caribbean Games in 2010.

615. Venezuela also hosted and distinguished itself in the Volleyball World League, as it did in the 2009 Bolivarian Games, winning an historic total of 409 medals. Since the last Olympic Games, our team has won 592 medals and two of its athletes have qualified for the 2012 London Olympic Games. It also participated in the Beijing Paralympic Games.

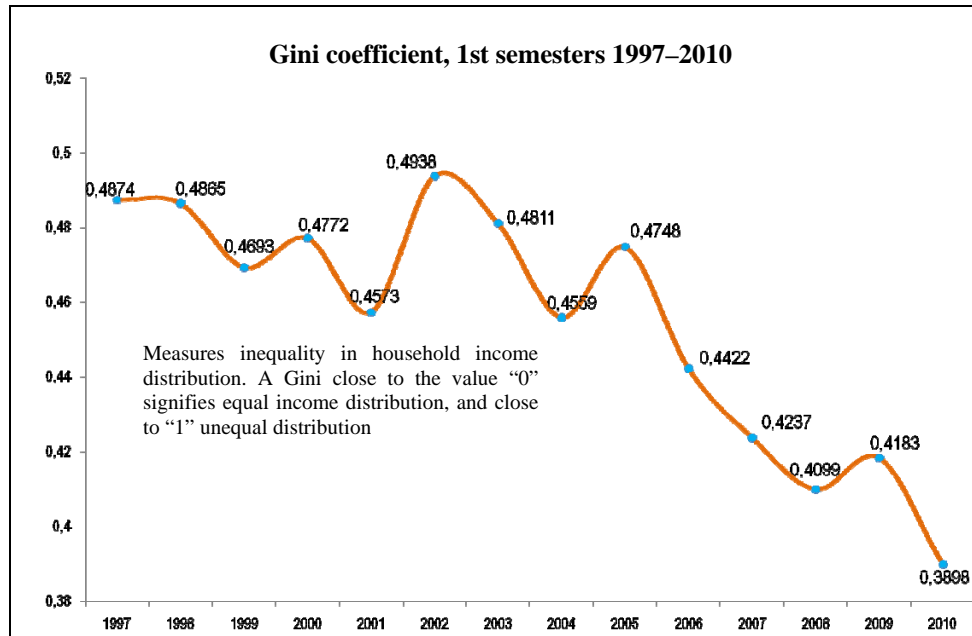
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<sup>370</sup> Established under Decree No. 5022, published in the *Gaceta Oficial*, No. 38574, 29 November 2006.

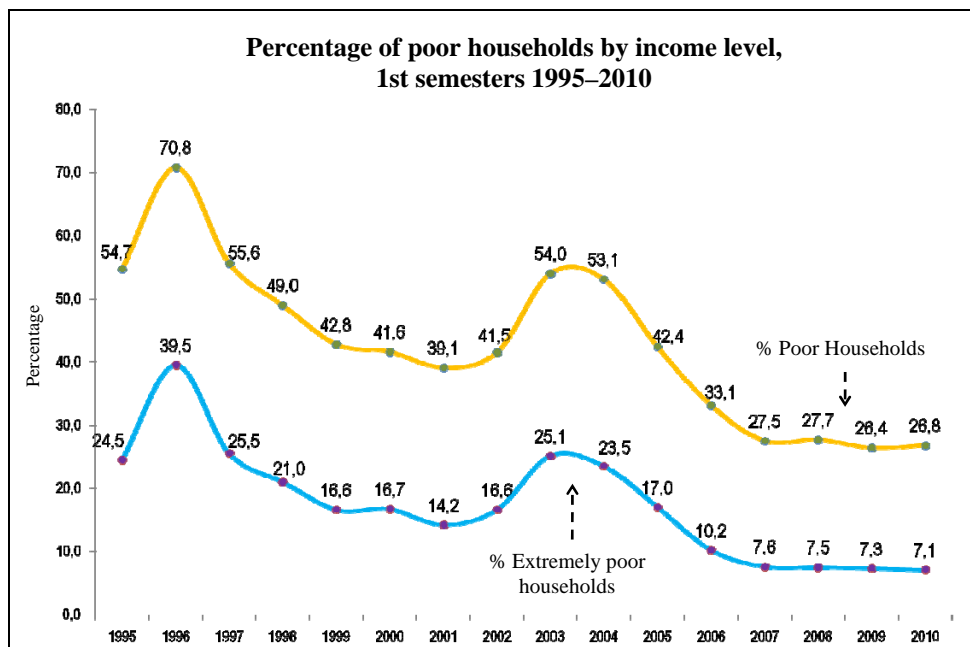
Annex

Tables and Graphs

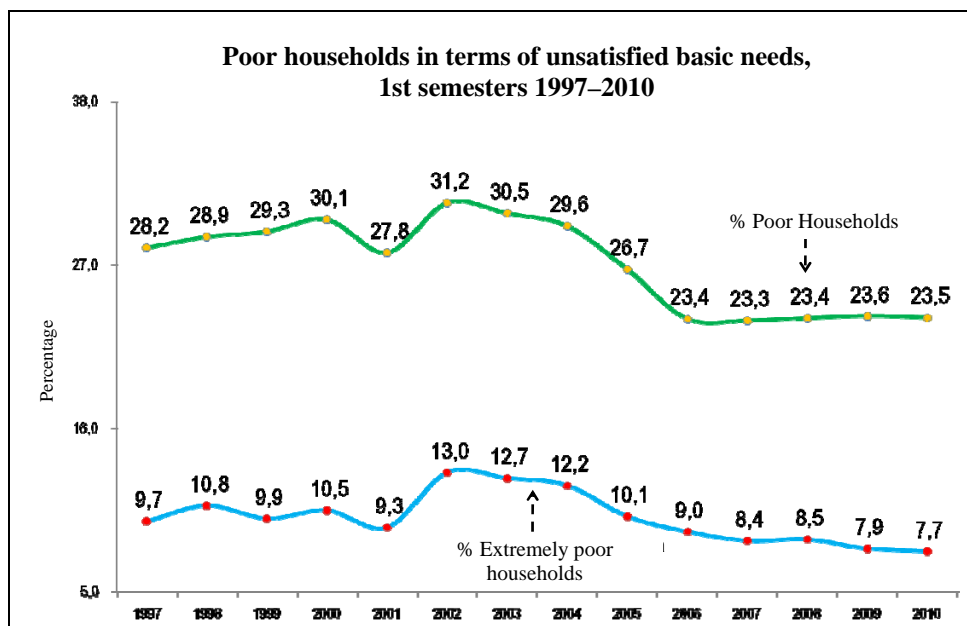
Reduction in the poverty index



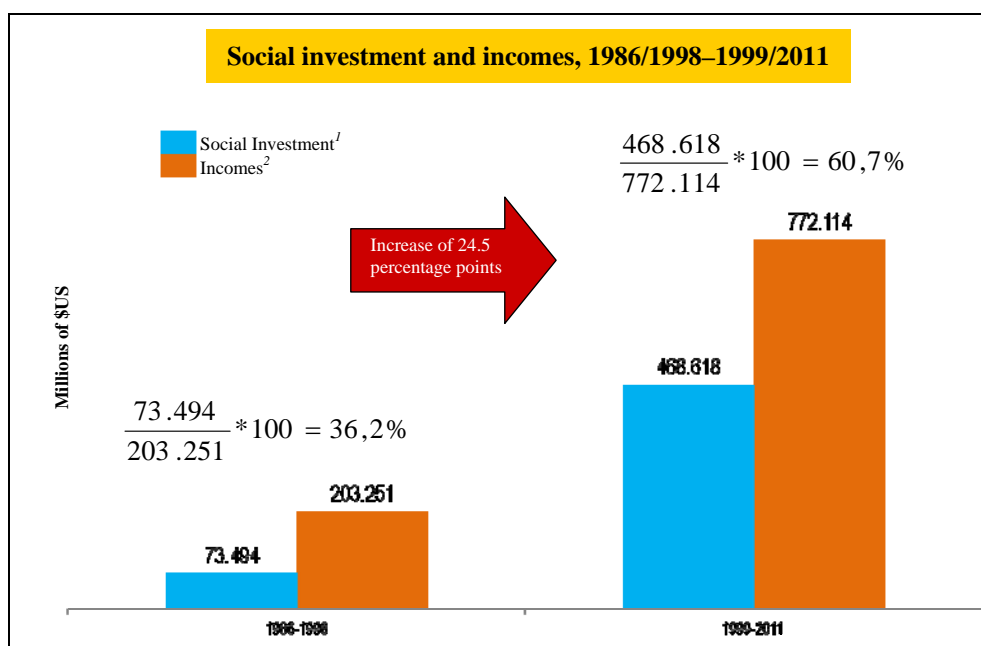
Source: National Institute of Statistics (INE).



Source: National Institute of Statistics (INE).



Source: National Institute of Statistics (INE).



Source: National Budget Office (ONAPRE); Central Bank of Venezuela (BCV); National Institute of Statistics (INE), own calculations; Ministry of People's Power for Planning and Finance (MPPF), own calculations.

<sup>1</sup> Comprises central administration, the Corporation for the Promotion of the Constitution, modifying where it seems the precedents the Foundation, the Foundation staff, the governorates, mayorships, PDVSA and FONDEN.

<sup>2</sup> Comprises the incomes of the consolidated restricted public sector.

**The right to work**

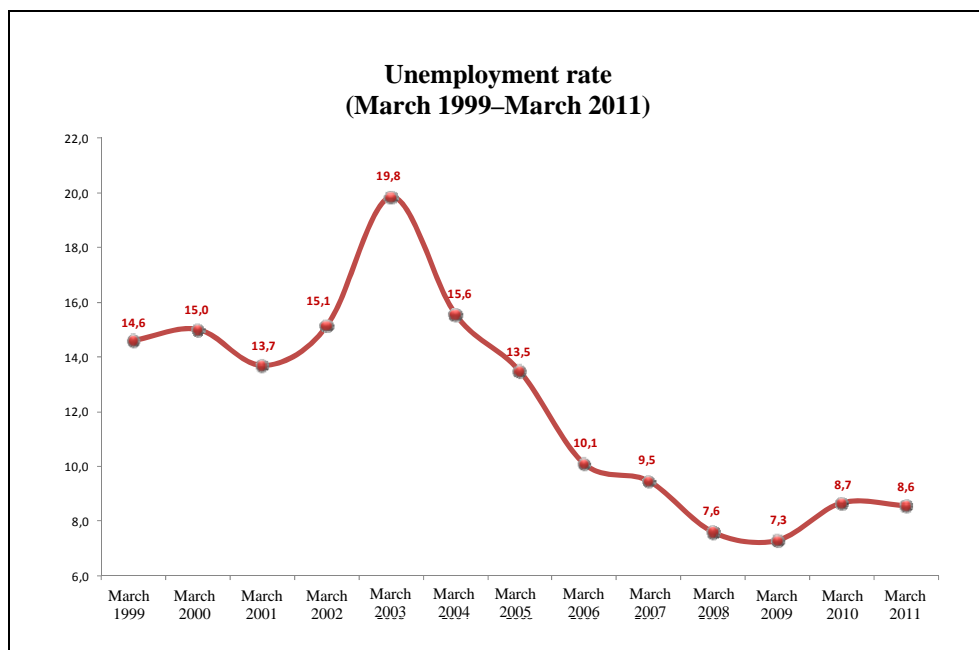


Source: National Institute of Statistics (INE).

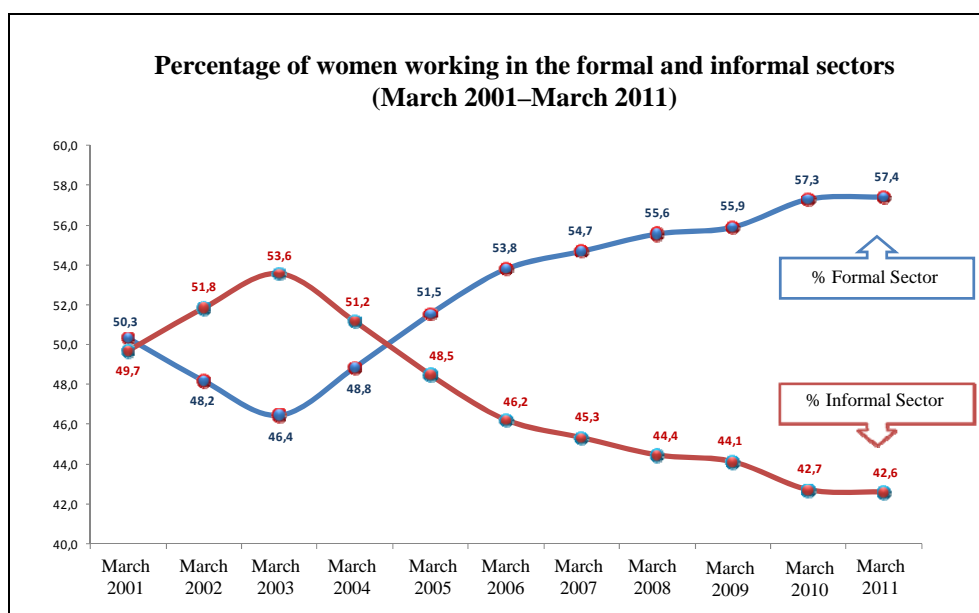
Note: For 2011, the minimum wage was set from 1 May.



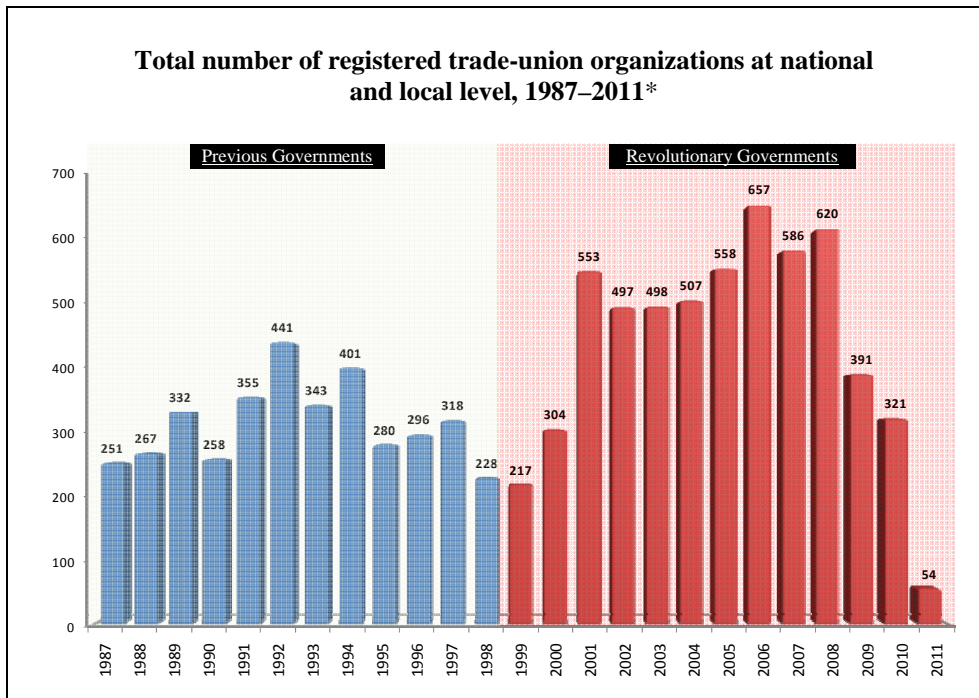
Source: National Institute of Statistics (INE).



Source: National Institute of Statistics (INE).

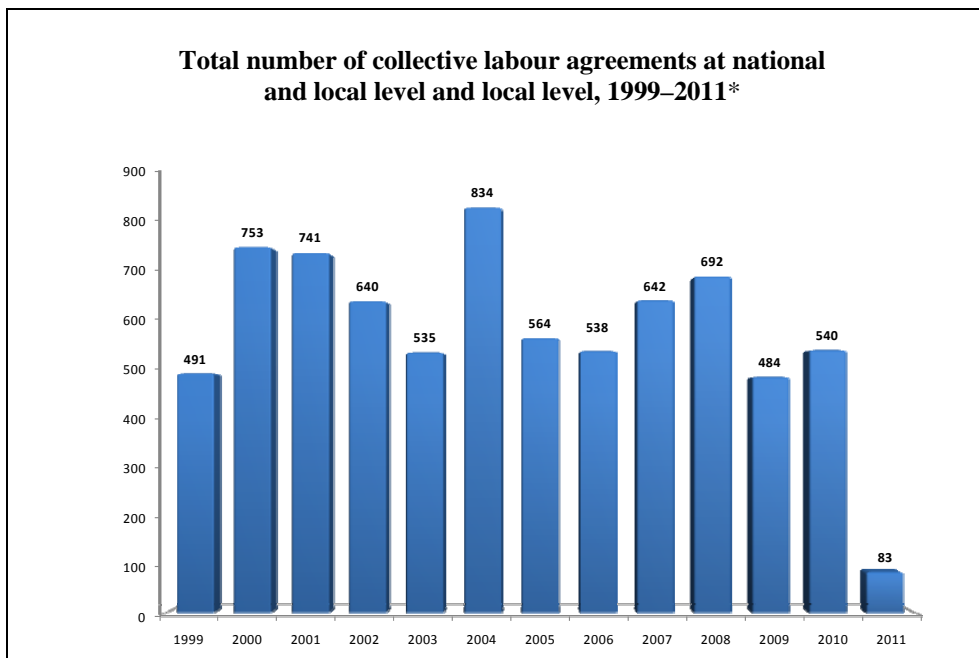


Source: National Institute of Statistics (INE).



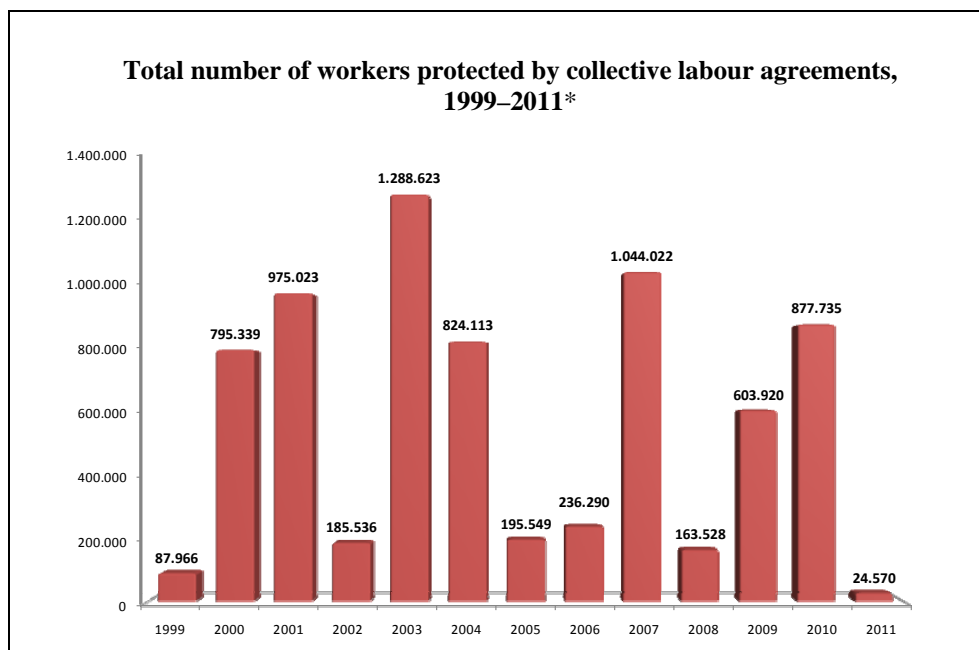
Source: Ministry of People’s Power for Labour and Social Security.

\* Preliminary figures as of March.



Source: Ministry of People’s Power for Labour and Social Security.

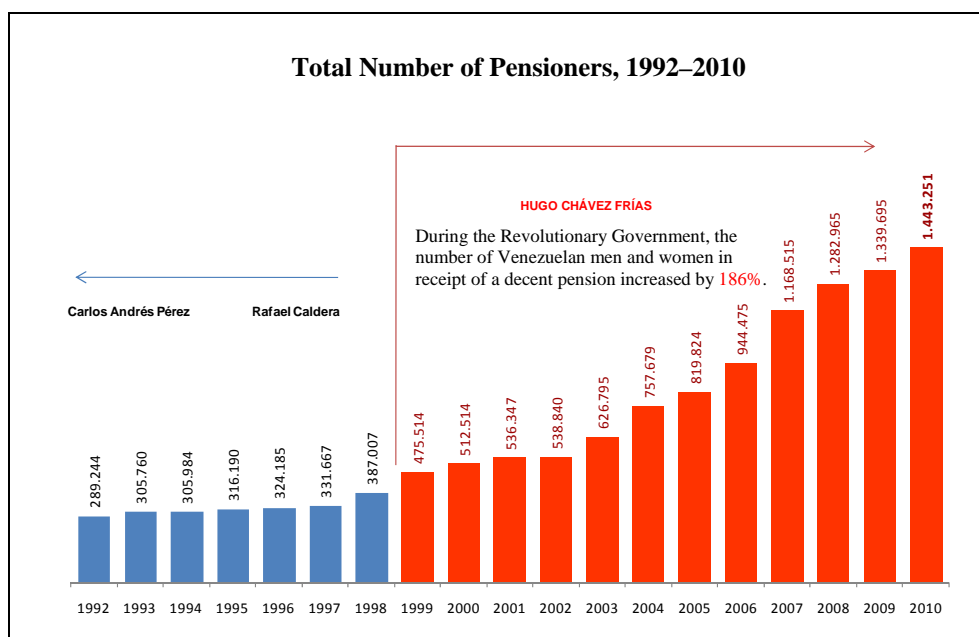
\* Preliminary figures as of March.



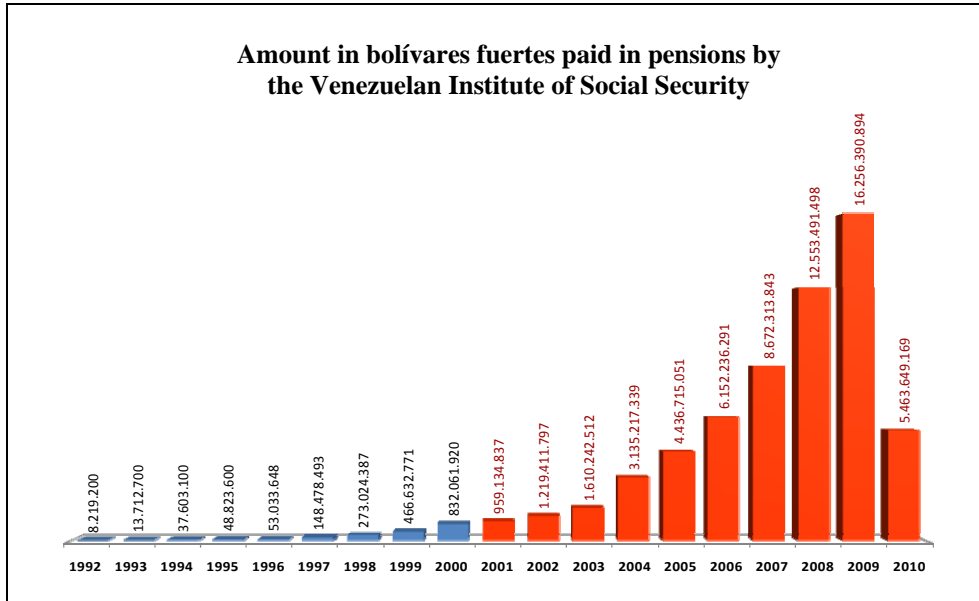
Source: Ministry of People's Power for Labour and Social Security.

\* Preliminary figures as of March.

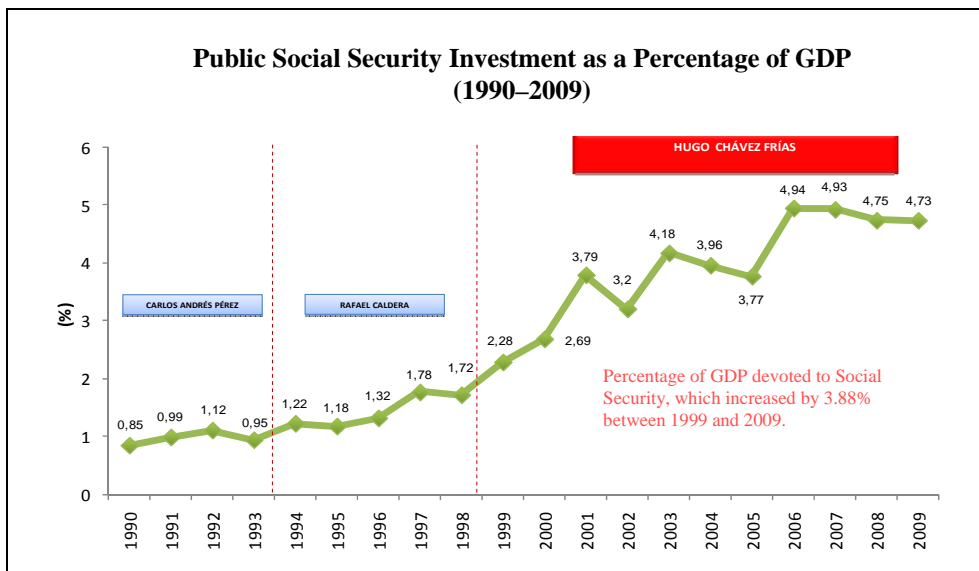
### The right to social security



Source: Venezuelan Institute of Social Security/Figures updated to April 2010.

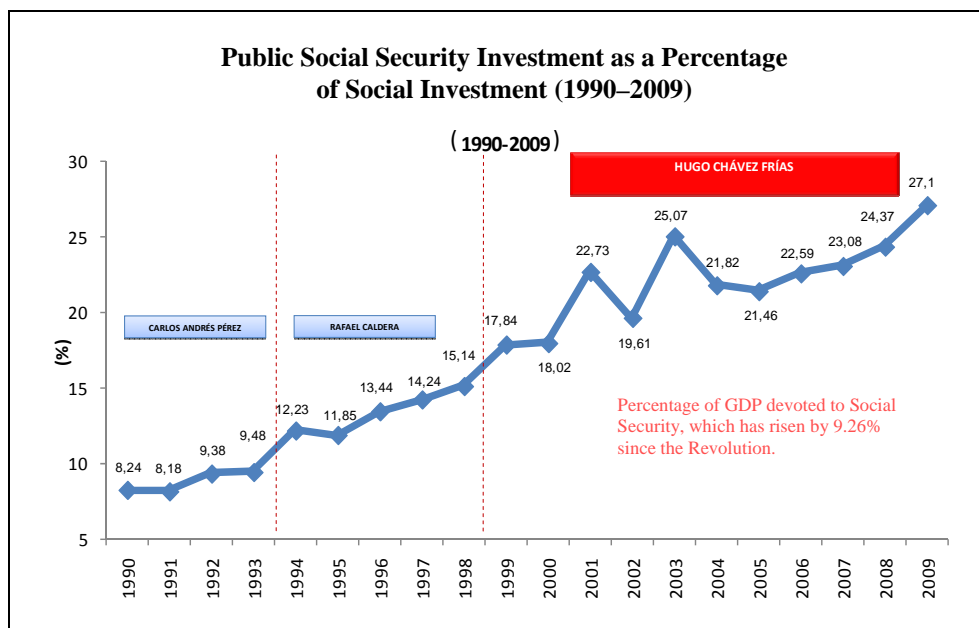


Source: Venezuelan Institute of Social Security/Figures updated to April 2010.



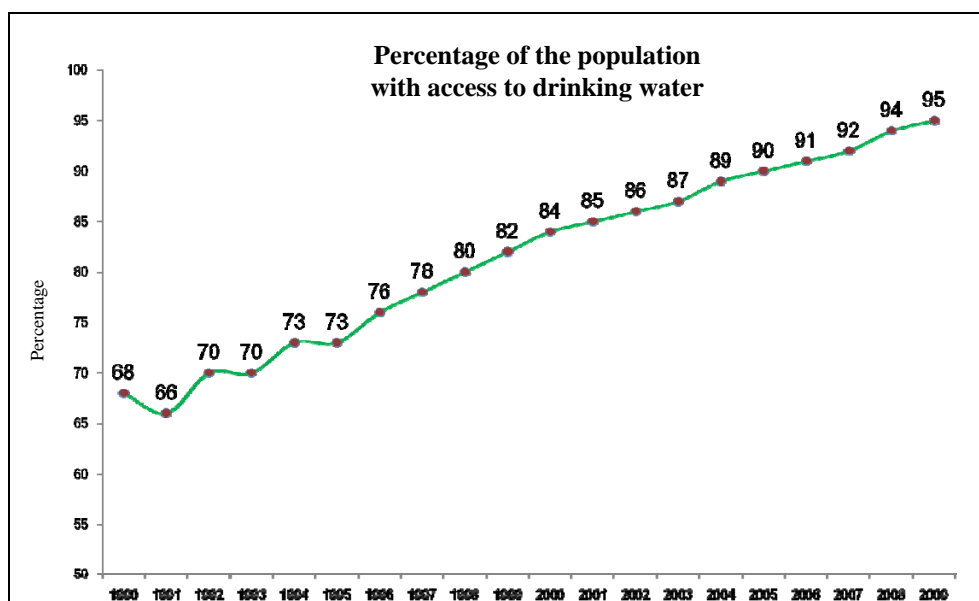
Source: National Budget Office (ONAPRE); Central Bank of Venezuela.





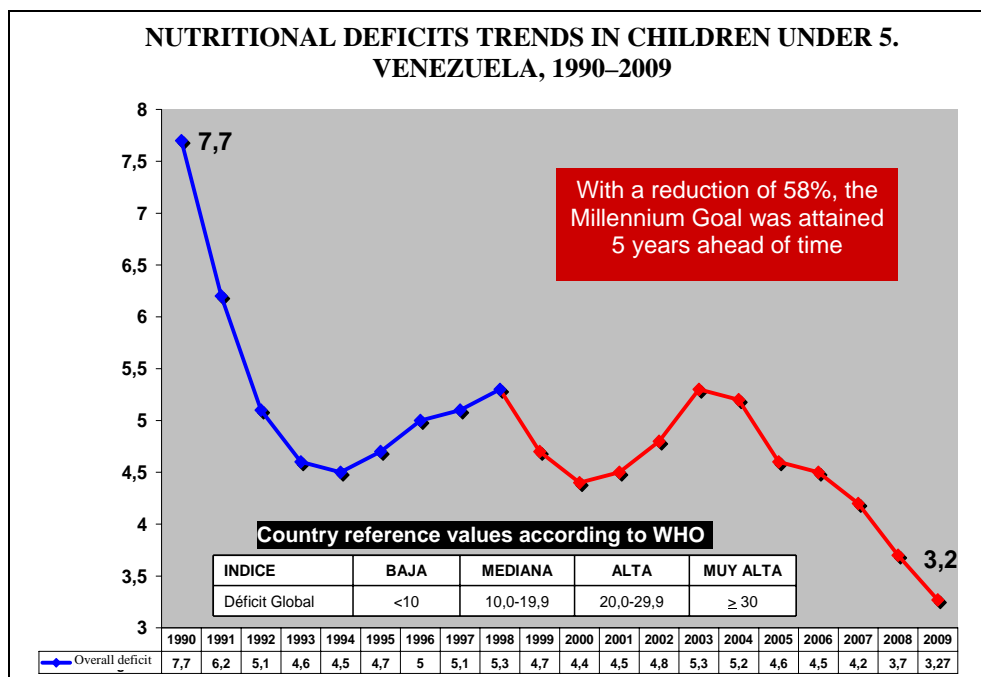
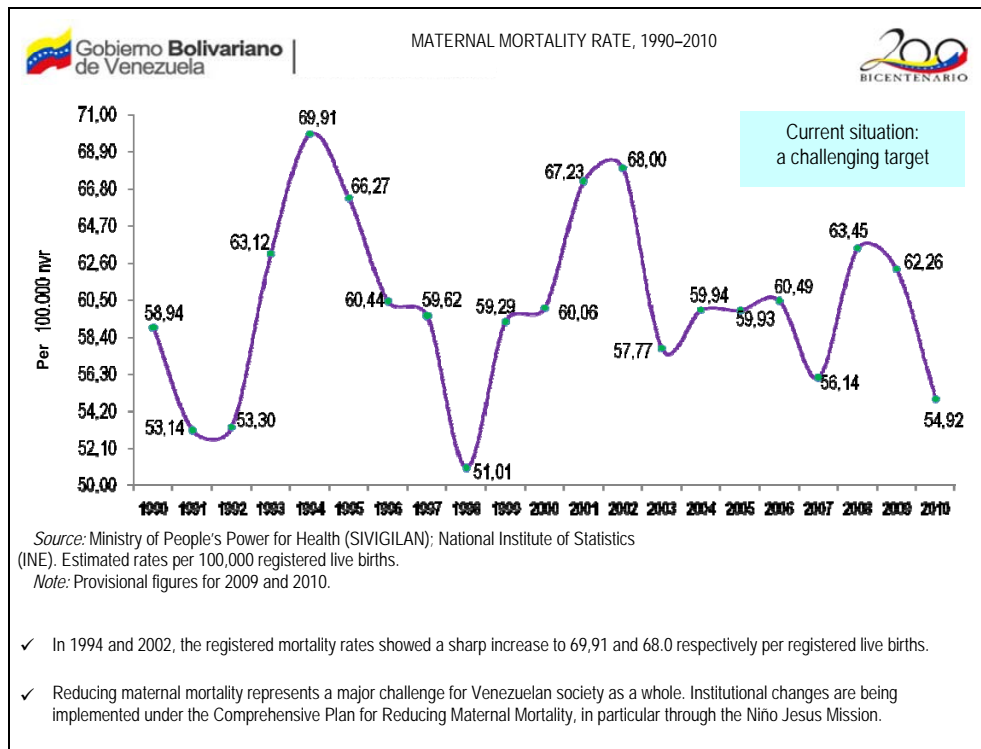
Source: National Budget Office (ONAPRE); Central Bank of Venezuela.

### The right to food

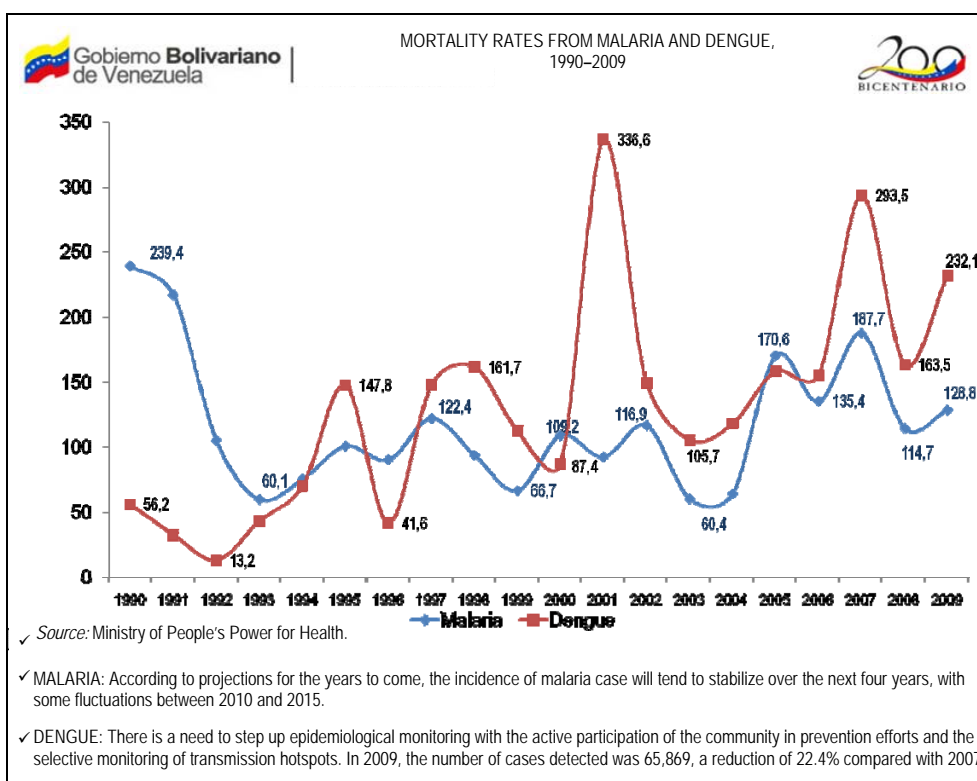
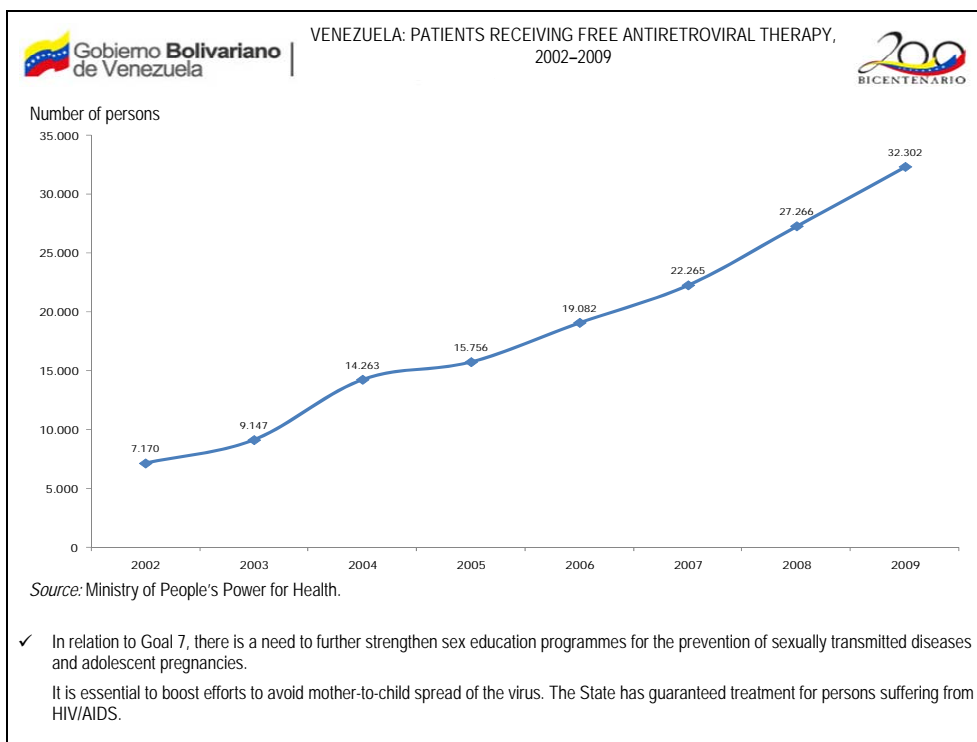


Source: Ministry of People's Power for the Environment.

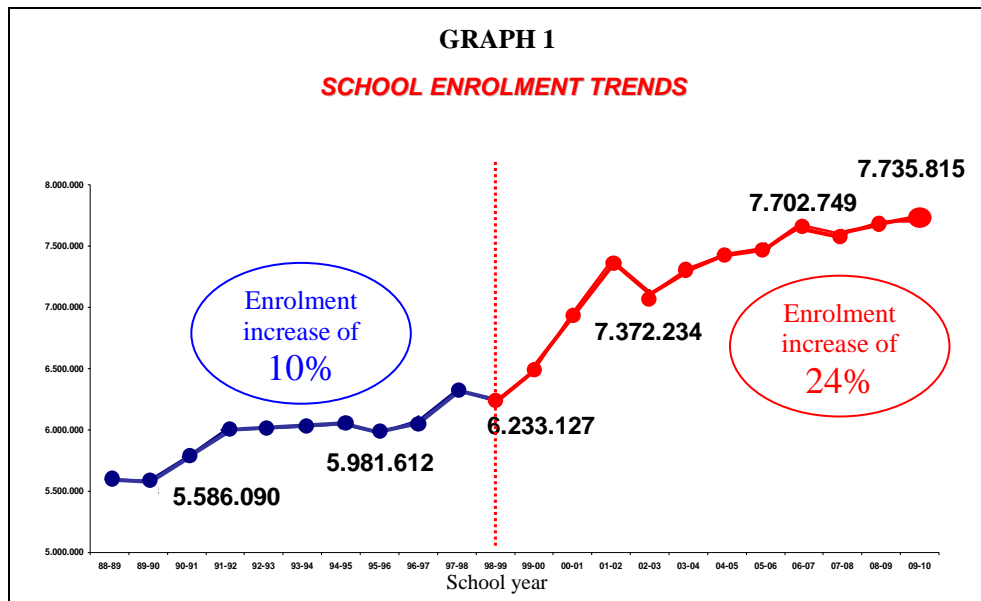
**Right to health**



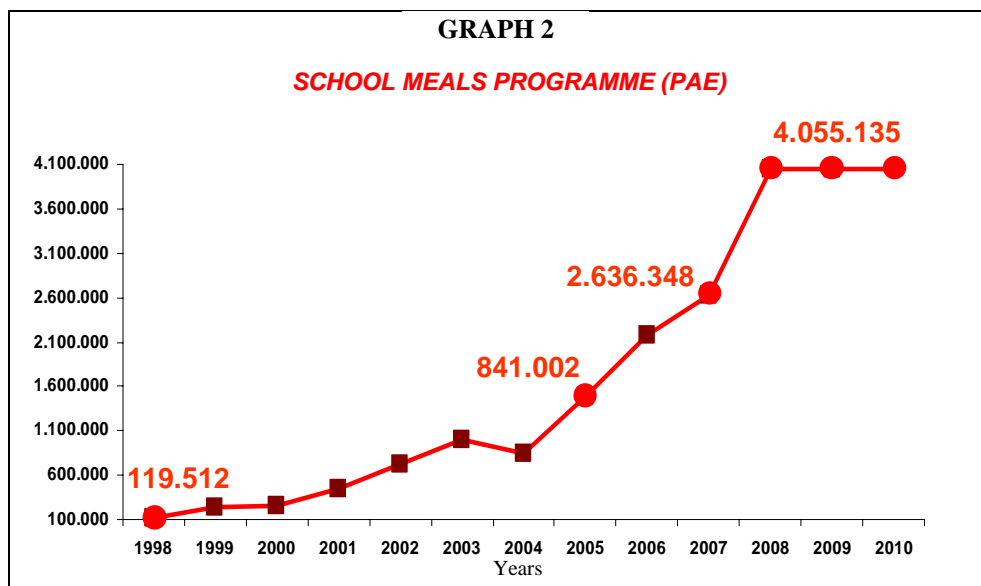
Source: INN-SISVAN. Children under 15 component 1990–2007.  
 Anthropometric nutritional assessment at first-level health care 2008–2009.



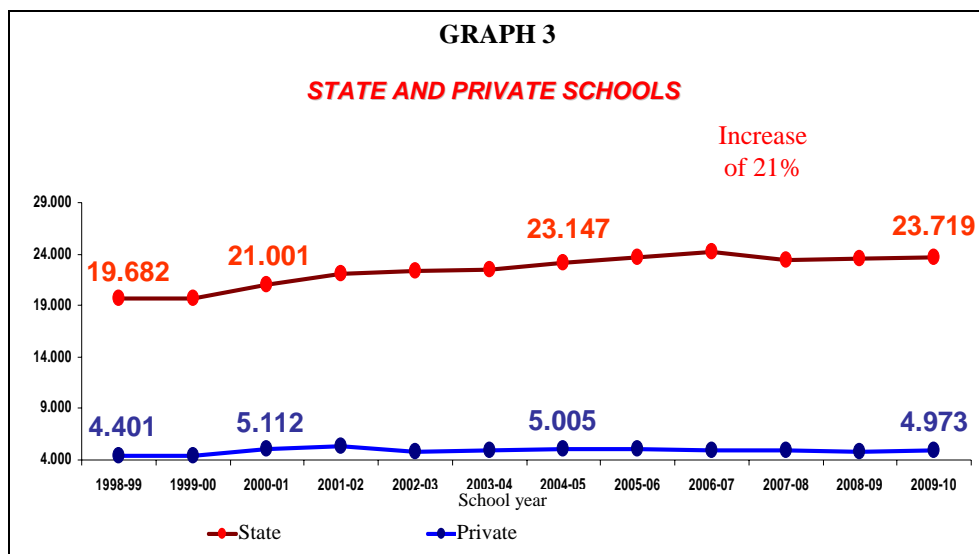
**Right to Education**



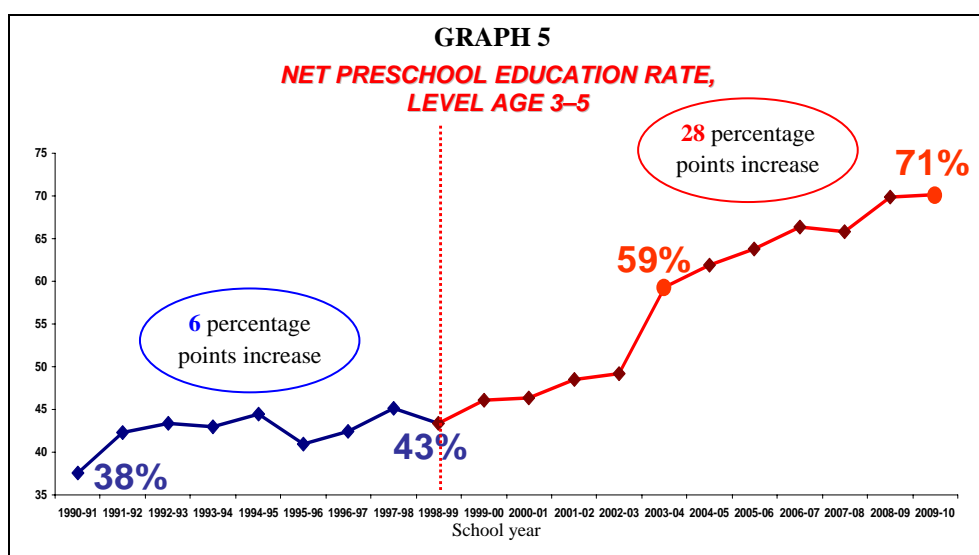
Source: Ministry of People’s Power for Education – Statistics Department.



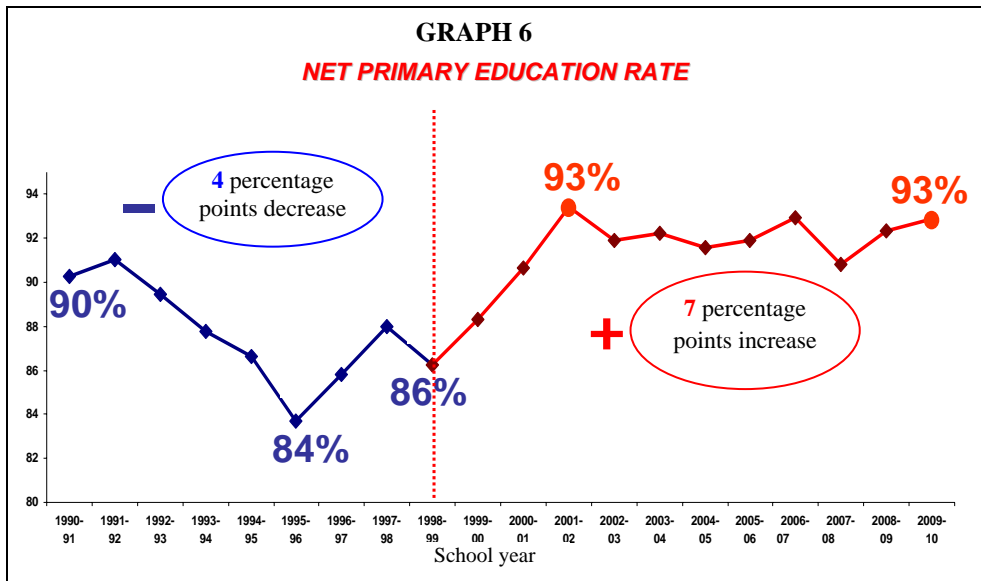
Source: National Coordination Office of the School Meals Programme.



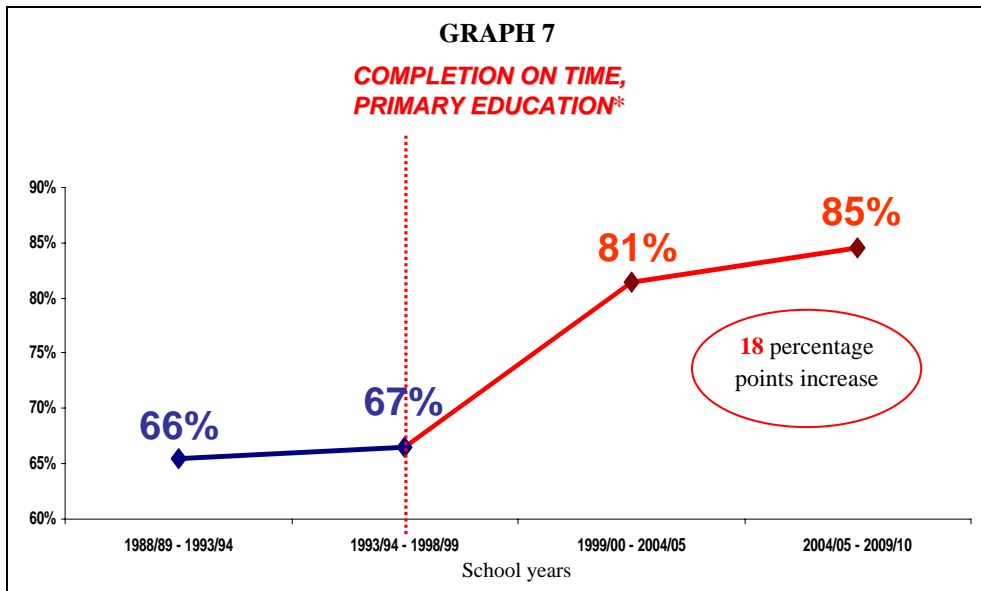
Source: Ministry of People's Power for Education – Statistics Department.



Source: Ministry of People's Power for Education – Statistics Department.

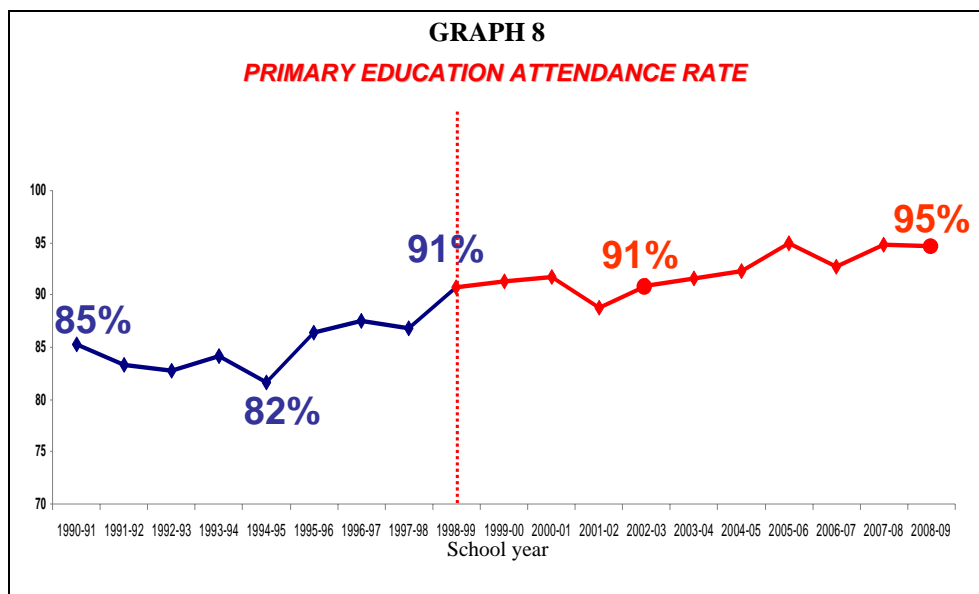


Source: Ministry of People’s Power for Education – Statistics Department, Preliminary figures.

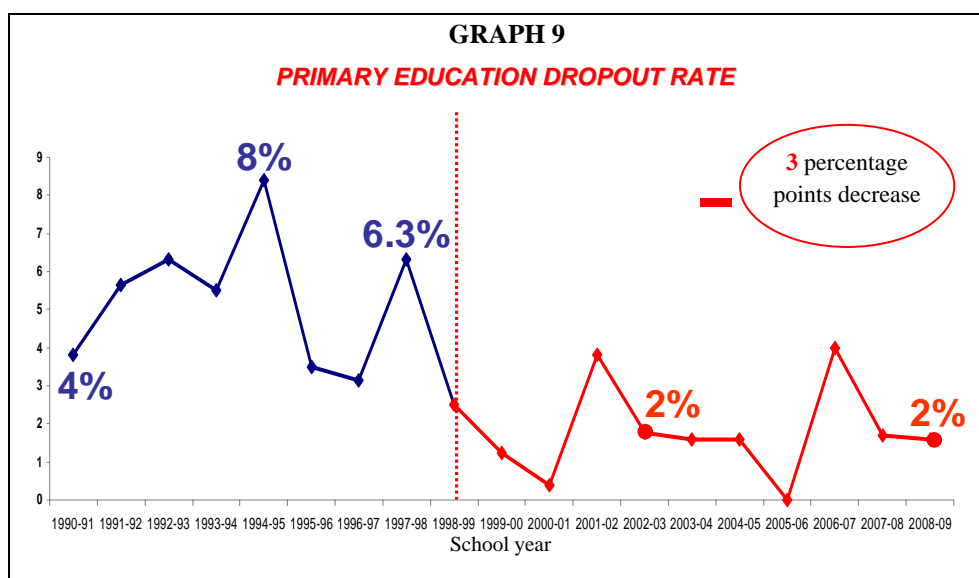


Source: Ministry of People’s Power for Education – Statistics Department.

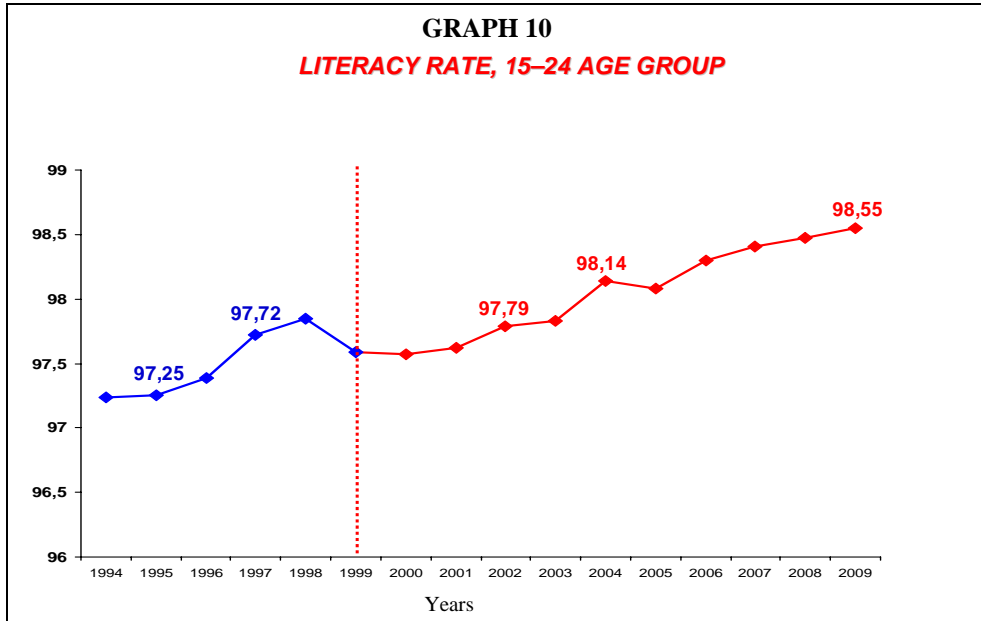
\* Studies primary cohort enrolments for six (6) consecutive school years.



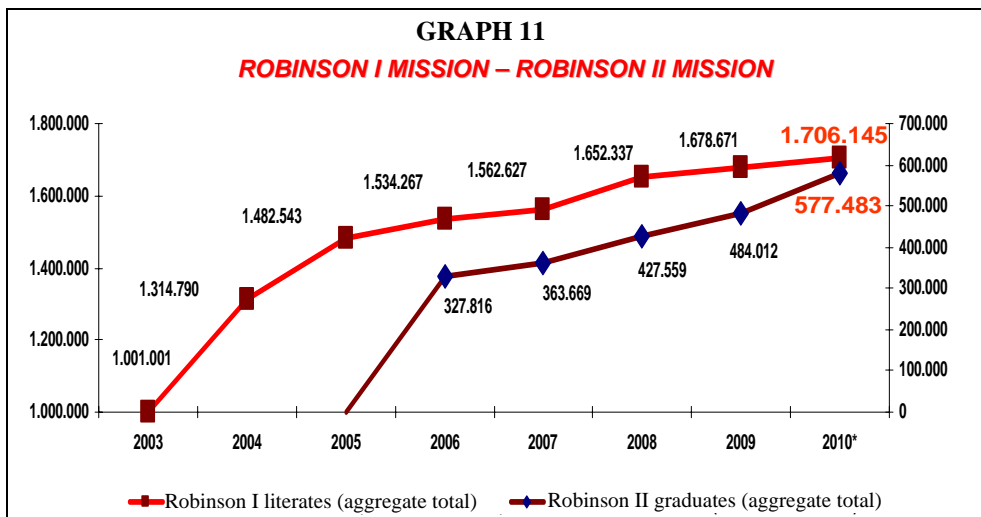
Source: Statistics Department.



Source: Ministry of People's Power for Education – Statistics Department.

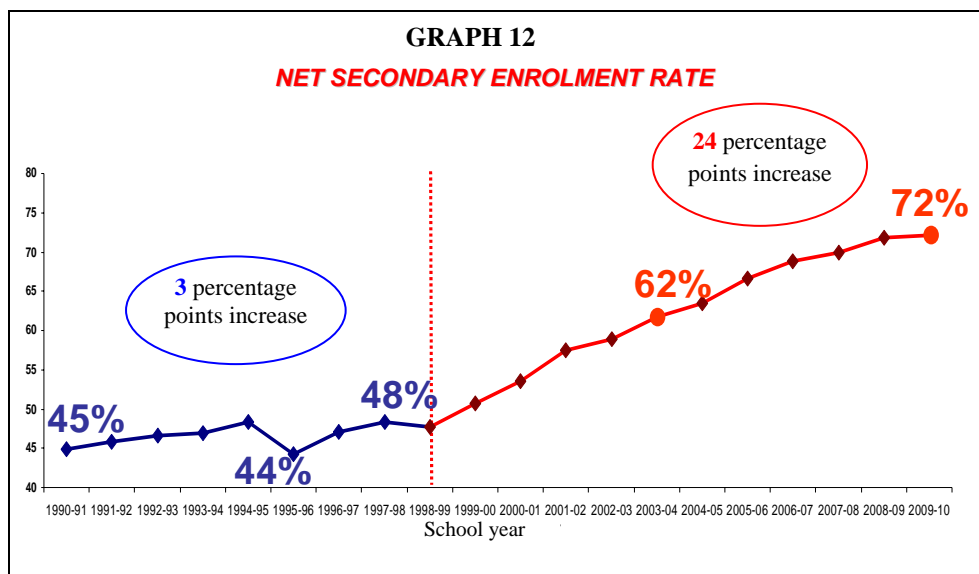


Source: National Institute of Statistics (INE) – Sample household survey, 2nd semesters.

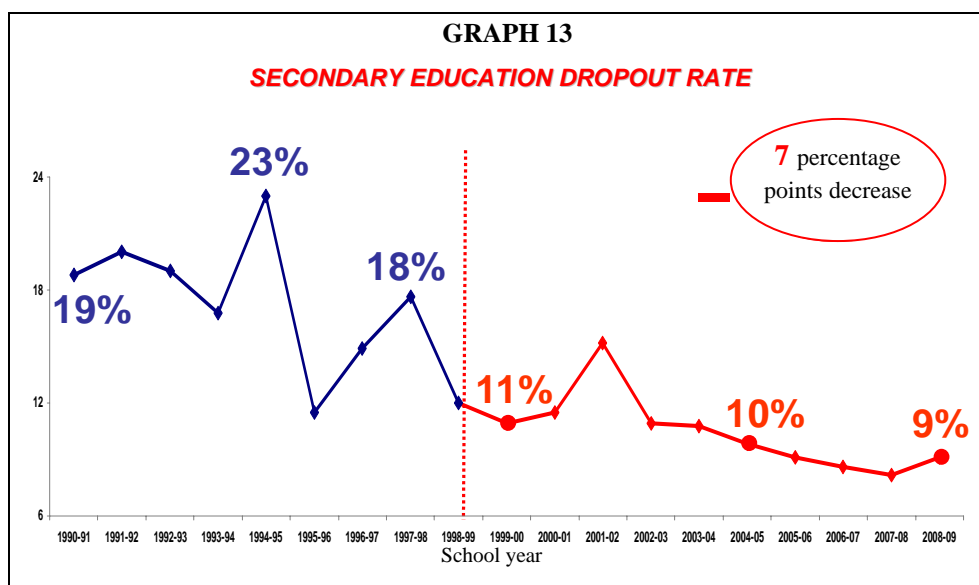


Source: Robinson Foundation – September 2010 figures.

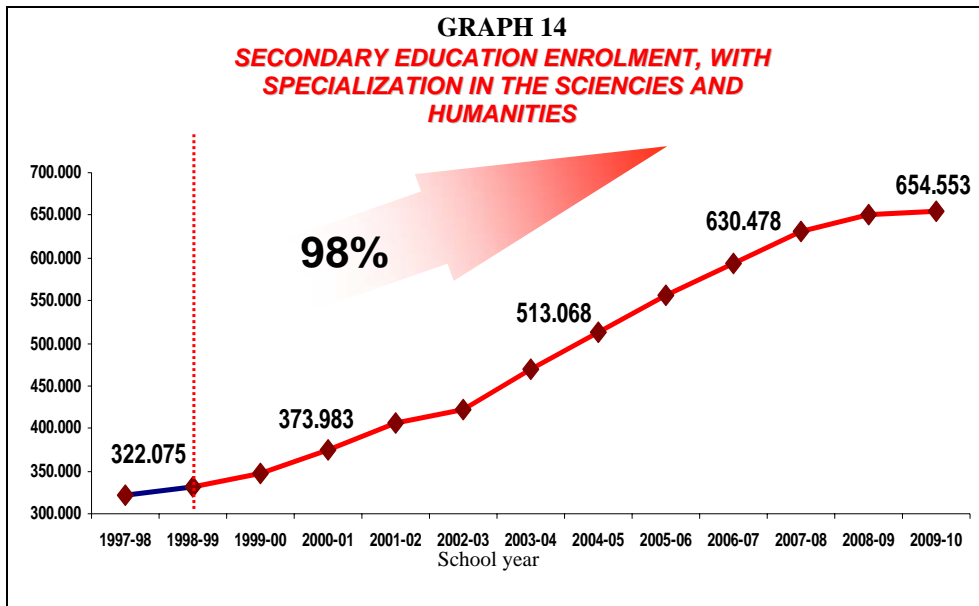




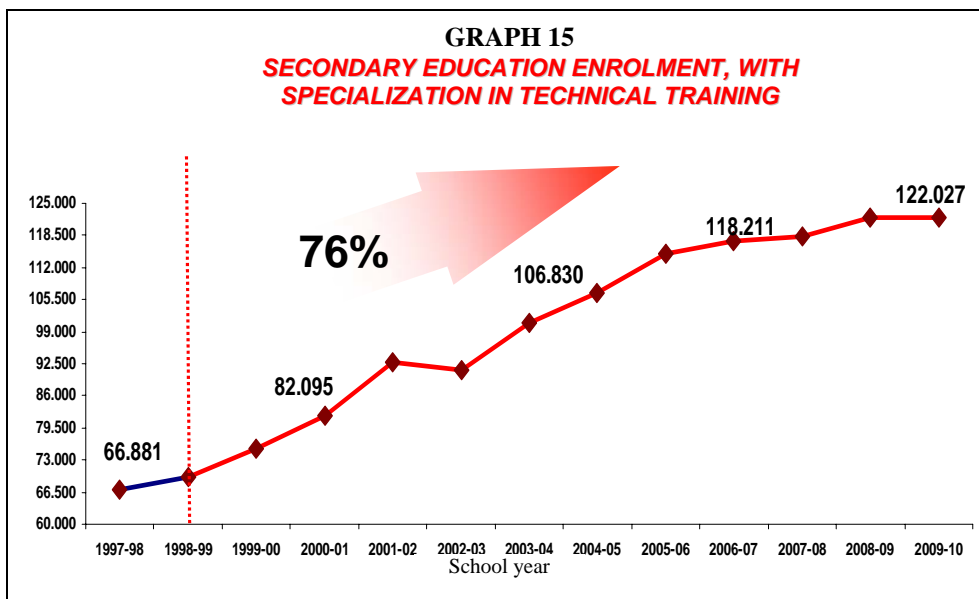
Source: Ministry of People's Power for Education – Statistics Department.



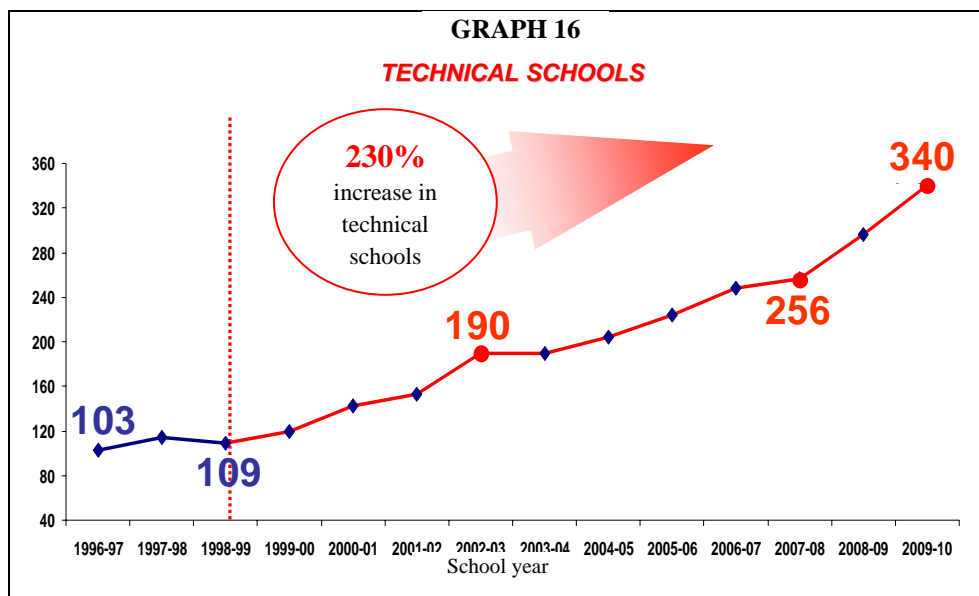
Source: Ministry of People's Power for Education – Statistics Department.



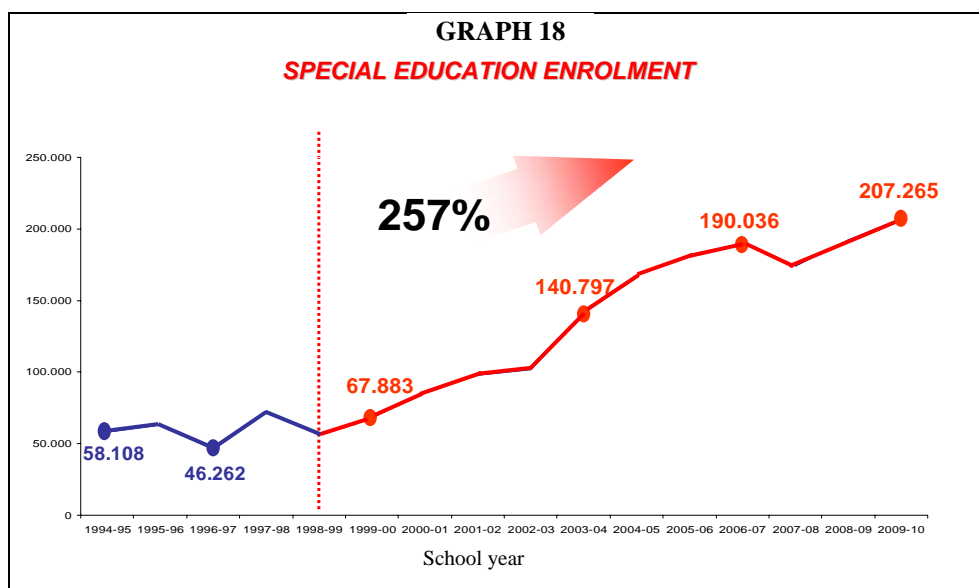
Source: Ministry of People’s Power for Education – Statistics Department.



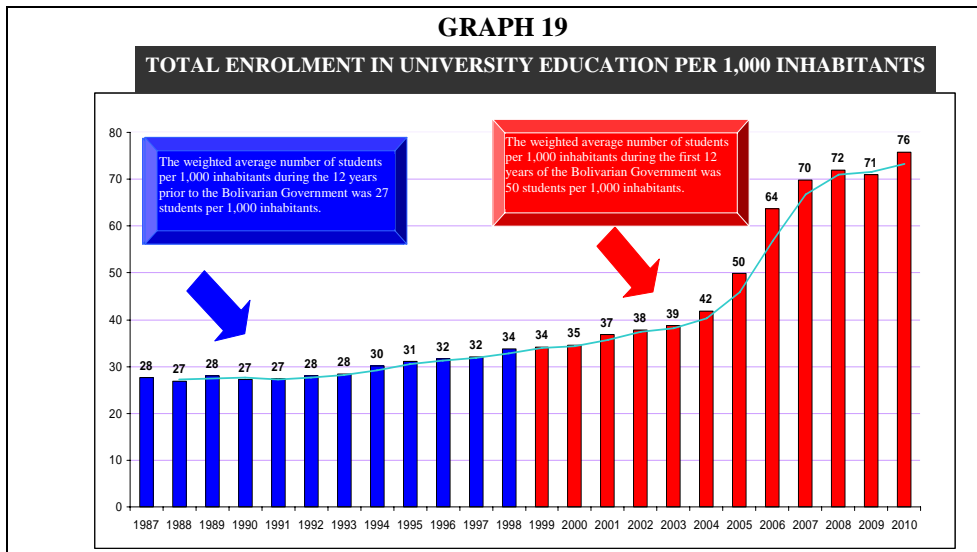
Source: Ministry of People’s Power for Education – Statistics Department. Preliminary figures.



Source: Ministry of People's Power for Education – Statistics Department.



Source: Ministry of People's Power for Education – Statistics Department. Preliminary figures.

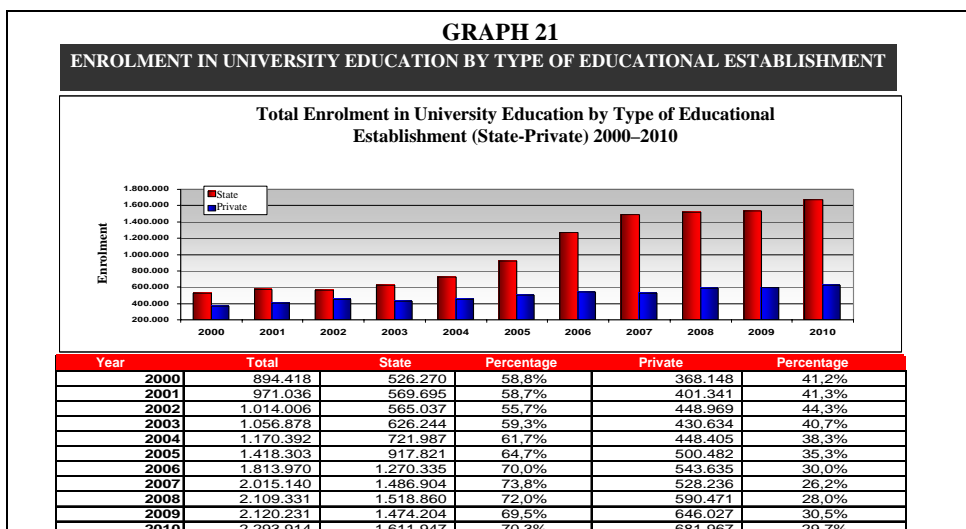


Source: Office of Prospective Statistics and Analysis, MPPEU, November 2010.

Updated 2010: Planning and Budget Office, MPPEU, January 2011.

(\* ) The data for 2008 are provisional.

(\* ) The data for 2009 and 2010 are estimates.

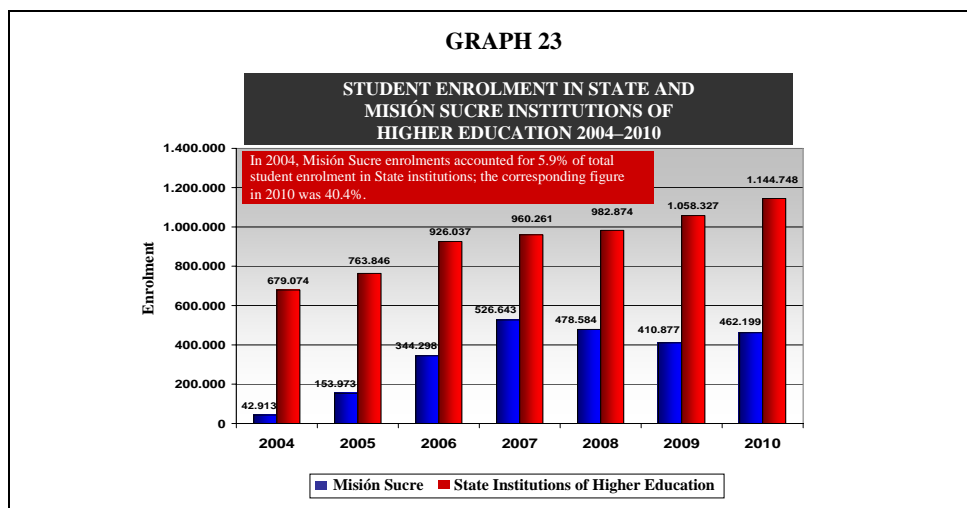


Source: Office of Prospective Statistics and Analysis, MPPEU, November 2010.

Updated 2010: Planning and Budget Office, MPPEU, January 2011.

(\* ) The data for 2008 are provisional.

(\* ) The data for 2009 and 2010 are estimates.



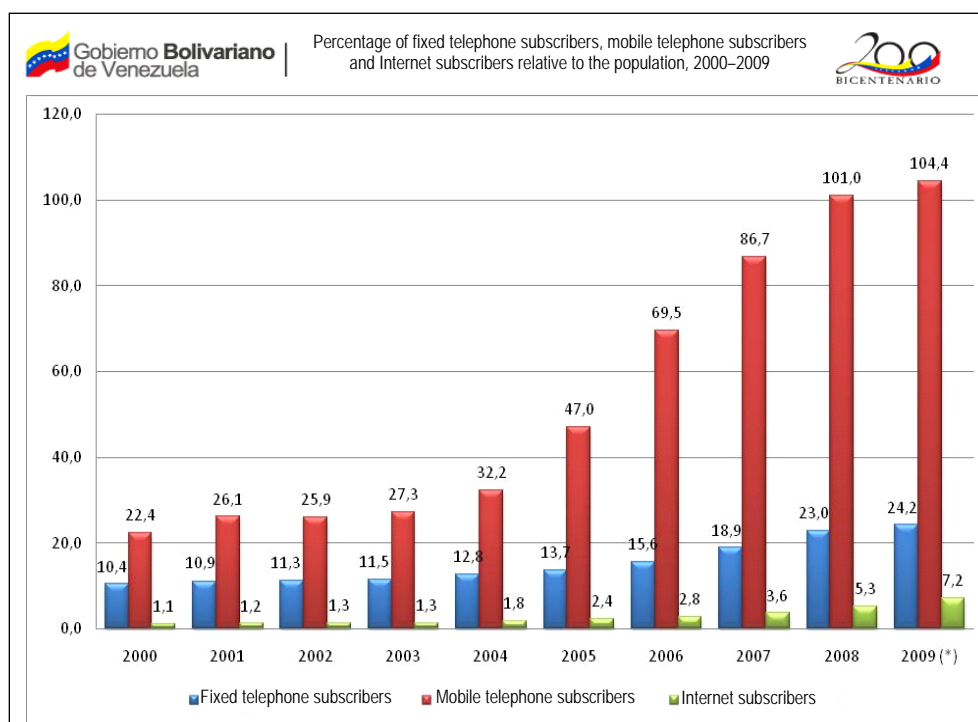
Source: Misión Sucre Foundation, August 2010.

(\*) The data for 2008 are provisional.



(\*\*) The data for 2009 and 2010 are estimates taken from the Report and Statement.

(\*\*\*) The enrolment figure includes the preschool stage.

### Technological innovation



Source: Ministry of Science, Technology and Intermediate Industries.

		NUMBER OF SUBSCRIBERS TO FIXED/MOBILE TELEPHONE SERVICES, INTERNET USERS, 2000-2009		
Years	Subscribers to Fixed Telephone Services	Subscribers to Mobile Telephone Services	Internet Subscribers	
2000	2,535,966	5,447,172	273,537	
2001	2,704,921	6,472,584	304,769	
2002	2,841,698	6,541,894	315,564	
2003	2,956,185	7,015,121	322,547	
2004	3,346,462	8,420,980	459,471	
2005	3,650,501	12,495,721	636,848	
2006	4,216,794	18,789,466	759,785	
2007	5,195,071	23,820,133	1,003,079	
2008	6,417,775	28,212,333	1,472,991	
2009	6,866,626	29,625,388	2,033,858	

*Source:* National Telecommunications Commission (CONATEL).  
*Note:* Calculated on the basis of public and private service provision. Provisional 2009 figures.

✓ In relation to Goal 12, the number of mobile telephone subscribers in 2000 was 5,447,172; by 2009, it had increased to 29,625,388. In 2000, a total of 273,537 users had Internet access, and by 2009 the number had increased to 2,033,858.