

**Report of the Independent Expert on the promotion of a democratic and equitable international order on his mission to the Bolivarian Republic of Venezuela and Ecuador**

A/HRC/39/47/Add.1

**Excerpts**

**IV. Conclusions**

59. As the first United Nations rapporteur to visit the Bolivarian Republic of Venezuela in 21 years,<sup>141</sup> and one of the few to have recently visited Ecuador, the Independent Expert is conscious of his responsibilities and limitations. Six years into the mandate, he has learned that governments are not always the “bad guys”. As demonstrated in 13 thematic reports, other players impact on the enjoyment of human rights, including the World Trade Organization, the World Bank, the International Monetary Fund, transnational corporations and some lobbies like the military-industrial-financial complex. These actors often wield more influence than States. Moreover, the national and international economic orders are distorted by bilateral investment treaties, free trade agreements, credit rating agencies, vulture funds, boycotts and unilateral coercive measures, which have often resulted in the suffering of billions of individuals. Rapporteurs should focus not only on States and their failures, but also on other actors and the pervasive lack of accountability.

60. Democratically elected governments possess legitimacy and only they can effectively protect the human rights of persons under their jurisdiction and implement change. Recognizing that in every government there are good and less good politicians, what is important is to persuade them that it is in their interest to adopt measures that will enhance the enjoyment of human rights.

61. Rapporteurs should conduct country visits with a view to helping rather than condemning. Rapporteurs must strive for objectivity, and rigorously observe the code of conduct, particularly article 6. Whereas some civil society organizations think that the goal is “naming and shaming”, this rarely brings results, because the “namer” is not always perceived as independent or possessing moral authority. When the country being named has reservations about the integrity and objectivity of rapporteurs or of the Inter-American Commission on Human Rights, OHCHR invitations will not be forthcoming. The incentive for governments is the expectation that rapporteurs will make constructive proposals.

62. The solution to the Venezuelan “crisis” lies in good faith negotiations between the Government and the opposition, an end to the economic war, and the lifting of sanctions. In

pursuance of the principle of international solidarity (see A/HRC/35/35), United Nations agencies should provide advisory services and technical assistance to the Government. The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence may wish to address the interplay between State crime and international order, both from the positive and the natural law perspective, and formulate recommendations concerning reparations due to populations affected by sanctions and economic war. Rich States should facilitate humanitarian assistance in coordination with neutral organizations such as ICRC, the priority being how to effectively help Venezuelans while respecting State sovereignty.

63. While the Bolivarian Republic of Venezuela is undergoing a severe economic crisis, the Government is not standing idle; it is seeking international assistance to overcome the challenges, diversifying the economy and seeking debt restructuring. Sanctions only aggravate the situation by hindering the imports necessary to produce generic medicines and seeds to increase agricultural production. Sanctions have also led to emigration. The problems of Ecuador partly have to do with the fall in the oil prices. The Government is keenly aware of that and is addressing deficiencies within its possibilities. Again, international solidarity and South-South cooperation will help enhance the human rights of all.

64. The Independent Expert wishes to express his appreciation to the Governments of the Bolivarian Republic of Venezuela and of Ecuador for answering his questions and furnishing extensive documentation and statistics. Civil society organizations contributed pertinent analyses that he considered in his evaluation. .

## **V. Recommendations**

65. The Independent Expert recommends that the Government of the Bolivarian Republic of Venezuela:

- (a) Continue efforts at dialogue with opposition parties, revive the negotiations hosted in the Dominican Republic by the former prime minister of Spain, José Luis Rodríguez Zapatero, and promote national reconciliation by releasing detainees and granting commutations of sentence;
- (b) Invite other special procedures mandate holders to visit the country, besides the Special Rapporteurs on unilateral coercive measures and on the right to development, who have already been invited. The Special Rapporteurs on food, on health, on adequate housing, on the independence of judges and lawyers, the Independent Expert on foreign debt, the Special Rapporteurs on the promotion of truth, justice, reparation and guarantees of non-recurrence, on the promotion and protection of the right to freedom of opinion and expression, and on the rights to freedom of peaceful assembly and of association, the Working Group on Arbitrary Detention and other experts would offer valuable expertise;
- (c) Welcome humanitarian aid offered by governments, the European

Union, 142 inter-governmental organizations and the private sector;

- (d) Continue constructive cooperation with the United Nations treaty bodies and implement their recommendations;
- (e) Continue cooperation with FAO and WHO and ask UNODC for assistance in combating the scourge of food and medicine smuggling by national and international rings;
- (f) Strengthen cooperation with ILO, deal expeditiously with contentious cases and implement ILO recommendations, including those related to Case No. 2254, by establishing a social dialogue table and action plan;
- (g) Strengthen South-South cooperation, including with the Bolivarian Alliance for the Peoples of Our America, the Union of South American Nations, SELA and CELAC. In particular, strengthen technical and institutional cooperation between SELA and the Organization for Economic Cooperation and Development for the promotion of sustainable and inclusive economic growth in Latin America, as well as joint actions in the economic, social and trade areas;
- (h) Engage proactively with entrepreneurs and a diverse group of nongovernmental actors so as to resolve together the prevailing social and political problems.

66. The Independent Expert recommends that the Government of Ecuador:

- (a) Expand its cooperation with United Nations agencies;
- (b) Strengthen South-South cooperation, including with the Bolivarian Alliance for the Peoples of Our America, the Union of South American Nations, SELA and CELAC, so as to solidify a Latin American model of enforcement of economic, social and cultural rights while advancing civil and political rights;
- (c) Continue constructive cooperation with the United Nations treaty bodies, particularly the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, and implement their recommendations;
- (d) Continue its leadership in the campaign to negotiate and adopt a legally binding treaty on the social responsibility of transnational corporations;
- (e) Continue efforts to establish a United Nations tax body to phase out tax havens and criminalize tax evasion;
- (f) Continue defending the sovereignty of States against abuses by investors and transnational corporations and oppose any bilateral investment agreement or free trade agreement that includes investor-State dispute settlement arbitrations.

67. The Independent Expert recommends that the General Assembly:

- (g) Invoke article 96 of the Charter of the United Nations and refer the following questions to the International Court of Justice: Can unilateral coercive measures be compatible with international law? Can unilateral coercive measures amount to crimes against humanity when a large number of persons perish because of scarcity of food and medicines? What reparations are due to the victims of sanctions? Do sanctions and currency manipulations constitute geopolitical crimes?
- (h) Adopt a resolution along the lines of the resolutions on the United States embargo against Cuba, declaring the sanctions against the Bolivarian Republic of Venezuela contrary to international law and human rights law;
- (i) Create a consolidated central register of unilateral coercive measures

likely to have a human rights impact, to be maintained and updated by the Secretary General, as proposed by the Special Rapporteur on unilateral coercive measures in his 2015 report to the General Assembly (A/70/345) and his 2017 report to the Human Rights Council (A/HRC/36/44).

68. The Independent Expert recommends that the Human Rights Council:

- (a) Reaffirm the Code of Conduct for Special Procedures Mandate Holders, particularly paragraphs 3 and 6 concerning their independence and the commitment to evaluate all information in good faith, including submissions by governments;
- (b) Defend experts against ad hominem attacks, intimidation and threats.

69. The Independent Expert recommends that the Office of the United Nations High Commissioner for Human Rights proactively support special procedure mandate holders in the exercise of their professional judgment and independence; facilitate consultation with and coordination among the rapporteurs, including through their Coordination Committee of Special Procedures, and ensure that apparent contradictions emanating from different points of view do not send wrong signals; and implement the decisions on coordination adopted at the 2016 meeting of rapporteurs so as to strengthen the coherence and credibility of special procedures.

70. The Independent Expert recommends that the International Criminal Court investigate the problem of unilateral coercive measures that cause death from malnutrition, lack of medicines and medical equipment. The examination should not only be quantitative, but should determine whether, objectively treated, economic war, embargoes, financial blockades and sanctions regimes amount to geopolitical crimes and crimes against humanity under Article 7 of the Rome Statute.

71. The Independent Expert recommends that the meeting of States parties to the Rome Statute continue the normative work on the Rome Statute and recognize geopolitical crimes, including unilateral coercive measures and currency manipulations that induce hyperinflation, as within the scope of Article 7 of the Statute. Normative clarity has significant pedagogical value.

72. The Independent Expert recommends that, until the International Court of Justice and the International Criminal Court address the lethal outcomes of economic wars and sanctions regimes, the Permanent Peoples Tribunal, the Russell Tribunal and the Kuala Lumpur War Crimes Commission undertake the task so as to facilitate future judicial pronouncements.