

**REPORT ON HOUSING IN VENEZUELA,
FROM THE CO-RESPONSIBILITY OF CIVIL SOCIETY**

September 2020

WHO ARE WE?

The Fundación Venezolana por el Derecho a la Vivienda (Fundavivienda) is a non-governmental, non-profit civil organization, made up of human rights activists and activists from pro-housing organizations. We are dedicated to the study, investigation, monitoring, defense, and dissemination of human rights, with special emphasis on the right to housing, having been in existence for 16 years as the founders of the Metropolitan Network of Tenants and members of the coordinating committee of the international platform International Alliance of Inhabitants (IAI).

We defend the right to housing from a human rights perspective; from an ecological and self-sustaining perspective of the relationship between the environment, living beings and housing; as a whole that functions in a holistic manner, integrating other rights such as health, food and culture. We conceive housing respecting the rights of mother earth.

We develop lines of research in relation to national and international legal tools that guarantee the right to housing. We organize groups and communities to achieve their right to housing, and we participate in national and international activism to defend the right to housing of the people.

INTRODUCTION

The International human rights law recognizes the right of everyone to an adequate standard of living, including adequate housing.

- The right to adequate housing encompasses freedoms such as: protection from forced eviction and arbitrary destruction and demolition of the home; the right to be free from arbitrary interference with home, privacy and family; the right to choose residence and determine where to live; and the right to freedom of movement.

- The right to adequate housing also contains other rights. These include security of tenure; restitution of housing, land and property; non-discriminatory and equal access to adequate housing; participation in national and community decision-making related to housing.

On the issue of participation in the adoption of decisions related to housing at the national level, we wish to focus in this report on the Venezuelan reality in this area before 1999 and how, since that time, more and more spaces for participation have been built, which has marked a significant gap in the contemporary history of the right to housing in Venezuela.

We will briefly review the legislative history and point out the current programs and policies on the subject from the viewpoint of civil society organizations.

Historical evolution of the right to housing from a legislative perspective

We will begin by making a chronological account from the Venezuelan legislative contemporaneity, with the Constitution of 1961, which speaks about the subject of housing, but in a brief way, limiting its development to two articles.

Throughout the last century, there was no effective development of laws to favor and democratize the right to housing, especially in the most disadvantaged social groups, nor was there effective development of public policies, which led to a high housing deficit. Other elements also contributed to the high deficit, such as oil activity, which accelerated the constant migration of rural inhabitants to the city.

This migratory phenomenon promoted a dizzying urbanization process, associated with the dynamics of social and economic inequality, stimulated by the oil rentier economic model. Likewise, a high number of migrants from all over the world arrived in Venezuela, especially people fleeing from the poverty that plagued countries such as Colombia, Peru, and Ecuador, and also refugees fleeing from the dictatorships in the southern cone and from poverty in Europe. This contributes to the accelerated growth of cities, where levels of vulnerability, marginality, poverty and finally, a high demand for housing are accentuated.

The precarious public policies that existed until 1999 were directed towards the privatization of housing production and the peripheral location of social interest housing, which did not manage to satisfy the high demand, bringing as a consequence the uncontrolled informal settlements in urban areas, which point towards unstable forms of habitat. "...Figures from the National Institute of Statistics (INE), compiled in 2001, estimate that 53% of housing on a national scale

is located in neighborhoods, with precarious service and equipment, and in high-risk areas... In the media it was common to see news related to deaths during the rainy season, due to landslides and the collapse of homes in high-risk areas.

In 1999, when a popular referendum was held and the new Constitution was approved, the number of articles on housing was increased, as well as the concept. In this regard, in Title III of Human Rights and Guarantees, and Duties, Chapter V, On Social and Family Rights, it states.

Article 82.

Everyone has the right to adequate, safe, comfortable, and hygienic housing, with essential basic services, including a habitat that humanizes family, neighborhood, and community relations. The progressive fulfillment of this right is an obligation shared by citizens and the State in all areas.

The State will give priority to families and will guarantee the means so that they, and especially those with scarce resources, can access social policies and credit for the construction, acquisition or expansion of housing.

Article 86.

Every person has the right to social security as a public service of a non-profit nature, which guarantees health and ensures protection in the event of maternity, paternity, illness, disability, catastrophic illness, disability, special needs, occupational hazards, loss of employment, unemployment, old age, widowhood, orphanhood, housing, burdens arising from family life, and any other circumstance of social security.

The State has the obligation to ensure the effectiveness of this right, creating a universal, comprehensive, solidarity-based, unitary, efficient and participatory social security system, with direct or indirect contributions. The absence of contributory capacity will not be a reason to exclude people from its protection. The financial resources of social security may not be used for other purposes. The obligatory contributions made by workers to cover medical and assistance services and other social security benefits may be administered only for social purposes under the direction of the State. The net remainder of the capital allocated to health, education and social security will be accumulated for the purpose of distribution and contribution to these services. The social security system will be regulated by a special organic law.

In these first articles, we can see how there is an evolution of the concept of housing, where it becomes a right, taking away the value of merchandise and giving it a social focus. Later, in articles 156, 178 and 184, it defines the national, regional and municipal competencies for the area.

The expansion of rights in the Constitution allowed for the development of legal tools, as well as the recognition of international human rights covenants and treaties by the Venezuelan State. The Venezuelan legal scaffolding has been extended, fostering an exercise of institutional co-responsibility with civil society organizations that have contributed to the generation of instruments that allow for the guarantee of the right to housing, from the different edges that allow for addressing the central knot for the democratization of the right. The country has eight (8) laws in the area of housing:

Laws in forcé

- Law of the Housing and Habitat Benefit System.
- Organic Law of Emergency for Land and Housing.
- Law on the GMVV Housing Ownership System.
- Law on the valuation of GMVV land.
- Law against Eviction and Arbitrary Vacancy of Housing.
- Law for the Regularization and Control of Housing Leases
- Special Law of Integral Regularization and Ordering of Land Tenure of Urban and Periurban Settlements.
- Law against Real Estate Fraud.
- In addition to several sentences that eliminate usury such as the Elimination of Indexed Credits.

Many of these laws were constructed or promoted by civil society organizations such as the Law Against Eviction and Arbitrary Unoccupation of Homes; Law for the Regularization and Control of Homes, and the Law Against Real Estate Fraud, in addition to a series of judgments also promoted by civil society, such as the Elimination of Indexed Credits¹.

Law Against Real Estate Fraud. Establishes a set of rules aimed at regulating, controlling and punishing the construction, sale, pre-sale, permitting and registration of housing, considering the process of construction and all agreements between individuals, whatever their contractual name, through the use or artifices of deception and default, criminally punish the crime of real estate fraud and other

¹ On January 24, 2002, the Supreme Court of Justice (TSJ) issued a ruling that put an end to the speculative and usurious actions of the banks, by prohibiting the granting of indexed credits, in order to protect people. The Special Mortgage Debtor Protection Law (LEPDH) was created
Official Gazette No. 39.912 of April 30, 2012

related frauds, complying with the supreme and constitutional purpose of defending, protecting and ensuring the right of every person to decent housing.

Decree 8190, Law against the Eviction and Arbitrary Unoccupation of Housing: promoted by the Metropolitan Network of Tenants and other social organizations working on housing issues. The Law that protects people against Arbitrary Housing Eviction.

The Law for the Regularization and Control of Housing Leases, the first law introduced into parliament under the figure of popular initiative and where the area of housing leases is controlled, putting special emphasis on the protection of families against arbitrary evictions from housing and preventing usury and real estate speculation practices.

The Venezuelan normative structure has been adapted to favor the democratization of access to social and community organizational processes.

This set of housing laws has put the accent on social benefit, leaving aside the specific economic interests of the real estate market and the previous way of doing business with the right to housing in Venezuela.

Public Housing Policies in Venezuela

The current public housing policy in Venezuela has had two objectives: protection and encouragement through laws, decrees and the creation of institutions. And the construction of an absolute number of new public housing.

The construction of housing in the country did not have significant adjustments during the presidential periods between 1959 and 1998. From the second mandate

of President Hugo Chávez, the quantitative and qualitative problematization of the cyclical problem of housing and the accumulated debt of the previous governments is evident, as well as the families that were left homeless due to natural phenomena²

In this context, the main social housing program at the national level was born, articulating in it diverse programs at the municipal and institutional levels, which previously could not give an important quantitative impact, in order to reduce the enormous social debt.

In 2011, the program called Gran Misión Vivienda Venezuela (Gmvv) was created with the aim of articulating the fundamental aspects for the planning and execution of housing, which are: land, materials and inputs, executing entities and financing, and the integration of organized civil society. Throughout the nine years of its creation, it has established a method that has favored not only building, but also social organization networks around housing as a need and a right, and the understanding of its fulfillment within a larger constellation of rights, which stimulates the appropriation of individuals to the "right to the city" (Harvey, D., 2004; Lefebvre, H., 1978). By encouraging participation in housing related decision making at the national and community levels.

As of the date of preparation of this report, 3,178,498 homes have been built and delivered to families residing in the national territory. Currently, the Ministry (Ministerio del Poder Popular para la Vivienda y Hábitat) has promoted the system of self-construction, generating an organization led by the beneficiaries through a movement called "Movimiento Viviendo Venezolano" which brings together more than 3,000 people.

² On December 15, 1999 in the state of La Guaira (by now Vargas state). There was a landslide in Venezuela caused by rain, which was described as the worst natural disaster after the earthquake of 1812. The deaths were calculated in the hundreds to thousands and the victims in the tens to thousands, (depending on the sources). Thousands of people were displaced and entire villages were devastated.

In relation to Evictions, there are a legal prohibition against arbitrary evictions, evictions that in 97% have been stopped, through civil society organizations and institutions that govern the matter.

Likewise, in terms of housing adequacy, since August 9, 2009 there is a program called “Barrio Nuevo Barrio Tricolor”, which is a program for the renovation of homes and community equipment, which as of the date of preparation of this report 1,498. 355 homes.³.

Another public policy that has to do with the legal security of tenure for the inhabitants of popular areas is the Urban Land Tenure Regularization program, through the delivery of property titles for houses built on urban or peri-urban land. To date, 1,087,989 urban land titles have been issued.

All these programs have as their main axis, the participation of the communities. On the latter, the Urban Land Committees have played a preponderant role.

CONCLUSIONS

After the historical tour of housing in Venezuela, highlighting the struggles and conquests of civil society. The creation of social policies, some of which resulted in the historical decrease in cases of deaths caused by accidents in high-risk housing, the protection of families against real estate fraud and usury, the prohibition of forced evictions from housing, which have decreased by 95% since the enactment of the Law.

³ <http://ciudadccs.info/2020/06/17/gran-mision-vivienda-venezuela-continua-otorgando-hogares-dignos/>

Since the beginning of the pandemic, we have received as an organization 17 cases, which were detained by institutional intermediation, were characterized by being tenants and the causes were motivated by the ignorance of some of the parties, about the administrative processes and the Law. The law also provides for the mediation of civil society organizations, which facilitates activities to protect victims⁴.

We take this opportunity to inform you of some of the actions that have been executed due to the Covid-19 pandemic, such as Decree No. 4,169 dated March 23, 2020, through which the payment of rent for housing and commercial properties was suspended, which was extended through Decree 4,279 on September 2, 2020 for six more months, in addition to the ratification of the prohibition of evictions throughout the country.

Likewise, in order to take a look at the current situation in Venezuela, it is necessary to mention the issue of Coercive Measures and Unilateral Sanctions imposed on Venezuela for more than 5 years, which have affected and influenced to the detriment of the quality of life of the inhabitants of the country.

These measures have affected, among other things, the commercialization of the main national export product, from which 95%⁵ of the income required by the country is extracted. As a result of these measures, the Republic's assets abroad (banks and companies) have also been dispossessed, amounting to 194 billion dollars⁶. These are resources that are denied to the Venezuelan people, and which would be used for social investment, in order to build a greater number of houses.

⁴ Law for the Regularization and Control of Housing Leases. TITLE VIII OF THE PARTICIPATION OF THE POPULAR POWER. Chapter I Of the popular participation

⁵ http://www.mppp.gob.ve/wp-content/uploads/2018/Libro_Venezuela_en_CIFRAS_2018/pdf/venezuela_en_cifras_2018.pdf

⁶ <http://ultimasnoticias.com.ve/noticias/especial/abrebrecha-impacto-de-la-guerra-economica-en-venezuela/>

Recommendations

Dialogue, peace, respect for the self-determination of peoples, the right to non-interference by foreign countries in internal affairs must prevail. This organization considers a violation of human rights the imposition of blockades and coercive measures that provoke the violation of Economic, Social and Cultural Rights, therefore we advocate for the cessation of these measures and the resources taken; that they be returned for social investment and that the effort in the area of social housing be continued.

We also recommend a campaign to disseminate the Law Against Arbitrary Eviction from Housing, to train communities and organizations in the use of legal tools to protect against evictions.

There are challenges, but we believe that through dialogue and organization we can continue to make significant progress on the right to housing.

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