

BOLIVARIAN REPUBLIC OF VENEZUELA: A BRIEF ON THE
IMPLEMENTATION OF CEDAW COMMITMENTS FROM
ARTICLES 2, 5, 11, 16

*Information for the Committee on the Elimination of Discrimination Against Women
84th Pre-Session Working Group, July 2022*

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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 84th Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women.

This brief will focus on the following three areas:

1. Non-discrimination in Work and Employment (Article 11)
2. Paid Maternity and Paternity Leave (Articles 11, 5)
3. Child Marriage (Articles 16, 2)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our legislative findings, as well as suggested questions for the Committee to ask the Bolivarian Republic of Venezuela and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed legislative excerpts documenting our findings. We hope the Committee will recommend that Venezuela address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Venezuela for having provisions in place, we hope the Committee will recommend that Venezuela work with stakeholders to overcome any obstacles in implementing these provisions.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. Non-Discrimination in Work and Employment (Article 11)

Our review of legislation found that Venezuela prohibits sex discrimination in hiring, promotions and demotions, compensation, vocational training, and terminations, and has enacted specific protections against sexual harassment and against workplace harassment in general; however, **we did not identify any prohibitions of retaliatory action when reporting sex-based discrimination at work, or any**



prohibitions of indirect discrimination. Further, while we found prohibitions of discrimination on the basis of pregnancy and marital status, **no prohibitions on the basis of family status were identified.**

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Venezuela: Can Venezuela demonstrate whether protections exist against indirect discrimination on the basis of sex?
 - If sufficient protections do not exist in this area, recommend in its concluding observations that Venezuela pass and implement legislation that explicitly prohibits indirect discrimination on the basis of sex
- In its list of issues, ask Venezuela: Can Venezuela demonstrate whether legislation exists prohibiting workplace discrimination on the basis of family status?
 - If Venezuela does not have these provisions in place, recommend in its concluding observations that Venezuela pass and implement legislation prohibiting workplace discrimination on the basis of family status.
- In its list of issues, ask Venezuela: Can Venezuela demonstrate whether sufficient protections exist against retaliatory action when reporting sex-based discrimination at work?
 - If sufficient protections do not exist in this area, recommend in its concluding observations that Venezuela pass and implement legislation that explicitly prohibits retaliatory action when reporting sex-based discrimination at work.

2. Paid Maternity and Paternity Leave (Articles 11, 5)

Based on our systematic review of national legislation and country reports, Venezuela guarantees working mothers 26 weeks of paid maternity leave, but guarantees working fathers only 2 weeks of paid leave.

RECOMMENDED CONCLUDING OBSERVATION

We hope the Committee will:

- In its concluding observations, recommend that Venezuela increase the duration of paid paternity leave. Ensuring fathers' access to an adequate duration of paid paternity leave is foundational to increasing gender equality in caregiving responsibilities and gender equality in employment.



3. Child Marriage (Articles 16, 2)

Based on our systematic review of national legislation and country reports, Venezuela has a general age of marriage for both boys and girls of 18, **but both can be married at 16 with parental consent.** Venezuela's civil code technically permits girls to be married at 14, but ruling 1353/2014 of the Supreme Court of Justice invalidated that portion of the relevant article as unconstitutional and raised the age of marriage with parental consent for girls to 16 to match that of boys. According to the latest available data from UNICEF, which predates ruling 1353/2014, almost 16% of girls aged 15-19 were married at the time of survey.¹

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Venezuela: Can Venezuela outline any concrete, near-term plans to pass legislation that removes all exceptions that allow children under the age of 18 to be married?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Venezuela pass legislation that establishes 18 years as the minimum age for marriage without exceptions.
- In its list of issues, ask Venezuela: Given the concerning rates of child marriage outlined in the most recently available statistics (2011), can Venezuela outline whether concrete measures have been taken to reduce rates of child marriage?
 - If concrete measures to reduce child marriage rates are not in place, recommend in its concluding observations that Venezuela develop concrete, near-term plans to do so.
 - If concrete measures, such as ruling 1353/2014, are in place but not being implemented and monitored, recommend in its concluding observations that Venezuela develop concrete plans to implement and monitor planned measures to reduce rates of child marriage.
- In its list of issues, ask Venezuela: Can Venezuela provide updated statistics on age of marriage, disaggregated by sex, to better understand the current scale of child marriage rates in the country?
 - If updated statistics are not available, recommend in its concluding observations that Venezuela begin collecting and reporting statistics on age of marriage, disaggregated by sex.

¹ UNICEF data – Child Marriage. Retrieved April 15, 2022 from <https://data.unicef.org/topic/child-protection/child-marriage/>



DETAIL

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

1. Non-Discrimination in Work and Employment (Article 11)

Article 11 of the Convention outlines specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment.

We systematically reviewed national labor codes, gender equality, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states to determine whether national legislation prohibited sex discrimination in employment. We examined legal protections across five areas covered by CEDAW:

- employment opportunities or hiring
- equal pay for work of equal value
- vocational training
- promotions or demotions
- job security or terminations

We assessed whether women were explicitly protected from discrimination at work in each of these areas and whether the definition of discrimination included both direct and indirect discrimination. We further examined whether there were provisions that protected women from retaliatory action for reporting discrimination. We also examined whether there were explicit protections from discrimination at work for statuses that intersect directly with women’s dual roles as workers and caregivers: marital status, pregnancy, and family status.

VENEZUELA’S LEGISLATIVE PROVISIONS: Broad guarantees exist, but are weak in certain specific areas

Based on our review, Venezuela’s legislation broadly prohibits discrimination against women at work, and explicitly prohibits discrimination in hiring, vocational training, promotions and/or demotions, equal pay for equal work, and terminations. It also prohibits discrimination on the basis of pregnancy and marital status, **but not on the basis of family status.**

Table 1: Does Venezuela have legislative provisions in place explicitly guaranteeing non-discrimination for women in the following key areas of employment?

Employment opportunities and hiring	Yes
Equal remuneration*	Yes



Table 1: Does Venezuela have legislative provisions in place explicitly guaranteeing non-discrimination for women in the following key areas of employment?	
Employer-provided vocational training	Yes
Promotions and/or demotions	Yes
Terminations	Yes
On the basis of marital status, family status, and pregnancy	Pregnancy and marital status only
Indirect discrimination	No provisions found
Retaliatory action	No provisions found

** While equal pay is guaranteed on the basis of sex, the country does not guarantee equal pay for work of equal value as mandated in Art. 11.1.(d) of CEDAW*

Ley Orgánica de Trabajo (2012)

Capítulo II. Principios Rectores

Principios

Artículo 18.

(...)

La interpretación y aplicación de esta Ley estará orientada por los siguientes principios:

(...)

7. Se prohíbe todo tipo de discriminación por razones de edad, raza, sexo, condición social, credo o aquellas que menoscaben el derecho a la igualdad ante la ley y por cualquier otra condición.

Artículo 20. El Estado garantiza la igualdad y equidad de mujeres y hombres en el ejercicio del derecho al trabajo. Los patronos y patronas, aplicarán criterios de igualdad y equidad en la selección, capacitación, ascenso y estabilidad laboral, formación profesional y remuneración, y están obligadas y obligados a fomentar la participación paritaria de mujeres y hombres en responsabilidades de dirección en el proceso social de trabajo.

Artículo 21. Son contrarias a los principios de esta Ley las prácticas de discriminación. Se prohíbe toda distinción, exclusión, preferencia o restricción en el acceso y en las condiciones de trabajo, basadas en razones de raza, sexo, edad, estado civil, sindicalización, religión, opiniones políticas, nacionalidad, orientación sexual, personas con discapacidad u origen social, que menoscabe el derecho al trabajo por resultar contrarias a los postulados constitucionales. Los actos emanados de los infractores y de las infractoras serán írritos y penados de conformidad con las leyes que



regulan la materia. No se considerarán discriminatorias las disposiciones especiales dictadas para proteger la maternidad, paternidad y la familia, ni las tendentes a la protección de los niños, niñas, adolescentes, personas adultas mayores y personas con discapacidad.

(...)

LEY DE IGUALDAD DE OPORTUNIDADES PARA LA MUJER (1999)

Artículo 11: Las bases normativas de las relaciones de la mujer en el trabajo están constituidas por el derecho al trabajo urbano y rural, la igualdad de acceso a todos los empleos, cargos, ascensos, oportunidades y a idéntica remuneración por igual trabajo. El Estado velará por la igualdad de oportunidades en el empleo.

Artículo 15: Se prohíbe despedir o presionar a la mujer trabajadora o menoscabar sus derechos con ocasión de su estado de gravidez o por motivo de embarazo. Las trabajadoras que vean afectados sus derechos por estos motivos podrán recurrir al amparo constitucional para que le sean restituidos los derechos violentados.

Additionally, we found no explicit prohibitions of indirect discrimination, and we did not identify any prohibition of retaliatory action for women who file a complaint for workplace discrimination.

2. Paid Maternity and Paternity Leave (Articles 11, 5)

Article 11.2 of the Convention states that:

In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

(b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

Further, Article 5(b) of the Convention emphasizes the importance of including men in the upbringing of children:

To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Research evidence indicates that paid paternity leave can increase gender equality in caregiving responsibilities and gender equality in employment; it is therefore important to ensure fathers have access to adequate paid paternity leave.



We systematically reviewed national labor codes and social security laws to assess the availability of paid maternity and paternity leave. We relied primarily on legislation downloaded through the International Labour Organization’s NATLEX database. Additionally, for confirmation or clarification on legal provisions, we consulted trusted secondary sources including the Social Security Programs throughout the World (SSPTW) database, and the International Review of Leave Policies.

VENEZUELA’S LEGISLATIVE PROVISIONS: Short leave for fathers

Based on our systematic review of national legislation and country reports, Venezuela provides 26 weeks of paid maternity leave to mothers.

Ley Orgánica del Trabajo, Decreto No. 8938 (2012)

Descanso pre y post natal

Artículo 336. La trabajadora en estado de gravidez tendrá derecho a un descanso durante seis semanas antes del parto y veinte semanas después, o por un tiempo mayor a causa de una enfermedad, que según dictamen médico le impida trabajar.

However, Venezuela only provides 2 weeks of paid paternity leave specific to fathers, and offers no additional leave that can be shared between parents.

Ley Orgánica del Trabajo, Decreto No. 8938 (2012)

Licencia por paternidad

Artículo 339. Todos los trabajadores tendrán derecho a un permiso o licencia remunerada por paternidad, de catorce días continuos contados a partir de nacimiento de su hijo o hija o a partir de la fecha en que le sea dado o dada en colocación familiar por parte de la autoridad con competencia en materia de niños, niñas y adolescentes.

3. Child Marriage (Articles 16, 2)

Child marriage disproportionately affects girls, often leading to social, economic, educational, and health inequalities, which States Parties have committed to eliminating. Article 16.2 of the Convention calls on States Parties to legislate a minimum age of marriage and prohibit the marriage of children. Additionally, disparities in the legal minimum age of marriage between girls and boys contravenes Article 2(a) of the Convention, which commits States Parties to “embody the principle of the equality of men and women” in their “national constitutions or other appropriate legislation”.

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labour Organization’s NATLEX database, regional sources, and official country websites.



VENEZUELA'S LEGISLATIVE PROVISIONS: Girls and boys can be married before age 18 with parental consent

Based on our review, **Venezuela sets a minimum age of marriage of 18 for both girls and boys. However, the civil code allows girls to be married as young as 14 years old, and boys as young as 16 years old, if they have the consent of their parents.**

Código Civil

Artículo 46°

No puede contraer válidamente matrimonio la mujer que no haya cumplido catorce (14) años de edad y el varón que no haya cumplido dieciséis (16) años.

While we acknowledge that ruling 1353/2014 of the Supreme Court of Justice partially invalidated article 46 of the Civil Code, raising the minimum age of marriage for girls with parental consent so that it is equal to that of boys, Venezuela legislation still allows minors to be married.

BRIEFING PREPARED BY THE WORLD POLICY ANALYSIS CENTER, UNIVERSITY OF CALIFORNIA, LOS ANGELES