

LACCASO Project – UNAIDS ANDES

**REPORT ON HUMAN RIGHTS AND HIV/AIDS.
ANDEAN NATIONS COMMUNITY**

VENEZUELA

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Chapter I

General Analysis on Human Rights situation in Venezuela

Human rights situation in Venezuela is currently very concerning. After a thorough analysis, it has been confirmed that the context has become worst year after year due to a very complicated political scenario which has been developed surrounded by a radical and aggressive socio-political environment and an increased devalued economy.

Current Venezuelan Constitution comes into effect on December 30,1999, thus, this analysis focuses on two main aspects related to Human Rights situation evaluation, which are, establishment and development of human rights regulations and practical application of instruments for achieving effectiveness as well as State accomplishment of its commitments on this matter.

A. Human Rights Regulations established in Venezuela

The Venezuelan Constitution of 1999 substituted the Constitution of 1961, and it contains major advances in Human Rights affairs.

First of all, the principle of progressiveness of these rights is fully acknowledged, as well as the aspects related to non- renounceability, indivisibility and interdependence. (Article 19). Even though the establishment of these rights is a new aspect as compared to previous constitutional document, it is true that these rights were acknowledged nationally by doctrine and by international treaties ratified by the Republic. These rights were applied due to a constitutional resolution (Article 50) which provides an open clause for allowing human rights to be mentioned in the Constitution without un-protecting other rights intrinsic to human beings. The aforementioned clause was revised and amended to be included in current constitutional document. It acknowledges not only the rights not stated in the Constitution but also the ones stated in international treaties. Besides, it states that the lack of law for regulating these rights does not imply an obstacle for enforcing them. Moreover, the amended clause increases protection scope since it includes juridical entities and it does not state “intrinsic to human beings” but “human rights”

In addition to the aforementioned, the Constitution of 1999 stated (Article 22) that treaties and international agreements are sources for human rights. It emphasizes on their importance over internal regulations since their resolutions may favor enjoying and practicing such rights.

Constitutionally, other elements have been acknowledged as human rights, such as the right for protection that was previously considered as an action or procedure. As per, *habeas corpus*, a popular action was established that allows anyone to enter it. For the first time, the *habeas data* or, the right to access information about oneself or about goods kept in public or private records, was constitutionally established. Access to justice, to effective legal representation and to legal counseling, which does not imply schedule of court costs, was also established therein.

Jurisprudential and doctrine development were constitutionally established, in terms of collective and extended rights, so as to increase human rights protection for people sharing the same situation, but unable to attend court.

Finally the State is enforced to investigate and punish human rights violations and to indemnify victims when necessary. War crimes, crimes against humanity and serious violations to human rights were mentioned for the first time, thus establishing the inability to take away such actions. Ordinary courts were appointed as jurisdiction for these cases to be known, therefore, a major advance in human rights protection has been achieved. The benefit that may “imply these cases pardon and amnesty” has been excluded.

This Constitution recognizes especial rights for native communities that inhabit the whole country, based on their “multi-ethnic, multi-cultural and multi-bilingual aspects”. The rights include: the right to keep and promote their economical activities and their traditional medicine, the right to keep their ethnic identity and the right to protect native land from transferability, from the possibility of being taken away, etc.

The 1999 Venezuelan Constitution also emphasizes on other principles such as: cooperation, equality and shared responsibility. Given the latter principles, State paternity scheme, which implied that State was the single responsible for complying with rights and duties, changed to a scheme of shared responsibility among three main entities: State, society and family, thus sharing responsibilities and obligations in terms of human rights affairs. For instance, State is fully responsible for welfare, health and education affairs. State and society has a shared responsibility in terms of rights to housing and citizen participation. A shared responsibility scheme among State, society and family is being built up for protecting children, teenagers and handicapped people.

Out of the constitutional framework, human rights and their development have been found in different laws. After the Constitution of 1999 has come into effect, Venezuela has ratified the following treaties or international agreements on human rights: Roman Law for

International Penal Court (2000), Protocol for Preventing, Controlling and Sanctioning Trade of human beings, especially for Women and Children (2001), Additional Protocol to Children Rights Convention as related to their Participation in Armed Conflicts (2001), Additional Protocol to Children Rights Convention on Children Trading, Children Prostitution and Pornography (2001), OIT 169 Agreement on native communities and tribes (2002), Inter-American Democratic Letter (2001).

B. Effectiveness in Human Rights Protection

In spite of the aforementioned normative framework, which is positive for human rights enforcement, there is a different reality that comprises serious problems such as: impunity, corruption of judicial entities, excessive abuse of power, poverty, lack of personal security, etc. These problems have arisen due to the following factors: “a deficient Government of Laws” defined by the temporary nature of certain Branches, Congress lack of compliance with enforcing laws stated in temporary constitutional clauses (for instance: regulating laws for the Office of Public Defender, for the Supreme Court, among others). Besides, the unconstitutional decisions issued by the Supreme Court which imply human rights violation (for instance, decision 1.013 of the Constitutional Court that restricts the right to free expression of thoughts), and the lack of independence of the Public Branches (as seen in the poor performance of the Government attorney’s office in cases that involve government followers or people that belong to MVR political party; in Supreme Court decisions favoring government which are juridical inconsistent). Furthermore, the inconsistency of government policies related to human rights matters, and the strong authoritarian environment that is disguised by a people’s speech favoring the “Bolivarian Revolution”, however, the only goal attained is a lack of respect for human rights in all manners.

Even though human rights situation in Venezuela shows some advances, there are very serious regressions as well.

As per civil and political rights, the situation has become deteriorated ever since 1999. Several reports from Human Rights Commission state the ongoing increase of cases that transgress the right to life, to personal integrity, to citizen safety, likewise, cases that involve people disappearance, and freedom of expression restraint. However, some improvement has been noticed in the rights to refuge given a Congress decision of passing a Law for developing it. Likewise, the cases related to transgressing the right to personal freedom have decreased given the lowering of police raids and random arrests, the enhancement of inmates environment, especially in terms of space control, following the new prison system stated in the Penal Prosecuting Organic Code, moreover, other conditions remain as usual.

As per **economical, social and cultural rights**, the situation varies depending on the nature of the right. In terms of health, education, food, land and housing, some programs have been developed for increasing effectiveness and protection of such rights. However, some of these plans have not been fulfilled, and some others have been poorly executed. As per Labor law, some encouraging measures have been taken, but the development of a government policy that attempts labor union freedom as exemplified by the lack of acknowledgement of CTV's new Board of Directors by the national government, has really shadowed the process. Besides, the increase of unemployment rate and the rising of an unofficial economy that comprises more employees than the official one.

Regarding **native rights**, a major advance has been reached in terms of normative level. Apart from the recognition and special regulations ruling native community rights as stated in the 1999 Constitution, the Constitutional agreement "Fund for Developing Native Communities in Latin America and the Caribbean" has been ratified, as well as presidential decrees that encourage intercultural/bilingual education. As a positive aspect of Government policies, it is important to mention the activities of the Native Community Permanent Commission (CPPI) represented in Congress. Nevertheless, there has been no positive change in their quality of living, even worse, the State has approved the execution of projects in native land which transgress environmental rights and Native community's rights (such as electrical wiring in native area). Furthermore, Congress is currently delayed in passing several bills for developing constitutional clauses related to this matter, and to the process of delimiting native land boundaries. The passing of these bills has not been

fulfilled, even though, as per constitutional mandate, the deadline was set for December 2001.

Chapter II

Legal/Constitutional Framework of Human Rights and HIV/AIDS in Venezuela

The analysis of human rights and HIV/AIDS normative is based on a constitutional laws, decisions, and resolutions so as to widely fulfill the scope of this matter within Venezuelan juridical body of laws.

A. Human Rights and HIV/AIDS in Venezuelan Constitution

As previously stated, in the Constitution of 1999 includes the principles of progressiveness, non-renounceability, indivisibility and interdependence of human rights within its normative. However, it is not limited to the rights stated in the constitution or in international treaties but to all rights related to human beings.

The aforementioned paragraph is closely linked to the principle of equality and non-discrimination addressed to achieve human being dignity in a wide extent. Therefore, it is a fundamental point when dealing with persons living with HIV. Consequently, six fundamental rights will be developed as they are directly related to the vulnerable populations that experience some improvement within the new constitution.

1. Right to equality and non-discrimination (Article 21)

At constitutional level, the principle or right to equality has been widely established, to the extent that, on the one hand, the constitution does not allow any discrimination that may diminish enjoying or practicing people's rights and privileges (negative discrimination); but on the other hand, it foresees positive discrimination, that is, dealing with certain type of people differently due to their special conditions so as to guarantee fundamental rights practice.

Besides, the State is responsible for guaranteeing the enjoyment and practice of such right by adopting "*positive measures favoring groups or people that might be discriminated, neglected or prejudiced*". It also refers especially to people with especial needs who are entitled to "*use their capacities fully and autonomously and to integrate themselves to family and community*". Next, it states, "*the State, supported by family and society entities, must guarantee respect for human dignity and equal opportunities*" (Article 81). Category (people with special needs), which must include persons living with HIV.

2. Right to physical, psychological and moral integrity (Article 46)

At constitutional level, this right involves not only the interdiction of torture, inhuman, cruel or degrading treatment but also scientific tests or experiments carried out without consent. Likewise, regarding acts related to torture or mistreatment, the responsibility for violating this right is also entitled to public officers as opposite to previous constitutional document that only applied to police officers and military agents

However, interpretation problems have arisen when dealing with medical tests consent since most employers request these tests to be run before getting a job or for keeping one, without implying that the subject has consented them.

The aforementioned practice is a violation to the right to equality and non-discrimination and it should be correctly concluded that no person should accept a discriminating treatment. Thus, the result for HIV test cannot be considered an element to be evaluated upon getting a job or keeping one.

3. Right to Citizen Participation (Article 62)

The right to citizen participation implies that everyone is entitled to take part in decision taking as related to public affairs (either directly or via representatives). In this way, public entities actions are being guaranteed so as to suit community's needs. State and Society are in charge of setting the adequate conditions for its practice.

Therefore, citizen participation in creating and developing government policies against HIV/AIDS is a right to be demanded by the corresponding human right protection entities, as per Article 84 constitutional statement: "*Organized community has the right and duty to participate in decision taking related to planning, execution and control of specific policies in public health institutions.*"

4. Right to health and living (Article 43 and 83)

Venezuelan Constitution recognizes the link between the right to health and the right to life for the first time, so as to state that: "*Health is a basic social right and the State must guarantee it as part of the right to life.*" Therefore, it confirms the nation jurisprudence addressed to the cases of people living with HIV/AIDS.

The right to life not only means avoiding actions that endanger or attempt against other people's lives but also the obligation of the State for encouraging actions to protect people living. In case of people living with HIV, health should be protected by the State, thus, violating the right to health implies violating the right to life.

Health system, as stated in the Constitution, should be a preventive system and it should guarantee "*timing treatment and quality rehabilitation*", therefore medical treatments must be optimum as well as quality and effectiveness proven. Constitution also states health system principles: free of charge, universal, integral, equal, socially integrated and cooperative.

5. Right to Social Security (Article 86)

The right to Social Security is entitled to everyone; therefore, even financially deprived people are entitled to it. Besides, Constitution states Social Security service as a non-lucrative public service that should be essential, universal, easy to finance, unified, efficient and participative.

6. Right to education (Articles 102 and 103)

In the Constitution, education is presented as being obligatory and free of charges up to University degree is gotten.

National Constitutional document also emphasizes the principles of equality and non-discrimination as related to education, thus guaranteeing people with especial needs or disabled people to enjoy it. Lack of access to education due to health reasons, for instance to people living with HIV/AIDS, is completely out of the constitution.

7. Right to work (Article 87)

This right, besides its social fact definition, enjoys especial protection from the State. In order to comply with this obligation, the following principles must be respected: intangibility and progressiveness of rights and benefits; non-renounceability to them; application of the best regulations favoring workers, invalidity of any employer's act which is opposite to constitutional dispositions; non-discrimination and protection from economical and social abuse, especially of teenagers.

Given the aforementioned, the request for HIV test as a requirement for getting a job would be considered an action out of the constitutional framework since it violates the principle and right to equality and non-discrimination thus any action involved would be considered ineffective.

B. Resolutions

1. Resolution No. 621 from the Ministry of Health and Social Development Official Gazette. No.37.064 dated October 26th 2000

Resolution No. 621 states that ELISA test must be required by health service institutions to every pregnant woman taking prenatal medical assistance so as to determine the existence of Human Immunodeficiency Virus.

Likewise, it states that “*ELISA test would only be taken previous information and consent of the subject to be tested* ”, thus emphasizing confidentiality of information, subject data and test results.

Besides, the General Direction of Population Health must guarantee “*anti-retrovirus treatment to VIH positive women during pregnancy, delivery and after childbirth as well as virus and immunology control to mother and newborn*”.

**2. Resolution No. 104-99 of the Ministry of Public Health and Social Assistance
Official Gazette. No. 36.648 dated February 24 1999**

Resolution N° 104-99 states that activities inherent to AIDS and Sexual Transmission Diseases must be included in one Program, thus constituting itself in a major advance for dealing with this public health matter.

**3. Resolution No. SG.-695 of the Ministry of Public Health and Social Assistance
Official Gazette. No. 36.291 dated September 15 1997**

Resolution SG-695 sets the Regulations for Drug Addict Assistance Institutions of the Public and Private Sector, specifically the regulations for HIV/AIDS tests, as referred to in Resolution 4535 of World Health Assembly and in Resolution SG-439 dated 26.08.94 issued in Venezuela Official Gazette N° 35.538 dated 02.09.94 of the Ministry of Public Health and Social Assistance.

It is important to mention that such resolution includes the principle of equality and non-discrimination; therefore, services must be rendered to every person regardless of any distinction.

In order to comply with defending the right to health, this resolution urges institutions to assist drug addicts and to take care of other health problems that patients may have without reducing their access to treatment.

Consequently, the right to health for PVV and PV patients who are addicted to drugs, remains respected since institutions are urged to render services and treatment regardless of other diseases that subjects may suffer, for example HIV/AIDS.

4. Resolution No. SG.-439 of the Ministry of Public Health and Social Assistance

Official Gazette No. 35.538 dated August 26 1994

Resolution SG-439 of the of the Ministry of Public Health and Social Assistance is intended for protecting people physical integrity, since it rules HIV antibody test application by stating that the test must be run upon consent of the person to be examined. Likewise, it states the specific situations for applying such tests, which are: antibody epidemic studies for general population or for specific social groups; for blood, tissue, semen and organ donors or for people showing signs of infection so as to prevent or treat opportunist diseases previous to authorization.

**5. Resolution w/n of of the Ministry of Public Health and Social Assistance
Official Gazette No. 31.356 dated November 8 1977**

This resolution urges health institutions to notify HIV/AIDS cases found in order to apply the corresponding medical treatment.

C. Others

General Regulations for Selective Immigration Program (Extraordinary Official Gazette N° 4.508 dated December 30 1992)

The general regulations for Selective Immigration Program are intended to establish certain guidelines to restrict immigration to Venezuela. However, an action out of the constitution is carried out when requesting a medical certificate stating AIDS negative as a requirement for getting immigration visa.

In fact, Article 1 of this regulation states:

Article 1

Immigration Visa can be obtained by requiring “Immigration Request” form at any Venezuelan consular office, prior complying with the following procedure:

- a) To score the required level at the evaluation system created by the Presidential Commission for Selective Immigration.
- b) To have passport document from the country of origin with a minimum one-year duration.
- c) To submit medical certificate stating AIDS negative.

d) To submit satisfactory evidence about criminal background to the Venezuelan consular office or to the corresponding diplomatic authority in the country where the visa is being processed

Decision No. 71 of the Ministry of Labor

On November 29 2002, the Juridical Consulting of the Ministry of Labor issued Decision No. 71 that, for the first time in Venezuela, officially states recommendations for dealing with HIV/AIDS in the workplace. Its contents will be developed afterwards, specifically the item related to Ministry of Labor, which is referred to in Public Policies item.

Chapter III Epidemic Situation

The number of AIDS cases reported during last years is presented below:

YEARS	MALE	FEMALE	TOTAL
1997	329	55	384
1998	257	43	300
1999	54	11	65
2000	8.584	954	9.538
2001	1.961	218	2.178*
2002	954	107	1.061
TOTAL	12.103	1.388	13.527

*Report of 13 States as of July

Source: HIV/AIDS National Strategic Plan
Page.22 Chart No. 1: *AIDS cases distribution per accrued years 1997- 2002 (total amounts)*

HIV/AIDS National Program of the Ministry of Health and Social Development results, as per case numbering and HIV/AIDS transmission process, reported from 1982 to 1999:

Transmission Process	Number of Cases	%	CASES				CASUALTIES			
			MALE	%	FEMALE	%	MAS	%	FEM	%
SEXUAL	4371	90.03	3932	91.27	439	80.55	2050	90.79	232	80.28
Homosexual	2039	42.00	2038	47.31	1	.1835	1087	48.14	1	.3460
Bisexual	843	17.36	843	19.57	0	.0000	494	21.88	0	.0000
Heterosexual	1489	30.67	1051	24.40	438	80.37	494	21.88	0	.0000
BLOOD	218	4.490	178	4.132	40	7.339	97	4.296	22	7.612
Transfusions	50	1.030	24	.5571	26	4.771	15	.6643	16	5.536
Hemophilic	68	1.401	68	1.578	0	.0000	41	1.816	0	.0000
I. V. DRUGS	100	2.060	86	1.996	14	2.569	41	1.816	6	2.076
PRENATAL	153	3.151	85	1.973	66	12.11	40	1.771	35	12.11
MIXED	113	2.327	113	2.623	0	.0000	71	3.144	0	.0000
KNOWN	4855	63.38	4308	62.79	545	68.38	2258	55.47	289	66.28
UNKNOWN	2805	36.62	2553	37.21	252	31.62	1813	44.53	147	33.72
<u>TOTAL</u>	7660	100	6861	100	797	100	4071	100	436	100

Source: Epidemic Monitoring. PNS / MSDS

As per recent data supplied by the HIV/AIDS National Program as of November 2002, 17.585 HIV/AIDS cases have been recorded in Venezuela. This number represents an accrued amount since 1982 when the first AIDS case was diagnosed. Notification describes epidemic as follows:

- Persons diagnosed as HIV+: 7.014
- Persons diagnosed as AIDS case: 10.571

90% of the notified cases were produced by sexual transmission. Within this percentage homosexual community is the most affected group, especially sex between men that comprises 80% of the notified cases. Likewise, the average age for HIV infection is between 15 - 45 years old. (Source HNP/ MHSD)

As per HIV/AIDS World Epidemic Report published in 2002 by ONUSIDA, it has been stated that the estimated number for people living with AIDS in Venezuela by the end of 2001 reaches 62 thousand cases.

HIV/AIDS National Program authorities in Venezuela keep a counter record of cases that shows a 80% increase. This counter record of cases arises from:

1. Failure in monitoring epidemic system;
2. Prejudice and discrimination;
3. Epidemic Denial as a matter of public health;
4. Lack of knowledge of health staff

Chapter IV

Public Policies related to HIV/AIDS

A. HIV/AIDS National Program (PNS)/ Ministry of Health and Social Development (MSDS)

The Ministry of Health and Social Development is currently carrying out the ITS/VIH/AIDS National Program, which is the evolution of the National Commission established by this Ministry in 1982 upon appearance of the first HIV/AIDS case in Venezuela. In 1990, the Office for Preventing and Fighting against AIDS has been established.

The Social Strategic Plan is currently being carried out in Venezuela. This plan includes the national policy for health and social development that started in 2001 which is intended to promoting quality of life and health so as to enforce social rights stated in the Magna Letter.

The Ministry of Health and Social Development is also carrying out the HIV/AIDS Strategic National Plan intended to facilitate the management of human and financial resources. By following this plan, the Ministry “undertakes the ethical commitment of placing fight against HIV/AIDS as a priority in the National Agenda for Health and Life, thus considering it a matter of public interest”, as stated in the Plan itself: a view addressed to quality of life and health”. Long term goals stated in this plan are: to eradicate discrimination and stigma, as well as child death as a consequence of mother to child transmission. To inform everyone, regardless of age, gender, social status, race and sexual orientation, about how to prevent and protect against AIDS, as well as how to access proper HIV/AIDS medical assistance so as to enjoy quality of life and health as any other person.

This plan is intended to cover the following aspects: access to “quality” information by everyone about ITS/HIV/AIDS transmission and how to prevent it. Identification of affected sectors in order to increase the scope for integral assistance that involves free medical treatment for HIV/AIDS and other diseases. Having the best accurate epidemic information upon taking the corresponding tests. Preventing mother to child transmission. Being fully aware of the absence of the virus in blood, in blood derives and in organs and tissues to be used for transplant. Finally, getting effective instruments for reporting human rights violation of the people living with AIDS and of other vulnerable populations.

Allocation of financial resources

32 thousand million bolivars (Bs) were allocated in 2000, (\$ 41.857.423, 15) to the program for “Preventing and Controlling AIDS”. The amount has been extraordinarily

increased as compared to 1 thousand million bolivars (\$ 1.308.505,36) allocated in previous year . The increase was given because the Ministry of Health and Social Development has purchased anti-retroviral medicines to be distributed to PVV's in public health programs, as per decisions of the Supreme Court (TSJ).

The resources allocated in year 2000 were distributed as follows: 6% to prevention, 64% to medicines and 6.7% to diagnosis.

The same amount was allocated in 2001, which is 38 thousand million bolivars (\$54.305.108,97). Almost 23 thousand million bolivars (\$32.868.881,74) were invested for purchasing ARVs in order to assist a population out of 5.200 people that entered the ARVs program. However, this amount did not include the expenses related to drugs for treating other relevant diseases and reactive.

In the year 2002, the Ministry of Health and Social Development prepared a budget of 50 thousand million bolivars for the AIDS/ITS National Program (\$38.461.538,00). However, as of January 2003, the information about its total execution is unknown. This budget comprises ordinary and extraordinary budgets. The latter is the result of selling Public Debt Bonds.

Out of this budget, 20 thousand million bolivars (\$26.160.889,47) were intended for purchasing anti-retroviral medicines, which involve the program to access ARVs, for infection cases resulting from post exposure (sexual and working abuse) and for mother to child transmission. Regarding other relevant diseases, the HIV/AIDS National Program transferred 1.5 thousand million bolivars (\$ 1.962.066,71) to SUMED/ SEFAR Program.

Given the need for anti-retroviral treatment, the budget for 2002 has been increased as compared to 2000 and 2001 budgets.

During the year 2000, the AIDS National Program showed little experience in managing medicine supply programs for other Relevant Diseases, since it was the first starting year for this plan. No updated statistical records for identifying most frequent relevant diseases in PVVs are found during this year. The AIDS National Program transferred to SUMED/SEFAR the anti-retrovirus and medicine supply related to Relevant Diseases as well as the budget entries. One thousand million bolivars (\$1.429.081,81) were transferred from the AIDS National Program during year 2000 in order to purchase and distribute such medicines.

Less than one thousand million bolivars (\$ 1.429.081,81) were spent in 2001 and the same allocation was kept. At the end of this year, a bidding was entered for purchasing new medicines for mycosis (High cost drugs) and for sexual transmission diseases (ITS).

SUMED SEFAR implemented processes for distributing medicines through AIDS Regional Coordination offices. In order to enhance follow up, this process was supposed to be improved for its application in 2002.

The “Project for Civil Society participation for preventing AIDS and promoting Human Rights related to AIDS” started in 2001 together with NGO and its budget ends in 2002. 654 million bolivars (\$ 934.619,51) were allocated for this project that allowed developing 34 projects with NGOs. Likewise, 2 thousand million bolivars were allocated (\$ 2.858.163,63) for educational project with Public Schools (Escuelas Bolivarianas). Besides, 6 million male condoms and 50 thousand female condoms were purchased for free distribution, as well as information material.

7 thousand persons would be registered at the PNS/SUMED/SEFAR ARVs access programs during 2002.

The chart below shows the amounts invested by the State for purchasing ARVs for each sector:

	No. of persons	Bolivars (Bs)	US Dollars (\$)
Mothers	518,00	1.809.923.130,68	2.624.979,16
Pregnant women	227,00	793.151.642,21	1.150.328,71
Children	114,00	398.322.851,15	577.698,12
40% women	8 01,20	2.799.440.950,38	4.060.102,90
60% men	1.201,80	4.199.161.424,58	6.090.154,35
Total	2.862,00	10.000.000.000,00	14.503.263,23

Therefore, the annual cost for ARV treatment is Bs. 3.494.060,10 (\$ 5.067,53) and the monthly cost for ARVs therapy is Bs. 291.171,67 (\$ 422,29).¹

¹ The aforementioned date has been taken from calculations made by ACCSI dated September 13 2000, thus exchange rate for budget was Bs. 689,50.

Through the “Fund for Accelerating Programs”, UNAIDS allocated the amount of one hundred thousand dollars to Venezuela. In 2002 the AIDS/HIV National program received no funding from this program since a 30 thousand dollar project intended to monitor epidemic situation, was not approved by the UNAIDS technicians. Nevertheless, in 2001, financing was approved for two projects related to generic medication, its campaign and preventive educational material as well.

Venezuelan Government does not know if the financial resources invested in prevention and assistance are appropriate and necessary since, as stated by Dr. Daysi Matos, in charge of HIV/AIDS National Program, there is uncertainty about what is needed and about epidemic data.

Moreover, the project carried out together with the Fundación Mexicana de la Salud, A.C. (FUNSALUD) and SIDALAC, financially supported by UNAIDS and European Commission, provides interesting preliminary results on AIDS/HIV budget and expenses in Venezuela as of 2002. The results below are based on AIDS National Program information as well other national organizations:

Chart N° 1: “*HIV/AIDS financial support in Venezuela for 2002*”
(expressed in US\$)

<i>Public</i>	70.050.569
Central Government	37.706.654
Sub-regional Government	21.818.654
Social Security	10.525.419
<i>Private</i>	3.149.251
Social Security	0

Private Insurance	0
NGO's	192.193
Home	0
Companies	2.957.058
<i>External</i>	153.086
Multilateral	153.086
Bilateral	0
External Private	0
TOTAL	73.352.906

Source: FUNSALUD and SIDALAC Project

Chart N° 2: “HIV/AIDS expenses in Venezuela for 2002 (expressed in US\$)”

Personal Health	59.734.914
Treatment	27.647.579
Hospital	27.302.294
Ambulatory	345.289
Domiciliary	0
Mitigation	0
Support Services	1.014.386
DX Tests	57.615
PVVS Monitoring	956.771
Patients Transportation	0
Non-Lasting Goods	31.072.949
ARV	30.856.951
Other medicines	202.937
Other Goods	13.060
Orthopedics and other equipment	0
Public Health and Preventive Actions	9.920.001
Public Health	936.863
Epidemic Monitoring	18.558
IEC	918.305
Prevention	8.983.138
Condoms	211.282
ITS Treatment	2.657.060

Prenatal	162.883
Syringes	0
Blood Banks	5.951.913
Administration	3.495.150
Current Expenses	73.150.065
Investment	48.013
Infrastructure	7.162
Equipment	40.851
HIV/AIDS Health Expenses	73.198.077
Memorandum Items	154.829
Personnel Training	117.877
Research and Development	17.738
PVVS Especie Benefits	0
PVVS Money Benefits	0
Organization and enforcement	0
Political Dialogue	19.213
HIV/AIDS Total Expenses	73.352.906

Source: FUNSALUD and SIDALAC Project

As per this research, 96% of financial support comes from public sector, as follows: 52% Central Government, 30 % Sub-regional Government and 14% Social Security.

B. Instituto Venezolano de los Seguros Sociales (IVSS)

IVSS is currently assisting not only the persons entitled to this program, workers who comply with the corresponding payments, but also, PVVs who are not entitled to it given that the Constitution states Social Security as a basic human right.

IVSS addressed 19 thousand million dollars to HIV/AIDS situation, as per IVSS source, for the period of July 98 to December 2001.

1. Rendering Social Assistance

IVSS rendered medical assistance in HIV/AIDS Immunology Service at Hospital Domingo Luciani in Caracas until year 2000. However, this hospital faced very serious problems

such as: limited space for assisting patients; limited space for drugstore; as well as few health professionals for assisting everyone. Given this situation, ACCSI Acción Ciudadana Contra el SIDA, RVG+ Red Venezolana de Gente Positiva and the Comité de Amparados, enforce advocacy activities addressed to IVSS authorities for them to provide effective answers to the situation and to comply with the decisions of the Administrative Contentious First Court (5 Protection Commandments).

In order to find a solution to this problem, Dr. Anselmo Rosales, Chief Doctor of Immunology Service, decided to carry out activities intended to move such service to the former Clínica del Trabajo location, after building remodeling and recovery. This action was supported by the pharmaceutical industry, especially Laboratorios Abbott. The IVSS Centro de Inmunología Clínica (CIC) was opened on October 2000, in order to assist diseases related to immunology and infections, such as: allergies, HIV/AIDS, hepatitis and hemophilia. Hospital care for HIV/AIDS cases is provided at Hospital Domingo Luciani.

The CIC has 4 doctor's offices for ambulatory assisting HIV/AIDS, allergies, hepatitis, hemophilia and other pathologies immunology related. It also has waiting rooms, medical equipment, auditorium, pharmacy area and ARVs medicine warehouses. It is currently supplying medical treatment for HIV/AIDS, hemophilia and hepatitis.

The dentist service specialized in HIV cases is intended to be established with the support of Doctors and post-degree students of Facultad de Odontología de la Universidad Santa María, including equipment. Likewise, emotional support counseling will be provided upon completing the second remodeling stage of the facility.

Between November 2001 and the first quarter 2002, an administrative chaos arises in the IVSS due to the assignation of 4 different Presidents to be in charge of it, thus causing certain instability at the Immunology Service. Therefore, the plans set for PVVs assistance program, such as: developing new services for ambulatory assistance, laboratory for CD4 and virus charge and entry of specialized health staff were stopped.

2. Assistance

From March 1987 to December 2001, the IVSS would have taken care of 3.832 workers suffering from HIV/AIDS. By the time the CIC started operations, 713 new cases of persons living with HIV were included in the program from October 2000 to December 2001,.

55 new cases were assisted during the months of January and February 2002. Provided that medical assistance was given three times a week, that is 21 days of assistance, then, new cases have increased to 2,7 on a daily basis.

Doctors related to this service are deeply concerned about the increase in antiretroviral treatment changes since it reaches 30,08 % of the assisted cases. In their opinion, this situation has arisen due to the lack of treatment planning provided by doctors not registered in the IVSS (external doctors) and bad medical prescription, as analyzed by the immunology service in the chart below:

In this sense, external doctors state that treatment change has arisen due to therapeutic flaw caused by wrong prescription at initial treatment stage, lack of knowledge of external doctors and wrong combination of antiretroviral medicines (ARVs).

Consequently, the CIC has set internal controls and monitoring to PVVs cases that present therapeutic flaw. Likewise, capacitating and updating programs for supplying ARVs have been started. These programs are addressed to specialized doctors within the country. All these actions were taken before decentralizing IVSS program for supplying ARVs.

3. Access to ARVs at the IVSS

From 1998 to September 2001, 2.970 PVVs have been treated with ARVs supplied by the IVSS, 2.448 were males and 522 females. As per geographical distribution: 1.138 cases were in Caracas, and 832 cases were in other regions nationwide.

Moreover, emergency kits were supplied to Hospital Domingo Luciani in order to apply ARVs for emergency cases.

a. ARVs supply program decentralization

Purchasing and application of ARVs is carried out in Caracas and they are sent to the decentralized states since every IVSS regional center have HIV/AIDS experts in infections, pharmacy and immunology.

The decentralization process started in 2001 in Nueva Esparta, Monagas, Anzoátegui, Lara (Portuguesa y Yaracuy), Carabobo, and the Andes region (Trujillo, Mérida and Táchira, as headquarter) was decentralized in 2002. However, Zulia state has serious problem for

decentralizing since the Director of the IVSS Hospital Central in Maracaibo refuses to assist and take care of PVVs cases in that hospital. Besides, the other IVSS hospital in Zulia State does not have any infection experts.

Since decentralization process started, service demand has increased as shown by the number of HIV/AIDS cases in working population that assist to the aforementioned services.

b. Failure to access ARVs treatment

A shortage in antiretroviral treatment for people living with AIDS who were entitled to IVSS treatment started in June 2002. This situation was presented in Caracas as well as in other regions within the country, specifically for medicines such as Combivir/lamivudine + zidovudine and 3TC/lamivudine. Moreover, antiretroviral medicines such as Stocrin/efavirenz, Ziagen/abacavir, and Trizivir/lamivudine + zidovudine + abacavir were also scarce and it was estimated a two week supply as per IVSS inventory.

The aforementioned shortage seriously affects life quality of IVSS people living with HIV/AIDS since antiretroviral treatment interruption causes the presence of virus resistance, other relevant diseases and labor absenteeism among others.

As per IVSS sources, this situation came about due to purchase orders delay. The authorized signatures of the corresponding officers of Pharmaceutical Direction and Purchase and Administration Departments have not approved orders for around three weeks, thus causing the administrative process to be stopped.

Besides, the IVSS was not carrying out the Viral Charge test, since remodeling works at the facility of the Instituto de Inmunología Clínica de San Bernardino in Caracas have not started and specialized equipment have not been received. However, it is known that the Board of Directors led by former IVSS President Dr. Mauricio Rivas, approved financial resources for equipment acquisition and remodeling works in 2001.

Currently, the IVSS enters an agreement with the pharmaceutical industry, so as to provide orders for viral charge to be practiced in IVSS persons living with HIV at the Blood Municipal Bank in Caracas or at the Instituto de Inmunología Clínica. However, workers must pay Bs. 40.000,00 at the latter institution in order to get such services.

Both situations show that IVSS is not complying with its obligations as per 2001 Constitutional Mandate that states social security duty to provide HIV treatment permanently and regularly as well as to run tests and follow up and control hospital examinations to all IVSS people living with HIV/AIDS so as to guarantee basic citizen rights.

The NGOs have had a relevant influence in solving this conflict, as shown and confirmed by the previous article that states that several NGOs carried out advocacy activities towards IVSS representatives and Merck, Sharp & Dohme representatives.

In this sense, on June 7th 2002, the NGOs addressed to HIV/AIDS and the group of people living with HIV/AIDS sent a letter to Dr. Edgar González, President of the IVSS, with copy to Lic. María Cristina Iglesias, Ministry of Labor, and to other public officers in order to urge their intervention in this case.

4. CD4 tests and Virus Charge

CD4 tests are being carried out at the Blood Bank in Hospital Domingo Luciani. Virus charge tests are not carried out at the IVSS, however, the CIC has entered agreements with the pharmaceutical industry for it to cover the costs of running such tests at the Instituto de Inmunología Clínica.

However, several doctors informed that persons living with HIV must pay a minimum cost of Bs. 20.000,00 for the service rendered by the Instituto de Inmunología Clínica, regardless that the service is covered by the pharmaceutical industry. It was also known that from April 1, 2002, the Virus Charge test would cost Bs. 30.000,00 at the IIC.

As virus resistance tests are not carried out at the IVSS, the PVV must pay for them when needed.

5. Assistance to patients suffering from other pathologies

The CIC assists HIV patients, HIV/hemophilia patients, HIV/hemophilia/hepatitis patients, hemophilia patients and hemophilia/hepatitis patients. Treatment is very complex when treating two or more pathologies in the same patient.

6. Ministry of Health and Social Development and IVSS Inter-institutional Coordination

The lack of coordination between both sectors, MHSD and IVSS seems to portray the situation in Venezuelan public administration; a total absence of coordination between several sectors of public administration does not allow to integrally assist necessary matters. Therefore, there is no coordination at all in assistance affairs.

MHSD officers have requested the IVSS statistic epidemic data related to HIV positive population (assisted cases, PVVs cases who are treated with ARVs, etc.), however, Dr. Elsa Vásquez states that it is not possible to deliver this information since it is not allowed as per IVSS norms and regulations. Internal letter to all directors and IVSS officers nationwide informed about this prohibition.

Rendering integral health service

Article of the Constitution guarantees a health public system, which is inter-sector and integrated to the social security system, and it is ruled by the integrity principle.

Even though integral health has been stated as a policy pertaining to State and this concept is fully understood by health workers, and PNS officers, in the practice, there are many obstacles for its effective application.

Medical staff in Hospital José María Vargas, in Caracas, works under the concept of integral health service, thus providing a multi-disciplinary assistance that implies assistance by infection experts, psychologists, experts in parasites, gynecologists, dermatologists, however, infection clinical follow up is only rendered to people living with HIV/AIDS.

Rendering integral health service has not been possible, on the one hand because of space matters, which has been the same during the last 5 years, in spite of a sustainable development in service supply. On the other hand, because of insufficient medical staff (nurses and doctors) and because of budgetary shortage, thus affecting health service quality.

STD/HIV/AIDS National Program of the Ministry of Health and Social Development is intended to deal with HIV/AIDS matter as a neutral public service by sectors, thus omitting the fact that it implies multiple problems that should be dealt with on a multi-disciplinary basis.

It may be quoted that the health service rendered to the persons living with HIV/AIDS at the Hospital José María Vargas is quite similar to rendering integral health service given the self-initiative of general doctors through inter-examinations. Inter-examinations mean that one department forwards a case to other department within the same hospital in order to jointly treat all health problems involved in one patient, thus HIV patients are equally treated.

Persons living with AIDS needs a special diet due to their health condition, however, the hospital provides nutritional service that is not addressed to all patients but to the ones in hospital care or the ones specifically stated by the doctors. Likewise, the hospital does not deal with social problems such as patient's lack of housing, unless the case is a homeless who has received hospital care and has no place to live.

As per emotional support, the hospital has a psychiatrist service but it does not support the infections department since no inter-relation has been established. Psychiatric examinations are generally delayed and most of the time problem solving is provided through medications.

Moreover, NGOs participation has not been required, as per interviewees, since patients are directly involved with NGOs and hospital social services have no connection with them.

Public Centers for diagnosis reference such as the Insituto de Higiene Rafael Rangel are carrying out tests such as: screening (ELISA), Western Blot, PCR P24, Immune - phenotype (CD4, CD8) and Virus Charge. Virus resistance test will be applied very soon as well as examinations to determine other diseases, hepatitis and VPH.

Currently, this lab network has 15 offices nationwide, but Virus Charge tests are only taken in Caracas, Valencia and Maracaibo.

Integral Health battle goes on since the request for service supply is higher than the staff to cover it. Besides, (ARVs and reactive) purchase is urgently to be planned so as to avoid continuous shortages and interruptions.

Inter-sector Coordination

The Ministry of Health and Social Development has neither formal cooperation agreements with Executive Branch officers nor with other State branches.

Moreover, strategic agreements, not in writing, have been set with the Office of Public Defender for human rights seminars. Likewise, the Ministry of Education is intended to cooperate through an agreement addressed to sexual education, prevention of sexually transmitted diseases, specially HIV/AIDS, early age pregnancy, violence in family group, among others. This cooperation might be achieved by an implementation plan, at the public schools, so as to be further implemented in other schools nationwide. At an early stage of the project, financial resources will be granted by the Ministry of Health and Social Development. The Ministry of Education will grant financial resources to the extent of commitment development.

There is a single agreement with the Ministry of Justice and Internal Affairs for people in jail to access treatment, but many difficulties have arisen for it to be effective due to prison system designed in Venezuela. This system allows neither the real follow up of HIV/AIDS evolution nor the access to the corresponding medical treatment for fighting HIV/AIDS and other evolving diseases, besides, the presence of medical staff shortage, poor nutrition, and sanitary conditions in such facilities.

We can say that the relationship between majors within the country, has been very scarce. There is a single training program entered with one of them that has been designed by the Ministry of Health and Social Development.

C. Office of Public Defender

The Office of Public Defender is part of the newly created Citizen Branch in Venezuelan Constitution, and it comprises human rights protection and monitoring of all Venezuelan inhabitants.

As per human rights for the people living with HIV/AIDS, the Citizen Branch issued a memo on October 27th, 2000 titled "Violation of Human Rights for people living with AIDS". The Direction of Rights and Guarantees prepared this document and it has been made known by the Direction of General Juridical Services, which conclusions are:

"Considering national and international juridical framework, that states human rights as inherent to human beings, their violation might be not likely to happen, however, execution in our country and in other countries as well depicts a different view, thus it is necessary that the United States take complementary measures in legal, humanitarian, social, economical and political aspects, generally, measures that help to effectively guarantee human rights respect for people living with HIV/AIDS."

In this sense, it is important to mention that the new Venezuelan Constitution is a progressive achievement in human rights affairs, since it stresses in Venezuelan dignity. Besides, the Office of Public Defender is included as a integral entity of the Citizen Branch, that is in charge of the important task of defending, promoting and monitoring human rights, thus becoming a mediating and cooperating entity that helps people living with HIV/AIDS as well as other groups whose human rights might be violated.

It is well known that dignity of persons living with AIDS has been affected worldwide due to discrimination, prejudice and rejection towards them given the stigma and lack of knowledge of the virus/ disease. Therefore, we might say that HIV/AIDS is a global problem that arises serious concerns in all aspects related to human beings, personal, political, cultural, juridical, social y economical.

The multiple violation of human rights of the people living with HIV/AIDS, first of all, endangers human dignity, secondly, violates national and international juridical framework related to human rights and finally impairs our democratic and social State model based on Right and Justice, which assists and stresses in superior values such as life, equality, justice, solidarity, democracy, social responsibility and human rights importance.

"Human dignity is inalienable and intangible, it is a spiritual and moral value inherent to human condition in all aspects: religious, ethical and social. Human being, as a homo noumenon entity (using a kantian term), is a moral subject with an absolute dignity who must be treated respectfully." (Supreme Court decision, in Political Administrative session as of 30-10-97. RJCB Case)"

Likewise, the Memoranda ends with some suggestions to be considered by Venezuelan State, stated as follows:

"Venezuelan State must take care and monitor actions that endanger the right to equality and non-discrimination and it must encourage the creation of norms that ensure and develop principles widely established and recognized in our Fundamental Letter".

Joining fighting efforts among State, inter-government organizations, non-government organizations and civil society is very important for promoting, protecting and enforcing the rights for the persons living with HIV/AIDS.

In order to inform all population about HIV/AIDS and human rights, it is important to promote advertisement campaigns so as to appeal people's sensitivity towards psychological, economical, familiar and social situation related to HIV/AIDS, thus enforcing a collective consciousness favoring equality and non-discrimination.

Given the lawsuits for human rights violation filed by people living with HIV/AIDS, Venezuelan Law Courts have set and developed enough legal instruments to be taken into account as a reference framework about human rights nationally and internationally that should be known by the State.

Likewise, Venezuelan State is responsible for considering all contributions provided by international community since they are significantly important for improving quality of life of people living with HIV/AIDS, thus implying respect and dignity.

HIV/AIDS problem is strictly related to public health, therefore State must design and apply policies intended to guarantee the right to health, consequently the right to life, for all persons living with HIV/AIDS.

Likewise, it is necessary that all government entities be involved and committed to human rights matters, regardless of race, sex, ideology, religion, social status or any other reason so as to guarantee so as to guarantee a real democratic and social State based on Right and Justice.

Given the aforementioned, the Office of Public Defender works as a legitimate entity to promote and carry out policies intended to protect human rights effectively.”

These statements related to Human Rights of people living with HIV/AIDS stated by the national public sector, including the Executive Branch and the Citizen Power, constitute an infrastructure intended to definitely protect such rights, and it is in fact cooperating to decrease arbitrary discrimination in Venezuela, and it is constantly monitoring human rights violations so as to establish supervising mechanism to determine responsible entities and responsibilities for these violations.

Moreover, as a positive aspect, we found that the Office of Public Defender helped in achieving the judicial decision that nullified the Consejo Universitario UPEL decision that requested the antibody test to be submitted as a requirement to enter this institute, likewise, this Office cooperated in providing solutions for homeless living with HIV in Caracas. It also helped as a mediator between a NGO, addressed to child and teenage protection (CAVINIJA), and the Coordination of public schools, particularly in the case of five children infected with HIV who have been dismissed from such schools due to their special health condition, thus the aforementioned NGO dealt directly with the Coordination of the public schools so as to achieve four children relocation. The Office of Public Defender also issued a statement about the need to eliminate the clause contained in Article 393 of the Penal Code which states that violation and kidnapping of a prostitute implies the crime penalty to be reduced in a fifth part.

In spite of the great efforts carried out in relation to human rights, desired advances related to HIV/AIDS have not been achieved yet, specially in relation to case solution, since most of the cases have not received proper treatment.

Institution's bureaucracy can be pointed out as the main cause for this low performance, since it is necessary to request appointments and expect for answers while human rights vulnerability keeps going and increasing and most of the law suits are kept in file without the corresponding follow up.

Besides, the lack of interest of some officers for finding solutions to human rights violation of the persons living with HIV/AIDS is a very important factor as evidenced by the flaw investigations. Most of the lawsuits accepted offender's answer, pleading for innocence on

the case, thus the corresponding officer stated that no human rights violation has been committed.

Several files related to human rights violation have been submitted to the Office of Public Defender, as the one submitted by the NGO, but no actions have been taken towards them, thus contributing to impunity and to increasing basic rights violation.

D. Ministry of Education, Culture and Sports

The Ministry of Education, Culture and Sports, has developed (4) HIV/AIDS programs, some of them have already been carrying out for more than 5 years. These programs restructuring was carried out in 2000 in order to adapt them to Venezuelan education sector. The Ministry of Health and Social Assistance, through the HIV/AIDS National Program, is the one in charge to offer counseling and monitoring to each program, which are: Curricula Contents; Integral Entities for Student Welfare (NIBE); HIV/AIDS Prevention and Teenage Pregnancy / Public Schools (Escuelas Bolivarianas) and Educational Campaigns for Prevention.

1. Curricula Contents

Elementary education curricula contents have been amended: Nature Science and Technology, Social Science, Languages, among others. This curricula contents program started in 2000, thus including sexual education program in the national curricula from first level to sixth level.

However, from 1st to 5th level, HIV/AIDS matter is treated abstractly. These curricula amendments go from general to specific; levels of abstraction are taken into account as per abstract thinking, logical thinking and development shown by average students in each level, it means, that the specific information is given to the child when it is mature enough to receive it. Sixth level seems to be the best one for addressing specifically to HIV/AIDS. Description of the Curricula Contents:

1. 1st Level: Learning contents related to human body parts, children's rights and duties in the classroom, in school and at home.
2. 2nd Level: Human and animal birth, physical and psychological changes while growing up and reaching puberty, responsibility and functions of the family group, children's rights and duties in the community and in the State.
3. 3rd Level: Health maintenance, family as a value forming entity, Children's Rights Convention.
4. 4th Level: Human sexuality, having a couple, love and sensitivity in sexual intercourses, self-esteem, puberty, human formation and reproduction.
5. 5th Level: Adolescence, masturbation, engagement, family communication, teenage pregnancy and consequences, teenage pregnancy prevention, having a couple, sexual abuse prevention, sexual abuse consequences, victim's rights, offender's duties and responsibilities among others.
6. 6th Level: Human Immunodeficiency Virus (VIH), Acquired Immunodeficiency Syndrome (SIDA), sexual transmission diseases, causes and consequences of AIDS,

AIDS cases in different sector groups, community support towards AIDS and ITS cases, children's rights among others.

2. Integral Entities for Student Welfare (NIBE)

The specific date for creating and applying this program for rendering medical services to students population is not known. As per Lic. Gladys Castillo, technical staff of HIV/AIDS National Program, the NIBE has always existed but HIV/AIDS strengthening policies have been applied recently in the educational area.

The NIBE entities are located nationwide. For example, there are four NIBE in Caracas, 1 NIBE in Amazonas, the total number is related to people's needs and bio-geographical aspects of each education community.

Each entity has medical staff, doctor, dentist nurse and counselor. However, Lic. Castillo stated that the staff is not able to take care directly of HIV/AIDS cases nationwide, but they can provide counseling and advise patients to go to assistance centers such as hospitals, NGOs and labs. Training to NIBE staff is currently in process, by using information campaigns and appealing campaigns to sensitivity. The NIBE entities are also linked to Public Schools Prevention Program.

3. HIV/AIDS Prevention and Teenage Pregnancy / Public Schools

The Ministers of Health and Education, Culture and Sports entered an agreement on August 31, 2000, intended to carry out a project of inter-ministry coordination and cooperation for preventing and diminishing HIV/AIDS cases, sexual transmission diseases, teenage pregnancy, violence within the family and sexual abuse

This project is especially addressed to boys, girls and teenagers in Public Schools, including other elementary schools, high schools and professional schools. The first stage of the project would last one year and the following objectives would be accomplished: to 10.000 teachers and health staff, to inform and educate 100.000 students and 50.000 parents that attend 500 Public Schools nationwide.

The activities stated in the project started on October 2000, under the coordination of Lic. Gladis Castillo. Until December 2001, the project was carried out in 561 Public Schools. As per training in educational sector, the results are as follows:

- 149.736 pre-school or elementary students or, I and II stage of High School;
- 7.531 teachers
- 786 health staff members, related to 310 health centers.
- 50.000 parents and community representatives.

Inter-sector teams were formed nationwide in order to accomplish the activities aforementioned and interconnecting the following sectors: health, education, majors, regional governments and entities linked to the project.

4. Educational Campaigns for Prevention

In 1991, the Ministry of Health and Social Development and the Ministry of Education, Culture and Sports have set "*The National Day for AIDS Prevention*". This activity takes place in educational communities nationwide on May 23rd. These communities, together with the corresponding MHSD are in charge of designing and planning different activities to commemorate school prevention, such as walks, lectures, among others.

Lic. Castillo states that there are two positive elements that have generally contributed to these programs success:

- A better paid teaching staff, since they earned 60% more than the ones not related to Private Schools.
- Children in these schools are entitled to breakfast and lunch thus achieving a better performance.

However, there are other persisting problems such as: facility conditions, furniture and bureaucracy that stand for challenges to be defeated as long as the program becomes more settled.

E. Ministry of Internal Affairs and Justice

In 2001 ACCSI issued a report on HIV/AIDS human rights situation for people in prison. Data about epidemic situation and Ministry of Internal Affairs and Justice actions in Venezuela prison system are therein contained. Relevant information to this report are stated as follows.

“Penitentiary Policies related to health, STD and HIV/AIDS”

The new Direction for Inmate Custody and Rehabilitation has several Divisions, among them, the Integral Medicine Division, which is in charge of medical assistance areas, nutrition, psychology, pharmacy, epidemic, dentist and infirmary. In spite of the good efforts provided by the teams that cooperated with this division ever since ACCSI contacted them— 1999 up to date—, its labor is permanently shadowed by the lack of resources and the absence of integrity upon considering prison system by the top ministerial level, which is the one who set social, resource and health variables that condition such situation (...)

As per Penitentiary Regulation Law, each prison nationwide must have an infirmary, a pharmacy and enough medical staff for practicing daily visitations to the inmates (arts. 42 to 49). However, most of the prisons do not have minimum health service to fulfill inmate population's needs; besides, sanitary, environmental and psychosocial conditions seriously affect the possibility of short-term recovery, thus considerably increasing intrinsic risk

factors related to prison situation. A document issued by the Universidad Central de Venezuela (UCV), states several aspects related to medical assistance critical situation in Venezuelan prisons: lack of medical assistance, absence of resources to carry it out; lack of conditions for disease control and treatment; expired medications and lack of training of warehouse staff since there is stored equipment duly packed and infirmaries have critical supply problems; lack of water and black waters presence¹.

(...)

Generally, all measures adopted by the authorities are caused by emergency situations, thus providing benefits to a small number of inmates. Therefore, if any emergency arises, inmates must be taken to public hospitals and they are exposed to hospital community rejection while in normal situations they depend on their relatives for self-prescription. Moreover, it is difficult for inmates to get the attention from guardians, who usually do not take care of their complains, regarding medical requests. One inmate stated: *“If someone gets ill with a disease impossible to be treated, guardians do not take him to the infirmary”*².

UCV staff as well as ACCSI staff acknowledges the good intentions of the Divisions and its strategies and planning design for improving health systems in prisons. However, these plans require to adequate financial resource allocation as well as to set the corresponding priority for health and psychosocial variables by the authorities involved. In the mean time, inmates access to medical assistance is still conditioned not only by emergency cases or special operations carried out by authorities or groups that collaborate with the Division but also by the perilous conditions of the assistance services in prisons where these facilities exist.

ACCSI had access to a diagnostic internal report prepared in 1999 by the former Director of the Division of Integral Medicine of the Prison Direction³. This report shows the following elements: insufficient staff for covering the system’s real needs; lack of specialized staff in nutrition; deficient schedule monitoring and lack of functions compliance; insufficient budget for medicine, surgery, dentist and equipment material; lack of financial resources for prevention activities; lack of order and discipline in the different facilities for carrying out health plans and the instructions provided by the Division are not considered as obligations.

1. Health Assistance

The Integral Medicine Division considers being critical health situation in penitentiaries nationwide. Generally, penitentiary facilities are exposed to all kind of health threats, due to inmates deteriorated living conditions, facilities infrastructure, sanitary system maintenance, lack of attention and intra-penitentiary violence as well.

¹ This diagnosis generally matches the one published in Human Rights Watch 1997 Report.

² HRW: Castigados sin condena. Pág. 84.

³ MINISTRY OF JUSTICE. GENERAL SECTOR DIRECTION FOR SOCIAL DEFENSE. CUSTODY AND REHABILITATION DIRECTION FOR INMATES. INTEGRAL MEDICINE DIVISION: Report. Author: Sandra Chacón – Chief Doctor. July 1999. Mimeo

Wounds caused by knives and fire weapons (see chart IV) are the main cause for health interventions in penitentiaries. Out of 679 diarrhea cases registered in 9 months of year 2000 (main pathology registered by the Division), 734 cases for the aforementioned wounds were registered in only 6 months. The most frequent pathology causes are the ones related to AIDS (diarrhea, TBC and pneumonia). Tuberculosis high rate shows the persistence in crowding conditions and the lack of environmental cleaning.

However, the Division acknowledges a sub-register high rate due to different circumstances. Besides, the lack of accuracy of data gathering devices, there are other two factors that show that these numbers do not imply the real image of epidemic situation in penitentiaries nationwide, which are: the conditions for health rendering services and inmates practice of pathological self treating.

Chart N° 3: Ten main causes for pathologies (From January 01 to September 2000)

<i>Cause</i>	<i>Nro. of cases</i>	<i>Percentage</i>
Diarrheas	679	64,02%
T.B.C	99	9%
Pneumonia	53	5%
Food Intoxication	47	4,4%
Malaria	33	3,12%
VIH-SIDA	22	2,08%
Ameba disease	21	1,35%
Hepatitis	19	1,80%
Dengue	16	1,52%
Measles	17	1,61%
Other causes	53	4,98%

Source: Integral Medicine Division. MIJ.

2. Access to treatment

The authorities of the Integral Medicine Division state that they do not supply anti-retrovirus treatment (ARV) due to lack of resources for it, thus the MHSD is intended to be responsible. However, Penitentiary Law acknowledges responsibility to the Ministry of Internal Affairs and Justice for supplying medications and items to the inmates population. Besides, given penitentiary conditions, in terms of health and violence, it is very remote for a facility to comply with anti-retrovirus treatment. Moreover, political and intra-penitentiary factors reduce the possibilities of HIV positive inmates to access treatment as part of penitentiary public policies related to HIV/AIDS. Hence, there are isolated cases that have been treated with outside ARV therapy.

In May 2003, The HIV/AIDS National Program informed that inmates might be receiving ARVs treatment through public system.

3. Prevention

Prevention public programs for HIV and other sexually transmitted diseases are completely absent thus matching the absence of these programs at national policy level.

F. Ministry of Labor

1. Decisions

ACCSI addressed to the Ministry of Labor Juridical Counseling on August 27, 2000 in order to promote counseling related to HIV/AIDS and labor.

This counseling was based on data gathered for more than fifteen years in Human Rights assistance program carried out by ACCSI. Such data shows that more than 50% of assisted cases are related to HIV/AIDS conflicts at work, such as: fires, tests required to get a job or to keep it, unjustified incapability, profit share payment denial, accidents at work and access to social security service.

On November 29, 2000, the Ministry of Labor Juridical Counseling issued Decision No. 71, which, for the first time in Venezuela, officially states recommendations in labor area and HIV/AIDS. This Decision was based on Human Rights, thus stating:

“Venezuelan Constitution as well as labor regulation acknowledges and guarantees the right to equality and non-discrimination to all workers. Discrimination based on HIV/AIDS is prohibited by effective juridical ordeal, consequently, any action or measure taken by the employer intended to diminish or void workers rights to equality and freedom is considered to be out of the constitution and null. This action does not produce any juridical effect and the Action of Constitutional Protection is to be applied in order to restore affected juridical situation.”

Part III of this decision, which is related to HIV tests and its requirement for getting or keeping a job, states:

“Running health tests and examinations, before and after getting a job, are constant sources for discriminatory measures and actions. Not only for workers suffering from HIV/AIDS but also for everyone in a labor relationship. Therefore, criteria for applying these tests should be strictly adjusted to the guidelines stated in the Constitution and in general law, thus respecting human rights and restricting these tests to such cases that, as per labor law regulations related to health, would be strictly necessary for workers’ protection.”

“From this point of view, requesting HIV tests for getting or keeping a job might be considered a discriminatory action based on health conditions, hence seriously violating the rights to equality and work. Given their unconstitutional nature, these tests must not be requested by the employers as a requirement for getting or keeping a job.”

“Besides, no labor law regulations related to health oblige people to run such tests, on the contrary, Number 3° contained in Article 46 of the Constitution, acknowledges people’s right to reject such tests without their consent unless it is duly stated in a regulation. It is not an acceptable argument to state that the employer may request such tests upon worker free and willing acceptance to run them. Provided that it is an unequal juridical relationship, where the employer is more powerful than the worker, free will of each party is a fiction restricted by working conditions (protective work-public order). Therefore employers’ request to run HIV tests has no legal basis and it is considered as a unilateral and restrictive enforcement for workers, as well as a discriminatory measure that affects

the right to equality. Consequently, if a similar situation arisen, the Constitutional Protection Action must be applied so as to consider HIV test request as a discriminatory action.”

Regarding employees firing based on HIV+ condition; Labor Ministry Decision understands that it implies discrimination if it is carried out right after running HIV tests in the working area. Firing is also considered discriminatory if it is carried out after employee refusal to take HIV+ test

This Decision implies a great advance for setting HIV/AIDS and Human Rights policies as well as a foundation for future projects or legal amendments.

2. Partial Amendment to Labor Law

In 2002 the Ministry of Labor opened a consulting process with different organizations for partially amending existing Labor Law. ACCSI sent proposals based on the following items:

Suggestions and recommendations for the aforementioned amendment are presented below. Regarding Chapter III, “*Main Principles / Labor Right*”. *Proposal for Article 8 Item e): Principle for non-arbitrary discrimination at work, regarding gender, sexual orientations, social or health condition, race, religion, political ideology, labor union activities, any other discrimination based on relevant criteria as opposite to juridical regulations.*

Sexual preference, as stated in effective Regulation, was proposed to change by sexual orientation since it is more appropriate for describing people’s sexual diversity. Inclusion of health conditions has also been proposed in order to protect all individuals suffering from HIV+, infections or critical health conditions, either symptomatic or not, which do not affect working abilities.

Likewise, it is suggested to add HIV test prohibition as a requirement for getting a job, suggested writing would be as follows:

Article 8. Second Paragraph: “This principle comprises all discrimination that might be arisen prior starting a work relationship, such as, requiring lack of labor union activities, pregnancy test or laboratory tests to determine HIV/AIDS presence, Hepatitis and other sexually transmitted diseases.”

We suggest a new article to be included in order to establish the arbitrary discrimination presumption for condition, redacted as follows:

“Discrimination based on health conditions. Requirements and demands of clinical laboratory diagnoses to workers who feel physically incapable or who asks for medical resting, will be considered as arbitrary discrimination based on health conditions.”

“Finding out and getting information about workers medical results, either in private assistance centers, social security centers or public health hospitals will also be considered as discrimination based on health conditions, since the employer takes advantage of his position to feel superior and to threat employees with losing their jobs or with other psychological and social pressure.”

G. Presidential Secretariat Social Fund (SF)

The Social Fund provides financial assistance on: medicine purchase, surgery expenses, pre-post surgery material purchase, test running and health conditions healing. Besides, the Social Fund forwards cases to other assistance centers, as in VIH+ cases. In order to access these benefits, the following requirements are needed: medical reference, clinical report, budget requested and ID copy. Then, the subject should be interviewed by a social worker. Guarantee letter will be supplied after other interviews so as to withdraw a check in the amount granted by the Social Fund.

In the case of people living with HIV, it was informed that, for the period 2000-2002, an agreement was entered with the NGO ASES de Venezuela that would help to manage contributions and financial aid. However, ASES representatives denied the existence of such agreement.

Financial aid granted by the Social Fund is diverse, since it covers not only medical and health expenses but also expenses related to corpse transportation, funeral and graveyard.

Even though the Social Fund Program could help solving important citizen's problems, it stands for a distortion of public duties within the wide range of services rendered by the State and, it works as a propaganda model for the Executive Branch. Social Fund Aid. It is claimed to be extremely bureaucratic thus slowing down the process for complying with citizens' needs. The Executive Branch should be able to understand that these kind of programs are more effective at municipal level.

H. Public Policies addressed to vulnerable population

1. Drug Users

Nowadays, there is no specific program in Venezuela for preventing or assisting people living with AIDS who are drug users. Therapeutic and assistant staff that works in drug assisting institutes does not have enough information on HIV/AIDS. It is necessary to provide lectures, courses and sensitivity campaigns oriented towards this specific population.

State participation in matters related to narcotic substances is shown through state organizations such as: CONACUID and José Félix Rivas Foundation which are in charge of forwarding PVV drug users to NGOs that deal specifically with HIV/AIDS.

It is important to point out that these organizations work on the basis of total abstinence from drug using, thus preventing HIV infection via needles in drug addicts and to future drug users.

Representatives of New Jersey Health Department, EE.UU, stated, in a visit to Venezuela, that our country is in the best moment for designing and applying effective strategies and programs for prevention in this area, since we could be running the risk of repeating Brazil, Uruguay, Paraguay, Argentina and Chile experience when their corresponding Ministries of Health did not give much importance to the relationship between needle drug users and HIV infection, thus resulting in one of the most affected populations nowadays.

2. Homeless People

There are three shelters in the Metropolitan Area to take care of homeless people, two of them depend on Libertador and Main Mayor and nuns manage the other one. The centers in charge of Mayors' social programs are: Center for Homeless Assistance "Luis Ordaz", exclusive for male members ascribed to Metropolitan Mayor and the Center Hermano "Lucas Pérez" for female and male members ascribed to Libertador Mayor. Both centers face serious difficulties due to the lack of granting of financial resources and the absence of good living conditions for the people living with HIV therein inhabiting.

Currently, there are needy people living with HIV that inhabit these centers, however, it has been difficult for HIV+ cases to get admitted in these centers due to Directors' decision. Most of the times ACCSI has requested help from the Office of Public Defender to negotiate needy people admission, however, this admission has been granted upon conditions and agreements that place responsibilities on the NGO for the admitted people behavior and actions.

Therefore, taking into account the way in which indigent HIV cases are managed, it can be assured that there are no clear policies at municipal level for protecting and supporting these people. Moreover, in the centers managed by nuns, HIV test negative is a requirement for being admitted and authorities have done nothing to avoid this discrimination.

I. Ethics / Clinical tests

Clinical test was carried out as per generally accepted technical regulations and medical ethics and its practice is very important for human beings since it is important to determine, before product marketing, if a certain product is useful or not for healing a specific disease, or for improving human beings' quality of life. Practical experiments are the only source for this information.

Actually, in Venezuela, supplying pharmaceutical products (domestic or imported) for human usage (internal or external) can only be made after their previous registry at the National Institute for Hygiene "Rafael Rangel". In order to get such registration, which is the authorized procedure for marketing pharmaceutical products, it is important to comply with some conditions, such as: submitting results of clinical essay carried out with the specific product in the country. It is important that the submitted clinical essay has reached

Phase III, which implies that the research is going to be applied to a major group for statistical purposes.

“All new medicine that enters the country should be clinically evaluated in patients through clinical studies nationwide before being distributed...” (Art. 66 of Medicine Law).

In order to carry out Clinical Pharmacy studies (Clinical Essays), formal authorization from the Ministry of Health and Social Development is required. This authorization should be requested through the National Institute for Hygiene “Rafael Rangel”. that monitors the compliance with technical and ethical requirements which are contained in the Regulation for Pharmacy Research,..

In Venezuela, clinical essays have a extensive regulation based on the following juridical documents:

- Medicine Law (Art. 66-73),
- Law for Pharmaceutical Practice (Arts. 103-112) and its regulation,
- Regulations of the Review Board for Pharmaceutical Products (officially acknowledged in Official Gazette No. 34.989 dated June 10, 1992,
- Regulation on Clinical Pharmacy Research of the National Institute for Hygiene “Rafael Rangel”, published in this institute Medical Report Volume 2 , March 2000,
- Medical Deontologist Code (Art. 191-206),
- International Regulations, Nuremberg Code and Helsinki Declaration; and
- Guidelines of Good Clinical Practices from World Health Organization.

All these regulations put together some requirements to be fulfilled in order to get the authorization requested for carrying out clinical essays.

Research subject free and express consent is required in writing, either by himself or by his representative, in case of physical or mental handicapped, prior complete information on the risk and benefits of the research. This consent can be retracted at any stage of the research either by the subject or his representative. The aforementioned is possible due to people’s constitutional right to physical and psychological integrity, hence no person can be

medically tested or scientifically researched without his previous consent thus respecting right o health and life.

On the one hand, it is the researcher legal duty to stop the investigation if it is intended to be harmful “or if any minimum harmful sign or symptom appears”. On the other hand, it is the researcher duty to follow treatment if it is intended to be successful, provided that the product is available for everyone.

The Sponsor Institution must comply with the following obligations: cover the cost for the investigation, provide life medical insurance to persons being tested and professional civil responsibility insurance to the doctor in charge of the investigation when the study is in Phase I and early II; be responsible and cover expenses for damages caused, or medical insurance for life, death and disability; inform the National Institute for Hygiene “Rafael Rangel” the starting date of the investigation; submit study evaluation periodically, in case of long term evaluation; submit in a one-year period upon investigation ending the results obtained, in case of stopping research, inform the reasons for it as well as any negative result observed during the research.

Some of the ethical guidelines that should be followed in this type of essays are: to prohibit studies intended to evaluate effects harmful to health; as well as to avoid including children under six years old, elder people around 70 years old, pregnant women or in lactation stage, to add more formalities in getting consent for studies of special groups or of vulnerable ones, as well as for studies of children over 6 years old and to add special consideration for women in fertile age. Likewise, the condition for granting authorization must be a written document stating the Institution’s Ethical Committee agreement on the protocol (research design) and on the inform consent model; as well as a research approval evidence from the top authority of the institution carrying out the investigation.

The National Institute for Hygiene Rafael Rangel, which is a decentralized entity from the Ministry of Health and Social Development, is in charge of evaluating medical products to be offered to public, and it is also in charge of monitoring and controlling all studies in Clinical Pharmacy nationwide.

Therefore, it may be concluded that, in Venezuela, clinical essays are treated at first following national and international regulations, full of principles and rights constitutionally stated, including juridical norms ranging from legal to rules, duly published in Official Gazette, thus guaranteeing acknowledgement and transparency.

J. Working with NGOs

The establishment of a wide range of foundations and associations intended to work towards AIDS area shows non-government sector response to HIV/AIDS epidemic. Human Rights organizations and other organizations that work with specific groups have also joined the aforementioned ones. These organizations have been established in Caracas and other regions and they render assistance services and carry out advocacy activities for creating public policies regarding human rights and people needs.

The main services are intended to provide emotional support, medical and laboratory assistance, juridical and human rights counseling, general advice, information centers , prevention programs, support group and medicine supply.

However, the main task of these organizations was to fill out empty spaces in prevention and assistance areas that the State was not duly fulfilling, therefore, the assistance feature was prevailing. This situation is totally justified by the following reasons: the need to create services for people excluded from public health, community organizations have more possibilities to reach populations which are difficult for health programs, such as: homosexual, transsexual, drug addicts, sexual workers and illegal immigrants. Besides, these services must be trustworthy, respectful and specific to the social and personal conditions of vulnerable populations and affected cases as opposite to public area.

This trend is intended to replace State-Government in the compliance with their functions, even though it has worked out to solve specific situations, it is also very challenging since on the one hand, it somewhat intends to stress indifference towards public programs in certain population sectors and on the other hand it states background for service privatization. Jointly developed programs between government and civil society are the best paths for enhancing public policies according to reality, without prejudice and with universal scope.

While preparing this report, the Ministry of Health and Social Development called upon NGOs addressed to HIV/AIDS and other specific areas such as sexual and reproductive health, in order to submit projects to be financed in the areas of prevention and assistance. Thirty projects were approved to carry out activities addressed to HSH, penitentiaries,

prevention, sexual workers and training. However, this experience, that might be qualified as satisfying, was affected by the HIV National Program impossibility to integrate different programs, to coordinate them effectively and to reach continuity.

Moreover, NGOs addressed to AIDS make efforts to achieve a joint working plan of action to strengthen NGOs Metropolitan Network addressed to HIV/AIDS (MetAIDS Network) which, in spite of a strategic planning seminar and its members' commitment, has not resulted as expected. Negative elements to be emphasized: lack of organization, urges related to each member, lack of network activities definition, the wrong belief that this network is a space for bringing out conflicts related to NGOs performance; and the lack of vision of network's members regarding political and social matters related to the epidemic.

During MetAIDS Network strategic planning several objectives were established: to analyze strength and weaknesses of current MetAIDS Network structure to identify challenges and opportunities for this network; to check activities and results ever since the network started; to establish a work plan for the network for the period of 2002 -2004; to adjust network structural organization and to elect a new Secretary for the period of 2002 - 2004.

K. International Cooperation

According to the document "Financial Indicators of national response towards HIV/AIDS", prepared by Fundación Mexicana para la Salud and SIDALAC, the multilateral cooperation share in Venezuela is 0,20%, the lowest percentage within national response shares for preventing and assisting HIV/AIDS. The NGOs provide 0,26% and private companies provide 4%. Consequently, international cooperation is not very much interested in a country considered to be rich or in a country without updated information in terms of epidemic or in national government lack of ability to manage resources with multilateral or cooperation agencies.

The Ministry of Health and Social Development is supported by ONUAIDS, an international organization that grants 100 thousand dollars (\$ 100.000,00) annually.

Besides, Pan-American Health Organization renders technical assistance for preventing HIV/AIDS. This technical support is given basically through various programs led by the national Government via STD/HIV/AIDS National Program.

United Nations Population Fund is currently supporting Venezuela in strengthening areas such as: sexual education, STD prevention ITS and reproduction.

L. Policies for sub-region integration

In the context of Andean Nations Community, Venezuela is part of Hipólito Unanue Agreement, entered between Andean countries in order to join efforts and to equal policies related to health. ANC countries recently started joint negotiations with the pharmaceutical industry for acquiring anti-retrovirus treatment. As per the Coordinator of STD/HIV/AIDS National Program, Dr. Deisy Matos, these negotiations have not been settled yet.

Chapter V

Human Rights most frequently violated (specific cases)

Regarding reports received by ACCSI, related to discrimination towards people living with HIV during 2000 - 2002, the chart below presents a variety of cases to show different discriminating situations.

No.	Company/ Institution reported	Reason for report
1.	Panadería Crocante	Violations to labor rights, physical integrity, equality and non- discrimination: After one month of medical resting, the worker is requested to submit HIV test and he is not allowed to enter the company.

2.	Unibanca	Violations to labor rights, physical integrity, equality and non- discrimination: After coming back to work, upon having 52 weeks of incapability, the employee was forced to quit by Human Resource Department. IVSS mentioned AIDS in the form for reporting incapability period.
3.	FOSPUCA	Violations to labor rights, equality and non-discrimination: Upon knowing employee's diagnosis, his chief threatens with firing him. Verbal aggressions and humiliations have occurred.
4.	Public School "San Isidro de Galipán".	Violations to labor rights and physical integrity, School Direction knew about one teacher HIV condition and let all other colleagues know about it hence pushing him to quit his job.
5	Hotel Meliá Caracas	Violations to labor rights, physical integrity, equality and non- discrimination: Reports have been received that the hotel requests HIV test as a requirement for getting a job or for keeping it. It seems that it is clause contained in the collective contract. The claiming party is afraid of losing his job, since he is aware that one of his co-workers was dismissed for being HIV+
6	PEPSICOLA	Violations to labor rights, equality and non-discrimination: One HIV+ employee was informed that he would be dismissed due to his health condition. The company offered him to continue a two-year Social Security benefit instead.
7	VESEVICA/ Private Surveillance	Violations to health rights, equality and non-discrimination: Company delays delivering forms to state incapability to a HIV+ worker thus jeopardizing their right to social security benefit.

8	“Nuevo País” Newspaper	Violations to labor rights, labor benefits, equality and non- discrimination: One HIV+ employee was not allowed to receive his severance indemnity payment because he was in a period of incapability. Likewise, his salary was suspended.
9	Ultra Optica	Violations to labor rights, health rights, equality and non- discrimination: An employee was fired due to his HIV+ condition. His expenses were not covered neither by the employer nor by the IVSS covered his expenses.
10	Metropolitan Major /Ministry of Education	Violations to labor rights, health rights, equality and non- discrimination: The claiming party, a teacher, reported that he had administrative problems processing his incapability status. His salary was suspended. The Major did not acknowledge incapability notice issued by IPASME
11	TCG Consulting Group / Atento Venezuela	Violations to labor rights, physical integrity, equality and non- discrimination: HIV test was run without previous consent to a job applicant. The result was positive and the job position was denied. The applicant knew nothing about his health condition and was informed abruptly about it.
12	Banco Federal	Violations to labor rights, physical integrity, equality and non- discrimination: After running some tests, an employee was dismissed because his employer suspected on his health condition. It was supposed HIV was one of the examinations taken.
13	Hotel Avila	Violations to intimacy and private life rights, health rights, equality and non- discrimination: An employee notified his boss on his HIV+ condition, and the information was spread around his coworkers. He was pushed to start anti-retrovirus treatment without any clinical criteria.

14	Condominio Santiago de León, Caracas	Violations to labor rights, labor benefits, physical and psychological integrity, right to property and equality and non- discrimination: After two years working as a concierge, the claiming party was denied to access the building as well as to withdraw his belongings. He was beaten and he was not legally indemnified.
15	Metropolitan Police and ONIDEX	Violations to labor rights, health rights and free transit: The Metropolitan Police arrested the claiming party, a person from Ecuador, and he was taken to ONIDEX. His passport was expropriated and he was ordered to leave the country thus interrupting his ARV treatment.
16	Nino Carbonne	Violations to health rights, equality and non-discrimination: Medical assistance was denied to the claiming party since company's collective insurance policy (Sanitas de Venezuela) does not cover people living with HIV/AIDS
17	Hospital El Algodonal y Hospital Vargas	Violations to health rights, equality and non-discrimination: A homeless suffering from AIDS was not allowed to enter Hospital Algodonal because no bed was available. He was also denied to enter Hospital Vargas emergency service.
18	Unión de Conductores La Responsable.	Violations to labor rights, intimacy and private life rights, equality and non- discrimination: An employee of this public transportation company had an accident and he was diagnosed HIV+ while receiving medical assistance. The company decided to fire him.
19	Libertador Major	Violations to labor rights, intimacy and private life rights, equality and non- discrimination: An officer of this Major was forced to take HIV test by her immediate supervisor because coworkers said

		that she suffered from HIV.
20	FAN School of Communications and Electronics, Instituto Universitario Militar	Violations to education right, intimacy and private life rights, physical integrity, equality and non-discrimination: HIV test is requested as a requirement for pre-registration and studies.

21	Doctors from MHSD Regional Hospital Rafael Zamora in Valle La Pascua, Edo. Guárico	Violations to intimacy and private life rights, health rights, physical integrity, equality and non-discrimination: Doctors are involved in discrimination practices and wrong medical practice as well. The information on health conditions and patients' name is spread by using anonymous flyers in the streets
22	IVSS, Instituto de los Seguros Sociales	Violations to health and life rights: Irregularities in ARV treatment supply are indicated. A meeting was held among the Public Defender, IVSS President and community representatives
23	Homeless Centers	Violations to health and life rights, housing right, equality and non-discrimination: Rejection and difficulties for admitting HIV+ people in homeless centers.
24	COPRENA, C.A. Cobertura de Previsión Nacional	Violations to equality and non-discrimination rights: Refuse to cover funeral costs policy since the deceased person died from AIDS.
25	Deportivo Italchacao	Violations to labor rights, physical integrity, intimacy and private life rights, honor and reputation and free personality development: A soccer player was tested for HIV without his consent, and then he was removed from the team after one week of being hired. The test result was spread among teammates and other soccer authorities.
26	Ministry of Defense/Casa	Violations to physical integrity right, intimacy and

	Militar	private life rights, honor and reputation: A first technical sergeant claimed that after running HIV/AIDS test, the test result is spread among members of the troop.
27	School “Unidad Escolar Gran Colombia”	Violations to labor rights, physical integrity, intimacy and private life rights, honor and reputation and free personality development: A teacher diagnoses was spread among coworkers. Incapability was imposed and a substantially change on his functions took place.
28	Hospital Clínico Universitario de Caracas	Violations to health right, equality and non-discrimination: The Hand Surgery Service delayed assistance to a HIV+ patient who needed fast surgery in order to recover hand’s sensitivity and movement.

29	Peluquería Mina	Violations to labor rights, physical integrity, intimacy and private life rights, equality and non-discrimination: The employee was requested to run HIV tests after his couple died and he was informed that a positive result might imply losing his job. Likewise, his labor stability was threatened because of continuous absents due to couple disease and mourning.
30	ABX Logistics Venezuela	Violations to labor rights and labor stability, health rights, equality and non-discrimination: Incapability is imposed to an employee and he is not allowed to perform his functions.
31	Marina de Guerra	Violations s to life right, health right, equality and non-discrimination: Interruptions in delivering ARV treatment, hence causing virus resistance and therapy modification.
32	Entity for Public Defense.	Violations to equality and non-discrimination rights,

	Section for Children and Teenage Protection, Edo. Miranda	property rights, freedom, intimacy and private life, family and reproductive rights, likewise, violations to children right to stay with their parents: HIV+ mother, widow, was forced to give in her goods and her daughter custody. Likewise, she is threatened to go to jail if she gets into sexual intercourses.
33	Hospital Gurí Ormesa / Edelca	Violations to intimacy and private life rights, honor and reputation, free personality development and free economical activity: Health staff from this center spread HIV+ patient diagnosis among community neighbors thus affecting patient's fast food business and his relationship to the community.
34	PDVSA	Violations to labor rights, intimacy and private life rights, honor and reputation, free personality development, equality and non- discrimination: HIV/AIDS tests are run to job applicants in the oil industry. The test results are spread and the job is denied.

1. Right to life and health

Anti-retrovirus case

The IVSS delivered medicines for treating people living with HIV/AIDS irregularly. Therefore, ACCSI filed a protection means before the First Court of Administrative Affairs requesting treatment regularity as well as the inclusion of new technologies. Violation to

life rights, to an adequate level of health, to social security and to enjoy the benefits of science and technology advances are included in this protection document. The judgment applied to this case acknowledged that the situation was life threatening and it affected patients right to an appropriate health level and to social security as well.

The aforementioned Court, in order to retribute violated rights, ordered the IVSS to supply medicines regularly. It also established IVSS duty to supply advanced technology treatment.

This decision settled in Venezuela, for the first time, the right to access to treatment and it opened the path for new actions against the Ministry of Health. In future actions the Court acknowledged these rights, but the Court decisions cannot be extended to HIV+ persons who did not file the protection means.

In 1998. IVSS issued an administrative order that acknowledged the right to access to treatment for HIV+ persons ascribed to the IVSS.

Besides, the Supreme Court, after knowing IVSS decision to recognize such rights, decided to extend protection effects to all insured HIV+ persons.

Right to private life, reputation, honor, intimacy and proper image

This basic human right is one of the most vulnerable and it is mostly violated in persons living with HIV, however, this right is difficult to be restituted by constitutional courts, therefore it is difficult to submit evidences in a trial and it is difficult to be restituted once it is violated.

Spreading diagnoses results and other confidential information specially violates this right. Likewise, by employers request for medical examinations to employees or applicants, such as: blood hematology for pre-employment process and HIV/AIDS test which are carried out without subject prior consent and most of the time diagnoses is not informed to the subject.

Doctors and private labs are accomplices to this task, since they provide information to the companies, specifically to Human Resource Management, about test results, thus spreading information on patients health conditions and violating legal and ethical aspects of their profession.

An example of right to private life, reputation, honor, intimacy and proper image violation is the one related to a soccer player labor contract. An important Soccer Club in Venezuela hires a soccer player. A few days later a blood test was taken without informing him on its purpose, then he found out that HIV test was taken without his consent. Afterwards, he was dismissed after a week of being hired and his diagnoses was spread among teammates and other soccer authorities.

The claim was submitted to ACCSI by a relative of the victim. Then this organization invited the soccer club to get into an agreement for restituting the rights violated. The soccer club representative did not attend the meeting, thus, the case was taken to court in order to retribute soccer player violated rights.

This case was filed in Venezuelan Courts on December 2002 by using constitutional protection. After two months, the case was considered partially proceeding, since violation to right to private life, reputation, honor, intimacy and proper image violation could not be evidenced at the trial given that the witnesses did not attend court appeal. This situation was produced because one of the witness was emotionally intimidated and convinced of not rendering statement at the trial since he kept a labor relationship with the offender, other witnesses were afraid of reprisal actions from their employers and from other important soccer club representatives.

3. Right to freedom and personal security (Cruel, inhuman and degrading treatment)

This basic human right depends on State obligation to prevent and avoid arbitrary arrests, it means, arrests without legal or factual evidence or incompetent arrests.

Besides, the State is obliged to prevent any kind of torture, such as physical attempts or degrading treatment given by police or military authorities.

The violation to this right in persons living with HIV is exemplified by the way police agents treat them upon knowing their health condition, or even worse, by the medical assistance received by the staff in public health centers.

Homosexual and transsexual population is specially affected by this kind of aggressions since they are insulted and they are physically and verbally attacked by police agents and mall security guards.

Moreover, the irregularity in supplying anti-retrovirus treatment, thus interrupting treatment and causing “virus resistance”, as well as the rejection and the discriminating treatment in health centers constitute examples for degrading and inhuman treatment.

4. Right to work

Currently, working place discrimination is one of the, most frequent violations to human rights in people living with HIV.

Even today, many private and public companies request and run HIV/AIDS tests, not only for staff recruitment but also after contract is effective, then, it implies a requirement either for getting a job or for keeping one.

Most of the times, these medical tests are taken without persons’ prior knowledge and consent.

In most of the cases, the company immediately dismisses an employee if his result is HIV+. Consequently, he is no longer entitled to social security labor benefit thus endangering his health condition. In some other cases, employees are placed in indefinite resting period and next he is considered incapable for working.

As stated in the claim chart previously shown, the regulation mentioned in Decision SG439 of the former Ministry of Health and Social Assistance is generally violated since this Decision prohibits running HIV tests for discrimination ends. However, sometimes the company is not aware of this Decision since the Ministry in charge has not duly spread this information out.

The most common violations to the right to work in people living with HIV/AIDS are:

- Dismissal without grounds due to HIV/AIDS condition
- Lab tests taking without prior consent
- HIV + diagnoses of the employee is spread out.

- Refusal to hire or to get a job
- Discriminating and denigrating treatment.

An outstanding case of violation to the right to work is the one stated ut supra, regarding right to private life, reputation, honor, intimacy and proper image. Likewise, violation to the right to work and working stability was also evidenced by one employer's discrimination actions. A well known soccer team terminated labor contract after 8 days of entering it, consequently, labor benefits were suspended, the person was not allowed to play soccer thus affecting his career.

A Venezuelan constitutional court ratified national jurisprudence related to the right to work for people living with HIV/AIDS without hindering symptoms.

In order to restitute the right to work, the Court ordered the soccer player to be included in the team again. In this sense, the agreement where he desisted from his rights, under employer's pressure, has been automatically ineffective. Therefore, jurisprudence is established in terms of revoking human right violation act regarding labor rights resignation and unconstitutional labor firing. Soccer player inclusion is ordered under the same labor benefit conditions previously agreed upon.

5. Right to education

Unfortunately, HIV/AIDS test is still a requirement for entering education centers at any level.

The claim reports received by ACCSI, point out the following education centers as offenders: Universidad Pedagógica Experimental Libertador (UPEL), Liceo Aplicación (Caracas), Instituto de la Policía Metropolitana, Instituto Universitario Cecilio Acosta (Los Teques).

There has also been an outstanding increase in the number of cases related to violation of the right to education since HIV + children and teenagers have been expelled from education centers hence denying their access to this right in view of their health condition.

One Public Schools located in Caracas stands for a case to be concerned with since HIV+ children have been expelled and sent to other public education centers, where the situation is repeated all over again. Therefore, besides making difficult the access to education, the

situation is worsened because public education centers are located far from their living places thus a major burden is applied to these children regardless of their health condition.

This particular case of HIV+ children expelled from Public School Jesús Enrique Losada was reported by CAVINIJA, a NGO intended to protect children and teenagers. This NGO has presented this case before different government entities, such as: the Ministry of Education, Culture and Sports, the General Attorney Office and the Office of Public Defender. However, it has not been possible to relocate these children in other educational center hence they could not finish their study period.

Situations such as the one mentioned above have increased dramatically, mainly because the State is not duly complying with its obligation to guard and protect human rights, specially the ones related to children and teenagers, and it is giving more importance to other social or individual interests.

6. Right to equality

The main basis for a State that promotes citizen integrity and dignity is the principle that all people are created equal; consequently, no discriminations should be allowed, as stated in Venezuela Constitution. It means, the legal right to equality and the principle of non-discrimination based on race, sex, language, religion, political opinion, social condition, health condition, nationality, economical status and birth.

The United Nations Human Right Commission has confirmed that the expression contained in its non-discriminating clauses "or any other social condition" should be taken as health condition thus including HIV/AIDS cases.

The people living with HIV are discriminated due to their health condition. They are also socially and economically in disadvantage and it affects them emotionally. These types of discriminating behaviors are shown in several situations of their lives: at work, in educational centers, in hospitals, in their family lives, in their relationships with public authorities, in penitentiaries, etc, hence openly violating their constitutional right to equality and non-discrimination as acknowledged by national jurisprudence.

Soccer player case

In this specific case as in any others, the discriminating treatment has arisen at work place. A soccer player was discriminatory dismissed by an important soccer team due to his HIV+

condition. His health condition was found out by his employer after running an HIV test without the player's consent, hence his right to work was violated as well as his right to physical, psychological and moral integrity.

The Venezuelan Labor Court stated that this right has been violated based on the short time the dismissal occurred and based on the contractual way in which a fake resignation document was written. The court ordered the player to be incorporated into the team under the same conditions and terms stated in the original contract. Besides, any discriminating treatment arisen during the labor relationship development is totally prohibited.

7.Right to physical, moral and psychological integrity

As per this right, no scientific experiment, medical or laboratory examination can be run without prior consent.

Soccer player case

A Soccer Club runs HIV test in a group of players recently hired. After this test, all cases diagnosed as HIV+ were immediately dismissed and obliged to sign a labor right resignation document.

This case was reported by a relative of the victim (his sister) and provided that the employer denied restituting the rights violated, ACCSI filed this case into court so as to request basic human right protection for this player.

The constitutional decision taken did not allow the employer (directors and staff) to endeavor any action or behavior that may attempt against player's physical, psychological and moral integrity given his health condition.

Chapter VI

Situation of vulnerable populations or specific sectors

A. Drug Users

In Venezuela, HIV/AIDS cases related to drug users have considerably increased. In our country, drug users get HIV infected mostly through sexual intercourses. As per HIV/AIDS National of the Ministry of Health and Social Development, HIV/AIDS epidemic related to drug users is: Cases reported from 01/01/82 to 24/08/99, there are 100 cases distributed as follows:

Transmission	<u>Cases</u>	%	Cases				Death rate			
			Male	%	Female	%	Male	%	Female	%
Needle Drug users	100	2.060	86	1.996	14	2.569	41	1.816	6	2.076

For the period 2000-2001, José Félix Ribas Foundation has registered 21 cases related to HIV+ drug users and male population has been the most affected one (in a rate of 17 to 1 as opposed to women).

HIV+ drug users profile corresponds to health-deteriorated individuals, specifically, long time consumers and people who have tried any kind of drugs such as cocaine and crack. These patients need to be therapeutically treated, besides; their physical change is evidenced by a considerable loss of weight.

José Félix Ribas Foundation informed that HIV test is not requested in ambulatory assistance, it is only taken together with a group of general blood test examinations. HIV test is requested if the patients are going to enter therapeutic communities. Nevertheless, it has not been specified if hospital admission depends on a negative result.

As per José Félix Ribas Foundation, most of HIV+ cases are not confirmed within the institution since many of them already know about their health condition.

Regarding the number of HIV/AIDS drug user cases (marihuana, cocaine, crack and others), one case was reported in 2000 while 20 cases were reported in 2001. Therefore, it is important to point out that:

- The number of cases reported correspond to patients assisted by the José Félix Ribas Foundation, thus, it is a quite limited view about the situation nationwide
- As per other organizations in Venezuela, no cases are related to needle drug users or to HIV+ drug users. However, the Ministry of Health and Social Development stated that there are reported cases since 1982.

B. Homeless

Current economical, political and social crisis in our country has caused the arisen of many people wrongly called beggars, “insane”, or “can pickup”, who wander around main cities streets. Currently, the term used to refer to them is “indigent”, it means, people with little dignity, therefore we better refer to them as “homeless”. This term implies discriminating prejudices that exclude this social abandoned population.

Besides, we would like to clear out that this problem is not only inherent to Venezuela but it is presented even in industrial countries, however, it is more critical in developing countries due to variables such as poverty, education and unemployment.

Ever since 1990, the majority of homeless people in Venezuela belong to male population. However, at the end of this decade, girls, boys, teenagers and women started to wander in the streets.

Regarding HIV/AIDS, the number of HIV infected cases has increased to the extent of homeless population increase. No accurate epidemic record exists to support this assumption.

Besides, as per State shelters located in Caracas, Centro de Atención al Indigente “Luis Ordaz” and Hermano “Lucas Pérez”, reports have been received regarding bad treatment and inadequate feeding towards homeless.

In the first center mentioned above, more than 10 cases of persons living with HIV/AIDS were reported from 2000 to 2002. In the second center, the Libertador Major officers did not allow to get any statistics records. It is very difficult for persons living with HIV to be admitted in both centers since such entities state that there is no “space availability” when they know that the applicant is HIV+.

Besides, in Venezuela, there is only one NGO in charge of this population, ASES de Venezuela. However, ACCSI has often requested them to have interviews but that they have always refused to.

Regarding women, there is no State center for women, in spite of “Hermano Lucas Pérez” that takes care of women, but it is not sure if this center admits HIV+ homeless women. It is sure that the community center gets support from Hogar Santa Clara, a religious center that provides shelter to HIV+ women for a few days given its limited space availability.

Finally, it is important to mention that there are other religious centers in Caracas that provide shelter to male homeless, such as Alcance Victoria, Casa del Peregrino, among others. Nevertheless, these centers do not have specialized medical services and therefore, it is impossible to keep records on HIV+ cases known by the directors or not, or if any case has been rejected upon finding out HIV+ condition.

As per Centro Alcance Victoria, which has many locations in Caracas and one of them is in La Vega, it has been informed that most of the people living therein are drug addicts and criminals who are even in trial processes. It has also been informed that this center does not allow HIV+ persons without medical service insurance. The persons living in this shelter have to sleep in mattresses placed on the floor and they are requested to beg for money to cover their expenses.

C. Children and teenagers

Currently, there are no accurate epidemic records in Venezuela to portray the infection scope in children and teenagers. As per different health center and HIV/AIDS NGOs reports, the epidemic is spread nationwide.

The HIV/AIDS National Program of the Ministry of Health and Social Development can only show information on how many children and teenager receive anti-retrovirus treatment at the Hospital J.M. de los Ríos in Caracas; which is a center of public assistance for the majority of HIV/AIDS children and teenagers. Services in Tropical Medicine section of the Universidad Central de Venezuela (UCV) have recently started. Dr. Laura Naranjo and Dr. Tony Suárez assist and supply anti-retrovirus treatment in this section to a small group of people.

The HIV/AIDS National Program reported that there are 236 HIV infected children nationwide. However, the number of cases assisted in different hospitals nationwide shows a different amount of infected subjects.

The Service for Infection Disease at the Hospital J.M. de los Ríos does not have HIV/AIDS counseling and there is no Social Worker assistance. There is only one HIV/AIDS pediatrics physician who is in charge of managing, monitoring and coordinating medical assistance provided to 150 HIV/AIDS children and other 52 children in testing period. Other 5- pediatrics physician supports him on this task. Medicine supply lack effective control to guarantee enough and permanent stock intended to satisfy people needs on time. There is no medicine provision for children and teenagers infections. Nurses and laboratory analysts often discriminate HIV affected children either in laboratory are or in other medical assistance areas.

In Maracaibo, children and teenagers are assisted in the Hospital Universitario de Maracaibo. In Mérida, they are assisted in Hospital de la Universidad de los Andes – Department of Epidemics. However, services are equally deficient.

Many reports have been received during last years related to children and teenagers discrimination regarding educational system access. Venezuela Constitution and Children and Teenager Protection Law protect children against discrimination and guarantee their access to education, but, given that the Ministry of Education, Culture and Sport has not set a policy to solve this problem, teachers incur in discriminatory actions due to lack of knowledge or fear.

Parents do not inform on their children's conditions since they are afraid that children might be rejected by teachers, classmates, and education community then they have to make up excuses when they need to take children to HIV medical check up or when they get sick and have to be given hospital care. The most serious situation occurs when anti-retrovirus treatment schedule has to be changed in order to supply it after school time, but serious consequences arisen leading form therapy resistance to having diseases.

It is important to inform school Board of Directors and teachers on children HIV condition in order to get support and cooperation for supplying treatment at school schedule, to get support for education leveling in the areas needed when children must spend some time in hospital care, to avoid vaccine application during school campaigns and to get support and to monitor any symptom that may require immediate medical assistance.

The MHSD together with the MECD developed the project, for Public Schools, “Prevention from HIV/AIDS, other sexually transmitted diseases and pregnancy in teenagers”. This project consists in training teachers about HIV/AIDS, sexually transmitted diseases and early pregnancy. This program is addressed only to a sector of Public schools hence encouraging teachers’ awareness and sensitivity is not taken into account.

Critical poverty is an important factor in families with HIV+ children due to poor living conditions and lack of food. On the one hand, parents have to feed their children and they do not have any job to guarantee a stable salary. On the other hand, children without relatives, upon parents’ decease, are sent to orphan institutions. Most of these children are not legally registered so as to get identification documents. In some cases, brothers are separated and they have to live in different orphan institutions. These children have little access to medical assistance and education.

D. Homosexual population

As per HIV/AIDS National Program statistics, homosexual and bisexual populations are still the most affected ones. In 1999, 59% of the cases reported were related to homosexual and bisexual populations. According to accrued numbers from 1997 to 2002, even though sexual orientation is not specified, out of 13.527 cases 12.103 correspond to men.

Likewise, homosexual and bisexual populations are one of the most affected in terms of human rights violation. Police authorities have been involved in criminal actions and inhuman and degrading treatment towards these populations. Provided that these actions have not been punished, the GLBT community has kept its life style in secret.

In 2000, many organizations have been created to promote and protect human rights related to GLBT community: Alianza Lambda de Venezuela, Unión Afirmativa, En Ambiente and Amazonas de Venezuela. Besides, it is important to mention the establishment of GLBT network that consists of the following NGOs: Alianza Lambda de Venezuela, Amazonas de Venezuela, Ases de Venezuela, Iglesia de la Comunidad Metropolitana, Red Venezolana de Gente Positiva (RVG+), Sociedad Wills Wilde and Unión Afirmativa de Venezuela. All these organizations are committed to prevent and assist HIV/AIDS cases.

1. Male Homosexual Population

As per interview with Dr. Jesús Medina, Alianza Lambda de Venezuela, the human rights most frequently violated in this population are: personal freedom; free personality

development; freedom of transit; right to honor and reputation among others. These actions are due to violence and harassment on behalf of police authorities and private entities.

The NGO Lambda de Venezuela states that there is a sub-record of human rights violation cases related to GLBT community, given that they are afraid of reporting claims so as to avoid possible consequences or because they do not trust justice authorities attention towards GLBT cases. Nevertheless, the following data may be found:

- 2001: 3 official claims and 13 extra-official cases
- 2002: 8 official claims and 27 extra-official cases
- 2003: 8 official claims

2. Lesbian Population

As per interview with NGO Amazonas Mujeres de Venezuela A.C: (included in 2002 ACCSI Annual Report), the human rights most frequently violated in lesbian population are: right to health (refuse to medical assistance hospitals); right to work (discriminatory dismissal based on sexual orientation); free personality development; freedom of transit; right to honor and reputation; right to entertainment among others. These actions are due to violence and harassment on behalf of police authorities and private entities.

2. Transsexual Population

As per information taken from GLBT Network in Venezuela, the human rights most frequently violated in transsexual population are: right to life (police officers are apparently involved in crimes against transsexual population); right to health (refuse to assist transsexual patients); right to personal freedom (arbitrary arrests); personal integrity (physical and psychological mistreatment on behalf of police officers); right to free personality development; right to work (most of transsexual population are sexual workers); free transit (allowed to be in certain city areas but not in others); right to entertainment among others.

The GLBT community reports in Venezuela have been strengthening in the last years with the celebration of activities during GLBT pride week and by promoting seminars and parades. For the first time GLBT community participates freely in parades and in seminars with prestigious institutions such as Universidad Central de Venezuela. Unión Afirmativa, transsexual population, and ACCSI, supported by ILGALAC, Office of Public Defender

and Centro de Estudios Latinoamericanos Rómulo Gallegos (CELARG) have promoted seminars for dealing with human rights and GLBT community.

Chapter VIII

Follow up HIV/AIDS UN Declaration Assessment

Following United Nations General Assembly Extraordinary Sessions - UNGASS Declaration Assessment for HIV/AIDS (June 25-27 2002), it may be stated that it is very difficult for Venezuela to reach United Nations goals towards HIV/AIDS.

The country political and social situation is very complex and HIV/AIDS policies are at the bottom of the priority list. Besides, there is a constant need to reach Millennium goals, which implies that countries fight against poverty, take care of environment, look for gender equality and protect children and teenagers. Then, it is clear that HIV/AIDS cannot be controlled until these problems, that affect most countries worldwide, are solved.

Venezuela is very far from solving its social and economical situation in a short period of time since 80% of the population live in poverty. Besides, Venezuela lack of government is very concerning since the critical political situation has caused an economic decrease with unemployment levels up to 30%, and a gross product income (GPI) shortage of 33.5% between 1999 and 2003, derived from an economical shortening of 8% in 2002 and an estimate of 20% for 2003. Exchange control, effective on February, has caused a critical absence of imported products, such as medicines, medical equipment, and day care products up to an inaccessibility rate of 45%. This situation highly affects medicine purchase and effective medical assistance for people living with HIV/AIDS nationwide.

This situation is jeopardizing financial aid for supporting either government programs or non- government ones. Besides, qualified staff is needed each day more but they have to be paid according to their experience. Because of the economical crisis, volunteer work is almost absent. Moreover, the lack of financial aid is causing activities to be managed by individuals directly or indirectly affected by the situation; nevertheless, they may not be professionally prepared to undertake new tasks.

There are no public prevention campaigns in Venezuela. Government refers to a huge investment in medical treatment as a excuse for the lack of these programs. Even though

male and female condoms are available, there is no program to show their effective distribution in certain communities hence financial investment is useless.

The strategies to follow up compliance with UNGASS goals have to be designed again and all national response members have to participate in this process together with UNAIDS and PHO who have to strengthen their influence locally and to support civil society advocacy efforts.

Chapter IX

Comparing HIV/AIDS and Human Rights International Guidelines with the information herein contained

FIRST

The MHSD and the HIV/AIDS National Program have made a great effort, given the support of civil society, multilateral agencies and other National Response members, to develop a National Strategic Plan included in the Social Strategic Plan.

One of the strategic guidelines is intended to deal with HIV/AIDS problem together with inter – sector coordination. However, it is difficult to coordinate some public sectors for preventing and assisting the epidemic thus this matter is still related only to the MHSD.

Moreover, slight advances in terms of inter-sector coordination are shown in the Ministry of Education, Culture and Sports given the Public Schools Project called “Proyecto Escuelas Bolivarianas”.

The Ministry of Labor Decisions, the Office of Public Defender concern with human rights for people living with HIV, which results from community requests instead of inter-sector coordination.

SECOND

Civil society participation is still not quite understood by the public sector and it is considered a disturbing element. NGOs are generally taken into account once the project is being carried out.

Communities are not taken into account during the phases of policy making, execution and program evaluation. It is evidenced by MHSD officers' response to the persons living with HIV claims about medications similarity. These officers have stated that NGOs and persons living with HIV have no technical experience to participate in these affairs. Consequently, the MHSD is not respecting their rights as members of a democratic society regardless of their technical experience.

Relationships among NGOs, persons living with HIV and the HIV/AIDS National Program are quite good since the program understands that human rights activities are inherent to the communities and that they have worked to benefit government program management as in the case of ARVs treatment access.

THIRD

In Venezuela, HIV/AIDS regulations have been issued by Ministry Resolutions, which rule very specific situations such as: limiting HIV tests application, obligatory testing and treatment for pregnant women and obligatory notification. Nevertheless, the practical application of these resolutions face serious problems because the authorities in charge have no administrative influence to enforce them.

There is still a concept for obligations in terms of public health that strikes the most basic human rights principles. This concept is taken into account when enforcing legislation.

NGOs and persons living with HIV participation in the constitutional amendment process allowed some articles related to persons living with HIV human rights violation to be included, such as: requesting consent for running clinical experiments and laboratory tests.

FOURTH

The new Criminal Code Procedure has been adapted to Human Rights international system, but no chance has been given for it to be enforced in full and it has been amended again so as to adapt it to national situation. Nevertheless, amendments have not been taken into practice yet; therefore justice system keeps being the same.

Venezuelan criminal system keeps on favoring discrimination to the extent that it specially affects vulnerable groups by inputting sanctions and penalties based on prejudice. Impunity makes Venezuelan penal system the main human rights violator.

FIFTH

Nothing has been done for sanctioning specific Law intended to punish discriminatory actions in Venezuela. Victims of arbitrary discrimination are indemnified neither by the Government nor by private entities.

SIXTH

Integral assistance related to ARVs treatment access has been a goal attained by people living with HIV, who have requested the State to recognize it as part of the right to health. Nowadays, Social Security, the Ministry of Defense and the Ministry of Health have programs in public and private hospitals that provide services to everyone.

From the beginning of ARVs integral assistance programs, many interruptions have occurred that affect health condition of people living with HIV, for example, lack of medicines and reactive due to lousy administration of items.

Likewise, integral assistance is always threatened because main public hospitals in Venezuela have neither staff nor enough resources for technology acquisition. Consequently, most of medicine consults are given in crowded environments and it causes limited health assistance

SEVENTH

Ever since it was established, the Office of Public Defender has been the State entity more interested in dealing with problems related to Human Rights violations to the persons living with HIV as well as problems related to vulnerable populations.

This Office has issued a memorandum titled “Human Rights Violation of people living with HIV (Violación de los DDHH de las personas que viven con VIH/SIDA)”. Given its complex bureaucracy, this Office has been no efficient in enforcing its objective of protecting human rights of the persons living with HIV.

As per ACCSI results, Office of Public Defender has been successful as mediator, specifically in the case of Universidad Pedagógica Experimental Libertador. All other cases submitted to this Office remain stuck in institutional path or have not received any particular consideration.

The programs for promoting, enforcing and protecting Human Rights, as well as the ones for juridical counselling are still in hands of NGOs that have used legal courts as their tool for Human Rights defense.

Besides, the Direction of Fundamental Rights of the General Attorney Office has also participated, with its appointed attorneys, in different actions enforced by civil society organizations which have positively resulted in the protection of Human Rights. Nevertheless, requested investigations have the same negative results as the ones requested to the Public Office Defender.

EIGHTH

Limited special programs related to assistance have been set for women and children but their serious deficiencies have only contributed to worsen health assistance crisis in the country.

Moreover, there are no special programs or social services to fight discrimination or prejudices affecting women, children and vulnerable population.

NINTH

Matters related to promoting a tolerant and respectful attitude towards HIV/AIDS health conditions are supposed to be dealt with by the “Escuelas Bolivarianas Program”. However,

doubts arisen when conflicts in these public schools are not solved considering Human Rights, as in the case previously mentioned in this report.

TENTH

Codes for public sector behavior have not been set thus public officers are not so respectful towards HIV/AIDS condition.

ELEVENTH

Up to date, in Venezuela, public sector is represented by the General Attorney Office and the Office of Public Defender.

TWELFTH

During United Nations General Assembly Extraordinary Sessions - UNGASS Declaration Assessment for HIV/AIDS (June 25-27 2002), Venezuelan Government ratified its commitment towards human rights of persons living with HIV and vulnerable populations by confirming that HIV/AIDS matter has been dealt with a view based on Human Rights hence guaranteeing right to health as part of social rights, as stated by the Ministry of Health: "As per Constitutional clauses, State guarantees treatment for people living with HIV on the principles of free assistance, universality, integrity, equality, social integration and solidarity."

Chapter IX Community efforts and scope

Effective alliances for strengthening community response towards HIV/AIDS

Life Forum is the space integrated by Human Rights NGOs in Venezuela.

ACCSI entered Life Forum in 1997 and it was in charge of rising external and internal awareness in community and Forum member so as to understand that violations to people living with HIV and vulnerable populations constitute Human Rights violations as well.

By using the Life Forum, ACCSI has influenced in 1999 Constitutional Amendment proposals. Likewise, it has participated in the making of two national human rights agendas. Together with CECODAP and PROVEA, members of the Life Forum, ACCSI has enforced actions for constitutional protection and judicial trials intended to acknowledge individual and collective rights. It is currently developing, together with another Forum member “Humanas Dignita” a project for pointing out the sources of HIV/AIDS stigma and discrimination.

The scope of this alliance lies in the conceptual, influential and organizational strength that a platform such as Life Forum provides to a specific human rights organization. It also lies in human rights NGOs growing scope towards social rights and minority groups.

Collective rights imply a step forward to implementing public policies in terms of HIV/AIDS.

In 1992, a Constitutional Court favors collective interest for the first time in Venezuela. The decision favors human rights of a HIV+ worker who have been arbitrarily dismissed by his employer. During the juridical process, it was known that other workers were in the same condition, then, by the time of trial decision, it favors the claiming party as well as other workers in the same company. Therefore, this jurisprudence modified the criteria in Venezuela of providing benefits for the claiming party only.

Based on this decision, ACCSI requested constitutional protection for ARVs treatment access in terms of collective interests to the extent that this protection covers, first, all patients under insurance and then all persons living with HIV/AIDS in Venezuela.

The First Administrative Court has denied this request many times, but the Supreme Court has finally acknowledged the collective interests hence all persons living with HIV/AIDS may access ARVs treatment through the public system. This social impact decisions have allowed to reassuring collective interests in terms of social rights in Venezuela.

Currently, collective rights legal basis is acknowledged in Venezuelan Constitution due to the proposals for constitutional amendment endeavoured by Life Forum at the National Constitutional Assembly.

Chapter X

Conclusions and Recommendations

On the one hand, it should be acknowledged that current Human Rights legislation in Venezuela is still effective and according to international standards and its regulations can be applied to everyone. On the other hand, it should be acknowledged that its enforcement has been highly negative, especially in terms of State obligations towards human rights matters. Discrimination, difficulties to access justice, government corruption and impunity are elements that hinder basic rights promotion and justice.

Excessive political and bureaucratic aspects of State Institutions intended to protect and promote human rights, such as the Office of Public Defender and the Public Ministry, do not allow people to get appropriate answers to human rights violation.

Human Rights violations of the persons living with HIV and of vulnerable populations occur in a general context but it is necessary that HIV/AIDS civil society organizations keep on enforcing claims intended to protect right to life, vulnerable populations, cruel treatment, personal security, private life and participation.

Venezuela is going through a serious economical situation given political crisis and it is highly affecting population in terms of unemployment and poverty rates. Therefore, quality of life is going to be diminished in aspects such as health, education, social security, and housing, moreover, these rights are closely linked to the possibility of overcoming personal and collective crisis related to HIV/AIDS epidemics.

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