

PROTECTING HUMAN RIGHTS ON THE GROUND

Case studies on the origin and development of OHCHR country offices and their relevance for the situation of Venezuela

The following is a summary of the **findings and conclusions** of a comparative study regarding OHCHR country offices in four locations (Cambodia, Colombia, Guatemala and Tunisia). The study ultimately aims to generate reflections derived from these comparative experiences for the case of Venezuela. The study's methodology included document review and conducting interviews with around 60 officials and former officials of OHCHR, human rights defenders from the four countries studied and from Venezuela, representatives of international human rights NGOs, officials of the United Nations system with knowledge of the situation in Venezuela and former officials of public institutions of the countries studied.

Context

The countries in which OHCHR offices are established typically are countries experiencing institutional, political and/or economic weakness; therefore, even as they attempt to impose the rules of the game, they are at a disadvantage in comparison to other actors. Experiences in which an OHCHR country office was established under a dictatorship were not identified, meaning that there is no simple formula to spot the right moment to establish a country office in such a context. However, there are cases in which an office has been established in very adverse conditions, which are relevant to the Venezuelan case.

Waiting for a transition of power to occur to establish an OHCHR country office with a broad mandate in Venezuela could result in the indefinite postponement of the office's establishment, given that a transition of power cannot be predicted. Postponing the establishment of an OHCHR Country Office in Venezuela would only result in the suffering of the Venezuelan population increasing.

Establishing an office in an authoritarian country faces specific risks. The government can use the presence of the office to whitewash its image and create the appearance that progress is being made. Though it is

better to have an office than to write reports from abroad, this is a risk to consider.

The opportunity of establishing a country office thus entails a cost-benefit analysis. In negotiations regarding the establishment of an office where the State resists the initiative, there has been a tipping point which forces them to cede.

The decision to establish a country office cannot be a bilateral process between OHCHR and the host State. The exclusion of civil society organizations and other States, which initially seem to work in favor of OHCHR's agenda, can become a liability the moment the State unilaterally closes its doors, just as it initially accepted the establishment of an OHCHR presence.

The office cannot be seen as an objective in itself, but as a medium-term goal which is part of a larger strategy which unites: action by other international mechanisms that supervise the human rights situation, building alliances amongst national and international organizations and democratic States, and placing the country's human rights situation on the international agenda.

The Role of Different Actors

In countries where the establishment of an office is not the result of a host State's own initiative but rather the State presents resistance, the establishment of this entity has been made possible thanks to the intervention of numerous actors, with complementing or conflicting interests. Therefore, the final decision making and design will be the product of negotiations in which all parties will have to make concessions.

Alliances among States interested in supporting the establishment of a country office are generally bolstered by systematic advocacy work by civil society organizations. This work advances by exercising diplomatic pressure through a variety of means, which include advocating for resolutions in the different human rights bodies, organizing international conferences, working with embassies, promoting sanctions against officials involved in human rights violations, and supporting actions taken by civil society.

In addition to international alliances, it is valuable to have national allies beyond the human rights movement, including religious institutions, communicators, professional guilds, political leaders and other relevant stakeholders.

The success of the human rights movement's advocacy can be attributed to coordination efforts around a single and shared message and objective, the identification of opportunities to generate an impact, and the inclusion of the largest and most diverse number of allies from within and outside of the country.

The UN's human rights protection system is a relevant actor due to its capacity to produce information which places the host country on the international agenda. The UN's Special Procedures have played a valuable role in raising alarms about the human rights situation of a country.

Mandate, Operations and Assessment of the Offices

Although States always prioritize promotion over protection of human rights while NGOs prioritize protection, it is possible to reach agreements which allow for the presence of OHCHR with a mandate that includes both protection and promotion of human rights.

The cases studied show that it is possible to develop a sufficiently broad mandate which considers different aspects of the country's situation, without being limited to a restricted view of human rights.

There is unanimous agreement on the importance of the country office having all of the components of its mandate from the start. In other words, an office that offers technical assistance as its only or main component is unacceptable. Likewise, it is desirable for the country office to have a robust presence throughout the territory.

Relations between country offices and UN agencies tend to be difficult, given agencies' tendency to avoid the topic of human rights to preserve their relationship with the host government. As a response, NGOs must persuade agencies of their obligation to adopt a rights-based approach in their work and to demand that the Secretary General also encourage agencies to take this approach.

One of the main limitations that country offices face in performing their functions that spurs reiterated concern is lack of funding, which should be taken into account prior to the establishment of an office.

The main positive assessments about the offices help to formulate a sort of catalogue of characteristics that may be expected – and, therefore, demanded – from an office, among them are immediacy, credibility and impact.

OHCHR Presence in Venezuela

Currently OHCHR has a small presence in Venezuela, where it maintains a low-profile, without its own headquarters. It works on three aspects of its mandate, but without the real capacity to do so effectively and with limited freedom of movement and access to particular sites. The ultimate goal is to establish a country office with a broad mandate, a high-profile representative with ample experience, a professional team, a robust presence in the different regions of the country, and the freedom to move and have access to all parts of the country.

The Venezuelan human rights movement recognized the favorable impact that the OHCHR presence has had during its first six months in Venezuela. The movement also recognizes its limitations, with the most notable being the absence of a voice which will speak up loud and clear regarding the human rights situation. To eliminate this shortcoming, the office would need a team that, besides having a broad mandate, has a public spokesperson.

Towards a Country Office in Venezuela

There is a proposal for the establishment of a country office in Venezuela which is being negotiated directly between OHCHR and the State, a proposal which could continue advancing with or without participation of the civil society. Thus, it seems desirable that organizations become actively involved in this process, to assess from the inside and with sufficient evidence, the relevance or not of a country office and its conditions.

Of course, having a country office is not the only option, although it is highly recommended if the circumstances allow for it. This option is also not exclusive of others. In Venezuela's case, there is no justification for the option of having a presence or a country office being used as an option that excludes

the current Independent International Fact-Finding Mission. On the contrary, since 2017, the need to integrate different mechanisms with the common objective of ensuring the adequate international supervision of the Venezuelan human rights situation has become evident.

The international community must continue to demand that Venezuela comply with its international human rights commitments and therefore should propose resolutions before the Human Rights Council that serve as the basis to: i) promote and support OHCHR's work in the country; ii) grant an express mandate to the High Commissioner to produce reports on specific matters, which shall be presented to and debated by the Council; iii) support the creation of a country office, establishing the minimum essential bases for an independent and effective operation; and iv) establish complementary monitoring mechanisms for the country, based on the findings and recommendations made by the International Independent Fact Finding Mission.

States interested in the human rights situation in Venezuela must translate their commitment into concrete measures, such as guaranteeing resources that allow the establishment of a country office in Venezuela, equipped with the necessary personnel and with a presence in the country's different regions.

Civil society organizations must take ownership of the process, which means defending the current presence and eventual office from undue interference and ensuring that it can effectively carry out its work with total freedom in its action. Likewise, civil society organizations must support fundraising efforts and ensure there are mechanisms for participation in technical assistance initiatives.

It is important that advocacy work goes beyond the traditional Geneva settings, meaning that organizations must involve the Secretary General and

his Executive Office, as well as the Department of Political Affairs and Peacebuilding.

Organizations must reach an agreement regarding the appropriate timing to raise the need for an office through taking into consideration other options for international supervision of the human rights situation in the country. Organizations must also simultaneously establish a system of alliances with States and international NGOs.

Organizations must come to a consensus on the minimum non-negotiable standards that must be part of the advocacy agenda for an OHCHR country office, which should include: a balanced mandate between promotion and protection; complete autonomy and independence; sufficient funding; unrestricted access

to the entire territory, both for visits and for the establishment of sub-offices; security guarantees for equipment, facilities and people who interact with the office; consideration of the office as a non-exclusive option from other international supervision mechanisms; and participation of civil society and the international community in the establishment process.

A plurality of support is crucial to the effort to establish an OHCHR Country Office in Venezuela, to avoid the perception that a single country is attempting to impose its agenda, which could generate resistance from other stakeholders.

Organizations should ensure that rather than the creation of an office *in* the country, the result of this process is an office *for* the country.

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