Chapter 5

Cultural and Collective Rights of Indigenous Peoples in Venezuela: Political and Legal Framework

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ABSTRACT

In this chapter, the authors attempt to demonstrate that respect for cultural identity of all human groups should be seen as a fundamental right. Ignoring Collective rights of indigenous peoples, those related to their cultural traditions, generally causes the lack of respect. Thus, knowledge of the cultural manifestations and their origin and meaning (as part of the history of the territories they inhabit) can conquer this respect on a par with its defense. This obviously with comprehensive training aimed to sensitize the general population in the positive assessment it deserves it different. The actions of nation-states governments with strong indigenous population has been characterized, until recently, by a remarkable disregard for indigenous cultures, having as a result the result of which such attitude, today from the non-indigenous perspective indigenous cultural manifestations are reduced to colorful folklore shows, when not seen as backward and primitive traditions. This chapter delves deeply into the legal framework for the protection of collective and cultural rights of indigenous peoples. The authors also attempt to show the weaknesses of the law and how states should act to strengthen them. Proposed article does emphasis on indigenous traditional knowledge and not in a wider debate on the topic of knowledge in general.

DOI: 10.4018/978-1-4666-8336-5.ch005
INTRODUCTION

Respect for indigenous peoples cultural identity is far from being a trivial matter, as long as its absence generates cultural disappearance of human groups. Special relator, Cobo described its importance in its final report named *Study on treaties celebrated between indigenous peoples and States* emphasizing extinction of some indigenous peoples as social entities with different identities (Ibid. 1987). At present time it is not possible to calculate or approximate the number of human groups that were missing from the first contact with “civilization”. According to the Population Atlas of the Amazon, only in the Peruvian Amazon, over the last half of the twentieth century, eleven ethnic groups have disappeared.

Moreover, respect for the cultural identity of human groups necessarily means the criminalization of all practices that can be targeted, explicit or not, forced assimilation (UN, 1999), since any measure pursuing this effect necessarily violates the right to cultural identity. Clearly the assimilationist processes are based on the denial of diversity, making them incompatible with the content of the statement right. The main effect of these practices is assimilating easily imaginable: they produce the breaking of the transmission of traditional culture - usually orally- between generations, which prevent the cultural identification of indigenous youth with the human group that originally belong to. For this reason, they are forced to overcome problems of integration in non- indigenous social sectors that are equally alien to them. As a result of all this has a greatly increased rate of alcoholism and suicide, and other serious social problems (United Nations, 1998).

In order to avoid this behavior, it has been coined recently the category of *ethnocide* or *cultural genocide*, indicating, as deserving behaviors of this denomination those that have as purpose or consequence “of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identity” or assimilate them, also incorporating in these categories the propaganda that can be directed at these groups (United Nations, 2007).

BACKGROUND

From the reading of the Venezuelan Constitution, and more specifically article 119, recognition of indigenous cultures is clear, which corresponds to a prior conceptual stage to that occupied by the respect for cultural identity of indigenous peoples or different forms of manifestation that integrates it, since respect presupposes recognition but not to on the contrary. Despite that, the entry into force of 1999 Constitution marks only the starting point in which the system of protection and guarantee of indigenous peoples’ rights concerns and, although it has not yet managed to reach its goal, solid progress has being made as far as Venezuelan society has demand it. If such respect is not certainly proclaimed in the constitutional rule, it can be clearly be found in the right that develops it, and it starts from the right of free indigenous cultural practice and development of the characteristics that define their traditions, along with the state’s obligation to foster and protect them.

Besides, indigenous cultures can be characterized as roots of *venezolanidad*, statement which is supposed to provide them with a positive value, while the Venezuelan indigenous cultures are native/initial and are recognized as the foundation upon which has been built awareness of the Venezuelan homeland. Indigenous cultural identity and, therefore, its integrity, is legally guaranteed by recognition of the right to its maintenance and strengthening and development, occurring within their own cultural models.
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