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**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Fourth periodic report of States parties due in 2005

Bolivarian Republic of Venezuela*

[18 December 2012]

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I. Introduction

1. The Bolivarian Republic of Venezuela submits for the consideration of the Human Rights Committee, in accordance with article 40 of the International Covenant on Civil and Political Rights, its fourth periodic report on measures taken to give effect to its commitments under that international human rights instrument.

2. It should be mentioned that Venezuela submitted its third periodic report on 8 July 1998; it was considered on 19 and 20 March 2001 at the Committee's 1899th and 1900th meetings and the concluding observations thereon were approved on 2 April 2001, at its 1918th meeting. This report has therefore two starting points:¹ the first is the State's responses to the subjects of concern and recommendations of the Committee regarding the previous report, and the second is a review of the country's capacity to guarantee the observance, full enjoyment and implementation of the rights set out in the Covenant.

3. For Venezuela it is important to highlight the most significant legislative and institutional changes that have occurred in the last 14 years and how these changes have affected economic, political, social and cultural life in the country. Attention will accordingly be drawn to achievements in the building of a new society under the banner of Bolivarian socialism in which the central thrust of political action is to bring lasting dignity to human beings.

4. Our country enjoys true participatory democracy and, since 1998, has held 15 elections in which citizens have been called on both to choose freely their leaders and to decide on issues of importance for the nation. The most recent election was the presidential election of 7 October 2012, in which the President of the Republic, Hugo Chávez, was re-elected by 55.07 per cent of the vote: 8,191,132 Venezuelans thus pledged their continuing support for the ongoing revolutionary process. On 16 December 2012, elections were held to select state governors.

5. The policies implemented by the State are designed to give structural responses to historical situations that have infringed on fundamental rights. The law enforcement system has thus been realigned to break with the police culture put in place by previous governments, driven by an imperialistic national security doctrine that repressed and controlled the most excluded groups, criminalized protest and managed poverty but did not eradicate it. The recent establishment of the National Commission for Police Reform (CONAREPOL) and the National University for Security and Police Services underpins efforts to develop a new model for policing, based on the guiding principle of respect for the human rights of every person.

6. Capacity-building in the judiciary — the Public Prosecution Service and other organs of the justice system — together with the strengthening of the Ombudsman's Office as an independent human rights monitoring and advocacy body, has placed at the service of citizens a robust institutional system for monitoring, investigating and publishing human rights violations.

7. Freedom of expression is fully guaranteed in Venezuela: citizens have the right to obtain truthful, timely, impartial and uncensored information. The translation of this right into reality is seen in the establishment and continued existence of private media outlets and in the encouragement of community media, which coexist with commercial and public media, ensuring organized communities a means of freely expressing their ideas and viewpoints, which are traditionally barred or excluded from private and commercial media.

¹ Consolidated guidelines for State reports under the International Covenant on Civil and Political Rights. Document CCPR/C/66/GUI/Rev.2 of 26 February 2001.

8. It may be further noted that in our country the rights of persons traditionally most subject to exclusion, such as children, women, persons with disabilities, persons of African descent, indigenous persons and other vulnerable groups, are protected by an effective regulatory, institutional and legal framework. This is demonstrated by the existence of special courts for children, young people and women and of appropriately funded public bodies to take care of their needs.

9. This report cannot pass over in silence major advances in socialist policies, programmes, projects and missions, which place Venezuela in the vanguard of Millennium Development Goal (MDG) achievement, given that, in order to guarantee individuals' civil and political rights, it is necessary to protect their economic, social and cultural rights.

10. This report has been prepared in accordance with the guidelines of the Human Rights Committee, on the basis of inter-agency cooperation and grassroots consultation through the establishment of working groups which, in line with the Committee's recommendations, were the principal method used. The main inputs to the report were provided by the Ministry of People's Power for Foreign Affairs, the Ministry of People's Power for the Interior and Justice and the National Electoral Council, together with other entities and ministries that had contributed to other human rights reports.

II. Implementation of the articles of the Covenant

Article 1

11. Venezuela forms a democratic, social State governed by the rule of law and justice, which determines its legal system and conduct in the light of the supreme values of life, liberty, justice, equality, solidarity, democracy, social responsibility, ethics, political pluralism and the pre-eminence of human rights.

12. Article 1 of the Constitution states that the Bolivarian Republic of Venezuela is irrevocably free and independent and bases its moral patrimony and values of freedom, equality, justice and international peace on the doctrine of Simón Bolívar. Independence, liberty, sovereignty, immunity, territorial integrity and national self-determination are inalienable rights of the nation.

13. Since the establishment of the 1999 Constitution, the country has been engaged in a peaceful, democratic revolution towards the building of Bolivarian socialism, for the supreme happiness of our people. The State has committed itself to social, cultural, economic and political development, as enshrined in the Constitution of the Bolivarian Republic of Venezuela, in accordance with the principles of equality and full respect for human rights.

14. In keeping with article 62 of the Constitution, all Venezuelans may participate freely in public affairs, either directly or through their elected representatives. Likewise, in accordance also with article 63 of the Constitution, suffrage is a right, which is exercised through free, universal, direct and secret elections. Since the election of the President of the Republic, Hugo Chávez Frías, on 6 December 1998, 15 electoral processes have been organized in Venezuela, with large voter turnout, to elect the President of the Republic, members of the National Assembly and regional and municipal authorities, as well as for referendums on issues of special importance to the nation.²

² These electoral processes were as follows:

a. Constitutive National Assembly Referendum. On 25 April 1999, a referendum was held to ask the people whether they wished there to be a Constitutive National Assembly in the country for

the purpose of establishing a new Constitution. The “yeas” carried the day, with 87.75 per cent of the votes (3,630,666 persons) against 7.26 per cent “nays”, corresponding to 300,233 persons.

b. Constitutive Assembly Election. On 25 July 1999, an election was held for membership of the Constitutive National Assembly. The Patriotic Pole, a coalition of parties allied with Chávez, took 120 out of 131 seats.

c. 1999 Constitution Referendum. Once the new Constitution had been drawn up, a referendum was held to approve it on 15 December 1999. Those who voted in favour of the new Constitution totalled 72 per cent (3,301,475 persons), and only 28 per cent voted against it (1,298,105 persons).

d. General elections. In July 2000, new general elections were held to renew the legitimacy of all the authorities. President Hugo Chávez won with 59.76 per cent of the vote (3,757,773 persons), and his nearest rival, Francisco Arias Cárdenas obtained 2,359,459 votes. Furthermore, his allied parties obtained two thirds of National Assembly posts, and his candidates for governorship won 17 out of 23 provinces.

e. Gubernatorial elections. In October 2004, elections were again held for governors, mayors and regional deputies. This time, allies of President Hugo Chávez won all the governorships except for those of the states of Zulia and Nueva Esparta.

f. Recall referendum. In December 2004, a referendum was held to recall President Chávez. The “No” option, in favour of the President, obtained 59 per cent of the vote (5,800,629 persons), while the “Yes” option obtained 40.63 per cent of the vote (3,989,008 persons).

g. Parliamentary elections. New parliamentary elections were held on 4 December 2005. The main opposition parties decided to withdraw and to call for abstention. The withdrawal was described by international observers of the Organization of American States and the European Union as “very unexpected”. Those who supported President Chávez obtained 100 per cent of the seats.

h. Presidential elections. New presidential elections were held in December 2006. Hugo Chávez Frías obtained 62.84 per cent of the vote (7,309,080 persons) while his opponent, Manuel Rosales, obtained 36.9 per cent (4,292,466 persons).

i. Recall referendums 2007. In October 2007, a referendum was held for the first time for regional authorities (mayors and mayoresses). In seven states of the country, nine municipal councils were subject to a vote of confidence and, as a result, nine mayors and mayoresses were removed from office.

j. Constitutional reform referendum. In December 2007 a referendum was held to ascertain whether the people were in favour of a reform of the 1999 Constitution, upon proposals by the President of the Republic and the National Assembly. The “yes” option in section A (proposal of the President) obtained 49.29 per cent and the “no”, 50.7 per cent. The “yes” option in section B (proposal of the National Assembly) obtained 48.94 per cent and the “no”, 51.05 per cent.

k. Regional elections. In November 2008, elections were held as planned for the offices of governors, mayors (including the two metropolitan mayors) and municipal councils. The number of voters registered at national level was 11,052,674, with an abstention rate of 43.26 per cent, corresponding to 7,535,676 voters, from an electoral roll of 17,419,501 voters. In 18 out of 23 national governors’ offices, the winning candidates represented the ruling party and the remaining five were from opposition organizations.

l. Referendum to approve amendments to the Constitution. On 15 February 2009, the electorate was asked to approve amendments to five articles of the Constitution. Of the 16,652,179 citizens called to vote, the abstention rate was 29.67 per cent, or 4,941,439 voters. The “yes” option obtained 60,310,482 votes, equivalent to 54.85 per cent, the “no” option obtained 5,190,839 votes, representing the remaining 45.14 per cent of the electorate.

m. Parliamentary elections. These were held on 26 September 2010 to select deputies for the Latin American Parliament and the National Assembly; and also indigenous deputies for the Latin American Parliament and the National Assembly. Of the 17,772,768 persons called to vote, 57,010 were Venezuelans abroad and 196,793 were foreigners in the country. At the close of voting, the authorities of the highest electoral body of the country announced that the voter turnout rate was 66.45 per cent. In these elections, the government party was victorious in 18 of the country’s 24 states, with 92 deputies filling 60 per cent of seats in the National Assembly.

n. Regional and municipal elections. These were held on 5 December 2010 to elect the governors of the states of Guárico and Amazonas and 11 mayors in various states of the country. The number of voters on the electoral roll was 1,761,961, of whom 22,940 were foreigners. The ruling party again won most of the mayoral positions, 7 out of 11 with a governorship.

15. The implementation of these electoral processes attests to the democratic commitment of Venezuela and its attachment to sovereignty and self-determination through free, secret and universal suffrage. They are a clear indication of the political plurality and full exercise of political freedoms enjoyed by Venezuelans, which have been acknowledged by the Carter Center, the Organization of American States (OAS) and the hundreds of national and international civil society organizations that have observed and monitored them.³

16. Having developed domestic public policies and regional cooperation, Venezuela is moving more into the international arena through inter-State initiatives and new integration mechanisms. It is guided by respect for the principles of sovereignty and the self-determination of peoples, to which end it has put in place mechanisms that help States to overcome the social divisions caused by the long-established exploitation and colonial and neo-colonial domination still present in the region.

17. The mechanisms of regional union, integration, dialogue and political coordination in Latin America and Caribbean have since 2000 to the present day being directed towards incorporating the social, political and human rights dimension and the principles of respect and solidarity into the unity and integration agenda. In this regard, increasing attention to these aspects can be seen in the legally binding political agreements entered into in the Southern Common Market (MERCOSUR),⁴ the Bolivarian Alliance for the Peoples of Our America – Peoples’ Trade Agreement (ALBA-TCP), the Union of South American Nations (UNASUR) and the Community of Latin American and Caribbean States (CELAC).

18. Venezuela is further developing its relations with the universal human rights system and is committed to the goal of cooperation, in particular through the United Nations Development Programme (UNDP), the United Nations office in Venezuela and its various agencies and programmes, the Office of the United Nations High Commissioner for Human Rights, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the representative of the International Committee of the Red Cross (ICRC) in Venezuela. Meetings have been held at the highest level, resulting in greater information flow and assistance in this connection. Venezuela is thus demonstrating its commitment, compliance and respect and its readiness to be assisted and to provide appropriate information regarding domestic advances in human rights.

Article 2

19. The Constitution of the Bolivarian Republic of Venezuela contains cross-cutting provisions for the universal and indivisible guarantee of human rights. In its prescriptive section, and specifically in Title III, entitled “Duties, human rights and guarantees”, civil, political, economic, social, family, cultural, educational, environmental and indigenous peoples’ rights are enshrined in 111 articles.

20. The Supreme Court, in its decisions, has repeatedly set out clear parameters to guide judges and litigants in the interpretation of the right to equality and non-discrimination. In a judgment dated 13 May 2002, the Supreme Court ruled that the right to equality may be understood in three different ways: equality as a common good, which rejects privileges

o. Presidential elections. In these elections, held on 7 October 2012, voter turnout was 80.48 per cent of registered voters. Hugo Chávez Frías again won the presidency with 55.07 per cent of votes.

³ While those organizations made recommendations and suggestions to the Venezuelan electoral authorities, they also commended them for the associated advances, transparency and pluralism.

⁴ On 29 June 2012, Venezuela signed the instrument of accession to the Southern Common Market (MERCOSUR) and thereby became a full member of that important mechanism for commercial and economic exchange in the region.

and imposes on all citizens general rules that do not admit of distinction; procedural or judicial equality, which entails the application of previously-established, impartial rules of conflict settlement equal for all; and equality of treatment, which means that equals are to be treated equally.⁵

21. With regard to the subjects of concern and recommendations of the Committee set out in paragraph 8 of its concluding observations, the Supreme Court, in its interpretation of the scope of article 19 of the Constitution of the Bolivarian Republic of Venezuela, established that the principle of progressiveness in the protection of human rights, according to which the State is in duty bound to guarantee all natural and legal persons, without discrimination of any kind, the enjoyment and inalienable, indivisible and interdependent exercise of such rights, takes effect in the consecutive development of three essential dimensions of fundamental rights, namely: an increase in their number, the development of their content and the strengthening of the institutional mechanisms for their protection. This offers a satisfactory explanation of the aforesaid principle. According to the Supreme Court, article 19 cannot be viewed in isolation but needs to be interpreted systematically in conjunction with articles 22 and 23 of the Constitution, which supplement its content, thereby laying the basis for the protection of human rights.

22. Article 22 of the Constitution contains an open human rights clause, according to which the rights and guarantees enshrined in the Constitution and in international human rights instruments are not to be understood as negating the existence or application of other constitutional rights and guarantees inherently enjoyed by individuals that are not expressly set out in the Constitution or in the aforementioned treaties. Article 23 derives the protection of human rights from the Constitution, from international human rights treaties signed and ratified by the Republic and from laws that give effect to them.⁶

23. It is important to take into account the fact that, in Venezuela, everyone has a fundamental right under article 21 of the Constitution to be treated as an equal and not to suffer discrimination. This right carries the obligation for the State to ensure enforcement, observance and enjoyment of the rights recognized by law, without distinction of race, colour, sex, language, religion, political opinion, national or social origin, economic standing, birth or any other social condition of individuals under its jurisdiction.

24. The measures taken by State authorities, the monitoring function performed by the courts through their decisions and the promulgation of the relevant laws are among the most effective means of protecting the right not to suffer discrimination as they make it possible to identify potential infringements and prevent harmful action. In this regard, one of the greatest arguments in favour of non-discrimination is found in the Education Act, which includes among its guiding principles and values the exchange of social and artistic theories and practices, knowledge, experience, folk wisdom and ancestral wisdom, which consolidate the identity of our Latin American, Caribbean, indigenous and Afro-descendant peoples.

⁵ Nevertheless, the Supreme Court has recognized that certain differences may arise in respect of the same fact; different legal consequences would ensue if the distinctions were such as to justify unequal treatment (equality as differentiation). This means that differences that exist between apparently similar facts must be taken into account in order for there to be — through equalization — differentiated treatment, for example in the case of rules requiring particular deliberative bodies to include a quota of particular ethnic minorities, since such a quota would not be achievable through regular election procedures. The decisions of the Supreme Court have been consistent with this approach, as illustrated for example by its case law, in particular decision No. 00048 of 19 January 2011, Administrative Policy Chamber.

⁶ Supreme Court, Constitutional Chamber, Case No. 05-0158 of 7 August 2007.

25. Having regard to the subjects of concern and recommendations of the Committee, in 2011 the National Assembly approved the Racial Discrimination Act, which establishes mechanisms to prevent, address, eliminate, eradicate and penalize racial discrimination as a punishable offence. This Act strengthens the action of the State by putting in place a National Institute against Racial Discrimination, whose function will be to implement public policy for the prevention, elimination and eradication of racial discrimination in every field. It is to be noted that the Supreme Court, after reviewing this legislative text, declared that it was in conformity with the Constitution and with the requirements of organic legislation.

26. A further piece of legislation that guarantees equality and the right not to suffer discrimination is the Social Responsibility in Radio, Television and Electronic Media Act, which expressly states that messages may not be disseminated by radio, television or electronic media that incite or promote hatred and intolerance on grounds of religion, politics, gender difference, racism or xenophobia.

27. The Social Responsibility in Radio, Television and Electronic Media Act lays down penalties for the dissemination of discriminatory messages. In accordance with article 28, paragraph 4, of that Act, the offending medium of communication may be fined between 3 and 4 per cent of its gross annual income. Penalties are likewise provided for in article 29, which sets fines of up to 10 per cent of gross annual income for the financial period preceding the commission of the offence and/or the suspension of up to 72 hours of continuing transmission in the case of the dissemination of messages that incite or promote hatred and intolerance on grounds of religion, politics, gender difference, racism or xenophobia.

28. The population of African descent in Venezuela has been visibly integrated into political, economic, social and cultural activity, further contributing to the establishment of a society without discrimination, racism or xenophobia. To advance towards this goal, the Presidential Commission for the Prevention and Elimination of All Forms of Racial Discrimination and Other Distinctions in the Education System was set up in 2005, composed of various State institutions and members of Afro-Venezuelan organizations.

29. Chapter VIII of the Constitution of the Bolivarian Republic of Venezuela is devoted to the rights of indigenous peoples and sets out, for the first time in the history of the country, the State's recognition of the existence of those peoples, their natural resources, the right to their ethnic and cultural identity, their right to full health, their economic practices, their intellectual property and their right to participate in political life.

30. The Ministry of People's Power for Indigenous Peoples⁷ steers government policy in respect of these peoples and is the body through which efforts are made to promote and advance the strengthening of the ancestral traditions of indigenous communities, as a channel for the dissemination of policies collectively designed at grassroots level to give immediate, short-term and medium-term responses to the most pressing needs of native peoples and communities.

31. The Indigenous Peoples and Communities Act is a major advance in developing and guaranteeing the rights of indigenous peoples recognized in the Constitution of the Bolivarian Republic of Venezuela and in the international treaties, agreements and conventions duly signed by the Republic. This Act recognizes indigenous peoples as owners of their habitat and as legal persons; it guarantees their right to a healthy, safe environment and their right to participate in the management, administration and preservation of natural resources in their habitat; it recognizes their traditional ways of life and their economic practices; it prohibits the unjustified transfer and relocation of

⁷ Established by Decree No. 5103 of 28 December 2006, *Official Gazette* Special Issue No. 5836.

indigenous populations which, if considered necessary in exceptional circumstances, may be allowed only with the full consent of those concerned.

32. In addition to the constitutional provisions and in accordance with international agreements on indigenous rights, the Venezuelan State has passed enabling legislation for International Labour Organization (ILO) Convention No. 169 on indigenous and tribal peoples in independent countries, of 1989, which stipulates that governments parties thereto must respect the importance for the culture of indigenous peoples of their relationship with the land, particularly the collective aspects of that relationship.

33. In order to protect individuals from acts that threaten or violate their fundamental rights, the Supreme Court, between 2000 and 2010, dealt with 23,763 applications for protection under the Protection of Constitutional Rights and Guarantees Act.

Article 3

34. The Venezuelan State has helped to make legal and administrative conditions for equality before the law an effective reality by adopting temporary special measures for persons or groups who may suffer discrimination or be in circumstances of manifest weakness.

35. At the international level, Venezuela has signed and ratified international conventions, protocols and treaties for the protection of women. The most important of these instruments are: the Convention on the Elimination of all Forms of Discrimination against Women and the Optional Protocol thereto, the Declaration on the Elimination of Violence against Women, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará), the Beijing Declaration of the Fourth World Conference on Women and ILO Convention No. 111 on discrimination in respect of employment and occupation, of 1958.

36. At the domestic level, Venezuela relies mainly on the following constitutional and legal instruments: the provisions of the Constitution of the Bolivarian Republic of Venezuela; the Right of Women to a Life Free of Violence Act;⁸ the Child and Adolescent Protection Act;⁹ the Protection of Families, Mothers and Fathers Act;¹⁰ the Partial Reform Of the Criminal Code Act;¹¹ the Equal Opportunities for Women Act,¹² which responds to the subjects of concern and recommendations of the Committee noted in paragraph 22; and the Promotion and Protection of Breast-feeding Act.¹³

37. The Right of Women to a Life Free of Violence Act sets out a list of protection and safety measures for immediate application by complaint-receiving bodies, along with precautionary measures that may be requested from the Public Prosecution Service in order to safeguard expeditiously and effectively the physical and psychological integrity of women and their families.¹⁴ In addition, this Act classifies all kinds of gender violence, irrespective of the circumstances in which they are committed.¹⁵

⁸ Published in *Official Gazette* No. 38668 of 20 April 2007.

⁹ Published in *Official Gazette* Special Issue No. 5859 of 10 December 2007.

¹⁰ Published in *Official Gazette* No. 38773 of 20 September 2007.

¹¹ Published in *Official Gazette* Special Issue No. 5768 of 13 April 2005.

¹² Published in *Official Gazette* Special Issue No. 5398 of 26 October 1999.

¹³ Published in *Official Gazette* No. 38763 of 6 September 2007.

¹⁴ These measures include: 1. Referring women to special centres for guidance and care; 2. Arranging for admission into a shelter; 3. Ordering the removal of the alleged aggressor from the common home; 4. Bringing women victims of violence back into the home and arranging for the simultaneous removal of the alleged aggressor; 5. Prohibiting or restricting the alleged aggressor from going near

38. The Ministry of People's Power for Women and Gender Equality, established on 8 March 2009, marked a turning point in institution-building for the advancement of women. This ministry, which has a state directorate in each of the 23 states in the country, steers, plans and coordinates public strategies and policies for women and gender equality.

39. The National Institute for Women (INAMUJER), which has accumulated considerable experience since its establishment on 25 October 1999, is attached to the ministry and is chiefly responsible for implementing the ministry's programmes, projects and activities for women. Up to 2011, it has helped to set up more than 32,345 meeting points nationwide,¹⁶ organizing a total of 350,598 women in defence of their rights.¹⁷

40. With regard to the training of public servants working in the area of violence against women, the Supreme Court has trained 495 personnel (judges and other public servants) of the courts for violence against women.¹⁸ The Supreme Court was behind the proposal to establish a national mobile team of the courts for violence against women and to set up a national observatory of the courts for violence against women.¹⁹

41. A number of other public bodies serve to protect the women of Venezuela from discrimination in the various spheres of their lives. These include: regional and municipal institutes for women;²⁰ the Foundation of the Mission of Mothers of the "Josefa Joaquina

the aggressed woman and, hence, prohibiting the alleged aggressor from going near the place of work, study or residence of the aggressed woman; 6. Prohibiting the alleged aggressor from engaging, personally or through third parties, in acts of persecution, intimidation or harassment against the aggressed woman or any member of her family; 7. Requesting a temporary detention order from the competent judicial body; 8. Ordering a police presence at the place of residence of the aggressed woman; 9. Confiscating knives and firearms and withdrawing authorization to bear arms, irrespective of the profession or function of the presumed aggressor; 10. Requesting the authorizing body to suspend authorization to bear arms when there is a threat to the integrity of the victim; 11. Compelling the presumed aggressor to provide the woman victim of violence with the necessary support for her subsistence. This obligation should not be confused with the alimony requirement in respect of children and adolescents; 12. Requesting the competent judge to suspend the alleged aggressor's visiting rights at the residence where the woman victim and her children are being lodged; 13. Any other measure needed to protect all the rights of women victims of violence and any member of their families.

¹⁵ Kinds of violence: psychological violence, harassment or bullying, threat, physical violence, domestic violence, sexual violence, violent sexual intercourse, forced prostitution, sexual slavery, sexual harassment, workplace violence, property-related and economic violence, obstetrical violence, forced sterilization, media-related violence, institutional violence, symbolic violence, and trade or trafficking in women, girls and adolescents.

¹⁶ These are women's community organizations, established under the auspices of INAMUJER, whose basic role is to defend the rights of women through the power of the people, as reflected in municipal councils. The meeting points are so to speak replicas of INAMUJER in that their primary objective is the advancement of women through grassroots action for democratic outreach, to inform them of their rights.

¹⁷ Report on public policy for women 1999–2009, published by the Bolivarian Gender Observatory, and information provided by the Ministry of People's Power for Women.

¹⁸ Information provided by the Supreme Court.

¹⁹ For example, the National Judiciary Commission, as part of the process of training judicial personnel, took a large number of initiatives, including: a workshop for a gender-related evaluation of the justice system; the third forum on the right of women to a life free of violence; gender training courses for judges; a technical panel for the project on "Judicial specialization and gender equity" of the National School of the Judiciary. Information provided by the Supreme Court.

²⁰ The National Institute for Women is behind the establishment of 17 state institutions for women and 134 municipal institutes for women, 17 agencies for women and 17 women's centres.

Sánchez” Neighbourhood;²¹ women’s centres; shelters;²² the Office of the National Ombudsman for Women;²³ the Women’s Development Bank;²⁴ special courts and prosecutors for violence against women; the Standing Committee on the Family, Women and Young People and the Office of the Special Ombudsman for Women²⁵ in the Office of the Ombudsman.

42. The Equal Opportunities for Women Act regulates the exercise of the rights and guarantees required to ensure equal opportunity, based on the enabling legislation of the Convention on the Elimination of All Forms of Discrimination against Women. It further guarantees that women may fully exercise their rights and develop their personalities, skills and abilities.²⁶

43. On the occasion of the 2005 election, the National Electoral Council adopted resolution No. 050401-179 whereby organizations serving political ends, voters’ groups and citizens’ associations are required to propose, in their nomination of candidates for the national, municipal and parish deliberative bodies, alternates of a different gender. Thus, on 21 July 2008, the National Electoral Council adopted resolution No. 080721-658, which takes up the principles of parity and rotation in lists of candidates,²⁷ resulting in a significant increase in the number of women candidates and a greater percentage of women elected to legislative and council positions.²⁸

²¹ The purpose of this Mission is to involve mothers living in extreme poverty in all the processes of change of national life through the incorporation of housewives into its activities. Its main objectives include: (1) Wiping out hardship altogether and speeding up poverty reduction; (2) Incorporating housewives living in extreme poverty into the Neighbourhood Mothers Mission; (3) Reaching out to the mothers concerned and to their families to ensure their basic rights to health, food, education, housing and recreation; (4) Strengthening grassroots organization; (5) Financing productive partnership projects with the Neighbourhood Mothers nationwide in the areas of land use, textiles, services, and industrial and crafts activities in particular.

²² There are currently four shelters in the states of Aragua and District Capital, 16 women’s centres and 15 women’s agencies in such states as Bolivar, Carobobo, Cojedes, Táchira, Trujillo, Zulia and Guárico.

²³ Its functions are as follows: (1) Representing women before judicial and extrajudicial authorities; (2) Researching and drafting preliminary draft laws that will contribute to the full democratic exercise of family duties and rights; (4) Proposing amendments to laws in force that discriminate against women; (5) Proposing positive measures for the real and effective practice of non-discrimination in society, in accordance with article 21 of the Constitution; (6) Supporting women in reporting violence; (7) Guiding women in claiming their rights before the appropriate authorities.

²⁴ A public micro-finance institution providing microcredit and other financial and non-financial products for the advancement of low-income women, who undertake goods and services production initiatives, like micro-business marketing. This institution serves to promote training activities, the transfer of technology suited to small-scale economic units and technical assistance and support for gender equity, so that women in this group can exercise their human, economic, cultural and social rights.

²⁵ Established under Resolution No. 2004-049 of 7 April 2004, it is responsible for designing, promoting, programming, coordinating and implementing activities and policies that contribute to the eradication of all forms of discrimination and violence against women and to the protection and defence of women’s human rights.

²⁶ Articles 1 and 2.

²⁷ Paragraph 16 of the same resolution stipulates that “nominations for regional legislative councils, metropolitan councillors and councillors for the District of Alto Pure in elections governed by these rules shall be of alternating gender, with 50 per cent of candidates of either gender. Wherever it is not possible to achieve gender parity, nominations should comprise a minimum of 40 per cent and a maximum of 60 per cent of candidates of either gender”.

²⁸ A real increase is seen in the participation of women, as reflected in the following figures:

44. The Permanent Electoral Register shows an increase in the number of women. In 1998, the voting population was 11,013,020 and comprised 47 per cent women and 53 per cent men. However, in 2009, the total number of registered voters was 8,425,908, of whom 50.20 per cent were women, and in 2010 the proportion of registered women voters rose to 50.35 per cent of a total of 8,850,149.

45. Having regard to the subjects of concern and recommendations of the Committee noted in paragraph 21 of its concluding observations, the various branches of government show the following gender distribution: judicial branch: 32 members of the judiciary, of whom 14 are women and 18 men, and the President of the highest judicial body is a woman;²⁹ citizen branch: the three institutions that compose the Republican Ethics Council (Public Prosecution Service, Office of the Ombudsman and Office of the Comptroller-General) are headed by women; the electoral branch: five rectors, consisting of four women and one man, with one of the women being the President of the National Electoral Council; legislative branch: in the National Assembly, women hold 17 per cent of seats; executive branch: composed of the President, Vice-President and ministers; the percentage of women in ministerial departments in March 2012 was 40 per cent, as against 19.7 per cent in the period 1999–2008.³⁰

46. In 2009, four of the five branches of government in Venezuela (legislative, electoral, civil and judicial authorities) were headed by women. In the period 2000–2008, 6,360 women were appointed to high-level posts in the various branches of government.³¹

47. Women have more readily been joining such bodies as the Bolivarian National Armed Forces and the police services, reflecting a change in awareness and gender stereotypes.³² In the employment sector, parity has been achieved in the labour force,³³ with

(a) Women deputies: the number of women members of the National Assembly increased from 19 in the period 2000–2005 to 28 in the period 2005–2010;

(b) Women governors: in 1998, there were no women governors elected and in 2008, 8.7 per cent of governors were women;

(c) Women mayors: the proportion of women mayors rose from 6.7 per cent in 1995 to 18.3 per cent in 2008;

(d) Women councillors: the number of women serving in legislative councils increased to 41 per cent.

²⁹ National report for the universal periodic review of the Bolivarian Republic of Venezuela, submitted to the Human Rights Council in accordance with paragraph 15 (a) of the Annex to resolution 5/1 (A/HRC/WG.6/12/VEN/1).

³⁰ Information provided by the Strategic Public Policy Monitoring and Evaluation Office of the Ministry of People's Power for Women, 2012.

³¹ According to information published by the Bolivarian Gender Observatory in its report on public policy for women 1999–2009.

³² According to information provided by the Ministry of People's Power for Women and Gender Equality. Report of the Social Cabinet to the National Assembly. The following figures show the increase, as at January 2011, in the proportion of women professional members of the military in the ranks of officer, non-commissioned officer, lieutenant, sergeant and soldier: National Guard: 2,548; Army: 4,848; Navy: 2101; Air Force: 1,734, making a total of 11,231 women serving in the Bolivarian Armed Forces. There are also 120,000 women members of the Bolivarian National Militia.

³³ In the last 20 years, the female labour force has increased by 150 per cent, and particularly in the last 10 years, when the average increase was almost 150,000 women a year. The 1,991,086 women (34.5 per cent of women between the ages of 15 and 64) forming part of the economically active population in 1989 increased in 2008 to 4,818,948 (49.7 per cent of women between the ages of 15 and 64), levelling out at around 50 per cent since 2005.

a steadily increasing number of paid women workers in the non-agricultural sector,³⁴ reflected in a drop in the unemployment rate from 12.5 per cent to 8 per cent in 2009.

48. On the subject of access to justice, 38 special courts for the protection of women and gender equality have been established, as well as 56 prosecutors' offices attached to the Directorate for the Defence of Women, 56 prosecution services under the Directorate for Ordinary Crimes and 14 municipal prosecutors' offices attached to the Directorate of Senior Prosecutors' Offices, making a total of 126 prosecution services for cases involving violations of women's rights.³⁵ In July 2011, the Directorate for the Defence of Women was established in order to ensure more effectively the full exercise of women's rights and fundamental freedoms on an equal footing with men.³⁶

49. In 2010, the Plenary Chamber of the Supreme Court set up the National Commission on Gender Justice to ensure women's right of access to justice. The Public Prosecutor's Office also established the Directorate for the Defence of Women in order to meet the need for appropriate, specialized follow-up in cases of gender violence and punishment for persons who violate the physical and psychological integrity of women.³⁷

50. At the international level, Venezuela hosted the Second Conference of States Parties to the Follow-up Mechanism of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women, held in Caracas in 2008, and held the presidency for two years. Venezuela has played a notable role in the promotion and coordination of regional integration mechanisms, such as the Union of South American Nations and the Bolivarian Alliance for the Peoples of Our America – Peoples' Trade Agreement, which are developing bodies for the protection and recognition of women's rights; Venezuela is currently the regional coordinator of the Ministerial Committee on Women and Gender Equality.³⁸ Venezuela was also elected to membership of the Executive Board of the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) for the period 2013–2015.

51. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 20 of its concluding observations, it is true that article 393 of the Criminal Code remains in force;³⁹ nevertheless, article 43 of the Right of Women to a Life Free of Violence Act lays down harsh punishment for anyone who, through violence or threat, forces a woman into unwanted sexual contact;⁴⁰ this article, as it forms part of

³⁴ This indicator reveals the greater participation of women in economic activity and their important contribution to the productive process, as distinct from what are considered to be traditional economic activities.

³⁵ In accordance with international obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém do Pará).

³⁶ Information provided by the Public Prosecutor's Office.

³⁷ Information provided by the Public Prosecutor's Office and the Supreme Court.

³⁸ In June 2009, at the sixth special summit meeting of ALBA-TCP, it was proposed that a committee be established, and at the eighth summit meeting of ALBA, the Ministerial Committee on Women was formed, under the coordination of Venezuela.

³⁹ **Article 393:** A person who has committed any of the offences referred to in articles 374, 375, 376, 378, 387, 388 and 389 shall not be liable for punishment if, prior to conviction, he enters into marriage with the offended person, and all proceedings shall cease in respect of the punishment of such offences. If marriage occurs after the conviction, enforcement of punishment and criminal consequences shall then cease. Persons found guilty of seduction, rape or abduction shall be required to pay civil damages, if no marriage occurs, to the offended person, if unmarried or a widow and, in any event, a person of virtue.

⁴⁰ **Article 43, Sexual violence:** Whosoever, through the use of violence or threat, forces a woman into unwanted sexual contact, which includes penetration via the vagina, anus or mouth or the introduction therein of any kind of object, shall be liable to a term of between 10 and 15 years' imprisonment. If

organic legislation, takes precedence, by virtue of article 10 thereof, over Criminal Code provisions.⁴¹

52. The Right of Women to a Life Free of Violence Act classifies all kinds of gender violence, irrespective of the circumstances in which it is committed.⁴² To prevent the harassment and abuse of women, the Equal Opportunities for Women Act stipulates that the State shall protect the rights of women from injury to their physical, sexual, emotional or psychological integrity, without prejudice to other relevant legal provisions.

53. Concerning the sexual harassment of working women, the Right of Women to a Life Free of Violence Act,⁴³ while allowing for the possibility of ordering a reduced or changed work schedule for victims, provides that they may benefit from geographical mobility, a change of workplace and compensation and that offenders may incur criminal and administrative penalties. The Workplace Prevention, Conditions and Environment Act sets out measures against sexual pressure or intimidation directed at women workers that cause them psychological or mental harm and lays down civil, criminal, administrative and disciplinary penalties for offenders.

54. The Venezuelan State, acting from within the national legislature, is taking forward a set of measures that include a projected comprehensive reform of the Criminal Code. Mention may be made, in particular, of the advance represented by the Partial Reform of the Criminal Code Act,⁴⁴ which expressly waives the provision establishing a reduced sentence if the offence was committed against a “prostitute”, on the ground that it was unconstitutional and discriminatory.

Article 4

55. With regard to the protection of rights enshrined in the Constitution of the Bolivarian Republic of Venezuela in states of emergency, articles 337 to 339 provide that guarantees contained in the Constitution may be temporarily suspended, with the exception of “those relating to the right to life, the prohibition of the holding of persons incommunicado or torture, the right to due process, the right to information and other intangible human rights”.

the person who commits the offence is the marital or common-law partner or former marital or common-law partner of the victim, or a person with whom the victim has or had an emotional relationship, even without cohabitation, the punishment shall be increased by between one quarter and one third. The same increased punishment shall apply in cases where the offender is the ascendant, descendant, or relative by marriage, blood or affinity of the victim. If the victim is a young or adolescent girl, the punishment shall be between 15 and 20 years’ imprisonment. If the victim is a young or adolescent girl who is the daughter of a woman who is the current or past marital or common-law partner of the offender, or who has or had an emotional relationship with the offender, even without cohabitation, the punishment shall be increased by between one quarter and one third.

⁴¹ Article 10, Precedence of this Act: the provisions of this Act, as an Organic Act, shall take precedence over other provisions.

⁴² Kinds of violence: psychological violence, harassment or bullying, threat, physical violence, domestic violence, sexual violence, violent sexual intercourse, forced prostitution, sexual slavery, sexual harassment, workplace violence, property-related and economic violence, obstetrical violence, forced sterilization, media-related violence, institutional violence, symbolic violence, and trade or trafficking in women, girls and adolescents.

⁴³ Articles 14 and 15 of the Right of Women to a Life Free of Violence Act.

⁴⁴ Published in special issue No. 5768 of the *Official Gazette* of 13 April 2005.

56. On the question of legislative action to give effect to this constitutional provision, it is important to note that, under the present Government, no state of emergency has been decreed, notwithstanding the fuel shortage during the 2002 oil strike⁴⁵ or coup d'état.

57. The Venezuelan State legislated on the matter and in 2001 the States of Emergency Act entered into force,⁴⁶ setting out in its article 7 the relevant guiding principles. Under that article, and in accordance with article 339 of the Constitution of the Bolivarian Republic of Venezuela, article 4, paragraph 2, of the International Covenant on Civil and Political Rights and article 27, paragraph 2, of the American Convention on Human Rights, no restrictions can be placed on guarantees relating to the right to life; recognition of legal personality; protection of the family and equality before the law; nationality, personal freedom and the prohibition of the practice of enforced disappearance of persons; personal physical, mental and moral integrity; the right not to be subjected to slavery or servitude; freedom of thought, conscience and religion; legality and non-retroactivity of laws, particularly criminal laws; due process; constitutional protection, participation, the right to vote and to have access to public office; and the right to information.

58. Continuing with the interpretation of constitutional precepts, article 338 covers the three kinds of states of emergency and establishes, in accordance with the principle of gradualism, factual circumstances that may justify them and their limitation in time. A state of alarm may thus be declared when disasters, public calamities or other similar events occur that seriously endanger the security of the nation and its citizens, for a period of up to 30 days, renewable for the same period of time; a state of economic emergency may be declared when extraordinary economic circumstances arise that seriously affect the economic life of the nation, for a period of up to 60 days, renewable for the same period of time; and a state of internal or external disturbance may be declared in the event of internal or external conflict that seriously endangers the security of the nation, its citizens or institutions, for a period of up to 90 days, renewable for the same period of time.

59. The last rule laid down in article 339 sets out requirements that must be met by the decree declaring a state of emergency, which should determine the measures to be taken on that basis, for the purpose of preserving legal certainty, and also prescribing compliance with the requirements, principles and guarantees established in the International Covenant on Civil and Political Rights and the American Convention on Human Rights.

60. Moreover, having regard to the extreme importance of this declaration, the Constitution requires the three traditional branches of government to be involved in this decision: the President of the Republic at a meeting of the Council of Ministers, who announces the decree, which must be submitted to the National Assembly (or, if in recess, to the Delegated Commission) for consideration or annulment, to which is added the judicial oversight exercised by the Constitutional Chamber of the Supreme Court, which rules on the conformity of the state of emergency and the measures established in the decree declaring it with the principles and standards contained in the Constitution.

61. It is clear that the Venezuelan legal system has been brought into line with the provisions of the main international human rights instruments in matters concerning states

⁴⁵ Name given to the general, indefinite anti-government stoppage of production and economic activity led by the business federation Fedecámaras, backed by the board of directors and top management of the company Petróleos de Venezuela (PDVSA), the opposition parties forming the coalition Coordinadora Democrática, the trade union Confederación de trabajadores de Venezuela (CTV), a number of organizations like Súmate and even private press, radio and television media outlets. The strike ran from December 2002 until February 2003, creating for 63 days the longest general strikes in history, seriously damaging the petroleum facilities, causing a national and international shortage and making it necessary for Venezuela, the fifth biggest producer of crude oil in the world, to import fuel.

⁴⁶ Published in *Official Gazette* No. 37261 of 15 August 2001.

of emergency. The State is thereby provided with a legal framework for its action in emergency situations, which safeguards the rights and fundamental freedoms of individuals.

Article 6

62. With regard to the subjects of concern and recommendations of the Committee noted in paragraphs 6 and 7 of its concluding observations, it should be underlined that the Government of the Bolivarian Republic of Venezuela, in its comments of 3 October 2003 on those concluding observations (CCPR/CO/71/VEN/Add.2), responded thereto, setting out in detail the measures taken by the Public Prosecution Service to investigate reports of extrajudicial executions.

63. As for the Committee's concern about the lack of action by the State to address the problem of disappearances that occurred in 1989, the Public Prosecution Service undertook an investigation in 2009, which has no precedent in the history of the country, in order to determine responsibilities in the case of approximately 1,600 Venezuelans who were killed, tortured and disappeared in the 1960s, 1970s and 1980s. Especially noteworthy was the investigation into facts relating to the so-called *Caracazo*,⁴⁷ which resulted in the arraignment of a number of high-ranking members of the military already in retirement.⁴⁸

64. The senior officials involved in the *Caracazo* were charged with the crime of wilful homicide as necessary accomplices and with violation of international covenants and conventions. Furthermore, on 3, 4 and 5 November 2010 at the Vice-Presidency of the

⁴⁷ "El Caracazo" was the name given to the wave of protests, riots and looting that started in the city of Guerenas and spread to the capital of the Republic and other cities in the country on 27 and 28 February 1989, following the announcement by the President of a 30 per cent increase in gasoline prices on 26 February and also a 30 per cent increase in urban and interurban public transport fares from 27 February for the following three months, after which they could rise by as much as 100 per cent. This measure formed part of an "economic package", which included the lifting of price and foreign exchange controls, requiring an extremely sharp adjustment for lower-income groups. The outcome of these disturbances was the repression of the people by the Metropolitan Police, the national intelligence services (DISIP), the Army and the National Guard under the orders of President Carlos Andrés Pérez. This cost the lives of more than 300 Venezuelans and left thousands injured at the hands of governmental forces, which were concentrated particularly in the poor neighbourhoods of the capital.

⁴⁸ Those who have so far been charged are: retired Army Division General Italo Augusto del Valle Alliegro, who was Minister of Defence in the first years of the second government of Carlos Andrés Pérez; the former commander of CORE 5 of the National Guard, Freddy Maya Cardona, the second commander of the Metropolitan Police on the date of the events; retired General Luis Guillermo Fuentes Serra; Manuel Heinz Azpúrua, Chief of the Army Strategic Commando and Commander of Operations for the Ávila Plan: these were charged on 19 March 2010 with the crimes of aggravated wilful homicide as necessary accomplices and with violation of international covenants and conventions under articles 406.1 and 155 of the Criminal Code, to the detriment of 50 victims; and José Rafael León Orsini, Director of the former Metropolitan Police, charged on 18 August 2010 with the crimes of aggravated wilful homicide as a necessary accomplices and violation of international covenants and conventions under articles 406.1 and 155 of the Criminal Code, to the detriment of 121 victims. All these measures were taken in accordance with the decision of 11 November 2002 of the Inter-American Commission on Human Rights, which unanimously concluded that the State should undertake an effective investigation of the facts of this case, identify those materially and intellectually responsible for them together with any accessories and punish them by administrative or criminal penalties as appropriate; that relatives of the victims and surviving victims should have full access to and capacity to act in all stages and levels of such investigations, in accordance with domestic law and the provisions of the American Convention on Human Rights; and that the results of the investigations should be publicly disclosed.

Republic, compensation proceedings were held for 186 relatives of deceased victims and one injured victim, who received voluntary compensation from the Venezuelan State on this account.⁴⁹

65. Since, historically, human rights violations have most frequently occurred in connection with the action and general conduct of the various police bodies, the Venezuelan State considered it a matter of urgency to take steps to reshape the police system in order to break with the police culture put in place by previous governments for the repression and control of the most excluded members of society. It accordingly set up in 2006 the National Commission on Police Reform (CONAREPOL),⁵⁰ mandated to develop a new model for policing in line with constitutional standards, international human rights principles and the need for an integrated and egalitarian police service.

66. One of the action lines of CONAREPOL consisted in a diagnosis of the current situation of the police forces and the development of a new public service model for policing within the framework of the Constitution of the Republic and international human rights principles and treaties.

67. As a result of the work of CONAREPOL, in April 2008 enabling legislation was passed for the Police Service and National Police Force Act and, on 10 February 2009, as part of the Alma Mater Mission, the National Experimental University for Security Services was established in order to develop and promote a new kind of university education, open to all and designed to meet the need for high-quality police training.

68. The purpose of the Police Service and Bolivarian National Police Force Act is to regulate the various territorial policies and stewardship of the police service and to establish, organize and determine the responsibilities of the Bolivarian National Police Force, on the basis of the standards, principles and values established in the Constitution of the Republic. The Act also provides for the establishment of a General Police Council and the removal and dismantling of the Capital District Metropolitan Police.

69. A further law to be promulgated was the Police Service Act, published in Special Issue No. 5940 of the *Official Gazette* of 7 December 2009, designed to govern public employment relations between police officials and the police services of the national, state and municipal public administration.

70. A number of ministerial resolutions were likewise adopted,⁵¹ which were submitted by the General Police Council with the approval of the governing body with a view to helping to build the new police institution. These resolutions set out rules and general procedures for the registration and control of the arms, ammunition and special equipment of governmental agencies, citizen security bodies and State security bodies with police functions, rules and principles for cases of offences and/or abuses by police officers, the establishment of victim care offices in the various territorial areas of the police services, minimum standards for the progressive, differentiated use of police force by officials of the police services in the various territorial policy areas and the establishment of a good police practices competition.

71. The General Police Council, established under the Police Service and Bolivarian National Police Force Act, is an advisory body of the ministry with responsibility for citizen security whose function is to contribute to the framing, planning and coordination of

⁴⁹ Report of the Attorney-General's Office 2010.

⁵⁰ Established under a resolution of the Ministry of the Interior and Justice of 10 April 2006.

⁵¹ Resolutions Nos. 85, 86, 87, 88, 136, 137, 138, 139, 160, 169, 171 and 172, of 19/03/2010, 03/05/2010, 09/06/2010, 25/06/2010, 06/09/2010, 23/09/2010 and 19/11/2010 respectively, published in *Official Gazette* Nos. 36, 176, 39251, 39390, 39415, 39416, 39442, 39443, 39453, 39503, 39516, and 39556.

public policy in matters of police service and police performance. It is chaired by the minister responsible for citizen security and is composed of representatives of governors' offices, mayors' offices, the Public Prosecutor's Office, the Office of the Ombudsman and an executive secretariat.

72. The General Police Council is governed by the following principles: broad, plural democratic participation in an attempt to consult all sectors of the population so as to reach a basic agreement regarding the new policing model to be developed; impartiality in complying with the policing model as an affair of State; transparency in the dissemination and public disclosure of findings, rationale, criteria and proposals for them to be known and discussed by citizens and by public and private bodies at the national level, sharing of responsibility between the police force, society and the State.

73. The General Police Council has an executive secretariat whose main function is to implement the strategic policies designed by the Council. These strategic policies give prominence to the provision of specialized technical assistance to existing state and municipal police services during the process of alignment with the aforementioned legislation, with special attention to good police practices throughout the national territory.

74. A significant step forward in ensuring citizen security with due regard for human rights was the establishment of the Bolivarian National Police through the integration within this new police service of officials of the defunct Metropolitan Police of the Caracas Metropolitan District, officials of other state security services and land transportation police. It should be emphasized that officials of the old Metropolitan Police who wished to join the new police service underwent a strict process of recruitment, selection and evaluation so as to ensure that they were suited to the exercise of this sensitive function.⁵²

75. In addition, the National Government established the National Experimental University for Security Services (UNES),⁵³ from which 4,222 graduates have been admitted into the Bolivarian National Police, thereby achieving a police per capita ratio in line with international standards, i.e. 3.6 police officers per 1,000 inhabitants.

76. In order to ensure good policing and apply disciplinary sanctions whenever necessary, the Police Service Act provides for the establishment of internal and external police monitoring bodies. Internal monitoring is ensured through the Police Monitoring and Performance Office, the Police Misconduct Response Office and the Disciplinary Board. Offices were also established in the various territorial areas of the police force to look after victims, with clearly-identified individual care modules in accessible locations outside police stations, staffed by specialized, multidisciplinary personnel.

77. For the external monitoring of police services, the Police Monitoring Councils were established as pluralistic, participatory, transparent and responsible steering bodies to operate in each of the jurisdictions of the state and municipal police services and federal entities with a Bolivarian National Police presence, tasked with monitoring policing in each of the territorial political jurisdictions to which they are assigned and composed of five persons residing in each jurisdiction.

78. Having regard to the subjects of concern and recommendations of the Committee, Decree No. 6865 of August 2009, issued by the National Executive, called for a restructuring of the National Department of Intelligence and Prevention Services (DISIP), setting up for the purpose a Restructuring Authority whose work culminated in the establishment of the Bolivarian National Intelligence Service (SEBIN). This security agency develops State intelligence based on the planning, formulation, management and

⁵² The number of officials of the defunct Metropolitan Police not admitted because of lack of moral suitability, a criminal record or ongoing inquiries was 224.

⁵³ See *Official Gazette* No. 39120 of 13 February 2009. Decree No. 6616.

execution of various types of political information and civil activities, in order to detect and neutralize external threats, performing monitoring and evaluation functions, providing timely information and protecting information from espionage and sabotage. It is attached to the Ministry of the Interior and Justice and is coordinated by the Vice-Minister for Prevention and Citizen Security.

79. Through these citizen security policies, the Venezuelan State fulfils its commitment to adopting the necessary structural measures to prevent violations of the fundamental rights of citizens, training and informing all members of its armed services and security agencies about the principles and rules of human rights protection and applicable limitations, including in states of emergency.

80. As health is an essential component of the right to life, it should be mentioned that a strategic objective of the Economic and Social Development Plan for 2007–2013 is comprehensive health care for all, through the prevention and treatment of diseases, for maximum social well-being.

81. The Venezuelan State has undertaken strategic action to provide comprehensive health care by developing the “Barrio Adentro” (“Inside the neighbourhood”) Missions I, II, III and IV,⁵⁴ in order to address the main social and health-care needs of working-class communities and people in inaccessible places. These concern themselves essentially with primary health care; medical and diagnostic services through comprehensive diagnosis centres, rehabilitation facilities and the high-technology centres; further development of the hospital network and specialized centres like the child cardiology hospital.⁵⁵

82. The Ministry of People’s Power for Health is engaged in five flagship programmes, one of which is the programme for the promotion of breast-feeding. In coordination with the expanded immunization programme and the programme on identity “Yo Soy” (UNICEF-Venezuela), a strategy has been designed for the promotion and spread of breast-feeding, vaccination and birth registration, under the title “Trio for life”.⁵⁶

83. In 2009, the Child Jesus Mission was opened to improve care for pregnant women, newborns and children under the age of five years. There are plans to build maternal care centres for mothers-to-be who have difficulties in reaching regular health services in the days preceding confinement.

84. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 19 of its concluding observations, although non-therapeutic abortion has not been decriminalized, as this is a deeply-debated subject with social implications of which the Committee cannot be unaware, the National Government has acquired 3,000 incomplete abortion kits (syringe and tubes) using manual vacuum aspiration. This technique is recommended internationally by the World Health Organization (WHO) to

⁵⁴ The following services have been made available to the community: 6,172 people’s dispensaries, 533 comprehensive diagnosis centres, 570 full rehabilitation facilities, 31 high technology centres where highly complex examinations are performed free of charge, 4,781 dentistry units nationwide and 459 optician services. As at 2010, 284 million consultations had been held and there were 60 doctors per 100,000 inhabitants. At the present time, 24 million Venezuelans, or 80 per cent of the population receive free care in a total of 13,510 public health centres. See national report for the universal periodic review of the Bolivarian Republic of Venezuela (A/HRC/WG.6/12/VEN/1).

⁵⁵ This hospital has significantly increased its capacity to deal with child cardiology cases, from 141 cases in 1998 to 600 patients a year, and going on to treat children from other countries in the region.

⁵⁶ Nationwide, 60,000 promotional leaflets and 100,000 copies of the law have been distributed; 193,792 pregnant women have received care and 4,694,355 children have been vaccinated. Information drawn from the book *Políticas Públicas dirigidas hacia las Mujeres (1999–2009)*. Bolivarian Gender Observatory of the Ministry of People’s Power for Women.

reduce the risks of complications and institutional costs, ensuring the timely treatment and early discharge of those concerned.

Article 7

85. The specific measures taken by Venezuela to eradicate and punish the practice of torture and the excessive use of force by the police and other security forces have been duly reported, with updates to 2011, to the Committee Against Torture, in accordance with article 19 of the Convention against Torture and Of the Cruel, Inhuman or Degrading Treatment or Punishment. It should be further noted that the Venezuelan State, committed to the observance of human rights, as seen in the foregoing paragraphs, has undertaken a far-reaching reform of the policing model in the context of the democratic and peaceful revolution pursued by the country in its efforts towards the building of socialism.

86. Article 181 of the Criminal Code, as amended in 2005, represents a major legislative advance in that it defines the offence of ill-treatment of detainees, stipulating that any public official responsible for the custody or transport of a detained or convicted person who commits arbitrary acts against that person or subjects that person to acts not duly authorized by the regulations shall be punished by a prison term of between 15 days and 20 months.

87. Article 181 of the Criminal Code also stipulates that guards or jailers who subject detained persons to suffering, assaults on human dignity, humiliation, torture or physical or mental ill-treatment or whosoever gives orders to that effect, in violation of the individual rights recognized in the Constitution, shall be liable to a prison term of between three and six years.

88. It is important to note that article 155 of the Criminal Code classifies as an offence the violation of international covenants, specifying that this provision shall be applicable to anyone who at any time engages the responsibility of the Venezuelan State, thereby helping to eliminate practical problems regarding the freedom of action of public employees.

89. Other punishable offences under the criminal law of Venezuela in cases of improper conduct by police officials are abuse of authority and undue use of firearms. It should be noted that, since the reform of the Criminal Code in 2000, the offence of enforced disappearance has been included as an autonomous offence that does not allow exemptions of responsibility on grounds of higher orders or instructions issued by civil, military or other authorities.

90. The National Assembly approved in its first discussion the draft Special Act on the Prevention and Punishment of Torture and Other Cruel, Inhuman or Degrading Treatment, which will enter its second discussion between 7 and 15 November 2012. The purpose of this Act is to serve as a means of more effectively preventing the commission of this offence by establishing a tracking system to ensure that torture is not practised in the country. This new law to prevent torture in the country will be discussed in all regions so that it is properly understood and applied.⁵⁷

91. In 2006, the Act on the Protection of Victims, Witnesses and Other Parties to Judicial Proceedings was approved.⁵⁸ This law sets out an extensive list of measures of protection within and outside judicial proceedings and even establishes the principle of a

⁵⁷ See: www.rnv.gov.ve/noticias/?act=ST&f=2&t=186466.

⁵⁸ Published in the *Official Gazette* of the Bolivarian Republic of Venezuela No. 58536 of 4 October 2006.

Fund for the Protection and Assistance of Victims, Witnesses and Other Parties to Judicial Proceedings.

92. Regarding the subjects of concern and recommendations of the Committee noted in paragraph 8, the Office of the Ombudsman Act⁵⁹ provides that this public institution shall act as an independent body enjoying full organizational, functional, financial and administrative autonomy, empowered to initiate and pursue on its own initiative or at the request of the interested party any investigation that may shed light on matters within its competence, namely, the promotion, defence and monitoring of human rights.

93. Where investigation is concerned, mention should be made of the establishment by the Public Prosecution Service of the Directorate for the Protection of Fundamental Rights, attached to the Directorate-General for Court Proceedings, which is tasked with seeking to defend and protect the human rights enshrined in national and international legislation. This Directorate comprises procurators specializing in fundamental rights, sentence enforcement and the penitentiary system respectively; it consists of 57 prosecution offices nationally staffed by 110 officials, 53 men and 57 women, who in the period 2000–2011 produced a total of 40,895 final statements in respect of their investigations.

94. The Directorate for the Protection of Fundamental Rights was strengthened in 2008⁶⁰ through the establishment of a Criminal Affairs Unit against the Violation of Fundamental Rights, which has exclusive responsibility for examining cases involving members of the police force. The establishment of this Unit forms part of the Strategic Plan of the Public Prosecution Service 2008–2014, for which purpose two offices were initially set up, one in the metropolitan area of Caracas, which went into operation on 15 March 2010, and the other in Lara state; both will be called on to expedite the preliminary phase of criminal investigations in cases of homicide, enforced disappearances of persons, unlawful imprisonment, breaking and entering, and injury and torture in which public employees are presumed to have participated in the performance of their duties or by virtue of their office.

95. The Venezuelan State, aware that previous governments long allowed the practice of torture to cast its shadow around them, has in recent years made invaluable efforts to replace this repressive and reactionary police culture by a preventive culture respectful of human rights which must prevail in the new police force as a consequence of the new policing model put into effect by the State.

96. Article 134 of the Decree having the Status, Value and Force of an Organic Act on the Bolivarian Armed Forces⁶¹ states that the Ministry of Defence will lead the defence sector in matters of human rights and international humanitarian law and establishes the organizational and regulatory structure required for the promotion, monitoring and defence of those rights through the adoption of policies and rules. The National Guard Training Institute thus runs a compulsory course on human rights and international humanitarian law, thereby ensuring that members of the National Armed Forces comply with human rights standards in the performance of all their professional duties. In 2011, 185 members of the Bolivarian National Armed Forces attended this course, including senior officers, junior officers, non-commissioned officers, professional soldiers and non-military personnel.⁶²

⁵⁹ *Official Gazette* No. 37995 of 5 August 2004.

⁶⁰ See *Official Gazette* No. 39086.

⁶¹ Decree No. 6239 of 22 July 2008.

⁶² Information provided by the Inspectorate General of the Bolivarian National Armed Forces, Directorate for Human Rights and International Humanitarian Law established under resolution No. 13240 of the Ministry of People's Power for Defence of 18 January 2010. Published in *Official Gazette* No. 39350 of 20 January 2010.

Article 8

97. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 16 of its concluding observations, the Constitution, the Equal Opportunities Act and the Child and Adolescent Protection Act offer a broad legislative framework of protection against slavery or servitude and trafficking in women, children and adolescents and require the State to adopt the appropriate monitoring and protective measures.

98. The Venezuelan State has ratified a number of binding and non-binding international instruments and agreements, such as: the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; ILO Convention No. 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour, of 1999; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and instruments developed as a result of the First and Second World Congresses against Commercial Sexual Exploitation of Children and Adolescents⁶³ and the Montevideo agreements against commercial sexual exploitation and other forms of sexual violence against children and adolescents.

99. In 2006, the first meeting of national authorities of the Organization of American States on trafficking in persons was held,⁶⁴ and, together with the Colombia/Venezuela Two-Nation Forum against Trafficking, Abuse and Sexual Exploitation, undertook various activities to prevent and reduce the incidence of the offence of trafficking in persons.⁶⁵ A joint campaign against trafficking in persons was developed in cooperation with UNICEF in that same year.⁶⁶

100. In 2005, the Ministry of People's Power for the Interior and Justice designated the Directorate-General for Crime Prevention as the central authority for designing, coordinating and implementing preventive and cooperation measures, in accordance with article 9 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

101. Activities undertaken by this Directorate include information campaigns, dissemination of mini-reports, print media publications, the development of a training programme for State security services and communities on trafficking in persons and the smuggling of migrants, and establishment of partnerships with State organizations.⁶⁷ In cooperation with the Latin American Institute for Crime Prevention and the Treatment of Offenders, a training course on criminal prosecution for trafficking was held for public servants, State security bodies, the Public Prosecution Service and the Supreme Court. Between 2005 and 2011, 42,185 persons received training nationwide.

⁶³ Stockholm, Sweden, in 1996 and Yokohama, Japan, in 2001.

⁶⁴ This took place from 14 to 17 March 2006, a few months after the fourth, fifth and sixth periodic reports of the Bolivarian Republic of Venezuela to the Committee on the Elimination of Discrimination against Women (CEDAW/C/VEN/4-6), and offered a suitable opportunity to consider the concluding observations.

⁶⁵ Information provided by the Ministry of People's Power for the Interior and Justice.

⁶⁶ Awareness-raising workshops were held on the subject in the meeting points of the National Institute for Women.

⁶⁷ Public Prosecution Service, Offices of the Ombudsmen for Children and Adolescents, Investigations and Protection Division for Children, Adolescents, Women and the Family of the Agency for Scientific, Criminal and Forensic Investigations (CICPC), and with non-governmental organizations, such as the Women's Welfare and Reciprocal Assistance Association and CECODAP, and also with the United Nations Children's Fund (UNICEF) and the International Organization for Migration.

102. A toll-free telephone line 0800 CONTIGO for complaints and guidance in the formulation of complaints is being made available. A national action plan to repress and punish trafficking in persons and provide comprehensive assistance for victims⁶⁸ is being drawn up. This plan is the fruit of the joint efforts of 35 institutions including ministries, governmental and non-governmental bodies and international cooperation agencies.

103. In 2007, the inter-agency committee⁶⁹ against trafficking in persons was set up for the purpose of implementing projects under the national action plan to prevent, repress and punish trafficking in persons.

104. With regard to the number of complaints, court cases, rulings and convictions for trafficking in persons, between 2007 and 2010 the Agency for Scientific, Criminal and Forensic Investigations recorded 105 cases concerning forced prostitution, pornography and trafficking in children and adolescents, and in 2011 the newly-created Directorate for the Defence of Women of the Public Prosecution Service recorded a total of 15 complaints and six cases concerning the offences of forced prostitution and trafficking in women, children and adolescents.⁷⁰

Article 9

105. Following the entry into force of the Code of Criminal Procedure,⁷¹ a paradigm shift occurred in the criminal justice system as it changed from an inquisitorial system to an accusatory system, permitting in particular the inclusion of oral evidence, the presumption of innocence, the elimination of *averiguación de nudo hecho*⁷² and summary trials, along with admissibility of evidence not previously allowed. This reform in criminal procedure removed several obstacles to access to justice, especially in cases of violations of human rights through abuse of authority or *ultra vires*. The replacement of summary trials by oral, public hearings makes for greater transparency, access to information and a better guarantee of impartiality on the part of the judge during the trial.

106. This paradigm shift is confirmed by article 10 of the Code of Criminal Procedure, which stipulates that all persons subject to criminal prosecution must be treated with due respect for their inherent dignity as human beings and that their resulting rights must be

⁶⁸ See www.minci.gob.ve/a_r_r/1/11481/venezuela_tiene_un.html.

⁶⁹ Announced in *Official Gazette* No. 36600 of 9 January 2007. This committee is composed of the Ministry of People's Power for Tourism; the Directorate for Multilateral Affairs and the Directorate for Consular Relations of the Ministry of People's Power for Foreign Affairs; the Directorate for Labour Migration, National Institute for Labour Protection, Health and Security; the Ministry of People's Power for Food; the Public Prosecution Service; the Ministry of People's Power for Social Participation and Protection; the Ministry of People's Power for Infrastructure; the Office of the Ombudsman; the Administrative Migrant Identification Service; the Bolivarian National Intelligence Service; the Directorate-General of CICPC, International Police, Organized Crime Division, Investigation and Protection Division, Investigation and Protection Division for Children, Adolescents, Women and the Family; the Social Action Foundation of Libertador Municipality; the Office of the Mayor of Sucre Municipality; the National Institute for Women; the National Food Institute; and the National Institute of Statistics.

⁷⁰ Baseline report on the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, submitted by the Venezuelan State on 5 July 2011.

⁷¹ In July 1999.

⁷² "Tied knot" or prepackaged investigation. This was a privilege enjoyed by officials of State security services in criminal investigations under the Code of Criminal Prosecution, which provided for a kind of pretrial hearing at which the judge decided whether or not the official against whom evidence had been obtained was to be tried.

protected and that they may demand that the summoning authority allow them the right to be accompanied by counsel of their choosing.

107. Concerning the rights of assistance of accused persons, article 127 of the Code of Criminal Procedure provides that any citizens under detention: may communicate with their families, counsel of their choosing or legal aid associations to inform them of their detention; may be assisted, from the initial stages of the investigation, by counsel appointed by themselves or their relatives or, failing that, by a public defender; may have the free assistance of a translator or interpreter if they do not understand or speak the Spanish language; may not be subjected to torture or other cruel, inhuman or personally degrading treatment; and may not be subjected to techniques or methods that impair their free will, even with their consent.

108. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 9 of its concluding observations, article 9 of the Code of Criminal Procedure stipulates that any person charged with participation in a punishable offence shall remain at liberty during the trial, barring exceptions provided for in that Code. Deprivation of liberty is a precautionary measure, to be resorted to only when other precautionary measures do not suffice to ensure the purposes of the trial.

109. In cases of *flagrante delicto* detention, the nearest competent authority is required to place the detained person at the disposal of the Public Prosecution Service within 12 hours from the time of arrest; similarly, no later than 48 hours following arrest, the detained person must be brought before a municipal court judge, who will decide whether to continue with the measure of deprivation of liberty or impose a less harsh measure such as trial on bail.

110. For additional information under this article, the Committee is referred to the comments of 25 April 2007 of the Government of Venezuela on the concluding observations of the Committee (CCPR/CO/71/VEN/Add.5), in response to the subjects of concern and recommendations of the Committee noted in paragraphs 9, 10, 12, 13 and 14 thereof.

Article 10

111. For information under this article, the Committee is referred to the comments of 18 October 2007 of the Government of Venezuela on the concluding observations of the Committee (CCPR/CO/71/VEN/Add.1), in response to the subjects of concern and recommendations of the Committee noted in paragraph 11 of its concluding observations.

112. It is however important to add that on 26 July 2011, the Ministry of People's Power for Penitentiary Service⁷³ was established in order to develop an effective and efficient penitentiary system that can provide the prison population with conditions of confinement that respect their human rights, as well as alternative means of serving their sentences. A further aim is to enable the prison population to be included in a new society through policies identified with the participation of those concerned and the imparting of socialist values that enable them to develop class consciousness, in keeping with the Simón Bolívar National Project. For information concerning the prison policies adopted, see paragraph 152 of the combined third and fourth periodic reports of the Bolivarian Republic of Venezuela on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/C/VEN/3-4), with updates to 2011.

⁷³ *Official Gazette* No. 39721 of 26 July 2011.

Articles 11 and 12

113. In Venezuela, as no one can be imprisoned for non-fulfilment of contractual obligations and as liberty of movement throughout the national territory is guaranteed, these rights under the Covenant are fully enjoyed in the country; there are no new developments to be reported.

Article 13

114. Extradition in Venezuela is regulated by article 69 of the Constitution of the Bolivarian Republic of Venezuela, which prohibits the extradition of nationals. This is in line with article 6 of the Criminal Code, the Code of Criminal Procedure, special laws and extradition treaties signed and ratified by the Republic.⁷⁴

115. Articles 391 et seq. of the Code of Criminal Procedure regulate the extradition procedure, which in Venezuela is judicial and not administrative. The admissibility or otherwise of a request for extradition is decided by the Supreme Court, in particular the Criminal Appellate Division.⁷⁵ Its agreement does not imply an appraisal as to the guilt or otherwise of the person concerned following an adversary procedure but is based solely on consideration of the documents communicated by the requesting State, always on the presumption of the good faith of the State and the truthfulness and accuracy of the information provided. The facts of the case are reviewed in terms of both form and substance, as required by applicable treaties and legislation.

116. The Venezuelan State, motivated by a high sense of responsibility, considers extradition to be a moral obligation, in accordance with international law, but reserves the right to grant or refuse it, having regard to whether, in each specific case, there would be any violation of the principles of national legislation and any departure from reason and justice.⁷⁶

117. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 15 of its concluding observations, it should be mentioned that the Venezuelan State, on 19 September 1986, deposited with the United Nations its instrument of ratification of the Protocol relating to the Status of Refugees, thereby allowing the United Nations High Commissioner for Refugees to establish an office in Caracas. Since this Protocol partly modifies the content of the 1951 Convention relating to the Status of Refugees, Venezuela automatically took steps to comply with it as a State party to the Convention and consequently, in 2001, promulgated the Refugees and Asylum Seekers Act.

118. Concerning the right to asylum and refuge, it should be stressed that the complexity of this issue is due essentially to the existence of an extensive and dynamic border between the Republic of Colombia and Venezuela. This has led in recent years to a substantial flow of persons seeking temporary or permanent refuge. Venezuela's policy concerning the treatment of refugees is in accordance with the Refugees and Asylum Seekers Act and its regulations, which also were the basis for the establishment of the National Commission for Refugees and the proposal to put in place regional technical commissions for the same purpose.

119. The National Commission for Refugees, in order to ensure greater protection for the individuals concerned, set up a three strategic offices at key points of the Venezuelan border, in Apure, Táchira and Zulia; persons entering through these border areas thereby

⁷⁴ See judgment No. 333 of the Criminal Appellate Division, Case No. E0017-99 of 22 March 2000.

⁷⁵ In accordance with the provisions of the Supreme Court Act.

⁷⁶ Judgment No. 639 of the Criminal Appellate Division, Case No. E0009-99 of 11 May 2000.

have rapid access to the procedure for requesting refugee status. Between 2003 and July 2011, 5,359 requests for refugee status were received (approved: 899; denied: 1,828; closed: 1,667, through renunciation of the interested party; and awaiting decision: 965).⁷⁷

120. Where requests for asylum and refuge are concerned, the Venezuelan State has been able, through the identification system recently put in place, to respond appropriately to those submitted to it. The administrative service for identification, migration and alien affairs has taken steps to regularize the situation of approximately 2,000,000 migrants of Colombian nationality. The persons who were able to legalize their situation in the country included individuals who had been granted or had requested refugee status, who did not forfeit that status or the possibility of requesting it but who are thereby afforded greater protection than would be offered by recognition of residence.

121. The Refugees and Asylum Seekers Act stipulates that the National Commission for Refugees must issue a temporary document to persons who have requested refugee status and decide on their request within a maximum of 90 consecutive days. The temporary identity document remains valid during those 90 days, with the possibility of renewal for a further 90 days, in accordance with the regulating provisions of the Act.

122. The Venezuelan State has adopted a number of legislative measures on the right of refuge and other types of migrant status, such as: the Migration and Aliens Act⁷⁸ and its regulatory Decree No. 2491.⁷⁹ This legislation is important because it replaces the unconstitutional Aliens Act of 1937 by provisions for the appropriate treatment of aliens, supplementing the Refugees and Asylum Seekers Act. Other important legislation includes: the Special Regulation on Border Security Areas, which regulates border migration permits; Decree No. 2823 on the Regularization and Naturalization of Aliens in the national territory, under which approximately 1,000,000 persons have been naturalized; and the Organized Crime Act,⁸⁰ which defines such classes of offence as trafficking in persons and smuggling of migrants, which are often associated with requests for refugee status.

123. It is to be noted lastly that the Venezuelan State has integrated applicants for refugee status and refugee citizens into the country's socio-economic system through its social programmes and missions, ensuring them of the right to work, health care and education and equality of rights and duties as applicable to aliens, including children and adolescents, and guaranteeing all those rights during the procedure to obtain refugee status in accordance with the Refugees Act.

Article 14

124. In accordance with the preamble to the Constitution of the Bolivarian Republic of Venezuela, chapter III of the Constitution sets out the civil rights of individuals, based on the progressive incorporation of the rules and principles contained in international human rights treaties signed and ratified by the Republic. These principles include due process and effective judicial protection, which apply to every kind of judicial and administrative action.

125. The Supreme Court has in many decisions reiterated the need to observe due process in all judicial, administrative or any other kind of procedure, in other words, the right to

⁷⁷ Information provided by the National Commission for Refugees.

⁷⁸ Of 3 October 2001.

⁷⁹ Of 4 July 2003.

⁸⁰ Published in *Official Gazette* No. 38281 of 27 September 2005.

timely and appropriate defence and effective judicial protection, understood as the right of access to a decision-making body to obtain a prompt response based on law.⁸¹

Article 19

126. The Constitution of the Bolivarian Republic of Venezuela guarantees freedom of expression with no possibility of censorship; correspondingly, the exercise thereof entails full responsibility for what is expressed. The right to truthful, timely, impartial and uncensored information is also recognized.

127. In order to protect the exercise of these rights, the State has established governing and regulatory bodies⁸² and has passed laws on the subject, noteworthy among which is the Social Responsibility in Radio and Television Act,⁸³ which establishes, in the dissemination and reception of messages, the social responsibility of radio and television service providers, electronic media suppliers, advertisers and independent national producers and users for developing a democratic balance between their duties, rights and interests with a view to promoting social justice and contributing to citizen education, democracy, peace, human rights and the social and economic development of the nation.

128. Within this legislative framework, the Venezuelan State has succeeded in promoting the effective exercise of these rights through:

- (a) The establishment of 1,225 alternative and community-based media outlets, which coexist with commercial and public media outlets;
- (b) The creation of 244 community radio stations throughout the country;
- (c) The granting of 139 FM radio station franchises to social communication entrepreneurs, thereby raising the number to 469 nationwide;
- (d) A 10 per cent increase in the State's FM radio station franchises;⁸⁴
- (e) The granting of 32 commercial TV franchises;
- (f) The creation of 37 community television stations throughout the country.⁸⁵

Article 22

129. Regarding the subjects of concern and recommendations of the Committee noted in paragraph 27 of its concluding observations, the Constitution of the Bolivarian Republic of Venezuela lays down that workers, without distinction and without any need for prior authorization, have the right freely to form such trade union organizations as they deem appropriate for the most effective defence of their rights and interests and to join or not join them. Such organizations are not subject to administrative suspension or dissolution and

⁸¹ Case law of the Supreme Court, Constitutional Chamber, Judgment No. 29 of 15 February 2000.

⁸² Ministry of People's Power for Communication and Information and the National Telecommunications Commission (CONATEL).

⁸³ Social Responsibility in Radio, Television and Electronic Media Act, published in *Official Gazette* No. 38081 of 7 December 2004 and amendments thereto published in *Official Gazette* No. 39579 of 23 December 2010, reissued because of errors of form in *Official Gazette* No. 39610 of 7 February 2011.

⁸⁴ In 1998, 97 per cent of FM radio station franchises were in the hands of private social communication companies, and only 3 per cent belonged to the public sector; there were no community-based media outlets.

⁸⁵ In 1998, the open TV franchise situation was as follows: 31 commercial TV franchises were granted; there were no community-based television stations.

workers are protected against any act of discrimination or interference that impedes the exercise of this right. Sponsors and executive officers of trade union organizations enjoy immunity from dismissal during the time and under the conditions required for the exercise of their functions.⁸⁶

130. The Constitution of the Bolivarian Republic of Venezuela also provides that “public and private sector employees have the right to voluntary collective bargaining and to enter into collective labour agreements, subject only to such restrictions as may be established by law. The State guarantees the development of such agreements and shall establish such conditions as will foster collective relations and the resolution of labour conflicts. Collective agreements shall cover all workers who are active at the time of their conclusion or are hired subsequently”.⁸⁷

131. In Venezuela all workers in the public and private sector have the right to strike, subject to such conditions as may be established by law.⁸⁸ The Labour Act provides extensive protection for labour rights and, specifically, for the State-guaranteed right of workers, employers and their organizations to bargain collectively, to settle conflicts peacefully and to strike. In such collective agreements as may be concluded, conditions shall be laid down for the operation of the services strictly necessary for the maintenance and security of the enterprise. Workers involved in legal activities in connection with a labour dispute may not be dismissed, transferred or subjected to less good working conditions or any other measure to their detriment.

132. Venezuela has ratified ILO Conventions No. 87 concerning Freedom of Association and Protection of the Right to Organize, of 1948, and No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively, and regularly reports thereon to that international body.

133. The Labour Act gives effect to all the values, principles and rights enshrined both in the Constitution and in ILO Conventions Nos. 87 and 98 by providing for freedom of association, specifically protection of the right to organize, bargaining, collective disputes, collective labour agreements and labour policy meetings. The Regulation of the Labour Act develops the scope of the standards set out in that Act, particularly with regard to freedom of association.⁸⁹

134. The Partial Regulation of the Workplace Prevention, Conditions and Environment Act is contributing to the further development of bipartite social dialogue as an essential condition and appropriate mechanism for the exercise of freedom of association. This social dialogue is pursued within the Workplace Security and Health Committee, which is a bipartite, collegiate, joint participatory body, whose members are steadily protected, in accordance with that same Act.

135. The Partial Regulation of the Workplace Prevention, Conditions and Environment Act ensures social dialogue through the inclusion in the board of directors of the National Institute on Workplace Prevention, Health and Security of a representative of the most representative employers’ and workers’ organizations and community cooperatives and organizations. This Regulation also deals with the participation, responsibilities and social control exercised by safety delegates, as well as their functions and protection against

⁸⁶ Article 95 of the Constitution of the Bolivarian Republic of Venezuela.

⁸⁷ Article 96 of the Constitution of the Bolivarian Republic of Venezuela.

⁸⁸ Article 97 of the Constitution of the Bolivarian Republic of Venezuela.

⁸⁹ Basic provisions concerning the legal regime of trade union organizations, trade union action, centralized collective bargaining, labour policy meetings, decentralized collective bargaining, public sector collective bargaining, collective disputes, strike action, the trade union referendum and the protection of freedom of association.

changes to their employment status, in accordance with the provisions of ILO Convention No. 81.

136. As for the rules governing trade union elections,⁹⁰ the Electoral Authority Act assigns competence to the National Electoral Council for the organization of trade union elections, with due regard for the autonomy and independence of the trade union organizations concerned, in accordance with international treaties; the Council also provides them with the necessary technical support, upon their agreement.

137. It is important to note that the National Electoral Council laid down rules for the provision of technical advice and logistic support in trade union elections and also rules to guarantee the human rights of workers in such elections.⁹¹ These rules take into account the recommendations of the monitoring bodies of the International Labour Organization and set out parameters for the action of the electoral authority whenever trade union organizations choose to request its technical advice and logistic support for the organization of elections.⁹²

138. As regards freedom of association and the right to organize, it should be noted that between 1999 and 2010, 5,709 new trade union organizations were formed and registered locally and nationally, attesting to the progressive democratization of the trade union movement through the free and transparent participation of the different strands of trade unionism. For the sake of comparison, between 1987 and 1998, 3,770 trade union organizations were formed.

139. A new phenomenon is the emergence of other forms of organization within state enterprises and institutions which, while not replacing traditional trade unions, have come about as a result of the adaptation and remodelling of trade union structures that did not cater to the interests of the working class. Workers' councils have thus come into being as channels for greater working class participation in controlling the means of production.

Article 23

140. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 18 of its concluding observations, an appeal for annulment on grounds of unconstitutionality was lodged on 9 February 2010 with the Constitutional Chamber of the Supreme Court against article 46 of the Civil Code, which lays down the age requirements for marriage. It was argued that the article in question was a flagrant and direct violation of the right to be treated equally and without discrimination, enshrined in article 21 of the Constitution, and of the principle of the absolute equality of the rights of spouses, set out in article 77 of the Constitution, in that it establishes differentiated treatment in regard to the minimum marriageable age based exclusively on gender, for which there are currently no reasonable or objective grounds. In other words, the article in question, by establishing different age requirements for men and women, introduces an unjustified discrimination that violates the right to equality in general and the principle of equality of spousal rights in particular. On 8 June 2010, the Constitutional Chamber allowed the appeal for annulment.

⁹⁰ Covered by article 293 and the Eighth Temporary Provision of the Constitution of the Bolivarian Republic of Venezuela.

⁹¹ Resolution No. 090528-0264 of 28 May 2009 and Resolution No. 090528-0265 of the same date.

⁹² They likewise protect the principles of and human rights to stakeholder participation, trade union democracy, suffrage, membership of trade union organizations, free elections and the rotation of representatives of those organizations, ensuring reliability, equality, impartiality, transparency, public proceedings, good faith, good procedural management and efficiency in elections and respect for trade union freedom.

141. Article 177 of the Child and Adolescent Protection Act assigns competence to the Children's and Adolescents' Courts for the settlement of all cases in which a request is made for authorization to marry when one or both partners are adolescents. The procedure laid down is that of voluntary jurisdiction, in which the court of first instance for child and adolescent mediation and support of the appropriate judicial district adopts a decision that best serves and protects the adolescents.

142. The Social Missions, as a public policy instrument of the Venezuelan State, have been designed to ensure the fundamental rights of the population, with particular attention to the most disadvantaged groups. They have helped families to overcome historic levels of poverty, increase their purchasing power and, ultimately, the quality of care that parents are able to give their children.

143. Venezuela achieved the goal of reducing the proportion of persons in extremely poor households in 2006, which it brought down to 11.1 per cent. In the latter half of 2009, the proportion of persons living in extreme poverty fell to 7.2 per cent as a result of an increase in the purchasing power of poor households and a reduction in inequalities.⁹³

144. In order to assist families, the Venezuelan State signed a cooperation agreement with the Republic of Cuba, which includes a family consolidation project to be developed through the formation and organization of family support and citizen participation units, calculated to advance the process of social consolidation of families nationwide. This project is being carried out by the already established Autonomous Institute of the National Council for Children's and Adolescents' Rights (IDENNA), using already existing facilities. All the programmes implemented by IDENNA include the provision of assistance to parents and representatives in the discharge of their responsibilities. In 2011, the Council conducted a total of 2,448 counselling sessions.

145. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 24 of its concluding observations, bearing in mind that Venezuela described in August 2012 the progress achieved in protecting the rights of children in its combined third, fourth and fifth periodic reports to the Committee on the Rights of the Child (CRC/C/VEN/3-5), the State has put in place a number of measures and initiatives to address the problem of street children at the national, regional and municipal levels. Special mention should be made of the Negra Hipólita Mission, established in 2006 with a view to overcoming one of the worst kinds of exclusion, namely, that suffered by children and adolescents living in extreme poverty, in the street, without home or projects or clearly at risk of being in such a situation.

146. The Venezuelan State, through the Neighbourhood Children Mission, and in coordination with the Office of the Ombudsman so as to ensure their rights, has taken the following measures to approach or engage street children and adolescents with a view to ensuring their lasting inclusion in care programmes: incorporation of children and adolescents in a comprehensive care and protection programme for family reintegration; development of a comprehensive care programme through psychotropic, narcotic, alcohol and tobacco detoxification units; gradual incorporation of children and adolescents into active citizenship; development of a set of community, cultural, sports, recreational and healthy leisure activities, games, providing facilities through the establishment of children's bureaux and social protection committees in municipal councils.

147. One of the most successful care activities for street children has been the "Bicentennial Street Outreach Plan", initiated in 2010, which consists in approaching and engaging with children by day and night over a three-month period. This allows an accurate assessment to be made of the situation in given cities. Throughout the year, day-long street

⁹³ Achieving the 2010 Millennium Goals, Caracas, September 2010.

outreach operations were conducted with the participation of various member institutions of the national guidance system for the overall protection of children and adolescents and various public safety bodies. From 2009 to the present, care has been extended to 2,227 children and adolescents living in the street or at social risk.

148. It should be mentioned that both the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict have been signed by Venezuela, which reported thereon in July 2011.

149. The implications of the Child and Adolescent Protection Act should be highlighted. That Act radically changed procedural rules, with oral proceedings replacing written proceedings, thereby making our justice system more efficient and effective; it created new fundamental rights for the protection of children and adolescents;⁹⁴ and it strengthened the role of the State in the formulation and implementation of related public policy.

150. Article 78 of the Constitution of the Bolivarian Republic of Venezuela provides for the establishment of a national steering system for the overall protection of children and adolescents. Accordingly, article 133 of the Child and Adolescent Protection Act stipulates that the governing body of this system shall be the ministry responsible for the overall protection of children and adolescents, which is currently the Ministry of People's Power for Municipalities and Social Protection.⁹⁵

151. The Child and Adolescent Protection Act provides for the establishment of the Autonomous Institute of the National Council for Children's and Adolescents' Rights⁹⁶ in order to consolidate the State's responsibility for guaranteeing the exercise and enjoyment of all children's and adolescents' human rights and to improve its efficiency and effectiveness as a public policy management structure.

152. Public policy in respect of children and adolescents is based on a set of legal provisions, resolutions, agreements and actions taken by the State in coordination with organized society, aimed at ensuring the full enjoyment of their rights, particularly of those in situations of vulnerability and social risk. Noteworthy in this connection is the

⁹⁴ With regard to the human rights of children and adolescents, it introduced a new fundamental right, *the right to good treatment*, reaffirmed the right of children and adolescents to live and develop in their families of origin and not to be unjustly or arbitrarily separated from them, and, in addition, expressly prohibited the separation of children and adolescents from their families of origin for reasons of poverty or other alleged forms of social exclusion and placed an obligation upon the State to undertake every possible action to integrate or reintegrate them into their families when separated from their nuclear or extended families of origin.

⁹⁵ Under article 119 of the Act, the national guidance system for the comprehensive protection of children and adolescents is composed of: the ministry with responsibility for the overall protection of children and adolescents, currently the Ministry of People's Power for Municipalities and Social Protection; the councils on children's and adolescents' rights: currently, at the national level, the Autonomous Institute of the National Council on the Rights of Children and Adolescents and, at the local level, the Municipal Councils on Rights; the Child and Adolescent Protection Councils; the children's and adolescents' courts; the Cassation Division of the Supreme Court; the Public Prosecutor's Office; the Office of the Ombudsman; the Autonomous Public Defence Service; child care entities; offices of ombudsmen for children and adolescents; local councils and other forms of community organization.

⁹⁶ Under article 134 of the Act, the purpose of the Autonomous Institute of the National Council for Children's and Adolescents' Rights is to guarantee the collective and individual rights of children and adolescents. As a management body of the national guidance system for the overall protection of children and adolescents, it performs deliberative, monitoring and advisory functions; its responsibilities are set out in article 137 of the Act and it has regional directorates in all the states of the country.

aforementioned Neighbourhood Children Mission established by the Venezuelan State in 2008 for the purpose of expeditiously providing comprehensive protection for children and adolescents living in the street, at risk, in institutions and in employment and which also serves as a framework for the National Family Inclusion Plan, which promotes the role of surrogate families as a means of ensuring the overall development of children and adolescents in child care facilities through family placement and adoption.

153. This vulnerable group is further protected by: 164 special courts; prosecutors' offices; 275 public defenders' offices; offices of administrative protection counsel; and the Intersectoral Commission against the Abuse and Sexual Exploitation of Children and Adolescents, whose main function is to coordinate action towards the gradual eradication of all forms of abuse and exploitation of children and adolescents.

Article 27

154. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 26 of its concluding observations, article 61 of the Constitution of the Bolivarian Republic of Venezuela states that everyone has the right to freedom of conscience and to express it, unless such practice affects their personality or constitutes a criminal offence. It likewise stipulates that conscientious objection may not be invoked to avoid compliance with the law or prevent others from complying with the law or from exercising their rights.

155. The Supreme Court determined the scope of this article in a significant decision stating that freedom of conscience comprises several aspects, namely: freedom to believe or not to believe and/or to hold one's own convictions; freedom to express such beliefs and convictions; and the guarantee that one will not be compelled to act against one's own convictions, this being the basis for conscientious objection.⁹⁷

156. Expanding on this idea, the Supreme Court takes the view that conscientious objection refers to non-compliance with a legal duty for reasons of conscience that prevent a person from acting in a manner prescribed by law, the best example of which being an objection to perform military service. Nevertheless, conscientious objection cannot be considered in general terms, since that would connote open disobedience to any legal requirement, which would be tantamount to condoning an utter disregard for the rule of law.

157. In accordance with the determination of the Supreme Court, freedom of conscience cannot be validly expressed: if the expression of conscience affects the personality of the right holder; if the expression of conscience constitutes a criminal offence; if conscientious objection is invoked to avoid compliance with the law, prevent others from complying with the law or prevent others from exercising their rights: an example of this would be the invoking of conscientious objection to impair a fundamental right such as the right to life.

158. The aforementioned decision also addresses the issue of religious freedom, noting that there is a long tradition of such freedom in Venezuela, where it is a fundamental right that ensures everyone of the real possibility of practising their religion freely, both individually and in association with other persons, without being subjected to discrimination or different legal treatment because of their beliefs, as stipulated in article 59 of the Constitution of the Bolivarian Republic of Venezuela.

⁹⁷ Case law of the Supreme Court, Constitutional Chamber, Decision No. 1431 of 14 August 2008, Justice Carmen Zuleta de Merchán.

159. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 25 of its concluding observations, since the 1881 Constitution until the current one, religious freedom has existed in Venezuela as is now recognized, with any differentiation between the Catholic religion and other religions being removed so as to establish the applicable legal regime, which up to the present time has been subject to the oversight of the National Executive.

160. With regard to the subjects of concern and recommendations of the Committee noted in paragraph 28 of its concluding observations, chapter VIII of the Constitution of the Bolivarian Republic of Venezuela is devoted to the rights of indigenous peoples and, for the first time in the history of the country, provides for their recognition as peoples and full recognition of their natural resources, the right to their ethnic and cultural identity, full health care, their economic practices, their intellectual property and their rights to participate in political life.

161. The Ministry of People's Power for Indigenous Peoples⁹⁸ is the governing body for government policy in regard to those peoples. It provides a channel for seeking to promote and encourage the consolidation of indigenous traditions and for implementing collectively designed grassroots policies in order to meet the most pressing immediate, short-term and medium-term needs of native peoples and communities.

162. The Indigenous Peoples and Communities Act constitutes a major step forward in efforts to give effect to and guarantee the rights of indigenous peoples recognized in the Constitution and in the international treaties and agreements duly signed by Venezuela. This Act provides for the recognition of indigenous peoples as owners of their habitat and as legal persons and guarantees their right to a healthy, safe environment and to participate in the management, administration and conservation of natural resources within their habitat; recognizes their traditional ways of life and economies; and prohibits the unwarranted transfer and relocation of indigenous peoples which, in exceptional cases when considered necessary, may be allowed only with the full consent of those concerned.

163. In addition to its constitutional provisions and in accordance with international agreements concerning the rights of indigenous peoples, the Venezuelan State has ratified the enabling legislation for International Labour Organization Convention No. 169 on indigenous and tribal peoples, under which governments parties thereto are required to respect the importance for indigenous cultures of their relationship to the land, and particularly the collective aspects of that relationship.

164. Article 56 of the Constitution of the Bolivarian Republic of Venezuela expressly recognizes every person's right to personal identity. Moreover, chapter III of the Identification Act on indigenous identification guarantees that right, which in accordance with article 11 shall take into account the socio-cultural organization of the various indigenous peoples and communities, through the issuance of an identity card based on the "principles of simplicity, zero cost, transparency, equality, promptness, social responsibility, public disclosure, non-discrimination and efficiency".

165. Article 7 of the Partial Regulation of the Indigenous Identification Act⁹⁹ specifies that, when registering indigenous children and adolescents in the civil register, in accordance with the law, the competent authorities "shall respect indigenous names, surnames and toponyms and may in no case modify, alter or change them" and, in the event of an error in transcription or alteration of the register entry, the official who entered the record shall immediately make the necessary correction, in accordance with the wishes expressed by the mother, father or indigenous representative.

⁹⁸ Established under Decree No. 5103 of 28 December 2006, *Official Gazette* Special Issue No. 5836.

⁹⁹ *Official Gazette* No. 37817 of 13 December 2003.

166. Article 14 of the Partial Regulation of the Indigenous Identification Act lays down that both the birth certificate and the identity card or other identification papers of persons belonging to indigenous peoples and communities shall be issued in the Spanish language and in the language of the peoples or communities concerned, respecting the names and surnames used in their languages. They shall not be required to have photographs taken of them in clothes not in keeping with their practices, customs and traditions.

167. The Indigenous Identification Service is provided for in article 15 of the Identification Act, which stipulates that the National Executive, through the agency of the ministry responsible for the identification of inhabitants of the Republic and in coordination with the body responsible for civil matters, shall implement a permanent identification service that will expedite the mass issuance of identity cards to those communities.

168. The Venezuelan State, through the Administrative Service for Identification, Migration and Alien Affairs,¹⁰⁰ is carrying out a national plan for the registration of indigenous persons under which all native communities in the country are granted identity papers through the provision of registration packages, issued in cooperation with the Venezuelan Air Force and ministries, governors' offices and mayors' offices concerned with indigenous affairs.¹⁰¹ Between 2004 and 2010, the Venezuelan State provided identity cards throughout the national territory to 335,145 indigenous persons or, disaggregated by sex, to 160,764 women and 174,381 men.¹⁰² This undertaking has been facilitated by the creation of an identity roadmap for native peoples, with considerable consequences for the exercise by those peoples of the right to identity in that it enables them to obtain an identity card. The importance of registration to ensure the enjoyment of this human right is explained to the indigenous population with the help, as necessary, of translators, as some of them speak only their own languages.¹⁰³

¹⁰⁰ The name of the National Office for Identification and Alien Affairs (ONIDEX) was changed to Administrative Service for Identification, Migration and Alien Affairs (SAIME), as stipulated in *Official Gazette* No. 369623 of 9 June 2009.

¹⁰¹ See www.minci.gob.ve.

¹⁰² Communication with official data from SAIME.

¹⁰³ Communication with official data from SAIME.