

Venezuela:
The Sunset of Rule of Law
ICJ Mission Report 2015



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I. Background

In 2013 the International Commission of Jurists (ICJ) wrote a report on the situation of Venezuela's judicial system. The report, titled "Strengthening the Rule of Law in Venezuela"¹ and published in 2014, mainly focused on analyzing the independence of, specifically, the Judiciary and, in general, other justice officials.

Due to the social and political events which took place during 2014 and their subsequent consequences, the ICJ decided to write a new report, taking into account and updating the prior report but also, attempting to identify new aspects of Venezuela's reality.

The ICJ carried out a series of interviews in Venezuela with relevant actors. The information gained from these interviews combined with the analysis of pertinent documents reflected a complex picture where the autonomy, independence and impartiality of the Judiciary and other actors within the judicial system has been seriously and systematically undermined. In addition, it was observed that both judicial and political authorities act with disdain in regards to the independence and autonomy that judicial institutions must have.² There is a clear divide between the constitutionally established responsibilities and international commitments of Venezuela and the reality that is reflected.

Another element observed, which aggravates the situation, is a lack of respect and commitment by the State, and in particular by

¹Available in Spanish at <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/06/VENEZUELA-Informe-A4-elec.pdf>. Available in English at: <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2014/11/Venezuela-Strengthening-the-RoL-Publications-Reports-2014-Eng.pdf>

² The Rule of Law Index 2015 of the World Justice Project, indicates that Venezuela is ranked last, 102nd of the 102 examined countries. The most critical aspect of the investigation is that rule of law, conceived as the framework within which it is possible to effectively fight corruption, poverty and sickness, and to provide peace, development and respect for human rights and fundamental liberties, is much deteriorated in the case of Venezuela. The Rule of Law Index 2015 was constructed taking into account eight factors or categories: limits to Governmental powers; absence of corruption, governmental receptiveness, fundamental rights, order and security, fulfillment of obligations, civil justice and criminal justice. Based on these factors the Index attempts to reflect how people experience rule of law in their daily lives.

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the courts, in response to the decisions and recommendations from international human rights entities, either regional or universal. The Inter-American Commission on Human Rights' (IACHR) 2014 Annual Report indicated that:

"the position taken by Venezuela of not to accept or fulfill the decisions and recommendations of international human rights bodies, and in particular the organs of the Inter-American system, arguing that contravene national sovereignty, does not correspond to the applicable principles of international law.³ The Commission considers that Venezuela registers a grave precedent in this area because the State has not substantially complied with the decisions of the Inter-American Court, and its organs of justice have come to declare the unenforceability of these decisions considering them contrary to the Constitution. This weakening in the protection of human rights of the people of Venezuela, was consolidated with the denunciation of the American Convention [on Human Rights] by the State, which became effective on September 10th, 2013. As indicated below, this decision is a setback and Venezuelans have lost an instance for the protection of their rights and have fewer resources to defend themselves. As a member State of the OAS, Venezuela remains subject to the competence of the Commission and the obligations under the OAS Charter and the American Declaration of the Rights and Duties of Man."⁴

Interviews carried out with lawyers, academics and judges provided a broad view of the aspects generating concern and affecting the administration of justice. The interviews shed light on the profound deterioration of judicial independence, especially the lack of confidence in institutional mechanisms. This is alarming in the context of the challenges that must be confronted to reconstruct relationships and confidence for a future democratic state based on rule of law and the fulfillment of international obligations, to effectively protect all people from human rights violations.

³ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 1.161.

⁴ *Annual Report of the Inter-American Commission on Human Rights - 2014*, May 7, 2015, Chapter IV Venezuela, para. 335.

The findings are concerning and provide little encouragement. The Government of the Bolivarian Republic of Venezuela has adopted a security and human rights policy that is plagued with contradictions. The Government has resolved to establish zones or areas of the country that are under the control of armed groups. These areas, called *peace zones*, are basically territorial areas, urban or rural, which are under the complete control of the armed groups. These armed groups are encouraged by the Government to carry out effective control in the areas where they operate. Thus, the police force cannot intervene and the civilian population is at the mercy of these armed groups in almost all aspects of community life. The armed groups administrate justice, distribute food and perpetrate violence.⁵ The State - paradoxically - has yielded sovereignty in favor of criminal organizations, leaving the people who live in these areas at their mercy.

This same phenomenon is observed in the prisons. In this case the authorities have yielded the administration and control of the prisons to criminal gangs, and the so called "pranes",⁶ that are found within.⁷

⁵ "This is getting worse all the time; the means used by the Government to control criminals is just a show, because underneath it all there is support for crime. The **peace zones** are authentic refuges for gangs, which have only increased delinquency. Any police officer in these zones and the people that live there can attest to this. This is proof of the State's protection of crime", expressed Father Alejandro Moreno, psychologist and doctor in Social Sciences with more than 30 years of social work experience in Caracas' neighborhoods, to the electronic newspaper Panampost; see: <http://es.panampost.com/thabata-molina/2015/05/07/zonas-de-paz-venezolanas-encubren-reinado-de-terror-de-delincuentes/>

⁶ *PRAN* (preso rematado asesino nato or imprisoned natural born killer in English) or *Prinicipal* is the name given to the criminal bosses who control the prisons.

⁷ The leaders of the criminal gangs in prisons carry out effective control of the compounds. The "Pranes" sell cells to the prisoners, receive money for food (a monthly payment), carry out internal disciplinary actions, negotiate the celebration of holidays and people's access (spouses and sex workers), and they establish the general conditions with the Peoples' Power Ministry of Penitentiary Services. For the Venezuelan Observatory on Prisons (OVP or Observatorio Venezolano de Prisiones) the underlying problem in Venezuela's prisons is overcrowding and violence inside the compounds. It was recognized that there was a 190% overcrowding in the prisons in 2014. In 2013 there were 506 deaths and in the first half of 2014 there were 150 deaths according to the OVP. The Director of the OVP, Humberto Prado, indicated in 2013: "The death penalty exists in the prisons and if you violate one of the codes that exist inside the prisons it is the "pranes" who administer

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The *peace zones* were initially implemented in municipalities with the highest criminal rates in the state of Miranda, as a part of the "Movement for Peace and Life", promoted by President Nicolás Maduro's Government. The goal of this initiative was to demobilize the criminal gangs in the area to incorporate them into society, through community work and voluntary disarmament. However, the results of this public policy are diametrically opposed to the original idea.

The findings, which are a consequence of decisions and policies adopted by the Government, reflect a socially explosive situation, moving away from the consolidation of true rule of law.

Another notable aspect, although again not encouraging, is the existence of the so called People's liberation and protection operations (OLP or *Operativos para la liberación y protección del pueblo*). These are essentially police and military operations to control an area, generally sectors of low income housing projects (Gran Misión Vivienda Venezuela), under the guise of looking for people involved in the paramilitary structure, drug trafficking or "bachaquerismo" (theft or small scale black markets). Unfortunately, these operations mean massive violations of human rights and fundamental liberties. These operations especially affect the most vulnerable sectors of the population who face twofold violations, first by the armed groups who have *de facto* control of the areas where they live, and then by the Government through disproportionate social control actions.

The contradictions in State actions and policies are evident. On one hand the State yields sovereignty in favor of armed groups in the so called *peace zones*. On the other hand, it is the State which orders the "liberation" from "undesirable" elements associated with the criminal gangs, through the OLP.

In summary, the Venezuelan people are the affected party, seeing their human rights and liberties undermined on a large scale. The result is serious personal insecurity which affects the entire

punishment, you simply die and these groups exist due to the complicity with State authorities". Prado also stated that "during 2013, 674 prisoners sewed their mouths shut, as a protest mechanism used by the prisoners so that their transfer requests to another prison are carried out, given that in the prison where they are their lives are in danger because of these leaders (pranes)".

<http://www.elmundo.es/america/2014/01/30/52ea3ca022601de2258b456f.html>

population's rights, especially rights to life, personal integrity and freedom, given the State's non fulfillment of its international commitments to these rights and its use of the justice system to persecute dissidence in its diverse expressions.

II. The Judiciary

This branch of State faces structural problems of an enormous scope. The majority of judges continue to be appointed on temporary provisional terms, as shown in the ICJ's 2014 report, it is calculated that this situation affects 66% of the judges.⁸ To date, there have not been significant changes on this issue and job insecurity continues for most judges, this has negative effects, including self-censorship and submission to authority, which severely affects their independence.

Venezuela does not have a Judiciary that is independent from the government. The Supreme Court of Justice (SCJ) is at the top of Venezuela's judicial pyramid, its decisions - which are associated with the government - are fundamental to order and control the operation of the lower courts. This results in a complete permeation of the political lines emanating from the SCJ to the lower courts, directly affecting the autonomy of lower court judges. Therefore, any actions which diverge from SCJ directives are severely sanctioned, the situation that continues to affect judge María Lourdes Afiuni is a clear example of this.⁹

⁸ The United Nations Human Rights Committee recognizes that only 34% of the judges have tenure in their posts ("Final Observations in the fourth periodic report on the Bolivarian Republic of Venezuela", July of 2015, para. 15).

⁹ Judge María Lourdes Afiuni was arrested on December 10th of 2009, after issuing a decision of substituting a custodial sentence for a less onerous preventive measure, in the case of citizen Eligio Cedeño. The decision was based on the Organic Criminal Procedure Code which establishes a maximum two year term for provisional arrest; and Opinion No. 10/2009 (Venezuela) issued by the United Nations Working Group on Arbitrary Detentions on September 1st of 2009, which declared Cedeño's detention arbitrary, based on its prolonged time. The following day, on national radio and television stations, the then President of the Republic, Hugo Chávez, described Judge Afiuni as an "outlaw", demanding a "firm hand" against her, and requested that the 30 year prison sentence be applied to her. (See: IACHR, Annual Report of the Inter-American Commission on Human Rights -

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The IACHR said that: "in its previous reports on Venezuela, the Commission has also repeatedly pointed to how the lack of independence and autonomy of the judiciary from political power is one of the weakest points of democracy in Venezuela. In the same vein, it has noted that this lack of independence has allowed the use of punitive power of the State to criminalize human rights defenders, penalize peaceful protest and prosecute political dissidents."¹⁰

In 2009, the United Nations Special Rapporteur on the Independence of Judges and Lawyers, expressed concern for the high number of provisional judges and public prosecutors in Venezuela, considering that these would be "subject to diverse political interference mechanisms which affect their independence", specifically considering that their removal is "absolutely discretionary: without cause, procedure nor effective judicial review."¹¹ In 2011, within the framework of Universal Periodic Review (UPR), the United Nations Human Rights Council's Working Group on Venezuela, recommended that the State adopt the necessary measures to guarantee the independence of the judiciary, specifically, in relation to the establishment of clear and transparent procedures for the appointment of judges and public prosecutors and "to end the provisional nature of judge appointment."¹² These recommendations were rejected by the Venezuelan State.¹³

In June 2014, in the framework of a public event parallel to the 26th United Nations Human Rights Council session, the Special Rapporteur for the Independence of Judges and Lawyers again expressed their concern for "the interference of the government in the judiciary and the increase of incidents that violate the human rights of Venezuelan judges and prosecutors." The Special Rapporteur noted that they had received "countless complaints

2012, OAS/Ser. L/V/II.147 Doc. 1 of 5 March of 2013 Chapter IV on Venezuela, paras. 485-486).

¹⁰ *Annual Report of the Inter-American Commission on Human Rights - 2014*, Doc. cit., para. 328.

¹¹ OHCHR, "Preocupante la situación de la justicia en Venezuela", *advierte experto de la ONU*, July 30, 2009.

¹² Recommendation 96.14-96.20 *Report from Universal Periodic Review Working Group, Venezuela (Bolivarian Republic of)*, A/HCR/19/12 of 7 December of 2011.

¹³ *Annual Report of the Inter-American Commission on Human Rights - 2014*, Doc. Cit., para. 538.

regarding the lack of independence of judges and prosecutors", and asserted that "the lack of career judges, and the fact that most judges have short term appointments ... weakens the judicial system."¹⁴ The Special Rapporteur's statements were publicly rejected by the Attorney General of the Republic of Venezuela, who was "alarmed at the lack of information from the Rapporteur," and recommended she be sent information on "the courses that have begun at the Ministry to make prosecutors [positions] more stable."¹⁵

In addition to the framework of job insecurity and instability, the legal decisions of judges are reviewed by their superiors with strictly political criteria. It is common for judges to wait for instructions from their superiors before acting or ruling in situations where there could be political nuances or their decision could in some way affect State interests, otherwise they are subject to reprisals.

Another aspect that demonstrates a structural problem in the administration of justice is in relation to procedures and the judges' work load. Since the Judiciary is oriented to serve the Government's political interests, in general there has not been a sufficient revision and modernization of mechanisms and procedures with the aim of improving quality - neither of the justice system nor to increase levels of efficiency and effectiveness. The result is slow and ineffective administration of justice, which is why citizens have the sensation that the justice system does not work to resolve conflicts, whether these are penal, business, civil, labour or family conflicts.

Judicial officials, such as lawyers and judges, have the impression that the judicial system does not satisfy the expectations for justice required by the population. The judicial system is only effective in serving the Government.

In recent research carried out by Antonio Cánova González and other academics about rulings issued by the SCJ over a period of almost ten years, it was demonstrated that the Judiciary makes

¹⁴ *Annual Report of the Inter-American Commission on Human Rights - 2014, Doc. Cit.*, para. 539.

¹⁵ *Ibid*, para. 539.

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decisions with a noticeable political bias.¹⁶ For example, between 2005 and 2013, 99% of the requests for precautionary measures made by public entities were accepted. In contrast, in the same time period, 98% of requests for precautionary measures made by individuals against the decisions of authorities were denied. The imbalance in the criterion applied by the judiciary is evident.

The actions of the Judiciary and, in particular, the SCJ are dictated by the Government. The President of the National Assembly, Representative Diosdado Cabello, by means of his television program "Con el mazo dando", announces directives for the members of the Judiciary and even gives instructions to initiate judicial procedures, especially against political opposition or human rights defenders.¹⁷ Through a mechanism called "patriotic partners" (patriotas cooperantes),¹⁸ Representative Cabello is able to access information on complaints of people's conduct, often affecting their privacy, which allegedly affects the Government. These actions are denounced on the television program and thus the judicial authorities are "notified" so they can proceed with the corresponding actions and reprisals. On the 5 August 2015 program a non-governmental human rights organization (NGO) PROVEA¹⁹ was criticized and accused of "attacking and criminalizing the Peoples' Liberation Operation (OLP, in Spanish)". The "patriotic partner" who made the complaint indicated that Inti Ramírez, PROVEA's director, "is documenting false incidents of

¹⁶ Antonio Cánova González et al, *El TSJ al servicio de la revolución. La toma, los números y los criterios del TSJ venezolano (2004-2013)*, Editorial Galipan, Caracas 2014.

¹⁷ May 12th of 2014 the President of the National Assembly, Diosdado Cabello, on the television program "Con el mazo dando", broadcast on the State channel VTV, accused 14 people of being conspirators to whom the Venezuelan justice system would respond. Among those accused was Alfredo Romero, Director of FPV. On the other hand information was received that during the November 6th, 2014 program the President of the National Assembly made declarations against the organizations that attended hearings with the United Nations Committee against Torture. Among the people mentioned were the Director of OVP Humberto Prado and the General Coordinator of PROVEA, Marino Alvarado. In addition, it was indicated that the NGO Espacio Publico "is one of the 12 NGO's that promote, with a hidden agenda, denunciations of torture and cruel treatment against the Venezuelan government". Next, the NGO's Director, Carlos Correa, was referred to as a "friend of the fugitives of Venezuelan justice". See *Annual Report of the Inter-American Commission on Human Rights - 2014*, Doc. Cit., para. 692.

¹⁸ These are anonymous complaints filed by citizens.

¹⁹ Programa Venezolano de Educación-Acción en Derechos Humanos (Venezuelan Program on Education-Action in Human rights)- PROVEA.

human rights violations during the Peoples' Liberation Operations (OLP), to present a case to international entities”.

This modality of denunciation and interference in judicial decisions seriously affects not only the work of human rights defenders and other individuals and groups, but also the Judiciary's independence, given that its authorities are “oriented” by means of guidelines that come directly from the government.

Corruption is another aspect that seriously disrupts the Judiciary. Unfortunately, there is very little reliable official statistics or data about the State available and the Venezuelan chapter of Transparency International indicated that the SCJ contributes to this opacity. In a sentencing on 4 August 2015, the SCJ ruled not to accept a recent lawsuit against the Central Bank of Venezuela (BCV, in Spanish), requesting the public entity publish important data on the state's economic situation. The BCV does not provide information on inflation, shortages, payment balances, gross domestic product and other relevant data. In this case, the SCJ's decision limits access to public information in an area that is sensitive for the Government. Thus, its decision reflects clear political motivation and a willingness to contribute to opacity.

Corruption is an endemic problem in the country, affecting a broad spectrum of institutions. In Transparency International's Perception of Corruption Index, Venezuela was rated 161st of the 175 observed countries. On the indicator of judiciary independence, developed by the World Economic Forum, Venezuela is ranked 142nd of the 142 observed countries. This is the worst performance of all the countries. Transparency International's 2013 Global Corruption Barometer indicated that the perception of corruption increased by 86% in the 2007-2010 period. In addition, the Judiciary and the Police are the institutions with the highest rating of perceived corruption.

Everyday language talks of "selling rulings" in legal cases between individuals, an idea that has developed because it is thought judges make rulings depending on who pays more for their decisions.

Complementary to the previous point, the judges' low pay should be taken into account. Due to distortions in exchange rates, caused by the fact that in Venezuela there are multiple exchange

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rates,²⁰ judges receive a very low pay,²¹ which increases the danger of corruption in their job performance.

The Judiciary and the rest of the judicial officials, particularly the Public Prosecutor's Office, have been ineffective in combating the problems of citizens' insecurity. Recently, the Observatory on Citizen Security of the Universidad de Las Américas Puebla (Mexico)²² indicated that "countries in the region such as **Venezuela**, Surinam, Santa Lucia, Haiti, Ecuador, Dominica, Cuba, Antigua and Barbuda, Guatemala, Granada, Belize, Uruguay and Bolivia do not generate sufficient statistical information to be able to study them within the GII. These countries have only six or fewer measurement indicators which is why they can be catalogued within the area of **statistical impunity and structural problems**. Their governments must make a greater effort to report their statistics to the United Nations."²³

Impunity is a phenomenon which affects the national and international community, with a multidimensional and multi-factorial character, involving two critical sectors: state security forces and the justice system. Unfortunately, Venezuela has not provided sufficient data to carry out the Global Impunity Index (GII). However, using other sources it is estimated that its homicide rate is one of the highest in the world. Official statistics indicate that during 2013 there were 11,761 homicides (representing a homicide rate of 39 per 100,000 inhabitants). The Venezuelan NGO Observatorio Venezolano de Violencia (OVV or Venezuelan Violence Observatory), provided information that in 2014 homicides reached 24,980, with a homicide rate of 82 violent deaths per 100,000 inhabitants.²⁴ Venezuela, therefore has the second highest homicide rate in the world.²⁵

²⁰ The official exchange rate is 6.3 bolivars per dollar. The exchange rate on the black market is 670 bolivars per dollar.

²¹ Depending on the type of exchange rate that is applied a first instance judge receives pay of approximately 50 dollar per month.

²² Centro de Estudios sobre Impunidad y Justicia, Universidad de Las Américas Puebla, *Índice Global de Impunidad IGI (Global Impunity Index GII) 2015*, Ed. Fundación, Universidad de Las Américas Puebla, México, April 2015.

²³ *Ibid*, emphasis added.

²⁴ 2014 Report of the Venezuelan Violence Observatory (OVV, in Spanish), highlights Venezuela as the country with the second highest homicide rate in the world, number one being Honduras. This rate shows a slight increase in relation to the reported rate for 2013. Once the calculation's population base is adjusted, it indicates that there have not been advances in the control of crime and violence in

The IACHR's 2014 Annual Report indicated, in agreement with recent data from the United Nations Office on Drugs and Crime (UNODC), States in the region are not adequately discharging their duties to protect those under its jurisdiction and that the situation has become worse.²⁶ Indeed, UNODC's 2013 Report on Global Homicide portrays the Americas as the region with the highest homicides rates in the world.²⁷ This report indicates that the global average homicide rate stands at 6.2 per 100,000 persons, but that on average Central America has rates above 25 homicides per 100,000 persons,²⁸ and South America²⁹ and the Caribbean,³⁰ have

the country, in spite of important announcements and plans developed by the authorities. The report emphasizes that the general tendency observed by the different research teams is towards an increase in violent crimes throughout the national territory. Regions that until recently were safe have since become territories controlled by armed gangs that attack and extort the inhabitants.

²⁵ The United Nations Human Rights Committee has indicated that "while it has taken note of the actions carried out by the State party in relation to crime prevention, it has noted with concern the reports regarding the very elevated number of violent deaths in the State party, including cases allegedly perpetrated by officials in the maintenance of public order (art. 6). [...] The State party must increase its efforts with the vision of preventing and combating violent deaths, including an intensification of disarmament actions within the civilian population. It should also ensure that all cases of violent deaths have a prompt, exhaustive, independent and impartial investigation and that the authors are taken before the justice system and duly sanctioned." ("Final Observations in the fourth periodic report on the Bolivarian Republic of Venezuela", July of 2015, para. 11).

²⁶ *Annual Report of the Inter-American Commission on Human Rights - 2014*, In this report, the IACHR indicated that "[f]urthermore, the high levels of impunity that is recorded in Venezuela, the serious situations of citizen security and violence in prisons, are also elements that the Commission has considered as a special affectation to the exercise of human rights to life and personal integrity of Venezuelans, among others." (para. 330)

²⁷ *Ibid.*

²⁸ According to the UNODC report on homicides, the Central America region includes Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama. See UNODC report on homicides, p. 7.

²⁹ According to the UNODC report on homicides, the South America region includes Argentina, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Ecuador, French Guyana, Guyana, Paraguay, Peru, Surinam, Uruguay and Venezuela (Bolivarian Republic of). See UNODC report on homicides, p. 7.

³⁰ According to the UNODC report on homicides, the Caribbean region includes Anguilla, Antigua and Barbuda, Aruba, Bahamas, Barbados, Cuba, Dominica, Grenada, Guadalupe, Haiti, Cayman Islands, Turks and Caicos Islands, British Virgin Islands, United States Virgin Islands, Jamaica, Martinique, Montserrat, Puerto Rico, Dominican Republic, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Saint Lucia and Trinidad and Tobago. See UNODC report on homicides, p. 7.

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rates between 16 and 23 homicides per 100,000 persons.³¹ These rates are roughly three to four times higher than the global average and may be higher when analyzed by individual country.³² Eight out of the ten countries in the world with the highest homicides rates are located in the Americas. Unfortunately, Venezuela holds a notable spot within this panorama. The country's homicide rates show a deterioration of the situation described by the IACHR and UNODC, in 2000 Venezuela's homicide rate was 32.87 per 100,000 inhabitants, less than half of the rate observed in 2014.³³

The OVV report indicates that: "[i]n public opinion studies carried out by sample surveys, we have found that there is an increase in people's fear. They stop carrying out activities, they return home and lock themselves in earlier and trust the protection of their neighbors more than the police. People do not feel protected by the authorities and they **perceive that there is neither justice nor punishment**. Less than 10% of the population trusts the Government's capacity to efficiently confront crime and restore security."³⁴

In a recent publication the organization InSightCrime³⁵ reported on the lack of official records to measure violence in the country and a lack of collaboration from the authorities. In addition, the organization indicated that "the homicides will increase during 2015, given that Venezuela faces a revenue deficit due to the fall of oil prices and an increase of social unrest."³⁶

The cited Global Impunity Index highlights that "it is necessary to allocate the necessary resources for security and justice structures. However, it is much more important that these institutions operate adequately and respect human rights."³⁷ In the

³¹See UNODC report on homicides, pp. 12, 22.

³² In 2012, Belize, El Salvador, Guatemala, Honduras, Jamaica and **Venezuela** had national homicide rates which exceed by far the sub-regional averages, with 44.7, 41.2, 39.9, 90.4, 39.3 and **53.7** homicides per 100,000 persons, respectively. See UNODC report on homicides, pp. 125-127.

³³ <http://www.datosmacro.com> ; *El número de homicidios en Venezuela aumentó en 2012*.

³⁴ 2014 Report - Venezuelan Violence Observatory (OVV).

³⁵ InSightCrime is a foundation dedicated to the study of organized crime in Latin America and the Caribbean.

³⁶ <http://es.insightcrime.org/análisis/venezuela-pais-mas-peligroso-latinoamerica>

³⁷ *Índice Global de Impunidad IGI 2015, Op. Cit., Executive Summary*.

case of Venezuela, the judicial authority neither observes the necessity nor importance of this notion.

The Judiciary's independence can be evaluated based on its relative position within the State's organizational structure, but also by observing how its judges act. The interviews held with judicial officials within the legal system emphasize the precarious conditions faced by judges, mainly due to the fact that the majority have provisional positions. However, there are other factors which are also of concern including fear and a lack of professional training.

Judges are afraid because they have unstable labour conditions and because they know that if their decisions affect the authorities in some way they can be sanctioned or even exonerated from the Judiciary. In this regard the so called "Afiuni effect" is a reality.

The practice of incorporating graduates from the Universidad Bolivariana de Venezuela (UBV) into the judicial system, either as judges or public prosecutors, has a negative effect not only on the quality of justice but also on its independence. UBV graduates do not have all the necessary academic and professional qualifications to adequately perform the functions of judges or public prosecutors, and this makes them vulnerable to and permeable by the government.³⁸

The Judiciary in a democratic state based on rule of law is called to carry out an essential role of checks and balances between the public authorities. What has been observed is that the Venezuelan Judiciary has waived, either voluntarily or by obligation, its fulfillment of this role.

There are no formal impediments for the Judiciary to thoroughly fulfill its functions, but the current judicial authorities have effectively resigned from carrying out these functions. The 1999

³⁸ The ICJ report "*Strengthening Rule of Law in Venezuela*", reported that the education and degree program of legal studies students at the UBV was deficient as it did not contain essential coursework to train lawyers, such as criminal law, civil law and civil procedural law. It is a common practice in the bar associations to establish leveling courses for UBV graduates, in order for them to be admitted into the bar association and recognized as lawyers. The UBV is an institution created with an ideological orientation for education under the doctrine of the Bolivarian Revolution.

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Constitution establishes a division of powers,³⁹ and expressly indicates that a social and democratic state seeking to promote rights and justice: "requires the existence of bodies which, characterized institutionally by their independence, have the constitutional authority allowing them to execute and impartially apply the regulations which express the people's will, the submission of all public authorities to the fulfillment of the Constitution and laws, control the legality of administrative actions and offer all people an effective writ of protection in carrying out their legitimate rights and interests."⁴⁰

This demonstrates that, in accordance to what is stipulated in the Constitution, in theory there are no limitations for the Judiciary to fulfill the functions required by a democratic society. Nevertheless, the SCJ imposes restrictions and exercises discretion subordinating itself to other branches of State, particularly the Executive.

The 1999 Constitution expressly indicates that:

*"[e]ntrance to the judicial career and the promotion of judges will be by an **open competitive bid process** which assures the adequacy and excellence of the participants to be selected by juries made up of the judicial circuits, in the manner and conditions established by the law. The appointment and swearing in of judges corresponds to the Supreme Court of Justice. The law will guarantee citizen participation in the selection and appointment process for judges. Judges can only be removed or suspended from their appointments by means of the procedures expressly stipulated by the law."*⁴¹

This clear constitutional provision is not being fulfilled by the authorities as there has not been an open competitive bid relating to the profession since at least 2003. This has led to an irregular situation in relation to the Constitution and the State's international obligations in regards to judicial independence, since the SCJ has established that provisional judges (as well as interim, temporary and alternate judges), are "freely appointed and

³⁹ Articles 136 and 253 and following of the Bolivarian Republic of Venezuela's Constitution.

⁴⁰ Explanatory memorandum for Chapter III on the Judiciary and Justice System, Constitution of 1999.

⁴¹ Articles 255 of the Bolivarian Republic of Venezuela's Constitution (emphasis added).

removed at the discretion” of the Judicial Commission integrated by SCJ magistrates, without procedure, legal cause or judicial control.

At the Opening of Judicial Activities for 2015, the SCJ President, magistrate Gladys María Gutiérrez Alvarado, in reference to the SCJ's Judicial Commission, said that this entity had **designated** a total of 1,547 judges: “[t]his number indicates the efficient operation of the Judicial Commission in the provision of vacant posts, according to current regulations and the jurisprudence emanating from this High Court to guarantee the absolute continuity in the provision of justice administration in all jurisdictions and issues nationally.”⁴² Thus, the SCJ president ratified the non-fulfillment of the constitutional framework, which requires an open competitive bid.

III. The Public Prosecutor's Office

In 2014, as a result of public and student protests, the Public Prosecutor's Office indicated that more than 3,700 people were detained and brought to court, accused of diverse crimes such as obstruction of roads, *conspiracy*,⁴³ and inciting criminal activities. Additional detentions carried out by security bodies, which do not conclude in the presentation of the detained person in the courts, should be added to this number.

The Observatorio Venezolano de Conflictividad Social (OVCS or Venezuelan Observatory on Social Conflicts) registered 9,286 protests in 2014; this is 111% higher than the 4,410 protests registered in 2013. 52% of the protests were rejected by the Government.⁴⁴ The numbers presented by the OVCS reflect an

⁴² http://www.tsj.gob.ve/noticiastsj/-/journal_content/56/10184/78561?refererPlid=11142.

⁴³ This crime is typified by article 286 of the Venezuelan Criminal Code in the following terms “When two or more people are associated with the aim of committing crimes, each one will be punished, based solely on association, with a prison term of two to five years”.

⁴⁴ Observatorio Venezolano de Conflictividad Social. *Informe de Conflictividad Social en Venezuela en 2014*.

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increasing social effervescence, which was controlled by means of police repression.

There are approximately 2,000 people who were subjected to criminal proceedings after demonstrations which took place in early 2014. The OVCS indicated that:

*"the Venezuelan government responded to this wave of protests and peaceful demonstrations with defamatory language, systematic repression, a militarization of some cities and the criminalization of protests. This situation promoted an escalation of the conflict with lamentable results around the country. The violence and repression towards protesters reached numbers never before seen in Venezuelan history, only comparable to the events of the 1989 Caracazo. According to official data, published by the Public Prosecutor's Office in June, between February and June they registered 3,306 detained demonstrators, 973 injured and 42 deaths."*⁴⁵

According to the same source:

*"[t]he public authorities backed the disproportionate and excessive use of force by the Bolivarian National Guard (GNB, in Spanish) and Bolivarian National Police (PNB, in Spanish). In addition to the State's public forces, the demonstrators were attacked by paramilitary groups, pro-government armed civilian groups, which acted with the permissiveness and in coordination with State officials. During the first trimester of 2014 violent actions by paramilitary groups were registered in at least 437 protests, equivalent to 31% of the protests registered during that period. In the majority of protests where these groups were present bullet wounds were reported."*⁴⁶

The complaints made by the OVCS shows a reality - the participation of paramilitary groups - that opens up a new dimension in the complex situation of the country's human rights violations, as it incorporates a new actor, which is not totally under Government control but directly affects the enjoyment of fundamental liberties.

⁴⁵ *Ibid.*

⁴⁶ Observatorio Venezolano de Conflictividad Social. *Informe de Conflictividad Social en Venezuela en 2014.*

The Public Prosecutor's Office is an institution with a long history in Venezuela, the 1961 Constitution consecrated it as an institution independent of the State and the 1999 Constitution made it an organism of the National Public Authority integrated into "Citizen's Power". However, in recent years its original function has decreased significantly, in particular its autonomy. Currently, the institution has been transformed into an instrument to repress dissidence in all its expressions, destined to carry out orders from the Government.

It is alarming that the Public Prosecutor's Office has only five tenured prosecutors, this number was provided by the Attorney General of the Republic, Luisa Ortega Díaz.⁴⁷ This information ratifies a situation that was denounced some time ago, which is the temporary nature of public prosecutor appointments,⁴⁸ the same problem that has occurred with judges. This evidences the institution's structural weakness and vulnerability to the Government.

In the recent examination of the Fourth periodic report of the Bolivarian Republic of Venezuela by the United Nations Human Rights Committee, the Committee, among other recommendations, indicated that the State "must increase its efforts to prevent and fight violent deaths, including an intensification of actions for the disarmament of the civilian population. It should also ensure that all cases of violent deaths have a prompt, exhaustive, independent and impartial investigation and that the authors are taken before the justice system and duly sanctioned."⁴⁹ This recommendation is specifically directed at the Public Prosecutor's Office, which has the function of investigating (or at least directing investigations) in the case of violent deaths or serious crimes. As was indicated

⁴⁷ Newspaper *El Nacional*, Friday July 31 of 2015. This declaration was made at the National Public Prosecutors' School (Escuela Nacional de Fiscales) during the IV Open Competitive Bid and Credentials process for entrance into a career as a prosecutor. To fill 15 positions 16 people registered.

⁴⁸ When examining the Fourth periodic report of the Bolivarian Republic of Venezuela, the United Nations Human Rights Committee indicated that "it laments that it did not receive information regarding the percentage of prosecutors from the Public Prosecutor's Office who are tenured and, in relation, are concerned as the received reports indicate that it is a very low percentage." ("Concluding Observations [...]", Doc Cit., para. 15.

⁴⁹ "Concluding Observations [...]", Doc Cit., para. 11.

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previously, Venezuela has the second highest homicide rate in the world. This shows a significant failure by the security bodies and, in particular, the Public Prosecutor's Office.

It is important to take into account the United Nations Human Rights Committees' related recommendation on this matter: “[t]he State party must take immediate measures to assure and protect the full autonomy, independence and impartiality of judges and public prosecutors and to guarantee that their actions are free from all types of pressure and interference. Specifically, it must adopt measures, within the shortest possible time frame, to correct the provisional nature faced by most of judges and public prosecutors.”⁵⁰

Within the framework of the criminal prosecution carried out by the Public Prosecutor's Office there is an aspect which must be highlighted. In recent months criminal prosecution has been more focused on the political opposition and control of social protest, especially since 2014. This marks a tipping point because it is evident that criminal prosecution is directed at political opposition, human rights defenders⁵¹ and social or trade union activists, as in

⁵⁰ “Concluding Observations [...]”, Doc Cit., para. 15.

⁵¹ March 20th of 2015, by means of a press release, the Inter-American Commission on Human Rights (IACHR) expressed alarm due to finger pointing, acts of intimidation and actions to discredit, which some people in Venezuela have faced as a result of exercising their right to go to the Inter-American Human Rights System. The IACHR received information, according to which several of the people who came before this organism to present on diverse human rights issues in Venezuela, were targeted by high level state authorities, and that there was a disclosure of specific information regarding their location and schedules on certain days. Specifically, the President of the National Assembly, Diosdado Cabello, on the television program “Con el mazo dando” broadcast on the State channel VTV, aired February 11 2015, mentioned the people who were going to participate in the Commission's hearings in March. On the television program's website, the information is published under the title ‘Extreme Right NGO’, organized with IACHR Commissioner, to sanction the program “Con el Mao Dando”. Photographs of six human rights defenders were also published, along with the logo of the Inter-American Court, and, superimposed on the photo of the National Assembly's President, telescopic sights similar to those used to aim at a target when using a weapon. The articles refer to the participation in the Commission's hearings of Marco Antonio Ponce, of the Observatorio Venezolano de Conflictividad Social (OVC); Rafael Uzcátegui, of the Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA); Lilia Bolívar, of the Centro de Derechos Humanos of the Universidad Católica Andrés Bello (UCAB); Carlos Nietos, of Una Ventana para la Libertad; Rocío San Miguel, of Control Ciudadano; Carlos Correa, of Espacio Público; and Liliana Ortega, of the Comité de Familiares de las Víctimas of the events which occurred between February 27th and early march of 1989 (COFAVIC).

the case of lawyer Tadeo Arrieche Franco⁵² and trade union leader Fray Roa,⁵³ or the situations which affect the political leaders Leopoldo López and Antonio José Ledezma, or Mayors Daniel Ceballos and Vicente Scarano Spisso,⁵⁴ among others.

The selective detention of lawyers or social and trade union leaders has a clear political objective, which is to force a withdrawal of people who dare to manifest their nonconformity. The case of

("IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System", Press Release No. 032/15, 20 March 2015).

⁵² Tadeo Arrieche Franco, a lawyer, was detained by the National Bolivarian Intelligence Service (SEBIN, in Spanish) on February 8 2015 in the Barcelona airport (state of Anzoátegui) without an arrest warrant, in the context of an investigation carried out by the Government in relation to alleged irregularities in food distribution by the supermarket chain Día, Día Supermercados, which is a client of the lawyers firm ASPEN Legal, of which the lawyer Arrieche Franco is a member. The lawyer Tadeo Arrieche Franco was detained because he was the legal power of attorney for the company Día, Día Supermercados. The occupation of the company Día, Día Supermercados was announced by President Nicolás Maduro during an event with PSUV political party militants, where he accused the chain's directors of being involved in a "food war". The President of the National Assembly, Representative Diosdado Cabello, declared, from the company warehouse located in La Yaguara (Caracas), the company's temporary occupation, by means of a live broadcast on the VTV television network early in the morning on February 2nd of 2015. Lawyer Tadeo Arrieche Franco was accused by the Public Prosecutor's Office of the crimes of boycotting and economic destabilization. Currently he is imprisoned. Tadeo Arrieche Franco's situation explicitly violates Article 18 of the Basic Principles on the Function of Lawyers, a clause that indicates that lawyers cannot be identified with their clients based on the performance of their duties. Tadeo Arrieche Franco has no other relationship with the company, except being its judicial Representative.

⁵³ Fray Roa is the general director of the Venezuelan Federation of Alcoholic Beverages (Federación Venezolana de Licoreros y Afines). Roa was detained by the National Bolivarian Intelligence Service (SEBIN, in Spanish) July 24 2015, due to a statement to the news outlet CNN, stating that Liquors sector was in crisis. The Government immediately accused him of "generating alarm". To date he is still detained.

⁵⁴ The SCJ's Constitutional Chamber ordered Mayors Daniel Ceballos and Vicente Scarano Spisso, to carry out all legitimate actions to stop and fend off the blocking of public streets in the context of protests in 2014 in the municipalities of San Cristóbal (state of Táchira) and San Diego (state of Carabobo), facing the risk of contempt charges if the authorities failed to fulfill the order. Later, the Constitutional Chamber, acting as a criminal court, sentenced both mayors to a prison term, without the opportunity for due process or the right to counsel. Based on these decisions they were removed from their posts as mayors. Daniel Ceballos has been under house arrest since August 11 2015.

lawyer Tadeo Arrieche Franco is a signal directed at the business sector and, in particular, the lawyers who defend these rights and interests.

In this regards the Public Prosecutor's Office has a fundamental role. The Public Prosecutor's Office, as a prosecuting body, is the institution that should derogate all measures that have been adopted by other State organisms and which contravene the law or the most basic logic. However, disappointingly it does not do this.

The Human Rights Committee also stated its concern based on reports of disqualification, threats and/or attacks allegedly perpetrated against journalists, human rights defenders and lawyers. The Committee recommended that the State adopt the necessary measures to a) Offer effective protection for journalists, human rights defenders, social activists and lawyers who face acts of intimidation, threats and/or attacks due to their work monitoring and producing information on human rights issues and other issues of public interest; b) Guarantee that no state agents adopt measures or carry out actions that could constitute intimidation, persecution, disqualification or undue interference in the work of journalists, human rights defenders, social activists, lawyers and members of the political opposition or in their rights by virtue of the covenant; and c) Assure that all allegations in relation to acts of intimidation, threats and attacks receive a prompt, exhaustive, independent and impartial investigation and that the authors are brought before the justice system and properly sanctioned.⁵⁵

All of the recommendations made by the Human Rights Committee advocate that the Public Prosecutor's Office, in particular, and the Judiciary, in general, adopt an attitude that is pro-human rights and in favor of the protection of fundamental liberties. However, this will not be possible as long as these institutions continue to be subordinate to the Government.

⁵⁵ "Concluding Observations [...]", Doc Cit., para. 17.

IV. New reasons for concern

1. Peace Zones or Peace Territories: Voluntary cession of state sovereignty

In 2013 the Government, by means of the Vice-minister of the Interior, José Vicente Rangel Ávalos, began a dialogue with hundreds of armed groups to promote a disarmament and social reintegration process for criminals. The conversations required that gangs abandon delinquency and demobilize; in return the Government would provide employment and materials for production. Vice-minister Rangel Ávalos met with 280 gangs and on public television declared some of these regions as "peace territories."

Nevertheless, the results were different to the expected outcome. The negotiations gave the gangs control of the regions and allowed them to gain more power than they already had. In practice, these zones are areas without police control. They are true "liberated territories," where the security forces cannot enter and organized gangs commit different crimes with impunity. In some zones there have been reports of displaced families, who have been forced out of their homes due to the violence and demands from the criminals.

For many the "peace territories" (as named by the Government) are simply niches of impunity or "liberated territory". The pilot project began in the state of Miranda, in total it included 17.45 square kilometers of the State. The *peace zones* were created in eight sectors of the municipality Andrés Bello, among the parishes San José de Barlovento and Cumbo.

There are complaints indicating that the *peace zones* are also used to hide criminals who have escaped prison or are required by the authorities.⁵⁶ In Barlovento (state of Miranda) there were reports of the intimidation of families, requiring them to hand over their

⁵⁶ <http://runrun.es/nacional/venezuela-2/207830/zonas-de-paz-corredores-para-el-libre-comercio-de-la-droga.html>

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young men to be incorporated into the ranks of criminal organizations.

The Miranda state police (Polimiranda) indicated that the number of homicides in the state increased in 2014, compared to 2013, which is attributed to negotiations with the armed groups. In addition, it is estimated that there are more than 60 *peace zones* in this state that surrounds Caracas, one of the most populated states in the country.

The problem has extended to other regions of the country. There are areas that have been conceded *de facto* to armed groups, for example in the state of Apure to the so called Bolivarian Liberation Forces (FBL or Fuerzas Bolivarianas de Liberación). The *peace zones* are scattered around the states of Miranda, Zulia, Táchira, Aragua, Guárico and in the Caracas Metropolitan District.

There are multiple causes which explain the state of violence in these areas, but without a doubt the main cause of violence is a lack of functioning institutions.⁵⁷ There is a notorious absence of the State, aggravated by the Government decision to continue stimulating the armed groups' control of the *peace zones*.

It is worth highlighting what commissioner Eliseo Guzmán, Director of the Miranda state police, said: "[i]n a country where 90% of the homicides do not face any type of legal consequence and where the jails are controlled by criminals (known as *pranes*), this is a breeding ground so that the gangs can operate without difficulty."⁵⁸

A notable and worrisome fact is that the gangs or armed groups of the *peace zones* have united to face what they consider a common enemy: "the Government", which is identified with the police - National Bolivarian Police (PNB, in Spanish); Scientific, Penal and Criminal Investigation Corp (CICPC or Cuerpo de Investigaciones Científicas, Penales y Criminalísticas);⁵⁹ municipal and state police

⁵⁷ Mirla Pérez, Professor of anthropology at the Universidad Central de Venezuela.

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http://www.bbc.com/mundo/noticias/2015/07/150727_venezuela_zonas_de_paz_d_p

⁵⁹ The Scientific, Penal and Criminal Investigation Corp (CICPC), previously known as the Legal Police Technical Corp (CTPJ or Cuerpo Técnico de Policía Judicial) and originally as the Technical Judicial Police (PTJ or Policía Técnica Judicial), is the main body which investigates crimes in Venezuela.

forces; and the National Bolivarian Intelligence Service⁶⁰ (SEBIN, in Spanish).⁶¹

The *peace zones*' installation and operation is associated with the Foundation Movement for Peace and Life (Fundación Movimiento por la Paz y la Vida),⁶² under the Ministry for the Presidential Office and Follow up Government Management. The Foundation's President is Minister Carmen Meléndez.

According to Decree N° 1,783, published in the Official Gazette N° 40,668, on May 26 2015, the Movement's "objective will be the financing, technical support, evaluation and administrative, financial and budgetary control of the plans and projects generated within the framework of the Movement for Peace and Life, in relation to the promotion of policies which lead to a prompt fulfillment of its goals."⁶³

This foundation is in charge of giving credits and subsidies to the gangs which exercise social and territorial control. In addition, it is connected to the new Vice-ministry of Peace Affairs, headed by José Vicente Rangel Ávalos (who was previously Vice-minister of the Interior).

One of the problems faced by this initiative is that it was not properly designed or even discussed with other state actors who are associated with security issues. A police report from the state of Miranda emphasized: "[g]iven knowledge of incidents informally denounced by the citizens to different state and municipal police authorities, gatherings have been held to establish strategies and apply a security plan; however, the work has been frustrated given

⁶⁰ The SEBIN is an intelligence and counterintelligence organism inside and outside of Venezuela, dependent on the Ministry of Popular Power for Internal Affairs, Justice and Peace, which was formally established on June 2nd of 2010, according to information available in Official Gazette number 376,851.

⁶¹ <http://runrun.es/nacional/venezuela-2/212961/10-claves-para-entender-las-zonas-de-paz.html>

⁶² The Foundation Movement for Peace and Life, is in charge of finances for plans and projects generated within the framework of the Movement for Peace and Life. The Movement for Peace and Life is a state initiative in the framework of the Grand Mission- Life for All Venezuelans and the Motherland Project 2013-2019 created so that all social movements, collectives, organized communities and people, have a voice in relation to the actions carried out by the Bolivarian Government in regards to citizen security.

⁶³ Decree N° 1,783, Article 3.

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that the mentioned sectors are part of the so called 'Peace Zones', a plan implemented by the Ministry of Interior, Justice and Peace, which prohibits the entrance of security officers to carry out preventive work and actions related to crime reduction."⁶⁴

This same report refers to an increase of crime rates in areas such as Barlovento, which until 2013 had one of the lowest rates in the region. "In recent months it has occupied a 'red' status after an increase in statistics of homicide, robbery and other violent acts."⁶⁵

According to the police in the state of Miranda, Valles del Tuy and Barlovento are the sectors with the highest homicides numbers in the state. Between the two regions there were 535 murders. The projections indicate there will be 912 violent events by the end of 2015.

The criminologist Fermín Mármol García assures that the implementation of this plan confirms the "atomization of micro states in the Venezuelan State, classified among the republic of the "pranes", armed and violent groups, paramilitary actions and the peace zones, already reaching at least 10% of the countries"⁶⁶ parishes."⁶⁷

2. People's liberation and protection operations (OLP, in Spanish)

The OLP's are an initiative promoted by the Government, in particular by President Nicolás Maduro, destined "to counter the actions of alleged paramilitaries" in different communities in the country and in some urban developments or neighborhoods. President Nicolás Maduro justified these actions because "the

⁶⁴ http://www.panorama.com.ve/contenidos/2014/10/16/noticia_0129.html Sabrina Machado "Report: Zonas de paz o territorio apache".

⁶⁵ http://www.panorama.com.ve/contenidos/2014/10/16/noticia_0129.html Sabrina Machado "Report: Zonas de paz o territorio apache".

⁶⁶ http://www.panorama.com.ve/contenidos/2014/10/16/noticia_0129.html Sabrina Machado "Report: Zonas de paz o territorio apache".

⁶⁷ A parish is the country's smallest territorial subdivision. Venezuela is a federal State divided into states, and these into autonomous municipalities and these in turn into parishes. Altogether, the country has 1,136 parishes and 335 municipalities (integrated in the 23 states and the Capital District).

people's liberation operations (OLP) were initiated [...] in four points throughout the country where it was discovered that in the areas where the police carried out actions there was sex slavery, drug trafficking, and strange connections with people from Colombia who hate this country, [people with] strange internal connections in the country."⁶⁸

However, these measures were implemented outside of the normative framework that regulates police action and they do not respect international standards regulating the actions of those in charge of enforcing the law. These operations mobilize police and military forces, such as the National Bolivarian Guard (GNB, in Spanish).

Human rights organizations such as PROVEA have indicated their concern in relation to these type of initiatives, that involve police abuses and excesses, which fundamentally affect the poorest sectors of Venezuelan society. PROVEA stated these initiatives imply "serious human rights risks and constitutes a setback in regards to the advances reached during the process of police reform promoted by deceased President Chávez and headed by the National Commission on Police Reform (Conarepol or Comisión Nacional de Reforma Policial)."⁶⁹ PROVEA's opinion is that the "OLP is a **razzia** or **raid** focused on criminalizing and stigmatizing the poorest, but also other sectors of society."⁷⁰

According to statistics from the Ministry of Popular Power for Internal Affairs, Justice and Paz (MPPRIJP, in Spanish) since 13

⁶⁸ <http://contrapunto.com/noticia/maduro-arranco-operacion-liberacion-y-proteccion-del-pueblo-olp/> *Maduro: arrancó operación de Liberación del Pueblo (OLP)*. August 11th, 2015.

⁶⁹ The National Commission on Police Reform (CONAREPOL) was created in April 2006 with the aim of constructing a new police model to respond to the democratization and social inclusion that the country was experimenting and its adaptation to the framework of a Democratic State based on rule of law and justice. After nine months the Police Reform Commission presented its conclusions from the citizen consultation process and diagnosis, as well as the general guidelines that would allow for the definition of a new police model for the country. Since then, in Venezuela only specific police corps exist (such as the CICPC), state bodies (such as Polizulia) and municipal bodies (such as Polichacao), even though the 1999 Constitution established that a national level force should be created which would coexist with the already existing structures.

⁷⁰ <http://www.eluniversal.com/nacional-y-politica/150813/provea-pide-al-gobierno-detener-la-olp-por-ser-una-razzia-contra-pobres>

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July 2015 until 11 August 2015, 5,789 officers from the GNB, People's Guards,⁷¹ SEBIN, CICPC, National Bolivarian Police and regional police have participated in operations carried out in different, low income communities within the framework of implementing the OLP.

During the same time period and as a result of these operations 52 people have died in alleged confrontations with state security forces. 14 people died in one confrontations alone, which occurred in a zone called Cota 905.⁷²

The events which occurred in the Cota 905 *peace zone* unequivocally reflect the paradox of the public policies destined to fight delinquency. As a *peace zone*, Cota 905 was under the control of armed groups recognized by the Government, nevertheless the decision to act in the area had "the objective of recovering robbed vehicles and taking control of the zone..."⁷³ Obviously there is a contradiction, however the seriousness of this contradiction becomes apparent in the material consequences. The effect of the operation in Cota 905 was that 14 people were "eliminated" by the security forces and more than 100 people were detained.⁷⁴

Within the OLP framework there have been cases of human rights violations. PROVEA indicated that 23 operations were recognized by the MPPRIJP on their webpage. A total of 4,021 people were

⁷¹ The People's Guard or Guardia del Pueblo is a military force that is associated with the Bolivarian National Guard. It is considered the "social component" of the GNB.

⁷² On 13 July 2015 the municipality of Libertador's peace zone, called Cota 905, in Caracas, was searched. On this occasion the security forces stopped people, searched the houses and an alleged confrontation, took place which resulted in the death of 14 people, according to initial police reports. The operation began at 4am in the morning.

⁷³ Newspaper *Universal*, 13 July 2015, Natalia Matamoros "Cuerpos de seguridad toman la Cota 905".

⁷⁴ The Minister of Internal Affairs, Justice and Peace, Gustavo González Lopez, stated during a press conference that "(w)e have recovered 20 vehicles. The vehicles were concentrated in these areas and were used for extortion, "taxes", and even carrying out death threats against the owners. We have recovered 12 handguns, 2 long barreled weapons, 2 fragmentation grenades, 134 persons detained. Of these, 32 are foreigners and we are making a direct connection with the **Colombian paramilitary structure** here, directly in the center of Caracas, in Cota 905. They used drugs, they used dollars to takeover and buy these criminal organizations for unmentionable aims" ("Ministro confirma 14 muertos y 134 detenidos en Cota 905", Newspaper *El Universal*, 13 July 2015).

detained in the states of Miranda, Aragua, Monagas, Carabobo, Portuguesa, Zulia, Anzoátegui, Yaracuy, Barinas, Lara and the Caracas Metropolitan District during the OLP's first month. Of these persons only 368 have been presented before the Public Prosecutor's Office based on their alleged connection to criminal offences. According to these statistics 90.8% of the detentions carried out within the framework of the OLP have been arbitrary and illegal, in only 9.1% of the cases is there an alleged connection between the apprehended persons and criminal activities.⁷⁵

According to information from MPPRIJP, 3,463 homes have been searched during the implementation of the OLP. In these operations searches were carried out in all the homes. In not one of the searches, called "inspections" and "audits" by the police officials, did they have a court order. In many of the mass searches, the community's inhabitants said that a prosecutor from the public prosecutor's office was not present during the searches. In addition, there have been numerous complaints of theft and damages to homes that have been subjected to these illegal searches. PROVEA registered the testimony of a Cota 905 inhabitant who requested identity protection: "[t]he CICPC entered my home without a search warrant, knocked down the door, stole diapers, food and other things. On July 18th they returned to my home and stole other things that had remained."⁷⁶

It is alarming to observe the **xenophobia** that impregnates the official discourse in these operations. On several occasions President Nicolás Maduro has indicated that there are Colombian elements, which assimilate the paramilitary structure, justifying the operations. In this regard, he indicated that he will maintain a firm position "to confront, dismantle and defeat the paramilitary structure's practices which groups who are enemies of the motherland have tried to implant in the country, copying a model that has harmed the Colombian people."⁷⁷ However, there is no real evidence of a connection with the paramilitary structure.

⁷⁵ PROVEA, *Razzia contra los pobres: un mes de OLP*, Agosto 13, 2015.

⁷⁶ PROVEA, *Razzia contra los pobres: un mes de OLP*, Agosto 13, 2015.

⁷⁷ <http://contrapunto.com/noticia/maduro-arranco-operacion-liberacion-y-proteccion-del-pueblo-olp/> *Maduro: arrancó operación de Liberación del Pueblo*

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It is also extremely concerning that the political discourse, which justifies these actions, makes explicit the affected population's precarious access to rights. The Government has indicated that the "bad elements" use houses assigned by the Government in the framework of the Venezuelan Housing Mission (Gran Misión Viviendo Venezuela)⁷⁸ and this has led to **forced evictions**, such as occurred in the case of 200 houses located on kilometer 3 of the Pan-American Highway, in Cují. In this operation precarious houses were evacuated and demolished.⁷⁹

The Government indicated that more than 600 police officials, from distinct bodies, participated in the operation in Cují and 113 families were evicted.

A third reason for concern is based on the fact that the Government has developed a political discourse which is similar to the **national security doctrine** (the alleged existence of an internal and external enemy), that once was used by the Latin American dictatorships to justify repressive actions by security forces against broad sectors of dissident populations. This

(OLP). August 11, 2015. This Minister of Internal Affairs, Justice and Peace, Gustavo González López, indicated the aim of the operation in Cota 905. "I am asking for help from the people to avoid penetration by perverse organizations who look to destroy all the beautiful things we have constructed (...) We cannot allow **foreigners** with their drugs and dollars to subject our population, our children, to the perverse damages that we continue to be to them, a hateful country ("Ministro confirma 14 muertos y 134 detenidos en Cota 905", Newspaper *El Universal*, July 13, of 2015).

⁷⁸ The Venezuelan Housing Mission (GMVV, in Spanish) is a Government plan to construct houses, which attempts to solve, with structural changes, the historical housing shortage faced by Venezuelans, particularly in the most underprivileged and vulnerable social sectors.

⁷⁹ PROVEA has described this as similar to Israeli practices against the Palestinian people. PROVEA reported that "(i)n this case the State did not respect due process in cases of forced evictions as adopted by the UN, as a consultation was not carried out with the affected population and nor was a reasonable time frame of prior notification provided. Instead the evacuation and demolition was a surprise operation. In addition, the affected population reported abuses, mistreatment and arbitrary detentions." The Minister of Internal Affairs, Justice and Peace indicated that the operation in Ciudad Tiuna "(w)e have immediately recovered 12 apartments, whose owners had been displaced, they are being evaluated by the Venezuelan Housing Mission and taking advantage of this situation, they had construction materials including locks, welding machines, rotary hammers, chainsaws, grinders, and water pumps. They are being held by the Housing Mission. Seven gangs were dismantled along with seven ringleaders". (13 July 2015) (<http://www.entornointeligente.com/articulo/6450001/VENEZUELA-Ministro-confirma-14-muertos-y-134-detenidos-en-Cota-905-en-Caracas-13072015>).

justification is in open disagreement with the pro human rights and pro citizens' rights discourse which has, at least formally, been a constant of the Government.⁸⁰ The danger implied by a discourse based on an approach reminiscent of the national security doctrine is that it prioritizes a warmongering logic, in addition to stigmatizing and criminalizing broad sectors of society (it is important to keep in the mind the recent criminalization of social protests). There is an intent to justify the excessive use of force by police and military officials. The danger of this position is that Venezuela runs the risk of embarking on the construction of a police and military State, where State interests are prioritized over the detriment of the population's human rights and fundamental liberties.⁸¹

The IACHR expressed concern at the increasing militarization of security forces across the region to maintain or restore order in times of civil unrest or public protest, "such as **Venezuela**, where the State issued Decree N° 1,605 on February 20, 2015, creating the 'Internal Regulations of the General Directorate of Military Counterintelligence' (Reglamento Orgánico de la Dirección General de Contrainteligencia Militar). It has been reported that this decree has created a structure similar to those of past military dictatorships in South America, especially to those that existed under the **doctrine of national security**, which provided unlimited powers and jurisdiction to security forces to carry out intelligence and counter-intelligence operations in direct subordination to the President of the Republic and resulted in many human rights violations."⁸²

⁸⁰ The Government's political discourse attempts to send a message which highlights a public policy focus in favor of people's rights and social welfare. However, State actions, in many cases contradict the official political discourse. A lack of semantization of the political discourse is observed, because the meaning of terms used in political discourse is not clear.

⁸¹ This analysis is shared by human rights organizations, especially PROVEA.

⁸² Annual Report of the Inter-American Commission on Human Rights - 2014, Chapter IV, para. 26. Also see: Asociación Civil Control Ciudadano, "Maduro oficializa figura del 'enemigo' con reforma de inteligencia militar", 18 February 2015 (<http://www.controlciudadano.org/noticias/detalle.php>).

3. Armed Collectives: Collusion with the authorities

For some time now an inappropriate relationship between the Government and its security bodies with armed criminal organizations has been observed. This relationship, based on complicity between the authorities and so called armed collectives, is evident when repression is carried out against political opponents or social and student demonstrators.

The paradox of this situation is that these are known groups, their areas of influence are clearly demarcated and the leaders identified. In addition, some have websites that describe their activities and explain their objectives. Nevertheless, the Government does not persecute these groups but prefers to reach agreements with them. The concerning aspect is that it has also been observed that they are part of, or integrated into, repressive actions against demonstrators in social protests.

These so called "collectives" are a concept that includes a series of social organizations promoted by the Government in support of the Bolivarian revolution. Unfortunately, among these collectives there are also groups associated with violence, weapons and fear. At the beginning of the 2000s they were known as "bolivarian circles", however several of these groups that call themselves "collectives" have existed since the 1960s, emerging from armed struggle.

A diverse range of organizations is included under the umbrella of the "collectives" such as communes, UBCH - Bolívar-Chávez Battle Units (Unidades de Batalla Bolívar-Chávez), community councils, Good Living Circles (Círculos de Buen Vivir) or Grassroots Struggle (Lucha Popular). Each organization has different styles and objectives that range from social projects or political propaganda, to paramilitary or para-police actions. The growth of the "collectives" in Venezuela increased when former president Hugo Chavez and the Bolivarian Revolution came into power.

For the Government and its followers the so called "collectives" have exclusively cultural, ideological and peaceful aims. However, there are denouncements and clear evidence, which connect some of these groups to para-police, political control efforts and their participation in the violent repression of peaceful protests that were carried out as on 12 February 2014.

In the IACHR's 2014 Annual Report it stated that an issue of particular concern was “the complaints of alleged attacks by **armed civilians** against demonstrators in several of the country's cities. During the hearing on the general human rights situation held during the 150th session, civil society organizations stated that there were recurring complaints of acts of harassment and even ‘indiscriminate shootings’ in areas where the protests were taking place, including residential areas. They indicated that in some cases these groups acted in conjunction with or allegedly with the acquiescence of members of the police and military. For its part, the Venezuelan State submitted very troubling information regarding the alleged presence of snipers on buildings who were allegedly shooting at civilians and military officers present at the demonstrations. The State reported that in at least two cases recorded in the state of Táchira, two people died after being wounded by firearms shot from a moving vehicle.”⁸³

For journalist Franz von Bergen from the newspaper *El Nacional* “the armed collectives have become ‘social control’ bodies. These groups coordinate actions with the security forces and PSUV,⁸⁴ which has a commission in charge of Security and Integral Defense.”⁸⁵

On 5 March 2014, commemorating the first anniversary of Chavez’s death, President Nicolás Maduro publicly requested that these movements participate in the control of demonstrations. “I called upon the UBCH, community councils, communes, and collectives: *candelita que se prenda, candelita que se apaga*,”⁸⁶ Days later he tried to change the meaning of his words assuring that he referred to extinguishing the candles “peacefully”. In

⁸³ *Annual Report of the Inter-American Commission on Human Rights - 2014*, Doc. Cit., para. 365.

⁸⁴ United Socialist Party of Venezuela or Partido Socialista Unido de Venezuela - PSUV.

⁸⁵ http://www.el-nacional.com/siete_dias/colectivos-poder_0_377362382.html Franz von Bergen, *Los colectivos y el poder*.

⁸⁶ http://www.el-nacional.com/siete_dias/colectivos-poder_0_377362382.html Franz von Bergen, *Los colectivos y el poder*. Translator’s Note: This is a phrase that was commonly used by Chávez and in general in the Bolivarian Revolution, “A candle that is lit, must be put out”, meaning that the opposition’s actions had to be curbed.

another declaration he provided important support for their actions: "And the collectives have behaved impeccably."⁸⁷

It can be seen in the IACHR's 2014 Annual Report that over the course of 2014, reports collectives have continued. First regarding the operation of the *Bolivarian Workers Militia* created in 2013 for the "defense of national sovereignty," and "strengthening the worker-military alliance of the Bolivarian National Armed Forces" with "the working class."⁸⁸ Based on available information, there is a registry of approximately 6,000 workers signed up in the Workers Militia,⁸⁹ and in April 2014, the President of the Republic promoted "to the rank of First Lieutenant of the Bolivarian National Militia (MNB) the members of the working class belonging to this force."⁹⁰ In 2014, President Nicolás Maduro also issued public appeals to continue to move forward in creating another institution known as "combatant corps."⁹¹

Since 2011 complaints have begun to appear, as occurred during a celebration in Lídice according to which National Bolivarian Guard (GNB, in Spanish) officers were involved in a procedure carried out by armed collectives.⁹² The dates coincide with the creation, in

⁸⁷ *Ibid.*

⁸⁸ (See: *Annual Report of the Inter-American Commission on Human Rights - 2014, Doc. Cit., para.352.*

⁸⁹ According to figures provided by the President of the National United Bolivarian Construction Workers Federation, Marco Tulio Díaz. See: *El Mundo*, [6.000 inscritos de la central bolivariana en milicia obrera](#), 15 September 2014.

⁹⁰ "Clase obrera de la Milicia Nacional Bolivariana recibió ascenso a grado de Primer Teniente", Newspaper *Correo del Orinoco*, 13 April 2014.

⁹¹ "Clase obrera de la Milicia Nacional Bolivariana recibió ascenso a grado de Primer Teniente", Newspaper *Correo del Orinoco*, 13 April 2014. As of 2013, the Bolivarian National Militia reactivated this type of concept in public and private institutions, as provided in the amendment to the Organic Law of the Bolivarian Armed Forces. See: Venezuelan News Agency, *Milicia reactiva creación de cuerpos combatientes en instituciones públicas y privadas*, 14 August 2013. In August 2014, at the direction of the President of the Republic, the "combatant corps of the Bolivarian Labor Militia" were activated, for example in the State of Anzoátegui. See: *Noticiasdeaquí.net*, *Activado en Anzoátegui cuerpos combatientes de la Milicia Bolivariana*, 9 August 2014.

⁹² The newspaper *El Nacional* reported on 15 October 2013 that a collective and the People's Guard acted in a coordinated manner to dissolve a street celebration that was held at dawn on Saturday at the Los Mangos de Lídice roundabout. Testimonies collected at the site indicate that 30 people, between military officers and members of the Lídice Collective, arrived in motorcycles to stop a street gathering where inhabitants from the sector and adjacent areas were drinking and listening to loud music.

November of the same year, of the People's Guard (Guardia del Pueblo), a command assigned at that time to the Bicentennial Security Mechanism (Dispositivo Bicentenario de Seguridad-DIBISE) and comprised of GNB officers.⁹³

A report presented by the NGO Control Ciudadano⁹⁴ during an IACHR hearing in October of 2010, indicated "that in Caracas, in a 12 km radius around the Miraflores Presidential Palace and the National Bolivarian Miliita headquarters illegal armed social collectives operate, supportive of the process led by President Chávez. These armed social collectives, have publicly and openly exhibited weapons of war, threatened to commit crimes and in some cases have committed crimes without, to date, effective judicial measures having been taken by the Venezuelan State. Among other social collectives we refer to: Coordinadora Simón Bolívar, La Piedrita, Carapaica, Colectivo Montaraz, Tupamaro y Alexis Vive."⁹⁵

Several human rights organizations, grouped in the *Coalition of Organizations in the Life Forum*,⁹⁶ reported to the United Nation's Committee against Torture, in February 2014, that: "The Piedrita is one of several 'collectives' that operate in the Parish 23 de Enero, in Caracas, just a few blocks from the government palace. The 'Collectives' are also present in other cities around the country. The director of the NGO Observatorio Venezolano de la Violencia (Venezuelan Observatory on Violence) has not hesitated in

The Lídice collective is accused of participating in the homicide of three people in June of 2012.

⁹³ *Ibid.*

⁹⁴ Civil Association Citizen Control, for Security, Defense and the National Armed Forces (Asociación Civil Control Ciudadano, para la Seguridad, la Defensa y la Fuerza Armada Nacional).

⁹⁵ See Alternative Report from the Coalition of Organizations in the Life Forum (Coalición de Organizaciones del Foro por la Vida) in response to the Third and Fourth combined Periodic reports of the Bolivarian Republic of Venezuela to the Committee against Torture, para. 27, Presentation before the 140th regular session of Hearings of the Inter-American Commission on Human Rights, Friday 29th of October 2010 at 5:00 p.m. in Washington DC. Available at: <http://www.infoc Ciudadano.com/wp-content/uploads/2010/11/Presentaciones-ante-la-CIDH-en-la-Hearing-del-29-of-October-of-2010.pdf>

⁹⁶ Acción Ciudadana contra el SIDA (ACCSI); Centro de Derechos Humanos de la Universidad Católica Andrés Bello (CDH-UCAB); CIVILIS Derechos Humanos; Espacio Público; Programa Venezolano de Educación – Acción en Derechos Humanos (Provea).

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describing them as left wing paramilitary groups with the endorsement of the government, which does nothing about them."⁹⁷

This same coalition of organizations reported that "[i]n the context of disarmament plans introduced by the government, a member of the 23 de Enero collective was detained by National Bolivarian Police (PNB) July 16th of 2013. A firearm was seized, requested due to its use in criminal activities, as well as various ammunitions. Starting at 3 a.m., members of diverse collectives appeared at the PNB headquarters demanding the persons be released. Around 11 in the morning the PNB was surrounded by motorized vehicles from the collectives, blocking traffic. At 3 p.m., after a commission of intelligence services arrived, members of the collectives withdrew, affirming that an 'agreement' had been reached. No detentions occurred."⁹⁸

It was also reported that "[i]n Mérida, the collectives' actions are recurrent. In response to any manifestation of public protest, these individuals, who belong the Tupamaros group take to the city's streets and student dormitories, committing acts of vandalism, destruction of property, and aggression with firearms resulting in injuries and the death of several people. Mérida is the headquarters of an important national university, and the students participate in protests in relation to diverse subjects. The Tupamaros have focused on the students and their campus as the main target for attacks. These actions were carried out under the passive eyes of the local police and even though their actions have been documented through videos and photographs, they are not brought before the justice system. Some isolated cases of detentions of collective members have been registered, but only when allegedly connected to aggressions and deaths involving officials."⁹⁹

⁹⁷ Alternative Report from the Coalition of Organizations in the Life Forum (Coalición de Organizaciones del Foro por la Vida) in response to the Third and Fourth combined Periodic reports of the Bolivarian Republic of Venezuela to the Committee against Torture, para. 26.

⁹⁸ Alternative Report from the Coalition of Organizations in the Life Forum (Coalición de Organizaciones del Foro por la Vida) in response to the Third and Fourth combined Periodic reports of the Bolivarian Republic of Venezuela to the Committee against Torture, para. 28.

⁹⁹ *Ibid*, para. 29.

The armed collectives are not safeguarded nor even recognized by the Constitution or any laws, nevertheless the Government sponsors them. The sociologist Luis Cedeño, director of the organization Paz Activa (Active Peace),¹⁰⁰ explained, during an interview to an internet media outlet, that “[t]he collectives need resources to finance themselves. It comes from the State, which supports the collectives in general, because they are also cultural groups. I am not saying that the resources provided by the government for the collectives are used to buy weapons. I am only saying that there are collectives who shift towards having police and military functions.”¹⁰¹

In accordance with the information received, the armed collectives in Caracas have not only received weapons from the Government, as denounced by the opposition, but they have also been equipped with motorcycles, communications equipment and monitoring systems. They also enjoy full autonomy to control and exhibit authority in the Caracas hills, where the police are banned from entering, in particular the so called *peace zones*. This is the information reported by the Colombian *El País*, in a news article titled “This is how the ‘collectives’ operate, the *chavista* paramilitary forces of Venezuela,”¹⁰² and in addition it concludes that these “paramilitary groups,” as opposition leader Henrique Capriles called them, have extended throughout the country with Government approval and the complicity of the Armed Forces, attacking and threatening those who show non-conformance with the socialist model that ex- president Hugo Chávez left behind.¹⁰³

The former-metropolitan mayor of Caracas, Antonio Ledezma, asserted that the collectives are armed groups that disturb the peace throughout the country and commit violent acts, certain that

¹⁰⁰ The civil association Paz Activa is an organization dedicated to the promotion of the Venezuelan population’s human development in the area of social coexistence, as well as the creation of participation mechanisms and spaces for peaceful conflict resolution.

¹⁰¹ “¿Qué son los Colectivos?” 9 October 2014, at: <http://runrun.es/nacional/venezuela-2/160575/que-son-los-colectivos.html>

¹⁰² “Así operan los ‘colectivos’, las fuerzas paramilitares chavistas de Venezuela”, Newspaper *El País* (Colombia), February 23, 2014. (<http://www.elpais.com.co/elpais/internacional/noticias/asi-operan-colectivos-fuerzas-paramilitares-chavistas-venezuela>)

¹⁰³ “¿Qué son los Colectivos?” October 9, 2014, Doc. Cit.

they can operate with impunity. "They generate violence in country because they feel validated, not only by ex- president Chávez who showed them as the revolutions armed faction, but currently by President Nicolás Maduro who just publicly congratulated them for the role they fulfill,"¹⁰⁴ stated Antonio Ledezma, who stressed that these collectives have nothing to do with the cultural and theater groups in some areas.

In the cited *El País* newspaper article, General (r) Fernando Ochoa Antich, ex-Minister of Defense and ex-Venezuelan Chancellor, confirmed the Government uses the collectives, but does not have control over them, and he asserted: "What I believe is that Maduro is looking for an institutional crisis to try to strengthen himself and he uses State terrorism because he wants hegemony, but has not managed to penetrate ideologically more than half of the population."¹⁰⁵

The IACHR has indicated that in the context of the demonstrations which have taken place in the first several months of 2014, the President of the Republic announced the creation of "Popular Anti-Coup Commandos" (Comandos Populares Antigolpe) which would have the mission "to review and counter coup d'etat and fascist plans" against the Government. In February 2014, the "National Anti-Coup Commandos" was installed, presided over by Diosdado Cabello, President of the National Assembly.¹⁰⁶ According to available information, these *commandos* are also made up of the "Bolívar-Chávez Battle Units (Unidades de Batalla Bolívar-Chávez)" created within the United Socialist Party of Venezuela (PSUV).¹⁰⁷

The scenario described by human rights organizations and reported to treaty bodies or the Inter-American human rights protection system shows a serious situation of collusion between authorities and the so called armed "collectives." This situation contains the basic elements that could lead to the erosion of

¹⁰⁴ "Así operan los 'colectivos', las fuerzas paramilitares chavistas de Venezuela", Doc. Cit.

¹⁰⁵ "Así operan los 'colectivos', las fuerzas paramilitares chavistas de Venezuela", Doc. Cit.

¹⁰⁶ See declarations by the President of the Republic Nicolás Maduro at: <http://www.youtube.com/watch?v=vLnuhRXTSEc> See also: Correo del Orinoco, *Este jueves se reunirá el Comando Nacional Antigolpe para derrotar al fascismo*, 20 February 2014.

¹⁰⁷ See: AVN, *En Monagas comando popular antigolpe ayuda a mantener la paz ciudadana*, 25 February 2014.

democratic institutions and rule of law. Unfortunately, the history of Latin America, and other regions, indicates that when a State concedes space in favor of armed groups this is a one way journey, the armed groups tend to occupy all the spaces given to them by the State, the democratic institutions erode, justice is discredited and power is transferred from republican institutions to the groups that hold the weapons and use violence as the basis of persuasion.

4. Restricted Freedom of Expression: A situation affecting journalists and media outlets

The denunciations regarding threats and human rights violations against journalists and media outlets have increased since February 2014.

The non-governmental organization Espacio Público, specializing in the promotion of freedom of expression and access to information, has indicated that "during 2014 the Venezuelan justice system was used to harass media outlets and journalists, censure information and limit and condemn the right to protest. In some cases the Executive and Legislative branches through entities such as Conatel,¹⁰⁸ police forces, foreign currency administration entities, Ministries, and even the National Assembly have carried out actions which violate the right to freedom of expression. In these cases, claiming compensation before the judicial system, the violations have been accepted by those same institutions. In other cases it has been the Judiciary which has directly violated the law, carrying out acts of censorship and restrictive interpretations of the law."¹⁰⁹ The situation described by Espacio Público shows a situation that has become worse and does not show prospects of improving.

¹⁰⁸ Comisión Nacional de Telecomunicaciones (National Telecommunications Commission) (CONATEL).

¹⁰⁹ Oswaldo Cali, *El uso del sistema de justicia venezolano para restringir la libertad de expresión*, Espacio Público, Caracas, 2015.

There are several examples of harassment and judicial measures that have directly affected the media and journalists. The *Correo de Caroní* newspaper case (City Guayana, state of Bolivar) is an example of how the right to information has been affected by means of judicial measures. The First Tribunal of Judgment of Puerto Ordaz decreed an unnamed precautionary measure ordering *Correo del Caroní* not to publish information regarding the case of a businessperson in the area. The objective of this measure was to prohibit the publishing of information, ideas and opinions. Its aim was not to guarantee an impartial legal process, but to inhibit a public debate regarding certain circumstances that affected a specific person.

Another publicly visible case was the **judicial harassment** against the *Tal Cual* newspaper. The NGO Espacio Público indicated that Representative Diosdado Cabello filed criminal charges against the newspaper's board of directors and journalist Carlos Genatios for aggravated defamation. Allegedly an article published by the mentioned journalist attributed the quote "*if you don't like the insecurity, leave*", to Representative Cabello, which he claims not to have said. Court 29 of Penal Control of the Metropolitan Area of Caracas ruled on 6 March 2014, declaring the charges admissible and imposing precautionary measures including a prohibition to leave the country and a weekly Court appearance for the journalist and the four members of the media outlet's board of directors.¹¹⁰

It is relevant to highlight the millions of Bolivar, penal and civil lawsuit for non material damages due to defamation, presented by the president of the National Assembly against the directors and editorial boards of *El Nacional*, *Tal Cual* and the online *La Patilla*, for reprinting a story that appeared in the Spanish newspaper *ABC*, which reproduced a supposed criminal investigation in the United States of America for alleged drug trafficking. In this case the judge rapidly admitted the lawsuit and ordered immediate measures restricting freedom of movement and prohibiting the directors' from leaving the country. Once again the Judiciary is

¹¹⁰ Teodoro Petkoff, Manuel Puyana, Francisco Layrisse and Juan Antonio Golía.

used as a government instrument to persecute dissidence and independent and critical information.¹¹¹

On 15 October 2014, the SCJ's Civil Judicial Chamber ordered the newspaper *El Nacional* and journalists Hercilia Garnica and Ibeyise Pacheco to pay a 4,500,000 bolivar (approximately US\$ 714,000) compensation to a doctor for non material damages. The SCJ denied the appeals claim filed by the defendants against the 15 May 2013 ruling by the First Superior Court in the Civilian, Mercantile and Transit Chamber of the Judicial Circumscription of the Metropolitan Area of Caracas. This case is in relation to articles published in 1991 that indicated medical malpractice by the doctor, which he considered a smear campaign against him. The Court also ordered the *El Nacional* Publishing Company to grant the doctor the right of reply by means of five submissions, decided upon by the doctor, to be published on the front page of one of the media outlets, without cost.

Espacio Público has also denounced the practice of **prohibiting journalists' access to the National Assembly**.¹¹² This has affected the journalist Marieugenia Morales Pinto, who is in charge of parliamentary news for *El Nacional*. The journalist presented a constitutional complaint against the president of the National Assembly, Diosdado Cabello, and against the Communications and Information Director of the National Assembly, Ricardo Durán. The lawsuit claimed a violation of her right to freedom of expression, communication and work, given that her access to the National Assembly was impeded as well as her ability to adequately carry out her tasks as a journalist. In its 2 May 2014 ruling, the Constitutional Chamber of the SCJ declared the constitutional complaint inadmissible, stating that the appeal was based on an "*inept accumulation of pretensions*", given that the defendants

¹¹¹ Inter-American Commission on Human Rights, "IACHR and the Special Rapporteur Express Deep Concern over the Stigmatization and Judicial Harassment against Three Media Outlets in Venezuela", Official Press Release No. 093/15 24 August 24 2015

(http://www.oas.org/en/iachr/media_center/PReleases/2015/093.asp).

¹¹² SCJ, Constitutional Chamber, *Case Marieugenia Morales Pinto v. Diosdado Cabello and Ricardo Durán*, Sentence No 322 of 02.05.2014. Recovered 20.10.2014 from: <http://www.tsj.gov.ve/decisiones/scon/mayo/163536-322-2514-2014-13-0508.HTML>

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held different public posts and, therefore, should be tried by different courts.

Since 2010 journalists who do not work for ANTV¹¹³ cannot enter the National Assembly's chambers and have faced major restrictions in covering parliamentary news.

Another aspect that is seriously affecting freedom of expression is the **shortage of newsprint**, which has seriously affected the circulation of several independent newspapers, both in the capital and other regions. This fact has been denounced on several occasions, but unfortunately the Government has dismissed these complaints.

On 6 February 2014, Roberto Enríquez, president of the Christian Socialist Party (COPEI or Partido Social Cristiano), filed a constitutional complaint against Rafael Ramirez, as Vice-president of the Financial Economic Area of the Minister's Cabinet of Popular Power for Energy and Oil. This complaint stated that due to the controls applied to exchange rate policy, it was nearly impossible for the national media to acquire printing paper, which effectively led to a suspension of the guarantee to freedom of expression and freedom of press. The SCJ's Constitutional chamber found that the protective action (*amparo*) cannot be used to prevent hypothetical cases, but can only be used in regards to violations or objective proofs that infringe on some right or constitutional guarantee. Therefore the court considered the protective action to be inadmissible, given that it did not find the necessary assumptions to show a violation of freedom of expression and freedom of the press.¹¹⁴

The IACHR stated its concerns on this issue and indicated that the Commission "was informed that as a result of the newsprint shortage apparently caused by the procedure necessary to request foreign exchange for importing it, at least 10 regional newspapers had ceased circulation and another 31 media outlets had had to publish editions with fewer pages."¹¹⁵

During the hearing on the 'Situation of the Right to Freedom of Expression and Access to Information in Venezuela' held in the

¹¹³ ANTV is the official television channel for the National Assembly.

¹¹⁴ Espacio Público, *Informe sobre el hostigamiento judicial 2014*.

¹¹⁵ *Annual Report of the Inter-American Commission on Human Rights - 2014*, Doc. Cit., para. 485.

course of the 150th regular session of the IACHR on 28 March 2014, the Commission heard information on the persisting newsprint paper shortage problem and its effects on press freedom in Venezuela. According to the civil society organizations that took part in the hearing, the Venezuelan State is arbitrarily using the regular mechanisms for approval and purchase of dollars for paper imports to benefit certain media outlets according to their editorial stance. According to the information provided, as a result of this practice around 10 media outlets have gone out of circulation, several others have had to reduce their page count and some workers at the newspapers affected being laid off.¹¹⁶

A recent aspect which generates concern is the constant affect on **internet** communications. Espacio Público has denounced this fact and has instituted proceedings before the SCJ, but without success.¹¹⁷

In September 2014, the NGO Espacio Público presented a “recurso de abstención o carencia” against the Ministry of Popular Power on University Education, Science and Technology, based on a lack of response to an information request to the Ministry. The demand requested information related to possible blockages or obstacles by CANTV¹¹⁸ to access specific internet content in the state of Táchira and others. However, the CSJ's Administrative Political Chamber, outside the constitutional framework, established that in order to respond to an information request the applicant was required to indicate why they were requesting that information and show that the request's aim is “*proportional*” to the type of information requested. In addition, the Chamber affirmed that information “on the activities implemented by the State in [...] the development of telecommunications and information technology sectors” are connected to the State's national security, one of the reasons for which access to information could theoretically be denied. Finally, the ruling indicated that this kind of information request “violates

¹¹⁶ *Ibid*, para. 500.

¹¹⁷ SCJ, Administrative Political Chamber, Case: Espacio Público v. M.P.P.E.U.C.T., Sentence No 01636 of 02.12.2014. Recovered 11.03.2015 from: <http://historico.tsj.gov.ve/decisiones/spa/diciembre/172301-01636-31214-2014-2014-1142.HTML>

¹¹⁸ Venezuela's national telephone company (CANTV - Compañía Anónima Nacional Teléfonos de Venezuela), an entity under the Ministry of Popular Power for Science, Technology and Innovation, together with its subsidiaries Movilnet and Caveguías.

the effectiveness and efficiency that must reign in the exercise of a Public Administration, [...], a situation which hinders, and also unnecessarily overburdens, the justice administration system given the considerations of these abstentions.”¹¹⁹

The current state of freedom of expression in Venezuela is critical. The restrictive measures, either judicial or administrative, have affected the enjoyment of this fundamental freedom in a democratic society. Restrictions on the access to sources or to transmitting of content are disrupting the exercise of this human right.

As indicated by the organization Un Mundo Sin Mordaza, “[c]ensorship and self-censorship have been the shadow cast over Venezuela's media outlets during many years. However, as of several months ago there has been an intensification of the subjugation of any idea or opinion that is different from those presented by the current National Government. The media siege is ever stronger, leaving very little space for a diversity of information sources for citizens. Every day the information channels become narrower and at the same time alternatives are punished and eliminated.”¹²⁰

Freedom of expression is being threatened by diverse actions. There is harassment against journalists and media outlets, there are serious difficulties in newsprint paper acquisition, there is an internet blockade by authorities, but the most serious threat is the use of government media to persecute and silence the press, as in the case of the National Assembly President's television programs or President Nicolás Maduro's radio program “En contacto con Maduro”, available on the radio stations Radio Nacional Venezuela, YVK Mundial and Radio del Sur. Journalists, human rights defenders and opposition media outlets are persecuted through these channels.

On 22 July 2015 a group of experts and Rapporteurs from the United Nations and the Inter-American Human Rights System lamented the attempts to discredit and intimidate human rights defenders on Venezuelan state controlled television, in retaliation

¹¹⁹ Espacio Público, *Informe sobre el hostigamiento judicial 2014*.

¹²⁰ “PRESS RELEASE: Situación actual de la Libertad de Expresión en Venezuela” (www.sinmordaza.org).

to their human rights activities and cooperation with the United Nations and regional human rights organisms.¹²¹

In the press release the experts called attention to the systematic attack of human rights defenders by means of the weekly television program "Con el mazo dando", broadcast by the Venezuelan State Television channel (VTV), including the dissemination and publication of personal information on the program's website. The program is hosted by National Assembly president, Representative Diosdado Cabello, who makes accusations against human rights activists and civil society organizations on air, with the apparent aim of intimidating them.

In 2010 the OAS Special Rapporteur for Freedom of Expression presented a complete report on the country's situation of freedom of expression. The report details a series of situations and actions, promoted by the State, that seriously affected the exercise of the freedom of expression in all its dimensions. Among other aspects the report highlights acts of aggression against journalists; administrative and disciplinary procedures against journalists and media outlets; prohibition to publish certain content in print media; legal actions against organizations for the defence of human rights and freedom of expression; abusive use of presidential channels; and a regulatory framework that is not conducive to the right to free expression and other fundamental liberties.

Unfortunately the issues previously highlighted are still pending and, with frustration, there are indications that they have worsened. The incidents denounced to date confirm a context of increasing restrictions on the freedom of expression and other rights that are part of a democratic society. The Judiciary has played a fundamental role in the restriction of these rights.

¹²¹ "It is time to put an end to the televised retaliations against human rights defenders in Venezuela", signed by UN Experts Michel Forst, Special Rapporteur on the situation of human rights defenders; David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Maina Kiai, Special Rapporteur on the rights to the freedom of peaceful assembly and association; and Inter-American Human Rights System experts: Jose de Jesus Orozco, Rapporteur on Human Rights Defenders; and Edison Senda, Special Rapporteur on the Freedom of Expression.

V. Conclusions and recommendations

The observations and findings in relation to the Venezuelan justice system and the security policies implemented by the Government show a serious, complex and bleak picture.

The described paradoxes and lack of state control in certain areas of Venezuela's territory show deterioration in the design and implementation of public policies on sensitive issues such as administration of justice, control and direction of security forces, control of criminal activities, and respect for human rights and fundamental liberties.

Evaluating each of the aspects addressed in this report the **conclusions** to be highlighted are as follows:

- a) The Judiciary, as a fundamental public branch of the State and guarantor of rule of law, has seriously neglected its function of checks and balance between other State branches. The Judiciary has been co-opted and has permitted governmental interference, seen in particular by the role of the National Assembly and its President, Representative Diosdado Cabello.
- b) The Judiciary's structural problems, as described in the ICJ's previous report, have not been rectified, instead, they have become worse. The precarious situation that faced judges and public prosecutors then still remains. There has not been an open competitive bid to fill vacant positions, as outlined in the Constitution; and a majority of judges and almost all public prosecutors are provisional with no stability.
- c) Judges' labour conditions have deteriorated. The work load, employment insecurity, discretionary disciplinary control, low wages and insecurity in carrying out the position's functions, the situation in general faced by judges, makes them vulnerable to corruption, a phenomenon that is very present in Venezuela and seriously affects the Judiciary and Police.
- d) The judges' experiences can also be applied to public prosecutors, on an even larger scale.
- e) The Government, fundamentally embodied in the National Assembly and the Presidency of the Republic, exerts undue pressure on the Judiciary, especially the SCJ and the Public

Prosecutor's Office. This coercion is reflected in the instructions emanating from the government through diverse means, including television. The Government does not respect the separation of powers and even less so the independence and autonomy of the State branches. For the Government the Judiciary is a subordinated appendix of its revolutionary mandate.

- f) The Judiciary and Public Prosecutor's Office have oriented their actions towards the defence of Government interests, ignoring the defence of people's rights and guarantees. This deflection of functions is seen in the investigation of the SCJ carried out by Antonio Cánova González and others and published in the book *The SCJ at the Service of the Revolution (El TSJ al servicio de la revolución)*.
- g) Judicial authorities, especially the SCJ, do not recognize the importance and influence of international human rights law and, in addition, have systematically failed to recognize the rulings and recommendations from international organisms for the promotion and protection of human rights.
- h) The Venezuelan State does not recognize its international obligations in regards to the promotion and protection of human rights. Venezuela does not invite nor does it allow the entrance of supervision mechanisms such as IACHR, Rapporteurs or working groups.
- i) The Venezuelan State's 2012 decision to denounce the *American Convention on Human Rights*, to avoid the jurisdiction of the Inter-American Court of Human Rights, has meant that the population was left without this judicial organism's protection in relation to human rights violations that occurred after the denunciation took effect in 2013.
- j) Social protests have substantially increased in 2014, however, the Government's response has been one of criminalization and repression. Students, political leaders, mayors, human rights defenders, journalists and lawyers, have had to confront State security organisms and reconnaissance orders, as well as arrest warrants and investigation orders from the Public Prosecutor's Office. The State, through its institutions, acts

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arbitrarily and with a clear desire to persecute and repress dissidents.

- k) The Judiciary is not fulfilling its main function: resolving the conflicts that affect the people. There is a major trust and credibility crisis between citizens and legal operators, such as lawyers, and judicial officials' fulfillment of obligations. The justice system has demonstrated itself to be ineffective and inefficient. The data on impunity supports this stance.
- l) Rule of law is in the midst of a major crisis. All the parameters that serve to measure the health of rule of law in Venezuela indicate a poor performance. The *Rule of Law Index 2015* ranks Venezuela as the country with the lowest performance in the world (102nd of 102 analyzed countries).
- m) Opacity in the handling of information of public interest is evident. For example the Venezuelan Central Bank refuses to provide the fundamental data required to analyze the country's economic status. This opacity is guaranteed by the SCJ. Within public entities the standard practice is to not provide information that they consider sensitive for State interests. Thus, Venezuela does not provide information or data to international organisms, such as the United Nations Office on Drugs and Crime.
- n) In spite of the lack of official information, all the international indicators show that Venezuela is one of the lowest countries on the list in relation to its performance in corruption perception, citizen insecurity (objective and subjective), impunity and human development, among others. Lamentably the tendency has been towards a worsening, rather than an improvement, of the situation.
- o) Another aspect that generates major concern is the homicide rate. Venezuela has the second highest homicide rate in the world. This indicator shows the failure of public policies on security issues, but it also reflects the State's non fulfillment of its obligation to guarantee its citizens' human rights.
- p) A lack of design and adequate implementation of serious and democratic public policies to fight crime is extremely concerning. The establishment of the so called *peace zones* reflects this fact. The initiative, aimed at reaching agreements with armed groups and which aspires to reduce violence and

re-socialize criminals, has been shown to be a complete failure, with the aggravating factor of generating more violence and “liberated territories” outside of state control.

- q) The presence of numerous armed groups that have social and territorial control in the so called *peace zones* has been demonstrated, along with the existence of “armed groups” that carry out paramilitary or para-police activities. This shows a lack of state control, which directly affects the enjoyment of guarantees and human rights for the most vulnerable populations.
- r) The so called *People's liberation and protection operations* (OLP, in Spanish) promoted by the Government to fight crime in certain areas of the country, including Caracas, have been transformed into raids against the most vulnerable populations, in turn causing massive violations of human rights and fundamental liberties. The causes used to justify these police and military operations are based on assumptions that have not been duly verified, such as the presence of paramilitaries or smugglers. These operations demonstrate the existence of contradictions in public policy to combat crime.
- s) It is concerning to see that the political discourse of the highest Government authorities, such as the President of the Republic and Minister of Popular Power for Internal Affairs, uses xenophobic elements to justify the OLP. These elements are reminiscent of the national security doctrine and show an explicit disrespect towards the most vulnerable population's enjoyment of their human rights.
- t) It is also significant that the State security forces have an inappropriate relationship with the distinct armed groups and that they participate together in repressive activities, in particular when suppressing social protests.
- u) The State, by means of diverse initiatives, has conceded sovereignty in favor of armed groups and criminal gangs. This is clearly reflected in the installation of the so called *peace zones* and can also be observed in how prisons are being managed.

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- v) In relation to prison conditions, high levels of overcrowding and very serious levels of violence have been observed inside the prisons. The State is not fulfilling its duty to protect the rights of people under its custody. The penitentiary situation is critical and the authorities do not adequately respond, given the magnitude of the problems.
- w) The existence of multiple state security organisms (national, state and municipal) operating simultaneously has been observed. Some with a clear police orientation and others with a more military nature, but they all participate in tasks related to citizen control and fighting crime. This dispersion of security forces, some of which have overlapping functions and disputes in relation to their jurisdictions, generates an atmosphere which is conducive to ambiguity and a lack of coordination in the chain of responsibilities. In addition to the state forces are para-state groups called "militias", which do not have a clear place in the State security structure, but do contribute to the general climate of insecurity affecting the population.
- x) In relation to lawyers and their ability to exercise their profession, it has been observed that those who are dedicated to the promotion and protection of human rights are subject to harassment by political authorities such as SEBIN, the Public Prosecutor's Office or directly by the President of the National Assembly, Representative Diosdado Cabello. Lawyers who defend corporate interests are subject to intimidation, as in the case of Tadeo Arrieché Franco. His case shows how the government attempts to dissuade lawyers from defending companies that are affected by Government decisions, for example in relation to expropriations or the confiscation of goods.
- y) Opposition political leaders, human rights defenders and municipal authorities who dispute the decisions made by the central government, face a permanent threat of violations to their human rights and constitutional guarantees. The situations faced by Leopoldo López, Daniel Ceballos, Antonio José Ledezma and Vicente Scarano Spisso, are examples of how the government, hand in hand with judicial authorities, seriously affect the human rights of people who publicly manifest their disagreement with the Government.

- z) The legal situation faced by judge María Lourdes Afiuni has worsened, as the Judiciary has decided to re-initiate the trial against her, without offering guarantees that a trial will be carried out under the required principles of impartiality and independence.
- aa) Human rights organizations and human rights defenders are subject to harassment, as indicated by international organisms. Nevertheless, the political authorities do not waiver in their willingness to harass and pressure these groups and individuals with the aim of eliminating national and international denunciations. A clear example of this conduct is Diosdado Cabello's television program "Con el mazo dando", which is aired each week and includes the anonymous complaint mechanism called "patriotic partners".
- bb) The serious situation affecting freedom of expression is alarming, with complaints of judicial harassment against media outlets, as is the case for the newspapers *El Nacional*, *Tal Cual* and the online newspaper *La Patilla*, among others. These measures have negatively affected journalists, board members and editorial boards from these media outlets, as occurred with Teodoro Petkoff and other board members from the newspaper *Tal Cual*; with Miguel Henrique Otero, president of, and other members of the board of directors and editorial board at *El Nacional*; and Alberto Federico Ravell and other members of *La Patilla*. The gravity of these incidents is the evidence of the Judiciary's complicity in acting promptly in response to government requests and consequently adopting restrictive measures that affect rights and guarantees
- cc) Freedom of expression has also been affected by restrictions on newsprint paper for newspapers and magazines. Due to the control exerted by the Government to acquire foreign currency, print media outlets do not have sufficient paper for their publications. This has meant that some media outlets have had to close and others substantially reduce the number of pages of their publications.
- dd) Another aspect is the restriction of internet access. There are complaints regarding blockages of access to internet and television channel signals.

ee) Limitations and restrictions are generally observed for the work of journalists, especially those who cover political issues or give accounts of the social and economic problems faced each day by the population.

In the area of the above **recommendations**, which provide an oversight of the grave situation mainly affecting the Judiciary but also involving other State actors, it is necessary to make some general observations, and other specific observations in relation to some state organisms and public policies.

- Venezuela must review the denunciation made to the *American Convention on Human Rights*, with the perspective of retracting the complaint, recognizing the full jurisdiction of the Inter-American Court of Human Rights.
- Venezuela must fulfill the Inter-American Court of Human Rights rulings, as well as decisions from the Inter-American Commission on Human Rights and United Nations system human rights bodies.
- Venezuela must issue a broad and open invitation (*standing invitation*) to the United Nations mechanisms and special procedures and to the Inter-American Commission so they can visit the country and open up a space for constructive dialogue with authorities and society.
- Venezuela must contribute to the transparency of public information and provide data and background for requests.
- Venezuela must carry out an ongoing training program for judges and public prosecutors in order to improve skills.
- While the open competitive bid process is carried out for the appointment of judges and public prosecutors, temporary appointments must also be carried out in an open, competitive and transparent manner to guarantee suitability and independence of candidates.
- The Judiciary must guarantee the stability of all judges including provisional judges, while permanent positions are established by means of an open competitive bid process. In this regards, dismissals can only be carried out fulfilling predetermined legal causes, due process and the right to an effective judicial review.

- The Judiciary must begin the open competitive bid process, in agreement with the Constitution of the Republic, to fill judge appointments that are currently provisional.
- The Judiciary must implement the regulations on judicial independence contained in Art. XVIII of the *American Declaration of the Rights and Duties of Man*, Art. 10 of the *Universal Declaration of Human Rights* and in Art. 14 of *International Covenant on Civil and Political Rights*. In addition, it must bear in mind the standards contained in the *Basic Principles of the Independence of the Judiciary*, in the jurisprudence of the Inter-American Court and in the recommendations of the Inter-American Commission.
- The Public Prosecutor's Office must guarantee the stability of the public prosecutors and also begin an open competitive bid process to fill the positions of those public prosecutors who face a precarious situation.
- The Judiciary must guarantee independence and impartiality in its decisions, in addition to adopting measures to effectively fight the corruption affecting the institution.
- The Judiciary and Public Prosecutor's Office must maintain and strengthen their autonomy in relation to other State branches, to reestablish the trust of judicial operators and the population in general.
- The Judiciary must carry out internal actions to guarantee the efficiency and effectiveness of the justice administration, to provide a suitable response to demands for a quick, expeditious and effective justice system as required by the Venezuelan society.
- The Government must review the public policies that permit the installation of the so called *peace zones*, with a focus on the respect of human rights and fundamental liberties, and taking into account international standards in regards to citizen security and fighting crime.
- The Government must immediately stop the implementation of the OLP, which has been shown to be a poorly designed and badly implemented public policy that has been a source of massive human rights violations.

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- The Government must review its relationship with armed groups, as in the case of the so called armed “collectives” and militias, and stop granting economic and material benefits that are diverted for criminal aims.
- The Government must make an effort to eradicate corrupt practices in the State’s security forces.
- The Government must take action to guarantee life, personal integrity and the security of inmates in prison, lower the rates of overcrowding, and reduce the high rate of homicides and injury affecting the Venezuelan penitentiary system.
- The Government must stop its harassment policy against human rights defenders, political leaders, lawyers and journalists; using media outlets, specifically television in an abusive manner.
- The Government must guarantee the exercise of freedom of expression, both in providing the foreign currency necessary to purchase newsprint paper and avoiding blockages in the access to internet and television signals.
- The Government must stop the political and legal persecution against media outlets due to their production of legitimate and peaceful information and opinions which are within the framework of rule of law.

In the context of the general recommendations, there are some additional and specific aspects that must be immediately reviewed by the competent judicial authorities and by the Venezuelan Public Prosecutor’s Office:

- The legal case against judge María Lourdes Afuni must be concluded, given the lack of a genuine basis to sustain her prosecution. In any case, this case must be carried out in accordance with the highest standards of rule of law, guaranteeing due process, judicial independence, the presence of observers, the transparency of the procedure and media access.
- The legal case against lawyer Tadeo Arrieché Franco must conclude as soon as possible, closing the case against him, given that the contrary would establish an extremely negative precedent against the free professional practice of a lawyer,

affecting explicit provisions of the United Nations *Basic Principles on the Role of Lawyers*.

- The legal cases against political leaders Leopoldo López, Daniel Ceballos, Antonio Ledezma and Vicente Scarano Spisso must cease and the defendants' immediate release be ordered. These cases do not have a sufficient basis to sustain their prosecution and the political motivation behind these cases is evident.

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