

REPORT FROM THE GOVERNOR HENRIQUE CAPRILES RANDOSKI ON HUMAN
RIGHTS VIOLATIONS IN VENEZUELA, COMMITTED BETWEEN APRIL 1st, 2017 AND
MAY 12th, 2017

MEETING WITH MR. ZEID RA'AD AL HUSSEIN, UNITED NATIONS HIGH
COMMISSIONER FOR HUMAN RIGHTS
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UNOFFICIAL TRANSLATION

I. INTRODUCTION

I would like to acknowledge and thank you for the important work that you and your office have been carrying out regarding the situation on human rights in Venezuela. This work has significantly contributed to the international community's awareness of the severe violations of human rights that take place in our country. We also acknowledge the government's refusal to allow you to visit Venezuela, as well as the verbal attacks that you have suffered from said government. We certainly regret such an attitude from a repressive government that does not represent most Venezuelans. A government that does not respect democratic values and that openly violates the Constitution and international human rights instruments.

The purpose of this meeting is to provide updated information on the recent violations of human rights in Venezuela, and to request specific actions. Considering that the political, economic and social crisis has significantly intensified, to the point where the situation compromises the most fundamental rights of Venezuelans and puts us on the edge of a socially armed conflict of unknown nature.

II. CONTEXT

Before making any reference to the generalized violations of human rights in Venezuela during the last few weeks, I would like to briefly summarize the background information and context in which these human rights violations have taken place.

By the end of the 40 years of the democratic period that preceded the election of the former military officer Hugo Chávez as President of Venezuela, the majority of Venezuelans, who were legitimately dissatisfied with the country's situation, exercised their right to vote. Their democratic right to vote and to choose a radical change of course for the country was respected.

Since 1999, the hope for change has been thwarted, and democracy and human rights in Venezuela have suffered a gradual and sustained deterioration. On one hand, the government closed or controlled most of the independent media; and on the other hand, gradually limited the independence of the judiciary, through mechanisms such as freely appointed and dismissed provisional judges; the dismissal of several judges for decisions that were contrary to the government's interests; and the imprisonment of judges, for example, Judge María Lourdes Afiuni. These actions had an intimidating effect on the rest of the judiciary. Additionally, the government changed laws and procedures to elect the Supreme Court's magistrates, with a simple majority that the pro-government political forces held in the Congress.

Therefore, with the government in control of the three main powers, the other constitutional bodies such as the National Electoral Council (CNE for its acronym in Spanish), the District Attorney and the Ombudsman, as well as the majority of the media, the balance and control of powers in Venezuela was annulled. Aside from that, the government relied on the popularity of Hugo Chávez and the enormous economic income coming from high international oil prices, which despite being partially invested in social plans that turned out to be inefficient and not transparent, gave rise to severe cases of corruption. This combination of factors, among others, contributed to the government consecutively winning different elections.

At the same time, the government systematically destroyed private companies, took control of the free exchange of the dollar, and made the country completely dependent on imports using official rate dollars.

In 2012, the government denounced the American Convention on Human Rights, consequently withdrawing the country from the jurisdiction of the Inter-American Court of Human Rights. This will prevent the Inter-American Court to consider future violations on human rights in Venezuela, such as the ones taking place currently.

The economic and social situation in the country continued to deteriorate, and the popularity of the government progressively decreased. Hugo Chavez passed away in 2013 and Nicolás Maduro assumed the presidency after a very controversial election, where the popular vote was in favor of the democratic alternative (the opposition).

During 2014, the international oil prices lowered drastically, resulting in the rapid deterioration of the country as well as the loss of popularity of the authoritarian, rentier, corrupt, and inefficient model of the government. The inflation rate, within time, soared. Food and medicine became scarce, and the Government was accounted as politically responsible for the economic and social chaos by Venezuelans.

The last epidemiological report published by the Minister of Health in Venezuela, after years of official silence, points out that in 2016 child mortality increased by 30.12% compared to 2015. As for maternal deaths, the document reveals an increase of 65.79%, with a total record of 756 deaths in 2016, 300 more than the ones reported in 2015. Some endemic diseases, such as malaria, have also increased in the country. In 2016, 240,613 cases were registered, which represented a 76% increase compared to the same period of 2015. It is worth noting that the Minister of Health was immediately removed after the publication of this report.¹

¹Pan American Health Organization, *Epidemiological Alert. Increase of Malaria Cases*, February 15, 2017, available at http://www2.paho.org/hq/index.php?option=com_docman&task=doc_view&Itemid=270&gid=38148&lang=es; BBC, *What the last official numbers published by the Government say (and what they don't) about Venezuela's health*, May 12, 2017, available at <http://www.bbc.com/mundo/noticias-america-latina-39866691>; BBC, *El gobierno*

At the end of 2015, the opposition won the qualified majority (2/3) of the Congress (112 Congressmen out of 167 seats), and the current government lost, for the very first time, control over one of the national powers. However, in the period between the legislative elections in 2015 and the time where the new Congress took office in January 2016, the government appointed judges of the Supreme Court of Justice that were fully loyal to them in an openly unconstitutional manner.

The definitive and overwhelming loss of the popular vote forced the government to show its dictatorial nature. From then on, the government displayed their power in a much more arbitrary way. This has included the withdrawals of the Congress' constitutional competencies, via judgments of the Supreme Court of Justice, prosecution and imprisonment of opposition leaders, the disregard of political decentralization, an indefinite postponement of regional elections, and the denial of electoral alternatives provided by the Constitution, such as a Recall Referendum and a Constitutional Amendment.

Additionally, the government, through the National Electoral Council, imposed a “validation process” of the political parties that threatens to illegalize all parties of the democratic alternative. In addition to this, the President of the Republic ordered the creation of a National Constituent Assembly without consultation of the popular vote, in violation of article 347 of the Constitution and usurping popular sovereignty. It is a semi-corporate assembly, where government forces can unconstitutionally elect most its members by sectors, and have the power to change the current Constitution. However, pursuant to the Constitution, state governors and congressmen should have been elected last year; mayors and councilmen of different municipalities this year, and at the end of 2018, the presidential elections must take place.

Because of this situation, the Supreme Court of Justice issued, since 2016, judgments that restricted the constitutional competencies of the Congress to legislate and to control the government, and finally issued, on March of 2017, two new judgments that finally abolished the Congress, now in a direct way, and transferred its competencies to the Supreme Court of Justice. This prolonged *coup* attempt to the only body of public power that currently represents the majority of the people of Venezuela generated waves of protests nationwide, where the severe violations of human rights which are summarized in this report have been committed.

Peaceful demonstrations are rapidly becoming more widespread and their main cause is the government's impediment to open democratic channels to solve the severe structural crisis that the country is facing. This crisis is marked by an unprecedented humanitarian crisis, due to lack

de Venezuela destituye a la ministra de Salud, Antonieta Caporale, luego de que se difundieran cifras sobre el aumento de mortalidad materna e infantil. May 12, 2017, available at <http://www.bbc.com/mundo/noticias-america-latina-39892614> [accessed May 12, 2017].

of food and medicine, which continues to deteriorate exponentially. Indeed, when all electoral channels have been arbitrarily closed and when the main body of popular representation (Congress) gets disqualified, a huge generalized dissatisfaction has arisen, which has been expressed day to day on the streets across the country.

The government response has been a brutal repression. As described below, Venezuelan authorities have been repressing demonstrations and have caused dozens of casualties, hundreds of wounded and detainees, and have generally and systematically violated the rights of Venezuelans to protest peacefully and to express their dissatisfaction and their desire for change given the dramatic situation in Venezuela.

The Venezuelan Social Conflict Observatory stated in the media that between April 1st and May 12th, 2017 nine hundred and forty-six (946) demonstrations have been recorded.²

Among the State's repression patterns to impede the exercise of peaceful demonstration rights are: 1) the criminalization and severe public threats from government authorities; 2) the closing and restriction of public roads, in a clear discrimination and in favor of the short pro-government demonstrations; 3) the arbitrary suspension of massive public transportation that are under the administration of the government; 4) the excessive use of force, through illegal use of tear gas bombs, weapons such as pellets, and even through the participation of armed civil groups to repress and intimidate demonstrators, with evident state consent or tolerance; and 5) arbitrary and massive arrests of the demonstrators.

The well-known Non-Governmental Organization Provea, points out that, the general characteristics of the repression of peaceful demonstrators are the following: "a) Excessive and indiscriminate use of force against demonstrators and civilian population not linked to demonstrations, which includes the excessive use of toxic substances, even with the purpose of causing the maximum possible physical harm, to both demonstrators and pedestrians-, plastic pellets, use of potentially lethal ammunitions; beatings of demonstrators, among others; b) Attacks in residential areas, schools and health facilities; c) Action of armed civil groups and militia to contain and repress peaceful demonstrations; d) Unnecessary obstruction to the exercise of the right to protest and proliferation of exclusion zones for citizens use of public space; e) Tortures, cruel, inhumane, or degrading treatment against detainees; f) Solitary confinement and violations to due process and right to counsel; g) Robberies by public force agents against demonstrators and/or pedestrians not linked to demonstrations; h) Stigmatization campaigns; harassment and assault against demonstrators, social activists, political leaders and Human Rights defendants, through the national system of public media and the dissemination of

² Social unrest in Venezuela increases, May 12, 2017, available in: <http://segundoenfoque.com/conflictividad-social-en-venezuela-va-en-aumento-03-349209/> See also, El Nacional. 44 people have died during demonstrations, it is assured. May 9, 2017, available in http://www.el-nacional.com/noticias/sociedad/aseguran-que-personas-han-muerto-durante-las-protestas_181308 [accessed May 12, 2017].

pictures and home addresses through the ‘Revolutionary Combatant Manual’ by State public officers; and i) Attacks to journalists, press employees and harassment to the media.”³

III. MILITARIZATION OF CITIZEN SECURITY

On April 18th, 2017, just a day before the opposition’s call for a massive demonstration against the government and against the unconstitutional actions that had taken place and was disproportionately repressed;⁴ the President of the Republic Nicolás Maduro announced the activation of the first phase of “Plan Zamora 200”, with the purpose of “defeating the Coup” in a “civil-military union”.⁵

The President did not give the specifics of such plan, but indicated that it would guarantee domestic order and peace, and that it would defeat a coup that- he assured- was provoked by leaders of the political party “Primero Justicia”.⁶

From the scarce information that the Executive Power has given on this Plan, it is known that it consists of a “*deployment of military forces, militia forces, and popular forces*”⁷. The latter is comprised by the Hugo Chavez Combat Units [UBCh for its Acronym in Spanish], Communal Councils, Local Councils of Provisions and Production [CLAP for its Acronym in Spanish] and the Homeland Congresses, none of which are bodies provided by the Constitution. Also, on the night of April 18th, 2017, it was ordered that from that day on all police corps of every states and municipalities should respond to the commands of the Bolivarian National Guards, which meant the militarization of all the country’s police bodies.⁸

³ Provea, *We are key players in the first Venezuelan popular uprising of the 21st century*, May 11, 2017, available at <https://www.derechos.org/ve/actualidad/somos-protagonistas-de-la-primera-rebelion-popular-venezolana-del-siglo-xxi> [accessed May 12, 2017].

⁴ El Nacional, *East opposing demonstration was repressed in Francisco Fajardo, April 19, 2017*, available at <http://www.el-nacional.com/noticias/oposicion/marcha-opositora-del-este-fue-reprimida-francisco-fajardo-177858>; La Patilla (April 19, 2017) *Bolivarian National Guard [GNB for its Acronym in Spanish] repressed the opposing mobilization this April 19th in Maracaibo*, available at <https://www.lapatilla.com/site/2017/04/19/gnb-reprimio-la-movilizacion-de-la-oposicion-de-este-19abr-en-maracaibo/>; Tal Cual (April 19, 2017) *Opposing demonstration was repressed in Caracas, April 19, 2017*, available in <http://www.talcualdigital.com/Nota/141731/la-oposicion-se-moviliza-este-19-de-abril> [accessed May 12, 2017]

⁵ TeleSUR, *Maduro activates first phase of Plan Zamora for national security, April 18, 2017*, available at <https://videos.telesurtv.net/video/655316/maduro-activa-primera-fase-del-plan-zamora-para-la-seguridad-del-pais/> [accessed May 12, 2017]

⁶ Efecto Cocuyo, *Maduro activates Plan Zamora in its “green phase” in order to stop the coup*, April 18, 2017, available at <http://efectococuyo.com/politica/maduro-activa-plan-zamora-en-fase-verde-para-frenar-golpe-de-estado>; RunRun.es, *Maduro insists on the coup thesis and activates “Plan Zamora”*, April 18, 2017, available at <http://runrun.es/nacional/305523/maduro-activa-el-plan-zamora-ante-supuesto-golpe-de-estado.html> [accessed May 12, 2017]

⁷ Idem.

⁸ Universidad Católica Andrés Bello Human Rights Centre, *10 clues to understand Plan Zamora 200*, [no date], available at http://w2.ucab.edu.ve/tl_files/CDH/imagenes/Epu%20Vzla%202016/Para%20entender%20el%20Plan%20Zamora.p

It is worth stressing that in the declarations of State public officers, where they announce the use of military jurisdiction to judge civilians in the current context of demonstrations, they have pointed out that this is a decision taken in the scope of the militarization plan called “Plan Zamora 200”. In contrast, the demonstrations of the minority of the people who still support the government do not have any obstacles, and they have taken place when and where they wish to do so.

IV. VIOLATIONS OF THE RIGHT TO LIFE

The government has applied excessive use of force to repress peaceful demonstrations within the country and it has led to the death of dozens of people. This excessive use of force has included the illegal and disproportionate use of tear gas and weapons such as pellets. The throwing of expired tear gas bombs, as well as the throwing of these in areas surrounding medical centers and residential areas, has also been denounced. Also, the propulsion of tear gas bombs to prohibited proximities and in a direct horizontal orientation against thousands of people, breaching regulations that stipulate the protocol of police action.

From April 4th to May 10th, 2017, the Attorney General (Fiscalia General de la Republica) has confirmed the death of at least 39 people in the context of the demonstrations which have taken place in Venezuela.⁹ The numbers published in the Venezuelan Social Conflict Observatory indicate that up until May 9th, 2017, 44 deaths have occurred in the context of demonstrations.¹⁰

Among the deceased there are: 1) Jairo Ortiz Bustamante, 19 years old. He died on April 6, 2017, after receiving a gunshot in the thorax during a demonstration that took place in Carrizal municipality, Miranda State; 2) Daniel Alejandro Queliz Araca, 19 years old. He died on April 10th, 2017, after receiving a gunshot in the neck, an event that took place in the neighborhood Residencias El Parque, in Carabobo State; 3) Miguel Ángel Colmenares Milano, 36 years old. He died on April 11th, 2017 by multiple wounds caused by the detonation of two explosives in Barquisimeto, Lara State; 4) Gruseney Antonio Canelón Scirpatempo, 32 years old. He died on April 11th, 2017 after receiving a shot from multiple projectiles in the right intercostal space,

[df](http://www.entornointeligente.com/articulo/9888385/Guardia-Nacional-asumir) ; Entorno Inteligente, *National Guard shall take control of regional police*, April 18, 2017, available at <http://www.entornointeligente.com/articulo/9888385/Guardia-Nacional-asumir> [accessed May 12, 2017].

⁹ Inter-American Commission on Human Rights [CIDH for its Acronym in Spanish] , CIDH deplores repressive measures adopted by Venezuela before demonstrations and condemns the sequel of deaths and wounded, May 9, 2017, available at <http://www.oas.org/es/cidh/prensa/comunicados/2017/058.asp>. See also: El Tiempo, *Numbers of death increase because of repression in demonstrations in Venezuela*, May 10, 2017, available at <http://www.eltiempo.com/mundo/latinoamerica/numero-de-muertos-en-protetas-en-venezuela-86732> [accessed May 12, 2017]. See also, El Universal, *Deaths related to demonstrations within the country increase to 39*, May 11, 2017, available at http://www.eluniversal.com/noticias/sucesos/aumentan-las-muertes-vinculadas-manifestaciones-todo-pais_652082 [accessed May 12, 2017].

¹⁰ El Nacional, *a student wounded by gunfire in the skulls*, May 9, 2017, available at http://www.el-nacional.com/noticias/sucesos/murio-estudiante-herido-bala-craneo_181643 [accessed May 12, 2017].

during a demonstration in Distribuidor Bellas Artes in Cabudare, Lara State; and 5) Bryan David Jiménez Principal, 14 years old. He died on April 12th, 2017, by a gunshot wound during an event occurred in the neighborhood Alí Primera in Barquisimeto, Lara State.¹¹

V. VIOLATIONS OF THE RIGHT TO PERSONAL INTEGRITY

The excessive use of force, which has included the illegal and disproportionate use of tear gas bombs and weapons such as pellets, have resulted in hundreds of injured people. The organization Control Ciudadano affirms that, in the moments of highest repression, the State security forces, especially the Bolivarian National Guard and the Bolivarian National Police, have thrown approximately 700 tear gas bombs against demonstrators during civilian protests in Caracas and other cities of the country.¹²

Official numbers of the Public Ministry, published in the Report “Balance of deceased victims and injured during demonstrations in April-May 2017” indicate that, to the date, 830 wounded have been recorded nationwide in the context of demonstrations.¹³

For example, a Bolivarian National Guard tank ran over a group of demonstrators in Altamira, Chacao Municipality, on the afternoon of May 3.¹⁴ One of the demonstrators that was run over is Pedro Michel Yammine, 22 years old, who arrived at the medical center with damages in his ribs, broken bones, and a collapsed lung.¹⁵

Likewise, cases of torture to the people detained due to demonstrations have been reported. One of these cases involves the brothers José and Alejandro Sánchez, leaders of the political party Primero Justicia, who were detained on April 13th, 2017 and allegedly tortured.¹⁶

¹¹Public Ministry, *Deceased victims*, [no date], available at http://www.mp.gob.ve/c/document_library/get_file?uuid=60a96e13-637a-49b4-861a-4c539b09a03a&groupId=10136 [accessed May 12, 2017].

¹²Runrunes, *Up to 700 tear gas bombs are thrown in a day of maximum repression*, May 14, 2017, available in <http://runrun.es/nacional/309307/hasta-700-lacrimogenas-se-lanzan-en-un-dia-de-maxima-represion.html>

¹³Ministerio Público, *Deceased and injured victims balance during April-May demonstrations 2017*, [no date] available at http://www.mp.gob.ve/c/document_library/get_file?uuid=df3209b7-87df-4024-8ac9-d0c57c7b2a4e&groupId=10136 [accessed May 12, 2017].

¹⁴El Nacional, *GNB tank runs over more than three demonstrators in Altamira*, May 3, 2017, available at http://www.el-nacional.com/noticias/protestas/tanqueta-gnb-atropello-mas-tres-manifestantes-altamira_180366 [accessed May 12, 2017].

¹⁵Panorama, ¡Miracle! Young man run over by small tank recovers, May 12, 2017, available at <http://www.panorama.com.ve/ciudad/Milagro-Joven-arrollado-por-tanqueta-se-recupera-20170512-0119.html> See also, El Tiempo, *tank impact left wounded demonstrators in Altamira*, May 4, 2017, available at <http://eltiempo.com.ve/venezuela/protesta/embestida-de-tanqueta-dejo-manifestantes-heridos-en-altamira/238753> [accessed May 12, 2017].

¹⁶La Patilla, *Torture cases to twin brothers Sánchez in SEBIN have been reported to OAS*, April 17, 2017, available at <https://www.lapatilla.com/site/2017/04/17/exponen-ante-la-oea-actos-de-tortura-a-los-morochos-sanchez-en-el-sebin-video/>. See also Venezuela Awareness, *37 public officers are being accused of “torturing” Sánchez brothers*,

VI. VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM, NATURAL JUDGE, AND DUE PROCESS

Arbitrary detentions are another mechanism adopted by the government to repress peaceful demonstrations. These detentions have taken place without compliance with the minimum legal requirements and have involved the imprisonment of an enormous number of people.¹⁷ Also, military justice is being used to prosecute civilians and to detain them in military facilities.

In April, 2017, at least 1,289 detentions were recorded, according to official numbers from the Public Ministry, published by the Republic's District Attorney.¹⁸

According to the Venezuelan Criminal Forum [Foro Penal Venezolano in Spanish], 1,991 people have been arrested, an average of 50 people daily, out of those, 653 remain imprisoned, 404 were waiting for a guarantor, and 157 were imprisoned.¹⁹ On May 13, 2017, the Venezuelan Criminal Forum reported that the detainees have suffered tortures and updated the number of detainees, which rose to 2,045, out of which 693 were still imprisoned.²⁰ Among other abusive practices of power regarding arbitrary detentions, it has been stressed that ordinary courts have adopted measures that have not been requested by the District Attorney to keep the detainees imprisoned, for example by demanding guarantors.²¹

In addition, in a new, alarming, and repressive pattern produced in the context of the implementation of "Plan Zamora", the government has recurred to a generalized submission to the military justice of civilians detained in demonstrations. This practice, which violates several international treaties on Human Rights ratified by Venezuela, such as the International Covenant

April 17, 2017, available at <http://venezuelaawareness.com/2017/04/acusan-a-37-funcionarios-publicos-de-torturar-a-los-hermanos-sanchez/> [accessed May 12, 2017].

¹⁷ Inter-American Convention of Human Rights [CIDH for its Acronym in Spanish], CIDH deplores repressive measures adopted by Venezuela before demonstrations and condemns the sequel of deaths and wounded, May 9, 2017, available at <http://www.oas.org/es/cidh/prensa/comunicados/2017/058.asp> [accessed May 12, 2017].

¹⁸ Provea, *Public Ministry balance reflects severe absence of guaranties to the exercise of the right to protest in Venezuela, April 26, 2017*, available at <https://www.derechos.org/ve/actualidad/balance-del-ministerio-publico-refleja-grave-ausencia-de-garantias-para-el-ejercicio-del-derecho-a-la-protesta-en-venezuela> [accessed May 12, 2017].

¹⁹ El Universal, *Foro Penal counts 1991 detainees in opposition demonstrations*, May 9, 2017, available at http://www.eluniversal.com/noticias/politica/foro-penal-contabiliza-1991-personas-detenidas-protestas-opositoras_651811 [accessed May 12, 2017].

²⁰ Director of Foro Penal reports severe tortures to imprisoned, May 13, 2017, available at http://www.el-nacional.com/noticias/protestas/director-foro-penal-denuncia-graves-torturas-privados-libertad_182138 [accessed May 12, 2017].

²¹ RunRun.es, *Jueces exigen fiadores para mantener a manifestantes presos indefinidamente*, April 10, 2017, available at <http://runrun.es/rr-es-plus/304637/jueces-exigen-fiadores-para-mantener-a-manifestantes-presos-indefinidamente.html>; El Nacional, *407 personas han sido detenidas por protestas entre el 4 y el 14 de abril*, April 17, 2017, available at: http://www.el-nacional.com/noticias/reporte/407-personas-han-sido-detenido-por-protestas-entre-abril_177505 [accessed May 12, 2017].

on Civil and Political Rights, and article 261 of the National Constitution, fails to recognize the right to be tried by a natural judge and infringes the right to a defense of hundreds of detainees. This equates Maduro's dictatorship to other dictatorships in Latin America that have undertaken this shameful practice to try to silence dissent and popular dissatisfaction, generating with such practices severe violations to human rights.²²

According to official information mentioned by Amnesty International, more than 250 people are currently imprisoned and were brought to the custody of judges and military prosecutors. These people have been indicted for felonies such as "association with intent to incite rebellion" and "attack to the sentinel" in the military jurisdiction.²³

The Ministry of the Popular Power for Interior Relations, Justice and Peace, Néstor Reverol, has announced that all detainees in the context of demonstrations shall face military jurisdiction".²⁴ He also accused this demonstrators of being "*hired by the terrorist right wing*".²⁵ Reverol's announcement was preceded by the payment of 171.4 million bolivars to the fortification of military justice with the purpose of "*launching a deep, definitive, and imperative revolution in the administration of Justice Service, among the Public Powers and the Popular Power*". Also, the Military District Attorney was given 93.8 million bolivars and the military public defense was given 9.1 million bolivars.²⁶

On the same day, the General Commander of the National Guard, Major General Antonio Benavides Torres, also gave a balance of actions carried out in Carabobo state, reiterating that military justice would be used to judge civilians.²⁷

In accordance with the information given by the General Commander of the Bolivarian National Guard, these detainees will be "*restrained pursuant the current regulations established in our*

²² Provea, We are key players in the first Venezuelan popular uprising of the 21st century, May 11, 2017, available at <https://www.derechos.org/ve/actualidad/somos-protagonistas-de-la-primera-rebelion-popular-venezolana-del-siglo-xxi> [accessed May 12, 2017]

²³ Amnesty International, Venezuela: Use of military courts against civilians undermines the rule of law, May 10, 2017, available at <https://www.amnesty.org/es/latest/news/2017/05/venezuela-uso-de-tribunales-militares-contra-civiles-pone-en-jaque-al-estado-de-derecho/> [accessed May 12, 2017].

²⁴ VTV, *45 criminal gangs have been identified after terrorist acts in Carabobo*, March 28, 2017, available at <https://www.youtube.com/watch?v=-MTJBPU-LZE> ; Néstor Reverol (Twitter: @NestorReverol) (May 5, 2017), available at <https://twitter.com/NestorReverol/status/860518338862223360> y subsequent.

²⁵ Idem

²⁶ El Nacional, *Bs. 171.4 millions given to military justice*, March 28, 2017, available at http://www.el-nacional.com/noticias/politica/171-millones-para-justicia-militar_87569 [accessed May 12, 2017].

²⁷ Notitarde, *Plan Zamora Balance in Carabobo to May 5th, 2017*, May 5, 2017, available at https://www.youtube.com/watch?v=Y3U2W0m_wbs [accessed May 12, 2017].

*Military Criminal Code of Justice, so that once they are restrained, they will be transported to the different prison establishments that belong to military courts”.*²⁸

Within just 48 hours, from the time the Commander Antonio Benavides Torres made his statement, that is, between May 5th and May 7th, the non-governmental organization Provea recorded the trial of at least 37 people in military jurisdictions, 19 of those having received an arrest warrant by military courts organized in military facilities.²⁹ On the other hand, the Venezuelan Criminal Forum reported that case hearings took place there, accompanied by armed militaries in which cases where the defense pleaded on the lack of competency of the military courts to judge civilians were dismissed.³⁰

It is evident that the use of military justice has been set up in the activation of Plan Zamora and that it seeks to punish dissent that has demonstrated peacefully against the current government.

On the subject of the controversial use of the criminal military jurisdiction, the Ministry of the Popular Power for Defense, Vladimir Padrino, made a statement assuring that the cases of the demonstrators detained and tried by such jurisdiction demonstrators were “within the legal framework” and that “*when there is an aggression to the sentinel, or over any effective of the Bolivarian National Armed Forces [FANB for its Acronym in Spanish], or any asset of the FANB, one is committing a military felony and therefore may be submitted to the military jurisdiction*”,³¹ even if one is a civilian.

VII. VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION

An important element in the communicational strategy of the government is that increasingly less people in Venezuela have access to information and opinions, through mass media, on the country’s situation. A recent example, prior to the period that this report covers, was marked by the exit of the CNN channel from the programming of the cable television suppliers in

²⁸ RunRun.es, *Detainees are submitted to military justice for looting and protests in Carabobo*, May 5, 2017, available at <http://runrun.es/nacional/308015/tribunal-militar-juzgara-a-43-detenidos-en-carabobo-por-vandalismo.html> [accessed May 12, 2017].

²⁹ Provea, “*Plan Zamora*” *escalates use of military justice against civilians*, May 7, 2017, available at <https://www.derechos.org/ve/actualidad/plan-zamora-escala-uso-de-justicia-militar-contra-civiles> [accessed May 12, 2017].

³⁰ El Estímulo, *Foro Penal confirmed that 31 civilians were accused by military courts*, May 7th, 2017, available at <http://elestimulo.com/blog/foro-penal-confirmando-que-31-civiles-fueron-imputados-por-tribunales-militares/> [accessed May 12, 2017]

³¹ El Universal, *Ministry of Defense: Trials in military jurisdiction are legal*, May 9th, 2017, available at http://www.eluniversal.com/noticias/politica/ministro-defensa-procesos-jurisdiccion-militar-son-legales_651769 [accessed May 12, 2017].

Venezuela, by orders of the government, after the channel transmitted an investigation on an alleged illegal issuance of Venezuelan passports to foreigners allegedly linked to terrorism.³²

In the period covered by this report, the severe violations to freedom of speech have included the blockage of important online media while the different demonstrations in the country were being broadcast, sanctions to mass media, and the imprisonment, attacks and stigmatization of journalists and employees from different media that covered the peaceful demonstrations in the country. Also, several websites of Non-Governmental Organizations were attacked online to saturate their web portals or to disconnect them. Given those happenings, the rapporteurs for freedom of expression from United Nations and Inter- American Commission on Human Rights (CIDH), issued a press release where they reported and rejected such violations to freedom of speech.³³

The National Press Workers Union reports to this date at least 210 severe violations against freedom of speech during the last four weeks of demonstrations, including 14 journalists and press employees who were arbitrarily detained while covering the demonstrations and 106 press employees who were attacked while informing on these happenings. They added to their statement “the uniformed ones, far from enabling the conditions for professional exercise, beat, harass, intimidate and block any attempt to promptly cover demonstrations”.³⁴

VIII. POLITICAL PRISONERS AND DISQUALIFICATIONS FOR POLITICAL REASONS

During the last few years, the government has arbitrarily imprisoned several leaders for strictly political reasons. There are more than 100 cases, and among the most well-known are the cases of the national leader Leopoldo López and the Mayor of Caracas, Antonio Ledezma.

In a recent study on arbitrary detentions for political reasons in Venezuela, Amnesty International stressed the fact that the “generalized lack of independence of the Judiciary in Venezuela, along with the usurpation of powers from the Executive Power and its’ state agencies of their work, in the context of a profound political polarization, has allowed an abusive and arbitrary use of the criminal law as a mechanism to detain and prosecute people that have critical opinions towards the policies adopted by the Venezuelan government”.³⁵

³² CNN, Venezuelan government withdraws CNN en español from the air, February 15th, available at <http://cnnspanol.cnn.com/2017/02/15/gobierno-de-venezuela-retira-senal-de-cnn-en-espanol/> [accessed May 12, 2017].

³³ Inter- American Commission on Human Rights, Joint Press Release, *Protests: UN and CIDH Rapporteurs reject censorship, detentions and attacks to journalists*, April 26, 2017, available at <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1062&IID=2> [accessed May 12, 2017].

³⁴ National Press Workers Union, 14 employees of the press have been detained and 106 attacked within the demonstrations, April 24th, 2017, available at <https://drive.google.com/file/d/0BzXea7WT751kdjIVZU10SkJ3de0/view> [accessed May 12, 2017].

³⁵ Amnesty International, *Forced Silence. Arbitrary Detentions by Political Reasons in Venezuela*, 2017, available at <https://www.amnesty.org/download/Documents/AMR5360142017SPANISH.PDF> [accessed May 12, 2017]

Between April and May, 2017, in the context of the peaceful demonstrations in Venezuela that are analyzed in this report, the government held Leopoldo López in solitary confinement in a military facility for over a month under extreme and inhumane imprisonment conditions.³⁶

Within that same period, on April 7th, 2017, the government politically disqualified, via the Comptroller General Office, the Governor Henrique Capriles Radoski for 15 years, in an outrageous and illegal administrative procedure³⁷. This unconstitutional strategy of political disqualification has been equally implemented to other regional leaders: Vincezo Scarano, Mayor of San Diego Municipality, Carabobo State and Liborio Guarulla, Governor of Amazonas State.³⁸ As observed, should there eventually be a regional electoral process (currently suspended for an indefinite time), the Government has prepared itself by disqualifying the main leaders of the democratic alternative.

IX. OMBUDSMAN ROLE

The Ombudsman, Mr. Tarek William Saab, is one of the members of the government and has not fulfilled his main role which, pursuant to article 280 of the Venezuelan Constitution is the “promotion, defense, and vigilance of human rights and guarantees established in this Constitution and international treaties on human rights, as well as legitimate, collective, and other interests of the citizens”.

The Ombudsman has served as a defendant of the government and, in general, of pro-government forces. Recent evidence is his denial to support the right of Congress to discipline Supreme Court Justices after the Supreme Court judgment self-claiming legislative powers in March 2017 that was previously mentioned.³⁹

Due to this situation of lack of independence, the Ombudsman was lowered in his category in the UN evaluation mechanism and in accordance to the Paris Principles.

³⁶ El Nacional, *Lilian Tintori reported that Leopoldo López is in solitary confinement*, April 28, 2017, available at http://www.el-nacional.com/noticias/presos-politicos/lilian-tintori-denuncio-que-leopoldo-lopez-esta-incomunicado_179602 [accessed May 12, 2017].

³⁷ CCN, *Venezuelan opposing leader Henrique Capriles Radoski disqualified for 15 years*, April 7, 2017, available at <http://cnnespanol.cnn.com/2017/04/07/inhabilitan-por-15-anos-al-opositor-venezolano-henrique-capriles-radonski/> [accessed May 12, 2017].

³⁸ El Nacional, *Governor Liborio Guarulla disqualified for 15 years*, May 7, 2017, available at http://www.el-nacional.com/noticias/politica/gobernador-liborio-guarulla-habria-sido-inhabilitado-por-anos_181049 [accessed visit May 12, 2017].

³⁹ *Noticia al Dia, Tarek William Saab on Supreme Court judgements: There is separation of powers in Venezuela*, April 3, 2017, available at <http://noticiaaldia.com/2017/04/tarek-william-saab-se-pronuncia-sobre-sentencias-del-tsj/> [accessed May 12, 2017].

X. ROLE OF ATTORNEY GENERAL

The Attorney General, Luisa Ortega Díaz, who for many years was an ally of the government, has recently undertaken a more respectful position towards the Constitution.

For example, on May 31st, 2017, the Attorney General publicly distanced herself from the regime when she recognized that judgments N° 155 and 156 of the Constitutional Chamber of the Supreme Court of Justice implied a rupture of the constitutional order.⁴⁰ Additionally, she named a new Deputy Attorney General⁴¹ and dismissed a prosecutor who acted in a renowned political case, for considering that he acted with negligence by signing a certificate issued by the Ombudsman which stated that detainees had not been tortured.⁴² She has also decided not to press any charges and to request full freedom for the detainees in the context of demonstrations (this pertaining to cases in ordinary jurisdiction, not military jurisdiction, in which she cannot act upon).⁴³

Such change of position from the Attorney General has meant an important contribution to the rule of law in Venezuela; however, its positive effect haven been largely annulled by the government, who have decided to use military prosecutors and judges that ignore the institutional position of the Attorney General in the trials they carry out.

Regrettably, the government has initiated an intimidation and dismissal strategy of this public officer through the removal of her bodyguards and the implementation of military justice for civilians.

⁴⁰ RunRun.es, *District's Attorney Luisa Ortega Díaz: Supreme Court judgement represents extra-constitutional actions and threatens democracy*, March 31, 2017, available at <http://runrun.es/nacional/303049/fiscal-luisa-ortega-diaz-confirma-golpe-de-estado-en-venezuela.html> ; El Nacional, *Luisa Ortega Díaz: Supreme Court judgments breach constitutional order*, (March 31, 2017, available at http://www.el-nacional.com/noticias/politica/luisa-ortega-diaz-sentencias-del-tsj-violan-orden-constitucional_88240 [accessed May 12, 2017].

⁴¹ Panorama, *District's Attorney Luisa Ortega Díaz installed Rafael González Arias as new Deputy District's Attorney*, April 17, 2017, available at <http://www.panorama.com.ve/politicayeconomia/Fiscal-Luisa-Ortega-Diaz-juramento-a-Rafael-Gonzalez-Arias-como-nuevo-vicefiscal-20170417-0067.html>; La Patilla, *Rafael González Arias is formalized as new Deputy District's Attorney of the Republic*, April 21, 2017, available at <https://www.lapatilla.com/site/2017/04/21/oficializan-a-rafael-gonzalez-arias-como-nuevo-vicefiscal-general-de-la-republica/> [accessed May 12, 2017].

⁴² NTN24, *Luisa Ortega Díaz dismissed the prosecutor in charge of Sánchez brothers' case for alleged por supuesta "negligence"*, April 28, 2017, available at <http://www.ntn24.com/noticia/luisa-ortega-diaz-habria-destituido-al-fiscal-que-llevaba-el-caso-de-los-hermanos-sanchez-por-139928> [accessed May 12, 2017].

⁴³ El Nuevo Herald, *Venezuelan District Attorney frees opponents that were detained without due process*, April 25, 2017, available at <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article146669309.html>; El Nacional, *Warnings, clarifications and calls from District Attorney Luisa Ortega Díaz*, April 25, 2017, available at http://www.el-nacional.com/noticias/politica/advertencias-aclaratorias-llamados-fiscal-luisa-ortega-diaz_179087 ; PanamPost, *Venezuelan District Attorney admits for the first time arbitrary detentions of opponents*, April 25 2017, available at <https://es.panampost.com/sabrina-martin/2017/04/25/fiscal-detenciones-arbitrarias/> ; Panorama, *District Attorney Luisa Ortega Díaz: I'm sorry for the deaths of 26 people*, April 25, 2017 available at http://www.panorama.com.ve/contenidos/2017/04/25/noticia_0034.html [accessed May 12, 2017].

XI. ROLE OF THE COMPTROLLER GENERAL

The Comptroller General, Mr. Manuel Galindo Ballesteros, is another unconditional ally of the government, and the one who signed the political disqualifications for 15 years to Governors Henrique Capriles Radoski and Liborio Guarulla, as well as Mayor Vincenzo Scarano. This took place as consequence of administrative procedures where the most basic guarantees of due process were breached, and where invalid sanctions, which violated the human right to participation in public affairs, among others, were issued⁴⁴. It is worth mentioning that Venezuela was previously condemned by the Inter-American Court of Human Rights, due to a similar decision in which the government disqualified the national leader Leopoldo López.⁴⁵

XII. SUPREME COURT OF JUSTICE AND THE JUDICIARY ROLE

The Supreme Court of Justice is an important part of the government, it has no independence, and is in charge of ensuring, directly or indirectly, that the violations to human rights and to basic elements of democracy remain unpunished. This is not new. Most of the judges in Venezuela are temporary and lack stability in their posts. Back in 2009, the Inter-American Commission of Human Rights (IACHR) emphasized, for example, that “the lack of independency and autonomy of the judiciary towards political party constitutes, to the IACHR, one of the weakest aspects of the Venezuelan democracy.”⁴⁶ More recently, at the end of 2015, the date on which the regime lost the majority in the Congress, the Supreme Court of Justice’s role included the overruling, via judgment, of all the powers of the Congress.⁴⁷

Through more than 50 judgments, the Supreme Court has blocked the Congress from fulfilling its main constitutional responsibilities (legislative and control functions). Therefore, through invalid and arbitrary decisions, the Congress has been unable to approve the national budget, authorize the state decrees of exception and economic emergency, grant amnesty to the politically persecuted, elect its own authorities, question different public officers on the execution of their duties, enact laws, or prepare congressional reports.

⁴⁴ Prodavinci, *Henrique Capriles’ disqualification: another coup to the Constitution*; by José Ignacio Hernández G, April 7, 2017, available at <http://prodavinci.com/blogs/la-inhabilitacion-a-henrique-capriles-otro-golpe-a-la-constitucion-por-jose-ignacio-hernandez-g/> [accessed May 12, 2017].

⁴⁵ CIDH. *López Mendoza Vs. Venezuela*. Reparations and Costs Fund. Judgment September 1, 2011. C Series No. 233, available at http://corteidh.or.cr/docs/casos/articulos/seriec_233_esp.pdf

⁴⁶ CIDH, *Democracy and Human Rights in Venezuela* (2009), available at <http://www.cidh.org/countryrep/Venezuela2009sp/VE09.resumen.sp.htm>, Resumen Ejecutivo, Parr. 15.

⁴⁷ El Carabobeño, *¿What are Supreme Court judgments 155 y 156 about?*, April 1, 2017, available at <https://www.el-carabobeno.com/se-tratan-las-sentencias-155-156-del-tsj/> [accessed May 12, 2017].

The current President of the Supreme Court of Justice, is attorney Maikel Moreno, who faced judicial trials for homicide and was removed from his former post of judge by the Supreme Court itself.⁴⁸

XIII. INTENTION TO WITHDRAW FROM THE ORGANIZATION OF AMERICAN STATES (OAS)

By the end of April, 2017, Venezuela announced its withdrawal from the Organization of American States, after the Permanent Council of such regional body summoned a chancellor's meeting to evaluate the situation in the country.⁴⁹

Such withdrawals signify an immense setback for the democracy and human rights in the country seeing as, in a span of 24 months and having fulfilled other requisites, Venezuela would withdraw itself from the democratic control of such an important political forum. Also, if this decision were to materialize, the people in Venezuela would lose the protection they have currently from the IACHR (despite the denunciation on the American Convention of Human Rights carried out by Venezuela in 2012).

XIV. DECREE ON A NATIONAL CONSTITUENT ASSEMBLY

As it was previously described, at the beginning of May, 2017, President Nicolás Maduro issued a decree in which he intends to summon a National Constituent Assembly, “which has been reported as unconstitutional and undemocratic by several political parties of the democratic alternative and many sectors of civil society, as well as organizations and international bodies, and could have, as an effect, the dissolution of the Congress”.⁵⁰ Such Decree has intensified even more the recent demonstrations of the people of Venezuela.

Indeed, this decree intends to initiate a constituent process without having previously consulted the popular will, pursuant to constitutional requirements. Also, the unjustified considerations of the Decree evidence that what is being sought is the prevention of the universal, direct, and secret electoral processes.

⁴⁸ Diario Las Américas, *The Supreme Court President who shouldn't have been*, February 25, 2017, available at <http://www.diariolasamericas.com/america-latina/maikel-moreno-el-presidente-del-tsj-que-no-debio-ser-n4115760> [accessed May 12, 2017].

⁴⁹ El Espectador, *Venezuela officially began its withdrawal from OAS*, April 28, 2017, available at <http://www.elespectador.com/noticias/el-mundo/venezuela-inicio-oficialmente-su-retiro-de-la-oea-articulo-691532> [accessed May 12, 2017].

⁵⁰ CIDH, *CIDH deplora repressive measures undertaken by Venezuela on demonstrations and condemns the sequel of deaths and injuries*, May 9, 2017, available at <http://www.oas.org/es/cidh/prensa/comunicados/2017/058.asp> [accessed May 12, 2017].

XV. CONCLUSIONS AND PETITIONS

The Government has dropped its democratic appearance and has externalized its intention to remain in power at any cost. Venezuela is at the mercy of a cruel dictatorship that has systematically violated the human rights of those who protest in a justified and peaceful way. The purpose of these demonstrations is to peacefully display the despair of the people towards the unacceptable and undignified situation in which they are living. This situation violates their rights and most basic human needs, such as the access to food, medicines, and public safety as well as the right to democratically choose or change their rulers, within the scope of the Constitution.

Considering the severe recent violations to human rights committed in Venezuela and summarized in this report, I respectfully request the United Nations High Commissioner for Human Rights to consider undertaking the following specific actions:

- 1) To continue the excellent work of observing the situation of human rights in Venezuela that he has been carrying out and to continue making public statements on this matter with the needed frequency.
- 2) To share this report with the different special procedures, work groups, rapporteurs, field presence and other United Nations mechanisms of promotion and protections of human rights with general or specific mandates about Venezuela; and to urge them to keep giving priority to the situation of human rights in Venezuela. Specifically, to follow the compliance of the decisions and recommendations both from treaty bodies and from special procedures.
- 3) To include the information of this report that you may deem relevant in your reports to the Human Rights' Council.
- 4) To keep attempting for the Venezuelan Government to allow a visit to the country in order to verify the situation on human rights; and that it allows the visits that have been requested by the special procedures, specifically the UN Rapporteur on Torture and the Work Group on Arbitrary Detentions.
- 5) If the permission from the Government is not granted, to set up an observation at the border where interviews of victims of human rights violations in Venezuela, or their relatives, can be conducted.
- 6) To promote, within the framework of the next sessions of the United Nations Human Right Council, a *side event* about the situation of human rights in Venezuela.

- 7) To publicly demand the Government of Venezuela to immediately cease the violations to human rights to life, personal integrity, personal freedom, due process, peaceful demonstrations and to the other rights of demonstrators.
- 8) To publicly demand the Government of Venezuela to immediately release the leader Leopoldo López and other political prisoners of the regime.
- 9) To publicly demand that the Government of Venezuela immediately summon the pending elections.
- 10) To publicly demand that the Government of Venezuela its international obligations on human rights and with the National Constitution, including the full respect of the Congress' constitutional competencies.
- 11) To publicly demand that the Government of Venezuela disarm the civilian population and immediately cease the disproportionate repression of peaceful demonstrations.
- 12) To publicly demand that the Government of Venezuela stop the use of military justice for civilian's prosecution.
- 13) To facilitate a meeting of the undersigned with the United Nations Secretary General, to discuss the situation of democracy and human rights in Venezuela.
- 14) To envision the severe violations to human rights in Venezuela as a regional problem, with an important impact in other countries of the American continent.
- 15) To coordinate with the Inter-American Commission on Human Rights joint actions, under the respective mandates, in favor of human rights in Venezuela.
- 16) To adopt further actions that you may deem relevant, under your mandate, for the promotion and protection of human rights in Venezuela.