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July 19, 2017

OSG/285-17

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His Excellency

Ambassador, José Luiz Machado E Costa

Permanent Representative Brazil

to the Organization of American States

Chairman of the Permanent Council

Washington, D.C.

Your Excellency,

I have the honor to address you for the purpose of presenting my third Report on the continuing crisis in Venezuela. In my first two reports of June 2016 and March 2017, respectively, I described the “alteration of the Constitutional order” and the “democratic order” as outlined in the Inter-American Democratic Charter. It is with a heavy heart and great urgency that I submit this third Report detailing the deliberate and systematic abuses perpetrated by the Government of Venezuela against the citizens of Venezuela during the ongoing protests.

Following the adoption of Permanent Council Resolution CP/RES 1078 of April 3, 2017, which declared that there had been a “violation of the constitutional order” in Venezuela, the already dire situation in the country has continued to deteriorate dramatically. Left with no other choice, on April 1 the people of Venezuela have taken to the streets to exercise their fundamental rights and freedoms and speak out against the corruption and abuses of the Regime of President Nicolás Maduro. The Government responds with violence and terror.

This violence is not taking place at random. These actions taken by the Government are deliberate. This is a thought out, methodical strategy being executed; a policy where one or two protestors are killed each day. This is the strategic and systematic targeting of an unarmed, civilian population. The boldness of the Regime is growing as is the ferocity of the tactics used. With every passing day, the numbers of citizens who have been injured or have been arrested are growing. The death toll continues to rise.

Since his narrow electoral victory 2013, Maduro’s government has

pursued an incremental, yet deliberate policy of dismantling the democratic institutions of the State as the means to sustain itself in power. This policy has resulted in the systematic violation, or the alteration, of the Venezuelan Constitution. The Executive controls the Courts, and the courts have manipulated the country's constitution and laws to undermine the democratic will of the people, remove any power from opposition politicians, and consolidate all governmental authority under their control. Dissent has been criminalized. The only voices that are allowed to speak are those of controlled propaganda, those speaking under government direction. Along with the rampant corruption and abuse of power, their actions have only served to alienate the citizenry and Maduro's government has lost the legitimate support of the popular will. As a result, the Regime has resorted to more aggressive and extreme measures to control and terrorize the public.

The Venezuelan government's response to the recent demonstrations is a deliberate policy designed by the Executive branch. The escalation of violence, culminating with the deaths of more than 100 civilians to date, is embodied by the July 5th attack directed at the very symbol of democratic Venezuela, the National Assembly, on the 207<sup>th</sup> anniversary of the declaration of independence. The Regime is committed to a systematic violation of the Constitution and the systematic use of violent repression as the only means to hold onto power.

The chain of command starts at the top and criminal responsibility lies with those drafting the policy and designing the strategy as well as those who are participating and/or are complicit with the implementation of this policy of repression. Maduro, his vice president, and his cabinet are giving instructions to the military and police leadership of the Bolivarian National Guard (GNB), the Bolivarian National Intelligence Service (SEBIN), the Bolivarian National Police (PNB), the National Anti-extortion and Kidnapping Command (CONAS) and the Scientific, Penal and Criminal Investigative Police (CICPC). These organizations, along with their regional counterparts and the paramilitary security apparatus, or the '*colectivos*', are following their orders, guided by the potent political rhetoric and propaganda the Executive branch is using to incite confrontation and aggression. Those responsible for these crimes are not only the individuals that are pulling the trigger, or wielding the weapons of torture in their hands.

Impunity for the murder of protestors cannot continue. The Regime is showing the world its willingness to systematically harass, detain, torture, and even murder its citizens. These individuals will be held accountable for their crimes. These actions are criminal, and are clear violations of Venezuelan law and the Venezuelan Constitution. The calculated and tactical manner of the violent repression has the characteristics that could qualify as crimes recognized under international law. A systematic attack directed against any civilian population is the core definition of crimes against humanity.

## **I. ALTERATION OF THE DEMOCRATIC AND CONSTITUTIONAL ORDER**

Actions taken by the Organization of American States in the defense of democracy, including under the Democratic Charter, are a means to strengthen relations between countries, thereby strengthening regional solidarity. The preamble of the Democratic Charter states:

*"Solidarity among and cooperation between American states require the political organization*

*of those states based on the effective exercise of representative democracy, and that economic growth and social development based on justice and equity, and democracy are interdependent and mutually reinforcing.”<sup>1</sup>*

This community of states came together with an understanding and an agreement that we all benefit from living in a hemisphere of prosperous, free and democratic societies.

In its resolution of April 3, the Permanent Council agreed to convene a ministerial meeting to continue to evaluate the situation in Venezuela. On April 26, the Council agreed to convene a Meeting of Consultation of Ministers of Foreign Affairs under Article 61 of the OAS Charter “to consider problems of an urgent nature and of common interest,”<sup>2</sup> namely the crisis in Venezuela.<sup>3</sup> The first meeting was held on May 31 at OAS headquarters in Washington, D.C. Unable to meet the threshold of two-thirds of registered member states in agreement on a resolution, a second meeting was held on June 19, prior to the 47<sup>th</sup> OAS General Assembly, in Cancun, Mexico. Although no resolution was passed, a simple majority of votes were achieved. Twenty foreign ministers voted clearly and loudly on the crisis and sent a firm political signal strengthening the voice for democracy. This was a significant demonstration of solidarity amongst the majority of our hemispheric community.

These meetings are the latest in a series of efforts by our community of States to express our shared concern for the ongoing political, economic and humanitarian crisis, recognizing the need to help find an urgent solution.

The OAS was built on a foundation of shared values reflecting who we are and what we believe; shared values of openness, democracy and respect for human rights. We created important instruments to promote and protect these values and each member state chose to negotiate and sign onto these agreements, voluntarily committing themselves to their promotion and protection. These are our responsibilities as much as they are our rights.

Action under the Democratic Charter is not intervention; it is the international defense of democracy. The Democratic Charter was designed as a preventative tool. When utilized in its intended manner, it is a mechanism that can prevent, or stop any backsliding in the region’s hard-earned democracies. When member states agreed to this mechanism to protect our democracy they established a very explicit authority to act in every signatory state, when necessity requires. Article 20 outlines a range of measures for possible recourse empowering member states, through the Permanent Council to “undertake the necessary diplomatic initiatives, including good offices, to foster the restoration of democracy.”<sup>4</sup> Action under the Democratic Charter must be viewed through the test of its last consideration, where “in the progressive development of international law and the advisability of clarifying the provisions set forth in the OAS Charter

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<sup>1</sup> *Preamble*, The Inter-American Democratic Charter (2001) [http://www.oas.org/charter/docs/resolution1\\_en\\_p4.htm](http://www.oas.org/charter/docs/resolution1_en_p4.htm)

<sup>2</sup> *Article 61*, Charter of the Organization of American States (1948)  
[http://www.oas.org/en/sla/dil/docs/inter\\_american\\_treaties\\_A-41\\_charter\\_OAS.pdf](http://www.oas.org/en/sla/dil/docs/inter_american_treaties_A-41_charter_OAS.pdf)

<sup>3</sup> CP/RES. 1079 (2111/17) *Convocation of a Meeting of Consultation of Minister of Foreign Affairs to Consider the Situation in the Bolivarian Republic of Venezuela*, April 26, 2017.

<sup>4</sup> *Article 21*, Charter of the Organization of American States (1948)  
[http://www.oas.org/charter/docs/resolution1\\_en\\_p4.htm](http://www.oas.org/charter/docs/resolution1_en_p4.htm)

and related basic instruments on the preservation and defense of democratic institutions.”<sup>5</sup>

I will continue to remind all those willing to listen that these agreements upon which this Organization is founded are signed by member states “in the name of their peoples.” In democratic societies, people are the ultimate sovereign and they grant power to governments in order for them to service these people. The responsibility of leaders and representatives of government is to ensure we fulfill these commitments to the people of the Americas. Elections are the vehicle through which authority over the citizenry is delegated from the sovereign to a government. Therefore, in a democracy, it must also be through elections that that this power is removed.

In Venezuela, this right to universal suffrage has been violated and the tragedy continues to unfold. The Regime is in violation of the fundamental covenant it has with its own people and with the community of states in this hemisphere; its commitment to defend democracy and human rights. This regime no longer represents the legitimate sovereign because it has lost the support of the popular will.

#### DEMOCRACY IN THE AMERICAS

In North America, the United States and Canada were established as fledgling democracies in the late 18<sup>th</sup> and 19<sup>th</sup> centuries, respectively, grounded in the concept of the “rights of Englishmen”; principles of freedom and the rule of law stemming from the Magna Carta. Similar to the examples of the Caribbean States, these systems were developed out of the limited local self-government that colonial ruled had allowed.

In Latin America, the advent of democracy had a more arduous path with progress and backsliding happening at different times and in different countries. The consolidation was slower and more recent. This change came in concert with the third wave of democratization. Leaving behind decades of dictatorship and civil conflict, the 20<sup>th</sup> century saw the consolidation of democracy and a new consensus was established about the essential role of democracy in the security, development and prosperity in the hemisphere.

These transitions varied from country to country and were not cost-free. In the pursuit of stability, amnesties for many of the crimes committed during the dictatorships were granted. However, Latin Americans finally began to experience what it was to live in free societies. These examples demonstrate the complexity surrounding political transitions and are proof of the invaluable efforts made by people who chose democracy, determined to never again go back to dictatorial or authoritarian rule.

Venezuela has retreated from democracy, and moved towards authoritarian rule. The effects of the so-called “lost decade” took its economic and social toll on the people, and subsequently the party system collapsed. The Bolivarian Revolution led by Hugo Chávez filled the power vacuum left by the former democratic, albeit flawed, regime. Gradually, and over a period of 18 years, a

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<sup>5</sup> *Article 21*, Charter of the Organization of American States (1948)  
[http://www.oas.org/charter/docs/resolution1\\_en\\_p4.htm](http://www.oas.org/charter/docs/resolution1_en_p4.htm)

caudillo-led party hegemony successfully took over the State, eliminating basic democratic principles and violating human rights in the process.

The systematic violations of the Constitution in Venezuela, the violent repression, the use of torture, the holding of political prisoners, and the entire range of violations to citizens' human, political, social, economic and cultural rights in the country resonates with citizens across the Americas who have suffered similarly under dictatorships in past decades. The crimes committed in their countries occurred within living memory and a number of today's political leaders suffered directly or indirectly from the persecution and violence of those dictatorships. They know first-hand the suffering, the sacrifices of those who opposed dictatorships, whether of the left or the right. They fought for human rights, dignity, the rule of law and democracy that many people today take for granted.

#### THE OAS COMMUNITY OF STATES AND THE DEFENSE OF DEMOCRACY

At the OAS, we have created valuable instruments that, if used, can produce meaningful results. In diplomacy, these agreements are our tools and we have a responsibility to ensure that they are more than hollow words on a piece of paper. Had this institution rigorously followed and implemented the Democratic Charter and the other tools at our disposal, including Article 61 of the OAS Charter, we could have prevented this self-inflicted coup d'état from taking place in our hemisphere. Instead, this government has incrementally become the very thing that threatens the lives and prosperity of its own people.

The actions perpetrated by this regime are not actions that can be defended in a free and democratic hemisphere. Governments in the region who continue defending the actions of this dictatorship face some tough questions. What in Venezuela is it that they choose to support? Is it the deterioration of democracy and the consolidation of absolute power over all branches of government? The killing of innocent civilians through the use of violent representation? Or the complete abolition of the rule of law, the practice of political prisoners, the use of torture and impunity for its perpetrators? Choosing silence or neutrality in the face of atrocity gives strength to those perpetrating the abuses. At a minimum it is reinforcing the propaganda of the dictatorship.

The government in Venezuela has the power to end the crisis, return to democracy and restore the constitutional order. It chooses not to. Member states have an obligation to support the people of Venezuela when their own government has forsaken them. As Edmund Burke warned, "The only thing necessary for the triumph of evil is for good men to do nothing." The reluctance of the international community to take a stance on what is a clear alteration of the constitutional order, the elimination of the rights of its citizens and the complete eradication of democracy has allowed tensions to escalate to a point where the citizenry once again feels that they have no choice but to take to the streets.

The May 31 and June 19 meetings of Foreign Ministers are another important step forward. We have a responsibility to act. The death toll from the protests on the streets of Venezuela continues to rise and there is still no end to the crisis in sight.

When the people are violently repressed by the institutions that are supposed to be protecting them, this creates the urgent responsibility to help create the conditions so that power is returned to the sovereign, so it can protect itself. There is only one democratic solution for Venezuela—the solution its people are demanding with their lives: an end to violent repression, the release of all political prisoners, a channel for humanitarian assistance, the restoration of the powers of the National Assembly, and immediate, full, free and fair general elections.

Free and fair elections are the only way to put the power back into the hands of the Venezuelan people so they can determine their path back to democracy and prosperity.

On May 30, 2016, as Secretary General of the Organization of American States, I fulfilled my responsibility to invoke Article 20 of the Inter-American Democratic Charter with the submission of my first report detailing the “alteration of the Constitutional order” and “democratic order” in Venezuela.

On June 23, 2016, the Permanent Council convened for the first urgent session under Article 20 to discuss the content of the report. Member states collectively evaluated the situation and what measures could be undertaken to address the breach in Venezuela’s constitutional order. Noting the presentation, the Permanent Council was unable to take a decision on a particular course of action.

In the following months, member states undertook their “good offices,” supporting various attempts at dialogue, while continuing a collective assessment of the situation. Repeated diplomatic initiatives and good offices that were undertaken, including by the Permanent Council itself, have been categorically demonized and rejected by the Foreign Minister of Venezuela. MERCOSUR has suspended Venezuela’s membership.<sup>6</sup> UNASUR’s repeated efforts to play a mediating role have been rejected. Even diplomatic interventions by the Holy See were frustrated and the Vatican has made clear that it would not support any further negotiation efforts unless the preconditions outlined in Cardinal Parolin’s letter of December 1, 2016 are met.<sup>7</sup>

On March 14, 2017, I submitted an updated version of the report detailing the developments in Venezuela since the June 23 meeting. The situation on the ground had only become dramatically worse.

Within two weeks of the publication of the report, the Supreme Court of Venezuela (TSJ) took two major decisions that overtly attacked the legislative branch of government, eliminating any lasting appearance of democracy. On Monday, March 27, 2017, the TSJ declared all legislation passed by the National Assembly unconstitutional, and in addition, it called support for the Inter-American Democratic Charter—a legal document signed, ratified and used by the Venezuelan

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<sup>6</sup> *Mercosur suspends Venezuela over trade and human rights*, BBC News, December 2, 2016, <http://www.bbc.com/news/world-latin-america-38181198>

<sup>7</sup> Letter from Cardinal Pietro Parolin, Secretary of State of the Holy See, December 1, 2016, <http://www.infobae.com/america/america-latina/2016/12/07/la-carta-completa-que-el-vaticano-envio-al-regimen-de-nicolas-maduro-y-a-la-oposicion/>; and, *Venezuela’s bishops: President Maduro starves his people into submission*, Catholic News Agency, June 8, 2017, <http://www.catholicnewsagency.com/news/venezuelas-bishops-president-maduro-starves-his-people-into-submission-69003/>

government<sup>8</sup>--a treasonous act. On Wednesday, March 29, 2017, the TSJ declared “the Constitutional Chamber of the Supreme Court will ensure that parliamentary functions are exercised directly by the Chamber or by the organ it designates,” thereby directly assuming the powers of the National Assembly.

On April 3, 2017, the Permanent Council passed a resolution by consensus recognizing the “unconstitutional alteration of the democratic order” as a result of the “decisions of the Supreme Court of Venezuela to suspend the powers of the National Assembly and to arrogate them to itself”, and stating that the actions were inconsistent with democratic practice. The resolution also stated: “Notwithstanding the recent revision of some elements of these decisions, it is essential that the Government of Venezuela ensure the full restoration of democratic order”.<sup>9</sup>

The court rulings were not an aberration in the longstanding and slow deterioration of democracy and rule of law in Venezuela; they were simply an articulation of a longstanding practice of the Judiciary to override any actions by the legislative branch in favor of the government. Since 2002, in close to 50,000 court decisions, the Judiciary has never ruled against the government, undermining the authority of the legislative branch at every opportunity.<sup>10</sup>

It was in response to these actions that overtly articulated the loss of democracy and rule of law in their country that Venezuelan citizens took to the streets. The people of Venezuela have taken to the streets to demonstrate that they no longer fear the abuses of their government because freedom is too high a price to pay. When their voices are joined together, they can be more powerful than repression. They understand that they can peacefully unite to claim their constitutional rights, their true and legitimate power, the people’s voice and ability to decide their own future.

Since March 2017, the OAS Permanent Council convened seven additional special meetings to discuss the crisis in Venezuela, including the March 27 meeting devoted to a presentation made by former Venezuelan Foreign Minister Delcy Rodríguez.

After the April 26 decision by the Permanent Council to convene a Meeting of Consultation of Ministers of Foreign Affairs, Minister Rodríguez announced that Venezuela would withdraw from the OAS. On April 27, Venezuela submitted a letter to the Secretary General on behalf of President Maduro triggering the two-year withdrawal process.<sup>11</sup>

The convening of Foreign Ministers on May 31 and June 19 was yet another attempt by this community of States to come to an agreement on how to address the crisis in Venezuela. The Meeting of Consultation has yet to pass a resolution; however, it represents another important step forward in address the situation in Venezuela. After two intensive debates, twenty countries spoke, united, in the defense of democracy in Venezuela. Eight countries abstained and five

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<sup>8</sup> Venezuela was the first country to invoke the Inter-American Democratic Charter in 2002.

<sup>9</sup> CP/RES. 1078 (2108/17) Resolution on the Recent Events in Venezuela (2017)

[http://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-022/17](http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-022/17)

<sup>10</sup> *When Nicolas Maduro Was Dictator for a Day*, The Atlantic, April 9, 2017,

<https://www.theatlantic.com/international/archive/2017/04/maduro-venezuela-supreme-court-chavez/522417/>

<sup>11</sup> <http://www.oas.org/documents/spa/press/CARTA-VENEZUELA.pdf>

voted against. In a Hemisphere of close to 1 billion people, 20 countries representing close to 900 million (or 90%) of the people of the Americas, spoke united in defense of democracy in Venezuela, advocating for the lives and human rights of the Venezuelan people. The majority of the hemisphere spoke up in support of the people of Venezuela and their efforts to return to the constitutional order.

#### THE SYSTEMATIC VIOLATION OF THE BOLIVARIAN CONSTITUTION

“Right, as the world goes, is only in question between equals in power, while the strong do what they can and the weak suffer what they must.” Thucydides wrote these words in 431 BC in his history of the Peloponnesian War referring to the Athenian’s ultimatum to the Melians: surrender and pay tribute to Athens, or be destroyed. The Athenians had no interest in negotiating with the Melians, in their worldview their legitimacy came from their strength.

The use of force and power to control those who have little or none has long been a constant throughout human history. This did not begin to change until the advent of the Magna Carta in 1215, which granted barons and free men in England specific rights, most notably the freedom from imprisonment without trial, and the right to be judged by their peers or by the laws of the land.<sup>12</sup> This part of the Magna Carta, or charter, created the foundation for the principles of due process and the rule of law. It is the original idea that no one, including a king (or a President), is above the law.

The notion of a constitution, the agreed body of principles or agreements that govern states, evolved from the Enlightenment, with the idea that a just society cannot function without a basic set of laws that place limits on the power of the sovereign, then understood to be a king. The modern concept of “the people” as the sovereign, evolved from the social contract philosophers who further developed this notion where authority or power over a society requires the consent of the individuals within that society, and therefore checks and balances on that power must be guaranteed. Chaos ensues when we lack these checks.

Today, democratic countries are grounded in some form of written or unwritten constitution that provides a reliable set of rules for the effective and good governance of the State, certainty and equality before the law, and for the protection of a series of human, civil, political, economic and social rights that have developed over the centuries. Many of these rights have been codified in international law in the 20th Century in such documents as the Universal Declaration of Human Rights (1948), the American Declaration on the Rights and Duties of Man (1948), the American Convention on Human Rights (1969), the Convention on the Prohibition of Torture (1984), and other documents.

Before the late President Chavez came to power, he had pledged to organize a referendum asking the Venezuelan people to convene a National Constituent Assembly to broaden the political discourse and increase political participation in the country. After his election, his efforts

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<sup>12</sup> *Medieval concept of human rights*, The National Archives of the United Kingdom, <http://www.nationalarchives.gov.uk/humanrights/1215-1500/>

resulted in the 1999 Constitution of the Bolivarian Republic of Venezuela. It was the first constitution in Venezuelan history approved by popular referendum and enshrined the concept of “participatory democracy”, a concept that emphasizes the direct and individual political participation of citizens. The new Constitution included a number of major changes to the structure of government and establishing protections for a greater number of human, social and economic rights. One unique element of the 1999 Constitution is that it included provisions for removing a sitting president through a recall referendum process— an explicit check on the power of the sovereign.

Despite the fact that the Bolivarian Constitution was one of President Chavez’ proud legacies, the Regime under President Maduro has systematically violated its spirit and provisions including its Fundamental Principles, outlined in Title I; the distribution of the Public Power in Title IV; and the Organization of the national public authority in Title V; as well as the civil, political, economic, human and social protections guaranteed under Titles III, VI, and VII of the Bolivarian Constitution.

The Government has used the Supreme Court to legitimize five Presidential declarations of States of Emergency and four extensions, ruling that they were all constitutional, despite exceeding the time-frames established under Title VII of the Constitution, and to have been rejected by the National Assembly.

The Government has used the Supreme Court to rob the new Congress elected in December of 2015 of its Supermajority. The Court has declared the Legislature to be in contempt and ruled that any laws it passed would be null and void. The most extreme measure was taken in late March 2017 when the Court tried to arrogate the powers of the Assembly to itself, triggering the Permanent Council to approve the April 3 Resolution recognizing the “unconstitutional alteration of the democratic order”.<sup>13</sup>

Like its attacks on the National Assembly, the Supreme Court has more recently turned its attention to the Attorney General, prosecuting her for alleged “grave errors” and attempting to remove her from her post. It has stripped her of her investigative and prosecutorial powers, and has given them instead to the *Defensor del Pueblo* (Human Rights Ombudsman). It has removed the Deputy Attorney General and appointed a replacement who has been sanctioned by the Government of the United States for human rights violations. The Supreme Court has no jurisdiction to take these actions; they are all the exclusive prerogative of the National Assembly under the Bolivarian Constitution.

The Government has denied the people of Venezuela their constitutional rights to physical integrity and the right to life, injuring and murdering demonstrators in the streets, abusing and torturing detainees and political prisoners, and denying the right of civilians to be tried by a natural judge, instead of by military tribunals.

The Government has denied the constitutionally protected right to peacefully demonstrate and the right to express freely, thoughts, ideas or opinions orally, in writing or by any other form of

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<sup>13</sup> CP/RES. 1078 (2108/17) Resolution on the Recent Events in Venezuela (2017)  
[http://www.oas.org/en/media\\_center/press\\_release.asp?sCodigo=E-022/17](http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-022/17)

expression. The Government has denied the people of Venezuela the right to vote - by blocking the constitutionally provided recall referendum and by postponing the regional and municipal elections. It has gone so far as to try to change the most basic constitutional right of universal suffrage, replacing it with indirect elections through the constituent assembly process.

These actions take Venezuela back to a time in history where no rule of law exists, where anyone on a whim can be accused of any crime, and be imprisoned, tortured or murdered; where no recourse exists; where the impunity of the Government reigns supreme, and where in the words of Thomas Hobbes, “the life of man, [is] solitary, poor, nasty, brutish, and short”.<sup>14</sup>

#### THE CONVOCAION OF A NATIONAL CONSTITUENT ASSEMBLY

The systematic violations of the Bolivarian Constitution to further the Government’s authoritarian hold on power have required that a new legal and political framework be established by the Regime. The government’s solution was to convene a national constituent assembly

As it is born out of violations of the Constitution, the call for a constituent assembly has been illegitimate from the start. The process circumvented the public consultation required prior to the convocation of such a body, the election rules for its convening are unconstitutional, and it fails to recognize that the convocation of a constituent assembly has been rejected both by different sectors in the country and by 85 percent of the population.<sup>15</sup>

Pursuant to Article 347 of the Venezuelan Constitution, the people are the original constituent power, and in the exercise of that power, may convene a national constituent assembly for the purpose of transforming the State, creating a new legal framework, and drafting a new Constitution.

The announcement of the President’s intention to establish the new constituent assembly has triggered a debate over Articles 347, 348 and 349 of the Constitution, because it confuses the power to “initiate” with the power to “convene” a national constituent assembly. There is also controversy around instructions given to the National Electoral Council (CNE) dictating that sectoral and regional divisions will be the basis of the electoral process.

The Constitutional Chamber of the Supreme Court issued a ruling on the power of the Executive branch to convene the Constituent Assembly. The Chamber decided that it is not necessary to consult the people—the sovereigns of the constituent power— on convening the Assembly. This decision No. 378, issued March 31, 2017, bars any further institutional mechanism for stopping the proposal.

The Constitutional Chamber also ruled that universal suffrage, the individual’s right to vote, can be replaced by an election mechanism via ‘participation’ in the various sectors of the Popular Power (Worker’s Democracy). This disregards the citizen’s right to universal suffrage, replacing

<sup>14</sup> Thomas Hobbes, *Leviathan*, 1651.

<sup>15</sup> *85% de los venezolanos rechaza modificar la Constitución*, June 9, 2017, Datanalisis, <http://prodavinci.com/2017/06/09/actualidad/datanalisis-85-de-los-venezolanos-rechaza-modificar-la-constitucion-laminas-2-2/>

it, without their consent, with indirect elections. This is a violation of the most fundamental political rights including the right to vote, and to be elected in a free, direct and universal manner.

The election rules for the Constituent Assembly state that of the 545 delegates, 364 will be elected regionally, by municipalities, while the remaining 181 will be elected by eight sectors: workers, pensioners, students, communes and commune councils, *campesinos* and fishermen, the indigenous peoples, businessmen and the handicapped. The system of representation prioritizes certain groups in the population, giving them disproportionate influence over others.

As a result, the voting rules for the National Constituent Assembly set out in Decree 2.830 do not guarantee the political rights of the Venezuelan people provided for in Article 63 of the Constitution of 1999: “Suffrage is a right. It shall be exercised through free, universal, direct and secret elections. The law shall guarantee the principle of personalization of suffrage and proportional representation.”<sup>16</sup>

The election rules for the National Constituent Assembly are not inclusive as they do not guarantee a universal and equitable vote. In the case of sectoral elections, the vote is restricted to citizens who belong to that specific sector, and they can only vote for individuals who are also a part of that same sector. Similarly, the fact that the CNE will manage the list of voters from each of the sectors, creates the risk that the voters list can be purged or manipulated according to the CNE’s interpretation of which individuals belong to which sectors.

On June 8, the Attorney General of the Republic, Luisa Ortega Díaz, asked the Electoral Chamber of the Supreme Court of Justice to declare the decisions taken by the CNE to be null and void, including all decisions on the voting rules and the candidacies of constituent representatives. By filing this motion, the Attorney General sought to reassert her constitutional and legal responsibilities.

The Attorney General’s motion requested a precautionary measure to immediately suspend the electoral process for the Constituent Assembly given of the irreparable harm that the election of the representatives would cause to participatory democracy and the exercise of popular sovereignty.

Although the TSJ website was blocked, on June 12, at 6:47 a.m., the Electoral Chamber of the Supreme Court of Justice announced, via Twitter, that it had denied the motion file by the Attorney General, “because of the inappropriate amalgamation of claims.” The court also found that it was inadmissible “because attempts to nullify actions taken by different agencies of the Public Power were joined in the same suit, when they should be heard by different jurisdictions.”<sup>17</sup>

On June 27, the Constitutional Chamber of the Supreme Court decided, in an illegal manner, to strip the Attorney General of its investigative and prosecutorial powers, powers that are

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<sup>16</sup> Article 61, Constitución de la República de Venezuela (1999)

<http://pdba.georgetown.edu/Constitutions/Venezuela/ven1999.html>

<sup>17</sup> Por “*inepta acumulación*” de pretensiones, TSJ declara inadmisibile recurso ejercido por Luisa Ortega Díaz (sentencia), La Patilla, June 12, 2017, <https://www.lapatilla.com/site/2017/06/12/por-inepta-acumulacion-de-pretensiones-tsj-declara-inadmisibile-recurso-ejercido-por-luisa-ortega-diaz-sentencia/>

designated under Articles 284 through 286 Constitution as the authority of the Public Ministry.<sup>18</sup> They have instead been given to the *Defensor del Pueblo*. The Court stated that the *Defensor* had “powers to investigate, issue legal opinions, and receive legal complaints”.<sup>19</sup> This is yet another example of the Court deliberately and unconstitutionally dismantling the democratic institutions of the State.

The Court went further. It also fired the Deputy Attorney General, Rafael González, who was in line to succeed the Attorney General. On June 28, Attorney General Ortega was barred from leaving the country, her bank accounts were frozen, and she is prevented from selling any property while the Court decides if there are grounds to bring her to trial on July 4, 2017.<sup>20</sup> On June 30, the Office of the UN High Commissioner for Human Rights condemned the actions, stating that it was “disturbed” by the Supreme Court’s decision and applauded the Attorney General for the “important steps to defend human rights, documenting deaths insisting on the need for due process and the importance of the separation of powers, and calling for people who have been arbitrarily detained to be immediately released.”<sup>21</sup> The statement continued: “The dismissal of judicial officials should be subject to strict criteria that do not undermine the independent and impartial performance of their functions.”<sup>22</sup>

The Attorney General refused to appear before the Supreme Court on July 4, stating at a news conference held the same day that the members of the Court were illegitimate and unconstitutional, and that she “would not validate a circus” which would arrive at a foregone conclusion to remove her from office.<sup>23</sup>

Meanwhile, the Supreme Court appointed Katherine Harrington to be the new Deputy Attorney General. A former prosecutor, Harrington was sanctioned by the United States in 2015 for human rights violations.<sup>24</sup> According to the Constitution, the power to appoint the Deputy lies exclusively with the National Assembly.<sup>25</sup>

The elections for the National Constituent Assembly cannot be viewed as a democratic process.

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<sup>18</sup> Articles 284-286, Constitución de la República de Venezuela (1999)

<http://pdba.georgetown.edu/Constitutions/Venezuela/ven1999.html>

<sup>19</sup> *El Tribunal Supremo de Justicia de Venezuela transfirió competencias de la Fiscal General al Defensor del Pueblo*, Infobae, June 28, 2017, <http://www.infobae.com/america/venezuela/2017/06/28/el-tribunal-supremo-de-justicia-de-venezuela-transfirió-competencias-de-la-fiscal-general-luisa-ortega-díaz-al-defensor-del-pueblo/>

<sup>20</sup> *TSJ prohíbe salir del país y congela bienes a Fiscal General Luisa Ortega Díaz*, Prodavinci, June 29, 2017, <http://prodavinci.com/2017/06/29/actualidad/tsj-prohibe-salir-del-pais-y-congela-bienes-a-fiscal-general-luisa-ortega-diaz-monitorprodavinci/>

<sup>21</sup> *Press Briefing note on Iraq, Al Jazeera, Venezuela and Guatemala*, Spokesperson for the UN High Commissioner for Human Rights, June 30, 2017,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21818&LangID=E>

<sup>22</sup> Ibid.

<sup>23</sup> *Luisa Ortega: Golpe de Estado del TSJ es más grotesco que el de Carmona*, CNN en Español, July 4, 2017, <http://cnnspanol.cnn.com/2017/07/04/la-fiscal-general-luisa-ortega-no-se-presentara-ante-el-tsj-no-voy-a-convalidar-un-circo/>

<sup>24</sup> Executive Order 13692 of March 8, 2015 Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela, Federal Register, Vol. 80, No. 47, Wednesday, March 11, 2015, [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_eo.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_eo.pdf)

<sup>25</sup> Quien es Katherine Harrington, vicefiscal designada por el TSJ?, El Nacional, 4 de julio de 2017, [http://www.el-nacional.com/noticias/politica/quien-katherine-harrington-vicefiscal-designada-por-tsj\\_191164](http://www.el-nacional.com/noticias/politica/quien-katherine-harrington-vicefiscal-designada-por-tsj_191164)

It must be seen for what it is: a clear attempt to brush away the last vestiges of the democratic State. The arbiter of the election is illegitimate, because it has repeatedly demonstrated its bias. Any outcome of this process would be illegitimate, given that the Executive unilaterally started the process.

Venezuela does not need a new Constitution by way of the proposed constituent assembly. It needs to enforce its current Constitution and return the right of universal suffrage to its citizens.

#### THE PUBLIC CONSULTATION OF JULY 16, 2017

In response to the Executive's coopting of the other branches of government, and its clearly illegitimate call for a national constituent assembly, the National Assembly approved, the "Agreement to Rescue Democracy and the Constitution", on July 5. In the Agreement, the Assembly decided to initiate "the national process for a sovereign decision by means of a public consultation of the people of Venezuela on the direction that the country should follow", according to Articles 5, 62, 70 and 187, section 4, of the Constitution.<sup>26</sup> The Assembly decided that three questions would be asked in the public consultation:

- 1) Do you reject the convening of a constituent assembly, proposed by President Maduro without the prior approval of the people of Venezuela?
- 2) Do you demand that the Armed Forces and all government officials obey and defend the Constitution of 1999, and the decisions of the National Assembly?
- 3) Do you agree that the Public Powers should be renewed in accordance with the Constitution, that free and fair elections should be held, and that a national unity government to restore the Constitutional order should be formed?<sup>27</sup>

The legislature set July 16 as the date for the public consultation, and determined that all Venezuelans, 18 years of age or older who were on the electoral rolls of the National Electoral Council, could vote.

As of July 17, with 99.01% of the count tallied, 7,535,259 Venezuelans had voted in the public consultation. The results were resounding for each one of the three questions posed. The first question received 7,432,764 "Yes" votes and 9,076 "No" votes; the second question received 7,446,381 "Yes" votes and 9,835 "No" votes; and 7,454,703 votes were cast "Yes" in the third question, compared to 11,348 "No" votes.<sup>28</sup>

The consultation held on Sunday, July 18, 2017 represents a true example of civic duty and of direct democracy exercised by Venezuelans, despite the crimes of state repression. The people

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<sup>26</sup> *Acuerdo sobre el rescate de la Democracia y la Constitución, Asamblea Nacional de Venezuela*, July 5, 2017, <http://www.asambleanacional.gob.ve/actos/acuerdo-sobre-el-rescate-de-la-democraciay-la-constitucion>

<sup>27</sup> *Ibid.*

<sup>28</sup> *7 millones 186 mil venezolanos le dicen No a la Constituyente y exigen elecciones, Prensa Asamblea Nacional de Venezuela*, July 17, 2017, <http://www.asambleanacional.gob.ve/noticias/7-millones-186-mil-venezolanos-le-dicen-no-a-la-constituyente-y-exigen-elecciones>

expressed themselves in favor of recovering their basic freedoms and the rule of law. They also delivered a profound lesson to both the Government and the Opposition: it is up to the people to determine how to bring Venezuela out of the political, social and economic crisis in which it finds itself.

The voice of the sovereign ordered that the National Constituent Assembly be stopped; there is no doubt about this. For the government to try to push ahead towards the proposed Constituent Assembly on July 30 would be an undemocratic act. The international community must do all it can to support the July 16 results.

The people asked that the armed forces and state officials respect the Constitution. There is no simpler mandate, given that respect for the Constitution demanded by the people is the ethical minimum that can be naturally demanded of the State. It is regretful that the people must raise their voices to claim such a basic and essential principle. The responsibility to fulfill this mandate falls to those who control the government of Venezuela today. The responsibility to obey the voice of the sovereign falls to those who exercise the leadership of the armed forces.

The decisions of the National Assembly also come from the sovereign, expressed back in December 2015. Respect for the decisions of the representatives of the people is fundamental for the exercise of rights in a democratic country.

There is no other way to designate the members of the public powers aside from compliance with the Constitution. The people have mandated the holding of free and transparent elections and a National Unity government. It is the duty of everyone, government and opposition, to make this happen.

It is clear to us in the international community that the true protagonist, the only hero at all time is the Venezuelan people: mediators, facilitators, guarantors, friends, those who denounce, those who demand the democratization of the country, are all bound by the voice of the people.

## **II. THE SYSTEMATIC USE OF REPRESSION: INTOLERANCE, VIOLENCE, AND DEATH**

Hundreds of thousands of Venezuelans have once again taken to the streets to make their voices heard. The *Observatorio Venezolano de Conflictividad Social* (the Venezuelan Observatory of Social Conflict) has documented that 2,675 demonstrations have taken place between April 1 and June 19, 2017, which is an average of 33 protests per day. This is a 66% increase over the number of protests that took place during the same period in 2016, when 1,614 demonstrations took place. The street protests have spread throughout the entire country, occurring both in urban and in rural areas and notably in low-income areas. The areas with the largest number of protests are the Capital District, Miranda, Táchira, Mérida and Carabobo.<sup>29</sup>

The Government responded by sending their security apparatus to confront them. In March, the

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<sup>29</sup> *Venezuela: 2.675 protestas y 95 fallecidos desde el 1 de abril 2017*, Observatorio Venezolano de Conflictividad Social, June 20, 2017, <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/venezuela-2-675-protestas-y-95-fallecidos-desde-el-1-de-abril-2017>

government had already announced that it would distribute more than half a million military weapons to civilian militias, inciting them to confront the protestors.<sup>30</sup> The repression that is being conducted is not a series of random or isolated incidents of violence. Under the direction of President Maduro, the cabinet and top military commanders of the regime have developed and implemented systematic practices of repression through the criminalization of opposition and civil society voices, arbitrary detention, the military prosecution of civilians, and the excessive use of force against peaceful protests.

This is not mere coincidence. These are the deliberate actions of a dictatorship desperate to hold onto power. The regime has created a “new normal” where systematic institutional violence of the state is used in a dirty war against the people.

This violence is not only targeting victims who are injured or killed, it is by design, a message to the broader population. The violence is used as a calculated threat intended to incite terror throughout the broader citizenry. In sending a warning that there are no protections for civilians and that any citizen could be next, they foment fear that is meant to discourage Venezuelans from exercising their fundamental freedom and participating in the constitutionally protected demonstrations. As Aristotle forewarned, “the tyrant desires that his subjects shall be incapable of action, for no one attempts what is impossible and they will not attempt to overthrow tyranny if they are powerless.” Venezuela is implementing a deliberate and systematic policy targeting members of the civilian population in order to crush all dissent.

According to different sources, both government and from civil society organizations more than 100 civilians have been killed in the demonstrations.<sup>31</sup> This is close to one death for each day of the protests. Homicide investigations have been opened into 67 of these cases.<sup>32</sup> Estimates of those injured reach as high as 15,000.<sup>33</sup> In many of these cases, the injuries and deaths are attributable to members of the security forces and/or paramilitary *colectivos*. As of July 4, 3,589 protesters had been arrested and the number of political prisoners is at an all-time high.<sup>34</sup> In a further escalation of the military State, the government has begun prosecuting civilians under military justice.

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<sup>30</sup> *Maduro arma a las milicias y recibes el apoyo “incondicional” del Ejército*, El País, March 18, 2017, <http://www.elpais.com.uy/mundo/maduro-revelo-expansion-milicia-civiles.html>

<sup>31</sup> The number of people killed in the demonstrations ranges from 92, according to July 10 Public Ministry of Venezuela figures, to 111, according to June 30 figures from the Venezuelan Observatory of Social Conflict. See *Balance de Víctimas fallecidas y lesionadas durante manifestaciones en abril-julio de 2017*, Public Ministry of Venezuela, July 10, 2017, [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=e8a5fe8e-6d53-4792-bf0d-a1086ad855c0&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=e8a5fe8e-6d53-4792-bf0d-a1086ad855c0&groupId=10136), and *Venezuela: 2.675 protestas y 111 fallecidos desde el 1 de abril 2017*, Venezuelan Observatory of Social Conflict, June 30, 2017, <https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/venezuela-2-675-protestas-y-95-fallecidos-desde-el-1-de-abril-2017>

<sup>32</sup> *Balance de Víctimas fallecidas y lesionadas durante manifestaciones en abril-julio de 2017*, Public Ministry of Venezuela, July 10, 2017, [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=e8a5fe8e-6d53-4792-bf0d-a1086ad855c0&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=e8a5fe8e-6d53-4792-bf0d-a1086ad855c0&groupId=10136)

<sup>33</sup> *Oposición contabiliza 15,000 heridos tras 63 días de protestas en Venezuela*, Diario Libre, June 2, 2017, <https://www.diariolibre.com/mundo/latinoamerica/oposicion-contabiliza-15-000-heridos-tras-63-dias-de-protestas-en-venezuela-AN7249002>

<sup>34</sup> *Reporte sobre la represión en Venezuela durante manifestaciones, junio de 2017*, Foro Penal Venezolano, p.1, <https://foropenal.com/reportes>

These tactics are designed to instill fear in the population so that citizens are too afraid to make their voices heard. While citizens fight for their democracy with their words, their ideas and their principles, the Regime responds with tear gas, rubber bullets, armored cars, and in some cases, guns with live ammunition. This heavy-handed response is an authoritarianism that hides behind the armed security forces that act as a tool of repression and terror, rather than a force for order and the protection of citizens.

Behind every detainee, every political prisoner, every person tortured and every person killed there is someone that is institutionally responsible. This regime and its rampant corruption are responsible. Maduro's government has blood on its hands.

#### THE RIGHT TO FREE ASSEMBLY AND PEACEFUL PROTEST

Peaceful demonstrations are a vital instrument of peace, democracy and freedom. They are a means for the sovereign to make its voice heard when other democratic channels have been closed. Although in international law, there is no specific 'right to protest', its key elements, freedom of assembly, association and expression, are all recognized as fundamental rights in international law and within any democratic society.

Freedom of assembly refers to the individual right of people to come together to collectively express their ideas. The American Convention on Human Rights clearly recognizes the "right of peaceful assembly, without arms."<sup>35</sup> It likewise enshrines the right to freedom of association. Article 16.1 specifically protects the right to associate freely for both ideological and political purposes, among others,<sup>36</sup> and defines freedom of thought and expression as the right to "seek, receive and impart information and ideas of all kinds through any medium of one's choice."<sup>37</sup> These sentiments are accepted as universal rights and freedoms, echoed in the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the Inter-American Democratic Charter, the International Covenant on Civil and Political Rights, and the European Convention on Human Rights.

At times of political tension and upheaval, it is all the more imperative that we protect the rights and institutions that guarantee legitimate and peaceful protest. The protections of a citizen's right to criticize the government and to express dissent are powerful indicators of the democratic health of a nation. The criminalization of protests, the harassment and the imprisonment of opponents are typical practices of an oppressive State, as is evidenced by the militarization of the Venezuelan government's response to the demonstrations.

The 41<sup>st</sup> OAS General Assembly in El Salvador passed Resolution 2680 on the *Promotion of the Rights to Freedom of Assembly and of Association in the Americas*. This resolution reaffirms "the participatory nature of democracy in our countries in different aspects of public life

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<sup>35</sup> Article 15, American Convention on Human Rights (1969)  
<http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>

<sup>36</sup> Article 16, American Convention on Human Rights (1969)  
<http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>

<sup>37</sup> Article 13, American Convention on Human Rights (1969)  
<http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>

contributes to the consolidation of democratic values and to freedom and solidarity in the hemisphere”.<sup>38</sup> It makes specific reference to protections guaranteed to individuals who espouse dissenting political beliefs.<sup>39</sup> It also calls on member states to respect and fully protect the right to peaceful and free assembly and ensure that any restrictions are “within the framework of national constitutions and laws and in accordance with their obligations under the international human rights law and agreements.”<sup>40</sup>

The Venezuelan Constitution, authored by former President Hugo Chavez, took these international commitments further, and Article 68 directly enshrines the “right to demonstrate, peacefully and without arms.”<sup>41</sup> It also protects freedom of expression as “the right to express freely his or her thoughts, ideas or opinions” in any form of expression.<sup>42</sup> Under Maduro, the Regime has been deliberate in its actions to roll back the rights of citizens, from the 2014 withdrawal from the Inter-American human rights systems and now the systematic elimination of these freedoms through violence, repression and the criminalization of the demonstrations. Acting in violation of its international legal and human rights commitments as well as in direct violation of Venezuela’s own Constitution, this regime is attempting to unilaterally re-write the Constitution through its illegitimate Constituent National Assembly process in order to remove the rights and protections of its citizens, including universal suffrage, against their will.

The State is recognized to have the monopoly on the legitimate use of force, or violence within its borders under international law. This means it is the only entity with the right to use, threaten, or authorize the use of force against its citizens or residents. This privilege, however, does not exist without limitations. It is restricted by the social contract, the belief that an individual has consented to surrender a limited amount of their freedoms in exchange for security and the protection of their remaining rights and freedoms. Article 1 of the American Declaration of the Rights and Duties of Man: “Every human being has the right to life, liberty and the security of his person”<sup>43</sup> is reiterated in the American Convention on Human Rights where “every person has the right to personal liberty and security.”<sup>44</sup> A State abusing its monopoly on violence represents a complete breakdown of this sacred agreement between the government and the people. A government that needs to impose its authority through the use of force is a government that has lost its moral and ethical authority to govern.

In Venezuela, the Regime demonstrates a systematic pattern of abuse against any form of criticism or dissent, using its various governmental, quasi-governmental, or civilian bodies and personnel to target innocent civilians through violent repression, arbitrary arrests, detention,

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<sup>38</sup> *Preamble*, AG/RES. 2680 (XLI-O/11) Promotion of the Rights to Freedom of Assembly and of Association in the Americas (2011) <http://www.iccs.org/pubs/OASResolutionFreedomAssociation.pdf>

<sup>39</sup> *Ibid.*

<sup>40</sup> *Operative Paragraph 3*, AG/RES. 2680 (XLI-O/11) Promotion of the Rights to Freedom of Assembly and of Association in the Americas (2011) <http://www.iccs.org/pubs/OASResolutionFreedomAssociation.pdf>

<sup>41</sup> *Article 68*, Constitución de la República de Venezuela (1999) <http://pdba.georgetown.edu/Constitutions/Venezuela/ven1999.html>

<sup>42</sup> *Article 57*, Constitución de la República de Venezuela (1999) <http://pdba.georgetown.edu/Constitutions/Venezuela/ven1999.html>

<sup>43</sup> *Article 1*, American Declaration of the Rights and Duties of Man (1948) <https://www.cidh.oas.org/Basicos/English/Basic2.american%20Declaration.htm>

<sup>44</sup> *Article 17*, American Convention on Human Rights (1969) <http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>

torture, and targeted killings. By militarizing the response to the demonstrations, the government has become a dictatorship.

Government institutions are a public service. This also includes the security apparatus. Civilian or democratic oversight of the military is an essential element of a democratic society. Military and police institutions exist to protect society, not to enforce policy or a particular ideology. Civilian oversight is the manifestation of the preeminence of the society's interests.

Venezuelans should not be reduced to facing off with their government in the streets. When people are on one side and weapons are on the other, there can be no democracy. In a democracy, this confrontation takes place in elections. In the words of Abraham Lincoln, "The ballot is stronger than the bullet." Weapons do not legitimize governments, only elections do. The use of state security forces to suppress demonstrations advocating for constitutional rights and democratic principles cannot be tolerated. These actions take the hemisphere back to the some of the darkest moments of its history. The state-led violence resulting in the needless deaths of citizens fighting for the basic rights that should be guaranteed to them, only adds to the already tragic story of Venezuela's collapse.

#### ARBITRARY REPRESSION AND DETENTION

Since April 1, citizens have taken to the streets, peaceably exercising their right to protest and their right of assembly, to protest the actions of the TSJ and repudiate the call for a Constituent Assembly. They are asserting their fundamental rights to demand free, fair and transparent elections as the only way out of the Venezuelan crisis. The Venezuelan people are clearly demonstrating that they stand for peace and democracy.

In contrast, the Government has demonstrated a systematic pattern of abuse. Any member of the opposition or critic of the Regime may be detained, imprisoned, beaten up, tortured or assassinated. No democracy or rule of law still exists when a government considers that its people represent a threat to its remaining in power.

The human rights NGO, *Foro Penal*, has confirmed "repeated, systematic behavior by officials of the GNB, PNB and some regional police (such as the regional police of the States of Táchira, Barinas, Carabobo and Aragua), who have taken advantage of their superior force and who are equipped with arms not permitted for the control of civilian demonstrations to crack down on the demonstrators with considerable cruelty, illegally and unconstitutionally claiming that they are following the orders of their superiors. These acts of repression not only entail arbitrary detentions but also mean a violation of the rules on control of public demonstrations, violating human rights and clearly violating the laws on the matter."

*Foro Penal* has noted "a directive that has been ongoing and even escalating, from the beginning of the demonstrations in April up until now, which involves excessive deployment of military and police officers throughout the country, and a heavy presence of armored vehicles known as "whales" or "rhinoceroses", which are used as offensive vehicles, not as deterrents, to disperse and even wound the demonstrators. The indiscriminate and excessive use of tear gas canisters has not stopped. These containers of toxic gases are used by the police and military forces not

only to disperse people, but have also been fired directly and point blank at the demonstrators, seriously injuring and even killing some people. Many people have been affected by inhaling the toxic gases from these canisters, not only demonstrators but also children and older people who were in houses and even health centers and schools close to the areas where the brutal, out of control repression was taking place.<sup>45</sup>

According to both *Foro Penal* and the Public Ministry of Venezuela (*Ministerio Público de Venezuela*), a total of 92 people have died between April 1 and July 10 as a result of the protests.<sup>46</sup> The Public Ministry has reported that of the 92 people killed, 67 of them were murdered.<sup>47</sup> Although access to the website of the Attorney General appears to be intermittently blocked, there is a full list of investigations posted on the website.<sup>48</sup> As of June 29, the Public Ministry had opened 450 investigations into cases of violations of fundamental rights. Of these cases, 23 are for causing death and 853 are for causing injuries, allegedly at the hands of members of the police or the military.<sup>49</sup> Various members of the Bolivarian National Police, the Bolivarian National Guard, the Police of the State of Carabobo, the Police of the State of Táchira, and the Municipal Police of Sucre have been charged with homicide.<sup>50</sup> The Regime's paramilitary *colectivos* are suspects in the majority of the remaining cases.

The number of civilians wounded in the protests varies considerably, from approximately 1,550, according to official figures from the Public Ministry<sup>51</sup>, to 15,000 according to the opposition.<sup>52</sup> As of July 4, 3,589 people had been arrested in the demonstrations, almost a third of which are still incarcerated.<sup>53</sup>

<sup>45</sup> *Reporte sobre la represión en Venezuela durante manifestaciones*, May 2017, Foro Penal Venezolano, p. 5, <https://foropenal.com/reportes>

<sup>46</sup> *Reporte sobre la represión en Venezuela durante manifestaciones*, June 2017, Foro Penal Venezolano, p. 2, <https://foropenal.com/reportes> and, *Balance de Víctimas fallecidas y lesionadas durante manifestaciones en abril-julio de 2017*, Public Ministry of Venezuela, July 10, 2017, [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=e8a5fe8e-6d53-4792-bf0d-a1086ad855c0&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=e8a5fe8e-6d53-4792-bf0d-a1086ad855c0&groupId=10136)

<sup>47</sup> *Balance de Víctimas fallecidas y lesionadas durante manifestaciones en abril-julio de 2017*, Public Ministry of Venezuela, July 10, 2017, [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=e8a5fe8e-6d53-4792-bf0d-a1086ad855c0&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=e8a5fe8e-6d53-4792-bf0d-a1086ad855c0&groupId=10136)

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ministerio Público citó en calidad de imputado al ex comandante general de la GNB*, Comunicado del Ministerio Público de Venezuela, June 29, 2017, [http://www.mp.gob.ve/web/guest/actuacion-procesal-2?p\\_p\\_id=62\\_INSTANCE\\_9Eyg&p\\_p\\_lifecycle=0&p\\_p\\_state=maximized&p\\_p\\_mode=view&p\\_p\\_col\\_id=column-2&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=2&\\_62\\_INSTANCE\\_9Eyg\\_struts\\_action=%2Fjournal\\_articles%2Fview&\\_62\\_INSTANCE\\_9Eyg\\_groupId=10136&\\_62\\_INSTANCE\\_9Eyg\\_articleId=16975012&\\_62\\_INSTANCE\\_9Eyg\\_version=1.0](http://www.mp.gob.ve/web/guest/actuacion-procesal-2?p_p_id=62_INSTANCE_9Eyg&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=column-2&p_p_col_pos=1&p_p_col_count=2&_62_INSTANCE_9Eyg_struts_action=%2Fjournal_articles%2Fview&_62_INSTANCE_9Eyg_groupId=10136&_62_INSTANCE_9Eyg_articleId=16975012&_62_INSTANCE_9Eyg_version=1.0)

<sup>50</sup> *Balance de Víctimas fallecidas y lesionadas durante manifestaciones en abril-julio de 2017*, Ministerio Público de Venezuela, July 10, 2017, [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=31c69457-3dd2-49d0-94d9-7fca7f6ba8c8&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=31c69457-3dd2-49d0-94d9-7fca7f6ba8c8&groupId=10136).

<sup>51</sup> *Ibid.*

<sup>52</sup> *Oposición contabiliza 15,000 heridos tras 63 días de protestas en Venezuela*, *Diario Libre*, June 2, 2017, <https://www.diariolibre.com/mundo/latinoamerica/oposicion-contabiliza-15-000-heridos-tras-63-dias-de-protestas-en-venezuela-AN7249002>

<sup>53</sup> *Reporte sobre la represión en Venezuela durante manifestaciones*, June 2017, Foro Penal Venezolano, pág. 1, <https://foropenal.com/reportes>

On April 28, 2017, the Office of the UN High Commissioner for Human Rights released a statement calling on the Government of Venezuela to allow for peaceful protests. The statement condemns the militarization of the response to the protests, expressing grave concern about the excessive and indiscriminate use of force, raising specific concern with the April 2017 introduction of the Zamora Plan that calls on groups of armed civilians and police to assist in responding to protests.<sup>54</sup>

The victims who died during the demonstrations between April 1 and July 10, 2017, according to official data from the Public Ministry, are listed below.<sup>55</sup>

1.- Jairo Johan Ortiz Bustamante: 19 years old, was a student at the *Universidad Nacional Experimental Politécnica de Caracas* (National Polytechnic Experimental University of Caracas).

2.- Daniel Alejandro Queliz Araca: aged 20.

3.- Miguel Ángel Colmenarez Milano: a 36 year-old tradesman.

4.- B.D.P.G (identity omitted pursuant to Article 65 of the Organic Law for the Protection of Children and Adolescents): a 14 year-old teenager, in his third year of high school.

5.- Gruseney Antonio Canelón Scirpatempo: a young sportsman, aged 32, who sold auto repair parts.

6.- C.J.M.B (identity omitted pursuant to Article 65 of the Organic Law for the Protection of Children and Adolescents): a 17 year-old student in his first semester of economics at the *Universidad Central de Venezuela* (University of Central Venezuela).

7.- Niumar José Sanclemente Barrios: 28 years old, was a staff sergeant in the Bolivarian National Guard.

8.- Paola Andreína Ramírez Gómez: 23 years old, a student at the *Universidad Católica de San Cristóbal* (Catholic University of San Cristobal).

9.- Elio Manuel Pacheco Pérez: 21 years old, a worker in the *Fospuca* company.

10.- Jairo Ramírez: 46 years old, worked as a mechanic in the company Supra Caracas.

11.- Robert Joel Centeno Briceño: 29 years old, father of three, who worked as a warehouseman in Suvinca and played soccer for the *Coche* team.

12.- William Heriberto Marrero Rebolledo: 33 years old.

13.- Jonathan Antonio Menezes López: 27 years old, a self-employed bricklayer.

14.- Romer Stivenson Zamora: 29 years of age, worked as a moto taxi driver on the El Cajigal

<sup>54</sup> Venezuela must allow peaceful protests and investigate killing of demonstrators, say UN experts, April 28, 2017, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21553&LangID=E>

<sup>55</sup> *Balance de Víctimas fallecidas y lesionadas durante manifestaciones en abril-julio de 2017*, Public Ministry of Venezuela, July 10, 2017, [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=31c69457-3dd2-49d0-94d9-7fca7f6ba8c8&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=31c69457-3dd2-49d0-94d9-7fca7f6ba8c8&groupId=10136).

line.

- 15.- Kenyer Alexander Aranguren Pérez: 20 years old, did various types of piecework.
- 16.- Y.B.B.B (identity omitted pursuant to Article 65 of the Organic Law for the Protection of Children and Adolescents): teenager aged 15, a second-year high school student in the *Liceo Fray Pedro De Agreda*.
- 17.- A.A.R.A. (identity omitted pursuant to Article 65 of the Organic Law for the Protection of Children and Adolescents): teenager aged 16, high school student in the *Liceo José Avalos*.
- 18.- Ramón Ernesto Martínez Cegarra: merchant, aged 28, who sold *empanadas* and natural juices from a shop he owned. He leaves three orphan children.
- 19.- Francisco Javier González Nuñez: bricklayer's assistant, aged 34. He had a two-year old daughter.
- 20.- Kevin Steven León Garzón: 19 years old who lived with his mother and sister, did various types of piecework.
- 21.- Mervins Fernando Guitian Díaz: 25 years old, worked as a public works maintenance supervisor for the City Hall of Sucre, State of Miranda.
- 22.- Almelina Carrillo Virgüez: 48 years old, had worked as a chambermaid in the *Clínica La Arboleda* since 1999, lived with her parents and her son.
- 23.- Jesús Leonardo Sulbarán: Criminologist, 41 years old, father of a one-year old daughter.
- 24.- Luis Alberto Márquez: 52 years old, left behind three children. He worked as a gardener in the Science Faculty at the *Universidad de Los Andes*.
- 25.- Renzo Jesús Rodríguez Rodas, 54 years old, left one son.
- 26.- Orlando Johan Jhosep Medina Aguilar, 22 years old, lived with his mother and his one-year old son.
- 27.- Christian Humberto Ochoa Soriano: 22 years old, studying electricity.
- 28.- Juan Pablo Pernaleta Llovera: 20 years old, second semester student of public accounting at the *Universidad Metropolitana*.
- 29.- Eyker Daniel Rojas Gil: 20 years old, had an eight-month old baby.
- 30.- Yonathan Eduardo Quintero Arenas: 21 years old, working as a mechanic's assistant.
- 31.- Ángel Enrique Moreira González: 28 years old, member of the national swimming team.
- 32.- Ana Victoria Colmenarez de Hernández: tradeswoman, 43 years old.
- 33.- María de los Ángeles Guanipa: 38 years old, lived in Coro.

34.- Armando Cañizales Carrillo: 18 years old, violinist, member of the Venezuelan National Symphony Orchestra system.

35.- Gerardo José Barrera Alonso: police officer of the town of San Joaquín in the State of Carabobo, 38 years old.

36.- Hecder Vladimir Lugo Pérez: 20 years old, practiced swimming, high school graduate taking his exams for university entrance.

37.- Anderson Enrique Dugarte Dugarte: 31 years old, worked as a moto-taxi operator.

38.- Miguel Fernando Castillo Bracho: 27 years old, was a journalist specializing in audiovisual, graduated from the *Universidad Santa María*.

39.- Luis José Alviarez Chacón: 18 years old, only child, high school graduate, played ping pong.

40.- Diego Armando Hernández Barón: 32 years old, was a senior management technician specializing in accounting and finance.

41.- Y.N.M.C. (identity omitted pursuant to Article 65 of the Organic Law for the Protection of Children and Adolescents): 17 years old, worked in a hardware store.

42.- Diego Fernando Arellano De Figueredo: biologist, 31 years old.

43.- J.F.G.C. (identity omitted pursuant to Article 65 of the Organic Law for the Protection of Children and Adolescents): a 15 year old teenager, workman; he had six brothers and sisters.

44.- Manuel Felipe Castellanos Molina: merchant, aged 48, married with three children.

45.- Paul Rene Moreno Camacho: 24 years old, fifth-year medical student at the *Universidad del Zulia*, worked as a paramedic and was a member of a volunteer group providing humanitarian medical aid services.

46.- Daniel Rodríguez Quevedo: 18 years old, first-year law student at the *Universidad Católica del Táchira* (Catholic University of Táchira).

47.- Jorge David Escandón Chiquito: 37 years old, had a degree in citizen security, and was studying for a Master's degree labor administration and labor relations at the *Universidad de Carabobo*.

48.- Edy Alejandro Terán Aguilar: fifth-semester student of human resources management at the *Universidad Simón Rodríguez*.

49.- Yorman Alí Bervecia Cabeza: 18 years old, had just graduated from high school.

50.- Elvis Adonis Montilla Pérez: 20 years old, student at the *Universidad Francisco de Miranda de*, State of Falcón.

51.- Alfredo José Briceño Carrizales: 25 years old, left a three-year old son.

52.- Miguel Ángel Bravo Ramírez: workman, 25 years old.

53.- Freiber Dario Pérez Vielma: 21 years old.

54.- Juan Antonio Sánchez Suárez: 21 years old, played volleyball and worked in a bakery.

55.- Erick Antonio Molina Contreras: 35 years old, worked in a restaurant, left three orphaned children.

56.- Augusto Sergio Puga Velásquez: 22 years old, fourth-semester medical student at the *Universidad de Oriente*.

57.- Adrián José Duque Bravo: Accountant, 23 years old.

58.- Manuel Alejandro Sosa Aponte: 33 years old, quality control worker in a food company in Cabudare. Left an orphaned five-year old child.

59.- Danny José Subero: 34 years old, retired from the National Guard.

60.- César David Pereira Villegas: 20 years old, a student of advertising and marketing at the *Instituto Universitario de Tecnología Industrial Rodolfo Loero Arismendi* (University Institute of Industrial Technology Rodolfo Loero Arismendi)

61.- Nelson Antonio Moncada Gómez: 37 years old, Judge of Chamber 1 of the Appeals Court of the Supreme Court of Justice in the Criminal Court Circuit of the Caracas Metropolitan area.

62.- María Estefanía Rodríguez: 45 years old, worked as a hotel chambermaid.

63.- Luis Miguel Gutiérrez Molina: 20 years old, worked as a longshoreman unloading construction materials.

64.- Yoinier Javier Peña Hernández: 28 years old, had psychomotor impairment from birth, but despite his condition, led an active life.

65.- Orlando José Figuera Esparragoza: 22 years old, worked parking cars at a supermarket in Las Mercedes.

66.- N.A.L.A (identity omitted pursuant to Article 65 of the Organic Law for the Protection of Children and Adolescents): teenager, 17 years old.

67- Sócrates Jesús Salgado Romero: 49 years old, married for twenty-five years, left behind two children, retired with the rank of sergeant in the former Metropolitan Police.

68- Douglas Acevedo Sánchez Lamus: 41 years old, worked as Chief Supervisor in the Police Investigations Division of the State of Mérida, with 21 years of service; he left behind three children.

69- José Amador Lorenzo González: 50 years old, worked as a kitchen designer and installer, left behind two daughters.

70- Luis Alberto Machado Valdez: 26 years old.

71- Luis Enrique Vera Sulbarán: 20 years old, a university student who was pursuing two courses of study: Architecture at the *Rafael Urdaneta University* and Public Accounting at the *Rafael Bellosó Chacín University*.

72- José Gregorio Pérez Pérez: 20 years old, and was in his seventh semester of Physical Education at the *Universidad Pedagógica Experimental Libertador* (Experimental Pedagogical University of the Liberator), Táchira campus.

73- Nelson Daniel Arévalo Avendaño: 22 years old, a law student at the Fermín Toro University.

74- F.A.U.B (identity omitted pursuant to Article 65 of the Organic Law for the Protection of Children and Adolescents): an adolescent aged 17.

75- David José Vallenilla Luis: was a young man aged 22, an only child; he had finished his nursing school studies at the *Instituto Universitario de Tecnología de Administración Industrial* (University Institute of Technology and Industrial Administration), where he was due to attend his graduation ceremony this coming August.

76.- Ronny Alberto Parra Araujo: 27 years old, First Sargent of the Bolivarian National Guard.

77.- Jhonatan José Zavatti Serrano: 25 years old, worked as a truck driver. Left a son.

78.- Javier Alexander Toto Trejo: 34 years old, was a high school graduate and was unemployed. He left two children.

79.-Isael Jesús Macadán Aquino: was 18 years old, a high school graduate, was working and was making plans to leave the country to work and to go to university.

80.-Roberto Enrique Durán Ramírez: 24 years old, was a salesman. He was also a cameraman for the channel *Somos TV*, and left two children.

81.-Luiyin Alfonso Paz Borjas: 20 years old, was a fishmonger and was training as a hairdresser.

82.-Alexander Rafael Sanoja Sánchez: 36 years old.

83.-Víctor Manuel Betancourt González: 18 years old and worked unloading trucks.

84.-Alfredo José Figuera Gutiérrez: 19 years old. Was a student, and was working towards his high school diploma.

85.-Eduardo José Márquez Albarrán: 20 years old, was a first year student in tourism in the National Training Program at the Polytechnic Territorial University of the State of Mérida.

86.-José Rodolfo Bouzamayo Bravo: 33 years old, worked as a motorcycle taxi driver.

87.-Rubén Alexander Morillo Pereira: 33 years old, was a merchant, left two children.

88.-José Gregorio Mendoza Durán: 44 years old, a merchant, he left four children.

89.- Fernando Rojas Rubio: 49 years old, worked as a carpenter, left 3 children.

90.-Ramses Enrique Martínez Carcamo: 20 years old, worked repairing cellular telephones and left two children.

91.-Engelberth Alexander Duque Chacón: 25 years old, worked in a liquor store.

92.-Jhonathan Alexander Giménez Vaamonde: 29 years old.

Of this list of 92 people, 67 were killed by firearms or by another type of projectile. Thirty of the 92 who died were aged 21 or younger; 24 were students, and fourteen were aged 18 or under. Of those who were not killed by firearms, eight were electrocuted and 17 died of other wounds or accidents.

#### FREEDOM OF INFORMATION AND THE TARGETING OF MEDIA

The Venezuelan government's consistent and systematic attacks on the media have also escalated with these protests. While the indirect censorship, harassment and verbal stigmatization of journalists continue unabated, there has been a marked increase in violent and repressive tactics to block stories and prevent the sharing of information by any person or entity that is not directly under the control of the government.

Freedom of expression is essential to the protection of democracy in both our hemisphere and around the world. A vibrant independent media, not tied to the government in power, is fundamental to generating pluralism as well as strengthening and maintaining democratic societies. By eliminating the right to free expression through criminalizing public criticism, the Venezuelan government is in direct violation of its Constitution which guarantees "the right to express freely his or her thoughts, ideas or opinions orally, in writing or by any other form of expression, and to use for such purpose any means of communication an diffusion, and no

censorship shall be established.”<sup>56</sup> It is also violating its commitments under international law.

The militarization of the Regime’s response to the protests has also resulted in a significant increase in the reports of more aggressive tactics of intimidation, and in a number of cases, of physical violence used against journalists, including cases where journalists have been detained, interrogated, and/or had their equipment confiscated.

On April 26, 2017, the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, David Kay, and the Inter-American Commission on Human Rights Special Rapporteur for Freedom of Expression, Edison Lanza released a joint statement “condemning censorship, arrests and attacks on journalists” during the protests.<sup>57</sup> This statement follows on their August joint statement where Kaye noted “the harassment of the media by law enforcement agents obviously hampers journalists’ ability to carry out their vital work and propagates a powerful chilling effect affecting the entire society.”<sup>58</sup>

Their April statement cited 12 cases of journalists being detained for periods ranging between several hours and several days. As of May 22, the *Instituto Prensa y Sociedad de Venezuela*, (Institute for Press and Society of Venezuela, IPSY) informed that 17 reporters had been arrested, including Yonatan Guede, who was detained for 16 days after covering a demonstration in Lara.<sup>59</sup> Detained on September 3, 2016, after covering a protest against President Maduro on Margarita Island, Chilean-Venezuela journalist Braulio Jatar, was moved to house arrest in May 2017.<sup>60</sup>

IPSY has recorded 256 violations or limitations on the exercise of journalistic integrity since the protests began,<sup>61</sup> including 176 physical attacks, acts of intimidation, robberies and damage to equipment perpetrated by security forces, paramilitary groups, and sympathizers.<sup>62</sup> These attacks include 143 reporters injured in the protests, including 35 women, who were beaten, assaulted, struck by tear gas canisters, pepper sprayed or otherwise wounded. Reporters, photojournalists, producers, videographers, and foreign correspondents have all been targeted.<sup>63</sup>

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<sup>56</sup> Article 57, Constitución de la República de Venezuela (1999)

<http://pdba.georgetown.edu/Constitutions/Venezuela/ven1999.html>

<sup>57</sup> Venezuela / Protests: UN and IACHR Rapporteurs condemn censorship, arrests and attacks on journalists, April 26, 2017, <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1062&IID=1>

<sup>58</sup> Venezuela / Crisis: UN and Inter-American expert raises alarm at deterioration of media freedom, August 6, 2016, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20343&LangID=E#sthash.UO4s5ZkC.dpuf>

<sup>59</sup> *Cobertura bajo riesgo / Protestas 2017*, Instituto Prensa y Sociedad, May 22, 2017 <http://ipysvenezuela.org/2017/05/22/cobertura-riesgo-protestas-2017/>

<sup>60</sup> *Conceden arresto domiciliario a Braulio Jatar, periodista chileno venezolano*, Elmostrador, May 25, 2017, <http://www.elmostrador.cl/noticias/mundo/2017/05/25/conceden-arresto-domiciliario-a-braulio-jatar-periodista-chileno-venezolano/>

<sup>61</sup> *Cobertura bajo riesgo / Protestas 2017*, Instituto Prensa y Sociedad, May 22, 2017 <http://ipysvenezuela.org/2017/05/22/cobertura-riesgo-protestas-2017/>

<sup>62</sup> *Diosdado Cabello celebró sentencia judicial contra La Patilla y adelantó fallo similar contra El Nacional*, Instituto Prensa y Sociedad, June 12, 2017, <http://ipysvenezuela.org/alerta/diosdado-cabello-celebro-sentencia-judicial-la-patilla-adelanto-fallo-similar-nacional/>

<sup>63</sup> *Cobertura bajo riesgo / Protestas 2017*, Instituto Prensa y Sociedad, May 22, 2017, <http://ipysvenezuela.org/2017/05/22/cobertura-riesgo-protestas-2017/>

A video was recorded of an attack on Elyangélica González, a correspondent for *Univisión Noticias* and the Colombian-based station *Caracol Radio*, where police officers are shown hitting her, grabbing her hair, and forcing her to the ground. Román Camacho and Miguel Gutiérrez, reporters for the Venezuelan news website *La Patilla* and the Spanish news agency *EFE Noticias*, respectively, were injured after being hit by tear gas canisters. Ramón Véliz, a correspondent with *El Venezolano* and *Unión Radio*, stated that the Bolivarian National Guard raided his home on April 9, threatening his family and seizing his equipment.<sup>64</sup>

In contravention of Article 57 of the Venezuelan Constitution which states “no censorship shall be established,” three independent news websites, *VPI TV*, *Vivo Play* and *Capitalo TV*, have been blocked after broadcasting footage of the protests. This was done in response to directives from the *Comision Nacional de Telecomunicaciones* (National Telecommunications Commission, CONATEL) on the grounds that they were covering the anti-government demonstrations across the country. Their coverage targeted areas without access to mainstream radio and television. Kay and Lanza stated, “CONATEL’s arbitrary orders to suspend the signals of subscriber television channels and of the Internet restrict the freedom of users to seek, receive and impart information, application or service of any kind, and therefore constitute a form of censorship.”<sup>65</sup>

More recently it was reported that the news website, *La Patilla* was required to pay one billion bolivars (approximately \$500,000 USD) for “moral damages.”<sup>66</sup> As of June 12, the ruling had still not been published on the TSJ website.

Venezuela is increasingly censoring the Internet and expanding online surveillance. On March 31, President Maduro announced the establishment of an *Observatorio Nacional de Medios Digitales* (National Observatory of Digital Media), which would “evaluate the global impact of social media and messages intended to manipulate users”.<sup>67</sup> Critics of the government and supporters of free speech see this as nothing more than an effort to prevent the use of the Internet and social media for the organization of peaceful protests and to stifle reporting on human rights abuses committed by the Regime. During the drafting of this report, various government and non-governmental websites in Venezuela that were consulted for information suddenly went off-line.

In perpetuating these attacks, the Venezuelan government continues to treat the media as its enemy. They fear truth. In the words of Edward Teller, “the best weapon of a dictatorship is secrecy; the best weapon of a democracy is openness.”

## MILITARY TRIBUNALS

<sup>64</sup> *Journalists covering Venezuela protests harassed, attacked, and news websites blocked*, Centre for the Protection of Journalism, April 12, 2017, <https://cpj.org/2017/04/journalists-covering-venezuela-protests-harassed-a.php>

<sup>65</sup> *Venezuela / Protests: UN and IACHR Rapporteurs condemn censorship, arrests and attacks on journalists*, April 26, 2017, <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1062&IID=1>

<sup>66</sup> *Diosdado Cabello celebró sentencia judicial contra La Patilla y adelantó fallo similar contra El Nacional*, Instituto Prensa y Sociedad, June 12, 2017, <http://ipysvenezuela.org/alerta/diosdado-cabello-celebro-sentencia-judicial-la-patilla-adelanto-fallo-similar-nacional/>

<sup>67</sup> *Observatorio de medios digitales: El nuevo componente gubernamental para vigilar las redes sociales en Venezuela*, NTN24, April 2, 2017, <http://www.ntn24america.com/noticia/observatorio-de-medios-digitales-el-nuevo-componente-gubernamental-para-vigilar-las-redes-sociales-137367>

The patterns of silencing dissent by violently repressing demonstrations and by silencing the media are complemented by the use of expedited ad hoc military tribunals to falsely try and lock up civilians who have participated in the protests.

On May 4, Major General Antonio José Benavides Torres, in his capacity as commander of the Bolivarian National Guard (GNB), announced that military justice would be in effect in the State of Carabobo under *Plan Zamora*, following the instructions of the President of the Republic and in light of events affecting public order. According to *El Universal*, Benavides Torres explained that Plan Zamora in Carabobo would activate a large number of military and police officers in coordination with the State's military tribunals. The General said that day that "As of now, a total of 43 detainees who have been involved in serious crimes against public order, such as looting, rebellion, assaulting guards and attacking the sentinel, are under the charge of military justice through the Military Public Ministry and courts having military jurisdiction".<sup>68</sup>

The Commander of the GNB said that the detainees "will be imprisoned in accordance with the regulations established in our code of Military Criminal Justice, and once imprisoned, they will be transferred to different prison facilities pertaining to the military tribunals."<sup>69</sup>

Resorting to military courts would seem to have been the Regime's response when the Attorney General of the Republic, Luisa Ortega Díaz, at a press conference on April 25, stated that the Public Ministry would be freeing opposition demonstrators who had been arrested without adhering to due process. She specifically referred to a case she said was "anomalous", which took place on April 19 when National Guard personnel detained 38 people in Nueva Esparta. She asked that the detentions be set aside as lacking in legal grounds, and she thus unmasked some of the arbitrary detentions being practiced by security forces as a means of repression and deterrence of the anti-government protests.

The Regime's solution to the Attorney General's following the law was to unconstitutionally use military tribunals in order to continue to criminalize the protest that is protected by the country's Constitution.<sup>70</sup> According to *Foro Penal*, by the end of June 2017, 415 people had been brought before military courts, 245 of which were incarcerated as the result of decisions issued by military courts.<sup>71</sup> Article 261 of Venezuela's own Constitution clearly states that the commission of crimes will be judged by courts of a civilian jurisdiction, "The jurisdiction of military courts is limited to crimes of a military nature."<sup>72</sup> Placing civilians under military jurisdiction is a manipulation of the military codes of justice, where military courts assume powers that do not

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<sup>68</sup> *Anuncian activación de justicia militar en Carabobo a través de Plan Zamora*, *El Universal*, May 4, 2017, [http://www.eluniversal.com/noticias/politica/anuncian-activacion-justicia-militar-carabobo-traves-plan-zamora\\_651223](http://www.eluniversal.com/noticias/politica/anuncian-activacion-justicia-militar-carabobo-traves-plan-zamora_651223)

<sup>69</sup> *Ibid.*

<sup>70</sup> *¿Qué declaró la Fiscal General sobre los muertos, heridos y detenidos en las protestas?* Prodavinci, April 25, 2017, <http://prodavinci.com/2017/04/25/actualidad/que-declaro-la-fiscal-general-sobre-los-muertos-heridos-y-detenidos-en-las-protestas/>

<sup>71</sup> *Reporte sobre la represión en Venezuela durante manifestaciones, May 2017*, *Foro Penal Venezolano*, p. 10, <https://foropenal.com/reportes>

<sup>72</sup> *Article 261*, Constitución de la República de Venezuela (1999) <http://pdba.georgetown.edu/Constitutions/Venezuela/ven1999.html>

belong to them. The basic right to due process is violated, further illustrating that the rule of law no longer exists.

According to a report by Human Rights Watch and *Foro Penal*, while no public record of these proceedings is available—a problem in its own right—“the accounts by lawyers and family members include many disturbing allegations of abuses and procedural defects in the conduct of these prosecutions, including the following:

- Detainees being subjected to physical and other abuses that may in some cases amount to torture at the moment of their arrest or during detention.
- Hearings being held in military courts or other military installations, presided over by military judges who report to the Minister of Defense, and sometimes in the presence of armed guards.
- Judges accepting the prosecution charges against groups of protestors *en masse*, without any individualized consideration of the evidence against them.
- Hearing times not being specified in advance, forcing independent lawyers and families to wait for hours at the entrance of military facilities or courts. Lawyers say that when the hearings are finally held, they are sometimes not allowed to enter the courtroom. They also said that when they are allowed to enter, they are generally permitted to speak with the detainees a few minutes before the hearings, have access to the criminal file only when they are at the hearings, and cannot take pictures or copies of the files.
- Cases of protestors being charged with serious crimes under the Military Code, such as “rebellion” and “treason” for alleged acts of violence at protests.”<sup>73</sup>

This report goes on to relate the circumstances of the detentions and the charges leveled against some of the demonstrators, according to lawyers who had access to some of the hearings of the military tribunals, such as:

“On May 5, 40 people who had been detained separately near a food company in Valencia, Carabobo state, which had been looted a day earlier, were brought before a military judge in an improvised courtroom inside military headquarters. The hearing started at 7 p.m. and lasted 12 hours. During the hearing, most detainees showed bruises on different parts of their bodies that they said were caused by members of the National Guard who beat them with an aluminum bar or a baseball bat. Some claimed the officers cut their hair during their detention. At least 15 said they were forced to eat raw pasta with human excrement—the officers allegedly put tear gas powder in their noses so they would be forced to open their mouths to eat. Without individualizing the criminal responsibility of each, all 40 were charged with rebellion. The military judge admitted the charges against all, but sent only 19 to the “26 of July” high-security prison in Guárico state, without providing any explanation, the lawyer said. The others were

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<sup>73</sup> *Nueva información sobre abusos y procesamientos arbitrarios de civiles en tribunales militares*, Foro Penal Venezolano and Human Rights Watch, May 15, 2017, <https://www.hrw.org/es/news/2017/05/15/nueva-informacion-sobre-abusos-y-procesamientos-arbitrarios-de-civiles-en-tribunales>

released on conditional liberty.

On May 6, Carlos Sardi, a man who collaborates with local groups working with cancer patients and on LGBT rights, was detained while he was protesting with his wife in Valencia, Carabobo state. Sardi said that he was brutally beaten and forced to wear a black hood, while authorities he could not see asked him about people who had allegedly been involved in the protests. Prosecutors argued he had been in phone contact with other protestors, and was carrying Molotov cocktails, nails, and gasoline—evidence he claims was planted. Sardi was taken before a military court and charged with rebellion, treason, and contempt. A military judge ordered his pretrial detention in the “26 of July” security prison in Guárico state.

On May 9, 16 people who had been detained in different circumstances in La Villa de Rosario were brought together before a military court in Maracaibo, Zulia state. The detainees included a man who said he was walking home from work when he was picked up by the National Guard, and two brothers who said they were working on the roof of their home and were detained without a judicial order. Two others were reportedly taken from the hospital—one said he was there after suffering a domestic accident and the other said that he was a government supporter who had been hit by a bottle during a protest—to the offices of the Scientific, Penal and Criminal Investigative Police to declare who had injured them, and were then detained. Eight of the 16 detainees claimed they were beaten by members of the National Guard when they were detained, and that the officers spread a white powder on their faces that caused a burning sensation and made them cry, which they described as being similar to the effect of tear gas. The lawyers who were able to enter the hearing—which took place inside a military installation—were searched by officers and were not allowed to take their cellphones or personal belongings into the hearing. There were no female officers to search the female lawyers. On May 11, the prosecutor charged the 16 detainees with rebellion and insult to a sentinel, without specifying what each of them had done. The judge accepted the charges against all detainees, but that ruled the seven would be held in pretrial (preventive) detention in the Santa Ana prison, an installation for people prosecuted in military courts, without providing any explanation for the distinction, the lawyer said. The rest were released on conditional liberty.

Sergio Contreras, an activist with the *Voluntad Popular* (Popular Will) opposition party and a lawyer who taught at the Catholic University Andrés Bello, said that on May 10, he was beaten and detained by members of the Bolivarian National Police while he was demonstrating in Caracas. Contreras said he was speaking to a group of students with a megaphone. Contreras was taken before a military court on May 12 and charged with rebellion, treason, and stealing military material (based on a firearm he said was planted). The judge ordered his preventive detention, and sent him to the Ramo Verde military prison.”<sup>74</sup>

Article 49 of the Venezuelan Constitution provides, *inter alia*, that “Every person has the right to be judged by his or her natural judges of ordinary or special competence, with the guarantees established in this Constitution and by law. No person shall be put on trial without knowing the identity of the party judging him or her, nor be adjudged by exceptional courts or commissions created for such purpose.”<sup>75</sup>

<sup>74</sup> Ibid.

<sup>75</sup> Article 49, Constitución de la República de Venezuela (1999)  
<http://pdba.georgetown.edu/Constitutions/Venezuela/ven1999.html>

At a press conference on May 24, the Attorney General stated that the use of military tribunals “is contrary to the mandates and principles of the Constitution of the Bolivarian Republic of Venezuela, and violates the principle of the natural judge, as well as the human rights instruments that have been signed and ratified by the Republic.”<sup>76</sup>

On May 26, the Inter-American Commission on Human Rights expressed its “deep concern regarding the prosecution and detention of civilians in the military criminal justice system and the use of military operations to control public demonstrations in Venezuela.” In its Press Release, the IACHR called to mind “that the use of the military criminal jurisdiction to prosecute civilians entails a violation of a series of rights, such as the right to a natural judge, and vitiates judicial guarantees across the entire process, which has serious consequences for the effectiveness of the rule of law.”<sup>77</sup>

No civilian may be subject to decisions of a military court. Such tribunals do not have jurisdiction over civilians, and their rulings are illegitimate; they are based on false charges made as part of the systematic campaign to sow terror, intimidate and silence those opposed to the Regime, and shut down the protest in the streets.

Only dictatorships judge civilians in military courts.

#### POLITICAL PRISONERS

During the month of May 2017, 109 new political prisoners were reported. Together with the preexisting political prisoners, this amounted to a total of 290 people incarcerated for political reasons at the end of the month.<sup>78</sup> By July 6, *Foro Penal* reported a total of 433 political prisoners.<sup>79</sup> As of July 12, the total number of political prisoners reached 444, the highest since the military dictatorship of Marcos Pérez Jiménez.<sup>80</sup>

This figure represents an exponential increase in the number of political prisoners since the protests in the streets began. Its goal can only be to sow terror among the demonstrators and silence the voices of those who are attempting to defend their rights.

In recent months, the international community has raised its voice to insist on the release of the political prisoners, because democratic principles simply do not permit a person to be arrested or

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<sup>76</sup> ¿Qué dijo la Fiscal General sobre las víctimas, la actuación de la GNB y los juicios militares? Prodavinci, May 24, 2017, <http://prodavinci.com/2017/05/24/actualidad/que-dijo-la-fiscal-general-sobre-las-victimas-la-actuacion-de-la-gnb-y-los-juicios-militares/>

<sup>77</sup> IACHR Deeply Concerned about the Worsening Violence in Venezuela and the Use of Military Courts to Prosecute Civilians, May 26, 2017, [http://www.oas.org/en/iachr/media\\_center/PReleases/2017/068](http://www.oas.org/en/iachr/media_center/PReleases/2017/068)

<sup>78</sup> Reporte sobre la represión en Venezuela durante manifestaciones, May 2017, Foro Penal Venezolano, p. 14, <https://foropenal.com/reportes>

<sup>79</sup> Hoy hay 433 presos políticos en Venezuela, según @alfredoromero, Reporte Ya @ReporteYa, July 6, 2017, 8:20 am.

<sup>80</sup> #12Jul: Sólo desde el 1Abr17 hasta hoy ha habido 429 nuevos presos políticos del total de 444 PP, Alfredo Romero @alfredoromero, July 12, 2017, 4:25 pm.

detained because of his ideas. The Secretary General of the OAS,<sup>81</sup> a large number of governments and parliaments in the hemisphere and elsewhere, and international organizations have said the same thing, including, among others:

- The Inter-American Commission on Human Rights,<sup>82</sup>
- The United Nations High Commissioner for Human Rights,<sup>83</sup>
- The Minister of Foreign Affairs of Canada,<sup>84</sup>
- The Secretariat of Foreign Affairs of Mexico,<sup>85</sup>
- The Department of State of the United States of America,<sup>86</sup>
- The governments of Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, United States and Uruguay,<sup>87</sup>
- The Senate of the United States of America,<sup>88</sup>
- Subcommittee on International Human Rights of the Canadian House of Commons,<sup>89</sup>
- The Foreign Relations Commission of the Senate of Chile jointly with the Congress of Peru,<sup>90</sup>
- Declaration of the States Party of Mercosur,<sup>91</sup>
- The Council of Ministers of the European Union,<sup>92</sup>
- The European Parliament,<sup>93</sup>
- The President of the European Parliament,<sup>94</sup>

<sup>81</sup> Report of the Secretary General on the Situation in Venezuela, March 14, 2017, <http://www.oas.org/documents/eng/press/Informe-VZ-II-English-Final-Signed.pdf>

<sup>82</sup> Venezuela / Protestas: Relatores de la ONU y la CIDH rechazan censura, detenciones y ataques a periodistas, April 26, 2017, <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1062&IID=2>

<sup>83</sup> *La ONU pide la liberación de los presos políticos en Venezuela*, La Razón, March 8, 2017, <http://www.larazon.es/internacional/la-onu-pide-liberacion-de-los-presos-politicos-en-venezuela-HF14664605>

<sup>84</sup> Statement by Minister of Foreign Affairs on Venezuela, May 4, 2017, [https://www.canada.ca/en/global-affairs/news/2017/05/statement\\_by\\_ministerofforeignaffairsonvenezuela.html](https://www.canada.ca/en/global-affairs/news/2017/05/statement_by_ministerofforeignaffairsonvenezuela.html)

<sup>85</sup> Comunicado sobre Venezuela, May 3, 2017, <https://www.gob.mx/sre/prensa/comunicado-sobre-venezuela-105611>

<sup>86</sup> *Non-Violence and Accountability During Protests in Venezuela*, US Department of State, April 18, 2017, <https://www.state.gov/r/pa/prs/ps/2017/04/270312.htm>

<sup>87</sup> Declaración sobre Venezuela, March 24, 2017, <http://www.gob.mx/sre/articulos/declaracion-sobre-venezuela-100890?idiom=es>

<sup>88</sup> S.Res.35 - *A resolution expressing profound concern about the ongoing political, economic, social and humanitarian crisis in Venezuela, urging the release of political prisoners, and calling for respect of constitutional and democratic processes, including free and fair elections*. United States Senate, 115<sup>th</sup> Congress, 1<sup>st</sup> session, <https://www.congress.gov/bill/115th-congress/senate-resolution/35/text>

<sup>89</sup> *Human Rights Situation in Venezuela and the Response of the Organization of American States*, Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development, April 6, 2017, <http://www.ourcommons.ca/DocumentViewer/en/42-1/SDIR/news-release/8868793>

<sup>90</sup> *Declaración Conjunta de las Comisiones de Relaciones Exteriores del Senado de la República de Chile y del Congreso de la República del Perú*, May 15, 2017, [http://www.senado.cl/parlamentarios-de-chile-y-peru-expresaron-su-preocupacion-por-situacion-prontus\\_senado/2017-05-15/163104.html#vtxt\\_cuerpo\\_TI](http://www.senado.cl/parlamentarios-de-chile-y-peru-expresaron-su-preocupacion-por-situacion-prontus_senado/2017-05-15/163104.html#vtxt_cuerpo_TI)

<sup>91</sup> Declaración de los Estados Partes del Mercosur sobre la República Bolivariana de Venezuela, April 1, 2017, <http://www.notiactual.com/texto-completo-la-declaracion-cancilleres-mercosur-venezuela/>

<sup>92</sup> *Council Conclusions on Venezuela*, Council of the European Union, May 15, 2017, <http://www.consilium.europa.eu/en/press/press-releases/2017/05/15-fac-venezuela-conclusions/>

<sup>93</sup> European Parliament Resolution P8\_TA-PROV(2017)0200, *Situation in Venezuela*, April 27, 2017, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONGML%2bTA%2bP8-TA-2017-0200%2b0%2bDOC%2bPDF%2bV0%2f%2fEN>

<sup>94</sup> *European Parliament President on the Situation in Venezuela*, April 24, 2017, <http://www.europarl.europa.eu/the->

- The Italian Senate,<sup>95</sup> and
- The Spanish Senate.<sup>96</sup>

The Venezuelan government has consistently used the simultaneous and periodic release and arbitrary detention of political prisoners as a tool to suggest a willingness to suggest a willingness to negotiate. In fact, it has repeatedly used it as a ploy to alleviate international pressure while continuously rolling back rights and violating the Constitution. The decision to move opposition leader Leopoldo Lopez from detention to house arrest, after 3 years of incarceration, is welcomed. After Lopez's release on July 8, there were still 432 political prisoners detained without due process, facing torture and other forms of cruel, inhumane or degrading treatment or punishment. As of Wednesday, July 12, the number had jumped to 444.<sup>97</sup>

## TORTURE

The Centre for Studies and Analysis for Latin America, the CASLA Institute, an organization that since July 2016 has been denouncing to the International Criminal Court (ICC) in The Hague the systematic torture by the Venezuelan government, has documented and denounced the increase in torture in the country over the last three months, and has noted the continuation and systematization of specific previously reported methods that are being practiced on all the victims with greater cruelty and mercilessness on the part of the officials carrying them out.

On June 15, CASLA presented six new incidents, representing 120 new cases of people tortured by the various security agencies, and in particular, by the Bolivarian National Guard, the Bolivarian National Intelligence Service, the Bolivarian National Police, and some regional and municipal police from states and cities whose authorities are members of the government party. It should be noted that in at least two of these incidents, the victims stated that they had been detained along with some other people who were also being tortured, although they could not say how many, and therefore the number of people tortured who were described in those incidents could be much larger.

These new cases cover the period from April 1 through June 12, 2017, and involve torture inflicted on people detained in the demonstrations or surrounding areas, some of which were close by, but not demonstrating. The Institute observed the following patterns of systematic conduct that had already been reported.

- Violence: One hundred percent of the victims described the violence and force used by the officials while they were torturing them. The intention was not only to carry out orders but also to do the greatest possible physical damage, to punish them for “demonstrating” and even as vengeance.

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[president/en/newsroom/ep-president-on-the-situation-in-venezuela](#)

<sup>95</sup> *Parlamento italiano vota a favor del rescate urgente de la democracia en Venezuela*, El Carabobeño, January 24, 2017, <https://www.el-carabobeno.com/senado-italiano-vota-favor-del-rescate-urgente-la-democracia-venezuela/>

<sup>96</sup> Resolution of the Spanish Senate, April 26, 2017, [http://www.abc.es/internacional/abci-senado-espanol-pide-amplia-mayoria-liberacion-presos-politicos-venezuela-201704261502\\_noticia.html](http://www.abc.es/internacional/abci-senado-espanol-pide-amplia-mayoria-liberacion-presos-politicos-venezuela-201704261502_noticia.html)

<sup>97</sup> #12Jul: *Sólo desde el 1Abr17 hasta hoy ha habido 429 nuevos presos políticos del total de 444 PP*, Alfredo Romero @alfredoromero, July 12, 2017, 4:25 pm.

- Toxic gas or tear gas powder applied directly to the victim's face, which was then covered with plastic bags to make the effect even more overwhelming, or shutting the victims up in very small spaces (small armored cars, or together in groups in rooms no bigger than 2 meters x 2 meters) until they fainted or had serious respiratory difficulties. Ten victims said that the officials forced opened their eyes in order to put toxic powder into them. At least fifteen victims said that the officials pushed toxic powder into their nostrils to force them to open their mouths to breathe, and then forced them to eat human excrement. Six young people said that they had tear gas canisters thrown at them inside the armored car where they were being detained, and then the door was shut on them causing asphyxia and fainting. Another victim reported that while he and a group of detainees were handcuffed hand and foot, kneeling down and with hoods over their heads, tear gas canisters were thrown at them, almost hitting them, and they were unable to move to protect themselves.
- The threat and/or perpetration of sexual violence and torture is another systematic form of abuse that taking place: in 80% of the new cases presented detainees have been stripped naked, threatened with rape and/or other lascivious acts, and in a number of cases rape and/or these lascivious acts or rape were perpetrated. These actions demonstrate the particular sadism with which some officials are treating detainees. At least thirty-four people were subjected to lascivious acts directly, and ten stated that they were forced to engage in lascivious acts with other detainees. One detainee was subjected to attempted rape by inserting a tube in his anus, and another was violently sexually violated with a tube, causing serious health consequences.
- Between June 15 and July 3, three more allegations of rape and attempted rape were made against officials from the GNB by two young women and one young man. During the incident, the young man was raped with a firearm after being tied to an electricity post in the street and beaten.
- At least 8 victims complained that they were forced to eat worms, and that their clothing was plunged into human excrement, forcing them later to wear them.
- An increase in blows to the victims' heads from the butts of weapons, helmets and blunt objects--some had serious wounds that required sutures—and blows and kicks to the face, ribs and lumbar region were systematic in 100 percent of the cases presented. Two victims claimed that they were beaten on their backs with wooden boards that had nails in them.
- Electric shocks to the genitals, head and elbows, forcing victims to kneel or lie down to get at them more easily, handcuffing them hand and foot, covering their heads, or suspending them by the arms and allowing them to touch the floor only with the tips of their toes for hours on end, were also systematically practiced.
- Two of the detainees were driven over by police motorcycles: The officials ran them over with the motorcycles while keeping them pinned to the floor.

- One victim was dragged through excrement, savagely beaten, and then had urine from the detainees' toilets poured into her genital area; she remained in that foul state for almost 24 hours, causing a serious infection.
- Shooting rubber bullets at point-blank range at protesters who were already detained or held by security forces constitutes another new form of torture. Hundreds of people have been severely injured in this manner, losing eyes, suffering severe facial injuries, damaging vital organs or losing the ability to walk.

The Bolivarian National Intelligence Service is directly culpable of these acts. In the prisons that they operate, “people are or were held without judicial order, and others remain in prison even though the courts long-ago ordered that they be freed. People are held in inhuman conditions, they are forced to sleep next to their own excrements and to those of their cellmates. The prison cells in the SEBIN’s Helicoide facility have a maximum capacity to hold 80 prisoners, but currently hold 340, 80% of which are political prisoners. The different forms of torture mentioned above are used “without the existence of any internal or external control mechanism which could correct and prevent the use of these practices, because the SEBIN is an institution whose officers see themselves as “above the law” and who operate in a permanently confidential environment”.<sup>98</sup>

A recent report published by the organization *Una Ventana a la Libertad* (A Window to Liberty) documents the recurring complaints of former prisoners over the systematic lack of medical care to treat the illnesses of those held in captivity. The fear of getting some stomach illness leads prisoners to avoid eating the food provided, because hunger is less traumatic for them than recovering from some of these infections. The resulting rapid loss of body weight weakens the victims and can lead to additional health consequences.<sup>99</sup>

As I have said on previous occasions, the prohibition on torture is one of the most fundamental principles of international law. Torture, and cruel, inhuman and degrading treatment are prohibited everywhere, at all times, even in time of war. No national emergency, however terrible, justifies the use of torture. It is, without any doubt, totally unacceptable in any democratic society.

#### THE ONGOING ECONOMIC AND HUMANITARIAN CRISIS

These tragic realities, these facts and figures from the recent protests do not take into account the lives lost as a result of the humanitarian crisis; the Venezuelans starving because of lack of food, those dying because there is no medicine or medical supplies to treat them, or the almost two million who have fled their country in recent years. Nor do they consider that violent crime in Venezuela has skyrocketed and now the country has one of the highest homicide rates in the world.

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<sup>98</sup> *Informe sobre la situación de los derechos humanos de las personas privadas de libertad en las sedes del Servicio Bolivariano de Inteligencia Nacional (SEBIN) del Helicoide y Plaza Venezuela*, Una Ventana a la Libertad, June, 2017.

<sup>99</sup> *Ibid.*

The humanitarian situation in the country continues to deteriorate while the Government continues to deny that there is a crisis. This is not a tragedy caused by some natural catastrophe, or war, or some accident. All of this suffering is caused by the government's criminal negligence, corruption, and the favoritism of some sectors of the population over others to maintain political support through favors and coercion.

President Maduro has deliberately rejected all offers of international humanitarian aid. Tens of millions of Venezuelans are going hungry because the Government refuses to import sufficient food to meet the country's needs. Millions of people cannot buy what they need to feed themselves because the currency and their wages have lost all their value as the result of the mismanagement of the economy, with the result that the country's rate of inflation is the highest in the world. The GDP is in free-fall, and poverty has reached unprecedented levels.

Child malnutrition in parts of Venezuela is now at the level of a humanitarian crisis, according to a new report from *Caritas Venezuela*. The latest figures show that 11.4 percent of children under five are suffering either from moderate or severe acute malnutrition. The World Health Organization's crisis threshold for child malnutrition is 10 percent. The *Caritas* figure rises to 48 percent when under-fives at risk or already suffering lower levels of malnutrition are included. Over eight in ten households across 31 parishes surveyed in the *Caritas* report are eating less than before, and nearly six out of ten say that some family members are going without food so that another person in the family can eat—typically mothers giving their own food to their children.<sup>100</sup>

The same amount of money that is spent on tear gas canisters in a single day in Caracas to repress demonstrators could feed 2,100 Venezuelan newborn babies for a month, with 16,800 containers of baby formula, 8 containers per month for each baby.<sup>101</sup> Maternal deaths rose by 66 percent, to 756. And last year, 11,466 children died in Venezuela, an increase of 30 percent over 2015. Every day of 2016, seven children died before reaching the age of one.<sup>102</sup>

At the beginning of May 2017, the Ministry of Popular Power for Health published the first epidemiological report in two years. It showed an increase in maternal and child mortality, and a rise in cases of malaria, diphtheria, tuberculosis and whooping cough. The report showed that infant and maternal deaths as well as malaria, diphtheria, tuberculosis and whooping cough skyrocketed in Venezuela in 2016, in the midst of the serious crisis facing the country due to the shortage of medicine. According to the report, there were 240,613 confirmed cases of malaria in 2016, 76 percent more than in 2015. As for diphtheria, an illness that was eradicated from the country twenty-four years ago, the epidemiological report showed that it reappeared in 2016 with 324 cases. In 2015, there was no case of diphtheria in Venezuela, according to the same official report. Cases of tuberculosis went from 3,321 to 3,817 between 2015 and 2016; cases of whooping cough rose from 297 to 340, and cases of zika soared from 71 to 59,348. On May 11,

<sup>100</sup> Caritas International, May 16, 2017, <http://www.caritas.org/2017/05/children-face-hunger-crisis-in-venezuela-as-malnutrition-soars/>

<sup>101</sup> *Venezuela: armada hasta los dientes*, Observatorio Venezolano de Violencia, June 13, 2017, <https://observatoriodeviolencia.org.ve/venezuela-armada-hasta-los-dientes/>

<sup>102</sup> *Comunicado de la sociedad venezolana de puericultura y pediatría*, April 27, 2017.

the government fired the Minister of Health, Antonieta Caporale, for having published the bulletin.<sup>103</sup>

Venezuela's HIV program, which offered free, public treatment for HIV/AIDS since 1999, and was a model for countries throughout the developed world, now lies in ruin. Hospitals lack even the most basic drugs to treat infections of patients who cannot get anti-retrovirals. People are dying from a lack of drugs that cost just pennies a dose. There is no infant formula for HIV-Positive women to give their babies to avoid transmitting the virus in breast-milk.<sup>104</sup>

People who are able to find food or medicine for sale in the midst of the shortages have serious difficulties in buying them because of the very high prices and their lack of purchasing power. Prices in Venezuela have risen by 127.8 % in the first five months of the year, according to the Venezuelan National Assembly. The legislature began this year to publish figures on inflation, based on its own data collection, since the Government and the Central Bank stopped reporting on price trends more than a year ago.<sup>105</sup>

In addition, since the protests began at the beginning of April, the bolívar has suffered a very steep fall against the U.S. dollar on the black market. On April 1, 2017, one U.S. dollar was worth 3,790 bolívares<sup>106</sup>, while on June 22, one U.S. dollar was worth 8,301 bolívares.<sup>107</sup> The Bolivar has lost half its value in only two and a half months.

The government and PDVSA have an external debt of \$60 billion and reserves of only \$10.5 billion. According to PanAm Post, in September 2016, the Government stopped paying its obligations to the Russian government. According to a Russian-Venezuelan Protocol, the country owed the Russians \$2.84 billion as of September 2016.<sup>108</sup> The economy is contracting drastically and inflation is over 700 percent this year.<sup>109</sup> Today imports are only one third of what they were in 2012.<sup>110</sup>

In recent years, oil prices plunged to a third of their 2008 highs, hastening the decline of economic performance and household well-being indicators. As a result, income poverty in

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<sup>103</sup> *Destituyen a ministra de Salud de Venezuela, días después de difundir las primeras cifras de salud en casi dos años*, CNN, May 12, 2017, <http://cnnespanol.cnn.com/2017/05/12/destituyen-a-ministra-de-salud-de-venezuela-dias-despues-de-difundir-las-primeras-cifras-de-salud-en-casi-dos-anos/>

<sup>104</sup> *In Venezuela, a once-leading AIDS program lies in ruins*, The Globe and Mail, June 22, 2017, <https://beta.theglobeandmail.com/news/world/in-venezuela-a-once-leading-aids-program-lies-inruins/article35417359/?ref=https://www.theglobeandmail.com&service=mobile>

<sup>105</sup> *Parlamento dice que en cinco meses la inflación hace 127,8% en Venezuela*, NTN24, June 9, 2017 <http://www.ntn24america.com/noticia/parlamento-dice-que-inflacion-ha-subido-1278-en-cinco-meses-en-venezuela-143936>

<sup>106</sup> <https://www.venezuelaecon.com/>

<sup>107</sup> <https://dolartoday.com/>

<sup>108</sup> *Russia Confirms Venezuelan Regime Defaulted on Billion Dollar Debt*, PanAmPost, June 8, 2017, <https://panampost.com/sabrina-martin/2017/06/08/russia-venezuelan-regime-billion-dollar-debt/>

<sup>109</sup> *Has Venezuela's Economic Crisis Reached A Breaking Point?*, Forbes, May 15, 2017, <https://www.forbes.com/sites/nathanielparishflannery/2017/05/15/has-venezuelas-economic-crisis-reached-a-breaking-point/#7da52a202f79>

<sup>110</sup> *Venezuela: A Regional Solution to a Political Standoff*, International Crisis Group, February 28, 2017, <https://www.crisisgroup.org/latin-america-caribbean/andes/venezuela/venezuela-regional-solution-political-standoff>

Venezuela reached 55% in 2014, 76% in 2015, and 81.8% in 2016.<sup>111</sup> Oil production has decreased by a million barrels a day since President Hugo Chavez was elected, and may contract a further 20 percent by the end of 2017.<sup>112</sup>

As the Government's source of revenue dries up, it has clearly prioritized paying its creditors over providing food and medicine for its population. What little food supplies are available, are handed out selectively. This commitment to making its bond payments is a clear sign of the potential risk of a default, including the potential implications of triggering hyperinflation.

Heeding the appeals of the Venezuelan people, the international community has repeatedly offered to help the government overcome the critical shortages. All attempts by the international community to provide humanitarian assistance have been rejected and the Regime has made it clear that the price it is willing to pay for its hold on power is the lives of its citizens.

The government has the obligation to acknowledge the humanitarian crisis and allow a humanitarian channel to be opened to help most affected people. Not doing so is at best criminal negligence; at worse it could be an international crime. We cannot continue to look away and hope for the situation to resolve itself. The impunity must end and perpetrators of these injustices must be held to account.

### III. CRIMES AGAINST HUMANITY IN INTERNATIONAL LAW

Venezuela submitted its ratification of the Rome Statute of the International Criminal Court on June 7, 2000. The ICC has therefore held jurisdiction over the crimes listed, on the territory of Venezuela or by Venezuelan nationals since July 1, 2002.<sup>113</sup> The Rome Statute formally codifies a fundamental set of recognized crimes in international law. It defines a "crime against humanity" as a specified list of actions "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack." The specific offenses include, among others: murder; the imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, or any other form of sexual violence of comparable gravity; other inhuman acts of a similar character intentionally causing great suffering, or serious injury to body or mental or physical health; and, persecution against any identifiable group or collectivity on political, or other grounds that are universally recognized as impermissible under international law, in connection with acts listed or any other crime within jurisdiction of the Court.<sup>114</sup>

Crimes against humanity can be committed during times of war, or during times of peace. They

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<sup>111</sup> ENCOVI 2014: <http://www.rectorado.usb.ve/vida/sites/default/files/pobreza.pdf>  
 ENCOVI 2015: [http://www.rectorado.usb.ve/vida/sites/default/files/2015\\_pobreza\\_misiones.pdf](http://www.rectorado.usb.ve/vida/sites/default/files/2015_pobreza_misiones.pdf)  
 ENCOVI 2016: <http://www.rectorado.usb.ve/vida/sites/default/files/encovi/2016/UCV-UCAB-USB.%20ENCOVI%202016.%20Pobreza.pdf>

<sup>112</sup> *Venezuelan oil production may tumble 20% by the end of 2017*, MarketWatch, March 2, 2017, <http://www.marketwatch.com/story/venezuelan-oil-production-may-tumble-20-by-the-end-of-2017-2017-03-02>

<sup>113</sup> Preliminary examination: Venezuela, International Criminal Court, February 9, 2006, <https://www.icc-cpi.int/venezuela>

<sup>114</sup> *Article 7*, Rome Statute of the International Criminal Court (1998) [http://legal.un.org/icc/statute/99\\_corr/cstatute.htm](http://legal.un.org/icc/statute/99_corr/cstatute.htm)

are not isolated or sporadic events, but a deliberate strategy or policy. The actions described above must be committed in a systematic manner against a civilian population.

In this, and in previous reports, the General Secretariat has begun to outline evidence that points to the systematic, tactical and strategic use of murder, imprisonment, torture, rape and other forms of sexual violence, as tools to terrorize the Venezuelan people in a planned campaign to quash opposition to the Regime. The Government is implementing a systemic policy to assert control over the people of Venezuela that can be measured both through its actions as well as the rhetoric and propaganda used to enflame the polarization and tension in the country.

These international crimes are not only restricted to overt actions taken against an individual, but also can comprise decisions and policies that demonstrate the clear intention to cause suffering, or serious injury to mental or physical health of a particular group, including one targeted because of their political opposition. Actions such as the deliberate withholding of food to penalize civilians who are associated with those who are critical of the government or the deliberate rejection of humanitarian assistance to provide desperately needed food, health care and medicine, are all actions that can be interpreted in this light. These crimes have the characteristics that could qualify as crimes under the Rome Statute.

The Secretariat will continue to monitor developments in Venezuela, and will specifically look at the individuals and institutions that directly or indirectly enable the use of these repressive tactics and tools, as well as those who are complicit in the broader strategy of repression, with a view to identifying whether they may be culpable of crimes against humanity and should be brought to the attention of the International Criminal Court.

#### **IV. COMMAND RESPONSIBILITY FOR SYSTEMATIC ABUSE AND VIOLENT REPRESSION**

As I have stated from the outset, the actions taken by the security apparatus in an effort to suppress the demonstrations are being taken in a deliberate and systematic manner. The nature and timing of those killed has been tactical. The protestors are being murdered in the streets as they exercise and defend their fundamental rights in what is supposed to be a democratic society. The brutal repression is a violation of the right to life, a violation of individual freedoms and is accomplished without concern for the guarantees of the rule of law, or due process. These actions are criminal, violating both domestic and international law. The impunity must come to an end and the perpetrators must be held to account.

The military and police forces are institutions that exist to serve the public, they are meant to be subordinate to the sovereign, or the people. The security apparatus exists to defend and protect the people. The military has the utmost responsibility in upholding democracy through its own actions by abstaining, being a neutral party, in the politics of its country. Subverting this responsibility creates a military dictatorship. In democracy, one of the longest standing principles is the civilian or democratic oversight of security apparatus. The military and police forces protect society, whereas society determines what is best for the country.

The actions taken by the security apparatus against the people of Venezuela during these protests puts them in violation of this paramount responsibility. They are no longer defending or

protecting the sovereign, they have become the entity that threatens its safety, its security and its lives. The security forces have the power to make the choice to protect the people, and the principles of democracy upon which Venezuela, through its legitimate Constitution, is based. The security forces have, today, become political actors, playing a key role not only in the destruction of democracy and the violation the basic rights and freedoms of the people, but in choosing the tactics and manner through which this destruction is done.

Command responsibility is the liability under which the superior is responsible for the actions of his subordinates. This doctrine, which was established in the Hague Conventions of 1899 and 1907, dictates that governments and military officials in charge of institutions such as the National Guard, the police, the Armed Forces, and paramilitary forces are responsible for taking reasonable actions to prevent, stop, or punish human rights violations.

The Rome Statute of the International Criminal Court codifies this obligation under international criminal law as responsibility for actions committed by those effectively under the control of superiors, or through the failure to exercise proper control when superiors knew or should have known certain actions were or were going to be committed, and/or failed to take “necessary and reasonable measures to prevent or suppress [them]”.<sup>115</sup>

The Bolivarian National Guard is a principal law enforcement agency in Venezuela and is directly responsible for the repression that has killed, incarcerated and tortured. The brutal repression shows the National Guard as the material author of the violation of the rights to life, liberty and due process guarantees. The President, the Vice President, the ministers implicated, especially the Minister of Popular Power for Internal Affairs and Justice, Néstor Reverol, together with the director of SEBIN, General Gustavo González López; the Director of the Division of Military Intelligence, General Iván Hernández Dala; the Director of the Bolivarian National Police, Carlos Alfredo Pérez Ampueda, and General Fabio Zavarze, Chief of the General Staff of the Economic Struggle and commander of Area Command No. 43 of the National Guard in the Capital District, are responsible for each act of aggression, for each shot fired, and for each death and for each act of torture. They are responsible for planning the worst and most brutal repression that the Regime has unleashed to terrorize the population in a tactical, systematic way.

The Area Commanders for Internal Order of the Bolivarian National Guard are those directly responsible for the repression. They command the operational units in all of the States. They are the ones responsible for the actions of the National Guard in each state, and it is they who give the orders, and they even support and give cover to the irregular or paramilitary groups that act against demonstrators.

The abuse and systematic violations of human rights committed by the National Guard appear finally to have dismayed the Minister of Defense, General Vladimir Padrino López, who said on June 6 that he did not want “to see one more National Guard (member) committing an atrocity in the street” and ordered that human rights be respected and that the Guard behave like

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<sup>115</sup> *Article 28*, Rome Statute of the International Criminal Court (1998)  
[http://legal.un.org/icc/statute/99\\_corr/cstatute.htm](http://legal.un.org/icc/statute/99_corr/cstatute.htm)

professionals.<sup>116</sup> This statement is particularly surprising in that it explicitly recognizes that the GNB did commit “atrocities” against the demonstrators. The Minister has the obligation to ensure that his declarations translate into concrete changes in the behavior of all of the State security forces under his command. Up until June 20, Major General Antonio José Benavides Torres, as the Commander of the National Guard, was responsible for guaranteeing that his institution adheres strictly to international human rights laws.

On June 29, the Public Ministry formally indicted the former Commander of the National Guard, and current head of government for the Capital District, Major General Benavides Torres, for allegedly committing “grave and systematic violations of human rights committed during the protests which have taken place in the country for more than 80 days”. National Prosecutor, Oliver Uribe Pinto, issued a summons to Benavides Torres to appear before a court in Caracas on July 6. In a Communiqué, the Public Ministry stated that “in a great number of these cases, there is evidence of excessive use of force to repress the protesters, the use of non-authorized firearms, the inappropriate use of equipment, cruel treatment and torture of detainees, search and seizures without judicial orders, and damage to property, among other matters”.<sup>117</sup>

After his departure, the position of Commander of the National Guard, and the responsibilities it entails were taken over by senior military official Major General Sergio Rivero. Sergio Rivero has also been criticized in the past for violating human rights.<sup>118</sup>

Those responsible for the violent repression are not limited to the military and police hierarchy. The actions being taking are part of a deliberate policy, developed by the Executive branch and aided and abetted by the Supreme Court, the National Electoral Council and the Human Rights Ombudsman, among others, in order to eliminate any opposition to the regime’s absolute control. The government persists in using inflamed rhetoric and propaganda to not only create false legitimacy for its actions, but to escalate tensions in the ranks and incite confrontational and aggressive behavior. Given his orders to violently repress citizens that are fighting for their basic rights, the President’s actions may qualify as crimes under international law. The numerous and consistent public statements are evidence that this government is using violent repression as a tactic of control.

The President has explicitly addressed the Armed Forces, the *colectivos*, and other supporters of the regime, inciting them to confront the opposition. Even before the current wave of protests, President Maduro had made repeated threats. He warned that the only alternative to the regime

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<sup>116</sup> *Padrino López: No quiero ver a un GNB cometiendo una atrocidad en la calle*, El Universal, June 6, 2017,

[http://www.eluniversal.com/noticias/politica/padrino-lopez-quiero-ver-gnb-cometiendo-una-atrocidad-calle\\_655959](http://www.eluniversal.com/noticias/politica/padrino-lopez-quiero-ver-gnb-cometiendo-una-atrocidad-calle_655959)

<sup>117</sup> Ministerio Público citó en calidad de imputado al ex comandante general de la GNB, Comunicado del Ministerio Público de Venezuela, June 29, 2017, [http://www.mp.gob.ve/web/guest/actuacion-procesal%202?p\\_p.id=62\\_INSTANCE\\_9Eyg&p\\_p.lifecycle=0&p\\_p.state=maximized&p\\_p.mode=view&p\\_p.col\\_id=column-2&p\\_p.col\\_pos=1&p\\_p.col\\_count=2&\\_62\\_INSTANCE\\_9Eyg\\_struts\\_action=%2Fjournal\\_articles%2Fview&\\_62\\_INSTANCE\\_9Eyg\\_groupId=10136&\\_62\\_INSTANCE\\_9Eyg\\_articleId=16975012&\\_62\\_INSTANCE\\_9Eyg\\_version=1.0](http://www.mp.gob.ve/web/guest/actuacion-procesal%202?p_p.id=62_INSTANCE_9Eyg&p_p.lifecycle=0&p_p.state=maximized&p_p.mode=view&p_p.col_id=column-2&p_p.col_pos=1&p_p.col_count=2&_62_INSTANCE_9Eyg_struts_action=%2Fjournal_articles%2Fview&_62_INSTANCE_9Eyg_groupId=10136&_62_INSTANCE_9Eyg_articleId=16975012&_62_INSTANCE_9Eyg_version=1.0)

<sup>118</sup> *Nuevos jefes militares de Venezuela enfrentan denuncias por violación de DDHH*, Reuters, June 20, 2017,

<http://lta.reuters.com/article/domesticNews/idLTAKBN19B285-OUSLD?pageNumber=1&virtualBrandChannel=0>

is aggression: “Prepare for a time of massacre and death if the Bolivarian revolution fails.”<sup>119</sup> Against this backdrop, the president has designed and implemented a strategy to maintain power that has resulted in the deaths of many innocent people, many of whom are young students.

In a speech before the Armed Forces delivered June 24 to mark the 196<sup>th</sup> anniversary of the Battle of Carabobo, President Maduro made claims of another supposed coup-plot against his government, including accusations that it was planned by the Opposition and would have involved foreign military intervention. During his speech he asked “what would happen if the PSUV made a call for a civil-military armed rebellion to arrest the leaders of the Opposition, dissolve the National Assembly, and put in place a regime backed by force as the leaders of certain parties are doing?” Answering his own question, the President made a very explicit threat to all members of the Opposition: “What would happen if I order all the loyal forces that we have, to go and find all the members of the oligarchy and arrest them?”<sup>120</sup>

On June 27<sup>th</sup> Maduro delivered yet another threatening message of intimidation and aggression. During an event to promote the Constituent Assembly, he called on his base to be willing to choose violence and to arms themselves against the political opposition and those demonstrating in the streets: “If Venezuela were to fall into chaos and violence, and the Bolivarian revolution destroyed, we would go to combat. We would never give up, and what we failed to achieve with votes, we would do with weapons”.<sup>121</sup>

These are only the latest and boldest threats made by the President, threatening to imprison all of the opposition, to take up arms against his own people, and revealing not only his intention to create a dictatorship, but a truly totalitarian state, in which he and his co-conspirators have absolute and total control, without allowing for even one single voice of dissent.

The vice president of the official party *Partido Socialista Unido de Venezuela* (PSUV), Diosdado Cabello, is also responsible for inciting the brutal repression with the inflammatory rhetoric he has employed that exacerbates tensions and the level of violent confrontation. Cabello has directed public statements at representatives of the opposition parties and has given instructions to deploy combatant corps. As an offensive measure against the opposition in one of the protests, on April 19 he gave instructions to the PSUV to incorporate such corps.<sup>122</sup> In addition, he referred to opposition leaders with a threatening tone: “We know where they live and who is with them”.<sup>123</sup> On air in his weekly show *Con el mazo dando* he showed the “Manual for Revolutionary Fighters”, which includes personal information of opposition leaders. The Manual is a deliberate intimidation measure that puts the lives of the politicians from the opposition at

<sup>119</sup> *Maduro: Si fracasa la revolución habrá una masacre*, Tu Dólar Libre, August 1, 2015, <https://www.youtube.com/watch?v=SXCfkjOHMs>

<sup>120</sup> *Maduro asegura que plan opositor tenía previsto llegada de "tropas gringas" a Venezuela*, Contrapunto, June 26, 2017, <http://contrapunto.com/noticia/presidente-maduro-participa-en-actos-conmemorativos-de-la-batalla-de-carabobo-143809/>

<sup>121</sup> *Maduro: Lo que no se pudo con los votos, lo haríamos con las armas*, La Patilla Patillavideo, June 27, 2017, <https://www.youtube.com/watch?v=yCPDIJZGuYQ>

<sup>122</sup> Ibid.

<sup>123</sup> *El chavismo recrudece las intimidaciones públicas a los opositores: “Nosotros sabemos dónde viven”* infobae, June 28, 2017, <http://www.infobae.com/america/venezuela/2017/04/18/diosdado-cabello-el-chavismo-recrudece-las-amenazas-publicas-a-los-opositores-nosotros-sabemos-donde-viven/>

risk. Cabello explained, “Here they are, a series of citizens, tagged, where they live, where they go to...”<sup>124</sup>

The Minister of Ecological Mining Development, and former vice president, Jorge Arreaza, offered a justification to the recent deaths of dozens of Venezuelans. In his twitter account he mentioned that the opposition is guilty of the pain that Venezuelan families are suffering at this violent juncture, given that the opposition walked out from the dialogue process. “If the opposition would have remained in the dialogue process, instead of promoting violence, the angst of Venezuelan families could have been avoided.”<sup>125</sup> Such a statement has no logic or moral grounding. He forgets that the State, which is the actor conducting the repression, and one he is part of, is the entity that holds the monopoly of the military and police force, and not the civilian opposition forces out in the street.

Tareck El Aissami, the Executive Vice President, blamed the political opposition for the recent violence.<sup>126</sup> Using an all or nothing view, he implied that the Regime and its supporters would put an end to all opposition. Stating that in Venezuela “we do not have a right wing force or an opposition that fulfills its role of checks and balances to promote a nation project, we don’t have an opposition, we have counterrevolutionary forces. The majority of the Venezuelan people will step over these sectors and they will be a thing of the past”.<sup>127</sup>

The content of the statements and the actions made by political leaders are not far removed from the statement made by then Ambassador of Venezuela to the OAS, Roy Chaderton: “Snipers target heads, but there is a point in which a languid head is no different than a Chavista head, but only in terms of its contents. The sound of a languid head is low, it is like a crack, the cranial vault is hollow, and so it goes through quickly. You know that after the projectile goes through”.<sup>128</sup> These ominous words foreshadowed the escalation of violence and repression that has since resulted in the deaths of more than 100 Venezuelan citizens.

The Supreme Court Magistrates have allowed themselves to be key instruments in the Executive’s plan create a totalitarian State. I have pointed out in my previous report that most of the Magistrates do not fulfil the constitutional requirements to be Supreme Court judges, and their nomination process was not lawful. These magistrates have for years, twisted and created wholly fictitious interpretations of the Constitution and other laws to fulfil the wishes of the Regime which I extensively documented in my March 14, 2017 report. On May 18, the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) decided that eight

<sup>124</sup> *El intimidante mensaje de Diosdado Cabello contra los líderes opositores: ‘Aquí están, marcaditos, dónde viven, dónde se mueven’* infobae, June 28, 2017, <http://www.infobae.com/america/venezuela/2017/04/20/el-intimidante-mensaje-de-diosdado-cabello-contra-los-lideres-opositores-aqui-estan-marcaditos-donde-viven-donde-se-mueven/>

<sup>125</sup> Cuenta de twitter oficial de Jorge Arreaza, @jaarreaza, June 23, 2017, <https://twitter.com/jaarreaza/status/878236504627261440>

<sup>126</sup> *Tareck El Aissami: Focos de violencia buscaban generar un paro armado*, Ultimas Noticias, May 23, 2017, <http://www.ultimasnoticias.com.ve/noticias/sucesos/tareck-el-aissami-focos-de-violencia-buscaban-generar-un-paro-armado/>

<sup>127</sup> *Tareck El Aissami: Focos de violencia buscaban generar un paro armado*, Ultimas Noticias, May 23, 2017, <http://www.ultimasnoticias.com.ve/noticias/sucesos/tareck-el-aissami-focos-de-violencia-buscaban-generar-un-paro-armado/>

<sup>128</sup> *Embajador Roy Chaderton: “Un bala en la cabeza de un opositor pasa rápido pasa rádo y suene hueco”*, RunrunEstudio, March 10, 2015, [https://www.youtube.com/watch?v=5cbD\\_USLYVE](https://www.youtube.com/watch?v=5cbD_USLYVE)

members of the Court “are responsible for a number of judicial rulings in the past year that have usurped the authority of Venezuela's democratically-elected legislature, the National Assembly, including by allowing the Executive Branch to rule through emergency decree, thereby restricting the rights and thwarting the will of the Venezuelan people”. OFAC imposed sanctions on the 8 Magistrates, freezing their assets within the United States.<sup>129</sup>

The Human Rights Ombudsman, Tarek William Saab, has utterly failed in his Constitutional duty of “furtherance, defense and oversight of the rights and guarantees established under [the] Constitution and international treaties on human rights, in addition to defending the legitimate, collective and diffuse interest of the citizens.”<sup>130</sup> In his capacity as the President of the Republican Moral Council (*Consejo Moral Republicano*), he has played a key role in denying the National Assembly's requests to have the members of the Supreme Court removed from their positions for their evident violations of the Constitution.

On April 27, Saab's son, Yibrán Saab, made a video statement in which he condemned “the brutal repression by the nation's security forces, of which I was a victim today, as was Juan Pablo Pernaleté, a 20 year old university student who they killed through the terrible and inhuman use of tear gas, when he was shot in the chest with a tear gas canister. This could have happened to me”. The younger Saab directly addressed his father: “Dad, you have right now the power to put an end to the injustice which has ruined the country. I ask as your son, in the name of Venezuela, the country you serve, that you reflect and you do what you have to do. I understand, it isn't easy, but it is the right thing to do”.<sup>131</sup> Tarek William Saab continues to serve the Regime and is complicit in the systematic violations of the Constitution as well as in the violent repression.

## V. CONCLUSIONS

The violence of the Regime reached new heights on July 5, when at special meeting of the National Assembly to celebrate the 206th anniversary of the country's Declaration of Independence, a large group of the government's paramilitary *colectivos*, armed with sticks and pipes, some brandishing knives and firearms, broke into the grounds of the legislature and violently attacked lawmakers and staff. Workers, journalists and deputies were practically kidnapped by the *colectivos* for hours. Several members of the National Assembly were injured, including Americo de Grazia, Nora Bracho, Luis Carlos Padilla, Leonardo Renault, Armando Armas, Franco Casella, Luis Stefanelli and Richard Blanco, some suffering deep lacerations to the head and face. National Assembly staff members and journalists were also beaten and robbed.

On this symbolic day for all Venezuelans, the government chose yet again to use violence to silence dissent and ordered a premeditated attack on the very institution that is the symbol of

<sup>129</sup> *Treasury Sanctions Eight Members of Venezuela's Supreme Court of Justice*, U.S. Department of the Treasury, May 18, 2017, <https://www.treasury.gov/press-center/press-releases/Pages/sm0090.aspx>

<sup>130</sup> Article 280, Constitution of the Bolivarian Republic of Venezuela (1999), [https://www.oas.org/juridico/mla/sp/ven/sp\\_ven-int-const.html](https://www.oas.org/juridico/mla/sp/ven/sp_ven-int-const.html)

<sup>131</sup> Video of Yibrán Saab Fornino, April 26, 2017, <https://www.youtube.com/watch?v=OYNsusSfXkw>

democratic popular representation – the Venezuelan National Assembly. This is further evidence of the systematic dismantling of the remaining democratic institutions of the State. This attack also served to highlight the coordination between the *colectivos* and the security forces; the Bolivarian National Guard, charged with providing security for the legislature, stood by and did nothing to intervene or stop the violence. On July 10, the Public Ministry indicted the Bladimir Lugo Armas, the Coronel of the Bolivarian National Guard responsible for the security of the National Assembly, for violations of human rights, after the Coronel allegedly physically assaulted legislators and other citizens.<sup>132</sup>

Many bullets have been shot in the last 100 days of protests. Those who pulled the trigger are motivated by and are obeying instructions and messages from their leaders. That leadership includes the upper echelons of the military, the police, and the Executive branch, aided and abetted by the Supreme Court, the Ombudsman and other authorities. President Maduro, the Vice President of the official party, the Vice President and the cabinet, are all politicians culpable for the state of violent repression. The Regime's accomplices also include all those who serve as its representatives or interlocutors, propagating or defending the policies behind the government's crimes, whether in Venezuela or abroad.

The alteration of the constitutional order and the loss of democracy in Venezuela have caused a spiral of institutional chaos and violence that is increasing day by day.

#### REGIONAL IMPACT

In a hemisphere that adheres to democratic norms, it is increasingly difficult not to recognize the isolation that Venezuela has brought upon itself. We must be pragmatic. The impact of this crisis is not limited to its borders and the potential implications, if the situation continues to deteriorate, will affect the entire region.

One of the largest economies of the hemisphere, Venezuela has some of the largest oil reserves in the world. The economic impact of the crisis is already felt by many of its neighbors, as its financial support has become integral to the stability of many. The Petro Caribe program has provided an important energy subsidy to countries in Central American and the Caribbean, including Cuba. This assistance is far more valuable than the aid received from major donors, including from international organizations.<sup>133</sup>

As the government's financial problems have grown it has been unable to pay foreign companies hundreds of millions of dollars owed for goods and services received. Those debts are

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<sup>132</sup> *Ministerio Público citó en calidad de imputado al coronel Bladimir Lugo por violación de DDHH*, Public Ministry of Venezuela, July 10, 2017, [http://www.mp.gob.ve/web/guest/actuacion-procesal-2?p\\_p\\_id=62\\_INSTANCE\\_9Eyg&p\\_p\\_lifecycle=0&p\\_p\\_state=maximized&p\\_p\\_mode=view&p\\_p\\_col\\_id=column\\_2&p\\_p\\_col\\_pos=1&p\\_p\\_col\\_count=2&\\_62\\_INSTANCE\\_9Eyg\\_struts\\_action=%2Fjournal\\_articles%2Fview&\\_62\\_INSTANCE\\_9Eyg\\_groupId=10136&\\_62\\_INSTANCE\\_9Eyg\\_articleId=17150430&\\_62\\_INSTANCE\\_9Eyg\\_version=1.0](http://www.mp.gob.ve/web/guest/actuacion-procesal-2?p_p_id=62_INSTANCE_9Eyg&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&p_p_col_id=column_2&p_p_col_pos=1&p_p_col_count=2&_62_INSTANCE_9Eyg_struts_action=%2Fjournal_articles%2Fview&_62_INSTANCE_9Eyg_groupId=10136&_62_INSTANCE_9Eyg_articleId=17150430&_62_INSTANCE_9Eyg_version=1.0)

<sup>133</sup> *Venezuela's Collapse and the Risks for Emerging Markets*, Seeking Alpha<sup>α</sup>, May 18, 2016, <https://seekingalpha.com/article/3975919-venezuelas-collapse-risks-emerging-markets>

outstanding.

The growing threat of a full-scale refugee crisis will also be a cause of concern in the hemisphere that already has one of the highest migrant rates in the world. The devastation from the economic and humanitarian crisis is compounded by the skyrocketing rates of violent crime, as well as the growing ferocity of the repression. Since 2002, it has been reported that two million Venezuelans have left the country.

Both of Venezuela's closest neighbors, Brazil and Colombia have started to feel the impact. Human Rights Watch reports that as of May 2017, tens of thousands of Venezuelans have fled across the border into Brazil. Reports indicate that some are seeking protection, others are seeking work, while still others are seeking medical care. Hospitals near the border are overflowing with Venezuelan emergency care patients and the backlog of asylum claims is in the thousands, putting a strain on Brazilian support systems.<sup>134</sup> Brazil has received 8,231 asylum claims between January and April 2017, a shocking increase from the total of 4,500 that were received between 2010 and 2016.<sup>135</sup>

In January alone, 47,095 Venezuelans entered Colombia, twice the number recorded at the same time last year.<sup>136</sup> The influx of Venezuelans fleeing the violence and seeking food and medical assistance only serves to add additional pressure on the demand for resources in a system that is already strained. The latest estimates for the number of Venezuelans illegally residing in Colombia range between 400,000 and 900,000.<sup>137</sup>

Although the numbers are not as dramatic elsewhere in the region, there is a noticeable increase in Venezuelans that are fleeing to seek security, opportunity and safety elsewhere, including the Caribbean. In addition, during the years of the oil boom, Venezuela was net recipient of migrants moving throughout the region. As the crisis worsens, it begs the question of where these migrants will go now.

There is also a significant safety and security risk to the region due to the large amount of military weapons purchased by the Venezuelan government, primarily from Russia and China, over the course of several years. According to the Stockholm Institute of Peace Research Investigations, Venezuela was Latin America's top buyer of weapons in 2015. The report ranks Venezuela as the world's 18th largest buyer of weapons. Between 2011 and 2015, Venezuela spent more on arms than any other Latin American country.<sup>138</sup> In the ten-year period between 2006 and 2016, Venezuela spent \$137.6 billion in terms of total military expenditure, compared with neighboring Colombia - a country with a third more population than Venezuela and which

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<sup>134</sup> *Venezuela: Humanitarian Crisis Spilling into Brazil*, Human Rights Watch, April 18, 2017, <https://www.hrw.org/news/2017/04/18/venezuela-humanitarian-crisis-spilling-brazil>

<sup>135</sup> *Venezuelan Refugees Strain Colombian Border Towns*, Americas Quarterly, May 17, 2017, <http://www.americasquarterly.org/content/venezuelans-seek-refuge-neighboring-countries>

<sup>136</sup> *People are moving around on top of this powder keg*, Vice News, May 11, 2017, <https://news.vice.com/story/venezuelans-are-flooding-into-colombia-and-its-starting-to-feel-like-a-refugee-crisis>

<sup>137</sup> *Venezuelan Refugees Strain Colombian Border Towns*, Americas Quarterly, May 17, 2017, <http://www.americasquarterly.org/content/venezuelans-seek-refuge-neighboring-countries>

<sup>138</sup> *Venezuela Buys Weapons As Food Shortages Become the Norm*, Panampost, February 28, 2016, <https://panampost.com/sabrina-martin/2016/02/28/venezuela-buys-weapons-as-food-shortages-become-the-norm/>

suffered a serious internal armed conflict - which spent \$92.2 billion.<sup>139</sup>

Of these purchases, the large numbers of small arms and light weapons as well as man-portable air defense systems (MANPADS) are the most worrying. Venezuela possesses 5,000 Russian-made surface-to-air weapons, according to a military document reviewed by Reuters, the largest known stockpile in Latin America.<sup>140</sup> MANPADS in the wrong hands are a global concern as they may deliberately or through negligence end up in the hands of criminals or terrorists, and have been used to shoot down commercial and civilian aircraft.

In addition, on April 17, President Maduro announced he would expand the National Bolivarian Militia from 100,000 to 500,000 members, and would give each militiaman and woman a rifle.<sup>141</sup> Loss or diversion of these weapons could easily exacerbate the already difficult challenges that neighboring countries and Central America face in combating transnational organized crime or armed rebel groups.

In 2005, the Organic Law against the Illegal Trafficking and Consumption of Narcotic and Psychotropic Substances gave Venezuelan military institutions full investigative powers over drug-related crimes. History has shown that across Latin America, placing the military at the forefront of the fight against drug trafficking has fueled the corruption of those institutions through increased contact with organized crime.<sup>142</sup> In my report of March 14, 2017, I cited an Associated Press investigation that concluded that the Venezuelan military is making huge illicit profits from corruption and trafficking in food, after the Regime placed the military in charge of food distribution in July 2016.<sup>143</sup>

Insight Crime has reported that there is increasing evidence in recent years that elements of the Venezuelan military have assumed a role in the country's drug trade dynamics.<sup>144</sup> In my report of March 14, I mentioned the August 1, 2016, U.S. indictment against two former top officials at Venezuela's anti-narcotics agency. One of those officials, Néstor Reverol, was the former general director of the anti-narcotics agency and onetime commander of Venezuela's National Guard, and is today's Interior Minister.<sup>145</sup> It also noted the convictions of two nephews of Venezuela's first lady, Efraín Campos and Francisco Flores, for conspiring to smuggle as much as 1,700 pounds of cocaine into the United States. That case highlighted the military's direct involvement in the shipment and transportation of drugs to Haiti.<sup>146</sup> Large seizures, such as the 2013

<sup>139</sup> Stockholm International Peace Research Institute, Military Expenditure Database, <https://www.sipri.org/sites/default/files/Milex-constant-2015-USD.pdf>

<sup>140</sup> *Venezuela holds 5,000 Russian surface-to-air MANPADS missiles*, Reuters, May 22, 2017, <http://www.reuters.com/article/us-venezuela-arms-manpads-idUSKBN1810E9>

<sup>141</sup> *Maduro prometió un fusil para cada miliciano*, El Nuevo Herald, April 17, 2017, <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article145054754.html>

<sup>142</sup> *Report Charts Evolution and Militarization of Venezuela's Drug Trade*, Insight Crime, March 22, 2017, <http://www.insightcrime.org/news-analysis/evolution-militarization-venezuela-drug-trade-report>

<sup>143</sup> *Venezuelan Military Trafficking Food as Country Goes Hungry*, The Associated Press, December 28, 2016, <http://bigstory.ap.org/article/64794f2594de47328b910dc29dd7c996/venezuela-military-trafficking-food-country-goes-hungry>

<sup>144</sup> Ibid.

<sup>145</sup> Indictment CR15-00020, United States District Court, Eastern District of New York, the United States of America against Nestor Luis Reverol Torres and Edylberto Jose Molina Molina.

<sup>146</sup> *Venezuela Military Officials Piloted Drug Plane*, Insight Crime, November 20, 2015,

discovery of 1.4 metric tons of cocaine in an Air France plane with a flight plan from Caracas to Paris, are unlikely to have been possible without the involvement of high ranking Venezuelan military officials.<sup>147</sup>

The involvement of the Venezuelan military in international narcotics trafficking represents a clear danger to the public safety and health of citizens in transshipment and consumer countries. It also progressively corrupts the institution, increasing the possibility of the loss, theft or diversion of the military's weaponry.

#### SOLIDARITY WITH THE PEOPLE OF VENEZUELA

This Organization was built on a foundation with a common vision of what we believe. These principles are clearly articulated in our founding documents, the OAS Charter, the American Charter of Human Rights, the Inter-American Conventions, and *General Assembly Resolution 1080 on Representative Democracy*. We drafted the Inter-American Democratic Charter as a true constitution of the Americas.

These are ideas that each member state, every country in the hemisphere, chose to negotiate and sign onto defining who we are and how we interact with one another. Our founding Charter recognizes the indispensable role of democracy as a prerequisite for stability, peace and development across the hemisphere. The preamble clearly articulates:

*“Confident that the true significance of American solidarity and good neighborliness can only mean the consolidation of this continent, within the framework of democratic institutions, of a system of individual liberty and social justice based on respect for the essential rights of man.”*<sup>148</sup>

This community of states was brought together by the shared understanding that the strength of our hemisphere comes from a democratic framework grounded in the respect for human rights and fundamental freedoms. All countries benefit from each other's strength and prosperity.

This hemisphere has a proud history of hard-earned democracy. There are many governments in the region who understand first-hand what ‘hard-earned democracy’ means. Within living memory, many who lead our democratic governments today have fought against authoritarian rule in their countries, bringing an end to the impunity of dictators. This is why the OAS has created such a strong mechanism to preserve and protect democracy in each and every one of our member states. Not only are these documents recognition of the people's right to democracy, but they also enshrine our responsibilities as citizens of the Americas and member states of the Organization to act in its defense.

We cannot continue to remain silent when we see this happening again. We cannot ignore such open and obvious violations of basic human dignity, rights and fundamental freedoms. In response to losing the support of the people, the Government began a strategic and incremental

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<http://www.insightcrime.org/news-briefs/venezuela-military-officials-piloted-drug-plane>

<sup>147</sup> *Report Charts Evolution and Militarization of Venezuela's Drug Trade*, Insight Crime, March 22, 2017,

<http://www.insightcrime.org/news-analysis/evolution-militarization-venezuela-drug-trade-report>

<sup>148</sup> *Preamble*, [http://www.oas.org/en/sla/dil/docs/inter\\_american\\_treaties\\_A-41\\_charter\\_OAS.pdf](http://www.oas.org/en/sla/dil/docs/inter_american_treaties_A-41_charter_OAS.pdf)

process eroding the democratic rights of Venezuelans and ultimately violating the Constitution. The only way to hold onto power is through the complete elimination of the 1999 Constitution and illegitimately replace it with one that consolidates the regime's totalitarian control.

The actions taken by the security forces under the direction of this regime are a deliberate and systematic attack on the lives and the security of the Venezuelan people. They are profiting off the starvation of their population. The violence is getting worse and the actions by the security apparatus are escalating. The fear that is on everyone's mind, but we are too afraid to speak out loud, is our fear that this will escalate into a bloodbath. The one thing that is clear is that this regime has no regard for the human rights of its people, or the lives of its citizens. They have already made the decision that 75 lives is a price they are willing to pay to hold onto power. How many more can we, the international community tolerate? The violence will continue until the authorities recognize that there will be consequences for their actions and those of their subordinates.

The OAS is proudly the only multilateral forum with the courage to discuss the crisis in Venezuela. As Secretary General of the OAS, I "participate with voice but without a vote."<sup>149</sup> I have the responsibility to "bring to the attention of the General Assembly or the Permanent Council any matter which in my opinion might threaten the peace and security of the Hemisphere or the development of the member states."<sup>150</sup> Invoking the Democratic Charter in defense of democracy in Venezuela was my duty, and I will continue to fulfill my responsibility to denounce violations of human rights and the violent repression taking place under this regime.

#### THE INTER-AMERICAN DEMOCRATIC CHARTER AS THE BEST INSTRUMENT FOR RESTORING DEMOCRACY IN VENEZUELA

The General Secretariat of the OAS understands that the remedies contemplated in the Democratic Charter have been fully activated since the April 3, 2017 Resolution of the Permanent Council. The procedure established in this vital instrument is the best means of achieving the restoration of the constitutional and democratic order in Venezuela.

This mechanism was created through the unanimous agreement of States Party sixteen years ago. It is the only Democracy Clause that includes the entire hemisphere and whose effectiveness has been demonstrated in critical situations that have adversely affected the Americas in the recent past. These provisions have been invoked on multiple occasions, starting with the Venezuelan case, in 2002, after the attempted coup faced by President Chavez.

The OAS has recently declared that it is in Permanent Session regarding the situation in Venezuela. Articles 19 through 29 of the Democratic Charter provide a series of mechanisms and possible tools for action ranging from consultation, to diplomatic missions and groups of friends/good offices, to sanctions, all designed to enable the hemisphere to respond, as one, to the crisis of democracy in Venezuela. The reality is that the mechanisms for mediation,

<sup>149</sup> *Article 110*, Charter of the Organization of Americans States (1948)

[http://www.oas.org/en/sla/dil/docs/inter\\_american\\_treaties\\_A-41\\_charter\\_OAS.pdf](http://www.oas.org/en/sla/dil/docs/inter_american_treaties_A-41_charter_OAS.pdf)

<sup>150</sup> *Ibid.*

proposals for dialogue, and regional and international institutional arrangements will be able to function and become effective only when a clear course of action is approved and operating.

A course of action must be inspired by the principles and values that guide every step of the way. We believe that this will be achieved only if the process adheres closely to the provisions of the Democratic Charter, since we have seen all attempts at dialogue fail because of the regime's insistence on manipulating its content and articles as it sees fit. They are simply buying time, thwarting deadlines, and continuing to perpetuate their power and control. Only by following a predetermined process, such as that in the Inter-American Democratic Charter, can we find a solution that is consistent with a process of re-democratization in Venezuela.

In my two previous reports, the General Secretariat has made specific recommendations to the States Party for responding to the serious alteration of the constitutional order in Venezuela. The best guide for the functioning and application of the Democratic Charter in restoring the constitutional and democratic order in Venezuela are the principles and values that inspired it, but are not currently being honored by the Regime:

- Confirm democracy as a right of the people(s) of the Americas and the resulting obligation of its promotion and protection.
- Fulfill the OAS's founding principle that democracy is essential for the social, political, and economic development of the peoples of the Americas. It has been clearly demonstrated that the lamentable and painful humanitarian crisis facing Venezuela is a direct result of the unwillingness of the Regime to work for its people. Instead, it has turned away from the constitutional order and dismantled democratic institutions. It is essential that an urgent humanitarian channel be opened up to ensure the basic human rights of the Venezuelan people.
- Respond to the urgent need to return to the ballot box and hold direct, universal and guaranteed elections, on the understanding that, as stated in Article 2 of the Democratic Charter: "The effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes of the member states of the Organization of American States. Representative democracy is strengthened and deepened by permanent, ethical, and responsible participation of the citizenry within a legal framework conforming to the respective constitutional order."<sup>151</sup>
- With the same understanding, cancel the illegitimate and fraudulent convening of a National Constituent Assembly without the people and against the people of Venezuela, recalling Article 6, "It is the right and responsibility of all citizens to participate in decisions relating to their own development. This is also a necessary condition for the full and effective exercise of democracy. Promoting and fostering diverse forms of participation strengthens democracy."<sup>152</sup>
- Adhering to Article 3: "Essential elements of representative democracy include, inter

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<sup>151</sup> Article 2, The Inter-American Democratic Charter (2001)

[http://www.oas.org/charter/docs/resolution1\\_en\\_p4.htm](http://www.oas.org/charter/docs/resolution1_en_p4.htm)

<sup>152</sup> Article 6, The Inter-American Democratic Charter (2001)

[http://www.oas.org/charter/docs/resolution1\\_en\\_p4.htm](http://www.oas.org/charter/docs/resolution1_en_p4.htm)

alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.”<sup>153</sup> Respect the independence of the branches of government, respect the full functioning of the National Assembly, the constitution of a truly independent judiciary operating democratically and not subordinated to the executive, as well as the formation of an autonomous electoral body that provides all possible guarantees. Respect the institution of the military and its independent command. Immediately stop bringing civilians before the military courts.

- Only with a government that is constituted through legitimate elections, voted by the people, can the path to democracy be reopened and comply with the mandates of the Democratic Charter. This can never be achieved by setting up parallel, fraudulent institutions, designed to perpetuate the Regime in power. This includes forcing the creation of an unconstitutional Constituent Assembly or by the imposition of the Regime’s domination by force and force of arms, as recently for called for by President Maduro.

Let us be clear. This is not a conflict of ideology. It is not a question of Left or Right, or government versus opposition. It is a question of the democratic will of the people. As the popular consultation of July 16 rejecting the government’s call for a constituent assembly, demanding respect for the constitution and new elections, resoundingly demonstrates, the Government has lost the popular will. In order to maintain power and privilege it deliberately violates the Constitution and resorts to the use of force. The people of Venezuela have had their basic civil, political and human rights stolen from them.

Those who control Venezuela have the power to end the crisis, return to democracy and restore the constitutional order. They choose not to.

In the words of Martin Luther King Jr. “The ultimate measure of a man is not where he stands in moments of comfort and convenience but where he stands at times of challenge and controversy.” Governments who choose to remain silent, or claim ‘neutrality’ are ignoring the criminal actions that are taking place. Silence is complicity. Looking the other way, whether it is under the pretense of neutrality, or some other reason, gives strength to the oppressors and reinforces the impunity under which these crimes are taking place. As Secretary General, I cannot indulge the crimes perpetrated by the Regime in Venezuela and I will not be silent on the systematic violation of the Constitution or the repression of civilians defending their rights.

This is a democratic organization, and it can choose when it takes action. This is why the Democratic Charter explicitly includes the authority to act in every signatory state, if it becomes necessary. Member states made this commitment to safeguard human rights and democracy in our hemisphere and as member states we created the obligation to defend the rights of all citizens in the Americas. We must choose to act.

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<sup>153</sup> *Article 3*, The Inter-American Democratic Charter (2001)  
[http://www.oas.org/charter/docs/resolution1\\_en\\_p4.htm](http://www.oas.org/charter/docs/resolution1_en_p4.htm)

We must offer support to those who are willing to stand up to the authoritarian actions of the Regime such as Attorney General Luisa Ortega who has recognized that this government has gone too far, and seeks legal and democratic means to respond to the crisis. These actions must not go unnoticed; they should be applauded and supported. The Supreme Court's attempt to prosecute the Attorney General and have her removed from office, even though the court is not empowered to do so, should be rejected and condemned.

The international community must not fall into a trap of irresponsible silence when faced with these violations of human rights and deaths perpetrated by the Regime. We cannot remain distant or indifferent to the human tragedy, the loss of civilian life resulting from the humanitarian crisis, compounded by the repression. The international community must demand compliance with the Constitution and focus on a democratic exit from the crisis.

The values of this Organization, the values our member states have clearly articulated, plainly cannot be ignored in the face of a government that disrupts the democratic order, that violates the rights of its citizens with impunity, that keeps political prisoners guilty only of dissent, that tortures, that steals, that corrupts, that traffics in drugs and subjects its people to shortages of the food, medicine and money they need to survive.

Member states have an obligation to support the people of Venezuela when their own government has forgotten them. It is past time to rebuild the bridge between Venezuela and democracy, restoring its path to stability and prosperity. As a hemisphere, we must work to help Venezuela use whatever tools and mechanisms we have at our disposal to help restore the constitutional order.

While diplomats are talking in Capitals, the death toll in Venezuela continues to rise. Since June 2016, the inter-American community has attempted to use the array of tools and mechanisms provided for in Article 20 of the Inter-American Democratic Charter, as well as Article 61 of the OAS Charter in the guise of its “diplomatic initiatives, including good offices, to foster the restoration of democracy”<sup>154</sup> to address the institutional overreach by the Regime in Venezuela and to help restore the constitutional and democratic order. Beyond the OAS, there have been numerous attempts at dialogue, facilitated from both within the hemisphere and around the world, which have been rejected, and instead used as smokescreens to further consolidate the Regime's hold on power. The word itself has taken on a new meaning, where “dialogue” equates an extension or worsening of the status quo.

A lasting solution will require some sort of negotiation between government actors and the opposition. This will need to be supported by external actors. But in order for this negotiation to be effective, it must be genuine, with all parties operating in good faith, in a realistic timeframe, and focused on tangible results. No meaningful conversation about the way forward can take place in Venezuela until clear pre-conditions have been met.<sup>155</sup> Yes, there will be words, but

<sup>154</sup> Article 20, The Inter-American Democratic Charter (2001)

[http://www.oas.org/charter/docs/resolution1\\_en\\_p4.htm](http://www.oas.org/charter/docs/resolution1_en_p4.htm)

<sup>155</sup> *Venezuela's bishops: President Maduro starves his people into submission*, Catholic News Agency, June 8, 2017, <http://www.catholicnewsagency.com/news/venezuelas-bishops-president-maduro-starves-his-people-into-submission-69003/>

words must be accompanied by action.

The international community must continue to build pressure against the Regime by whatever means possible, including the use of targeted sanctions against persons who commit gross violations of human rights and/or are involved in corruption and/or drug trafficking and organized crime. Member states of the OAS must also collectively demand the following from the Government of Venezuela:

- An immediate halt to the national constituent assembly process.
- An immediate halt to the repression. The rights of people to free expression, free assembly, and peaceful protest, without threat, detention, prison, or torture, must be guaranteed.
- A full-scale investigation into the actions of key figures in the Regime and their subordinates to ensure there will be accountability for the crimes against the civilian population in Venezuela.
- The immediate release of all political prisoners.
- Immediate full, free and fair elections. These elections must meet international standards, including international election observation. All bans against political parties, organizations and candidates must be lifted, to ensure full participation.
- The immediate establishment of a channel to provide humanitarian assistance directly to the people of Venezuela.
- A return to the Constitutional order with full respect for the separation of powers for each of the branches of government, according the rules outlined by the Constitution of Venezuela. These measures must include:
  - a. The restoration of authorities to the Legislative Assembly;
  - b. The democratic selection of the National Electoral Council; and
  - c. The democratic selection of the Supreme Court of Venezuela.
- The establishment of an effective anti-corruption mechanism to investigate the widespread corruption, theft and misuse of government resources, based on CICIG or MACCIH.

The General Secretariat of the Organization of American States will continue to cooperate with the authorities, political actors and civil society in Venezuela to support this urgent need. It also reiterates its willingness to collaborate directly with, and to be actively involved in all ways possible to help achieve these objectives. The General Secretariat also commits to monitoring and reviewing the crimes perpetrated against civilians to evaluate whether the systematic pattern of abuses actions of the Regime amount to crimes against humanity.

The devastation in Venezuela cannot be fixed or resolved overnight and it is not for the international community to solve the crisis in Venezuela alone, but we can and must help to create the conditions so that the people of Venezuela can. Genuinely free and fair elections are the only way to put the power back into the hands of the Venezuelan people and restore the constitutional order so they can determine their path back to democracy and prosperity.

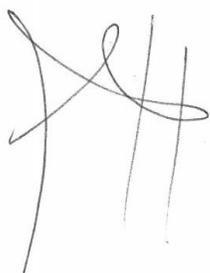
The absence of guarantees, the lack of transparency and ethics of the governing Regime and its institutions mean that everything that is happening in Venezuela and the Regime's responses, creates instability, sows doubt, chaos and uncertainty.

It is therefore more urgent by the day that access be granted to international observation missions and that the Government allows for the inspection of the human rights situation in Venezuela. Only when this access is granted to international treaty bodies and independent observers and investigative entities can we have any certainty about the status of political prisoners, their physical safety, and how institutions in Venezuela are functioning.

Given the current lack of certainty, along with the total absence of any protections or guarantees and the loss of confidence in the governing authorities, it is imperative that we continue to condemn every political prisoner, every injury, and every death in Venezuela. It is urgent that we raise our voice and demand an investigation, a response, and accountability for each report of torture, for each wound, every bullet and every death that we have to lament, from the actions of the Venezuelan regime. Only through permanent denunciation and through unified and coordinated action will we be able to help the Venezuelan people recover the peace and the democracy that they never should have lost.

I would be grateful if this communication could be distributed among the Member States.

I take this opportunity to renew to Your Excellency the assurance of my highest consideration.

A handwritten signature in black ink, appearing to be 'Luis Almagro', written over a light blue horizontal line.

Luis Almagro  
Secretary General

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