

***MINISTER OF POPULAR POWER FOR
FOREIGN AFFAIRS
OF THE BOLIVARIAN REPUBLIC OF VENEZUELA***

Caracas, September 6, 2012

Excellency:

I have the honor to address Your Excellency to refer to the American Convention on Human Rights (Pact of San José), signed in the city of San José, Costa Rica, on November 22, 1969, and ratified by the then Republic of Venezuela, and also to refer to the two organs governed by it: the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, whose jurisdiction was recognized by the then Republic of Venezuela on August 9, 1977, and June 24, 1981, pursuant to Articles 45 and 62 of the American Convention on Human Rights, respectively.

At the time, it was very important for the countries of our region to ratify the American Convention on Human Rights and to institutionalize mechanisms that would help establish a framework for the promotion and protection of human rights in the region. Our country was one of the first to ratify the Pact of San José—it was the only one to have done so through a unilateral declaration—and it was the second to accept the Court’s jurisdiction.

Later on, as of the promulgation of its Constitution in 1999, the Bolivarian Republic of Venezuela focused even more extensively on the human rights and fundamental freedoms and guarantees enjoyed by all residents of the country, while also legally recognizing and upholding the rights of indigenous communities and environmental

rights, along with political, economic, social, and cultural rights, by establishing through our Constitution innovative government institutions dedicated to protecting rights and monitoring their unrestricted implementation and observance.

Accordingly, the Venezuelan legal system is in the vanguard of rights-based systems in the region, with its establishment of new institutions whose purpose is to monitor unrestricted respect for human rights and fundamental freedoms, such as the Office of the Defender of the People and the Public Ministry, and also of two new branches of government: the electoral branch and the citizens' branch.

His Excellency

Mr. José Miguel Insulza

Secretary General

Organization of American States

Washington, D.C.

The moral and political authority that this situation affords the Bolivarian Republic of Venezuela in the human rights area enables it to report that in recent years the practices of the organs governed by the Pact of San José, both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, have distanced themselves from the sacred principles they are called upon to protect. They have become a political weapon aimed at undermining the stability of specific governments, especially our country's, by adopting lines of action that interfere in the internal affairs of our government, violating and ignoring the basic, essential principles widely recognized in international law, such as the principle of respect for state sovereignty and the principle of self-determination of peoples, and even overlooking the very content and provisions of the Inter-American Commission on Human Rights, especially in matters concerning rules that, in accordance with the Convention, would govern the activities of the Inter-American Convention on Human Rights and the Inter-American Court of Human Rights, such as necessary exhaustion of the domestic remedies of the state party to the Convention, which indicates ignorance of the internal institutional and legal order of each of the states parties to that international treaty and also therefore another failure to respect their sovereignty, all of which constitutes a major step backward for the so-called inter-American human rights system, which must be remedied urgently.

The efforts of the member states of the Organization of American States to promote the necessary reform and change in the two institutions have come to naught, as those institutions are held captive by a small group of callous bureaucrats who have blocked, hampered, and prevented necessary changes.

By comparison, significant strides have been made in the framework of the universal system for the promotion and protection of human rights, which has been strengthened by the establishment of the Human Rights Council and the revamping of a valuable tool within the universal system, namely, the mechanism for Universal Periodic

Review, which has served to discuss and examine the human rights situations in all countries, on the basis of constructive dialogue under conditions of equality, compatibility, respect, and justice.

The Bolivarian Republic of Venezuela remains committed to increasing its cooperation with the Human Rights Council as well as with the committees that review the reports of the various conventions ratified by Venezuela, in the expectation that this system will become consolidated as an efficient, objective setting for furthering the genuine promotion and protection of all human rights, including the right to development.

Our country deems it highly regrettable that the inter-American human rights system is not following the example of the universal system for the promotion and protection of human rights, as concerns the necessary process to make the changes required by the competent organs for implementation and observance of the American Convention on Human Rights.

It is particularly regrettable that a system created to shore up hemispheric solidarity in every aspect of respect for and guarantees of human rights, as established in the Charter of the Organization of American States, is now violating and transgressing, through its misconduct, the principles of the Pact of San José and is even jeopardizing the rights and obligations assumed by its states parties under the Charter of the United Nations.

The Bolivarian Republic of Venezuela considers it pertinent to recall that the principle of the universality of human rights, reflected in Article 131 of the OAS Charter, calls on us to guarantee that the inter-American system does not impair the rights and obligations assumed in the framework of the United Nations universal system; it is therefore necessary to react.

Venezuela cannot remain silent in the face of what has now become a flagrant, systematic violation of the Pact of San José by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, as evident in the cases we have presented in detail in the annex to this note.

The Inter-American Court cannot seek to exclude, ignore, or replace the constitutional order of states parties, since the international protection that stems from it contributes to or complements that afforded under domestic law in the states of the Hemisphere. However, repeated decisions of the Commission and the Court have dealt blows to the precepts and principles of the Constitution of the Bolivarian Republic of Venezuela, as stated by the Constitutional Chamber of the Supreme Court of Justice of our country in its Decision 1572 of 2008.

For its part, the Commission, which, pursuant to the OAS Charter, is empowered to promote the observance and protection of human rights and, through the Convention, to “have competence with respect to matters relating to the fulfillment of the commitments made by the States Parties” (Article 33) does not have any power to endeavor to “implement the Convention” or to “declare” or “decide on” the responsibility of a state or on legal consequences, as it has attempted to do in matters regarding Venezuela, thus clearly transgressing its own mandates and functions.

It is unacceptable for a country like Venezuela, which has taken a historic step to end the human rights violations systematic before 1999, to be singled out and maligned for reasons of a political nature, through groundless accusations devoid of any evidentiary basis, stemming from political sectors associated with acts contrary to the laws and the Constitution, which receive immediate attention and are admitted by the Commission and the Court even when, in all cases related to Venezuela, these

organs have recognized that domestic remedies have not been exhausted and, in some cases, have not even been pursued, thus violating Article 46.1 of the Convention.

This speed with which these clearly politicized and biased cases against the Venezuelan State and its democracy are taken up, in violation of the Convention, have obliged our country to ask both the Commission and the Court:

- What were the reasons for delaying for more than six years consideration of the most serious, massive, and brutal violation of human rights in Venezuela, resulting from the incidents of February 27 and 28, 1989, known internationally as “El Caracazo,” in which hundreds of Venezuelans were killed?
- Why did the Inter-American Commission fail to issue press releases or resolutions concerning the massacres in Cautaura in 1982, or in Yumare in 1986, despite their extreme gravity, and why did it fail to express concern about these serious violent acts, and yet, since 1999, it has systematically spoken out about circumstances that are not urgent in nature, such as draft legislation on cooperation or information in Venezuela?
- Why has our country not received an explanation to date about the de facto recognition by the then Executive Secretary of the Commission, Santiago Cantón, of the de facto authorities who installed themselves in Venezuela following the coup d’état of April 11, 2002?
- Why did the Commission, although it recognized that a de facto government had installed itself and that the life of the Constitutional President of the Bolivarian Republic of Venezuela, who had been kidnapped, was in danger, fail to accept or process the request submitted by the MINGA Association

for precautionary measures to protect our president?

These as yet unanswered questions and many others stand in contrast to the fact that too many cases have already been heard against the Bolivarian Republic of Venezuela in which the Commission and the Court have clearly exceeded their powers and acted in violation of the American Convention on Human Rights and the Constitution of the Bolivarian Republic of Venezuela. Among them we could point to the following:

The cases of the journalists Ríos, Perozo, et al. v. Venezuela, in which complaints were admitted by the Commission even though the parties had not exhausted domestic remedies, in violation of Article 46.1 of the American Convention on Human Rights, and which were subsequently submitted to the Court; and even when the Court recognized that the alleged violation of the rights to freedom of expression, property, and equality before the law had not taken place, it accused the Venezuelan State of failing to guarantee that individuals did not hinder the exercise of freedom of expression.

This irregular behavior by the Commission and the Court, unduly favorable to Ríos and Perozo—who around the date of the alleged facts were engaged in highly belligerent political activity against the Government of President Hugo Chávez, using their status as journalists to shield themselves—necessarily provided, from the very admission of the case, support for the international campaign to discredit the Bolivarian Republic of Venezuela, by accusing it of restricting freedom of expression. Additional details on these cases are given in the note appended hereto.

Something similar occurred in the case of Allan Brewer Carías v. Venezuela, which was admitted by the Commission without the complainant's having exhausted domestic remedies, in violation of Article 46.1 of the American Convention of Human Rights, and the Venezuelan State was urged to “adopt measures to ensure the independence of the

judiciary,” even though it has been impossible to hold the criminal proceedings against him for the crime of conspiracy to violently alter the Constitution because the accused is a fugitive from justice and Venezuelan procedural law does not allow his being tried in absentia.

This irregular behavior by the Commission, unduly favorable to Brewer Carías, who was involved in drafting the text of the decree to overthrow the branches of government, which was proclaimed by the de facto authorities who seized power following the coup d'état of April 11, 2002, in Venezuela, necessarily provided, from the very admission of the case, support for the international campaign to discredit the Bolivarian Republic of Venezuela, by accusing it of political persecution. Additional details on these cases are included in the note appended hereto.

Another shameful example is the case of Leopoldo López v. Venezuela, which was admitted by the Commission, not only without the complainant's having exhausted domestic remedies, in violation of Article 46.1 of the American Convention of Human Rights, but also despite the complainant's having expressly refused to exhaust them by not appealing before the Supreme Court of Justice of Venezuela the administrative decision barring him from holding public posts because of corruption. In this case the Court issued a judgment that proved inapplicable as it sought to order the Venezuelan State to modify its internal legal system, which arose from compliance with international obligations, including those within the inter-American sphere.

This irregular behavior by the Commission and the Court, unduly favorable to López, who in his capacity as municipal mayor carried out repressive activities in support of the coup d'état of April 11, 2002, and who, moreover, was barred from holding public posts because of administrative corruption, necessarily provided, from the very admission of the case, support for the international campaign to discredit the Bolivarian Republic of

Venezuela, by accusing it of political prosecution. Additional details on these cases are included in the note appended hereto.

Another, especially scandalous, example is the case of *Usón Ramírez v. Venezuela*, in which the Court's decision repeats the pattern of trying to stigmatize Venezuela for alleged restrictions of freedom of expression, through a sentence that, as documented in recordings of the judges' deliberations, was agreed and decided on without the judges' having listened to the arguments or heard the parties, or even answers to the questions asked by the Court itself.

This illegitimate conduct by the Commission and the Court, unduly favorable to *Usón Ramírez*, who spearheaded a call for insurrection in the military sphere, necessarily provided, from the very admission of the case, support for the international campaign to discredit the Bolivarian Republic of Venezuela, by accusing it of limiting freedom of expression. Additional details on these cases are included in the note appended hereto.

This list of wrongs, which albeit long is far from exhaustive, would not be complete without making special reference to the disgraceful case of the terrorist *Raúl Díaz Peña v. Venezuela*.

This is the most recent and aberrant expression of flagrant violation of the American Convention by its own institutions, both the Commission and the Court. It is a case that was received by the Commission, which admitted that domestic remedies in Venezuela had been exhausted, in violation of Article 46.1 of the American Convention of Human Rights. This notwithstanding, it was submitted to the Inter-American Court of Human Rights, which in the most shameful manner possible, in a decision dated June 26, 2012, even when it recognized the preliminary exception regarding the lack of exhaustion of domestic remedies, proceeded to hear the merits of the case concerning only one of the

matters: detention conditions. It then proceeded to declare that the Venezuelan State was internationally responsible for violating the right to personal integrity and for inhuman and degrading treatment of the terrorist Peña, even though it is evident from the decision itself that there is no proof that could actually authenticate the situation set out in the decision. Additional details on this case are included in the note appended hereto.

Consequently, a convicted criminal who carried out a bomb attack on diplomatic missions in Colombia and Spain on February 25, 2003, as part of a plan to destabilize Venezuelan democracy, has used the inter-American system as a fourth judicial instance, or a court of appeals, to overturn the just and sound decisions rendered by the legal system of a sovereign country like Venezuela. The principle of legality is therefore turned upside down, and the criminal becomes the victim under the peculiar political, rather than legal, criterion of the current inter-American system, an absurd and incoherent system that requires the Venezuelan State to adjust the detention conditions of a criminal who, paradoxically, has fled and is a fugitive.

It is unusual and disgraceful that a system established to defend the loftiest values associated with human rights, is serving to protect the shamefaced attempts at victimization of a criminal who has committed one of the most contemptible acts against human beings and the state, namely, terrorism. As expressed by the Inter-American Court itself:

"(...) the tolerance of manifest infractions of the procedural rules established in the Convention itself result in a loss of necessary authority and credibility in the organs entrusted with managing the system for the protection of human rights."

For that reason, for the sake of protecting the values and principles enshrined in the pertinent conventions of the universal human rights system and out of respect for the

principles embodied in our Constitution, our country feels obliged to distance itself from the current perverted practices of the organs of the inter-American human rights system, consisting of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The principles associated with human rights must be preserved without these tainted institutions that, through their behavior, have delegitimized and distorted their role as guarantors of the commitments assumed by the states in the Pact of San José.

Thus, the Constitution of the Bolivarian Republic of Venezuela obliges us to react to these abuses, in order to defend human rights, the dignity of our people, and democratic institutions, which have obviously been harmed by decisions taken by the Commission and the Court in recent years in violation of the American Convention on Human Rights. And, as a government respectful of the legal system, we are obliged to reject all decisions that afford protection to crime and criminals to the detriment of society.

Given that, in accordance with the OAS Charter, the powers, structure, and procedures of the Inter-American Commission on Human Rights are determined in and by the American Convention on Human Rights, the Bolivarian Republic of Venezuela denounces the American Convention on Human Rights and also terminates the declaration it issued on August 9, 1977, upon ratification of said convention.

Consequently, on behalf of my government, I hereby express the sovereign decision of the Bolivarian Republic of Venezuela to denounce the American Convention on Human Rights. I would therefore appreciate it if, in accordance with the provisions of Article 78 thereof, you considered the present note the Notice of Denunciation so that, as of the time period stipulated in the convention, its international effects will cease, as far as it is concerned, as will the jurisdiction of its

organs for our country, both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

The Bolivarian Republic of Venezuela will continue complying with the elements contained in the OAS Charter and in the other instruments validly ratified by the Republic in the framework of this hemispheric organization, in particular those clauses and provisions that do not contradict the spirit, purpose, and grounds of the present denunciation, the arguments for which have been sufficiently put forward in this note.

The Bolivarian Republic of Venezuela will continue to promote respect for the most sacred principles of international law, such as independence, noninterference in internal affairs, sovereignty, and the self-determination of peoples, and it will also continue respecting and complying with the provisions of the other mechanisms for integration and international cooperation, in particular those related to the promotion and protection of human rights, especially the Protocol of Asunción on the Commitment to Promote and Protect Human Rights of MERCOSUR, signed on June 19, 2005.

I would like to seize this opportunity, Mr. Secretary General, to state that the Bolivarian Republic of Venezuela will remain firmly committed, as it has been since 1999, to the promotion and protection of human rights and democracy and to the balanced realization of economic, social, cultural, civil, and political rights, including the right to development; and I express our country's steadfast resolve to contribute to the construction of Our System of Human Rights of the Americas that, in a genuinely independent and impartial manner, will help guarantee human rights in the region, without interventionist tutelage, and with due respect for the sovereignty, institutions, and legal systems of states.

Accept, Excellency, the renewed assurances of my highest consideration.

Nicolás Maduro Moros
Minister

**GROUNDS FOR THE DENUNCIATION
 OF THE AMERICAN CONVENTION ON HUMAN RIGHTS
 BY THE BOLIVARIAN REPUBLIC OF VENEZUELA
 PRESENTED TO THE OAS GENERAL SECRETARIAT**

Facts and rights that guided our country in its sovereign decision to denounce the American Convention on Human Rights, in keeping with Article 78 thereof

A. Facts related to the Committee's activities

The Bolivarian Republic of Venezuela has been singled out by the Inter-American Commission since 2002 for situations that have purportedly infringed human rights in our country.

Venezuela has systematically stated during those years that the Commission has not acted objectively and transparently, in violation of the spirit of the Convention, as it has **supported impunity**, particularly for those individuals involved in the coup-related acts of April 2002, as well as in the business and oil work stoppage of December 2003. It has manipulated international law to hold violators of our laws blameless and turn them into sham victims of unfounded violations of their human rights.

Over the past 12 years, the Bolivarian Republic of Venezuela has drawn attention to numerous cases that demonstrate a schism between the nature and spirit underpinning the establishment of the Commission and its actions, including:

1. **Partiality and lack of precision in reviewing the conditions for including countries in Chapter IV of the Annual Report on the human rights situation in**

the region. The current methodology used by the Commission does not include any criteria for conducting an objective, universal review of the human rights situation in the region. It allows inaccurate complaints to be submitted, without names, dates, places, or a precise accounting of the facts. Nor does it require evidence to duly authenticate the facts reported. By the same token, the Commission establishes criteria to justify a state's inclusion in the special review but fails to set criteria for a country's exclusion from the chapter. Our country has held that the contents of the annual report should be brought into line with the terms of subparagraph (a) of Article 59.1 of the Rules of Procedure of the IACHR and should therefore be "an analysis of the human rights situation in the hemisphere, along with recommendations to the States and organs of the OAS as to the measures necessary to strengthen respect for human rights."

2. **Interference in the sovereign legislative practice of the nation by admitting and disseminating complaints on hypothetical, future, and uncertain facts,** such as the effects that could result from whether or not particular laws are adopted, which constitutes moreover an attack on the sovereignty of the Venezuelan State in the exercise of the functions and responsibilities of a national branch of government. Two cases, in particular, exemplify this type of outside, interventionist pressure exerted on Venezuela:

- The Commission issued a press release on December 3, 2010, in which it presented substantive considerations against the International Cooperation Bill. This was done before said bill was adopted by the National Assembly, 10 days later, on December 13, 2010, at which time it was called the "Law for the Defense of Political Sovereignty and National Self-determination."

- Likewise, the Commission issued a press release on December 15, 2010, in which it presented substantive considerations against the Enabling Law, before its adoption by the National Assembly, which occurred two days later, on December 17, 2010.

3. **Lack of precision in the terms of the precautionary measures and individual petitions.** In this connection, it has been observed that there is no specific, equitable basis for complying with the provisions of the Commission's Rules of Procedure concerning the establishment of precautionary measures, which should include a concrete analysis to determine whether the situation meets the requirements of gravity, urgency, and prevention of irreparable harm. In its reports on the establishment of precautionary measures, the Commission does not give any explanations on legal grounds of how a specific situation meets those requirements; rather it simply states that "in its judgment," the circumstances are typical. Precautionary and provisional measures should be characterized by revocability, accessoriness, extreme gravity, and real urgency. However, the Commission does not guarantee that these measures come under a system of periodic reviews to guarantee their essentially transitory nature.
4. **Time frame for the Commission's proceedings.** It can be observed from a review of the list of petitions and precautionary measures considered by the Inter-American Commission that there are no clear criteria for determining when consideration of a case is interrupted, whether because of a lack of information or because of a loss of interest on the part of petitioners, if indeed violations have been committed in the framework of the American Declaration or the American Convention. Keeping cases open without any manifest interest on the part of victims is not in the interest of any international human rights system since unresolved open proceedings have a bearing on how its capacity to resolve conflicts is perceived.

5. **Discretion and laxness in reinterpreting its mandates and rules**, to the point of going beyond the purview of Article 106 of the OAS Charter, in an attempt to serve as implementers of the Convention by making “recommendations,” which clearly overstep the Commission’s mandate.

6. **The conspiratorial negligence of Executive Secretary Santiago Canton and recognition by the Commission of the coup d’état of April 11, 2002, and of the de facto authorities of the coup regime.** A mere few hours after the coup d’état, which disrupted the democracy, stability, authority, and institutions of Venezuela, the Association for Alternative Social Promotion—Minga of Colombia—requested precautionary measures to protect Constitutional President Hugo Chávez Frías, given that he had been abducted and was being held in isolation. On April 13, 2002, the Commission’s Executive Secretary, Santiago Canton, sent a letter to the coup officials, asking “His Excellency” the Minister of Foreign Affairs of the de facto government for information about “Mr. Hugo Chávez Frías,” thus ignoring his installation as head of state of the Bolivarian Republic of Venezuela and legitimizing the unconstitutional, de facto authorities who emerged from the coup d’état.

The Commission never granted precautionary measures in favor of President Hugo Chávez during the time he was kidnapped, in which he remained incommunicado from April 11 to 13, running the risk of death, nor were apologies given for the lack of appropriate action toward the coup government. The Commission did not grant precautionary measures for the then Chair of the National Assembly’s Foreign Policy Commission, Tarek William Saab, who had also been kidnapped and was assaulted in view of television cameras, for whom MINGA had also requested urgent action from the OAS.

7. **The impossibility of making necessary reforms in a system that has been seriously called into question by an overwhelming majority of OAS members.** That it is impossible to make any improvements was obvious during the forty-second regular session of the General Assembly of the Organization of American States last June in the city of Cochabamba, Plurinational State of Bolivia.

In response to an avalanche of questions, the OAS Permanent Council appointed a Special Working Group to Reflect on the Workings of the Inter-American Commission on Human Rights, which submitted its conclusions on January 25, 2012, in report CP/doc.4675/12, which were to be endorsed through a resolution adopted by the aforementioned OAS General Assembly.

Included in the report were the following recommendations to the Inter-American Commission on Human Rights:

- a. Rigorously apply criteria for admissibility of petitions, including thorough verification of the exhaustion of domestic remedies to avoid parallel proceedings in national instances and the IACHR;
- b. Develop and broaden the criteria or parameters for setting aside petitions and cases, including, in particular, those in which there has been a protracted period of procedural inactivity;
- c. Put into effect deadlines (at least on an indicative basis) for each procedural stage;
- d. Define objective criteria or parameters and provide cause and grounds for applying the exceptional mechanism of joining the admissibility and merits stages;
- e. Establish mechanisms for determining and individually identifying alleged victims;

- f. Ensure prompt notification of initial petitions to states, immediately after they have been registered;
- g. Provide factual updates on initial petitions that are transmitted to states a considerable time after registration or in the event of long periods of procedural inactivity;
- h. Continue to develop objective criteria for setting priorities regarding treatment of petitions and other cases, considering the nature, complexity, and impact of the alleged situations;
- i. Grant reasonable deadlines and extensions for states to relay observations on petitions, considering the time elapsed since the facts stated in the petition and the volume of the background material, and/or the complexity of the matter;
- j. Grant reasonable deadlines and extensions for states to follow up on the recommendations of the IACHR in the light of their nature and the scope of the actions requested of the state, as appropriate, subject to applicable standards;
- k. Improve mechanisms to enable states, petitioners, and victims concerned to access records of petitions and cases in electronic format in order to encourage the prompt solution of said cases; and
- l. Consider the development of an electronic mechanism designed to systematize background material, reports, and decisions of the IACHR.

Although these recommendations had been approved by the Permanent Council, they could not be adopted because of the resistance of two countries, including the United States, which pointed out that said recommendations were not binding on the OAS states.

In the only recommendation adopted in Cochabamba to salvage the Working Group's recommendations, the United States, in keeping with its now usual practice of

supremacy and self-exclusion, introduced an ambiguous footnote—longer indeed than the resolution itself—in which it reiterated its position that it would not be bound by the recommendations. By its attitude it thus demonstrated the absolute ineffectiveness of this biased human rights system, in which the United States shamefacedly plays a role that should be vigorously and categorically rejected, as it makes it impossible to change and correct faults in the poor functioning of the organs of the system and therefore makes it impossible to strengthen it. Worse still, the United States has not ratified the American Convention on Human Rights and thus does not have to answer to its organs.

As a result, it is a system that has been taken over by the ill will of a few states that exercise absolute control and power over said organs.

B. Cases submitted by the Commission to the Court

Pursuant to Article 50 of the American Convention, the Commission is empowered to refer to the Inter-American Court, once the report on the merits has been issued, any cases it deems to have sufficient merit.

This pattern of operations between the Commission and the Court has made it possible for these organs to take coordinated action against the Bolivarian Republic of Venezuela by **admitting complaints about cases being handled and processed by Venezuela's courts or by admitting complaints that were never brought before them, thus acting in flagrant violation of Article 46.1 of the American Convention.**

We will now comment in detail on some cases that are vitiated because they were inadmissible:

- **Cases of Ríos, Perozo, et al. v. Venezuela ^{1/}**

On February 27, 2004, the Inter-American Commission admitted two cases brought by journalists from the RCTV (Case of Luisana Ríos, July 23, 2002) and Globovisión (Case of Gabriela Perozo, June 22, 2003) channels, because of alleged attacks against them.

These cases should never have been admitted because the complainants failed to exhaust domestic remedies. By admitting them, the Commission helped unleash a media campaign aimed at discrediting the Venezuelan Government.

On January 28 and March 3, 2009, respectively, the Inter-American Court ruled that the Venezuelan State and President Chávez's administration had not violated the rights of either of those TV channels to freedom of expression, property, or equality before the law.

There being no evidence, the Court decided to declare "that the State was remiss in its obligation to guarantee that other persons (individuals) do not prevent the channels from exercising their right to freedom of expression and to humane treatment." These are typical groundless cases, without any procedural or substantive basis, that are put together to build a sham case against the Venezuelan Government; and they clearly point to a shameful bias on the part of the complainants, who represent the government's right-wing opposition.

- **Case of Allan Brewer Carías v. Venezuela**

1. Inter-American Court of Human Rights. Case of Ríos et al. v. Venezuela. Judgment of January 28, 2009 (Preliminary Objections, Merits, Reparations, and Costs). Series C No. 194. Inter-American Court of Human Rights. Case of Perozo et al. v. Venezuela. Judgment of January 28, 2009 (Preliminary Objections, Merits, Reparations, and Costs). Series C No. 195.

On September 8, 2009, the Commission admitted the petition lodged by a group of attorneys on January 24, 2007, in which it was alleged that the Venezuelan courts were responsible for the “political persecution of the constitutional lawyer Allan R. Brewer Carías . . . in the framework of a judicial proceeding against him for the crime of conspiracy to violently change the Constitution, in the context of the events of April 11 to 13, 2002.”

It bears mentioning that Mr. Brewer Carías is being prosecuted in Venezuela for his participation in the April 2002 coup d’état, for having drafted the decree whereby, among other things, a de facto president was installed, the National Constitution was abolished, the name of the Republic was changed, all government institutions were excluded, and all members and representatives of the branches of government were removed from office.

When admitting the complaint, the IACHR urged the Venezuelan State to “adopt measures to ensure the independence of the judiciary,” which prejudged the fact that said independence did not exist.

On March 7, 2012, the Commission informed the Venezuelan State that the case would be referred to the Court, even though domestic remedies had not been exhausted. This example is all the more serious given that it has not been possible to hold the criminal trial of Allan Brewer in Venezuela since our criminal procedural law does not allow defendants to be tried in absentia and that the defendant Brewer Carías fled the country, as is widely known, and has been a fugitive from justice until the present time.

- **Case of Díaz Peña v. Venezuela** ^{2/}

Mr. Raúl Díaz Peña was criminally charged in Venezuela with participating in two terrorist acts in which explosive artifacts (bombs) were used, against the General Consulate of the Republic of Colombia in Caracas and the Embassy of the Kingdom of Spain in Caracas in 2003.

On April 29, 2008, he was sentenced to nine years and four months of detention “for crimes of public intimidation, damage to public property, and minor injuries.” This terrorist was able to escape and traveled illegally to Miami in the United States in September 2010, thus becoming a fugitive from justice.

On October 12, 2005, the **Inter-American Commission on Human Rights** received a petition filed on behalf of citizen Raúl Díaz Peña which alleged that the Venezuelan State was responsible for violating his right to humane treatment, to a fair trial, and to privacy. Subsequently, the petitioners added to the petition alleged violations of the right to life, to personal liberty, to freedom of assembly, to equal protection, and to judicial protection.

The Bolivarian Republic of Venezuela, in a brief dated May 3, 2007, presented its observations on the complaint, in which it referred to the criminal proceeding against Mr. Díaz Peña; rejected all aspects of the complaint, and maintained that the case did not meet the requirements for admission by the Commission considering, among other things, that said case concerned a proceeding that was ongoing in the competent government bodies. In its briefs of August 5 and 8, 2007, the Bolivarian Republic of Venezuela reiterated the preliminary objection to the lack of exhaustion of domestic remedies.

2. Inter-American Court of Human Rights. Case of Díaz Peña v. Venezuela. Judgment of June 26, 2012 (Preliminary Objections, Merits, Reparations, and Costs).

During the processing of the case, the Bolivarian Republic of Venezuela confirmed that the conditions for admissibility set out in Article 46.1 of the American Convention on Human Rights ^{3/}, which incorporate the principle of complementarity of the system into the procedure for receiving complaints, had not been met.

The preamble to the American Convention recognizes “that the essential rights of man are not derived from one’s being a national of a certain state, but are based upon attributes of the human personality, and that they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states.”

Accordingly, the Convention requires that, for a petition to be admissible, all effective and appropriate remedies for addressing an allegedly irregular legal situation must have been exhausted.

The Inter-American Court of Human Rights itself has established that the Inter-American Commission must conduct an appropriate review of the circumstances of a case ^{4/} in order to determine the reason for the preliminary objection to the lack of exhaustion of domestic remedies.

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3. Admission by the Commission of a petition or communication lodged in accordance with Articles 44 or 45 shall be subject to the following requirements: (a) that the remedies under domestic law have been pursued and exhausted in accordance with generally recognized principles of international law; (b) that the petition or communication is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment; (c) that the subject of the petition or communication is not pending in another international proceeding for settlement; and (d) that, in the case of Article 44, the petition contains the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition. 2. The provisions of paragraphs 1.a and 1.b of this article shall not be applicable when: (a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; (b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or (c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.
 4. Inter-American Court of Human Rights. Case of Velásquez Rodríguez v. Honduras. Judgment of June 26, 1987 (Preliminary Objections) and Inter-American Court of Human Rights. Case of Velásquez

However, in its admissibility report of March 20, 2009, the Commission decided to declare the petition admissible for purposes of consideration of Articles 4, 5, 7, 8 11, 15, 24, and 25 of the American Convention.

In the analysis conducted of competence and inadmissibility, the Inter-American Commission indicated that the petitioner had filed several appeals to remedy the allegedly irregular situation, without clarifying how those appeals had been able to exhaust domestic jurisdiction.

In observations on the merits, the Bolivarian Republic of Venezuela reiterated its arguments for inadmissibility, given that the accused had the opportunity to appeal and even to file an appeal for constitutional review. Moreover, the Venezuelan State pointed out that, at the time the petition was submitted, the case was pending in the Venezuelan courts.

This notwithstanding, the Inter-American Commission ordered that the alleged violations of human rights be remedied and, on November 12, 2010, in accordance with Articles 51 and 61 of the American Convention, the Inter-American Commission on Human Rights referred case 12.703 against the Bolivarian Republic of Venezuela to the Court.

On June 26, 2012, the **Inter-American Court of Human Rights** rendered a judgment in the case of Díaz Peña v. the Bolivarian Republic of Venezuela, after the state had, on May 24, 2011, presented its preliminary objections ^{5/} and its answer to the briefs presenting the case and containing motions, pleadings, and evidence. In its answer,

Rodríguez v. Honduras. Judgment of July 26, 1988 (Merits).

5. One of the two preliminary objections filed by the state was an allegation of “lack of impartiality” on the part of the judges and secretary of the Court.

Venezuela denied international responsibility for violating the rights alleged by the Commission and the representative and at the same time requested that the Court declare null and void the report on the merits presented by the Inter-American Commission, on grounds that the review had been superficial and biased and that it had exceeded the terms of its mandate, and on conditions for admissibility of the petition.

And this shows why this case has become emblematic of the Commission's and the Court's perverse and defiant practices: when reviewing the admissibility requirements for this petition, **the Court recognized that the domestic remedies had not been exhausted since the Commission had referred to requests made after submission of the initial petition to the Commission. The Court also noted that, when the initial petition was transmitted to the state, on February 23, 2007, the decision of May 11, 2007, had not even been issued yet, a decision that, according to the Commission, had allegedly exhausted the domestic remedies.**

Although it determined that the case was inadmissible, the Court committed another affront to the principles enshrined in the OAS Charter, to the Convention, and to the Bolivarian Republic of Venezuela. Instead of declaring the proceeding out of order in its entirety, it went on to review the merits of a case that, even for the Court, was obviously inadmissible.

In the Peña case, the Court and the Commission have blatantly failed to comply with the norms on which those organs are based, shamefully violating the principles of subsidiarity and complementarity of the inter-American human rights system rights set forth in the preamble to the Convention.

The rules of the Convention on the preliminary objection to the failure to exhaust domestic resources clearly view the petition as a single document and refer repeatedly to

the complaint lodged therein as a basic unit.^{6/} Consequently, reviewing the merits of partial segments or sections of the complaint, even though it does meet the conditions for admissibility, is a self-serving, illegal interpretation of Article 46 of the Convention.

With regard to the statement in the judgment concerning prison conditions and deterioration of the terrorist's health, which were used to justify the condemnation of the Bolivarian Republic of Venezuela, it should be noted that the same judgment admits that "it is a proven fact that, following the adoption of precautionary measures, the material detention conditions were gradually improving"^{7/} and points out that, consequently, the prisoner received medical care of various kinds.^{8/}

Despite these statements, which demonstrate the obvious lack of grounds for the judgment, the Court finally ordered the Bolivarian Republic of Venezuela^{9/} to improve the prison conditions of a terrorist who was a fugitive from justice and was not serving his sentence.

The foregoing makes it unbearable for any democratic country that respects the rule of law to remain silent in the face of an obviously corrupt human rights system that acts without due consideration for the principles and values it is called upon to protect and that, on the contrary, ultimately becomes complicit in protecting terrorist convicts.

- **Case of Usón Ramírez v. Venezuela** ^{10/}

6. See Article 46.1. Admission by the Commission of a petition or communication lodged in accordance with Articles 44 or 45 shall be subject to the following requirements . . .

7. Judgment in the case of Díaz Peña v. Venezuela, para. 94.

8. *Idem*, paras. 100 to 107.

9. Judgment in the case of Díaz Peña v. Venezuela. Dissenting Vote by Judge Eduardo Vio Grossi.

10. Inter-American Court of Human Rights. Case of Usón Ramírez v. Venezuela. Judgment of November 20, 2009 (Preliminary Objections, Merits, Reparations, and Costs). Series C No. 207.

The case of General Francisco Usón Ramirez (R) v. Venezuela was referred to the Inter-American Court of Human Rights by the Inter-American Commission on July 25, 2008, and the judgment was rendered on November 20, 2009.

The public hearing was held in Santo Domingo, Dominican Republic, on April 1, 2009; and Venezuela requested the digital recording of the hearing. The recording, sent to Venezuela by the Court, contained not only the audio of the public hearing but also another audio recording, of deliberations that had taken place among the Court's judges the following day, April 2. During said deliberations, the judges discussed the draft judgment on the case and reached a decision, before they had heard Venezuela's arguments or the parties' replies to the questions raised by the Court itself during the oral hearing.

It was clear from these recorded deliberations that the judges were framing their judgment without having heard the parties' arguments and that, in this closed meeting, they decided on the criteria for condemning the Bolivarian Republic of Venezuela, agreeing among themselves **that an alleged violation of freedom of expression should be included in the terms of the judgment, even though the subject matter of the petition referred to alleged violations related to the right to due process and to judicial guarantees, and in particular to areas of military justice.**^{11/}

The final judgment of the inter-American Court found the Venezuelan State responsible for violating the right to freedom from ex post facto laws and to freedom of thought and expression, to a fair trial, to judicial protection, and to personal liberty, just as the judges had planned on April 2, 2009.

11. Recordings of the deliberations of the judges of the Inter-American Court of Human Rights in the case of Francisco Usón v. Venezuela.

- **Case of Apitz Barbera et al. v. Venezuela** ^{12/}

This case has to do with three judges of the First Court of Administrative Disputes who had been appointed on a provisional basis and who, in the exercise of their functions, committed “an inexcusable judicial error,” which led to their removal from office by the judicial disciplinary bodies.

The judgment of the Inter-American Court of Human Rights of August 5, 2008, stated that, by removing former judges Ana Maria Ruggeri Cova, Perkins Rocha Contreras, and Juan Carlos Apitz B. of the First Court of Administrative Disputes from office, the Venezuelan State had violated their right to due process, in particular, according to the Court, the right to be judged by an impartial court, to a simple, swift, and effective recourse, and to be heard.

The Court ordered the Venezuelan State to amend its national laws, compensate the former judges for pecuniary and non-pecuniary damages, and reinstate them in the judiciary.

In claiming the alleged violation of the rights and freedoms protected under the Convention, the Inter-American Court of Human Rights attempted to establish rules of a binding nature on the government and the administrative level of the judiciary, which are within the exclusive purview of the Supreme Court of Justice, even seeking to establish guidelines for the legislative branch with regard to the judicial service and the responsibility of judges, in violation of the sovereignty of the Venezuelan State in organizing the branches of government and selecting its officials, which is inadmissible.

12. Inter-American Court of Human Rights. Case of Apitz Barbera et al, v. Venezuela. Judgment of August 5, 2008 (Preliminary Objections, Merits, Reparations, and Costs). Series C No. 182.

This ruling of the Inter-American Court of Human Rights is an affront to the very provisions of the preamble to the American Convention, as it violates and misinterprets the principle of complementarity of the inter-American human rights system, by attempting to judge, as would a national court, aspects of internal law.

By overstepping its mandate, the Inter-American Court even demonstrated a lack of accuracy concerning terms used in Venezuelan internal law, which is an example of the reprehensible practice of the Court and the Commission to attempt to interpret provisions that no one but the national courts are familiar with, thereby prompting some violators of our laws to begin to use this international jurisdiction as a “fourth judicial instance.

Indeed, paragraph 147 of the judgment of the Inter-American Court of Human Rights of August 5, 2008, states that the National Assembly’s failure to adopt the Venezuelan Code of Judicial Ethics “has consequences in the instant case, since the victims were tried by a special organ that has no defined stability and the members of which can be appointed or removed without a pre-defined procedure and at the STJ’s sole discretion.” Surprisingly, in the same paragraph the Court affirms that it was impossible to prove that the Commission for Operating and Restructuring the Judicial System misused power or that direct pressure was exerted on it by the executive branch to remove the aforementioned former judges; and then, in section 6 of Chapter X, the Court concludes that “[i]t has not been established that the Judiciary, in general, is not independent.”

It is obvious that, by not limiting itself to ordering compensation, the Inter-American Court used the judgment to interfere inappropriately in the affairs of the state by ordering the legally removed judges to be reinstated in the national judiciary.

The Inter-American Court of Human Rights has issued judgments that affect principles and values of the Constitution and the Convention, that affect the system of justice, and that seek not only to guarantee the human rights of alleged victims but also to

undermine the sovereign authority of the institutions of the Bolivarian Republic of Venezuela.

The Constitutional Chamber of the Supreme Court of Justice of the Bolivarian Republic of Venezuela declared, on December 18, 2008, that the Court's judgment was UNENFORCEABLE.

- **Case of Leopoldo López v. Venezuela¹³**

This is the case of citizen Leopoldo López, who was sanctioned by the Comptroller General of the Bolivarian Republic of Venezuela in the framework of two administrative proceedings:

1. Mr. López Mendoza was first investigated concerning incidents that occurred when he was working for the state company *Petróleos de Venezuela S.A. (PDVSA)*. Since he was then an employee of PDVSA, the nongovernmental organization "*Primero Justicia*" [Justice First] (of which Mr. López was a member) received a generous contribution through his mother, Antonieta Mendoza de López, who at the time occupied the post of Public Affairs Manager of the Services Division of PDVSA *Petróleo y Gas S.A.* The Comptroller General of the Bolivarian Republic of Venezuela determined that said donation violated conflict of interest rules since "there is a conflict of interest between PDVSA and an employee or group of its workers when, in a company decision, action, or contract, the worker or workers taking part in or influencing said decision, action, or contract stand

13. Inter-American Court of Human Rights. Case of López Mendoza v. Venezuela. Judgment of September 1, 2011 (Preliminary Objections, Merits, Reparations, and Costs). Series C No. 233

to benefit personally or have immediate family members who stand to benefit”

2. The second investigation was limited to the acts related to his activities as mayor, a post that he held from 2000 to 2004.

In November 2008, Leopoldo López was barred from holding public office by the Comptroller General of the Republic as he had violated rules concerning acts of administrative corruption.

The case of Leopoldo López Mendoza, No. 12.668 originated in a petition received by the Commission on March 4, 2008, registered as No. 275-08. On July 25, 2008, the Commission issued Admissibility Report No. 67/08. On August 8, 2009, the Commission adopted Report on the Merits No. 92/09 and transmitted it to the Bolivarian Republic of Venezuela. On December 14, 2009, the Inter-American Commission on Human Rights filed a petition against the Bolivarian Republic of Venezuela in connection with the case.

The Commission and representatives of citizen López Mendoza asked the Court to declare the Venezuelan State responsible for violating the right to participate in government, to a fair trial, and to judicial protection of Mr. López Mendoza, along with the obligation to respect rights and to adopt provisions under internal law. Likewise, the Commission ordered the state to adopt reparation measures and to pay costs and fees.

It should be noted that on September 26, 2005, the Comptroller General issued a resolution^{14/} which, taking into account the gravity of the irregularities committed and sanctioned in the context of administrative responsibility and through the procedure established in the Organic Law of the Office of the Comptroller General of the Republic,

punished him by disqualifying him from holding public office, pointing out that in view of “[t]he seriousness of the irregularity committed, sanctioned through a declaration of administrative responsibility dated November 2, 2004 [which was finalized on March 28, 2005], as well as the reoccurrence of the irregular conduct sanctioned in the aforementioned terms,” it was decided to “punish him by disqualifying him . . . from holding public office for a period of six (6) years.”^{15/}

The Court considered that the provisions of the internal legal system violated the right to be elected, the obligation to establish cause, the right to judicial protection, and the obligation to bring its internal law into line with the American Convention.

Citizen López Mendoza did not exhaust domestic remedies before resorting to the inter-American human rights system, since the resolution whereby the Comptroller General disqualified him remained entirely intact as it had not been appealed before the Political Administrative Chamber of the Supreme Court of Justice. The inter-American system should have declared citizen Leopoldo López’s petition inadmissible in order to maintain the system’s complementarity, pursuant to Article 46 of the American Convention on Human Rights.

The Court did not consider that the Bolivarian Republic of Venezuela had signed and ratified other conventions and treaties and thus assumed other obligations, for example through the Inter-American Convention against Corruption of 1996, which obliges the states of the Americas to take “appropriate action against persons who commit acts of

14 . Resolution 01-00-235 of September 26, 2005, issued by the Comptroller General of the Republic.

15. On October 27, 2005, Mr. López Mendoza received notification of the resolution. In the corresponding note he was informed that “he could file an appeal for reconsideration with the . . . Comptroller . . . within fifteen (15) working dates from the date of notification, pursuant to Article 94 of the Organic Law on Administrative Procedures.” Likewise, he was informed that “he could file the corresponding appeal for annulment . . . with the Supreme Court of Justice within six (6) months from the date of . . . notification, in accordance with Article 21.20 of the Organic Law of the Supreme Court of Justice.” Note No. 08-01-1074, dated September 27, 2005, from the Office for the Determination of

corruption in the performance of public functions, or acts specifically related to such performance,” without requiring that such measures be necessarily jurisdictional. In fact the Inter-American Convention against Corruption urges the states to promote and strengthen necessary (not exclusively judicial) “mechanisms” for punishing acts of corruption in the performance of public functions.

Likewise, Venezuela is a signatory country to the United Nations Convention against Corruption, signed in 2003, whose objective is to introduce a set of standards and measures that all countries can apply in order to strengthen their legal regimes to fight corruption. It bears mentioning that protection of state sovereignty is expressly referenced in Article 4 of the treaty:

“1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States. 2. Nothing in this Convention shall entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.”

Once again the Inter-American Court of Human Rights loosely interpreted the objectives of the American Convention to its own advantage by questioning the role and competency of Venezuela’s branches of government, thus accepting in a biased manner the arguments put forward by the right-wing opposition and, as a result, overstepping the limits of its functions.

C. Constitutional law guiding the Bolivarian Republic of Venezuela

Responsibility.

Article 7 of the Constitution of the Bolivarian Republic of Venezuela establishes that “[t]he **Constitution is the supreme law and foundation of the legal order**”; accordingly, all persons and organs exercising public functions are subject to it.

Under the “**Principle of Constitutional Supremacy**” set out in the aforementioned **Article 7 of the Constitution of the Republic of Venezuela**, it is impossible to ignore that it is the same constitutional instrument that defines the premise that “. . . [t]he international relations of the Republic serve the ends of the State as a function of **the exercise of sovereignty and the interests of the people**,” and then, expanding on that statement, proclaims that they are governed by the principles of interdependence, **equality between States, self-determination and nonintervention in their internal affairs, the peaceful resolution of international conflicts, cooperation, RESPECT FOR HUMAN RIGHTS, and solidarity among peoples in the struggle for their liberation and the welfare of humanity**. These statements are enshrined in **Article 152 of the Constitution**, the final part of which establishes that the Republic is called upon to maintain “. . . **the firmest and most resolute defense of these principles and democratic practices in all international organs and institutions**.”

The Bolivarian Republic of Venezuela is historically and ancestrally a profoundly peace-loving people, a people fully committed to the protection of human rights, to the point of recognizing them as **one of the guiding principles of the Venezuelan State**, when under **Article 2**, it is established that Venezuela “. . . constitutes itself as a democratic and social state of Law and Justice, which holds as superior values of its legal order . . .” among others, the **preeminence of human rights**.

Thus, our glorious country has been in the vanguard of the inter-American system by adopting, in addition to the aforementioned **constitutional** principles, other core, cardinal principles on the protection of human rights, namely: (a) the principle whereby the

state guarantees to every individual the unwaivable, indivisible, and interdependent enjoyment and exercise of human rights, **in accordance with the progressive principle and without discrimination of any kind** (e.g., Article 19 of the Constitution of the Bolivarian Republic of Venezuela); (b) **the principle whereby the list of human rights contained in the Constitution and in international instruments is indicative and does not exclude other rights not expressly mentioned in such documents** (e.g., Article 22 of the Constitution); and (c) the principle whereby **“actions to punish crimes against humanity, gross violations of human rights, and war crimes shall not be subject to the statute of limitations** (e.g. Article 29, *eiusdem*), to mention just a few of the provisions of constitutional rank that testify to the profound respect of the Venezuelan State and its democratic institutional system for the effectiveness and observance of such principles.

Likewise, in the context of the aforementioned constitutional principles, pursuant to Article 23 of the Constitution, it is established that the treaties, pacts and conventions relating to human rights that have been signed and ratified by Venezuela have constitutional rank, and prevail over internal legislation, insofar as they contain provisions concerning the enjoyment and exercise of such rights that are more favorable than those established by this Constitution and the laws of the Republic, and shall be immediately and directly applied by the courts and other governmental bodies.

However, the scope of that constitutional provision has been interpreted by the Supreme Court of Justice through a binding decision of the Constitutional Chamber, Decision No. 1572/2008, relative to the judgment of the Inter-American Court of August 5, 2008, in which it decided that “Article 23 of the Constitution does not give international human rights treaties **“supraconstitutional”** rank and that consequently, in the case of a contradiction or discrepancy between a provision of the Charter and a clause of an international treaty, it would be incumbent on the judiciary to decide which would be applicable, taking into account the provisions of the cited norm and the jurisprudence of

the Constitutional Chamber of the Supreme Court of Justice, in accordance with the provisions of Articles 7, 266.6, 334, 335, and 336.11 of the Constitution and Decision No. 1077/2000 of the Constitutional Chamber.

By the same token, in its Decision No. 1942/2003, the Constitutional Chamber of the Supreme Court of Justice stated the following with regard to Article 23 of the Constitution:

“In the judgment of the Chamber, two key elements emerge from Article 23: (1) it relates to the human rights of natural persons; and (2) it refers to norms that may establish rights, and not to decisions or rulings of institutions, resolutions of organizations, etc., directives in treaties, but solely to norms that establish human rights

“The Chamber repeats that this preeminence applies to the rules set out in treaties, pacts, and conventions (terms that are synonymous) on human rights, but not to reports or opinions of international organizations, which may attempt to interpret the scope of the provisions of international instruments, inasmuch as Article 23 of the Constitution is clear: the constitutional rank of treaties, pacts, and conventions relates to their rules, which, since they are part of the Constitution currently in force, may only be interpreted, under Venezuela law, by a constitutional judge, in accordance with Article 335 of said Constitution, in particular the ex officio interpreter of the 1999 Constitution, which is the Constitutional Chamber, and it is so declared

“Thus it is the Constitutional Chamber that decides which human rights-related norms in those treaties, pacts, and conventions prevail internally

“This power of the Constitutional Chamber, which stems from the Constitution, cannot be curtailed by rules of an ancillary nature set forth in treaties or in other international human rights instruments signed by the country, which may allow the states parties to the treaty to consult with international organizations about the interpretation of rights referred to in the Convention or the Pact, as stipulated in Article 64 of the Law Approving the American Convention on Human Rights, Pact of San José, since, if that were possible, the result would be a form of constitutional amendment in this area, without necessary steps being taken to that end, by curtailing the power of the Constitutional Chamber and transferring it to multinational or transnational (international) bodies, which would formulate binding interpretations

“The decisions of those bodies will be implemented in the country, in accordance with the Constitution and laws, as long as they do not contradict Article 7 of the Constitution in force, which reads: ‘The Constitution is the supreme law and foundation of the legal order. All persons and organs exercising Public Power are subject to this Constitution,’ as long as they accept the organic spheres of competence indicated in conventions and treaties. Accordingly, despite the judiciary’s respect for the decisions or rulings of those bodies, those decisions and rulings cannot violate the Constitution of the Bolivarian Republic of Venezuela, nor can they violate the rules of the treaties and conventions that govern those protections (*amparos*) or other decisions.

“If an international organization that is legally accepted by the Republic protects anyone violating the human rights of groups or persons within the country, such a decision would have to be rejected even though it emanates from international human rights organizations

The Chamber considers that, for the purposes set out in Article 7 of the Constitution, there is no jurisdictional body over the Supreme Court of Justice, unless so indicated by the Constitution or by law, and that even in the latter case any decision that contradicts the rules of the Venezuelan Constitution are unenforceable in the country, and it is so declared

“Articles 73 and 153 of the Constitution consider the possibility of transferring Venezuelan powers to supranational bodies, to bodies that recognizably could interfere with national sovereignty.

“But the same Constitution indicates areas in which that could occur, for example, Latin American and Caribbean integration (Article 153 *eiusdem*), areas unrelated to human rights **per se**, where decisions issued take immediate effect in the territories of member countries, as indicated in Article 91 of the Law Approving the Statute of the Court of Justice of the Andean Community.

“In the view of the Court, apart from these specific areas, national sovereignty cannot be diminished in any way, in keeping with Article 1 of the Constitution, which establishes as unwaivable rights of the nation: independence, liberty, sovereignty, territorial integrity, immunity, and national self-determination. Said constitutional rights are **unwaivable**; they cannot be curtailed unless the Constitution itself so decides, together with the mechanisms to make it possible, such as those envisaged in Articles 73 and 336.5 of the Constitution, for example.

“The result of the foregoing is that, in principle, execution of the decisions of supranational courts cannot undermine the sovereignty of the country or the basic rights of the Republic” (underlining in the original decision).

The position of the Bolivarian Republic of Venezuela put forward in this note, far from placing our state on the fringes of the international community, as claimed through a systematic campaign aimed at undermining our firm convictions, seeks, through dissemination of our Constitution, to raise high the banner strengthening the foundations of our state—a state that is deeply devoted to human rights—and thus visibly to demonstrate all measures that may make it possible to realize the essential purpose and commitments set out in the Constitution of the Bolivarian Republic of Venezuela, in an attempt to avoid elements that can disrupt the sound peace of the Republic and the glorious people of Venezuela, in the face of an overwhelming methodical and systematic campaign to tarnish the good name, interests, and dignity of the country of Bolívar.

Moreover, our commitment and loyalty as a depository of sovereignty, which cannot be wrested from the people, pursuant to **Article 5 of the Constitution of the Bolivarian Republic of Venezuela**, obliges us to ensure the principles of **independence, equality between states, self-determination, the peaceful resolution of international conflicts, and respect for human rights, and solidarity among peoples in the struggle for their liberation and the welfare of humanity, as stated earlier**, thus requiring us to maintain in all spheres of government the most firm and decisive defense of these principles and their application in all international organizations and institutions, in the context of the deeply inculcated concept of sovereignty, which must be adhered to in the international relations the Republic is called upon to maintain with the peoples of the world.

In view of the foregoing, given that repeated decisions of the Inter-American Court of Human Rights are inconsistent with the precepts and principles of our Constitution and even with the American Convention on Human Rights itself, the Bolivarian Republic of Venezuela considers it important to end the incompatibility between our internal legislation and our sovereign rights, distancing ourselves from

the perverted practices of the competent organs of the inter-American human rights system, consisting of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

For that reason, our country has on this date notified the General Secretariat of the Organization of American States of its denunciation of the American Convention on Human Rights, in accordance with Article 78 thereof.