Second round of meetings to examine whether the situation in Venezuela warrants being submitted to the International Criminal Court

On October 16, the panel of independent international experts, consisting of Santiago Cantón, Irwin Cotler and Manuel Ventura Robles, assumed their responsibilities to receive the presentations by victims and other relevant and interested parties regarding the situation in Venezuela. The panel heard testimony from Ralentis Tovar, a former Judge of the Metropolitan Area of Caracas; Pedro Troconis, the President of the Criminal Bench of the Supreme Court of Justice of Venezuela in Exile; Armando Daniel Armas, a Deputy of the National Assembly of Venezuela; Isaías Medina, the former Minister Counselor of the Permanent Mission of Venezuela to the United Nations, and Rosa Orozco, of the Venezuelan NGO, Justicia, Encuentro y Perdón.

Judge Ralenis Tovar, former Judge of the Metropolitan Area of Caracas

Since 2010, the Judicial System has turned into a judiciary subservient to the National Executive. In her presentation, Tovar described how the Government of Venezuela has worked in one way or another to threaten judges. She specifically described how she was coerced into signing the arrest warrant for Leopoldo López in 2014 while serving as a judge of the Metropolitan area of Caracas.

As explained by Tovar, coercion begins with informal contact (by phone) with the judges, in which they were ordered to commit a possibly irregular act. On February 12, 2014, some time after 10 p.m., she received a series of phone calls from an unknown phone number, followed by a phone call from the person who was at that time her boss, the President of the circuit of the Supreme Court of Justice (TSE), instructing her to comply with the phone request. Lastly, she received another call from the President of the TSE, Gladys Gutiérrez. The President of the TSE instructed her to return to the court to sign a number of arrest warrants. It should be noted that under regular procedures, arrest warrants are issued by the Office of the Public Prosecutor of the Ministry of the Interior, not by the TSJ.

Tovar described how military personnel had taken over the Court of Justice: military intelligence, SEBIN, and the National Guard. She was struck by the presence of a large number of staff, and in particular, four national public prosecutors; people, she said, who were waiting for her. The police contingent led the then Judge to an office where the four prosecutors gave her a number of arrest warrants to be signed. The first two concerned people that Tovar did not know, but the third was a name she recognized: Leopoldo López.

When asked to sign the arrest order, Tovar asked to wait until the following day so that she could study the case. In response to her resistance, she was subjected to psychological threats: “You want to be like another Judge Afiuni?” (a judge who was detained in 2009 and violently raped for not following the instructions of the Executive. See: http://www.corteidh.or.cr/docs/medidas/Afiuni_se_01.pdf). This case was widely and systematically used to intimidate judges on an ongoing basis. After complying with the order to sign the arrest warrant for López, she was escorted home by police. In an act that she said
demonstrates the lack of independence of the Justice System, at 22:30 hours, President Maduro announced on national media a court decision that did not happen until two hours later.

In the months following these events, she felt herself at risk. The State assigned her four guards “for her safety”. She said that an attempt was made to kidnap her daughter at school. Tovar submitted her resignation from the Judiciary, feeling threatened and persecuted.

Pedro Troconis, President of the Criminal Bench, Supreme Court of Justice of Venezuela in Exile

The existence of an illegal constituted Supreme Court of Justice represents a risk of past, present and future impunity. Impunity is systemic in Venezuela. On October 13, Michael Moreno threatened the members of the Supreme Court of Justice of Venezuela in Exile, and urged the international community to assist in their capture and arrest.

The “express” election held in December 2015 of 13 principal judges and 20 alternates did not meet the requirements established in law: (a) the rules on constituting the appointments committee were not respected; (2) members of the People’s Power were not present for the selection, and (3) the Public Prosecutor’s Office requested preliminary proceedings against the Judges of the Supreme Court of Justice.

In order to rectify the illegitimacy of the appointments of December 2015, on April 25, 2016 the National Assembly approved a public call for applicants to constitute the Judicial Appointments Committee, and on July 21, 2017 the National Assembly swore in the 33 new judges of the Supreme Court of Justice. The swearing-in ceremony was held in a public square, since the Legislative Palace had been taken over.

The Constitutional Court refused to recognize these appointments, ruling that they were null and void, called the newly appointed judges “traitors”, and began a systematic persecution of each of the 33 judges appointed through the National Assembly process. On July 2, SEBIN arrested Judge Angel Zerpa; on July 25, 2017, Judge Jesús Rojas Torres was detained (who, in detention at SEBIN headquarters and presumably under pressure, retracted his taking of office), and SEBIN operations, coordinated from the capital by Director General Gustavo González López, attempted to detain in their homes one by one all of the Judges elected under the provisions of the Constitution. In addition, on July 23, President Maduro publicly threatened the Judges with (1) detentions, (2) precautionary measures against their bank accounts and other financial instruments, (3) precautionary measures against their assets, and (4) prohibiting them from leaving the country.

There is no justice because the Supreme Court of Justice in Caracas is illegitimate, and the legitimate Supreme Court of Justice has been persecuted to the point where its members were forced into exile.

Armando Daniel Armas, Deputy, National Assembly of Venezuela
On July 5, 2017, there was an attack on the Parliament of Venezuela in which Deputy Armando Daniel Armas almost lost his life. In a personal account, citing numerous documented cases, Armando Daniel Armas described a systematic practice of violation of the rights of members of the Legislature, including arbitrary detentions, court proceedings that violated the parliamentary immunity of deputies, absence of due process, and acts of physical violence, which still go unpunished. Armas stated that there is no doubt but that this is a regime that seeks to undermine the Parliament as a democratic institution. The criminal behavior occurs within a culture of impunity where those responsible for persecution are rewarded, a complete disregard of the rule of law.

The attacks took place with the acquiescence and complicity of the National Guard. Armas stated that this was a premeditated, planned act and that the National Guard was following orders: the President’s statements as well as the rhetoric of the governing party have directed the repression and “this type of situation.” There are procedure manuals on repression: a so-called “anti-coup manual.” Prior to this attack, Colonel Vladimir Lugo (responsible for the security of the National Assembly) was awarded the Orden del Libertador by President Maduro for his services to the country. No one has been imprisoned or arrested for the attack and no investigation has been opened. There has been no justice in any of the cases of violence against legislators that took place earlier, such as those against Julio Borges; María Corina Machado; Williams Dávila, and Delsa Solórzano.

The case of Armas is not isolated. The Deputy also spoke of other cases of harassment of members of the Legislature as well as the systematic violation of their human rights. “It is the way the State behaves”, and the number of incidents have been increasing with 215 documented violent attacks on Parliamentary personnel between January 4, 2016 and October 16, 2017.

Isaías Medina, former Minister Counselor, Permanent Mission of Venezuela to the United Nations

Medina stated that the omission, concealment, interference, tampering with information and denial of the humanitarian crisis in Venezuela constitute a crime against humanity, as implicit in Art. 7 (k) of the Rome Statute, defined as “Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health” of the civilian population.

Venezuela has become a failed State, with an outlaw government. The State’s policy of denying the humanitarian crisis is criminal and has resulted in the needless deaths of thousands of Venezuelans. From the 6th United Nations Commission on Human Rights, he observed the tampering with information by the Foreign Ministry of the Nicolás Maduro regime, in order to deny and hide the humanitarian crisis that exists in Venezuela. The refusal to accept humanitarian assistance has been systematic, repeated and widespread. There is a deliberate plan by Nicolás Maduro to limit access to imports of medicine, and to distribute assistance according to a partisan, political criterion. There is no doubt that the regime of Nicolás Maduro is trying to perpetuate its in power, at any cost.

The State’s policy of obstructing efforts to deal with the humanitarian crisis combined with the series of systematic practices to undermine democratic institutions are what triggered Medina’s public
Rosa Orozco, Venezuelan NGO Justicia, Encuentro y Perdón

Rosa Orozco is the mother of Geraldine Moreno (March 20, 1990 – February 22, 2014), the victim of an extrajudicial execution carried out by Detachment 24 of the National Guard. On February 19, 2014, “the National Guard was very, very aggressive”; “we’re going to stay in the house.” Geraldine was playing and at around 8:05 p.m., she went out to the entrance of her building where neighbors were peaceably demonstrating “armed only with saucepans, whistles and flags.” She always went out demonstrating with the people—it was her right to do so.

On February 19, 2014, National Guard Detachment No. 24 entered the neighborhood, and fired at least five shots: first, Sergeant second class Francisco Caridad Barroso fired at Geraldine’s body; another Sergeant, Alvin Bonilla, shot her in the face, and when Geraldine raised her left hand begging for mercy, the same Sergeant fired at her point blank range.

At least 24 military personnel participated in the extrajudicial execution of Geraldine, but only those two Guard members were brought to trial and sentenced for aggravated first-degree murder, violation of international accords, and torture and cruel treatment. They are appealing their conviction. Other members of the Detachment, including Lieutenant Colonel Frank Osura, were promoted and decorated. Several times she has asked that all of the detachment and chain of command be investigated. The response for the last three years and eight months has been “We’re in the process”; “we cannot involve one case with another.”