

CHAPTER IV.B VENEZUELA

I. INTRODUCTION

1. The Commission has closely followed the human rights situation in Venezuela and, through its various monitoring mechanisms, has observed a series of structural situations that affect the enjoyment and exercise of human rights in that country. Accordingly, the Commission has observed and has repeatedly made statements in its previous reports on Venezuela on structural situations such as the provisional nature of judges and prosecutors, which weakens the judicial branch and leads to its lack of independence and impartiality. The Commission has considered that this structural flaw has a negative impact on the right of access to justice and due process, and thus is one of the weakest points of Venezuelan democracy. Along these same lines, as the lack of independence and autonomy of the judicial branch vis-à-vis the political branches of government is one of the most fragile points that has been identified, the IACHR is concerned about the use of the punitive power of the State to harass and stigmatize human rights defenders and journalists, and to criminally prosecute political dissidents and disqualify several of its leaders from holding office.

2. In addition, the IACHR has identified as matters of concern the regulatory amendments that imply legal and regulatory restrictions—in particular, through passage of Special Powers Acts (*Leyes Habilitantes*), which in recent years have been used to effect the reform of criminal statutes, as well as to assign public safety and domestic law enforcement responsibilities to the military. The Inter-American Commission has also stated that the high degree of impunity in Venezuela, the serious public safety situation, and the violence in penal institutions are factors that impose particular constraints on the inhabitants' exercise of the human rights to life, humane treatment, and access to justice, among other rights.

3. Likewise, the IACHR and its Office of the Special Rapporteur for Freedom of Expression have determined that factors such as violence against journalists and the media and denigrating remarks by high-ranking public officials, among other things, have created an environment of intimidation that inhibits the free exercise of freedom of expression in Venezuela. In addition, the Commission takes into account the special need for guarantees for freedom of expression during an electoral period, as occurred this year.

4. As explained in this report, during the period in question, the Commission identified the persistence of the aforementioned structural situations and other serious acts such as the arbitrary deportation of Colombian citizens and persons with the right to international protection, including children and adolescents, in several areas along the Venezuela-Colombia border where a state of emergency has been declared. Furthermore, the IACHR is concerned about the failure of the State to comply with the decisions of the Inter-American system, with respect to both the judgments and provisional measures called for by the Inter-American Court of Human Rights (hereinafter "I/A Court") and the recommendations and precautionary measures issued by the Commission.

5. In light of the above, having evaluated the human rights situation in Venezuela during 2015, the IACHR decided to include Venezuela in this Chapter because it considers that it falls under Article 59(6)(a)(i) of the IACHR's Rules of Procedure, which establishes, as a criterion for the inclusion of a Member State in this chapter, the existence of "a. a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including: i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority....".

6. Furthermore, in this chapter, the IACHR also takes into account positive measures and also welcomes the fact the State has proposed the creation of a National Human Rights Plan for the 2015-2019 period that includes several strategic lines and the creation of a National Human Rights Observatory. The IACHR considers it important that the implementation of this type of program include the participation of different sectors of society and take into account, among other things, the recommendations made to the State by both the Inter-American system and the Universal System for the Protection of Human Rights.

7. On November 23, 2015, the IACHR transmitted to the State a copy of the preliminary draft of this section of its 2015 Annual Report as per Article 59(10) of its Rules of Procedure and asked that the State to submit its observations within one month. The State filed its response on December 14, 2015,¹ in which it stated that it rejects its inclusion in this chapter. Its observations have been included in this chapter according to its pertinence.

8. The IACHR based its analysis on the monitoring of the general human rights situation over the course of this year, through information obtained during its hearings² with the active participation of the State, the brief submitted by the State following the October hearings,³ information available from public sources, its petition and case system, its precautionary measures mechanism⁴ and press releases,⁵ following the methodology established in Article 59.5 of the IACHR Rules of Procedure. This year the Commission substantiated its analysis on the information submitted by the State to the preliminary draft. Nonetheless, it was not able to incorporate in said analysis the information usually provided by the State in response to information requests of the IACHR concerning various human rights issues, under the authority established

¹ Government of the Bolivarian Republic of Venezuela. [Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV,"](http://www.oas.org/es/cidh/docs/anual/2015/doc-es/VE-Observaciones2015.pdf) AGEV-000136, received December 14, 2015. Available at: <http://www.oas.org/es/cidh/docs/anual/2015/doc-es/VE-Observaciones2015.pdf>. In its observations on this draft report the State rejects the inclusion of the Bolivarian Republic of Venezuela in Chapter IV of its annual report. It indicates that "in its libel against the Bolivarian Republic of Venezuela, this Commission, in 373 clauses, brings together: 42 attacks on sovereignty and the right of peoples to organize as they deem suitable; 144 reports on incidents with respect to which the domestic jurisdiction has not been exhausted or in respect of which no actions have been filed before it in which statements by the media are sought to be given the weight of evidence; 159 reports based solely on NGOs financed by governments hostile to Venezuela; 116 reports based solely on the opinion of the Inter-American Commission on Human Rights; 220 reports on which the information put forth is insufficient; 163 reports in which there is unacceptable usurpation of the ownership of the action."

² In 2015 the IACHR held eight hearings with regard to Venezuela: 154th period of sessions: Case 12,797 – Linda Loaiza López Soto et al., General situation of human rights in Venezuela, Human rights situation of LGBT persons in Venezuela, Situation of economic, social and cultural rights in Venezuela. During the 156th period of sessions: Situation of the right to freedom of expression in Venezuela, Situation of political rights in Venezuela, General situation of human rights in Venezuela, Reports of harassment of and attacks against human rights defenders in Venezuela. Audios and videos of hearing available in: <http://www.oas.org/es/cidh/audiencias/advanced.aspx?lang=es>.

³ Bolivarian Government of Venezuela. State Agency for Human Rights on the Inter-American and International System. AGEV-000117, October 28, 2015.

⁴ In 2015 the IACHR requested the adoption of eight precautionary measures, some of which are related to matter presented during 2013 and 2014: PM 223/13 – Lorent Saleh and Gerardo Carrero, Venezuela; PM 143/13 – Alfredo Romero, Luis Betancourt, and Yoseth Colmenares, Venezuela; PM 71/15 – Marco Antonio Ponce, Venezuela; PM 335/14 – Leopoldo López and Daniel Ceballos, Venezuela; PM 127/15 – José Vicente Haro and Pierina Alejandra Camposeo, Venezuela; PM 335/14 – Leopoldo López, Daniel Ceballos and family members, Venezuela (extension); PM 438/15 – Marino Alvarado, Venezuela and PM 179/15 – Miguel Henrique Otero and others, Venezuela.

⁵ In 2015, the IACHR issued 14 press releases on Venezuelan affairs: 15/15 IACHR Expresses Deep Concern over the Situation regarding the Rule of Law in Venezuela, February 24, 2015; 22/15 IACHR Laments the Death of a Student during Protests in Venezuela, March 3, 2015; 30/15 IACHR Expresses Concern over the Death of Rodolfo Gonzalez in Venezuela, March 18, 2015; 32/15 IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System, March 20, 2015; 57/15 IACHR Expresses Concern over Measures Taken against Leopoldo Lopez and Daniel Ceballos in Venezuela, May 29, 2015; 68/15 IACHR Takes Case involving Venezuela to I/A Court, June 11, 2015; 81/15 High Time to Pull the Plug of Televised Reprisals Against Rights Defenders in Venezuela, July 22, 2015; 93/15 IACHR and the Special Rapporteur Express Deep Concern over the Stigmatization and Judicial Harassment against Three Media Outlets in Venezuela, August 24, 2015; 100/15 IACHR Expresses Concern over Arbitrary Deportation of Colombians from Venezuela, August 28, 2015; 101/15 IACHR Conducts Visit to Colombia-Venezuela Border, September 9, 2015; 107/15 IACHR Voices Concern over Ruling against Leopoldo Lopez in Venezuela, September 25, 2015; 109/15 IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015; and 128/15 – IACHR and UN Rapporteur Concerned over Continued Harassment of Lilian Tintori in Venezuela. Washington, D.C., November 10, 2015; and 139/15 – IACHR Condemns the Murder of Opposition Leader Luis Manuel Diaz in Venezuela, December 1, 2015.

at Article 18 of its Statute, since the State has not provided a response to the four information requests sent in 2015.⁶

9. This chapter of the IACHR Annual Report is divided into the following six sections: section II, on previous considerations; section III, on the right to life, personal integrity, and security; section IV, on political rights, freedom of expression, and the defense of human rights; section V, on guarantees of judicial independence, due process of law, and effective access to justice; section VI, which includes other relevant situations; and section VII, which contains the Commission's recommendations to the State of Venezuela.

II. PRELIMINARY CONSIDERATIONS

A. Position of the State on the Inter-American System

10. The IACHR wishes to point out that the last working visit of the Commission to Venezuela took place in May 2002, following the coup in April of that year. From that visit, the Commission published, in December 2003, the *Report on the Situation of Human Rights in Venezuela*, in which it made a series of recommendations. Since then, with the objective of following up on its recommendations and gathering first-hand information on the human rights situation in Venezuela, the Commission has made a series of efforts to seek the State's assent to conduct an observation visit. To date, the State has refused to allow the Commission to visit Venezuela, which not only affects the functions assigned to the Commission, as one of the OAS' two principal organs for the promotion and protection of human rights, but it also seriously hampers the system of protection created by the Member States of the Organization. It should be highlighted that the Venezuelan State has participated in all the hearings to which it has been convened by the Commission during this year.

11. On December 30, 2009, the Commission approved the report titled *Democracy and Human Rights in Venezuela*, in which it examined developments in the area of human rights in the State. The Commission has followed up on the human rights situation in Venezuela and in Chapter IV of its 2010 to 2014 Annual Reports and continues to analyze the general situation of human rights in Venezuela in this section of its Annual Report of 2015.

12. Furthermore, the Commission has repeatedly stated that the position taken by Venezuela to not accept or fulfill certain decisions and recommendations of international human rights bodies, and in particular the organs of the Inter-American human rights system, arguing that these contravene national sovereignty, does not conform to the applicable principles of international law. The Commission observes with concern that in 2015, the Constitutional Chamber of the Supreme Court handed down a new decision declaring "unenforceable" the decision of the I/A Court against Venezuela in the case of *Granier et al. (Radio Caracas Televisión)*.⁷ The Chamber's arguments reaffirm the position that the action of international bodies for the protection of human rights violates national sovereignty, when it was by virtue of the Court that the State itself accepted the obligation to comply with the provisions of international treaties for the protection of human rights that grant authority to these bodies. The Commission laments the fact that high-ranking State authorities have also made statements delegitimizing the decisions and recommendations issued within the framework of the universal human rights system.⁸

13. The Commission considers that Venezuela establishes a grave precedent in this area because the State has not substantially complied with the decisions of the I/A Court, and its organs of justice declared the unenforceability of certain decisions, considering them contrary to the Constitution. The

⁶ Request on Resolution No. 008610 of the Ministry of Popular Power for Defense, March 2015; Request about Operation Liberation and Protection of the People and of the situation of the incapacities for the exercise of public functions, both in August 2015; and request about the draft international cooperation bill, November 25, 2015.

⁷ Supreme Court. Constitutional Chamber. Judgment No. 1175 of September 10, 2015. [File No. 15-0992](#).

⁸ [Comunicado de la Misión Permanente de Venezuela de la República Bolivariana de Venezuela ante la Oficina de las Naciones Unidas y demás Organismos Internacionales](#). Geneva, October 22, 2014.

weakening in the protection of the human rights of Venezuelan citizens was also reflected in the denunciation of the American Convention by the State, on September 10, 2012, which entered into force on September 10, 2013.

14. In this regard, the Commission noted that in June 2015, 30 human rights organizations issued a press release, precisely highlighting that

[the] grave human rights violations that have been documented, entrenched impunity and the undermining of the institutions responsible for upholding the rule of law, as well as Venezuela's denunciation of the American Convention on Human Rights and its failure to comply with the recommendations of regional and international human rights bodies, together with the attacks on those who question the actions of the authorities, including human rights defenders, clearly call into question Venezuela's commitment, as party to human rights treaties, to promoting and protecting the human rights of all, without discrimination.⁹

15. On various occasions, the IACHR has expressed its profound preoccupation for the setback that the denunciation of the American Convention on Human Rights entails for the common objective that the Member States of the OAS have defined, to advance the universalization of the inter-American human rights system, as well as the fact that Venezuelan citizens have lost a forum of protection for their human rights, such as the I/A Court. Likewise, it has reiterated that despite its denunciation, the Venezuelan State – as a Member State of the OAS - will continue to be subject to the jurisdiction of the Commission and the obligations under the Charter of the OAS and the American Declaration of the Rights and Duties of Man (hereinafter “the Declaration”).¹⁰ In this regard, it should be noted that this year, the State has responded to only one of the information requests from its precautionary measures mechanism.¹¹

16. Furthermore, it should be noted that the Inter-American Court of Human Rights, through a November 2015 order, declared a situation of contempt in 12 cases, at present in complacence stage with judgments and decided to apply Article 65 of the American Convention, which implies that said situation of non-compliance will be made known to the General Assembly of the Organization of American States (OAS) without prejudice to the continuing supervision before the Court.¹²

17. The Commission reiterates that the human rights violations that took place in Venezuela during the time in which the State was party to the American Convention, are binding in accordance with the obligations in said Convention. Venezuela ratified the Convention on June 23, 1977 and its denunciation

⁹ *Inter alia*: AI, PROVEA, COFAVIC, Espacio Público, OVP, HRW, la Vicaría Apostólica de Derechos Humanos de Caracas y OVV. HRW. *Venezuela: Human Rights before the United Nations Human Rights committee*, June 29, 2015; El Universal. *30 ONG denuncian que Venezuela viola los derechos civiles y políticos*, June 29, 2015; Mundo24. *ONG “reprobaron” a Venezuela y piden a la ONU eliminar delitos penales por difamación e injuria*, June 30, 2015; Infobae. *Más de treinta ONG denuncian que Venezuela viola los derechos humanos*, June 30, 2015.

¹⁰ IACHR, *IACHR Regrets Decision of Venezuela to Denounce the American Convention on Human Rights*. Washington, D.C., September 12, 2012; IACHR, *IACHR Deeply Concerned over Result of Venezuela's Denunciation of the American Convention*. Washington D.C., September 10, 2013.

¹¹ IACHR. *Precautionary Measure - 223/13* Lorent Saleh and Gerardo Carrero, Venezuela, March 2, 2015.

¹² I/A Court HR, *Case of Chocrón Chocrón v. Venezuela. Preliminary Objection, Merits, Reparations and Costs*. Judgment of July 1, 2011. Series C No. 227; I/A Court HR, *Case of Díaz Peña v. Venezuela. Preliminary Objection, Merits, Reparations and Costs*. Judgment of June 26, 2012. Series C No. 244; *Case of Uzcátegui et al. v. Venezuela. Merits and Reparations*. Judgment of September 3, 2012 Series C No. 249; I/A Court HR, *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 194; I/A Court HR, *Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C No. 195; I/A Court HR, *Case of Reverón Trujillo v. Venezuela. Preliminary Objection, Merits, Reparations and Costs*. Judgment of June 30, 2009. Series C No. 197; I/A Court HR, *Case of López Mendoza v. Venezuela. Merits, Reparations and Costs*. Judgment of September 14, 1996. Series C No. 28; I/A Court HR, *Case of Blanco Romero et al. v. Venezuela*. Judgment of November 28, 2005. Series C No. 138; I/A Court HR, *Case of Montero Aranguren et al. (Detention Center of Catia) v. Venezuela. Preliminary Objection, Merits, Reparations and Costs*. Judgment of July 5, 2006. Series C No. 150. I/A Court HR, *Case of Barreto Leiva v. Venezuela. Merits, Reparations and Costs*. Judgment of November 17, 2009. Series C No. 206; I/A Court HR, *Case of Usón Ramírez v. Venezuela. Preliminary Objection, Merits, Reparations and Costs*. Judgment of November 20, 2009. Series C No. 207.

entered into force on September 10, 2013. Therefore the petitions that the Inter-American Commission received before and may receive after September 10, 2013, that allege human rights violations that took place before that date, will be processed based on the State's obligations under the American Convention and are subject to consideration by the I/A Court.¹³ As a Member State of the OAS, Venezuela remains subject to the jurisdiction of the Commission and is bound by the obligations under the OAS Charter and the Declaration.

18. The IACHR reiterates that it continues monitoring the human rights situation in Venezuela and that it is open to engage in dialogue with the State, in order to support compliance with the recommendations of this report, as well as to provide advice on its implementation if needed; and to advance jointly in the protection of the human rights of the people of Venezuela.

B. National Human Rights Plan Proposal for 2015-2019

19. The Commission has taken note that on July 14, 2015, at a public event Vice President Jorge Arreaza announced a proposal to create a National Human Rights Plan 2015-2019.¹⁴ An initiative of the President, the preparation of the preliminary draft of the plan was coordinated by the Executive Secretariat of the National Human Rights Council, a body created in 2014 by executive order.¹⁵

20. The IACHR welcomes the reaffirmation that the plan will cover both civil and political rights and economic, social, and cultural rights under conditions of equality. The Vice President also indicated that the recommendations made during the United Nations Universal Periodic Review would be taken into account. The proposal also incorporates the creation of a National Human Rights Observatory that would permit the development of country indicators in this subject.

21. The Commission also recognizes that the lines of work established in this proposal included "relations with the international human rights systems and organizations, with a critical and respectful transformational vision." The IACHR considers Venezuela's objective of promoting and guaranteeing its participation in international human rights systems a very positive development. However, it laments that while the strategic lines and programmatic actions of this line of work are focused on the United Nations and other agencies, in keeping with the recommendations of the Universal Periodic Review, no mention is made of the obligations of the State under the regional system for the protection of human rights. Furthermore, up to now the formulation proposed stresses that the framework for the application of international treaties should be the National Constitution, however, the international law treaties have clearly established that the international obligations of a State are not subject to internal law.¹⁶

22. The Commission therefore observes that, given the proposal to create this National Plan, the organizations of the Forum for Life have reiterated the need for "a favorable context for its discussion and subsequent implementation," which, in its view, merits, among other things, "urgent decisions" to reverse Venezuela's renunciation of the Convention and guarantee "compliance with the judgments and precautionary measures issued by the System."¹⁷ The IACHR therefore invites the State to continue moving forward with a proposal that comprehensively considers and meets its international obligations, and the recommendations and decisions handed down by the Inter-American Human Rights system.

¹³ IACHR, *2012 Annual Report*. Chapter IV on Venezuela, para. 524.

¹⁴ The proposal submitted includes five pillars (*ejes*) with 15 strategic lines and 145 programmatic actions. The pillars include: (i) creating a culture of human rights, (ii) continuing to strengthen the institutions of the State; (iii) promoting the proactive and co-responsible involvement of all the forms of People's Power; (iv) giving impetus to spaces for exchange of experiences in these multilateral forums; and (v) deepening the human rights approach in the legislation, policy, and actions of the Venezuelan State. [Plan Nacional de Derechos Humanos 2015-2019. Propuesta sometida a Consulta Pública](#); and Vicepresidencia de la República. [Plan Nacional de DDHH 2015-2019 proponer 5 ejes igualitarios: Será sometido a consulta pública](#). July 14, 2015.

¹⁵ National Human Rights Council. [Plan Nacional de Derechos Humanos 2015-2019. Propuesta sometida a consulta pública](#), p. 5.

¹⁶ [Vienna Convention on the Law of Treaties](#), May 1969, Art. 27.

¹⁷ Foro por la Vida, [Comunicado del Foro por la Vida sobre el Plan Nacional de Derechos Humanos](#). August 3, 2015.

23. Bearing in mind that, according to official information, since the announcement of the proposal, consultations on the preliminary document for the National Plan¹⁸ have moved forward. The Commission also deems it appropriate to emphasize the importance of ensuring that the design and implementation of the Plan include ample opportunities for participation by the various sectors of civil society, provide tools that will permit the harmonization of different ideas and visions, and even facilitate the opening of a political and social dialogue that will lay the foundations for the tolerance and respect for human rights that the current situation in Venezuela demands.

24. In this regard, based on the public information available, the IACHR observes that the National Human Rights Council has conducted activities in some of the country's states and with some social groups,¹⁹ and has provided online access to a survey about the Plan²⁰ that contains multiple-choice and other types of questions. According to the proposal presented, the Plan will be approved once the consultative process has ended. However, the Commission has found no public information on a specific timetable for monitoring, bearing in mind that the Plan is to be implemented in the period 2015-2019 "so as to link it with the National Plan (*Plan de la Patria*) 2013-2019".²¹

25. In light of the above, the IACHR also notes that civil society organizations have pointed out that

[...] this National Plan proposal, drafted without extensive participation of the country's organizations defending Human Rights, ignores a key element of the process, which is a thorough consultation—not a survey—since the extension of the thematic requires exchanges with different voices that express convergences or involve connections that will guarantee a comprehensive approach to occur. This omission by the Executive Secretariat of the National Human Rights Council, the entity responsible for the proposal, disregards the participation of civil society. We believe that without that participation, this proposal is exclusionary and contradicts the sense of any Human Rights Plan, violating the fundamental right to participate.²²

26. It has also been pointed out that the public is generally unfamiliar with the mechanisms for participation in the consultative process, there has been no information campaign in this regard, the National Human Rights Council itself does not adhere to the principles of autonomy and pluralism established in international standards, and the proposal employs unconstitutional ideological concepts.²³

27. In light of the above, while the IACHR appreciates that the State is making tangible efforts to develop this Plan and provide for participatory consultation on its design, it considers it important to reiterate the need for national processes like this one, especially in the area of human rights, to take the international obligations of the State in this area into account and adhere to the values of pluralism and participation as it moves forward with public deliberations on issues of national interest.

¹⁸ National Human Rights Council. [Plan Nacional de Derechos Humanos 2015-2019. Propuesta sometida a consulta pública.](#)

¹⁹ See for example: El Universal, [Comunidades de Yaracuy evaluaron el Plan Nacional de DDHH.](#) August 4, 2015; and Radio Nacional de Venezuela, [Comunidades afrodescendientes se suman a la consulta del Plan Nacional de Derechos Humanos.](#) August 15, 2015.

²⁰ Available at: http://consejoderechoshumanos.gob.ve/?page_id=12603.

²¹ National Human Rights Council. [Plan Nacional de Derechos Humanos 2015-2019. Propuesta sometida a consulta pública.](#) pág. 15.

²² Foro por la Vida, [Comunicado del Foro por la Vida sobre el Plan Nacional de Derechos Humanos.](#) August 3, 2015. See also: El Nacional. Carlos Nieto Palma. [Plan de derechos humanos politizado.](#) August 21, 2015.

²³ *El Nacional*. Carlos Nieto Palma. [Plan de derechos humanos politizado.](#) August 21, 2015. See also *El Nacional*. Carlos Nieto Palma. [Hacia un Plan Nacional de DDHH.](#) July 24, 2015; PROVEA. [Lo bueno, lo malo and lo feo del Plan Nacional de DDHH.](#) August 10, 2015. Foro por la Vida. [Comunicado Foro por la Vida: Plan Nacional de Derechos Humanos.](#) August 3, 2015.

III. THE RIGHT TO LIFE AND PERSONAL INTEGRITY AND CITIZEN SECURITY

A. Situation of violence and citizen security

28. In 2015, the Commission received information on the violence and the lack of citizen security in Venezuela, especially in the form of homicides and extrajudicial executions, and the lack of an effective response from the organs in charge of investigating, prosecuting and punishing crimes of this type, which in turn brings about a situation of impunity. The situation of continuity of violence in Venezuela has been of particular interest to the IACHR, and in its annual reports it has followed up on the information provided by the State, civil society organizations and other sources of information on citizen security as well as specific actions taken by the State's civilian and military security forces that jeopardize the rights of the inhabitants.

29. The IACHR has also highlighted what civil society organizations have indicated about the difficulty of obtaining official statistics of violence in Venezuela, generating the necessity to collect unofficial data on the subject.²⁴ This difficulty has been sustained throughout 2015 and, therefore, the IACHR has had to make use of the information available during the public hearings (held with the participation of the State), sources from local organizations, information published in the press, and certain statistics made public by the Venezuelan authorities.

30. In general, the Commission has received information that indicates that the situation of violence and criminality in Venezuela during 2015 has escalated.²⁵ Additionally, the Commission has observed an increase in the abuse of force by security forces in armed operations of citizen control and an increase in extrajudicial executions and arbitrary and illegal detention has also been observed. The Commission observes that, as it will be explained later in this chapter (see also *infra*. III. B).

31. With regard to the rates of homicide, in 2014, the Venezuelan Observatory of Violence ("*Observatorio Venezolano de Violencia*" – OVV) reported that Venezuela maintained its rank as the country with the second highest homicide rate in the world, after Honduras. It indicated that 82 violent deaths per 100,000 citizens were registered.²⁶ In April 2015 the students from the Central University of Venezuela (Universidad Central de Venezuela (UCV)) reported at the IV Young Americas Forum ("*IV Foro de Jóvenes de las Américas*"), quoting the Office of the Attorney General of the Republic, that the index of impunity in the country reaches 98.69 percent.²⁷

32. According to data obtained extra-officially from *Medicatura Forense de Caracas*, the media reported that during the period through June 2015 430 violent deaths occurred, totaling 2,647 deaths from murders during the first semester of 2015 in Caracas. This evidences an increase of 7.42 percent in comparison to the same period of last year, when a total of 2,464 violent deaths were documented.²⁸ According to media information, it was also reported that during the first semester of 2015, 72 police and military personnel, 79 women and 132 minors died as victims of violence.²⁹

33. In this regard, during the public hearings on the general situation of human rights held in March and October 2015, civil society organizations also presented data on homicides and citizens violence.

²⁴ IACHR. *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 734.

²⁵ Information received in public hearing on the general situation of human rights in Venezuela, March 2015

²⁶ OVV. *Informe 2014*, December 2014.

²⁷ *Federación de Centros Universitarios UCV. Informe sobre la crisis venezolana 2015*. Panama City, April 2015. VII Summit of the Americas, IV Youth Forum of the Americas.

²⁸ *El Universal. Dos mil 647 muertes violentas ocurrieron en seis meses de 2015*, July 1, 2015. See also *Diario las Américas. Son múltiples los hechos violentos que se han registrado en la capital venezolana*, July 2, 2015.

²⁹ *El Universal. Dos mil 647 muertes violentas ocurrieron en seis meses de 2015*, July 1, 2015. See also *Diario las Américas. Son múltiples los hechos violentos que se han registrado en la capital venezolana*, July 2, 2015.

At the hearing held in October the organizations reported that there were approximately 62 homicides per 100,000 population.³⁰ They reported on the existence of 590 cases of alleged extrajudicial executions and 51 cases of alleged torture or cruel, inhuman and degrading treatment for the period of January to June 2015, which makes for an 18% increase in extrajudicial executions and a 28% increase in torture with respect to the same period in 2014.³¹

34. Specifically, in the context of the same hearing held during the 156th period of sessions, it was reported that

In a monitoring effort by Committee of Family Members of the Victims (COFAVIC) in 23 states of Venezuela, from January to July 2015, a total of 641 cases were tallied of alleged human rights violations in which 590 are alleged extrajudicial executions, which represents an 18% increase in such cases with respect to the same period of 2014, and a 24% increase in cases of torture and cruel, inhuman and degrading treatment.

In 54% of the cases analyzed, among the security forces allegedly implicated especially prominent are the state and municipal police. In addition, 30% of these cases allegedly involve officers from the Corp for Scientific, Penal and Criminal Investigations (CICPC: Cuerpo de Investigaciones Científicas, Penales y Criminalísticas). According to the study, 60% of the deaths occur in the context of special operations. In 81% of the cases the victims were under 25 years of age, and in 99% of the cases they were male.³²

35. The Commission also takes into account that this year, 2015, there have been serious situations of violence against police forces in various states of Venezuela. For example, the police authorities of the state of Miranda, specifically in Greater Caracas, reported that as of September 2015 there were no fewer than 15 attacks using explosive devices against police stations and officers, and that one of the hypotheses being examined is that they may be reprisals by criminal bands against the security forces.³³ In addition, in the month of September it was reported that on a single weekend, within a 48-hour period, there were at least five grenade attacks on the offices of security agencies in the state of Carabobo, metropolitan area Caracas, and the state of Guárico.³⁴ In October there were also grenade attacks directed against a

³⁰ The Commission reiterates in this respect the impossibility of obtaining clear and updated figures made public by the Venezuelan authorities periodically and with access to statistics disaggregated for different variables. The IACHR notes that the figure reported coincides with what was indicated in July 2015 by the Attorney General of the Republic before the Human Rights Committee of the United Nations, and he apparently made reference to the homicide rate for 2014. Nonetheless, as was reported by the IACHR in its 2014 Annual Report, that year the then-Minister of Interior, Justice and Peace, Rodríguez Torres, had reported that the homicide rate was 39 per 100,000 population. Organizations such as the Observatorio Venezolano de Violencia projected that the homicide rate for that year would turn out to be 82 per 100,000 population. The IACHR does not find any basis that would allow one to adequately conclude a possible increase or decrease in these figures, compared to what was reported by other organizations in 2015. To the contrary, the wide variety of statistics and even the contradictions in the information offered by the public authorities reflects the seriousness of the situation, when it comes to understanding the dimensions of the issue, of the lack of mechanisms for transparency and access to public information in Venezuela. El Universal, Fiscal asegura a la ONU que buscan “frenar alza de homicidios”, July 1, 2015; El Universal, ONG reporta incremento en tasa de homicidios a 82 por cada 100 mil personas, December 29, 2014; and IACHR. 2014 Annual Report. Chapter IV on Venezuela, para. 343.

³¹ Information presented by civil society during the hearing on the general situation of human rights in Venezuela at the 156th period of sessions of the IACHR, October 19, 2015.

³² IACHR, 156th period of sessions. Audio and videos of hearings available at: www.cidh.org. See also Cofavic participó del 156 período de sesiones de la Comisión Interamericana de Derechos Humanos, October 22, 2015.

³³ CNN, Autoridades venezolanas, en alerta tras 5 ataques con granadas contra policías en 48 horas, September 28, 2015.

³⁴ El Estímulo, Cinco ataques con granadas a cuerpos policiales en 48 horas, September 28, 2015; El Universal, Guanipa exige investigar ataques a policías con armas exclusivas de la FAN, September 28, 2015; El Nacional, Oposición exige no aprovechar ataques con granadas para ampliar estado de excepción, September 29, 2015. See also: VdT, Investigan explosión de granadas en El Rosal y subdelegación del CICPC en El Llanito, September 28, 2015.

commission of the Bolivarian National Police in Caracas³⁵, police officers in the state of Miranda, and the municipal police of Tomás Lander.³⁶

36. On its part, the United Nations Committee on Civil and Political Rights (CCPR) issued its Concluding Observations on the Fourth Periodic Report of Venezuela, in July 2015, which noted the actions implemented by the State in the area of crime prevention and noted with concern the reports of the large numbers of violent deaths in the State party, including cases allegedly perpetrated by officers responsible for maintaining public order. It therefore recommended that the State redouble its efforts to prevent and combat violent deaths, including the intensification of the actions to disarm the civilian population.³⁷ Likewise, it indicated that the State must ensure that all violent deaths are investigated promptly, exhaustively, independently and impartially, and that the authors are brought to justice and properly sanctioned.³⁸

37. The Commission has indicated on multiple occasions that States must adopt measures, not only to protect their citizens from human rights violations committed by State agents, but when the State is aware of acts of violence among private individuals, it has the duty to take reasonable measures to prevent and punish such acts. The Commission has also referred to the States' obligations in connection with the actions of non-state actors involved in organized crime, corruption, drug trafficking, among others.

38. The Commission has recognized that the insecurity generated by crime and violence in the Americas is a problem that seriously affects human rights. In this regard, it has issued a series of recommendations for States to address this situation, calling for their compliance with the obligations to respect and guarantee human rights, and has urged that policies on citizen security be assessed from this perspective.³⁹ The IACHR has therefore highlighted the need to implement effective actions to prevent, control and reduce crime and violence.⁴⁰

39. Based on the foregoing, the IACHR considers that the actions implemented by the State in this area continue to be insufficient, as has indicated in its prior reports on Venezuela. The Commission continues to be concerned by allegations of violence at the hands of state agents in a context of serious indicators of common crime and by the structural situation of impunity in Venezuela. The Commission has also noted that certain actions taken by the State to address this situation also pose major challenges for the human rights approach that the State should ensure in the implementation of citizen policies to shore up citizen security. Next the IACHR sets forth the points of concern regarding the plans and measures implemented in 2015, mindful of the monitoring done in previous Annual Reports about this situation.

B. Militarization of citizens security

40. The Commission has continued monitoring the institutional and legal measures that continue facilitating the incorporation of a "civic-military" concept in citizen security activities with strategies for "defense of the homeland," "fighting terrorism," and "fighting paramilitarism," among others. The IACHR emphatically reiterates its concern over the fact that Venezuelan citizens are receiving military training and then going back to civilian life to cooperate with the tasks of maintaining internal order. In this report the Inter-American Commission also analyzes the allegations of the militarization of citizen security

³⁵ VdT, [PNB capturó a tres sujetos tras ataque con una granada en El Cementerio](#), October 28, 2015.

³⁶ VdT, [MP designó fiscal para investigar explosión de granada en Ocumare del Tuy](#), October 13, 2015.

³⁷ CCPR, [Concluding Observations on the Fourth Periodic Report of the Bolivarian Republic of Venezuela](#), July 23, 2015. (unofficial translation)

³⁸ CCPR, [Concluding Observations on the Fourth Periodic Report of the Bolivarian Republic of Venezuela](#), July 23, 2015. (unofficial translation)

³⁹ IACHR, *Report on Citizen Security and Human Rights*, December 31, 2009, para. 35.

⁴⁰ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter 6, para. 672; IACHR, Press Release No. 16/07. *IACHR calls upon States to reflect on the importance of public security*. March 15, 2007; and, IACHR, *Annual Report 2008*. Chapter I: Introduction.

and it once again reiterates to the Venezuelan State that fighting violence domestically should be the mission exclusively of a civilian police force, duly trained, that acts with strict respect for human rights.

41. The Commission has also been monitoring the State's response to the situation of violence in Venezuela. In this regard, the Commission has expressed its views on the legal reforms and institutional reforms (several of which were approved through the exercise of enabling power) adopted in recent years, which have assigned the Bolivian National Armed Forces (*Fuerza Armada Nacional Bolivariana* ("FANB")) and specialized bodies created within the FANB, like the Bolivarian National Militia ("*Milicia Nacional Bolivariana*") and the Bolivarian Workers Militia ("*Milicia Obrera Bolivariana*"), the role of intervening in tasks related to the control of citizen security and the maintenance of domestic order.⁴¹ In this regard, civil society organizations have reported the existence of a process of "militarization of citizen security policies."⁴²

42. Likewise, the Commission has continued receiving information about the functioning of the Bolivarian Workers Militia, which is comprised of citizens that voluntarily register and are organized and trained by the General Command of the Bolivarian Militia with the objective of complementing the FANB in their duty of defending the country.⁴³ During 2014, the Government made several public calls to continue advancing the formation of "combatant bodies" (*cuerpos combatientes*) of the Workers Militia,⁴⁴ which were subsequently integrated into the Homeland Protection and Integrity System (*Sistema de Protección e Integridad de la Patria*) with the objective to "supervise the units of economic service and strategic production of the country, such as electricity, transportation and oil," and to prevent sabotage.⁴⁵ In April 2015, the Government approved the expansion of the "combatant bodies."⁴⁶ Until March 2015, there were approximately 30,000 new militia registered.⁴⁷

43. In this regard, the Commission has stated on various occasions that combatting violence in the domestic domain should correspond solely to a properly-trained police force that acts in strict compliance with human rights. The IACHR has expressed its concern that citizens receive military training and then cooperate in maintaining domestic order. The Commission emphatically reiterates that military training is not compatible with the necessities of controlling, and neither should the role of society *vis-à-vis* national security be distorted.

44. Since its 2013 Annual Report, the Commission took into account the information pertaining to the plan known as the "Safe Homeland Plan" (*Plan Patria Segura*), which provides for the intervention of the FANB in tasks of citizen security. The Commission observes that for 2015 this plan continues to be

⁴¹ IACHR, *2011 Annual Report*, Chapter IV Venezuela, para. 411; IACHR, *2012 Annual Report*, Chapter IV Venezuela, para. 382; and IACHR, *2013 Annual Report*, Chapter IV Venezuela, paras. 474-475.

⁴² PROVEA, *ONG's venezolanas entregarán informe ante el Comité contra la Tortura de la ONU*, [Venezuelan NGOs will submit report to the UN Committee against Torture], November 4, 2014. See also IACHR, *2013 Annual Report*, Chapter IV Venezuela, para. 453.

⁴³ FANB Organic Law.

⁴⁴ *Correo del Orinoco*, *Clase obrera de la Milicia Nacional Bolivariana recibió ascenso a grado de Primer Teniente*, April 13, 2014. Since 2013, the National Bolivarian Militia allegedly reactivated the creation of these type of figures within public and private institutions, in accordance with the dispositions of the amendment to the Organic Law of the National Bolivarian Armed Force. *Agencia Venezolana de Noticia*, *Milicia reactiva creación de cuerpos combatientes en instituciones públicas y privadas*, August 14, 2013. In August 2014, following indications by the President of the Republic, the "combatant body of the Bolivarian Workers Militia" allegedly had been activated, for example, in the Anzoátegui State. The *Noticiasdeaquí.net*, *Activado en Anzoátegui cuerpos combatientes de la Milicia Bolivariana*, August 9, 2014.

⁴⁵ AVN, *Milicia Obrera Bolivariana se integrará al Sistema de Protección e Integridad de la Patria*, November 17, 2014.

⁴⁶ VdT, *Aprueban ampliación de los cuerpos combatientes de la Milicia Obrera*, April 16, 2015.

⁴⁷ According to information from various Venezuelan daily newspapers, the Minister of Defense Vladimir Padrino López reported that approximately 30,000 men and women in the national territory have signed up in the Bolivarian Militias (*Milicias Bolivarianas*). *El Informador*, *Hay 30 mil nuevos milicianos desde el Decreto de Obama*, March 23, 2015; *Globovision*, *30 mil milicianos se alistaron para defender Venezuela*, March 21, 2015 and *Últimas Noticias*, *Hay 30 mil nuevos milicianos desde el decreto de Obama*, March 24, 2015.

implemented at national level. The government announced in June of 2015 this plan would focus on dismantling criminal groups.⁴⁸

45. In addition, in 2015 the State announced a new security plan aimed at combating “crime and paramilitarism” in Venezuela. In July 2015 it was announced that “Operation Liberation and Protection of the People” (OLP) (*Operación Liberación y Protección del Pueblo*) was being launched. As of the writing of this report, there was no public or official information as to whether the creation, definition, and scope of the OLP were stipulated by an official resolution, or whether protocols had been adopted to govern its actions and operations. The information available indicates that the announcement of its implementation was made by President Nicolás Maduro in a public event at the same time as he confirmed that as of that moment the OLP had been initiated with special deployments in the states of Aragua, Miranda, and the Capital District, and that their actions were programmed to extend throughout the national territory.⁴⁹ In addition, according to decision No. 0045-2015 published by the Legislative Council of the state of Carabobo in the Official Gazette, the OLPs are:

... measures taken by the National Government, led by the President of the Bolivarian Republic of Venezuela, Citizen **NICOLÁS MADURO MOROS**, who through the Ministry of People’s Power for Interior, Justice and Peace, has deployed the Security Plan “Operation for Liberating the People (OLP),” whose main objective is to offer protection to different sectors of the country, among them the State of Carabobo, from the crime and paramilitarism directed by the Venezuelan and international fascist ultra-right, which seeks to alter the peace and security of all Venezuelans, especially children and adolescents.”⁵⁰

46. In the hearing on the general human rights situation held in October, the organizations that requested the hearing provided information based on figures from the Ministry of People’s Power for Interior, Justice and Peace (MPPEIJP) that indicate that in the first three months of activities the OLPs had carried out 90 operations nationally in 115 sectors, deployed 63,831 public servants, and arrested 1,890 persons accused of having committed crimes.⁵¹ They also indicated that it was reported that 101 criminal bands were dismantled, 399 foreigners were detained, and 160 persons died.⁵² They also indicated that a large amount of weaponry, money, vehicles, and hoarded goods, was recovered, as well as 2,226 housing units from Venezuela’s Great Housing Mission (Gran Misión Vivienda Venezuela).⁵³

47. The IACHR is concerned about public knowledge information that indicates that since the launch of the OLP, the number of operations conducted by hundreds of State agents has increased, and these operations report a high number of deaths and detained individuals.⁵⁴ The media reported that on September 15, 2015, 410 agents simultaneously broke into three sectors of Santa Rosa de Agua, and during the early morning “knocked down doors, they raided houses and shot,” resulting in 20 persons detained and 5 dead, one of these being judicially “authorized”. The Commission also notes that in the context of these

⁴⁸ VdT. *Nueva fase del Plan Patria Segura se centrará en desmantelar organizaciones criminales*, June 13, 2015.

⁴⁹ VdT. *Las 12 claves de las OLP por las que el 83% de los venezolanos apoya la medida*.

⁵⁰ Gaceta Oficial del Estado de Carabobo. *Supporting Decision No. 0045-2015 of 21/07/2015 from the Legislative Council of the State of Carabobo/Extraordinary No. 5372* published on July 29, 2015.

⁵¹ Information presented by civil society organizations during the hearing on the general situation of human rights in Venezuela, at the 156th period of sessions of the IACHR, October 19, 2015.

⁵² Information presented by civil society organizations during the hearing on the general situation of human rights in Venezuela, at the 156th period of sessions of the IACHR, October 19, 2015.

⁵³ Information presented by civil society organizations during the hearing on the general situation of human rights in Venezuela, at the 156th period of sessions of the IACHR, October 19, 2015.

⁵⁴ The OLP was activated with 1,622 agents of security in the Capital District and the States of Carabobo and Nueva Esparta. Últimas Noticias. *Fotos. OLP amaneció activa en tres estados*, July 18, 2015; *Fotos. Despliegan OLP en Anzóategui y Nueva Esparta*, September 3, 2015.

operations there have been reports of violent acts and the theft of property belonging to neighbors, such as milk, diapers and valuable objects, and that this was perpetrated by the State agents.⁵⁵

48. For its part, the Venezuelan Program of Education-Action in Human Rights (*Programa Venezolano de Educación-Acción en Derechos Humanos* (PROVEA)) reported “the OLP is a *razzia* aimed at criminalizing and stigmatizing the poorest of the poor, but also other sectors of civil society.”⁵⁶ They also indicated that according to data provided by the Ministry of Popular Power for Interior, Justice and Peace (*Ministerio del Poder Popular para Relaciones Interiores, Justicia y Paz* MPPRIJP)

52 persons have died during the first month of the OLP in “confrontations” with government forces. The information that is provided by the MPPRIJP does not report any police or military official wounded or deceased in the context of the OLP operations. At present there is no investigation by the Public Ministry or the Office of the Human Rights Ombudsman aimed at determining the veracity of the allegations made in media outlets by family members of persons who have died in OLPs regarding alleged police executions.

[... is what they said regarding arbitrary detentions].

In 23 operations described by the MPPRIJP at its website one finds the figure for persons detained in such operations. A total of **4,021 citizens have been detained in the states of Miranda, the Capital Distrito, Aragua, Monagas, Carabobo, Portuguesa, Zulia, Anzoátegui, Yaracuy, Barinas, and Lara** during the first month of implementation of the OLP. Of this total, 368 persons have been placed under the Public Ministry due to their purported association with the commission of punishable acts. According to these figures, **90.8% of the detentions in the context of the OLP have been arbitrary and illegal and in only 9.1% is it presumed that there is an association of the persons apprehended with criminal conduct.**⁵⁷

49. According to publicly available information,⁵⁸ one of the first OLP operations would have been deployed in the San Miguel neighborhood of the city of Caracas, on July 13, 2015. In this regard, the MPPRIJP reported that there were “confrontations” between 700 agents of the security forces and criminals in the area of Cota 905 in Caracas,⁵⁹ which would have resulted in approximately 18 people dead and between 134 and 247 detainees, of which 19 remained in police custody.⁶⁰ It was reported that among the deaths there was a 14 year-old boy and a person apparently killed as a result of a stray bullet.⁶¹ With regard to these facts, news media informed that the security forces allegedly removed the neighbors from their houses without a judicial order; some of the houses were allegedly plundered by the security forces; the next-of-kin of some of the deceased allegedly denied any confrontation with the security agencies and their affiliation with the criminal gangs;⁶² and some of the persons who died, allegedly were detained by the National Bolivarian Intelligence Service of Venezuela (*Servicio Bolivariano de Inteligencia Nacional de*

⁵⁵ La Verdad.com. [La matanza policial se extiende a Santa Rosa](#), September 15, 2015.

⁵⁶ PROVEA. [Razzia contra los pobres: un mes de OLP](#), August 13, 2015.

⁵⁷ PROVEA. [Razzia contra los pobres: un mes de OLP](#), August 13, 2015.

⁵⁸ Noticias 24/Venezuela. [Maduro sobre la OLP: “Estamos a tiempo para derrotar al paramilitarismo”](#), July 13, 2015.

⁵⁹ Correo del Orinoco. [Cuerpos de seguridad abaten 14 criminales y detienen 134 personas en operativo en la Cota 905](#), July 13, 2015; Panorama.com.ve. [Operación Liberación y Protección del Pueblo abatió 16 delincuentes en la Cota 905](#), July 14, 2015.

⁶⁰ BBC. [Venezuela: al menos 14 muertos en operación policial en Caracas](#), July 13, 2015. Informe21. [Detienen a autor intelectual de homicidios policiales en la Cota 905](#), July 15, 2015; DW. [Venezuela: tanques contra delincuentes](#), July 16, 2015.

⁶¹ El Siglo. [Se elevó a 16 los ultimados en operativo de la Cota 905](#), July 16, 2015.

⁶² El Nacional. [Familiares de 4 muertos en Cota 905 niegan que hubo enfrentamiento](#), July 16, 2015; El Diario de Caracas. [Testimonio de la Cota 905: Tumbaron puertas y sacaron familias en ropa interior](#), July 15, 2015.

Venezuela (“SEBIN”)) and allegedly later appeared dead.⁶³ Likewise, it was informed that some of the dead persons suffered close range, frontal bullet wounds.⁶⁴

50. With regard to above situation PROVEA stated that said operation suggests the excessive use of force and the indiscriminate use of lethal means by the public force, which opens a path for the legitimization of extrajudicial executions.⁶⁵

51. In view of the situation, the Commission requested information from the State, by virtue of Article 18 of its Statute, reaffirming the duty of the States to use force only in order to fulfill its obligation to protect persons and members of security forces, and only use such force as is strictly necessary, in accordance with internationally recognized principles. During the deployment of a display of authority, as far as possible, State agents should assess the situation and design a plan of action prior to intervention.⁶⁶ Likewise, it recalled that the use of lethal force must be exceptional and proportionally limited by the authorities, and therefore it can only be used once all other methods of control have been exhausted and have failed;⁶⁷ with a restrictive interpretation and that its use is minimized under all circumstances, and used only when strictly necessary.⁶⁸ The State did not submit a response.

52. The Commission reiterates that States have the inescapable duty to adopt, in conformity with their international human rights obligations, all necessary measures to protect the life and personal integrity of all individuals under its jurisdiction. Likewise, the Commission reiterates that the existence of extreme violence and criminality rates undermines the rule of law and contributes to the erosion of the democratic progress achieved in the region during the past decades, and therefore the implementation of integral public policies in the area of citizen security, defined by the respect for human rights, is fundamental to the vitality of the democratic system.

53. In this regard, the Commission reiterates what it has previously indicated to Venezuela since 2003, that

[...] it is essential to make a clear and precise distinction between internal security as a function for the police and national defense as a function for the armed forces, since they are two substantively different institutions, insofar as the purposes for which they were created and their training and preparation are concerned. The history of the hemisphere shows that, broadly speaking, the intervention of the armed forces in internal security matters is accompanied by violations of human rights in violent circumstances. Therefore, practice teaches us that it is advisable to avoid the intervention of the armed forces in matters of internal security since it carries a risk of human rights violations.⁶⁹

⁶³ Informe21. *Familiares: en la Cota 905 tumbaron puertas y sacaron a las familias en ropa interior*, July 15, 2015.

⁶⁴ El Nacional. *Algunos cadáveres de la Cota 950 tienen tiros a corta distancia*, July 15, 2015; La Patilla. *Algunos cadáveres de la Cota 905 tienen tiros a corta distancia*, July 15, 2015.

⁶⁵ NTN24. *PROVEA: operativo policial de la Cota 905 incluyó uso excesivo de la fuerza y empleo indiscriminado de medios letales*, July 14, 2015.

⁶⁶ IACHR, Report No. 90/14, Case 11.442, Luis Jorge Valencia Hinojosa, Ecuador, November 4, 2014. Petition before I/A Court.

⁶⁷ Cf. IACHR, Merits Report No. 174/10, Case 12.688, Nadege Dorzema et al. (Dominican Republic), November 12, 2010, para. 108 (I/A Court, Case Zambrano Vélez et al. v. Ecuador. Merits, Reparations and Costs. Judgment of July 4, 2007. Series C No. 166, para. 83; and I/A Court, Case Montero Aranguren et al. (Detention Center of Catia). Judgment of July 5, 2006. Series C No. 150, para. 67.

⁶⁸ IACHR, Merits Report No. 174/10, Case 12.688, Nadege Dorzema et al. (Dominican Republic), November 12, 2010, para. 108 (quoting I/A Court, Case Montero Aranguren et al. (Detention Center of Catia). Judgment of July 5, 2006. Series C No. 150, para. 68.

⁶⁹ IACHR, Report on the Human Rights Situation in Venezuela. *Chapter III, State Security: The Armed Forces and the Police*, para. 272.

C. State of emergency

54. Since 2010, the Commission has also been monitoring the adoption of the Enabling Laws that authorize the President of the Republic to issue decrees with the rank, value, and force of the law in delegated areas, including state of emergency (*estados de excepción*).⁷⁰ In this regard, the IACHR has considered the Enabling Laws as an example of structural situations identified in Venezuela relating to amendments in the law that entail legal and administrative restrictions that affect the exercise and enjoyment of the human rights in Venezuela.⁷¹

55. In addition to the laws approved in November 2014 through an Enabling Law or Presidential Decree in relation to citizen security, the IACHR has observed with concern,⁷² that on March 15, 2015, the “Anti-imperialist Enabling Law for Peace” was published.⁷³ This new law grants the President special powers to issue decrees with the rank, quality and force of law from the time of its publication until December 31, 2015.⁷⁴

56. In the exercise of these powers, on August 21, President Maduro decreed the militarization and closing of the border with Colombia in the State of Táchira, for a period of 72 hours, after three members of the Army and a civilian were injured in a confrontation with presumed smugglers.⁷⁵ This period was extended “until further notice.”⁷⁶

57. Initially, the media reported the elevated presence of armed forces in the area, with approximately 2,000 soldiers, in the context of the deportation of Colombian families, in the framework of the Special Mechanism for the Control of Undocumented People (*Dispositivo Especial para el Control de Indocumentados*), which has led to the detainment of approximately 12,000 persons, more than 4,000 of whom from Táchira.⁷⁷

58. This closing of the border and the military operations executed in the area, as part of the OLP generated the destruction of houses of Colombian citizens living in Venezuela, and the arbitrary deportation of Colombian citizens.⁷⁸ The UN Office for the Coordination of Humanitarian Affairs (OCHA) reported that since August 22, in a 4 day period 1,088 Colombian persons appear to have been deported.⁷⁹ This situation generated a grave humanitarian crisis. In this regard, the Colombian Red Cross estimated that

⁷⁰ IACHR, *2012 Annual Report*, Chapter IV on Venezuela, para. 388; IACHR, *2011 Annual Report*, Chapter IV on Venezuela, para. 396; and IACHR, *2010 Annual Report*, Chapter IV on Venezuela, para. 816.

⁷¹ IACHR, *2012 Annual Report*, Chapter IV on Venezuela, para. 388; and IACHR, *2011 Annual Report*, Chapter IV on Venezuela, para. 396.

⁷² The amendment to the Organic Law of the Bolivarian Armed Force, the amendment to the Organic Law of National Security “as a step so that all public powers, the organized people and the instances of communal government, establish a new model against terrorism and crime, besides defending the peace and Homeland integrity” which included the creation of a “Popular System of Protection for Peace.” The Ministry of Popular Power for Communication and Information, *Período habilitante deja 56 leves para la protección del pueblo*, November 22, 2014. The Law for “Regime for the revision, rectification, reinvigoration and re-structuring of the police system and organs of citizen security” approved by Presidential Decree.

⁷³ Gaceta Extraordinaria No. 6.178. VdT, *En Gaceta Oficial la Habilitante Antiimperialista*, March 16, 2015; and CNN in Spanish, *Asamblea Nacional de Venezuela otorga poderes especiales a Maduro*, March 15, 2015.

⁷⁴ Gaceta Extraordinaria No. 6.178. VdT, *En Gaceta Oficial la Habilitante Antiimperialista*, March 16, 2015; and CNN in Spanish, *Asamblea Nacional de Venezuela otorga poderes especiales a Maduro*, March 15, 2015.

⁷⁵ BBC Mundo, *Venezuela: Maduro decreta el estado de excepción en una parte de la frontera con Colombia*, August 22, 2015.

⁷⁶ BBC Mundo, *Venezuela: Maduro decreta el estado de excepción en una parte de la frontera con Colombia*, August 22, 2015.

⁷⁷ El Nuevo Herald, *Choque de bandas militares ocasionó el cierre de la frontera en Venezuela*, August 24, 2015.

⁷⁸ IACHR, Press Release No. 100/15, *IACHR Expresses Concern over Arbitrary Deportation of Colombians from Venezuela*, August 28, 2015.

⁷⁹ OCHA, *Colombia: Situación Humanitaria en frontera colombo-venezolana (Norte de Santander) Informe de situación No. 1*, August 27, 2015.

another 4,260 persons had returned to Colombia spontaneously in this context. In this regard, a series of human rights violations were reported, such as abuse during the detention and forced evictions.⁸⁰

59. On August 21, 2015, the President of the Republic, through Decree No. 1,950, established a state of emergency in the municipalities of Bolívar, Pedro María Ureña, Junín, Capacho Nuevo, Capacho Viejo and Rafael Urdaneta, all in the state of Táchira, “as part of the measures to reestablish order, peace, tranquility, justice and a really humane border,” for 60 days, renewable for an additional 60 day period.⁸¹ The Decree defines that the purpose of the state of emergency is to “effectively address the circumstantial, systematic and supervening situation of the large-scale extraction contraband, organized in different scales,”⁸² and “to prevent the extension or prolongation of its effects and ensure the entire population full enjoyment and exercise of the affected rights by these actions.”⁸³

60. The President delivered the Decree of Constitutional Exception to the National Assembly for its approval,⁸⁴ which occurred in August 25, 2015.⁸⁵ In this regard, President Maduro explained that the decree “widely authorizes the civilian, military and police authorities to re-establish order, peace, and co-existence in the Venezuelan Region bordering with Colombia.”⁸⁶ Afterwards, the state of emergency was extended to the indigenous municipalities of Bolivariano Guajira, Mara and Almirante Padilla in the State of Zulia.⁸⁷ In addition, on September 8, 2015, the judgment of the Constitutional Chamber – Case file No. 15-0991, on Presidential Decree 1,969, was published in Official Gazette No. 40,742. It declared the constitutionality of the state of exception measure in the municipalities of Lobatera, Panamericano, García de Hevia, and Ayacucho, in the state of Táchira, in keeping with what was established in Article 31 of the Organic Law on States of Exception. The judgment states that the decree “addresses on a priority basis aspects of citizen security, the economy, and the security and integral defense of the Nation.” The Chamber also considered that the decree is “proportional, relevant, useful, and necessary” for the protection of the State. In addition, the judgment stated that the President of the Republic “addressed an alarming and grave situation” in the six municipalities “in order to effectively control the scourge of contraband of extractives on a large scale, organized on several levels, among other criminal conduct.”⁸⁸ Additionally, in its response to the draft of this chapter the State indicated that “the attempt to assassinate members of the Venezuelan military who carried out their duty who were making rounds to prevent contraband, which has become a very serious problem for our country, and in which criminal bands and paramilitary and drug-trafficking groups are involved, led the national government to decide to partially close the border and to declare a state of emergency to address the very serious situation, which led to military intervention at the edge of the border with the state of Táchira, in a zone considered to be a State Security zone which was inhabited largely by undocumented Colombian nationals....”⁸⁹

⁸⁰ AI. *Venezuela: Preocupación por graves violaciones a los derechos humanos en frontera con Colombia*, August 26, 2015.

⁸¹ Informador.MX. *Maduro decreta estado de excepción en frontera con Colombia*, August 21, 2015.

⁸² Official Gazette of the Bolivarian Republic of Venezuela Decree No 6.194, August 21, 2015.

⁸³ Official Gazette of the Bolivarian Republic of Venezuela Decree No 6.194, August 21, 2015.

⁸⁴ Official Gazette of the Bolivarian Republic of Venezuela Decree No. 6.194, August 21, 2015; National Assembly of the Bolivarian Republic of Venezuela. *Cabello recibió decreto de excepción constitucional para municipios del Estado Táchira*, August 21, 2015. Informador.MX. *Maduro decreta estado de excepción en frontera con Colombia*, August 21, 2015.

⁸⁵ Official Gazette of the Bolivarian Republic of Venezuela Decree No. 40,732 August 25, 2015; Supreme Court. *TSJ Confirma constitucionalidad del Decreto que declara estado de excepción*, August 28, 2015.

⁸⁶ Infobae. *En qué consiste el estado de excepción que decretó Nicolás Maduro en la frontera con Colombia*, August 24, 2015.

⁸⁷ Supreme Court. *Sentencia que declara la constitucionalidad del Decreto No. 1.989, dictado por el Presidente de la República mediante el cual se declara el Estado de Excepción en los municipios Indígena Bolivariano Guajira, Mara y Almirante Padilla del estado Zulia, publicado en la Gaceta Oficial de la República Bolivariana de Venezuela No. 40.740*, September 7, 2015.

⁸⁸ Supreme Court. *Case file No. 15-0991. Constitutional Chamber*, September 8, 2015.

⁸⁹ Government of the Bolivarian Republic of Venezuela. Communication from the State on the draft of the “Report IACHR 2015 Observations of the State on Chapter IV”. AGEV-000136, received December 14, 2015, p. 68.

61. Following the closing of the main border crossing between San Antonio, State of Táchira, and Cúcuta Department in the North of Santander, Colombia, on August 19, 2015, and the declaration of state of emergency, the IACHR requested, in accordance with the norms that regulate its mandate, the assent of the States of Colombia and Venezuela to visit the border. The IACHR received an affirmative response from Colombia,⁹⁰ and therefore this visit could only be done in that country. The IACHR regrets the lack of response to its request by the State of Venezuela.

62. The Commission carried out a visit, with the consent of the State of Colombia, travelling to Cúcuta on September 11 and 12, 2015, to monitor the human rights situation of migrants, refugees and asylum seekers of Colombian nationality that were deported or otherwise returned to Colombia.⁹¹ The IACHR was able to verify the humanitarian crisis faced by those deported or returned as a result of the fear and the situation they faced in Venezuela. The Commission received troubling information about the manner in which these deportations from Venezuela were made, which indicates that multiple human rights of those persons were violated and that they were subjected to collective expulsions.⁹² The Commission's considerations in this regard will be set forth in section IV.A. on persons in the context of human mobility.

63. In light of the panorama of citizen security in Venezuela and the challenges that the establishment of a policy on combating crime within the framework for the respect of human rights pose to the State, the Commission considers that the policy and practices implemented by the State through the militias, the "Safe Homeland Plan" and the "Operation Liberation and Protection of the People", have resulted in the detention and massive deportation of Colombians, the detention and death of many Venezuelans in confrontations with security forces and the violation of a series of human rights of persons under Venezuelan jurisdiction. The Commission urges the State to review its policies and practices on this matter with the aim of bringing them into strict compliance with its international obligations on human rights.

64. As regards the states of emergency and their possible impact on the elections held December 6, 2015, on November 10, 2015, the Secretary General of the OAS sent a communication to the President of the National Electoral Council (*Consejo Nacional Electoral CNE*) stating that

[i]n the area of guarantees for voters, the most serious situation is the denial of constitutional rights and guarantees through the declaration of a state of emergency in 23 municipalities in three of the country's states, for periods ranging from August 19 to December 7, 2015.

The election campaign and the state of emergency periods overlap for different periods in all municipalities, limiting the political right of assembly and the right to organize and mobilize, in effect rendering it impossible to campaign in those municipalities.

[...], it is my understanding that the decrees could indirectly affect the election campaign by limiting rights.

Under a state of emergency, the following rights, among others, may be restricted: inviolability of the home and private premises, freedom of movement in the national territory, freedom of public or private assembly without prior authority, and the right to protest peacefully.

The decrees also provide that competent state agencies may inspect and search the residences or meeting places of individuals and the domiciles of legal persons, among

⁹⁰ IACHR. Press Release No. 101/15. [IACHR Conducts Visit to Colombia-Venezuela Border](#), September 26, 2015.

⁹¹ IACHR. Press Release No. 101/15. [IACHR Conducts Visit to Colombia-Venezuela Border](#), September 26, 2015.

⁹² IACHR. Press Release No. 109/15. [IACHR Concludes Visit to Colombia's Border with Venezuela](#), September 28, 2015. See [ANNEX - Preliminary Observations](#).

others, and conduct body or baggage searches in order to detect or investigate the perpetration of offenses without first obtaining a judicial order.⁹³

65. The Secretary indicated that on one hand, there is a risk of concentration of discretionary power in the hands of state governors of the three States in emergency situation (Táchira, Zulia and Apure), that were all elected by the United Socialist Party of Venezuela (PSUV) and on the other, the power of competent state agencies to conduct searches without a judicial order could lend itself to abuse by the security forces with political undertones.⁹⁴

66. In this regard, the Commission recalls that states of emergency decreed by the Executive Power in democratic States must be reserved for truly exceptional and extremely grave cases where the life of the Nation is imperiled.⁹⁵ For other situations, such as the ones explained in the quoted decree, regular administrative measures must be adopted.⁹⁶ Likewise, states of emergency must be time-bound and avoid the tendency to continue to live under exceptional laws “until further notice” or on a permanent basis.⁹⁷

IV. POLITICAL RIGHTS, FREEDOM OF EXPRESSION, AND HUMAN RIGHTS DEFENSE

67. In its 2009 report *Democracy and Human Rights in Venezuela*, and in its subsequent Annual Reports, the Commission expressed concern over information it had received suggesting a troubling tendency towards retaliatory measures against persons who made public their disagreement with government policies. This tendency, the Commission observed, affected both the opposition authorities and the citizens who exercised their right to express their disagreement with the policies put forth by the government.⁹⁸ In recent years, in particular during 2015, the Commission has observed that this trend has intensified, as explained later in this chapter.

68. In 2015, the Commission analyzed a series of situation through various mechanisms that reflect the continuation and worsening of the acts of harassment and stigmatizing statements by high-level officials of the State, and which are denounced as a cross-cutting element in the various situations of risk generated for human rights defenders, journalists, political leaders, and sectors of civil society identified as being in the opposition. The IACHR once again analyzes, in this report, how the persistence of this climate of hostility and political intolerance in Venezuela further weakens democratic institutions, including the serious allegations of the lack of independence of the different branches of government, and is an obstacle to overcoming the acute climate of political polarization in the country. The Commission recalls that the authorities must adopt reinforced measures to foster a climate of tolerance, given its position as guarantor of the fundamental rights of persons. In addition, the IACHR notes certain concerns regarding alleged impairments on the right to participate in democratic elections with a view to the elections held in December 2015, and in the face of reports of restrictions on the free flow of ideas and opinions and the reduction of pluralism of information, among others. Since its 2009 report on Venezuela, the IACHR has reiterated its concerns about how expressions of intolerance by public authorities have sometimes been echoed among civil groups, some of which take them to the extreme and act at the margins of the law as violent groups to intimidate those who are considered enemies of the Government’s political program.⁹⁹

69. As regards the right to freedom of expression, the IACHR has identified, in Venezuela, a climate of intolerance that obstructs the active participation and exchange of ideas of the various sectors of

⁹³ OAS. Communication sent by the OAS Secretary General to the President of the CNE, November 10, 2015.

⁹⁴ OAS. Communication sent by the OAS Secretary General to the President of the CNE, November 10, 2015.

⁹⁵ Cf. IACHR. Second Report on the Situation of Human Rights in Colombia. Recommendation 1.

⁹⁶ Cf. IACHR. Second Report on the Situation of Human Rights in Colombia. Recommendation 2.

⁹⁷ Cf. IACHR. Second Report on the Situation of Human Rights in Colombia. Conclusion 2.

⁹⁸ IACHR. Report on Democracy and Human Rights in Venezuela, December 30, 2009, Chapter II, para. 95; IACHR, 2010 Annual Report, Chapter IV on Venezuela, para. 678.

⁹⁹ IACHR. Report on Democracy and Human Rights in Venezuela, December 30, 2009, para. 112.

society. Together with the foregoing, the acts of violence against journalists and media in relation to their work, as well as the discrediting statements by high-level public officials constitute a restrictive scenario that continues to inhibit the free exercise of the freedom of expression.

70. In light of these considerations, in this chapter the Commission analyzes: A) the persecution and criminalization of political dissent, B) the respect and the guarantee to the right to freedom of expression, and C) the right to defend rights by human rights defenders. In addition, the IACHR refers to the alleged information with respect to purported anomalies and lack of independence of the National Electoral Council (NEC).

A. Persecution and criminalization of political dissidence

71. The Commission has stated that political rights, understood as being those that recognize and protect the right and duty of every citizen to participate in his or her country's political life, are by nature rights that serve to strengthen democracy and political pluralism.¹⁰⁰ The I/A Court, for its part, has written that the effective exercise of political rights constitutes an end in itself and also a fundamental means that democratic societies possess to guarantee other human rights established in the Convention.¹⁰¹

72. With regards to the persistence of the persecution of political dissent, during the hearing on the general human rights situation in March 2015, civil society organizations indicated that it brings, in turn, new forms of violation of rights.¹⁰² They also denounced the absence of institutional spaces for the State to act as a true defender of the rights and interests of its citizens.¹⁰³

73. In this regard, in June the Centre for Justice and Peace (Centro de Justicia y Paz ("CEPAZ")) submitted a systematization of patterns of persecution to political dissidence before the UN Human Rights Committee in which it documented 34 examples of political persecution in Venezuela against representatives of opposition, including before the legislature, authorities of the National Executive Powers, municipality legislative powers, other political leaders of the opposition, students and other leadership.¹⁰⁴ CEPAZ¹⁰⁵ identified among the persecution patterns the opening of judicial procedures, persecution through media, removal of political dissidents from public jobs, irregular raids on private property, removal of

¹⁰⁰ IACHR. Report on *Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter II, para. 18.

¹⁰¹ I/A Court. Case of Castañeda Gutman v. Mexico. Judgment of August 6, 2008. Series C No. 184, para. 143.

¹⁰² Information submitted by civil society during the hearing on *General Situation of Human Rights in Venezuela*, IACHR 154th Period de Session, March 17, 2015.

¹⁰³ Information submitted by civil society during the hearing on *General Situation of Human Rights in Venezuela*, IACHR 154th Period de Session, March 17, 2015.

¹⁰⁴ CEPAZ has recorded the cases of: Richard Mardo, María Aranguren, Julio Borges, María Corina Machado, Juan Carlos Caldera, Enrique Capriles, Daniel Ceballos, David Smolansky, Gerardo Blyde, Gustavo Marcano, Vincenzo Scarano, Darío Ramírez, Guiseppe Di Fabio, Carlos García, Leopoldo López, Raúl Baduel, Carlos Vecchio, Óscar López, Hernando and Sandra Garzón, Alexander Tirado, Rosmit Mantilla, Gaby Arellano, Enrique and Javier Sierra, Renzo Prieto, Rodolfo González, Gerardo Resplandor, Sariam Rivas, Julio César Rivas, Vilca Fernández, Ricardo Hausmann and Antonio Rivero. *Persecución política en Venezuela. Sistematización de patrones de persecución a la disidencia política venezolana. Informe al Comité de Derechos Humanos de las Naciones Unidas con motivo del Examen del 4to Informe Periódico del Estado Venezolano en el 114 Periodo de Sesiones de junio 2015 sobre el pacto internacional de Derechos Civiles y Políticos*, Geneva, June, 2015.

¹⁰⁵ CEPAZ mentions Daniel Ceballos and Leopoldo López as examples. *Persecución política en Venezuela. Sistematización de patrones de persecución a la disidencia política venezolana. Informe al Comité de Derechos Humanos de las Naciones Unidas con motivo del Examen del 4to Informe Periódico del Estado Venezolano en el 114 Periodo de Sesiones de junio 2015 sobre el pacto internacional de Derechos Civiles y Políticos*, Geneva, June, 2015, pp. 15 and 116. CEPAZ mentions, *inter alia*, these two examples: Enrique Capriles was accused in the media by the President of the Republic "of being an accomplice of a corruption and gay prostitution network;" and María Corina Machado was accused on radio and by the President who stated: "I am not exaggerating when I say that she is a murderer. She was planning violence and killings in this country." *Sistematización de patrones de persecución a la disidencia política venezolana*, pp. 16 and 17; CEPAZ mentions the following cases as examples: María Corina Machado, Daniel Ceballos, Vincenzo Scarano, Judge María Lourdes Afiuni, and Judge Edgar Aliza Macia, pp. 18 and 19.

parliamentary immunity, political disqualification, encroachment of public functions, and acquiescence to acts of violence against political leaders.¹⁰⁶

74. In this context, the IACHR has been monitoring the situation of members of the opposition or political dissidents opposing Government policies, particularly the situation of Leopoldo López, a leader of the opposition party *Voluntad Popular*, and Daniel Cevallos leader of the same opposition party and a former Mayor of San Cristóbal, both beneficiaries of precautionary measures issued by the IACHR.¹⁰⁷ Other aspects of Leopoldo López's situation are addressed throughout this chapter.

75. With regard to Leopoldo Lopez, the 28th Trial Court of the Metropolitan Area of Caracas, headed by a provisional judge, issued a judgment that found him guilty of crimes related to the exercise of the freedom of expression and his political rights.¹⁰⁸ The media reported that Leopoldo López was convicted of public instigation, property damage, arson, and conspiracy to engage in criminal conduct, and he was sentenced to more than 13 years and 9 months in prison.¹⁰⁹ Convicted along with Leopoldo López were students Christian Holdack, to just over 10 years and 6 months for the crimes of arson, public instigation, and criminal conspiracy (*agavillamiento*), and Demian Martin García and Ángel de Jesús González, to 4 years and 6 months for the crime of public instigation.¹¹⁰ According to public information, the trial of Leopoldo López was conducted in September, behind closed doors, and in “marathon-like” fashion, with 71 hearings held in just a few days. According to defense counsel for Leopoldo López, the only witnesses who were admitted by the judge were introduced by the Public Ministry.¹¹¹ In view of the public allegations regarding the purported absence of due process guarantees in the investigations and trial against him, the Commission issued a press release expressing its concern.¹¹² The purported arbitrary acts noted by the IACHR, through its press release, are all the more worrisome in the face of the statement by the prosecutor who, after having escaped Venezuela, announced having received pressures from the government to use false evidence in the trial against López.¹¹³

76. Likewise, the Commission has monitored the situation of Daniel Ceballos, another leader of the same opposition party and a former Mayor of San Cristóbal, who was arrested in March 2014 and sentenced to 12 months in prison for contempt, for failing to obey an order by the Supreme Court to prevent the placement of barricades during the protests, following an eight hour-long session that the opposition considers to be a “summary conviction”.¹¹⁴ After he had served the 12 months, the Supreme Court said that

¹⁰⁶ CEPAZ records as examples: Rosmit Mantilla, activist from the *Movimiento Proinclusión de Voluntad Popular*, and the married couple Hernando Garzón and Sandra Flores, leaders of *Primero Justicia* in the state Barinas, p. 20; CEPAZ mentions as examples: Richard Mardo member of the National Assembly whose parliamentary immunity was lifted by simple majority instead of the 2/3 majority required, p. 21. CEPAZ mentions David Uzcátegui (2013-2018), Carlos Arocha (2008-2013) and Leopoldo López (2008-2014) as examples, p. 22. CEPAZ mentions: Oswaldo Álvarez Paz, former Governor of Zulia State, and Ricardo Hausmann, former Planning Minister, as examples, p. 23; and CEPAZ mentions the attack against Julio Borges, a political leader, during the April 30, 2014 session of the National Assembly as an example, p. 24.

¹⁰⁷ IACHR. [MC 335-14](#) Leopoldo Lopez and Daniel Cevallos, April 20, 2015.

¹⁰⁸ IACHR. Press Release No. 107/15. IACHR Voices Concern over Ruling against Leopoldo López in Venezuela, September 25, 2015.

¹⁰⁹ IACHR. Press Release No. 107/15. IACHR Voices Concern over Ruling against Leopoldo López in Venezuela, September 25, 2015.

¹¹⁰ IACHR. Press Release No. 107/15. IACHR Voices Concern over Ruling against Leopoldo López in Venezuela, September 25, 2015.

¹¹¹ IACHR. Press Release No. 107/15. IACHR Voices Concern over Ruling against Leopoldo López in Venezuela, September 25, 2015.

¹¹² IACHR. Press Release No. 107/15. IACHR Voices Concern over Ruling against Leopoldo López in Venezuela, September 25, 2015.

¹¹³ See among others: Youtube: [Primeras declaraciones del fiscal Franklin Nieves-CASO LEOPOLDO LOPEZ- a su salida de Venezuela](#), October 23, 2015; BBC: [Fiscal del caso Leopoldo Lopez dice que el juicio contra el opositor venezolano fue “una farsa”](#) October 24, 2015; Excelsior: [Fiscal venezolano denuncia presiones en el caso de Leopoldo Lopez](#), October 31, 2015.

¹¹⁴ El Universal. [El TSJ destituyó al alcalde Ceballos y lo condenó a 12 meses de cárcel](#), March 25, 2015.

he would remain in prison, now in pretrial custody, during the criminal proceedings for rebellion and criminal conspiracy.¹¹⁵ In light of these facts, in May 2015 the IACHR issued a press release expressing its concern.¹¹⁶

77. In August 2014, the UN Working Group on Arbitrary Detention determined that the detentions of Leopoldo López and Daniel Ceballos were arbitrary, and recommended that the government of Venezuela order their immediate release; it reiterated this recommendation on September 18, 2015.¹¹⁷ On March 11, 2015, the United Nations Special Rapporteur on Torture expressed his concern about the conditions of detention of Leopoldo López, indicating that it appears to include mistreatment and prolonged isolation.¹¹⁸

78. It is noteworthy that in February 2015 the IACHR issued a press release expressing its profound concern over the situation of rule of law in Venezuela and the consequences for the full observance of human rights, because of acts related to the detentions of Leopoldo López, Daniel Ceballos, and Antonio Ledesma.¹¹⁹ In the same release the Commission also referred to the situation of the member of the National Assembly, María Corina Machado, who was charged by the Public Prosecutor's Office last year. The IACHR recalled that "opposition voices are imperative for a democratic society; without them it is impossible to reach agreements that take into account the range of viewpoints that prevail in a society." The Commission urged the State not to criminalize opposition political leaders and to guarantee the participation of all sectors of Venezuela's political life and the human rights of those who identify themselves with the opposition to the government.¹²⁰ Through those press releases, the IACHR also emphasized that both due process and judicial independence are essential judicial guarantees that are put to the test in proceedings against opposition politicians, as in this case.¹²¹ Moreover, the IACHR recalled that this proceeding was bound up with the right of individuals to freedom of expression and to peaceful protest.¹²²

79. As the IACHR has indicated, the harassment of Lopez and Cevallos was also reflected in situations that were the subject of pronouncements by the IACHR. In this regard, on February 12, 2015, a group of more than 30 heavily armed State agents, dressed in black and wearing ski masks to cover their faces, violently burst into the cells where Leopoldo López and Daniel Ceballos were being held at the *Centro Nacional de Procesados Militares (CENAPROMIL)*, also known as the *Ramo Verde* military prison. The agents were dressed in uniforms that bore the initials of Venezuela's General Directorate of Military Intelligence and allegedly destroyed and confiscated personal belongings and transferred the men to punishment cells. On February 19, 2015, heavily armed agents of SEBIN arrested the Mayor of Caracas, Antonio Ledezma, in an operation in which his offices were searched and in which agents failed to produce a warrant for his

¹¹⁵ IACHR. Press Release No. 57/15. [IACHR Expresses Concern over Measures Taken against Leopoldo Lopez and Daniel Ceballos in Venezuela](#). May 29, 2015. See also *H. Cámara de Diputados de la Nación, proyecto de declaración trámite parlamentario 65 (08/06/15)*. Firmantes: L. Alonso, P. Bullrich t C. Schmidt Liermann.

¹¹⁶ IACHR. Press Release No. 57/15. [IACHR Expresses Concern over Measures Taken against Leopoldo López and Daniel Ceballos in Venezuela](#), May 29, 2015.

¹¹⁷ Human Rights Council. [Opiniones adoptadas por el Grupo de Trabajo sobre la Detención Arbitraria en su 70 periodo de sesiones](#), September 23, 2014.

¹¹⁸ BBC. [Venezuela: ONU denuncia aislamiento de Leopoldo López](#), March 11, 2015; Centro de Noticias ONU. [Venezuela violó la prohibición de tortura, dice relator ONU](#), March 11, 2015.

¹¹⁹ IACHR. Press Release No. 015/15. [IACHR Expresses Deep Concern over the Situation regarding the Rule of Law in Venezuela. February 24, 2015](#).

¹²⁰ IACHR. Press Release No. 15/15. [IACHR Expresses Deep Concern over the Situation regarding the Rule of Law in Venezuela](#), February 24, 2015.

¹²¹ IACHR. Press Release No. 107/15. [IACHR Voices Concern over Ruling against Leopoldo López in Venezuela](#), September 25, 2015.

¹²² IACHR. Press Release No. 107/15. [IACHR Voices Concern over Ruling against Leopoldo López in Venezuela](#), September 25, 2015.

arrest.¹²³ The Commission reminded the State of Venezuela of its obligation to guarantee the life, humane treatment, and safety of all persons deprived of liberty, as well as to guarantee conditions of detention that are in line with applicable international standards.

80. In April, 2015, the IACHR granted precautionary measures in favor of Daniel Ceballos and Leopoldo López. It requested that the State adopt all necessary measures to protect the life and personal integrity of the beneficiaries; that the State ensures that their detention conditions are adequate in accordance with applicable international standards; and that reaches an agreement with the beneficiaries and their representatives on the measures to be adopted.¹²⁴

81. On October 12, 2015, the IACHR expanded this precautionary measure to protect the life and integrity of Lilian Tintori, Patricia Ceballos (wives of the beneficiaries) and their children in view of the alleged acts of violence and harassment, as they are the immediate family members of Leopoldo López and Daniel Ceballos, and also because they have denounced the situations their husbands face.¹²⁵ Additionally, the IACHR and the United Nations's Special Rapporteur on the situation of human rights defenders, Michel Forst, expressed their concern over the continued harassment of Lilian Tintori and her family in the context of their visits of Leopoldo López at the National Center for Military Defendants (*Centro Nacional de Procesados Militares* (CENAPROMIL)), also known as the "Ramo Verde" Prison, in Venezuela.¹²⁶

82. With respect to another opposition leader, in March, 2015, Enzo Scarano, Mayor of San in Carabobo State was dismissed and sentenced to 10 months in prison by a ruling from the Supreme Court that opposition leaders have identified as a "summary session."¹²⁷

83. The Commission also notes that peaceful protest manifesting as hunger strikes have increased in Venezuela during 2015, and they are stemming from the demand for civil and political rights. More than 58 Venezuelans have conducted a hunger strike up to August 2015.¹²⁸ For example, on May 3, Leocenis García Osorio, founder of the media Group 6th Power (*6to Poder*), who was held by SEBIN following orders of the Prosecutor's Office since March 23, began a hunger strike and was transferred to house arrest on July 26.¹²⁹ His hunger strike lasted 87 days.¹³⁰ This situation is described with more detail in the freedom of expression section (see *infra* III.)

84. Also, on May 23, 2015, Daniel Ceballos was transferred from "Ramo Verde" to a regular prison located about 150 kilometers from Caracas, due to this he began a hunger strike.¹³¹ In this regard, Tarek William Saab, the People's Ombudsman, indicated that his office had access to a court order for the transfer; however, Daniel Ceballos' wife and his attorneys indicated that neither his defense team nor his family had been notified of the transfer or of the reasons for it, nor were they permitted to see the alleged

¹²³ IACHR. Press Release No. 15/15. [IACHR Expresses Deep Concern over the Situation regarding the Rule of Law in Venezuela](#), February 24, 2015.

¹²⁴ IACHR, [MC 335/14](#) - Leopoldo López and Daniel Ceballos, Venezuela, April 20, 2015 (available only in Spanish.)

¹²⁵ IACHR. [Extension MC 335/14](#) - Leopoldo López and Daniel Ceballos, Venezuela, October 12, 2015.

¹²⁶ IACHR Press Release No. [128/15](#). [IACHR and UN Rapporteur Concerned over Continued Harassment of Lilian Tintori in Venezuela](#), November 10, 2015.

¹²⁷ Infobae. [Venezuela: cómo hizo la Corte para condenar y destituir a un alcalde opositor en nueve horas](#), 21 de marzo de 2014.

¹²⁸ Voluntad Popular. [58 venezolanos se mantienen en huelga de hambre para exigir cumplimiento del petitorio de López y Ceballos](#), June 9, 2015.

¹²⁹ LV. [Leocenis es sacado del hospital y llevado a su casa](#), July 26, 2015.

¹³⁰ LV. [Leocenis tiene paralizada la mitad del cuerpo](#), August 11, 2015.

¹³¹ IACHR. Press Release No. 57/15. [IACHR Expresses Concern over Measures Taken against Leopoldo Lopez and Daniel Ceballos in Venezuela](#). May 29, 2015.

court order.¹³² Some days earlier, on May 18, 2015, the authorities at the “Ramo Verde” military prison had adopted a disciplinary action against Daniel Ceballos — which consisted of “confinement to an isolation cell for up to 15 days, though this does not mean absolute incommunication” — because he had given a telephone interview to a radio station on May 15, 2015. In light of the above, the IACHR issued a press release expressing its concern over the measures taken against the beneficiaries of precautionary measures.¹³³

85. The Commission also expressed its concern over the failure to comply with the precautionary measure and reminded the State of its duty to provide necessary medical attention as a result of the hunger strike that Leopoldo López and Daniel Ceballos had begun.¹³⁴ The IACHR called on the State of Venezuela to seek peaceful solutions to its current problems and to undertake dialogue with the opposition in the framework of democracy, the rule of law, and the full observance of human rights.¹³⁵

86. With regard to the hunger strike, Ceballos stated in social media

I stay on a hunger strike because after I was elected Mayor and candidate for the National Assembly, they still have the intention to disqualify me. The hunger strike responds to the defenseless state, the claim for respect and dignity for my family who are today subjected to humiliations and cruelty.¹³⁶

87. On May 24, Leopoldo López began a hunger strike requesting that the Government release more than 70 political prisoners, the cessation of the repression, torture and censorship as well as a date for monitored parliamentary elections. Subsequently, other political prisoners¹³⁷ joined the so called “strike for freedom,” requesting further compliance with the recommendations issued by the UN Working Group on Arbitrary Detention and the precautionary measures of the IACHR, the immediate closure “The Tomb” (“*La Tumba*”) and the evaluation by the International Red Cross of the state of health of the strikers.¹³⁸

88. On May 27, a legislator from the Counsel of the Carabobo State, Julio César Rivas, joined the strike taking place within the La Guadalupe church, together with a group of 11 youngsters.¹³⁹

89. On June 7, the representative for the Front of the Repression Victims (*Frente de Víctimas por la Represión*), Pedro Veloz, joined the strike.¹⁴⁰ Likewise, Counsels David Pernía, Ronald Florez,

¹³² IACHR. Press Release No. 57/15. [IACHR Expresses Concern over Measures Taken against Leopoldo Lopez and Daniel Ceballos in Venezuela](#). May 29, 2015.

¹³³ IACHR. Press Release No. 57/15. [IACHR Expresses Concern over Measures Taken against Leopoldo Lopez and Daniel Ceballos in Venezuela](#). May 29, 2015.

¹³⁴ IACHR. Press Release No. 57/15. [IACHR Expresses Concern over Measures Taken against Leopoldo Lopez and Daniel Ceballos in Venezuela](#). May 29, 2015.

¹³⁵ IACHR. Press Release No. 57/15. [IACHR Expresses Concern over Measures Taken against Leopoldo Lopez and Daniel Ceballos in Venezuela](#). May 29, 2015. (IACHR. Press Release No. 15/15. [IACHR Expresses Deep Concern over the Situation regarding the Rule of Law in Venezuela](#), February 24, 2015.)

¹³⁶ Voluntad Popular. [58 venezolanos se mantienen en huelga de hambre para exigir cumplimiento del petitorio de López y Ceballos](#), June 9, 2015.

¹³⁷ Voluntad Popular. [58 venezolanos se mantienen en huelga de hambre para exigir cumplimiento del petitorio de López y Ceballos](#), June 9, 2015.

¹³⁸ Voluntad Popular. [58 venezolanos se mantienen en huelga de hambre para exigir cumplimiento del petitorio de López y Ceballos](#), June 9, 2015.

¹³⁹ Among them: Jesús Gómez, Erick Santana, Laura García, Kimberling Sierra, Alejandra González, Freddy Porras, Yeferson Ochoa, Duvalixon Sánchez, Eligio Escalona, Reinaldo Pacheco and Joel Guevara. Voluntad Popular. [58 venezolanos se mantienen en huelga de hambre para exigir cumplimiento del petitorio de López y Ceballos](#), June 9, 2015.

¹⁴⁰ Voluntad Popular. [58 venezolanos se mantienen en huelga de hambre para exigir cumplimiento del petitorio de López y Ceballos](#), June 9, 2015.

Francisco Rincón, Napoleón Figueroa and Joan Jurado from the Táchira state joined the strike in the *El Ángel* church in San Cristóbal. Other political prisoners and opposition personalities also joined the strike.¹⁴¹

90. On June 8, three members¹⁴² of the student movement from Zulia joined the strike and called for the CNE to publish the schedule for parliamentary elections, in respect of the democratic rights in Venezuela.¹⁴³ Later, more students joined the strike. Two students and a Venezuelan General, whose arrest the Venezuelan President ordered in 2014, joined the hunger strike in front of the United Nations seat in New York.¹⁴⁴

91. On June 15, in its opening speech of the 29th session of the Human Rights Council of the UN, the High Commissioner for Human Rights, Zeid Raad al Hussein, made a reference to the political prisoners in Venezuela and stated that he was “seriously concerned about the legality and the conditions of detention of persons arrested for exercising their freedom of expression and of association peacefully.”¹⁴⁵ He recalled that some had “weeks on a hunger strike, which deepens the concern,” and reiterated that they should be “released shortly and with no restrictions.”¹⁴⁶ He also made himself available to “dialogue with the authorities and other entities to ensure that the human rights of all Venezuelans are respected and to define a positive way forward.”¹⁴⁷ The Venezuelan government considered such statement as “biased” and that it exceeds the competence of his office to promote dialogue and cooperation with States.¹⁴⁸

92. Daniel Ceballos ended his hunger strike on June 11.¹⁴⁹ Some other strikers also ended their strikes on June 15 due to their health condition and other factors.¹⁵⁰

¹⁴¹ Yesica De Resplandor and Orlando Moreno in the *Plaza Rómulo Gallegos* in Maturín (Monagas), José Ángel Bravo and Araly Núñez at the entrance of the *Universidad Nacional Experimental del Táchira* (UNET), Miguel Chacón in the seat of the electoral municipal council in San Cristóbal (Táchira), Fernando Márquez, Yosmir Sánchez, José Ramírez and Luis Cabeza in the *Universidad Católica del Táchira* (UCAT), Fernando Jiménez, Héctor Guerrero and Lenin Jiménez in the *San Bosco de Coro* church (Falcón), Ana Centeno and Cronos Mejías in the *Santuario de la Madre María de San José en Aragua*, Paola González, Lennard García, Rancés Montilla and Javianny Haryz in the *La Inmaculada* church in Barinas, Jordán Ferreira and Miguel Hernández in the *Las Mercedes* church in Zulia, Yorman Barillas, David Altamar and José Barboza in the *Universidad del Zulia*, Luis Alejandro Guidiño and Luis Rojo in the *María Auxiliadora* church, Lilia Gainza, Roxana Valero, José Monsalve, Militzabeth Pérez, Luis Herrera and Daniel Rangel in the *El Llano* church, Nixon Leal in the seat of the Helicoide in Caracas, Junior Carvajal, Antonio Barrios and Luis Salazar in the *Distribuidor Fabricio Ojeda* in Anzoátegui. Voluntad Popular. *58 venezolanos se mantienen en huelga de hambre para exigir cumplimiento del petitorio de López y Ceballos*, June 9, 2015. See also: LV. *Tres estudiantes de LUZ se suman a la huelga*, June 9, 2015.

¹⁴² Yorman Barillas, President of the *Federación de Centros Universitarios (FCU) de LUZ*, and the youth leaders José Barboza and Rafael Altamar. La Patilla. *Movimiento estudiantil zuliano inició huelga de hambre por violación de derechos democráticos del país, 8 de junio de 2015*; La verdad.com. *Tres estudiantes de LUZ se suman a la huelga*, June 9, 2015.

¹⁴³ La Patilla. *Movimiento estudiantil zuliano inició huelga de hambre por violación de derechos democráticos del país, 8 de junio de 2015*; La verdad.com. *Tres estudiantes de LUZ se suman a la huelga*, June 9, 2015.

¹⁴⁴ Josmir Gutiérrez and Eduardo Bavaresco. *La Prensa Gráfica. Alto Comisionado ONU critica a Venezuela por detención manifestantes*, June 16, 2015.

¹⁴⁵ OACNUDH. *Discurso Inaugural de 29va Sesión del Consejo de derechos Humanos de la ONU*, June 15, 2015. OACNUCH. *Alto Comisionado Zeid participa en apertura de la 29ª sesión del Consejo de Derechos Humanos*, June 15, 2015.

¹⁴⁶ OACNUDH. *Discurso Inaugural de 29va Sesión del Consejo de derechos Humanos de la ONU*, June 15, 2015. OACNUCH. *Alto Comisionado Zeid participa en apertura de la 29ª sesión del Consejo de Derechos Humanos*, June 15, 2015.

¹⁴⁷ OACNUDH. *Discurso Inaugural de 29va Sesión del Consejo de derechos Humanos de la ONU*, June 15, 2015. OACNUCH. *Alto Comisionado Zeid participa en apertura de la 29ª sesión del Consejo de Derechos Humanos*, June 15, 2015.

¹⁴⁸ La Prensa Gráfica. *Alto Comisionado ONU critica a Venezuela por detención manifestantes*, June 16, 2015.

¹⁴⁹ BBC. *Venezuela: opositor Ceballos levanta huelga de hambre*, June 11, 2015.

¹⁵⁰ José Barboza, Coordinator of the Political Sciences Student Center LUZ and Whistong Zavala, student leader of the *Universidad Católica Cecilio Acosta* (UNICA). El Nacional. *Dos jóvenes zulianos levantan huelga de hambre por deterioros de salud*, June 16, 2015. Yorman Barillas and Rafael Altamar, President and Secretary of the *Federación de Centros Universitarios de LUZ*. SUTES, *Dos estudiantes abandonan huelga de hambre por problemas de salud*, June 18, 2015; *La Prensa Gráfica. Alto Comisionado ONU critica a Venezuela por detención manifestantes*, June 16, 2015.

1. Disqualification to exercise public office

93. The Commission observed that in the month of July, the Comptroller General of the Republic issued a series of administrative orders of disqualification to exercise public office, against coalition leaders from the opposition Democratic Unity Roundtable (*Mesa de la Unidad Democrática* (MUD)). Said orders were rendered against María Corina Machado,¹⁵¹ Enzo Scarano¹⁵² and Daniel Ceballos¹⁵³ for 12 months; and against Pablo Pérez¹⁵⁴ for 10 years. These disqualifications are added to that against Manuel Rosales¹⁵⁵, for 7 years and 6 months, issued in August last year. In view of the above, and according to Article 18 of its Statute, on July 31 the Commission requested that the State provide information about the legal framework for such disqualifications as well as if they impede the registration of eventual candidates for the elections. The State did not reply.

94. In this regard, it should be recalled that the inter-American System has established that the exercise of political rights can be regulated by law “exclusively for the conviction by a competent Court in criminal proceedings,” and that it is only a judicial court in a criminal case that can restrict said right in respect of the criminal guarantees.¹⁵⁶

2. Stigmatizing and disqualifying against persons perceive or identified as belonging to the opposition

95. The IACHR also notes the continued stigmatizing and disqualifying public statements from some Venezuelan authorities against persons of civil society groups that are identified as belonging to the opposition.¹⁵⁷ In this regard, the Commission reiterates that expressions of political intolerance by State authorities are not only contrary to the full observance of human rights but can also locate certain sectors of the population in a position of greater vulnerability and risk before possible attacks of different nature. The Commission urges State agents to refrain from issuing statements that may place human rights defenders, political opponents, journalists or anyone identified as opposition, at risk.

96. The Commission urges the State again to create the appropriate conditions and mechanisms so that political rights can be effectively exercised in observance of the principle of equality and nondiscrimination.¹⁵⁸

3. Right to participate in popular elections, honest, periodic and free by secret ballot

97. In 2015 the IACHR listened with concern to allegations of irregularities in the electoral mechanisms that could compromise the political rights of the Venezuelan electorate. Accordingly, in the hearing on the situation of political rights in Venezuela held during the Commission’s 156th period of sessions in October 2015, the requesting organization indicated that there is a lack of independence of the CNE given that it has always been designated by the party in government.¹⁵⁹ In addition, a number of

¹⁵¹ Order of the Comptroller General of the Republic, July 13, 2015.

¹⁵² Order of the Comptroller General of the Republic, July 15, 2015.

¹⁵³ Order of the Comptroller General of the Republic, July 6, 2015.

¹⁵⁴ Order of the Comptroller General of the Republic, July 16, 2015.

¹⁵⁵ Orders of the Comptroller General of the Republic, August 8, 2014, and May 24, 2010.

¹⁵⁶ IACHR. Application before the I/A Court, Leopoldo López Mendoza (Case 12.668) v. Venezuela, para. 65 and I/A Court, López Mendoza v. Venezuela Case, Judgment of September 1, 2011, para. 107.

¹⁵⁷ Con el mazo dando. *¿María Violencia o María Mentira?*, June 4, 2015 and VdT. *Cabello: “13 años no son suficientes para un asesino como Leopoldo López”*, September 30, 2015; among others.

¹⁵⁸ IACHR, Annual Report 2010. Chapter IV, Venezuela, para. 684.

¹⁵⁹ Considerations presented by the organization that requested the hearing on the situation of political rights in Venezuela, October 19, 2015.

anomalies were alleged with respect to the elections held in Venezuela and with respect to the presidential elections next December.¹⁶⁰ They indicated that the anomalies identified include: arbitrary migrations of the electoral population from urban to rural, the automatic reincorporation of the “chronic abstenteiners” and irregular naturalizations. The result has been a disproportionate increase in the electoral population in recent years.¹⁶¹ They also indicated that 41% of voters cannot be verified and they alleged a series of irregularities in the voter rolls and the election results such as the lack of external audits despite the anomalies indicated.¹⁶² In addition, they indicated that the total automation of the elections entails a lack of transparency.¹⁶³ In this regard, they argued that among others, there are three problems associated with full automation, namely: technical failures, handling and reliability. They indicate that automation does not give confidence that votes are properly counted, it lends itself to fraudulent practices as equipment, software and procedures to control and concentrate the information in very few hands; and there is the possibility that the system could be “hacked” and receive different information from voters in favor of political bias. They consider that there is a problem of accuracy and certainty, since there will be no way of knowing that the vote was counted, because to maintain the secret ballot, they cannot be associated with the voters.¹⁶⁴

98. The State, for its part, answered that the Venezuelan legal order guarantees the independence of the members of the CNE and explained how they have been elected, and also indicated that the polling places have been brought closer to the poorest voters who before did not have access to elections.¹⁶⁵ In a Supplemental Report presented by the State at the hearings held during the 156th period of sessions, it notes, in relation to what the petitioners stated in the 156th period of sessions about the designation of the members of the CNE and their association with the party in power, that no electoral authority currently sitting on the National Electoral Council or its subordinated organs is active in any organization with political aims that supports the government. Regarding the audits, the State indicated that in Venezuela there are some 20 audits of the electoral system, including those related to the Electoral Registry, the data and fingerprints of the votes in the voting machines, the software of the voting machine, the transmission of results, and the system for tallying the votes.¹⁶⁶

99. It should be noted that the offer by the OAS to conduct electoral observation of the legislative elections held December 6, 2015, was unfortunately rejected.¹⁶⁷ In the letter sent by the Secretary General of the OAS to the President of the CNE it was indicated that the opposition has repeatedly asked the OAS for such electoral observation. He stated: “In a context of high levels of political polarization and distrust the electoral authorities, far from guaranteeing conditions of full equality among the candidates, reproduce the official discourse and increase the distrust of the electorate that backs the opposition regarding the country’s elections and institutions.”¹⁶⁸ It was also indicated that “an international observation would give all Venezuelans greater peace of mind when it comes to counting the votes.”¹⁶⁹ The

¹⁶⁰ Considerations presented by the organization that requested the hearing on the situation of political rights in Venezuela, October 19, 2015.

¹⁶¹ Considerations presented by the organization that requested the hearing on the situation of political rights in Venezuela, October 19, 2015.

¹⁶² Considerations presented by the organization that requested the hearing on the situation of political rights in Venezuela, October 19, 2015.

¹⁶³ Considerations presented by the organization that requested the hearing on the situation of political rights in Venezuela, October 19, 2015.

¹⁶⁴ Considerations presented by the organization that requested the hearing on the situation of political rights in Venezuela, October 19, 2015.

¹⁶⁵ Considerations presented by the organization that requested the hearing on the situation of political rights in Venezuela, October 19, 2015. The State made a similar reference in report AGEV-000136, received December 14, 2015, pp. 11-13.

¹⁶⁶ Communication from the Bolivarian Republic of Venezuela AGEV/000117. *Situación de Derechos Humanos en Venezuela*, October 28, 2015. The State made a similar reference in report AGEV-000136, received December 14, 2015, p. 17.

¹⁶⁷ OAS. Communication sent by the Secretary General of the OAS to the President of the CNE, November 10, 2015.

¹⁶⁸ OAS. Communication sent by the Secretary General of the OAS to the President of the CNE, November 10, 2015.

¹⁶⁹ OAS. Communication sent by the Secretary General of the OAS to the President of the CNE, November 10, 2015.

Secretary General indicated that he had been informed of the lack of a cap or controls on campaign spending, the lack of guarantees of access to the media for candidates who do not have state financing, points of confusion that could stem from the placement of the parties on the ballot, the implementation of security measures that limit freedom of expression, disqualifications from holding public office for recognized opposition leaders, prosecution of and threats against peaceful protestors, and intervention in political parties by the courts.¹⁷⁰

100. In this regard, the Commission notes that the Government has not accepted the electoral observation by the European Union either, and apparently placed some obstacles in the way of the electoral observation mission carried out by the Union of South American Nations (UNASUR).¹⁷¹ It should be recalled that since 2006 the CNE designed a plan of accompaniment that is far from observation.¹⁷² The State understands that observation is to be activated in countries with a high level of conflict and whose electoral systems have been called into question, unlike the Venezuelan system, which is 100% auditable.¹⁷³ It indicated that the Electoral Council of UNASUR established criteria for accompaniment and observation to suit the requirements of each country.¹⁷⁴

101. Among the obstacles reported, Nelson Jobim, who was selected by the Supreme Electoral Council (*Tribunal Supremo Electoral* (TSE)) of Brazil to head up the UNASUR electoral mission, was rejected by Venezuela, with which the TSE announced it would not participate in the UNASUR electoral mission, and the Brazilian Senate approved a motion of censure of the Government of Venezuela because of “the obstacles it put up to the participation of a great Brazilian in accompaniment of the elections.”¹⁷⁵ In addition, it was learned that for months the TSE had proposed to the CNE that it send a mission that would stay in Venezuela throughout the entire electoral process and not only during the dates close to the vote to verify “whether the institutional conditions in place in the country ensure fairness in the electoral contest” as well as participating in the prior audit of the computerized voting systems.¹⁷⁶ Subsequently, the electoral bodies of Uruguay and Brazil complained at Venezuela’s lack of a response regarding the guarantees needed for an objective, impartial, and integral observation.¹⁷⁷ On November 6 the foreign ministers of UNASUR approved by consensus the electoral mission for the legislative elections in Venezuela.¹⁷⁸ It was reported that the mission would be technical in nature, would be on the ground in several cities of Venezuela, and would be made up of some 50 to 60 persons, who would enjoy total freedom of movement.¹⁷⁹

102. The Center for Political Studies at the Catholic University Andres Bello (Universidad Católica Andrés Bello (UCAB)) and International IDEA, as part of its Venezuela Electoral Integrity Project, presented their preliminary report on the conditions of the 2015 elections¹⁸⁰ in which they identified as the main weaknesses the “opportunism and undue interference of state institutions such as the Supreme Court

¹⁷⁰ OAS. Communication sent by the Secretary General of the OAS to the President of the CNE, November 10, 2015.

¹⁷¹ Diario Las Américas. [Brasil objeta sistema electoral chavista](#), October 24, 2015.

¹⁷² Bolivarian Republic of Venezuela, Embassy in Argentina. [Unasur se ajusta a norma de países con criterios de acompañamiento y observación electoral](#).

¹⁷³ Bolivarian Republic of Venezuela, Embassy in Argentina. [Unasur se ajusta a norma de países con criterios de acompañamiento y observación electoral](#).

¹⁷⁴ Bolivarian Republic of Venezuela, Embassy in Argentina. [Unasur se ajusta a norma de países con criterios de acompañamiento y observación electoral](#). The State made a similar reference in report AGEV-000136, received December 14, 2015, pp. 14-15.

¹⁷⁵ Diario Las Américas. [Brasil objeta sistema electoral chavista](#), October 24, 2015.

¹⁷⁶ Diario Las Américas. [Brasil objeta sistema electoral chavista](#), October 24, 2015.

¹⁷⁷ El Universal. [Unasur aprueba misión electoral a Venezuela](#), November 6, 2015.

¹⁷⁸ El Universal. [Unasur aprueba misión electoral a Venezuela](#), November 6, 2015.

¹⁷⁹ HBS Noticias. [Unasur prueba misión electoral para elecciones de Venezuela](#), November 9, 2015.

¹⁸⁰ [Misión de Estudio IDEA-UCAB sobre las condiciones del proceso electoral 2015. Informe Preliminar](#), November 16, 2015.

(*Tribunal Supremo de Justicia* (TSJ)) in the dynamics of political organizations”.¹⁸¹ They also considered it unfortunate that the CNE would not allow the participation of the OAS or the European Union in the international accompaniment mission.¹⁸² Speaking to this issue, the director of the Center said:

Accompaniment missions should have the minimum conditions guaranteed for being able to evaluate the process independently, impartially, and technically. Nonetheless, as understood by the CNE, there is a risk that they will merely be used by the agencies represented in them to endorse an election that they have not had the opportunity or the conditions to be able to observe seriously.¹⁸³

103. According to publicly available information, on the night of November 25, 2015, opposition leader Luis Manuel Díaz, Secretary General of the opposition party Democratic Action (*Acción Democrática*) in the state of Guárico, was assassinated by gunshot wounds in Altagracia de Orituco, during an electoral campaign activity for the December 6 legislative elections.¹⁸⁴

104. In this regard, on November 26, 2015, the Secretary General of the OAS issued a press release in which he condemned the assassination and underscored that “the killing of a political leader is a deadly wound to democracy and a succession of violent acts in an electoral process can be a mortal blow to nearly any kind of democracy.”¹⁸⁵ He also noted: “The incident is not an isolated episode, but one that occurred in conjunction with other attacks against other opposition political leaders in a strategy to intimidate the opposition.”¹⁸⁶

105. President Maduro, for his part, said that the assassination was just a settling of accounts between two rival gangs. And he called Secretary General Almagro “trash” (“*basura*”) due to his pronouncement on the incident not even 12 hours after it occurred.¹⁸⁷

106. In response, the Secretary General of the OAS sent an open letter to President Maduro in which he reiterated his request for peace and an end to violence in Venezuela in the electoral context.¹⁸⁸ He said:

It does not make one 'garbage' ... to condemn the killing of a politician and call for an end to the ongoing violence in the country, or to say that "the violent death of any person is a heinous act that we cannot accept. The killing of a political activist, moreover, leaves us all more vulnerable, and signals that we are all real victims, not just potential victims." 'Garbage' would be to say anything else.¹⁸⁹

¹⁸¹ Noticias Venezuela. [Centro de Estudios Políticos de la UCAB evaluó condiciones electorales](#), November 16, 2015.

¹⁸² Noticias Venezuela. [Centro de Estudios Políticos de la UCAB evaluó condiciones electorales](#), 16 de noviembre de 2015.

¹⁸³ Correo del Caroní. [Centro de Estudios Políticos de la UCAB también exhorta al CNE a castigar ventajismo de candidatos PSUV](#), October 22, 2015.

¹⁸⁴ IACHR. Press Release No. 139/15 [IACHR Condemns the Murder of Opposition Leader Luis Manuel Díaz in Venezuela](#), December 1, 2015.

¹⁸⁵ OAS. Press Release C-344/15. [Venezuela: Secretary General of the OAS Calls for Immediate End to Violence](#), November 26, 2015.

¹⁸⁶ OAS. Press Release C-344/15. [Venezuela: Secretary General of the OAS Calls for Immediate End to Violence](#), November 26, 2015.

¹⁸⁷ EFE. [Maduro llama “basura” a Almagro y pide que rectifique su opinión sobre la muerte de un opositor](#), November 26, 2015.

¹⁸⁸ OAS, Press Release E-345/15. Venezuela: Open Letter from the OAS Secretary General regarding Pre-Electoral Climate, November 28, 2015.

¹⁸⁹ OAS, Press Release E-345/15. Venezuela: Open Letter from the OAS Secretary General regarding Pre-Electoral Climate, November 28, 2015.

107. The United Nations High Commissioner for Human Rights, addressing the question, reiterated to President Maduro that “a sovereign State must defend and protect individuals who criticise and question the policies and practices of the State. Democracy suffers greatly when the pre-election environment is marred by violence, threats and intimidation.”¹⁹⁰ He also urged the authorities to ensure that the investigation into the assassination of Luis Díaz be independent and impartial, and that they bring to justice not only those who perpetrated the act, but also those who ordered that he be killed. He said: “All sides must refrain from violence and violent rhetoric in the run up to the elections.”¹⁹¹

108. The IACHR also condemned this assassination and stated its profound repudiation of and concern over the escalation of political violence in Venezuela.¹⁹² It also called on the State to take firm steps to investigate, prosecute, and punish the persons responsible for this assassination and to guarantee that the right to association and freedom of expression can be exercised by all political sectors free from violence and harassment.¹⁹³

109. On the eve of the legislative elections the Commission called on the State to ensure a climate of liberty and security for those who participate in political acts as part of their right to live in a democracy respectful of the rule of law with the full observance of human rights.¹⁹⁴

110. The Government of Venezuela categorically rejected the press release of the IACHR, considering that it “irresponsibly and tendentiously prejudices an incident that is in the process of being investigated” and that “[i]t is not certain that in Venezuela there is an ‘escalation of political violence’ or that the ‘right of association and freedom of expression of all political sectors’ is not guaranteed in a climate ‘free from violence and harassment.’”¹⁹⁵ It also warned that “once against we are facing an international campaign that aims to legitimate the violent actions of the national and international extreme right that attack Venezuelan democracy.”¹⁹⁶

111. Legislative elections were held on December 6, 2015. They unfolded with relatively normal conditions¹⁹⁷, despite some incidents that were reported such as the removal of credentials for political accompaniment of the former presidents of Bolivia, Jorge Quiroga; Colombia, Andres Pastrana; Panama, Mireya Moscoso; Uruguay, Luis Alberto Lacalle; and Costa Rica, Laura Chinchilla and Miguel Angel Rodriguez, all of whom were invited by the MUD¹⁹⁸ coalition, the uncertainty as to whether Leopoldo López would be allowed to vote¹⁹⁹, and the highly-questioned extension of the closing time for the polling places.²⁰⁰

¹⁹⁰ OHCHR. Press release. [Venezuela assassination: Zeid urges protection for opposition politicians and other dissenting voices](#), November 27, 2015.

¹⁹¹ OHCHR. Press release. [Venezuela assassination: Zeid urges protection for opposition politicians and other dissenting voices](#), November 27, 2015.

¹⁹² IACHR. Press Release No. 139/15, [IACHR Condemns the Murder of Opposition Leader Luis Manuel Díaz in Venezuela](#), December 1, 2015.

¹⁹³ IACHR. Press Release No. 139/15, [IACHR Condemns the Murder of Opposition Leader Luis Manuel Díaz in Venezuela](#), December 1, 2015.

¹⁹⁴ IACHR. Press Release No. 139/15, [IACHR Condemns the Murder of Opposition Leader Luis Manuel Díaz in Venezuela](#), December 1, 2015.

¹⁹⁵ Últimas Noticias. [Venezuela rechaza informe de la CIDH sobre muerte de Luis Manuel Díaz](#), December 2, 2015.

¹⁹⁶ Últimas Noticias. [Venezuela rechaza informe de la CIDH sobre muerte de Luis Manuel Díaz](#), December 2, 2015.

¹⁹⁷ General in Chief Vladimir Padrino López reported that the elections unfolded “with total peace and tranquility” (“*total paz y tranquilidad*”). NewsJS. News headlines available December 21, 2015 at <http://www.newsjs.com/es-us/vladimir-padrino-l%C3%B3pez-el-pa%C3%ADs-se-encuentra-en-paz/d7oNv5z46QVr-hMUB6rRAJUT9q2VM/>

¹⁹⁸ YouTube. [CNE retira acreditaciones de expresidentes por declaraciones sobre votación](#). Agencia EFE. December 6, 2015.

¹⁹⁹ El Nacional. [Leopoldo López podrá votar](#). December 6, 2015. See also: Infobae. [Finalmente, a Leopoldo López no le permitieron votar](#). December 6, 2015; El Espectador. [Leopoldo López sí pudo votar en elecciones parlamentarias de Venezuela](#). December 6, 2015.

²⁰⁰ YouTube: [CNE extiende el cierre de los centros de votación en Venezuela una hora más](#). Agencia EFE. December 6, 2015; [Luis Emilio Rondón "Extensión de los centros de votación es ilegal"](#). Globovision Noticias. December 6, 2015. See also: El Espectador:

On December 7, 2015, the president of the CNE, Tibisay Lucena, issued the first official bulletin. She began by congratulating the citizens for their large-scale civic participation, as 74.25% of those registered to vote had voted. In all, the vote translated into 99 representatives in the National Assembly for the MUD and 46 for the United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela* (PSUV)).²⁰¹ With updated information, the CNE reported the final results, which gave the MUD 109 seats (65.27%), the PSUV 55 (32.93%), and 3 (1.80%) to representatives of indigenous communities from the west, east, and south of Venezuela²⁰², giving the Venezuelan opposition a qualified majority in the National Assembly.

112. When the results of the voting were made public, several announcements were made by the Government, highlighting the announced restructuring of the cabinet²⁰³, the designation of former judge Susana Virginia Barreiros Rodríguez as General Public Defender²⁰⁴, the installation of the Communal Parliament (*Parlamento Comunal*)²⁰⁵, the designation of 12 members of the Supreme Court²⁰⁶, the purported investigation into the alleged irregularities committed by the political opposition in those elections²⁰⁷, among others.

113. The Commission will follow up on this issue and at the same time it reiterates the recommendation to the State set forth in its report *Democracy and Human Rights in Venezuela* in relation to the right to vote and to be elected in periodic fair elections: “generate the optimal conditions and mechanisms in order that political rights may be exercised in a meaningful way, respecting the principle of equality and non-discrimination.”²⁰⁸

B. State’s Respect and Guarantee of the Exercise of the Freedom of Expression²⁰⁹

[No era necesario prorrogar horarios de votación en Venezuela: Rector del CNE y CNE extiende cierre de puestos de votación y oposición venezolana dice que se viola la ley.](#) December 6, 2015.

²⁰¹ CNE. [Poder Electoral emitió primer boletín oficial de elecciones AN.](#) December 7, 2015.

²⁰² CNE. [Elecciones a la Asamblea Nacional 2015.](#) December 8, 2015.

²⁰³ YouTube. [Maduro anuncia reestructuración del gabinete ministerial.](#) Lapatilla Patillavideo. December 8, 2015. See also: Nicolás Maduro. [Tren ministerial será reestructurado para el reimpulso del gobierno bolivariano.](#) December 8, 2015; Tele Sur TV. [Gabinete venezolano será renovado para reimpulsar la Revolución.](#) December 8, 2015; and El Nacional. [Presidente Maduro reestructurará su gabinete.](#) December 8, 2015.

²⁰⁴ Gaceta Oficial 40.807 Thursday, December 10, 2015, available as of December 21, 2015 at <http://www.aporrea.org/actualidad/n282597.html>. See also: Defensa Pública. [Nombramiento de la Defensora Pública General Susana Barreiros publicado en Gaceta Oficial N° 40.807.](#) December 15, 2015; La Patilla. [Oficializan designación de Susana Barreiros como Defensora Pública.](#) December 11, 2015; BBC. [Oficialismo de Venezuela nombra a jueza del caso Leopoldo López como Defensora Pública.](#) December 10, 2015; and Noticia al día. [Susana Barreiro no sustituye ni a Gladys Gutierrez ni a Tarek William Saab.](#) December 10, 2015; El Universal. [AN juramenta a Susana Barreiros como nueva Defensora Pública General.](#) December 15, 2015.

²⁰⁵ YouTube: [CABELLO: INSTALA PARLAMENTO COMUNAL NACIONAL SUFICIENTE SERA CUANDO EL PUEBLO TENGA EL PO.](#) Secvideos1. December 15, 2015; [Cabello se pronuncia sobre el Parlamento Comunal.](#) Noticias Venezuela. December 16, 2015. See also: BBC: [Venezuela: chavismo instala Parlamento Comunal después de perder mayoría en la Asamblea Nacional.](#) December 15, 2015; [Venezuela: ¿Qué es el Parlamento Comunal que instaló el chavismo luego de perder la mayoría legislativa?](#) December 16, 2015; RTVE. [Maduro anuncia que dará todo el poder en Venezuela a una Asamblea.](#) December 16, 2015; and Últimas Noticias. [Maduro: “Le voy a dar todo el poder al Parlamento Comunal”.](#) December 15, 2015.

²⁰⁶ Nicolás Maduro. [Asamblea Nacional designará en los próximos días a 12 magistrados del TSI.](#) December 8, 2015; Venezolana de Televisión. [Magistrados del TSI serán designados el martes 22 de diciembre \(+Video\).](#) December 16, 2015; La Patilla. [Los 12 magistrados salientes del TSI denuncian malos tratos y notificación a última hora.](#) December 16, 2015; and NotiSur 24. [Magistrados del TSI serán designados el martes 22 de diciembre.](#) December 16, 2015.

²⁰⁷ HispanTV. [Oficialismo denuncia maniobras de la oposición venezolana el 6D.](#) December 17, 2015; EL Nuevo Día. [Nicolás Maduro denuncia fraude electoral.](#) December 17, 2015; RCN Radio. [Oficialismo venezolano pide investigar “compra de votos” a favor de oposición.](#) December 17, 2015; El Espectador. [Nicolás Maduro dice que una de las causas de la derrota electoral fue fraude.](#) December 18, 2015; and La Verdad. [Maduro dice que resultado electoral fue “una bofetada”.](#) December 18, 2015.

²⁰⁸ IACHR. [Democracy and Human Rights in Venezuela](#) (2009). Political rights and participation in public life, recommendation 2.

²⁰⁹ The drafting of this section of the Report was assigned by the IACHR to the Special Rapporteur for Freedom of Expression.

114. With regards to the right to freedom of expression, the Commission has already identified, in Venezuela the absence of a climate of tolerance that could facilitate active participation and the exchange of ideas among diverse sectors of society. The acts of violence against journalists and the media, in relation to their work, and the disqualifying statements by highly-placed civil servants that, as will be explained in this chapter, continues creating a restrictive scenario that continues to inhibit the exercise of freedom of expression.²¹⁰ Furthermore, the Commission has also identified as one of the challenges for the very exercise of democracy in Venezuela the lack of mechanisms for access to public information on the administration of State organs as well as data that can serve to effectively assess the efficacy of human rights.²¹¹

115. Different state legislation and state practices have discouraged critical expression of the government in the media, social networks and social protest. The criminal system, the main corrective body of the State, has continued to be used to punish, repress and inhibit critical expressions or press information on senior government authorities. In recent years important media outlets have been sold to entrepreneurs unknown in the media, changing editorial lines becoming friendlier to the government. Moreover, official control of news print and discretionary state advertising have contributed to reduce pluralism of information and opinion, representing a significant risk to the very existence of independent journalism and independence in investigation.

116. On the other hand, several media outlets and civil society organizations have reported that there is surveillance and monitoring of the press and the opposition, all the while several media outlets are on the air with no legal protection because of the delay in frequency renewal. Venezuela is yet to adopt legislation on access to public information and has not published or handed over information that is undoubtedly of public interest, such as health matters or information regarding public accounts. Venezuelan Justice has rejected appeals for protection (*recurso de amparo*) to guarantee the right of access to information, based on grounds contrary to international principles governing this right.

1. The right to peaceful protest

117. In terms of demonstrations, based on figures from the Venezuelan Observatory of Social Conflict (*Observatorio de Conflictividad Social* (OVCS)), in April 2015, students from the UCV, reported in the IV Youth Forum of the Americas that in 2014 9,286 protests took place in Venezuela, which represent an increase of 111% in comparison to 2013.²¹² They stated that 52% of the demonstrations that took place in 2014 were against the Government in general.²¹³ They reported that in January 2015, 518 protests had already taken place, which represented an increase of 16% in comparison to January 2014.²¹⁴ They pointed out that these protests were grounded on the rejection of the shortage of food, medicines and hygiene products (28%); labor rights (22%); citizen security and right to justice (15%); Government rejection (6%); and educational requirements (3%).²¹⁵

118. In its 2014 Annual Report, the Commission referred to the situation of demonstrations in Venezuela in which 43 deaths were recorded.²¹⁶ In that respect, civil society organizations reported in the

²¹⁰ IACHR. Annual Report 2014, Ch. IV Venezuela, para. 501.

²¹¹ IACHR. Annual Report 2014, Ch. IV Venezuela, paras. 651 ff.

²¹² UCV. Federación de Centros Universitarios. Informe sobre la crisis venezolana 2015, April 2015, Seventh Summit of the Americas, Fourth Young Americas Forum.

²¹³ UCV. Federación de Centros Universitarios. Informe sobre la crisis venezolana 2015, April 2015, Seventh Summit of the Americas, Fourth Young Americas Forum.

²¹⁴ UCV. Federación de Centros Universitarios. Informe sobre la crisis venezolana 2015, April 2015, Seventh Summit of the Americas, Fourth Young Americas Forum.

²¹⁵ UCV. Federación de Centros Universitarios. Informe sobre la crisis venezolana 2015, April 2015, Seventh Summit of the Americas, Fourth Young Americas Forum.

²¹⁶ IACHR, Annual Report, Chapter IV Venezuela. Section II.B.

hearing on General Situation on Human Rights held in March that according to data from the Ministry of Public Prosecution, in 85.3% of the cases that were brought for alleged torture, the procedure was not continued and there were no conclusive acts. Therefore, they considered that these had created an institutionalized frame of impunity.²¹⁷

119. *Venezuelan Penal Forum (Foro Penal Venezolano (FPV))* reported that from February 4, 2014 to May 31, 2015, 3,758 detentions related to demonstrations were recorded. Among the detainees, there were 372 children and adolescents. They stated that of these detainees, 296 were deprived of liberty following a warrant from a court and were or are deprived of liberty and the others were detained between 1 and 4 days and released by judicial order.²¹⁸ They also reported that through May 2015, 2,048 persons were under restricted liberty or subject to precautionary measures; that 767 detainees got their full release and that at least 638 persons were released without being brought before a judicial authority.²¹⁹ It also reported that as of May 31, 2015, there were still 31 persons imprisoned as a result of the demonstrations and 46 on political grounds. Among these 77 imprisoned persons, 12 are students and 6 are women.²²⁰

120. In addition, the Human Rights Clinic from the Catholic University “Andrés Bello” (CDH UCAB) also reported a series of violations committed during the detention and judicial processing of demonstrators, such as: solitary confinement of injured detainees in detention centers and military hospitals, where secrecy was maintained about their health and access by relatives was hampered; pressure against victims of violations to their physical integrity, who were forced to sign statements denying having been subjected to ill-treatment; prevention of private contact between detainees and their lawyers; use of public defenders as a mechanism to impede the victims from speaking about the circumstances in which they were injured in the first hearing before the court; the appearance in court of persons visibly injured or in precarious health conditions without judges leaving any record of it in the hearing minutes; a lack of forensic medical reports in the files; attempts to transform victims into perpetrators, by alleging that the injuries occurred in response to alleged injuries suffered by agents; and the submission into the files of medical reports prepared by non-independent health professionals working for the body that made the detention.²²¹

121. Amnesty International (AI), stated in its 2015 report that more than 3,000 people were detained during these protests and that even though most were accused and released, more than 70 remained in detention awaiting trial.²²²

122. The CCPR also issued a statement about human rights violations that occurred during these demonstrations, and even though it took into account that some of the demonstrators had resorted to violence, it was concerned about the several reports about human rights violations committed in the context of the demonstrations, including cases of excessive and disproportionate use of the force, torture or ill-treatment, arbitrary detentions and lack of compliance with fundamental legal safeguards.²²³ In this respect, the CCPR observed with concern that only eight State agents were found guilty and the reports concerning the participation of military personnel in exercising control over peaceful meetings and

²¹⁷ Information submitted by civil society during the hearing on General Situation of Human Rights in Venezuela, IACHR 154th Period de Session, March 17, 2015.

²¹⁸ FPV. Detenciones por motivos políticos, torturas y otros tratos crueles, inhumanos y degradantes, asesinatos. Resumen a mayo 2015.

²¹⁹ FPV. Detenciones por motivos políticos, torturas y otros tratos crueles, inhumanos y degradantes, asesinatos. Resumen a mayo 2015.

²²⁰ FPV. Detenciones por motivos políticos, torturas y otros tratos crueles, inhumanos y degradantes, asesinatos. Resumen a mayo 2015.

²²¹ UCAB. Human Rights Clinic. Que no quede rastro. El ocultamiento de evidencia médica y legal en el marco de manifestaciones y detenciones, April, 2015.

²²² AI. Report 2014/15 “The State of the World’s Human Rights”, February 25, 2015. Venezuela.

²²³ CCPR. Observaciones finales sobre el cuarto informe periódico de la República Bolivariana de Venezuela, (available only in Spanish), July 23, 2015.

demonstrations.²²⁴ Among other things, the CCPR recommended that the State must ensure that the task of maintaining public order is entrusted to civilian authorities and not to military forces, to the possible extent.²²⁵

123. Another issue of concern to the Commission this year, is the passing on January 27 of Order 8610 of 2015²²⁶ by the Ministry of Popular Power for Defense, which establishes “the standards on the task of the Bolivarian National Armed Forces in control functions of public order, social peace, and citizen coexistence in public meetings and demonstrations.” Likewise, this Order expressly authorizes the use of firearms in controlling public meetings and peaceful demonstrations. Paragraphs 3²²⁷ to 9 of its Article 15²²⁸ establish the possibility of using chemical agents with extreme caution and the use of firearms in the control of meetings and public demonstrations.

124. In view of this, on February 27, 2015, according to the attributions laid down in Article 18 of its Statute, the IACHR requested from State information about the aforementioned Order.²²⁹ In it, the IACHR made reference to inter-American standards on peaceful protest and reiterated that the State must avoid the intervention of Armed Forces on issues of internal security and professional tasks that, according to their nature, are of the exclusive competence of a civilian police force, and efficient and respectful of human rights. The State did not submit the requested information.

125. The Office of the UN High Commissioner for Human Rights expressed concern about said Order when observing that the use of military law-enforcement purposes should only be an exceptional way to respond to an emergency situation, when there is a need to support the civilian police. In such cases, the use of the military should only be temporary and the military should act under civilian command and control.²³⁰ Also, it indicated that, in line with international standards, the use of lethal force must be a last resort, only applied in accordance with principles of necessity and proportionality, and only in situations where it is strictly unavoidable in order to protect life.²³¹ It urged the Government not to use the armed forces in the control of peaceful demonstrations, and to adhere in all circumstances to the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and its own Constitution, which protect the right to peaceful demonstration and forbid the use of firearms and toxic substances in the control of peaceful demonstrations.²³²

126. During the hearings held in March 2015, civil society organizations provided the IACHR information about this Order, stating that it is the only one that rules the armed forces in the control of public order with regard to cases of meetings and demonstrations, which means that the regulations for the use of force are not of a legislative nature.²³³ They also emphasized that this Order allows for the use of

²²⁴ CCPR. *Observaciones finales sobre el cuarto informe periódico de la República Bolivariana de Venezuela*, (available only in Spanish), July 23, 2015.

²²⁵ CCPR. *Observaciones finales sobre el cuarto informe periódico de la República Bolivariana de Venezuela*, (available only in Spanish), July 23, 2015.

²²⁶ Official Gazette of the Bolivarian Republic of Venezuela Decree No. 40.589 of January 27, 2015.

²²⁷ Art. 15(3): Precautions on the use of chemical agents in a strictly localized way will be elevated in order to prevent their dissemination and extension in the immediate vicinity or close to buildings where people congregate at increased risk of suffering its consequences such as hospitals, retirement homes, schools, colleges and lyceums, as well as confined spaces or enclosed sites, and will refrain from propelling them directly against persons avoiding harmful consequences.

²²⁸ Art. 15(9): They will not carry or use firearms in controlling public meetings and demonstrations, unless that, grounded on necessity and proportionality of the means employed to counter it, its wear and use become necessary.

²²⁹ Information request to the State (Article 18 of the IACHR Statute), February 18, 2015.

²³⁰ UN. *OHCHR: on the control of public demonstrations in Venezuela*. February 10, 2015.

²³¹ UN. *OHCHR: on the control of public demonstrations in Venezuela*. February 10, 2015.

²³² U.N. *OHCHR: on the control of public demonstrations in Venezuela*. February 10, 2015.

²³³ Information submitted by civil society during the hearing on *General Situation of Human Rights in Venezuela*, IACHR 154 Period de Session, March 17, 2015.

potentially lethal weapons.²³⁴ Human rights organizations also raised these concerns about this Order to the UN Human Rights Committee in June, 2015.²³⁵

127. In this regard, the Commission recalls that peaceful social protests, as a manifestation of rights of assembly and freedom of expression, are a fundamental tool for the work of defending human rights, essential for political and social expression that may be critical of the authorities' activities, as well as for establishing positions and action plans with respect to human rights.²³⁶

128. On this regard, the Commission has already considered that agents may impose reasonable restraints on demonstrators to ensure that they are peaceful or to contain those who are violent, as well as to disperse demonstrations that become violent and obstructive.²³⁷ However, the Commission has been very clear when stating that "the actions of the security forces should protect, rather than discourage, the right to assembly and therefore, the rationale for dispersing the demonstration must be the duty to protect people. The law enforcement officer deployed in such contexts must contemplate the safest and quickest methods of dispersal that cause the least harm to the demonstrators".²³⁸

129. In another demonstration that took place on February 24, 2015, 14 year-old Kluibert Roa received a gunshot wound to the head during clashes between students and State security forces in the area around the Catholic University of Táchira (UCAT). The information received indicates that Kluibert Roa, a high school student, was not participating in the protests. The Public Prosecutor's Office reported that a police officer has been arrested in the case and announced that the launch of an investigation.²³⁹

130. In light of the above, the Commission issued a press release lamenting the death of the student²⁴⁰ and recalling the importance of rights of freedom of association and expression for the consolidation of democratic societies, and in that sense, any restriction must be justified by an imperative social interest. It also reiterated that the limitations that a State may impose on a demonstration or protest must be justified by the duty to protect people, and the means used must be the safest and least harmful for demonstrators and passersby. It also recalled that actions by State agents must not discourage the exercise of these rights and that any limitations on demonstrations must be governed by the principles of legality, necessity and proportionality.

131. The Commission recalls in this chapter that the use of force in public demonstrations must be the exception, not the rule, and must be under strictly necessary circumstances, in keeping with recognized international principles.²⁴¹ The Commission considers that firearms should be excluded from

²³⁴ Information submitted by civil society during the hearing on General Situation of Human Rights in Venezuela, IACHR 154 Period de Session, March 17, 2015.

²³⁵ OMCT and COFAVIC, *Informe Alternativo al Cuarto Informe Periódico Universal de la República Bolivariana de Venezuela sobre el cumplimiento del Pacto Internacional de Derechos Civiles y Políticos al Comité de Derechos Humanos de la ONU*. Prepared by: Coalition of Non-Governmental Organizations of Venezuela, academic institutions and organized civil society, June 2015; International Bar Association, *Comisión Internacional de Juristas and Asociación Internacional de Jueces. Informe alternativo conjunto al examen del cuarto informe periódico de la República Bolivariana de Venezuela presentado al Comité de Derechos Humanos, 114 Sesión del Comité de Derechos Humanos de las Naciones Unidas*, 29 June to 24 July, 2015, p. 14; AI. Venezuela, Submission to the United Nations Human Rights Committee, 114th Session, 29 June-24 July 2015.

²³⁶ IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II. Doc. 66. December 31, 2011, para. 129.

²³⁷ Information request to the State of Venezuela (Article 18 of the IACHR Statute), February 18, 2015. (IACHR, Press Release No. 12/10. IACHR expresses concern regarding violence, persons dead and wounded during demonstrations in Venezuela. February 2, 2010.)

²³⁸ Information request to the State of Venezuela (Article 18 of the IACHR Statute), February 18, 2015. (IACHR, Press Release No. 12/10. IACHR expresses concern regarding violence, persons dead and wounded during demonstrations in Venezuela. February 2, 2010.)

²³⁹ IACHR, Press Release No. 22/15. IACHR laments Death of a Student during protests in Venezuela, March 3, 2015.

²⁴⁰ IACHR, Press Release No. 22/15. IACHR laments Death of a Student during protests in Venezuela, March 3, 2015.

²⁴¹ IACHR, Press Release No. 22/15. IACHR laments Death of a Student during protests in Venezuela, March 3, 2015.

the devices used to control social protests. The ban on carrying firearms and ammunition lead by officials who may come in contact with the protesters has been proven as the best measure of prevention of lethal violence and deaths occurring in a context of social protests.

132. Operations can allow that somewhere outside the range of the event firearms and ammunition are available for exceptional cases where there is such a violent situation that its usage becomes necessary. In this case end, there must be explicit rules about who has the power to authorize their usage and the ways in which this authorization is properly documented.

133. Moreover, the Commission notes that many of the less lethal weapons used in the context of social protests have indiscriminate and in certain cases lethal effect. This is the case with rubber bullets fired at close range and to the upper body, tear gas fired into persons' bodies, irritating gases used against children or elderly, or stun guns used against people with cardiac affections. Therefore, it must be considered not only the design or the characteristics of the weapon, but also other factors related to the use and control.

134. Also, it urges the State to adopt mechanisms to avoid excessive use of force by public law enforcement in protest marches and demonstrations, an obligation that must be taken into account especially in the case of children and adolescents.²⁴² The Commission reiterates that one should avoiding armed forces intervention in matters of internal security and professional tasks which, by their nature, correspond exclusively to a civilian police force that is efficient and respectful of human rights.

2. Aggressions, threats and harassment against journalists and the media

135. Threats, aggressions and harassment against journalists and the media continued in 2015, and dozens of cases were reported. According to several social organizations in Venezuela, 166 cases have been reported for the first nine months of the year. In addition they reported that all these events lie in "total impunity." "Not one of the cases where complaints were filed with the Office of the Public Prosecutor, have been brought to justice", stated Marco Ruiz, secretary general of the National Union of Press Workers, during a hearing before the Inter-American Commission on Human Rights (IACHR) on the situation of freedom of expression in Venezuela, held on October 19.²⁴³ Some of these cases will be further described in the following paragraphs.

136. During 2015, several cases of aggression were reported against journalists covering demonstrations, protests over scarcity of products, or lines that formed at supermarkets, while costumers were attempting to purchase food and other home products. The cases involved journalists from *Televen*, *Globovisión*, *Canal 11*, *Contrapunto*, *InfoVzla*, *El Nuevo País*, *Nueva Prensa de Oriente*, *Últimas Noticias*, *La Mañana*, *Diario Visión Apureña*, *El Norte*, *En Pauta* and *NTN24*, among others. In some of these occasions, the reporters were detained by the National Bolivarian Guard [Guardia Nacional Bolivariana, GNB], which is a branch of the Armed Forces, and their video or photographic materials were destroyed.²⁴⁴

²⁴² IACHR, Press Release No. 22/15. [IACHR laments Death of a Student during protests in Venezuela](#), March 3, 2015.

²⁴³ IACHR. 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015.

Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>

²⁴⁴ Espacio Público. January 12, 2015. [Amenazan a equipo de prensa de Contrapunto y NTN24 en el Clínico](#); Instituto Prensa y Sociedad (Ipys). January 13, 2015. [Caracas: Dos reporteros gráficos fueron dejados en libertad con régimen de presentación cada 30 días](#); Sindicato Nacional de Trabajadores de la Prensa de Venezuela (via Twitter). January 10, 2015. [Reporteros gráficos Blas Santander y Anthony Lares detenidos por la GNB se encuentran en Fuerte Tiuna. Exigimos inmediata liberación](#); NTN24. January 11, 2015. [Foro Penal Venezolano informa de la detención de dos periodistas en protesta de Santa Fe](#); Voz de América. January 13, 2015. [Imputados por fotografiar colas y protestas](#); El Universal. January 13, 2015. [Llevar a tribunales a detenidos de Santa Fe y San Bernardino](#); El Universal. January 13, 2015. [Liberado con régimen de presentación dirigente vecinal Carlos Julio Rojas](#); Espacio Público. January 15, 2015. [PNB agradece a fotógrafo en Anzoátegui](#); El Venezolano. January 12, 2015. [Militantes del Psuv retuvieron a médicos y periodistas en hospital de Caracas](#); El Universal. February 2, 2015. [Expresión Libre: Enero fue un mes de retrocesos a la Libertad de Expresión](#); Espacio Público. January 19, 2015. [Apedrean a equipo de Últimas Noticias en Catia](#); Noticiero Digital. January 19, 2015. [Periodista de ÚN: En Catia ya no quieren a UN. allá la escasez es peor que en el Este](#); Confirmando. February 3, 2015. [Violentan a periodista Diana Carolina Ruiz en Farmatodo La Florida](#); Diana Carolina Ruiz (via Twitter). February 3, 2015. [Integrante de consejo comunal la Florida dentro de](#)

137. The practice of elimination of records was repeated in the coverage of other news. It occurred in situations that involved reporters from *El Nacional*, *El Propio*, *Televen*, *El Norte*, *El Metropolitano*, *Noticia al Día*, *Versión Final*, *Antorcha TV*, *Televisa*, *Nueva Prensa de Guayana*, and *El Carabobeño*. In some cases, the victims denounced that they were hit by the authorities during the attempt to take away their equipment.²⁴⁵

138. Pableysa Ostos, a journalist from the Delta Amacuro newspaper *Notidiario*, reported that she was harassed by city councilors from the municipality of Casacoima on January 21, due to an article that she had published a few days earlier.²⁴⁶

139. There were also aggressions against State-based media outlets. On February 8, two individuals threw explosives at the headquarters of the public TV channel *Vive*, in Maracaibo. No injured persons and no material losses were reported.²⁴⁷ On February 18 a team of the program *Zurda Konducta* was attacked by a group of individuals during a manifestation in Caracas, due to the imprisonment of the opposition politician Leopoldo López.²⁴⁸

140. The arrests for exercising the right to freedom of expression continued in 2015. The president of the Venezuelan Association of Medical Offices [*Asociación Venezolana de Clínicas y Hospitales*], Carlos Rosales Briceño, was arrested on February 6 by the Bolivarian Intelligence Service [*Servicio Bolivariano de Inteligencia – Sebin*] after going to the media to denounce the scarcity of basic supplies for health centers. He was freed hours later.²⁴⁹ In another case, journalists from the television channel *VerTVNoticias.com* were detained for two hours on February 20 at the SEBIN headquarters, as they were covering the news of the arrest of the mayor of Caracas, Antonio Ledezma.²⁵⁰

[Farmatodo vigilan a consumidores y hasta se atreven a quitarle el teléf a quien grabe](#); Espacio Público. February 19, 2015. [Golpean a periodistas en Falcón mientras cubrían una cola](#); Venezuela Awareness. March 16, 2015. [16Mz Sargento mayor agredió periodistas en Apure](#); Venezuela al Día. July 29, 2015. [¡Sobre detención de periodista Nazareth Montilla! Machado: "Ella es expresión de la ciudadanía que se rebela"](#); InfoVzla. August 4, 2015. [Julio fue también un mes aciago para la prensa en Venezuela](#); Espacio Público. July 29, 2015. ["GNB me apuntó con un arma larga para que dejara de grabar"](#); Instituto Prensa y Sociedad (Ipps). September 16, 2015. [Yaracuy: Funcionarios de la GNB retuvieron a periodista durante cobertura](#); Espacio Público. September 11, 2015. [Detienen a periodista en Yaracuy mientras hacía cobertura en una cola](#).

²⁴⁵ El Nacional. January 26, 2015. [PNB quitó memoria de cámaras a fotógrafos de El Nacional y El Propio](#); Espacio Público. February 25, 2015. [GNB intenta quitar cámara a periodistas en el Zulia](#); RunRunes (via YouTube). February 25, 2015. [Agresión a camarógrafo de Televen en el estado Zulia](#); El Tiempo. March 9, 2015. [Editor del diario Metropolitano culpó a diputado Arteaga por agresiones](#); En Oriente. March 9, 2015. [Reportero gráfico fue agredido en terminal Bolivariano de Barcelona](#); Espacio Público. March 10, 2015. [Cicpc interrumpe labores periodísticas en el Zulia](#); El Norte. March 22, 2015. [Antorcha Tv repudia agresiones contra equipo del canal](#); Antorcha Tv. March 21, 2015. [Comunicado Antorcha TV, C.A.](#); Henry Chirinos (via YouTube). May 30, 2015. [Marcha Venezuela #30M Efectivos de la GNB agreden a periodista en el zulia](#); Colegio Nacional de Periodistas. June 1, 2015. [CNP Zulia solicita la destitución inmediata del Director Polimaracaibo](#); Venezuela Reporta. June 1, 2015. [PARA OCULTAR REPRESIÓN! GNB pateó, golpeó y sometió a periodista para quitarle su cámara +VIDEO](#); NTN24. July 31, 2015. [Un muerto y 30 detenidos deja ola de saqueos en San Félix, Venezuela](#); InfoVzla. August 4, 2015. [Julio fue también un mes aciago para la prensa en Venezuela](#); Espacio Público. July 31, 2015. [Agreden y roban a reporteros durante saqueos en Bolívar](#); Andrews Abreu (via Twitter). August 4, 2015. [El funcionario de la PNB me hizo borrar las fotos y me regreso la camara. Identificado como prensa igual arremetió contra mi persona](#); La Patilla. August 4, 2015. [¿Libertad de expresión? PNB golpea a fotógrafo y le borra material de la cámara](#); Sindicato Nacional de Trabajadores de la Prensa – National Union of Press Workers (via Twitter). August 4, 2015. [Fotorreportero @AndrewsAbreu se encontraba cubriendo situación irregular en Makro Valencia cuando fue atacado por PNB](#).

²⁴⁶ Espacio Público. January 21, 2015. [Periodista es hostiada por concejales en Delta Amacuro](#); Instituto Prensa y Sociedad (Ipps). January 26, 2015. [Delta Amacuro: Periodista de impreso regional fue intimidada por concejales de Cámara Municipal](#).

²⁴⁷ La Verdad. February 9, 2015. [Lanzan bombas molotov a la sede de Vive TV en Maracaibo](#); Richard Luzardo (via Twitter). February 9, 2015. [La detonación de las molotov generó daños materiales en una de las unidades móviles d @ViVeOccidente](#).

²⁴⁸ La verdad. February 18, 2015. [Fiscalía investiga agresión a equipo de VTV](#); Venezolana de Televisión. February 18, 2015. [Periodista y camarógrafo del programa Zurda Konducta fueron agredidos durante manifestación en Chacaito](#).

²⁴⁹ El Impulso. February 7, 2015. [Preso médico por alertar sobre falta insumos](#); El Impulso. February 6, 2015. [Sebin deja en libertad al Presidente de la Asociación de Clínicas y Hospitales](#); El Nacional. February 6, 2015. [Liberado presidente de la Asociación de Clínicas y Hospitales](#).

²⁵⁰ VerTV Noticias (via YouTube). February 20, 2015. [EXCLUSIVA A periodista Gabriela Salcedo la detuvieron por maquillarse frente al SEBIN](#); Espacio Público. February 20, 2015. [Retenidos en el Sebin tras identificarse como periodistas](#).

141. On their turn, governmental authorities also mentioned the media. On March 3, President Nicolás Maduro accused the TV channels *Televen* and *CNN* of being involved in plans to overthrow the government. He affirmed that he received the information that both TV stations were disseminating a video to “activate” the alleged insurrection.²⁵¹

142. On March 10, President Maduro stated that the media outlets that reported on the alleged dungeons known as “La Tumba” would be fined, since, in his words, such places did not exist. The existence of “La Tumba” was mentioned by social organizations and media outlets as a center of torture located inside the SEBIN headquarters. According to these allegations, students and political prisoners were sent to this place.²⁵²

143. On March 19, the president of the National Assembly, Diosdado Cabello, verbally harassed representatives of NGOs from Venezuela and journalists on his TV show *Con el mazo dando*. Cabello mentioned representatives of Venezuelan NGOs who were outside the country and provided details regarding flight numbers and times of departure and arrival²⁵³. He also accused the president of the newspaper *El Nacional*, Miguel Henrique Otero, of leaving the country and squandering money, while refusing to pay 320,000 bolivars to the tax office.²⁵⁴

144. On March 20, President Maduro affirmed that he asked the owners and directors of the TV channels of Venezuela “why are they causing so much damage” to the country with “the garbage that they sell.” He also stated that *Globovisión* “is already beyond the point of cure” and “is a total failure for the nation.”²⁵⁵

145. Journalist Luis Córdoba, from the newspaper *El Tiempo*, denounced that he was “barbarically hit” by members of the Municipal Police of Anaco and of the Bolivarian National Police on April 30 while covering a protest outside the municipality of Anaco, state of Anzoátegui.²⁵⁶

146. Journalist Saúl Acevedo denounced the governor of Táchira, José Vielma Mora, for ordering a smear campaign against his person via the Twitter account of the Governor’s Office. On May 25 were published messages on that profile that affirmed that the journalist launched a call to burn public transportation units.²⁵⁷

147. Cameraman Alejandro Ledo and journalist Elena Santini, of the press team of the Office of the Mayor of the municipality of Mario Briceño Iragorry, in the state of Aragua, were beaten and thrown out from the second floor of the headquarters of the local government on June 2, by a group of allegedly pro-

²⁵¹ Tal Cual. March 4, 2015. [Investigarán a Televen](#); Espacio Público. March 4, 2015. [Maduro hostiga a Televen](#); 2001. Undated. [Maduro acusó a Televen y CNN de estar involucrados en el golpe](#).

²⁵² Colegio Nacional de Periodistas. March 11, 2015. [Sancionarán a medios que informen de “La Tumba”](#); Espacio Público. March 11, 2015. [Sancionarán a medios que hablen de “La Tumba”](#); Info Cifras/CNN (via YouTube). February 20, 2015. [Polémica entrevista de Fernando del Rincón a Tarek William Saab](#).

²⁵³ IACHR. March 20, 2015. [IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System](#); Instituto Prensa y Sociedad (Ipys). March 19, 2015. [Caracas: Presidente del Parlamento intimidó activistas de DD HH](#); Espacio Público. March 19, 2015. [Cabello ataca a defensores de Derechos Humanos](#).

²⁵⁴ Espacio Público. March 19, 2015. [Cabello ataca a defensores de Derechos Humanos](#).

²⁵⁵ La Patilla/Venezolana de Televisión (via YouTube). March 20, 2015. [Maduro: Globovisión es una pérdida total para la patria](#); El Nacional/Venezolana de Televisión. March 20, 2015. [Maduro afirma que “Globovisión es una pérdida total para la patria”](#).

²⁵⁶ Diario El Vistazo. May 1, 2015. [Periodista Luis Córdoba agredido por PNB y Policía de Anaco](#); El Tiempo. May 1, 2015. [Detienen a ocho opositores por manifestar en Anaco](#); Espacio Público. May 6, 2015. [Golpean y detienen por unas horas a periodista en Anzoátegui](#).

²⁵⁷ La Nación. May 26, 2015. [“Me quiere incriminar el gobernador en delitos que yo no he cometido”](#); Juan Carlos Palencia (via Twitter). May 25, 2015. [El @GobiernoTachira y @VielmaEsTachira PROMUEVEN la VIOLENCIA y pretenden culpar @Juanpalencia y @SaulAcevedo](#); Gobierno de Táchira (via Twitter). May 25, 2015. [El Pueblo ya sabe en qué andan @Juanpalencia y @SaulAcevedo y la orden que dieron](#); Espacio Público. May 26, 2015. [Gobernación de Táchira vincula a periodista con hechos vandálicos que no ocurrieron](#).

government partisans that were manifesting against the Mayor. The demonstrators burst into the building and attempted to take away Ledo's camera, who was recording the protest. Journalist Pedro Hjansser, also from the press team of the Office of the Mayor, hit along with Ledo and Santini. One year and a half before the incident, Ledo was submitted to a spine surgery after being trampled at a rally.²⁵⁸

148. On June 19, journalist Beatriz Lara and photojournalist Alfredo Paradas, from the newspaper *El Aragüeño*, were detained, insulted and physically assaulted by members of the Corp for Scientific, Penal and Criminal Investigations [*Cuerpo de Investigaciones Científicas Penales y Criminalísticas – CICPC*] while covering the transfer of highly dangerous common prisoners in Villa de Cura, state of Aragua.²⁵⁹ When the reporter approached a sub-inspector to make him questions about the ongoing activities, he replied to her with insults. She was then handcuffed to a light pole, along with the accompanying photographer. After the episode, the involved public officials apologized and argued that they were “very stressed.”²⁶⁰ The State of Venezuela reported that an investigation was opened after the complaint by the journalist and that officials of the CICPC had been accused “of committing the criminal offenses of injuries, unlawful deprivation of liberty, and inhuman and degrading treatment.” It also indicated that Lara has had protection as of July, “with daily and nightly rounds at the victim’s residence.”²⁶¹

149. On June 19, Gabriela Di Giancaterino, journalist of the newspaper *La Nación*, was arrested for taking pictures of procedures against smuggling on the route between San Cristóbal and San Antonio, in the state of Táchira, at the frontier with Colombia. Di Giancaterino was transferred to a military post, where she remained for over one hour and was warned that her acts could have legal consequences.²⁶²

150. On July 9, the Vice-President of Venezuela, Jorge Arreaza, accused the radio station *Fe y Alegría* [Faith and Happiness] of undertaking a “psychological work against the population”, after he disliked the station’s coverage of the floods in the state of Apure, and ironically referred to the name of the station as “terrorism and sadness.”²⁶³

151. On August 10, the Twitter account of journalist Pedro Carvajalino, host of the TV show “*Zurda Konducta*,” broadcasted by public television VTV, was hacked. The TV host was insulted and threatened to have his user account deleted from Twitter. It was the fourth time when a similar threat occurred to him.²⁶⁴ The Twitter account of journalist Ibéyise Pacheco was also hacked on August 12.²⁶⁵

²⁵⁸ Telemundo 51. June 4, 2015. [Venezuela: tiran a camarógrafo de segundo piso](#); El Nacional. June 3, 2015. [Camarógrafo agredido en Aragua presenta edema cerebral](#); Diario Las Américas. June 4, 2015. [Chavistas violentos tiran a periodista de un segundo piso](#); Instituto Prensa y Sociedad (Ipys). June 3, 2015. [Aragua: Agredidos brutalmente dos periodistas y camarógrafo de la Alcaldía Mario Briceño Iragorry](#).

²⁵⁹ Colegio Nacional de Periodistas Seccional Aragua. June 19, 2015. [CNP Aragua exige todo el peso de la ley contra violadores de los DDHH](#); Instituto Prensa y Sociedad (Ipys). June 19, 2015. [Aragua: Funcionarios del CICPC golpearon y humillaron a periodista y reportero gráfico de impreso regional](#); Sumarium. June 19, 2015. [Periodista de El Aragüeño denuncia salvaje agresión de funcionarios](#).

²⁶⁰ Colegio de Periodistas Seccional Aragua. June 19, 2015. [CNP Aragua exige todo el peso de la ley contra violadores de los DDHH](#); Sumarium. June 19, 2015. [Periodista de El Aragüeño denuncia salvaje agresión de funcionarios](#).

²⁶¹ Government of the Bolivarian Republic of Venezuela. Communication from the State on the draft of “IACHR Report 2015 Observations of the State on Chapter IV.” AGEV-000136, received December 14, 2015.

²⁶² La Nación. June 19, 2015. [Detenida periodista de La Nación en un puesto militar fronterizo por tomar una foto](#); Instituto Prensa y Sociedad (Ipys). June 21, 2015. [Táchira: Agentes de la GNB detuvieron a periodista por tomar una fotografía](#).

²⁶³ Radio Fe y Alegría. July 9, 2015. [Vicepresidente Jorge Arreaza opinó sobre el trabajo de Radio Fe y Alegría ante emergencia de Guasdalito \(+Audio y Video\)](#); Noticias Venezuela (via YouTube). July 9, 2015. [Jorge Arreza evalúa situación de Apure](#).

²⁶⁴ Correo del Orinoco. August 10, 2015. [Recuperan cuenta en Twitter del conductor de Zurda Konducta](#); El Nacional. August 10, 2015. [Hackearon la cuenta Twitter del conductor de Zurda Konducta](#); Pedro Karvajalino (via Twitter). August 10, 2015. [Cuenta Recuperada. Estamos de regreso no podrán con nosotros! #VivaChavez #CorreLaVoz #EntreChavistasNosSequimos](#).

²⁶⁵ Espacio Público. August 13, 2015. [Hackearon cuenta de Twitter de la periodista Ibéyise Pacheco](#); Ibéyise Pacheco (via Twitter). August 14, 2015. [Recuperada](#); A Todo Momento. August 12, 2015. [Cuenta oficial de twitter de Ibéyise Pacheco fue hackeada](#).

152. On August 18, reporters from several media outlets were attacked and detained by agents of the Bolivarian National Guard while covering a police operation in the estate of Carabobo. In some cases, the agents also destroyed the equipment of the reporters.²⁶⁶

153. On August 26, Cabello accused journalist Damián Prat of being linked to an alleged plan to destabilize the government. “Wilson Castro from Justice First in the State of Bolívar [*Primero Justicia en el Estado de Bolívar*], (...) joined by councilman Julián Briseño, journalist Damián Prat, Igor Naranjo Rojas and Muhamad Yusef Díaz, currently are holding very secret meetings at El Callao (...) led by Luis Espinoza, councilman for Will of the People [*Voluntad Popular*], (...) to propel street activities in all of Guyana, claiming an alleged food scarcity.”²⁶⁷

154. Several journalists were harassed and assaulted by pro-government demonstrators on September 10, during the coverage of the main hearing of the trial of political leader Leopoldo López.²⁶⁸

155. On September 23, the Board of Social Responsibility of Conatel criticized journalist César Miguel Rondón for allowing the Mayor of the bordering Colombian city of Cúcuta, to question Venezuelan authorities on a radio interview. The body considered these to be “insulting accusations” wherein “the interviewee did not support” his statements. The body noted: “Quite to the contrary, he remained embarrassingly silent, which leads to the belief that he was in complete agreement with the Mayor of Cúcuta and his slander against Venezuela. Conatel called upon a need for patriotism within the context of the border conflict between Colombia and Venezuela, and requested both the journalist and the radio station “use the radio spectrum in a responsible manner.”²⁶⁹

156. In August the IACHR and the Special Rapporteurship stated in a press release that within the context of an election year, and with a reduction in pluralism of information and fewer independent media outlets, it was urgent to cease verbal and judicial harassment that restrict the flow of ideas and opinions. The Commission has been especially concerned and is still concerned about the number of State actions aimed at limiting the media outlets that have an informational line that is independent or criticizes the government, as this poses a significant risk to independent journalism and freedom of expression, as well as the free circulation of information available to the public facing the December elections.²⁷⁰

3. Harassment and censorship of the foreign media

157. The president of the National Assembly, Diosdado Cabello, linked journalist Mónica Villamizar, of the Qatari TV station *Al Jazeera*, with intelligence agencies of the United States of America

²⁶⁶ The journalists assaulted were Carlos Bermúdez, cameraman of *Venevisión*; Ketherine Ledo, journalist of *Notitarde*; Robert Mogollón, press photographer of *Notitarde* and Rafael Freites, journalist of *El Carabobeño*, among others. Espacio Público. August 18, 2015. [Detienen a siete trabajadores de la prensa en OLP de Carabobo](#); Andrews Abreu (via Twitter). August 18, 2015. [#AHORA 01:10 Fotografo y Chofer de El Carabobeño ya fueron liberados despues de ser detenidos en Brisas del Hipodromo](#); IPYS. August 18, 2015. [Carabobo: Periodistas fueron agredidos y retenidos por efectivos de la GNB durante cobertura](#); Ruth Lara Castillo (via Twitter). August 18, 2015. [Periodista de #Venevisión Lisoeth García también fue agredida durante cobertura en Brisas del Hipódromo](#); Notitarde. August 18, 2015. [CNP exige que efectivos de la GNB paguen con todo el peso de la ley tras brutal agresión a periodistas](#); Ketherine Ledo (via Twitter). August 18, 2015. [Equipo de Notitarde ya fue liberado del punto de control de la GNB. Todos estamos bien. Funcionarios alegaban que teníamos que pedir permiso](#); Sindicato Nacional de Trabajadores de la Prensa – National Union of Press Workers. August 18, 2015. [SNTP rechaza detención de 7 periodistas que cubrían OLP en Carabobo](#).

²⁶⁷ Noticias 24 (via YouTube). August 26, 2015. [Con el Mazo Dando, miércoles 26 de agosto de 2015](#). [03:00:15 – 03:01:24].

²⁶⁸ Andreina Flores (via Twitter). September 10, 2015. [Alexandra Castillo, corresponsal de SuNoticiero.com también fue golpeada por chavistas q nos echaron del Palacio de Justicia #10S](#); Alessandra Artal (via Twitter). September 10, 2015. [Disturbios a los alrededores del Palacio de Justicia, denuncian ataque de presuntos encapuchados en moto a los presentes en el lugar](#); El Nacional. September 10, 2015. [Intentamos evadir a los oficialistas, pero los mismos guardias no lo permitían](#); Espacio Público. September 10, 2015. [Agredidos cinco periodistas en el Palacio de Justicia](#).

²⁶⁹ National Commission of Telecommunications [Comisión Nacional de Telecomunicaciones, Conatel]. September 24, 2015. [Directorio de Responsabilidad Social a la colectividad nacional](#).

²⁷⁰ IACHR. August 24, 2015. [IACHR and the Special Rapporteur Express Deep Concern over the Stigmatization and Judicial Harassment against Three Media Outlets in Venezuela](#).

after some TV reports in Caracas about the scarcity of supplies and the poor conditions of the public transportation service. In his TV program “Con el mazo dando”, Cabello read a “warning” sent by an informant, who claimed that: “Journalists, correspondents for international press agencies tied to North American intelligence agencies or their allies, have been entering Venezuela. It is not by coincidence that there are correspondents who have experience in warlike conflicts and domestic conflict in the Middle East”. Cabello added: “Such is the case with Mónica Villamizar Villegas, Texas born North American journalist, closely linked to urbanism and the international extreme right. (...) She has held meetings with several right wing people from the Venezuelan opposition.” He remarked: “We do not know if they have work authorization. That is a matter that should be looked into by the State security agencies, for them to determine if these people are authorized to work as journalists.” Villamizar denied the accusations.²⁷¹

158. Nicolás Maduro, president of the Republic, stated in March that “the directors of Spanish EFE Agency are stupid people undertaking a campaign against Venezuela,” since they “hate Venezuela.” According to President Maduro, EFE published that there were plans for an internal coup d’état in the country. The agency denied that it had issued such information.²⁷² President Maduro ascribed to the agencies the attempt to promote a “psychological war machinery aimed at imposing opinion matrices (...), to manipulate the human mind.”²⁷³

159. During the Summit of the Americas held in Panama in April, President Maduro also harassed the US-based TV channel *CNN en Español* for disseminating what he saw as “lies against Venezuela and Latin America.”²⁷⁴ In August, the governor of the state of Aragua, Tareck El Aissami, referred to *CNN en Español* as a “terrorist” and “criminal” channel, and disparaged its correspondent Osmar Hernández after *CNN* published a text reporting cases of looting in Venezuelan cities, which were taking place at the time when Hernández was covering the shortage of supplies in those locations. A few hours later, *CNN en Español* apologized for what it considered to have been a mistake.²⁷⁵

160. On May 24, Minister of Foreign Affairs Delcy Rodríguez affirmed that the social media “are the armed wing” of a public opinion used by an “internationally orchestrated policy of communications to lash out against Venezuela”. According to Rodríguez, 71% of the information about Venezuela in the Spanish media was negative. She mentioned this figure as a “ferocious campaign.”²⁷⁶

161. Colombian news channel *NTN24* remained outside the grid of paid television companies in Venezuela, it was removed in February of 2014, for coverage on public demonstrations in the country.²⁷⁷

162. Principle 9 of the IACHR Declaration of Principles on Freedom of Expression states: “[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict

²⁷¹ Sucrelanda 2 Hugo Chávez Venezuela (via YouTube). January 15, 2015. [Mazazos de Diosdado Cabello. Con El Mazo Dando. Venezuela, 14 de enero, 2015](#) [03:36:05 – 03:37:45]; Mónica Villamizar (via Twitter). January 22, 2015. [To my friends who have asked what happened thx for support, im ok, here is the statement i gave to #Venezuela media](#); RunRun.es. January 20, 2015. [Corresponsal de Al Jazeera salió de Venezuela tras ser acusada por Diosdado Cabello](#); Al Jazeera. January 13, 2015. [Wear and tear hits Venezuela transport system](#).

²⁷² Primicias 24 (via YouTube). March 5, 2015. [Maduro: Los estúpidos de la agencia EFE dicen que yo me quiero dar un Golpe de Estado](#); EFE. March 6, 2015. [EFE niega haber dado información alguna sobre un "autogolpe" de Maduro](#).

²⁷³ Noticias Venezuela (via YouTube). May 5, 2015. [Crítica reseña de medios internacionales a los visita de "Los Cinco"](#); EFE (via 2001.com.ve). May 5, 2015. [Maduro arremete contra agencias de prensa AP, Reuters, Afp y Efe](#).

²⁷⁴ La Patilla. April 10, 2015. [Maduro la agarra contra CNN y Patricia Janiot le responde](#); CNN en Español. April 10, 2015. ["EE.UU le tiene que pedir perdón a Panamá por la invasión en 1989"](#).

²⁷⁵ Telesur (via YouTube). August 7, 2015. [Rechaza Venezuela campaña de desestabilización impulsada por CNN](#).

²⁷⁶ Correo del Orinoco. May 24, 2015. [Delcy Rodríguez: Venezuela es víctima del acoso mediático](#); La Patilla. May 24, 2015. [Según Delcy Rodríguez, Venezuela sufre acoso mediático a nivel internacional](#).

²⁷⁷ Telesur. February 14, 2014. [Gobierno venezolano descarta censura a medios internacionales](#).

freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.”

163. The Inter-American Commission also recalls that public officials have the obligation of guaranteeing that their statements do not harm the rights of the individuals and groups who contribute to public deliberation by expressing and disseminating their thoughts, such as journalists, the media and organizations that advocate for human rights. Public officials must also consider the context in which they speak, to ensure that their statements do not constitute, in the words of the Court, “forms of direct or indirect interference or harmful oppression of the rights of those who seek to contribute to public deliberation through expressing and disseminating their thoughts.”²⁷⁸

164. The Commission recalls the importance of “creating a climate of respect and tolerance for all ideas and opinions.” The Commission reminds that “diversity, pluralism and respect for the dissemination of all ideas and opinions is a necessary condition for the functioning of any democratic society. Therefore, the authorities must work resolutely to help build a climate of tolerance and respect in which everyone can express his or her thoughts and opinions without fear of being attacked, punished or stigmatized for doing so. Moreover, the State’s obligation to create conditions that allow for the free circulation of all ideas or opinions includes the obligation to investigate and adequately punish those who use violence to silence members of the media or media outlets.”²⁷⁹

165. The Inter-American Commission “additionally recalls that freedom of expression must be guaranteed not only with respect to the dissemination of ideas and information that are received favorably or considered inoffensive or indifferent, but also in cases of speech that is offensive, shocking, unsettling, unpleasant, or disturbing to the State or to any segment of the population.”²⁸⁰

4. Censorship, cancelled programs and journalists fired

166. Several radio programs were suspended in 2015, journalistic contents were censored and several journalists were fired from the media outlets where they worked, allegedly for reasons connected with freedom of expression.

167. On January 15, journalists and other members of the newsroom of *El Universal* stated their concern with the editorial line adopted by the newspaper six months after the arrival of a new president. “We are alarmed at the increasing enclosure of communications that was built around some spokespersons and institutions of the Venezuelan society, as they represent important sectors that are being left little by little by the wayside in the news coverage, to the detriment of the constitutional right to information,” as they wrote. They also highlighted that a news piece about a press conference with the governor of Miranda, Henrique Capriles, was censored in the printed version of the newspaper, at the time when “instructions had been issued to ‘qualify’ on the web page all information received from spokespersons of the Democratic Unity Roundtable [*Mesa de la Unidad Democrática*] regarding ‘mobilizations’ and ‘street protests.’”²⁸¹

²⁷⁸ IACHR, *Case of Ríos et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C, No. 194. Para. 139; IACHR, *Case Perozo et al v. Venezuela. Preliminary Objections, Merits, Reparations and Costs*. Judgment of January 28, 2009. Series C, No. 195. Para. 151.

²⁷⁹ IACHR, Annual Report 2012. Report of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the state of freedom of expression in the hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para. 214; IACHR, Annual Report 2011. Report of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the state of freedom of expression in the hemisphere). OEA/Ser.L/V/II. Doc. 69. December 30, 2011. Para. 156 and 206; IACHR, Annual Report 2010. Report of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the state of freedom of expression in the hemisphere). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 206-207.

²⁸⁰ IACHR, Annual Report 2012. Report of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the state of freedom of expression in the hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para. 214; IACHR, Annual Report 2012. Report of the Special Rapporteur for Freedom of Expression. Chapter III (Domestic Case Law on Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para 32.

²⁸¹ Sindicato Nacional de Trabajadores de la Prensa. January 15, 2015. [Comunicado: Trabajadores de El Universal solicitamos apoyo en la defensa del pluralismo](#).

168. Ingrid Bravo Balabú, a reporter of *FM Center*, affirmed that she was fired on January 27 due to the “pressure of the Government” after covering a rally of the opposition in Caracas a few days before.²⁸²

169. Journalist Sugeidy Parra affirmed that the newspaper *Notitarde*, where she worked, censored an article written by her about a tribute to a student who was killed during public demonstrations.²⁸³

170. The newspaper *Últimas Noticias* asked journalist Víctor Amaya to renounce his work post, as a measure “to reduce costs”, according to the words of the responsible authorities. Amaya affirmed his belief that the real reason was the arrival of a new direction in the newspaper, which was not willing to accept critical publications about the government.²⁸⁴ *Últimas Noticias* also fired journalist Jesús Hurtado, in violation of his union rights. The dismissal process started in August 2014 and ended on April 15, 2015.²⁸⁵

171. Program “Al Rojo Vivo,” at *Radio Anaco* and *104.3 FM* in the state of Anzoátegui, was cancelled on March 25 after 18 years on air. According to a group of neighbors of Anaco, this program was one of the few spaces where one spoke about the problems of the community.²⁸⁶

172. Journalist Eliana Andrade was fired from the opinion program “*Polos Encontrados*,” broadcasted by the *TVS* channel from the state of Aragua, after she criticized an unfavorable reply on Facebook about the change in the policies to purchase foreign currency. According to her account, she was told at the channel that she could no longer “be the image” of the program. Andrade recognized that her posted comments had been unsuitable.²⁸⁷

173. Journalist Geisha Torres denounced that channel *Tves*, after agreeing verbally to sign a labor contract, decided not to hire her; according to her account, the decision was motivated by some pictures that were circulating, in which she appeared along with opposition politician Henrique Capriles²⁸⁸.

174. Mariana de Barros, journalist of *Globovisión*, was fired after publishing information on May 20 at *Globovisión*’s Twitter account about a study that criticized *Globovisión*’s coverage of the arrest of opposition politician Leopoldo López. According to Barros, the news was published on the web site of the channel and she was asked to write a Twitter message about it.²⁸⁹

²⁸² Espacio Público. January 27, 2015. [Despedida Ingrid Bravo de FM Center por presiones](#); Venezuela al Día. January 27, 2015. [Periodista de FM Center fue despedida por “presiones desde el poder”](#).

²⁸³ El Propio. February 19, 2015. [Censuran nota del homenaje a Génesis Carmona en diario Notitarde](#); Sugeidy Parra (via Twitter). February 19, 2015. [Ayer cubrí el homenaje a #GénesisCarmona en La Cedeño y mi nota fue censurada y sacada de edición en @webnotitarde](#).

²⁸⁴ Informe 21 TV (via YouTube). March 4, 2015. [Víctor Amaya: Me pidieron la renuncia en Últimas Noticias](#); Espacio Público. February 20, 2015. [GUN pide renuncia al periodista Víctor Amaya](#).

²⁸⁵ Diario Contraste. April 15, 2015. [Trabajadores de Últimas Noticias protestan por el despido injustificado de Jesús Hurtado \(Fotos\)](#); Sindicato Nacional de Trabajadores de la Prensa (via Twitter). April 15, 2015. [ALERTA. @UNoticias se gana el favor del Ministerio del Trabajo y despide sin razón al dirigente sindical del SNTP, Jesús Hurtado](#); Ya Venezuela. April 16, 2015. [Despido del periodista Jesús Hurtado viola inamovilidad laboral y fuero sindical](#).

²⁸⁶ El Tiempo. March 25, 2015. [Vecinos piden reapertura de programa “Al Rojo Vivo”](#); Espacio Público. March 25, 2015. [Exigen que vuelva al aire el programa Al Rojo Vivo de Anaco](#).

²⁸⁷ El Pitazo (via YouTube). April 15, 2015. [Periodista aragüeña fue botada de canal de TV por criticar en su Facebook la providencia de Cencoez](#); Espacio Público. April 17, 2015. [Despiden a periodista de Aragua por opinar en Facebook](#); Expresión Libre. May 13, 2015. [Estamos mal...pero vamos bien](#).

²⁸⁸ Espacio Público. April 28, 2015. [Tves no contrató a periodista por campaña en Twitter](#); TV Venezuela (via YouTube). April 28, 2015. [Periodista Geisha Torres explica las razones por las cuales fue despedida de TVES](#).

²⁸⁹ Mariana De Barros (via Twitter). May 24, 2015. [“La libertad consiste en poder hacer lo que se debe hacer”. Gracias a todos por la solidaridad!!! Seguiremos informando](#); Espacio Público. May 22, 2015. [Globovisión despide a periodista por tuitear](#); Siete Clicks. May 23, 2015. [¡ABSURDO! Globovisión despide a periodista por tuitear](#).

175. On June 10, journalist Génesis Arévalo was fired from the newspaper *La Verdad*, from the state of Vargas, after publishing an article about alleged irregularities in the construction of a stadium. According to her version of the facts, the state government asked the newspaper to fire her.²⁹⁰ *La Verdad* was closed down temporarily on June 12 by the governor of Vargas, who affirmed that it should comply with its tax obligations and obligations vis-à-vis other state agencies.²⁹¹ On Sunday 14 the newspaper restated its circulation.²⁹²

176. On June 24, journalist Juan José Peralta denounced the cancellation of the program “*Amanecer en la Noticia*”, which he hosted on channel *Telecentro* from Barquisimeto. Peralta stated that he was accused of being an informant of a written piece that reported outstanding payments to employees of the channel and the non-compliance with the social security institute.²⁹³

177. Comedian Vanessa Senior was fired from the TV channel *Canal-i* after publishing videos in which she complained about the scarcity and restrictions to acquire certain products.²⁹⁴

178. The newspaper *El Universal* was accused of censoring two columns written by human rights advocate Rafael Garrido, who had written an article in March about some declarations against homosexual employees by a representative of the assembly and another in June, which denounced the absence of State protection to lesbians, gays, bisexuals, transgender and intersex people in Venezuela.²⁹⁵

179. On July 31, journalist and radio broadcaster Manuel Naveda informed the cancellation of his show “*Al Son de la Kalle*” at *La Kalle 107.3 FM*, from the state of Falcón, due to, allegedly, his questioning of the government of his municipality. Naveda stated, “The only thing I have done was to make known the denouncements sent by the listeners.”²⁹⁶

180. Desireé Santos Amaral, the Communication and Information Minister of Venezuela denied the existence of censorship in her country. “If the media tells the truth that’s enough for us. We are not telling them not to be critical. Criticize!” she said. Then added, “We have never censored. We have never imposed censorship. And prove it then! Just show me one piece of evidence! One piece of evidence. I can go anywhere in the world and defend the news articles of the Bolivarian Revolution because they were created under the beautiful doctrine of good journalism.”²⁹⁷

²⁹⁰ Instituto Prensa y Sociedad (Ipys) Venezuela. June 12, 2015. [Vargas: Periodista fue despedida de diario luego de recibir presiones del gobierno regional](#); La Patilla. June 12, 2015. [García Carneiro “pidió la cabeza” de periodista de La Verdad de Vargas... ¡Y se la dieron! \(+ amenazas\)](#); La Verdad. June 4, 2015. [Falta de material y denuncias de corrupción retrasan estadio de los Tiburones](#).

²⁹¹ El Universal. June 12, 2015. [P: Cierre del Diario La Verdad es un ataque a la libertad de expresión](#); 2001. Undated. [Acusan a García Carneiro por cierre temporal de Diario La Verdad de Vargas](#).

²⁹² Marbella Leydenz (via Twitter). June 14, 2015. [Triunfa la Democracia cuando el pueblo no calla. @LaVerdadVargas de hoy domingo 14 de junio](#); Colegio Nacional de Periodistas. June 8, 2015. [En Aragua se produjeron los peores atropellos contra periodistas](#).

²⁹³ Juan José Peralta (via Twitter). June 24, 2015. [@unaiaamenabar Denuncio que fui despojado sin razón de mi programa Amanecer en la Noticia por el gerente de Telecentro Jesús Granadillo](#); Espacio Público. June 29, 2015. [Telecentro despide a periodista tras presumir que filtró información](#).

²⁹⁴ El Nacional. July 7, 2015. [Despiden a Vanessa Senior de Canal-i](#); El Informador. July 6, 2015. [Mario Silva pide a Fiscalía detener a Vanessa Senior por “instigación al odio” \(+Video\)](#); Informe 21. July 8, 2015. [Despiden a la comediante Vanessa Senior de Canal-i](#); NTN24 Venezuela (via YouTube). July 9, 2015. [Drama de la humorista Vanessa Senior tras publicación de un video que evidencia escasez en Vzla](#); Arnaldo Bello (via YouTube). July 1, 2015. [Disculpas de Vanessa Senior tras incidente en Farmatodo](#).

²⁹⁵ Sin Etiquetas. July 1, 2015. [El Universal de Venezuela censura columnas sobre LGTBI](#); Sin Etiquetas. March 18, 2015. [“don’t ask, don’t tell” venezolano: gays declarados no deben ser policías](#); Rafael Garrido (via Twitter). July 1, 2015. [El Universal \(Venezuela\) censuró un artículo que escribí sobre temas #LGBTI http://bit.ly/1CaK18P #CensuraHomofóbica @LGBTIdeEcuador](#).

²⁹⁶ Primera Noticia. July 31, 2015. [Sacan del aire programa comunitario “Al Son de la Kalle”](#); El Informador. June 9, 2015. [SNTIP invita a marchar este sábado en apoyo a El Carabobeño](#).

²⁹⁷ TV Venezuela (via YouTube). October 6, 2015. [Desireé Santos Amaral, Ministra de Comunicación e Información](#).

181. During an IACHR Freedom of Expression hearing on Venezuela, social organizations reported that articles critical of the regime, already written and designed in some newspapers, were replaced at the last minute by other reports or by advertisements. To support their claims, civil society showed the diagram of newspaper pages with two versions, when it was supposedly completed by the journalistic team and the one that eventually went to press. The government said it was not responsible for that situation. William Castillo, general director of Conatel stated: “That is commonplace in the media (...) everywhere around the world. That is an issue for everyone in the industry, the industry needs to reject it and fight in any media outlet, whether it is public or private. Now, to present that as a violation to freedom of expression is nonsense.”²⁹⁸

182. Principle 13 of the IACHR Declaration of Principles on Freedom of Expression holds that “[t]he exercise of power and the use of public funds by the State, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.”

5. Paper shortages

183. In 2015, some Venezuelan newspapers once again faced restrictions to the purchase of press paper, which is used in order to print their daily editions. According to the information provided by the social organizations of Venezuela to the IACHR, between January and the first two weeks of October, 2015, four media outlets reduced their format and two returned to circulation with a limited amount of newsprint in their inventory. They also noted that the State press paper company, which has the monopoly on production in the country, sells paper to media outlets critical of the administration in a discretionary manner. In addition, the government is unwilling to sell foreign currency and this makes it difficult to purchase the necessary print items, as they have to pay up to 66 times the official price.”²⁹⁹

184. On January 27, the newspaper *TalCual* announced that it would close its daily edition in one month, and would continue its activities as a weekly newspaper. The decision was due, among other reasons, to the “systematic harassment by the government”, which was exerting “pressure on the advertisers” so that they would not publish their ads in the newspaper. On May 7, *TalCual* stopped being a daily newspaper and became a weekly publication.³⁰⁰

185. In March, the newspaper *El Carabobeño* affirmed that in a few days it would run out of paper due to alleged non-fulfillment from the State supplier. In June the newspaper informed that it was forced to stop issuing a Sunday magazine in order to extend the newspaper’s life. It also pointed that it could not purchase paper from foreign suppliers, due to the governmental restrictions regarding the purchase of foreign currency. On June 25, *El Carabobeño* started to print the newspaper in a smaller format.³⁰¹ Social organizations noted that only in few occasions the State sells newsprint to *El Carabobeño*

²⁹⁸ IACHR. 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

²⁹⁹ IACHR. 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

³⁰⁰ El Universal. 27 de enero de 2015. *Diario Tal Cual cierra su edición diaria el 27 de febrero*; 360 Mundo (via Twitter). 28 de enero de 2015. *#28E Diario Tal Cual cierra su edición diaria el 27 de febrero #360ucv*; TalCual. 5 de mayo de 2015. *TalCual se reinventa*.

³⁰¹ El Carabobeño. March 15, 2015. *El Carabobeño tiene papel para circular nueve días*; El Carabobeño. June 7, 2015. *Presión oficial sacó de circulación al Suplemento Infantil*; Colegio Nacional de Periodistas. June 7, 2015. *CNP Carabobo retomará acciones de calle*; El Carabobeño (via YouTube). June 19, 2015. *Conferencia de Prensa de El Carabobeño a medios internacionales*; El Universal. June 19, 2015. *SNTP: Gobierno es responsable de garantizar que El Carabobeño no cierre*; NTN24. June 22, 2015. *Préstamo de papel permitirá a*

and that the paper needs to use a secondary, more expensive market, in their opinion this puts the very survival of the media outlet at risk.³⁰²

186. The *Correo del Caroní* Newspaper changed its tabloid format on April 13, due to the “paper supply crisis” in the country. By the beginning of 2014 it had already reduced its eight-page format. In August it became a weekly paper, because it refused to negotiate with the State newsprint supplier the paper believes to be “fleeting and conditioned.”³⁰³

187. The State newsprint supplier reported that on May 9, *El Impulso* newspaper decided to reduce the number of pages in its publications due to lack of paper.³⁰⁴

188. The newspaper *El Propio* stopped circulating on September 7 due to paper scarcity.³⁰⁵

189. William Castillo, the general director of Conatel, stated before the IACHR in October that 75% of the newspapers in Venezuela receive paper. “It is unfortunate for one newspaper or another to come defend itself by distorting human rights work”. He likewise claimed that Miguel Henrique Otero, editor in chief of the *El Nacional* newspaper, resells newsprint to other Venezuelan newspapers at “outrageous prices and in dollars”³⁰⁶. In a television interview, Castillo stated that newspaper editing companies “request more paper than they need and then resell it to smaller newspapers at outrageous prices and often in dollars. (...) For that reason, the State reorganized the system and created an importation company to import the paper.”³⁰⁷

190. Principle 13 of the IACHR Declaration of Principles on Freedom of Expression holds that “[t]he exercise of power and the use of public funds by the State, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.”

6. Access to information, public officials and public places

191. There is no law on access to public information in Venezuela; there are very high barriers to obtain public management data. According to the NGO Transparency Venezuela [*Transparencia Venezuela*] report, there are 60 regulations in that country establishing restrictions to this right and permitting public officials not to provide information. Current legislation also requires anyone interested in the information must show they have a “legitimate interest,” and the Supreme Court of Justice has believed that requesting

diario venezolano “circular por unos días más”; El Carabobeño. June 22, 2015. [Préstamo de papel permitirá extender circulación de El Carabobeño](#).

³⁰² IACHR 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

³⁰³ Correo del Caroní. April 12, 2015. [Correo del Caroní cambia de formato por la crisis de papel en Venezuela](#); Correo del Caroní. July 27, 2015. [Correo del Caroní pasa a semanario en agosto](#); El Nacional. July 28, 2015. [Correo del Caroní pasa a semanario](#).

³⁰⁴ El Impulso. May 9, 2015. [Corporación Maneiro anunció que no hay papel para #ELIMPULSO](#); El Impulso. May 11, 2015. [EL IMPULSO circula a partir de este martes en un solo cuerpo #sinpapelnohayperiodico](#).

³⁰⁵ Tal Cual. September 3, 2015. [Otro periódico a la lista: El Propio tiene papel hasta el lunes](#); El Propio. September 3, 2015. [El Propio llega hasta el lunes por falta de papel](#); El Nacional. September 3, 2015. [El Propio tiene papel hasta el lunes](#).

³⁰⁶ IACHR.159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

³⁰⁷ RT en Español (via YouTube). July 23, 2015. [¿Censura mediática en Venezuela?: Una acusación de la oposición sin pruebas](#).

information from the State “runs counter to the effectiveness and efficiency” of public administration because “time and human resources would be used to provide explanation (...).”³⁰⁸

192. In several occasions, members of the military force in charge of security during an electoral period obstructed the access of journalists to voting facilities in 2015.³⁰⁹

193. Moreover, NGO Espacio Público informed that several state agencies did not respond to requests of public information, and, for this reason, complaints were presented to the Judiciary.³¹⁰ Venezuela does not have a law of access to public information. Marianela Balbi, from the NGO Instituto Prensa y Sociedad, stated before the IACHR that lack of information in Venezuela is such that “not even inflation numbers are published in Venezuela.”³¹¹

194. The United Nations Human Rights Committee noted concern for “limited access” to public information in Venezuela, in a report published in July.³¹²

195. The State of Venezuela said that it has made efforts “to accelerate the establishment of models of e-government with transparency and efficient and participatory management,” but it recognized that “some agencies certainly do not respond with the requested speediness to certain petitions or are right in the midst of modernizing their platforms.”³¹³ And it added: “In other cases, the requests lack legal quality: the petitioner does not argue the need for that information, and their request is immediately elevated to the courts, seeking to put together a case against the State.”³¹⁴

196. Principle 4 of the Declaration of Principles of the IACHR affirms that “[a]ccess to information held by the State is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.”

7. Media concentration

197. Media concentration by the State, in particular TV outlets, continued being a reality in Venezuela in 2015. There are 15 open television channels in Venezuela, which are funded with public

³⁰⁸ Transparencia Venezuela. October 19, 2015. [Informe sobre la “Situación del derecho a la libertad de expresión en Venezuela ante la CIDH”](#); Tribunal Supremo de Justicia – Supreme Court of Justice. August 6, 2014. [Sentencia N° 01177](#).

³⁰⁹ Instituto Prensa y Sociedad (Ipsys). June 30, 2015. [Caracas: Agentes de seguridad limitaron a periodista cobertura de las elecciones primarias del PSUV](#); Instituto Prensa y Sociedad (Ipsys). June 30, 2015. [Monagas: Militar del Plan República trata de impedir cobertura de primarias del PSUV a periodista](#); Instituto Prensa y Sociedad (Ipsys). June 30, 2015. [Caracas: Impidieron a periodista el acceso a centro de votación](#); Instituto Prensa y Sociedad (Ipsys). July 1, 2015. [Caracas: Limitaron cobertura de primarias del PSUV a periodista de portal digital](#); Instituto Prensa y Sociedad (Ipsys). July 2, 2015. [Caracas: Limitaron acceso de periodistas del Diario Tal Cual a centro de votación electoral](#).

³¹⁰ Espacio Público. August 12, 2015. [Espacio Público demanda al diputado Pedro Carreño por negar información pública](#); Espacio Público. August 13, 2015. [Espacio Público demanda al MPPRIIP por negar estadísticas de criminalidad](#); Espacio Público. August 13, 2015. [Espacio Público demanda a Iris Varela por negar estadísticas de muertes en centros penitenciarios](#).

³¹¹ IACHR.159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

³¹² United Nations. Human Rights Committee. [Concluding Observations on Venezuela \(Bolivarian Republic of\). Versión avanzada no editada](#). Available in Spanish: [Observaciones finales sobre el cuarto informe periódico de la República Bolivariana de Venezuela. Versión avanzada no editada](#). July 23, 2015.

³¹³ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the “2015 Report of the IACHR, Observations of the State on Chapter IV,” AGEV-000136, received December 14, 2015.

³¹⁴ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the “2015 Report of the IACHR, Observations of the State on Chapter IV,” AGEV-000136, received December 14, 2015.

resources, and three private channels. According to the official information, the government expects to create two additional channels: +Deportes, and Canal Obrero.³¹⁵

198. Until the present, the channels *Globovisión*, *TV Familia*, *Vale TV*, *Canal I*, and *TVepaco* (formerly *La Tele*) only transmit in analog, since they were not included from the open system of digital TV, which by the middle of the year reached 500,000 households and 60 per cent of the territory. Digital transmissions also include two TV signals owned by other States: *RT* (from Russia) and *CCTV* (from China).³¹⁶

199. The State, however, informed that most licenses and most of the audience are in the private sector. Conatel president William Castillo stated: “In Venezuela, the control of the radio spectrum is in hands of the private sector. Companies control 60% of radio licenses and 54% of open television licenses. Business groups control 70% of the broadcasting capacity and hold 80% of the audience,” he added that “private radio and television licenses doubled between 2000 and 2015.”³¹⁷ Also, the State informed that Venezuela had 244 community radios and 36 community TV stations registered at Conatel in November 2015.³¹⁸

200. According to the Chamber for Broadcast Industry of Venezuela [*Cámara Venezolana de la Industria de Radiodifusión*], over 300 stations in the industry have not had their licenses renewed, therefore they are operating in a precarious situation under expired concessions that have not been renewed by Conatel even though it has been requested. “This situation creates a mechanism of indirect pressure on the media; the outlets understand that if their editorial line is critical against the national government, their licenses may not be renewed,” stated Oswaldo Cali of the Espacio Público NGO.³¹⁹

201. To this the Conatel general-director William Castillo stated: “radio stations sold out, they rented out and gave themselves up.” “There are radio stations that are not in operation requesting concessions, there are radio stations with unknown operators, operating from abroad and sold abroad, in foreign currency; then they appear giving numbers on alleged concessions that were not renewed. Nonetheless, we understand the radio spectrum must be deeply reviewed and reorganized, this is a State commitment.”³²⁰

202. The government of Nicolás Maduro also continued editing the newspapers *Correo del Orinoco* and *Ciudad Valencia* “with the aim of strengthening the artillery of Bolivarian thinking and guaranteeing the right to opportune and truthful information to the Venezuelan population.” These newspapers printed 20.1 million copies in 2014 at a cost of 241 million bolivares (38 million US dollars at the exchange rate of 6.3 bolivares per dollar).³²¹

³¹⁵ Ministerio del Poder Popular para la Educación Universitaria, Ciencia y Tecnología – Ministry of the Popular Authority for University Education, Science and Technology. Televisión Digital Abierta (TDA) Venezuela. *Programación*; RunRun.es. July 31, 2015. [La señal interrumpida de la TV digital en Venezuela](#); El Nacional. May 3, 2015. [La hegemonía roja](#); Ministerio del Poder Popular para la Comunicación y la Información – Ministry of the Public Authority for Communication and Information. January 2015. [Memoria 2014](#).

³¹⁶ Producto. October 13, 2015. [La Tele es ahora TVepaco](#); VTV. August 18, 2015. [Venezuela impulsa transición de la radiodifusión analógica a la digital](#); Globovisión. July 11, 2015. [Señal de Televisión Digital Abierta llega a 504.610 hogares venezolanos](#); El Universal. February 21, 2013. [Televisión digital excluye a Globovisión](#).

³¹⁷ IACHR. 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

³¹⁸ Comisión Nacional de Telecomunicaciones – National Commission of Telecommunications (Conatel). [Medios comunitarios habilitados](#).

³¹⁹ IACHR. 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

³²⁰ Information presented by those who requested the [Hearing on Freedom of Expression in Venezuela](#), 156th period of sessions of the IACHR, October 19, 2015.

³²¹ Ministerio del Poder Popular para la Comunicación y la Información – Ministry of the Popular Authority for Communication and Information. January 2015. [Memoria 2014](#).

203. The concentration of media ownership results in a uniformity of the content that media outlets produce or disseminate. The IACHR affirmed that “governments and national regulators should adopt public policies to increase diversity in the media, pluralism of content and prevent concentration in broadcasting.”³²² The IACHR pointed that “[i]f [the] media are controlled by a reduced number of individuals, or by only one individual, this situation would create a society in which a reduced number of individuals, or just one, would exert control over the information and, directly or indirectly, on the opinion received by the rest of the people. This lack of plurality in sources of information is a serious obstacle for the functioning of democracy. Democracy requires the confrontation of ideas, debate and discussion. When this debate does not exist, or is weakened by the lack of sources of information, the main pillar for the functioning of democracy is harmed.”³²³

204. Principle 12 of the IACHR Declaration of Principles on Freedom of Expression states that “[m]onopolies or oligopolies in the ownership and control of the communication media must be subject to anti-trust laws, as they conspire against democracy by limiting the plurality and diversity which ensure the full exercise of people’s right to information.”

8. Radio Caracas Televisión (RCTV)

205. May 27, 2015, was the date of the eighth year without *Radio Caracas Televisión (RCTV)*. RCTV ended transmissions when former president Hugo Chávez did not renew its broadcasting license, after 53 years on air. The government then in office considered that RCTV had taken part in the coup d’état against Chávez in 2002.³²⁴

206. On June 22, the Inter-American Court of Human Rights ruled that the closure of *RCTV* was arbitrary and that the reason behind it was “to mute this media outlet.” For this reason, the Court ordered the State of Venezuela to “restore its frequency license” and to “return the property” that had been seized, in order to start an “open, independent and transparent process” within a reasonable time to assign the *RCTV* license.³²⁵ The Court highlighted that “when the government resorts to a differentiated treatment based on being either pleased or displeased at the editorial line of a channel, this [attitude] produces a deterrent, intimidating and inhibiting effect on all those who exercise the right to freedom of expression, since it conveys an intimidating message to the other media outlets concerning what could occur to them if they should follow an editorial line similar to that of *RCTV*.” The Court held that the State was “responsible for violating the right to freedom of expression established by article 13, regarding the obligation of no discrimination contained in article 1.1 of the American Convention.”³²⁶

207. The Supreme Court of Justice [Tribunal Supremo de Justicia – TSJ] of Venezuela subsequently declared that this decision was unenforceable and affirmed that it contradicts “the Inter-American Convention of Human Rights” and “is a serious affront to the Constitution of the Bolivarian Republic of Venezuela, and to the international system of protection of human rights.” The TSJ stated that there was an “indiscriminate and one-sided use of the tools with which it was endowed a system that was theoretically set in place to protect the human rights, but in practice seemed to pursue the aim of raising

³²² IAHR. [Freedom of expression standards for the transition to a diverse, plural and inclusive free-to-air digital television](#). Chapter 3 (Promotion of diversity and pluralism in digital broadcasting). OEA/Ser.L./V/II. CIDH/RELE/INF.13/15. March 9, 2015. Para. 21.

³²³ IAHR. [Justice and social inclusion: The challenges of democracy in Guatemala](#). Chapter VII (The situation of freedom of expression). Para. 419.

³²⁴ 25 segundos (via YouTube). April 4, 2012. – [Segundos de la historia: Cierre de Radio Caracas Televisión - RCTV](#); El País. May 28, 2007. [Chávez cierra el canal privado RCTV en medio de violentas protestas](#); Espacio Público. May 27, 2015. [Ocho años sin RCTV](#).

³²⁵ IACHR. *Case Granier et al (Radio Caracas Televisión) v. Venezuela. Excepciones Preliminares, Fondo, Reparaciones y Costas*. Judgment of June 22, 2015. Serie C No. 293.

³²⁶ IACHR. *Case Granier et al (Radio Caracas Televisión) v. Venezuela. Excepciones Preliminares, Fondo, Reparaciones y Costas*. Judgment of June 22, 2015. Serie C No. 293. Para. 234 y 235.

precautions and protection to spurious economic interests.” The TSJ accused the Inter-American Court of “arbitrarily and disrespectfully interfering in the free development of the existing judicial processes” in Venezuela and attempt “against the inalienable right of the Venezuelan people to self-determination, sovereignty and the preeminence of human rights.”³²⁷

9. Government advertising

208. According to civil society, the distribution of government advertising in Venezuela is used as a reward or punishment for the media, depending on how the media outlets describe a positive view of the Venezuelan reality or adopt a critical stance.³²⁸ Research published by Instituto Prensa y Sociedad (IPYS) says that such practice affected “private newspapers that were mentioned by national and regional governmental authorities as the ones responsible for a ‘media war.’ ” The research lists the following newspapers: *Tal Cual*, *El Nacional*, *Quinto Día*, *6to Poder*, and *El Nuevo País* (Caracas), *El Siglo*, and *El Periodiquito* (Aragua), *El Impulso*, and *El Informador* (Lara), *El Tiempo* (Anzoátegui), *La Verdad* (Zulia), *El Carabobeño*, and *Notitarde* (Carabobo), *El Oriental* (Monagas), *Frontera* (Táchira), and *Correo del Caroní* (Bolívar). On their turn, newspapers considered favorable to the government of Maduro, such as *Últimas Noticias*, *El Universal*, and *Diario VEA*, received numerous advertising campaigns with public funds³²⁹. In this manner, there is a “disproportionate benefit to the media in agreement with the governing party, directly affecting the possibility of keeping media independent” from the government, stated Oswaldo Cali, from the Espacio Público NGO before the IACHR³³⁰. The overall budget for State advertising and propaganda in 2015 was 612.9 million bolívares (97 million USD).³³¹

209. The chief editor of *Tal Cual*, Xabier Coscojuela, stated that the only two government advertisements that his newspaper received in seven years were the notices of the population census of 2011 – by the National Institute of Statistics [*Instituto Nacional de Estadísticas*] – and of the 2012 presidential elections – by the National Electoral Council [*Consejo Nacional Electoral*]. He also affirmed that advertising by private companies decreased in the recent years, because large companies passed into the hands of the State, and because other companies are exhorted to not advertise. In Coscojuela’s words, “Some companies told us – in private meetings – that they cannot continue to advertise in this newspaper because they are subject to pressure by the government.”³³²

210. In some cases, the dependence on government advertisements resulted in self-censorship among journalists. Based on his experience with radio and television, reporter Héctor Caldera affirmed: “At the TV station, one could not – one would actually avoid the issue when faced with bad news about Diosdado Cabello, the President of the National Assembly. I would not touch the issue, and so there was self-censorship. I covered him in the channel when it was requested. For instance, when covering the elections of the United Socialist Party of Venezuela, there could be no critical questions – only guided questions, since they were already pre-determined.” Caldera stated that in the radio station, “one avoids” covering “critical themes” and journalists receive from their chiefs the order to broadcast only 30% of news that criticize the government or its officials.³³³

³²⁷ Tribunal Supremo de Justicia – Supreme Court of Justice. September 10, 2015. [TSJ declara inejecutable fallo de la CIDH sobre RCTV](#); Tribunal Supremo de Justicia – Supreme Court of Justice. Sala Constitucional. Ponencia Conjunta. [Expediente N° 15-0992](#). September 10, 2015.

³²⁸ Inter American Press Association. April 16, 2015. [SIP alerta a gobiernos sobre inminente cierre de diarios en Venezuela](#); IACHR. 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

³²⁹ Instituto Prensa y Sociedad (Ipys). April 2015. [Reportes Ipys #3](#)

³³⁰ IACHR. 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>.

³³¹ Instituto Prensa y Sociedad (Ipys). April 2015. [Reportes IPYS #3](#).

³³² Instituto Prensa y Sociedad (Ipys). April 2015. [Reportes IPYS #3](#).

³³³ Instituto Prensa y Sociedad (Ipys). April 2015. [Reportes IPYS #3](#).

211. Principle 13 of the Declaration of Principles on Freedom of Expression of the Inter-American Commission of Human Rights states that “[t]he exercise of power and the use of public funds by the State, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law.”

10. Legislation and restrictive rules

212. On November 18, 2014 President Maduro issued the decree on Organic Law on National Security [*Ley Orgánica de Seguridad de la Nación*], which provides for five to ten years of incarceration for those who disclose information that compromises “the defense and security of the nation.” It also establishes that “all public officials serving in any of the government bodies or any other State institution who disclose or divulge data or information to any individual or to another State, therefore compromising the security and defense of the nation, shall be sentenced to five to ten years imprisonment.” The decree also contains restrictions on freedoms of association and assembly, with the same punishment as the aforementioned for those who organize, hold or instigate activities within what the government has called “security zones” and that affect the functioning of military facilities, public services, basic industries or businesses, or “the economic and social life of the country.”³³⁴

213. The president also issued a decree on November 18, 2014 that reforms the Fair Price Law [*Ley de Precios Justos*], making boycotts punishable by 10 to 12 years of imprisonment for those who by action or inaction, impede the production, manufacturing, supply, transportation, distribution and placing on the market of goods and services. The law includes the crime of “fraudulent alteration of prices”, which punishes with imprisonment from two to six years who “spread by any means, false information, use violence, threats, deceit or any other scheme to alter prices goods or services.”³³⁵

214. On August 21, the President implemented a 60-day exception for the municipalities of Bolívar, Pedro María Ureña, Junín, Capacho Nuevo, Capacho Viejo and Rafael Urdaneta, in the state of Táchira, on the Colombian border. Through this rule, he banned public meetings and peaceful protests that were not authorized beforehand, among other restrictions. The government extended the exception period for two additional months.³³⁶

215. In a July report on Venezuela issued by the United Nations Human Rights Committee the committee noted “a series of provisions and practices that may have a chilling effect on the expression of criticism of the government or publication of criticism in the media and social networks on matters of public interest.”³³⁷

³³⁴ Espacio Público. January 22, 2015. *Presidente Nicolás Maduro usó ley habilitante para legislar contra la libertad de expresión*; Espacio Público (via Scribd). January 22, 2015. *Análisis Ley Orgánica de Seguridad de La Nación*.

³³⁵ Gaceta Oficial Extraordinaria de la República Bolivariana de Venezuela Nº 6.156. November 19, 2014. [Decreto 1.473, mediante el cual se dicta el decreto con rango, valor y fuerza de Ley de Reforma Orgánica de Seguridad de la Nación](#); Espacio Público. January 23, 2015. [Ley de Precios Justos afecta la libertad de expresión](#).

³³⁶ Gaceta Oficial de la República Bolivariana de Venezuela Nº 6.194. August 21, 2015. [Decreto Nº 1.950, mediante el cual se declara el Estado de Excepción en los Municipios Bolívar, Pedro María Ureña, Junín, Capacho Nuevo, Capacho Viejo y Rafael Urdaneta del estado Táchira](#); Globovisión. August 24, 2015. [Oficializado Estado de Excepción en 6 municipios de Táchira](#).

³³⁷ United Nations. Human Rights Committee. [Concluding Observations on Venezuela \(Bolivarian Republic of\). Versión avanzada no editada](#). Available in Spanish: [Observaciones finales sobre el cuarto informe periódico de la República Bolivariana de Venezuela. Versión avanzada no editada](#). July 23, 2015.

216. In exceptional circumstances, such as “[i]n case of war, public danger, or other emergency that threatens the independence or security of a State Party,”³³⁸ States may adopt measures restricting the full enjoyment of rights and freedoms under the American Convention, except for those explicitly listed in the second paragraph of article 27 of the American Convention, which enshrines the non-derogable core rights, including rights to life and personal integrity. While freedom of opinion is not listed among the non-derogable rights under Article 13 and 27 of the American Convention, it is important to mention that when analyzing the provisions of the Covenant on Civil and Political Rights, the Human Rights Committee of United Nations said that there are elements that cannot be subject to lawful derogation under article 4 of the Covenant, based on which concludes: “Freedom of opinion is one such element, since it can never become necessary to derogate from it during a state of emergency.”³³⁹

217. Similarly, the structural relationship between freedom of expression to democracy, during a state of emergency in a democratic society States do not have absolute discretion to limit this right and should adhere to the principle of necessity and proportionality. The Commission considers that any decree a state of emergency shall contain the rights whose enjoyment will be restricted, and define the temporal and spatial limits that shall govern.

11. Subsequent liabilities

218. In April, Diosdado Cabello, speaker of the National Assembly filed a criminal and civil defamation law suit against media outlets *El Nacional*, *La Patilla* and *Tal Cual* and their directors, after they copied information published in the Spanish newspaper *ABC*, wherein a former officer in a Cabello trust position tied him to drug trafficking. Cabello denied the allegations and stated he was filing the case “in accordance with the law” because “everyone needs to accept responsibility.”³⁴⁰ On May 12, the Court issued a judgment wherein it did not allow the 22 directors who were involved in the case to leave the country, although some were not in Venezuela at the time. According to the lawsuit Cabello filed, this measure was requested under “reasonable presumptions” of flight and obstruction of justice.³⁴¹ Miguel Henrique Otero, editor in chief of the *El Nacional* newspaper, stated that the restriction was issued in an “irregular” manner, “without the proper subpoenas.” “Judges are under the Executive Branch and receive direct orders from the government. (...) Justice does not exist in Venezuela, justice in Venezuela is a tool the Executive uses to criminalize dissent.” Opined Otero.³⁴² On August 2, the judiciary posted a subpoena in the press for the

³³⁸ American Convention on Human Rights. Article 27. - Suspension of Guarantees.: 1. In time of war, public danger, or other emergency that threatens the independence or security of a State Party, it may take measures derogating from its obligations under the present Convention to the extent and for the period of time strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and do not involve discrimination on the ground of race, color, sex, language, religion, or social origin.

³³⁹ United Nations. Human Rights Committee. Covenant on Civil and Political Rights. [Draft general comment No. 34 \(Upon completion of the first reading by the Human Rights Committee\)](#). November 25, 2010.

³⁴⁰ Con el Mazo Dando. April 9, 2015. [Diosdado Cabello demandará a medios por campaña difamatoria](#); Hoy Venezuela. April 9, 2015. [Cabello autoriza a abogados entablar demanda ante campaña difamatoria](#); Últimas Noticias. April 9, 2015. [Cabello autoriza a abogados entablar demanda ante campaña difamatoria](#); ABC. January 27, 2015. [El jefe de seguridad del número dos chavista deserta a EE.UU. y le acusa de narcotráfico](#); Diosdado Cabello (via Twitter). April 21, 2015. [La demanda en Venezuela es contra los medios El Nacional, La Patilla y Tal Cual, incluye accionistas, directores, consejo editorial y dueños](#); El Nacional. April 21, 2015. [Diosdado Cabello interpuso demanda contra El Nacional](#); La Patilla. April 23, 2015. [Demanda de Diosdado Cabello contra los medios independientes \(texto completo\)](#).

³⁴¹ El Nacional. May 12, 2015. [Imponen prohibición de salida del país a 22 directivos de medios](#); NTN24. May 12, 2015. [Imponen prohibición de salida del país a 22 directivos de medios en Venezuela acusados por Diosdado Cabello](#); Alberto Ravell (via Twitter). May 12, 2015. [No he recibido citacion de ningun tribunal. La Patilla no cambiara su linea editorial](#); Inter American Press Association. May 13, 2015. [IAPA condemns action taken against Venezuelan journalists](#); VTV. May 6, 2015. [Cabello ratifica que demanda por difamación contra medios de derecha continúa su curso](#); Ministerio del Poder Popular para la Comunicación e Información. May 7, 2015. [Cabello ratifica que demanda contra medios de derecha por difamación continúa su curso](#).

³⁴² El Nacional. May 12, 2015. [MHO: los jueces dependen del ejecutivo, reciben órdenes directas del gobierno](#).

directors of the media outlets³⁴³. Cabello reported that the civil law suit was admitted on August 12.³⁴⁴ On August 17, the justice system seized the *El Nacional* facilities within the framework of the civil case.³⁴⁵

219. On November 9 the IACHR asked the Venezuelan State to adopt precautionary measures on behalf of Miguel Henrique Otero, president and publisher of *El Nacional*; Alberto Federico Ravell, director of *La Patilla*, and his daughter Isabel Cristina Ravell; and Teodoro Petkoff, director of *Tal Cual*, after a series of acts of harassment initiated by officials against those media outlets and their directors.³⁴⁶ The beneficiaries said they had been victims of attacks, assaults, threats, and persecution by the Venezuelan State for exercising their right to freedom of expression independently and critically through media outlets.³⁴⁷ Among the incidents were repeated stigmatizing statements by high-level officials, monitoring and surveillance, expedited criminal and civil proceedings initiated by Cabello, a prohibition on leaving the country, prejudging by the Supreme Court, and seizure of real state properties.³⁴⁸

220. The program “100% Venezuela” on the *Televen* channel faced Conatel proceedings in April after disseminating content that could create “a tense environment” and “anxiety” among the television audience for “creating an imaginary chaos, violence, human rights violations and destruction of community life.” Conatel criticized the “biased information handling” in that journalism space. The body stated they could be punished by a fine or even be shut down, although the adopted decision was not made public.³⁴⁹

221. On June 1, a Violence Against Women Court notified journalist Saúl Acevedo of a criminal complaint filed against him by Karla Jiménez de Vielma, the wife of the governor of Táchira. Said complaint was filed because of images he had posted on Twitter satirizing her and her husband. The justice system later forced Acevedo to delete the tweets and disallowed him from “intervening (...) on any media outlet or communication platform violating the rights” of Jimenez and her family.³⁵⁰

222. The government of Venezuela defended the rights of its public officers to file criminal complaints against journalists. “It seems some citizens have rights and others do not. It seems if I am a public official I am stripped of my honor, reputation, and I do not have the right to defend it before a court. A double edged sword, dual morality, double standard,” said Conatel Director William Castillo, in an IACHR hearing³⁵¹.

223. Principle 10 of the IACHR’s Declaration of Principles establishes that, “[p]rivacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a

³⁴³ NTN24. August 3, 2015. [Citan a dueños de medios a tribunales para responder ante demanda interpuesta por Diosdado Cabello](#); Producto. July 30, 2015. [Citan a directivos de Tal Cual, El Nacional y La Patilla](#); Contrapunto. August 2, 2015. [Directivos de medios demandados por Diosdado Cabello deben designar defensores](#).

³⁴⁴ Versión Final. August 13, 2015. [Admiten demanda civil de Diosdado Cabello contra tres medios](#); *El Nacional*. August 12, 2015. [Admiten demanda civil de Diosdado Cabello contra El Nacional](#).

³⁴⁵ Últimas Noticias. August 19, 2015. [Decretan medida de prohibición de enajenar y gravar edificio de El Nacional](#); *El Nacional*. August 20, 2015. [Tribunal prohíbe enajenar y gravar edificio de El Nacional](#).

³⁴⁶ IACHR. [MC 179-15](#) Miguel Henrique Otero et al. (Venezuela), November 9, 2015.

³⁴⁷ IACHR. [MC 179-15](#) Miguel Henrique Otero et al. (Venezuela), November 9, 2015.

³⁴⁸ IACHR. [MC 179-15](#) Miguel Henrique Otero et al. (Venezuela), November 9, 2015.

³⁴⁹ *La Patilla*. April 23, 2015. [Conatel actúa contra “100% Venezuela” de Televen y lo acusa de “ofender, humillar y descalificar”](#); National Commission of Telecommunications [Comisión Nacional de Telecomunicaciones, Conatel]. April 16, 2015. [Directorio de Responsabilidad Social analizó contenidos del programa 100% Venezuela](#).

³⁵⁰ Saúl Acevedo (via Twitter). February 24, 2015. [A esta hora 11:02PM gobierno d Vielma Mora esta armando n #ZonaEducativa #SanCristobal grupos motorizados colectivos](#); Espacio Público. July 2, 2015. [Prohíben a comunicador hablar sobre familia Vielma](#); YVKE Radio Mundial. May 27, 2015. [Esposa de Vielma Mora es víctima de terrorismo cibernético \(+Reporte\)](#); Noticia 24. May 27, 2015. [Karla de Vielma denunció ante la Fiscalía “un ataque mediático” a través de Twitter](#).

³⁵¹ IACHR. 159th Period of Sessions. Hearing Situation of Freedom of Expression in Venezuela. October 19, 2015. Available at: <http://www.oas.org/es/cidh/multimedia/sesiones/156/default.asp>

person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news."

224. In addition, principle 11 establishes that "[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as disrespect laws (*leyes de desacato*) restrict freedom of expression and the right to information".

225. The IACHR expressed in a public statement its concerns about the judgment issued on September 10 against Leopoldo López, leader of the opposition party Voluntad Popular, finding him guilty of crimes related to exercising freedom of expression and his political rights. The ruling found Leopoldo López guilty of public incitement, property damage, arson, and conspiracy to commit a crime, and slapped him with a prison term of more than 13 years and 9 months. Convicted along with Leopoldo López were students Christian Holdack, to just over 10 years and 6 months in prison, for arson and damage, public incitement, and conspiracy; and Demian Martín García and Angel de Jesús González, to 4 years and 6 months in prison, for the crime of public incitement. The case against Leopoldo López was triggered by statements against the government of Nicolás Maduro in February 2014.³⁵²

226. According to the ruling, López calls to demonstrate on the streets "produced a series of violent incidents, repudiation of legitimate authority and disobedience of laws, setting off in the disproportionate attack by a group of persons who acted moved by" his statements. López "did not use the appropriate means provided for in the Constitution so that his demands were met, but used the art of the word to make his followers believe that there was an alleged constitutional solution" for the resignation of President Nicolas Maduro, the document states. The judge, Susana Barreiros, acknowledged that the political leader had made "calls for peace and tranquility," but she said that his purpose was to "get the current government out of power through the streets, the disobedience of law and repudiation of government powers", and that "he had sent an inappropriate message to his followers."³⁵³

227. The IACHR notes that Inter-American case law and doctrine on this matter³⁵⁴ provides that the imposition of penalties for abusing freedom of expression in keeping with the charge of inciting violence (understood as inciting commission of crimes, breach of public order or national security) is to be based on current, reliable, objective and strong evidence that the person was not simply expressing an opinion (no matter how harsh, unjust, or disturbing it may be), rather that the person had the clear intention of committing a crime and there was a current, real, and effective likelihood that he could achieve these objectives. Were this not to be the case, this would mean opening up the possibility of punishing opinions, and any States would be empowered to suppress any critical thought or statement about authorities which, as would be the case with anarchism or opinions that are radically opposed to the established order, questions even the very existence of the established institutions.

228. Furthermore, Inter-American case law and scholarly legal opinion has stipulated that laws establishing limitations on freedom of expression are to be drawn up in the clearest and most exact terms possible, inasmuch as the legal framework must provide legal certainty to citizens.³⁵⁵ This requirement takes on even greater importance when it is a question of limitations imposed on freedom of expression by criminal law. In this regard, the I/A Court has indicated that these kinds of limitations must also meet the

³⁵² IACHR. September 25, 2015. [IACHR Voices Concern over Ruling against Leopoldo López in Venezuela](#); Voluntad Popular (via YouTube). February 9, 2015. [Leopoldo López El 12F vamos a la calle con la consigna justicia y cárcel para los corruptos](#).

³⁵³ Twenty-eighth Court of First Instance (via La Prensa). [Sentencia Condenatoria. Causa N° 28J-810-14](#). October 1, 2015.

³⁵⁴ IACHR. [2009 Annual Report. Report of the Special Rapporteurship for Freedom of Expression](#). Chapter III (Inter-American Legal Framework of the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Paragraph 59.

³⁵⁵ IACHR. [2009 Annual Report. Report of the Special Rapporteurship for Freedom of Expression](#). Chapter III (Inter-American Legal Framework of the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Paragraph 70.

strict requirements of the principle of legality, in keeping with Article 9 of the American Convention on Human Rights: “If such restriction or limitations are under criminal law, it is important to observe the strict requirements characteristic of the criminal codification to satisfy the principle of legality.”³⁵⁶ The foregoing reveals itself in the need “use strict and unequivocal terms, clearly restricting any punishable behaviors,”³⁵⁷ which implies “a clear definition of the incriminatory behavior, setting its elements, and defining the behaviors that are not punishable or the illicit behaviors that can be punishable with non-criminal measures.”³⁵⁸

12. Freedom of Expression and Internet

229. William Castillo, director-general of the National Commission of Telecommunications [*Comisión Nacional de Telecomunicaciones – Conatel*], threatened to “block out” Twitter in Venezuela, after his personal account was suspended from Twitter on March 11. His user account was reactivated two hours later. Castillo affirmed that the number of his followers was cut by 70,000 upon the reactivation of his account.³⁵⁹ A few days later, on March 26, the Attorney General of the Republic, Luisa Ortega Díaz, indicated the need to regulate the use of on-line social networks in the country, after a wave of rumors regarding the alleged kidnapping of children.³⁶⁰

230. The director-general of Conatel, William Castillo, informed during the 114th period of sessions of the United Nations (UN) Human Rights Committee that the office blocked access to 1,060 Internet links by order of Justice or violations of the law. Of this total, 924 correspond to links of the webpage Dolar Today, which he accused of being part of a “conspiracy” against Venezuela.³⁶¹

13. Communication surveillance

231. Citizen Lab, a University of Toronto (Canada), research laboratory on information technology and human rights published a list in October of the governments that allegedly began using FinFisher spyware for the surveillance of communications; Venezuela was on the list.³⁶²

232. Surveillance programs must be designed and implemented according to international standards on human rights. Particularly, States must guarantee that the interception, collection and use of personal information, including all limitations on the right of the affected person to access this information, be clearly authorized by law in order to protect them from arbitrary or abusive interference with their private interests. The law must pursue a legitimate aim, and establish limits with regard to the nature, scope and duration of these types of measures; the reasons for ordering them; the authorities with power to authorize, execute and monitor them; and the legal mechanisms by which they may be challenged.

³⁵⁶ I/A Court, *Case of Usón Ramírez v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2009. Series C No. 207. Paragraph 55.

³⁵⁷ I/A Court, *Case of Usón Ramírez v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2009. Series C No. 207. Paragraph 55.

³⁵⁸ I/A Court, *Case of Usón Ramírez v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 20, 2009. Series C No. 207. Paragraph 55.

³⁵⁹ El Nacional. March 11, 2015. [Twitter suspendió la cuenta del director de Conatel](#); Comisión Nacional de Telecomunicaciones – National Commission of Telecommunications (via Twitter). March 11, 2015. [Twitter acaba de suspender la cuenta personal del Director de @Conatel @planwac la campaña de guerra sucia continúa en la redes](#); William Castillo (via Twitter). March 11, 2015. [Gracias!! Twitter me devolviste mi cuenta, pero me tumbaste + de 70.000 seguidores. Devuélvemelos o te bloquearé en Venezuela :-\).](#)

³⁶⁰ 2001. March 26, 2015. [Luisa Ortega Díaz: A las redes sociales hay que regularlas](#); Noticias 24. March 26, 2015. [Cree que se debería “regular” por medio de una legislación el tema de las redes sociales en el país.](#)

³⁶¹ Manifiestar.org. June 30, 2015. [Castillo: Internet en Táchira lo suspendieron los manifestantes en 2014](#); Noticias 24. June 30, 2015. [Castillo ante la ONU: “El Estado venezolano es garante absoluto de la libertad de expresión”](#); El Universal. June 30, 2015. [Castillo: Legislación venezolana protege a usuarios y operadores de medios](#)

³⁶² Citizen Lab. October 15, 2015. [Pay No Attention to the Server Behind the Proxy: Mapping FinFisher’s Continuing Proliferation.](#)

Furthermore, the law must authorize access to communications and personal information only under the most exceptional circumstances defined by legislation. When national security is invoked as a reason for the surveillance of correspondence and personal information, the law must clearly specify the criteria to be used for determining the cases in which such surveillance is legitimate. Its application shall be authorized only in the event of a clear risk to protected interests and when the damage that may result would be greater than society's general interest in maintaining the right to privacy and the free circulation of ideas and information.³⁶³

233. The Office of the Special Rapporteur observes that decisions to undertake surveillance activities that invade the privacy of individuals must be allowed by independent judicial authorities, who must state why the measure is appropriate for the accomplishment of the objectives pursued in the specific case; whether it is sufficiently restricted so as not to infringe upon the right in question more than necessary; and whether it is proportionate in relation to the interests pursued. Investigative proceedings involving an invasion of privacy authorized by law and by a competent judge must also respect other due process safeguards. States must ensure that the judicial authority is specialized and competent to make decisions on the legality of the communications surveillance, the technologies used, and its impact on the sphere of rights that could be involved, and that they have sufficient guarantees to fulfill its duties in an adequate manner. Finally, the Office of the Special Rapporteur observes that at the least, the decision-making criteria adopted by the courts should be public.³⁶⁴

C. Human rights defense and the situation of Human Rights Defenders

234. During 2015 the IACHRS continued to receive information about the situation of human rights defenders in Venezuela. In this respect the Commission received information regarding threats, harassment, disparaging remarks, violations of privacy, and attempts to kill them. The IACHR notes with concern that this follows the pattern of aggression that has been detected in recent years.³⁶⁵

235. In the hearing on the general situation of human rights in Venezuela of the 154th regular session,³⁶⁶ the civil society organizations present said that it was extremely risky for the defenders to take part in the hearing. They said there would even be intimidation of the defenders by the representatives of the State when they appear before the UN Human Rights Council, the Periodical Universal Examination, and several other venues in which they had participated before international organizations.

236. In this context, during 2015 the IACHR has granted four precautionary measures on behalf of various human rights defenders in Venezuela. Specifically, the IACHR decided to grant precautionary measures on behalf of Alfredo Romero and Luis Betancourt, members of the FPV, and Yoseth Colmenares, sister of the regional coordinator of the FPV of Táchira State; Marco Antonio Ponce, Director of the Venezuelan Observatory of Social Conflict (OVSC) ³⁶⁷ José Vicente Haro and Pierina Alejandra Caposeo³⁶⁸; and Marino Alvarado, Rafael Uzcátegui, Esperanza Hermida, and Inti Rodríguez of PROVEA³⁶⁹, who were

³⁶³ IACHR, Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.149. Doc. 50. December 31, 2013. Para. 415.

³⁶⁴ IACHR, Annual Report 2013. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.149. Doc. 50. December 31, 2013. Para. 415.

³⁶⁵ IACHR, Annual Report 2014, Chapter IV, Venezuela; IACHR, Annual Report 2013, Chapter IV, Venezuela.

³⁶⁶ IACHR, Hearing on the General situation of human rights in Venezuela, 154th regular session, March 17, 2015.

³⁶⁷ IACHR, Precautionary measure No. 71-15 – Marco Antonio Ponce, Venezuela, March 20, 2015.

³⁶⁸ IACHR, Precautionary measure No. 127/15 – José Vicente Haro and Pierina Alejandra Camposeo, Venezuela, August 28, 2015.

³⁶⁹ IACHR, Precautionary measure No. 438/15 – Marino Alvarado, Venezuela, October 14, 2015.

allegedly at risk because of their activities as human rights defenders and a series of alleged threats, stigmatizing statements and harassment by State officials.³⁷⁰

237. As of the date of this report, the I/A Court has issued four provisional measures in favor of Humberto Prado,³⁷¹ Marianella Ortiz,³⁷² Eloisa Barrios,³⁷³ and Luis Uzcátegui,³⁷⁴ who are Venezuelan human rights defenders.

1. Assaults, threats, harassment, and criminalization

238. The Commission has expressed its concern over the persistence of stigmatizing statements made by high-ranking members of the Venezuelan government against human rights defenders for their role in the observation and condemnation of human rights violations, calling them conspirators, destabilizers, and other names. The IACHR received information indicating that several people who attended hearings during its 154th session in order to speak about different human rights issues in Venezuela were reportedly singled out by high-ranking government authorities and specific information was reportedly disclosed about their whereabouts on certain dates and times. This information was reportedly repeated in the government press service network, national newspapers, and digital governmental information services of the Bolivarian Information and Communication System [*Sistema Bolivariano de Información y Comunicación*] (SIBCI).³⁷⁵ The IACHR issued a press release expressing its alarm with respect to the matter and recalling the applicable human rights standards for human rights defenders.³⁷⁶

239. The IACHR was informed that between March 20 and 23, upon their return to Venezuela from Washington D.C., the human rights defenders were reportedly subjected to surveillance, followed, photographed, and filmed with cell phones by unidentified individuals at the Simón Bolívar International Airport in Venezuela. The date and time of arrival at the Caracas airport of several people who took part in the hearings and other IACHR events was published on the website of Radio Sur TV and the program *Con el Mazo Dando*.³⁷⁷ The human rights defenders who were singled out included Francisco Valencia, Luisa Rodríguez, and Feliciando Reyna, of the Coalition of Organizations for the Right to Health and Life (*Coalición de organizaciones por el Derecho a la Salud y a la Vida* (Codevida)); Yonatan Matheus and Quiteria Franco, of the LGBTI Network of Venezuela [*Red LGBTI de Venezuela*]; Marianella Balbi, Director of the Press and Society Institute (*Instituto Prensa y Sociedad* (IPyS)); Rafael Uzcátegui, Coordinator General of PROVEA; Marco Ponce of OVCS; Ligia Bolívar, of CDH UCAB; Carlos Correa, of Political Space (*Espacio Público*); Liliana Ortega, of the Committee of families of Victims (*Comité de Familiares de Víctimas* (COFAVIC)); and Humberto Prado, of Venezuela Observatory on Prisons (Observatorio Venezolano de Prisiones (OVP)).³⁷⁸

240. In view of this occurrence, as previously noted, national and international civil society organizations issued a joint statement on April 28 condemning the fact that “Venezuela is intimidating and

³⁷⁰ IACHR, Precautionary measure No. 143/13 – Alfredo Romero, Luis Betancourt and Yoseth Colmenares, Venezuela, March 17, 2015.

³⁷¹ I/A Court. Resolutions of November 24, 2009, and July 6, 2011.

³⁷² I/A Court. Resolution of September 6, 2012.

³⁷³ I/A Court. Resolution of July 5, 2011.

³⁷⁴ I/A Court. Resolution of January 27, 2009.

³⁷⁵ Con el Mazo Dando, Marco Antonio Ponce (OVC) encabeza listado de las ONG que viajan a Washington DC y Miami para conspirar contra el Gobierno de Venezuela, March 18, 2015.

³⁷⁶ IACHR, Press Release 32/15, IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System, March 20, 2015.

³⁷⁷ IACHR, Press Release 32/15, IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System, March 20, 2015.

³⁷⁸ Front Line Defenders, Venezuela – New Threats and Intimidation Against Human Rights Defenders, March 27, 2015.

harassing human rights defenders, and making unsubstantiated allegations that they are seeking to undermine Venezuelan democracy.”³⁷⁹

241. In addition, on May 27, 2015, PROVEA Coordinator Rafael Uzcátegui and the director general of Espacio Público, Carlos Correa, reportedly filed a complaint with the Public Ministry alleging the unlawful interception of the private communications of both organizations by high-level government authorities, given that the abovementioned information could only have been obtained in that manner. The human rights defenders from those organizations reportedly asked whether the organizations were under an investigation in which a court had issued a warrant to intercept their communications; if not, they requested that an investigation be opened against Diosdado Cabello for the violation of Article 48 of the Constitution.³⁸⁰

242. Additional information was received indicating that, in a speech delivered in 2015, the President of the Republic had asked his government team “to identify and show the country who and what the members of the non-governmental organizations are who go around the world asking for international intervention in the homeland.”³⁸¹ He also reportedly stated that many of those organizations were made up of “Venezuelans by birth” funded “with the empire’s money.”³⁸² Similarly, he asked the Minister of Women’s Affairs and Gender Equality to coordinate with the Vice President of Planning and Knowledge on a program to be broadcast on the government’s national television network to “tell the country how these crooks make thousands of dollars ranting and raving about our beloved Venezuela.”³⁸³ The president reportedly made these statements after 15 civil society organizations took part in the review of compliance with the International Covenant on Economical Social and Cultural Rights in Geneva, Switzerland on June 2 and 3.³⁸⁴

243. On July 22, 2015, the IACHR’s Rapporteurship on Human Rights Defenders and the Office of the Special Rapporteur for Freedom of Expression, as well as the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, UN Special Rapporteur on the situation of human rights defenders, and UN Special Rapporteur on the rights to freedom of peaceful assembly and of association issued a joint press release calling attention to the systematic targeting of human rights defenders on the weekly television show *Con el Mazo Dando*, broadcast on the state-owned channel Venezolana de Televisión, hosted by Diosdado Cabello, President of the National Assembly.³⁸⁵ The press release makes reference to the broadcasts of February 11 and March 18, 2015, in which several human rights defenders and their organizations were named and slandered before and after their participation in hearings at the 154th session of the IACHR, as well as the July 1, 2015 broadcast that made disparaging remarks against various rights defenders and their organizations following their collaboration with the UN Human Rights Committee during its review of the fourth periodic report of Venezuela on June 29 and 30.

³⁷⁹ HRW, Venezuela: Stop Harassing Human Rights Defenders, April 7, 2015.

³⁸⁰ Front Line Defenders, Venezuela – Government illegally intercepts NGO communications, May 27, 2015; Provea, Provea y Espacio Público denunciaron ante el MP la intervención ilegal de sus comunicaciones por parte de Diosdado Cabello, May 27, 2015; El Universal, Provea y Espacio Público pidieron a Fiscalía investigar a Diosdado Cabello, May 27, 2015.

³⁸¹ Correo del Orinoco, Maduro llama a mostrarle al pueblo quiénes integran las ONG que piden intervención de Venezuela, June 4, 2015; Sinergia, Comunicado: Sinergia: Rechazamos amenazas y persecución de Nicolás Maduro, June 11, 2015; El Nacional, Persecución a las ONG de derechos humanos, June 19, 2015.

³⁸² Correo del Orinoco, Maduro llama a mostrarle al pueblo quiénes integran las ONG que piden intervención de Venezuela, June 4, 2015; Sinergia, Comunicado: Sinergia: Rechazamos amenazas y persecución de Nicolás Maduro, June 11, 2015; El Nacional, Persecución a las ONG de derechos humanos, June 19, 2015.

³⁸³ Correo del Orinoco, Maduro llama a mostrarle al pueblo quiénes integran las ONG que piden intervención de Venezuela, June 4, 2015; Sinergia, Comunicado: Sinergia: Rechazamos amenazas y persecución de Nicolás Maduro, June 11, 2015; El Nacional, Persecución a las ONG de derechos humanos, June 19, 2015.

³⁸⁴ Correo del Orinoco, Maduro llama a mostrarle al pueblo quiénes integran las ONG que piden intervención de Venezuela, June 4, 2015; Sinergia, Comunicado: Sinergia: Rechazamos amenazas y persecución de Nicolás Maduro, June 11, 2015; El Nacional, Persecución a las ONG de derechos humanos, June 19, 2015.

³⁸⁵ IACHR, Press Release 81/15, High Time to Pull the Plug of Televised Reprisals against Rights Defenders in Venezuela, July 22, 2015.

244. During the hearing held in October, on allegations of harassment of and attacks on human rights defenders, the organizations that requested the hearing reported on the general context of risk, death threats, and stigmatization and criminalization by the Executive and Legislative branches, all suffered by human rights defenders, as well as the use of the national system of public media to discredit and stigmatize them (for example the television program “Con el Mazo Dando”); and the impunity in respect of such conduct.³⁸⁶ They reported the use of hate speech by the highest-level authorities of the State, and the implementation of measures to restrict the conditions in which they do their jobs, as well as surveillance and being followed.³⁸⁷ The State, for its part, answered that according to its Constitution all Venezuelans were defenders and that “the idea that human rights defenders are a caste, are something extraordinary, is no longer in style.” The organizations considered that the defenders were being disqualified and criminalized by the statements by the State at the hearing.³⁸⁸ In the aforementioned hearings, Luis Britto García, a representative of the government of Venezuela stated that questioning freedom of expression in his country comes from “organizations that are financed by United States security agencies.”³⁸⁹ The Commission emphasized that the State has the strict obligation to defend and protect human rights defenders, independent of whether they are members of some NGO, and that they have the right to criticize the Government; and that such criticism should not be the basis for attacks and harassment.³⁹⁰ In addition, it reminded the State of its obligation to avoid any reprisals against the representatives of civil society who participated in the hearing.³⁹¹

245. Two days after the IACHR hearings, on October 21, 2015, the program “Con el Mazo Dando” said that the human rights defenders who had participated in the hearings on Venezuela were persons who “have no homeland” since “they spend their time travelling and speaking ill of their country.”³⁹² As part of that program, specific information was disseminated on their meetings, their location, the dates of their return to Venezuela, their offices in Venezuela, and photographs of the participants were placed in the Caracas airport.³⁹³ Among the defenders named are: Tinedo Guía, National Association of Journalists (*Colegio Nacional de Periodistas*); Liliana Ortega (COFAVIC); Marco Ponce (OVCS); Marino Alvarado and Inti Rodríguez (PROVEA); Carlos Correa, Public Space (Espacio Público); Humberto Prado (OVP); Marianela Balbi (freedom of expression and investigative journalism), and Mercedes de Freitas (Transparency Venezuela).³⁹⁴ The IACHR continues monitoring the situation.

246. Regarding the harassment of and attacks against human right defenders, in its observations on the draft of this chapter the State indicated that “any citizen who feels a right is threatened can turn voluntarily to the Public Ministry for the purpose of seeking a solution, yet that does not mean at all that the facts narrated are criminal in nature, thus on its own initiative, having looked into the circumstance, the

³⁸⁶ Information presented by the organizations requesting the hearing at the hearing on reports of harassment of and attacks against human rights defenders in Venezuela, October 19, 2015.

³⁸⁷ Information presented by the organizations requesting the hearing at the hearing on reports of harassment of and attacks against human rights defenders in Venezuela, October 19, 2015.

³⁸⁸ Information presented at the hearing, by the organizations that requested it, on reports of harassment of and attacks on human rights defenders in Venezuela, October 19, 2015.

³⁸⁹ IACHR (via YouTube). October 19, 2015. *Venezuela: Libertad de Expresión*.

³⁹⁰ Information presented by the organizations requesting the hearing at the hearing on reports of harassment of and attacks against human rights defenders in Venezuela, October 19, 2015.

³⁹¹ Information presented by the organizations requesting the hearing at the hearing on reports of harassment of and attacks against human rights defenders in Venezuela, October 19, 2015.

³⁹² Con el Mazo Dando, “¿Defensores de derechos humanos o del imperio?”, October 21, 2015; Mazo: “Te seguiré hostigando,” October 22, 2015.

³⁹³ Con el Mazo Dando, “¿Defensores de derechos humanos o del imperio?”, October 21, 2015; Mazo: “Te seguiré hostigando,” October 22, 2015.

³⁹⁴ Con el Mazo Dando, “¿Defensores de derechos humanos o del imperio?”, October 21, 2015; Mazo: “Te seguiré hostigando,” October 22, 2015.

appropriate course of action is to dismiss the complaint filed.”³⁹⁵ It said that in the investigations undertaken in relation to acts against human rights defenders, a considerable number of dismissals and archiving of cases by prosecutors have been decreed, “which can in no way be considered a determinant factor driving impunity, for were that the case it would be at odds with the intent of the legislator to clear the system for the administration of justice, based on (...) the Constitution, of those cases that do not have criminal implications.”³⁹⁶ It held that the allegations of those who were requesting the hearing on the systematic violation of human rights as State policy “were abysmally at odds with the firm emphasis on guarantees emanating from the Constitution of the Bolivarian Republic of Venezuela, as the protection of human rights is today the fundamental banner of any social, democratic, rights-based, and justice-based state under the rule of law, as is ours.”³⁹⁷

247. In addition, according to information gathered by FPV, 3,765 people were reportedly arrested between January 2014 and May 2015 at social protests. Of those detainees, 2,051 were reportedly subjected to pretrial restrictions, 767 were released without conditions, and 638 were released with conditions but no reporting requirements.³⁹⁸ The IACHR has monitored the situation of FPV attorney Marcelo Crovato, who was arrested on April 22, 2014, allegedly without a warrant, while he was assisting some families whose houses had been searched.³⁹⁹

248. According to reports received by the IACHR, on June 9, 2014, the 59th Prosecutor of the Public Ministry for the Judicial District of the Caracas Metropolitan Area charged him with the offenses of interfering with the safety of public roadways, instigation to break the law, and masterminding public instigation. According to publicly available information, Mr. Crovato is in poor physical and psychological health, has skin cancer, and attempted suicide in December 2014.⁴⁰⁰ Crovato’s defense attorney reportedly made several requests for a humanitarian measure to allow him to receive the medical attention required for his recovery.⁴⁰¹ In February 2015, Mr. Crovato reportedly went on a hunger strike to protest the Ninth Supervisory Judge’s failure to rule on his request for a non-custodial alternative to pre-trial detention.⁴⁰² According to the information received by the IACHR, Crovato remained in custody at the Yare III penitentiary center until February 26, 2015, when his motion to review the pretrial detention measure requested by the 51st Prosecutor’s Office of the Public Ministry was granted. He was given the non-custodial alternative of house arrest, where he was guarded 24 hours a day by officers from the Chacao Municipal Police. Additionally, he was reportedly ordered by the court not to make statements to any media outlet or on any social network. At the time of this writing, the preliminary hearing in the criminal case brought against him had still not concluded, as it had been continued to a later date on various occasions.⁴⁰³ Both

³⁹⁵ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the “2015 Report of the IACHR, Observations of the State on Chapter IV,” AGEV-000136, received December 14, 2015, p. 69.

³⁹⁶ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the “2015 Report of the IACHR, Observations of the State on Chapter IV,” AGEV-000136, received December 14, 2015, p. 69.

³⁹⁷ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the “2015 Report of the IACHR, Observations of the State on Chapter IV,” AGEV-000136, received December 14, 2015, p. 69.

³⁹⁸ FPV, Available at: <https://foropenal.com/>

³⁹⁹ El Universal, [Abogado defensor de familia investigada también quedó preso](#), April 27, 2014. See also: International Bar Association, International Association of Judges, and the International Commission of Jurists. Joint shadow report to the UN Human Rights Committee on Venezuela’s compliance with the International Covenant on Civil and Political Rights, 114th session of the Human Rights Committee, June 29-July 24, 2015, p. 14.

⁴⁰⁰ El Universal, [Abogado Crovato presenta un delicado estado de salud física y psicológica](#), December 20, 2014; [Crovato: preso en riesgo](#), December 28, 2014; 6to Poder, [Intenta suicidarse el abogado Marcelo Crovato, defensor de DD HH](#), December 20, 2014. See also: International Bar Association, International Association of Judges, and the International Commission of Jurists. Joint shadow report to the UN Human Rights Committee on Venezuela’s compliance with the International Covenant on Civil and Political Rights, 114th session of the Human Rights Committee, June 29-July 24, 2015, p. 14.

⁴⁰¹ El Estímulo, [Abogado cumple 9 meses preso en Yare III por defender a estudiantes](#), January 28, 2015.

⁴⁰² El Universal, [El abogado Marcelo Crovato inició huelga de hambre en Yare III](#), February 23.

⁴⁰³ El Nacional, [Amnistía Internacional pide libertad para Crovato](#), December 22, 2014; El Estímulo, [Abogado cumple 9 meses preso en Yare III por defender a estudiantes](#), January 28, 2015; Globovisión, [Diferida audiencia del abogado Marcelo Crovato](#), April 15, 2015; El Venezolano, [Difieren audiencias del abogado Marcelo Crovato y jóvenes detenidos por protestar](#), July 22, 2015.

Marcelo Crovato and LGBTI rights defender Rosmit Mantilla, arrested in May 2014, remain in pretrial detention.⁴⁰⁴

249. The Commission also notes that, on August 21, 2015, the President of the Republic reportedly made the following statement in a speech given through the national public media system:

Also, there are attacks here, look, the same script—a political organization financed by the government of the United States called PROVEA says the same thing, a right-wing Venezuelan political organization, led by a gentleman I know, Marino Alvarado, born in Colombia, who I met many years ago—he was a member of Red Falg (*Bandera Roja*)—it is funded by the United States government, we have proof that it is funded by the NED. The United States government funds PROVEA, it is a political organization that they set up as an NGO in order to finance them and have them speak all around the world and in Venezuela.⁴⁰⁵

250. The Commission notes the presumed robbery and assaults committed against human rights defender Marino Alvarado, the former Coordinator General of PROVEA, and his nine-year-old son on October 1, 2015. According to information received, three men entered their home, tied their hands, and robbed them. Mr. Alvarado had to be taken to a medical center to be treated for injuries from a blow to the head, which required stitches. It was also reported that the Deputy Director of the Criminal, Penal, and Scientific Investigation Bureau (CICPC) contacted PROVEA, informing them that a commission from the Scientific Police was handling the case.⁴⁰⁶ It was also reported that the Executive Secretary of the National Human Rights Council, Larry Devoe, contacted PROVEA on behalf of Vice President of the Republic Jorge Arreaza, and expressed the willingness of the Executive Branch to assist with the investigation of the events.⁴⁰⁷ The OVP complained that Marino Alvarado “has been subjected to a campaign of harassment and persecution by government officials,” because of his human rights defense work, and therefore, “even if the events were the alleged result of common crime,” it is incumbent upon the competent bodies to conduct an immediate, exhaustive, and impartial investigation⁴⁰⁸. In addition, it was reported that other members of Provea were also subjected to threats, harassment, and acts of violence due to their work as human rights defenders, specifically in response to the different reports published on the human rights situation in the country. On October 14, 2015, the IACHR asked that precautionary measures be adopted on behalf of Rafael Uzcátegui, Esperanza Hermida, Inti Rodríguez, and Marino Alvarado, members of PROVEA.⁴⁰⁹

251. In its observations on this chapter the State noted that from the entry into force of the Constitution to date “no human rights defenders have been detained, on occasion of exercising and promoting human rights, from the different non-governmental organizations that operate in the country.”⁴¹⁰ It further clarified:

⁴⁰⁴ AI. Report 2014/15: The State of the World's Human Rights, February 25, 2015. Venezuela: Sin Etiquetas. Venezuela: Defensor de la comunidad LGBTIQ cumple un año en prisión, May 4, 2015. See also: International Bar Association, International Association of Judges, and the International Commission of Jurists. Joint shadow report to the UN Human Rights Committee on Venezuela's compliance with the International Covenant on Civil and Political Rights, 114th session of the Human Rights Committee, June 29-July 24, 2015, p. 14.

⁴⁰⁵ See IPYS. El Observatorio Venezolano de Prisiones condena y rechazamos ataques del Presidente Nicolás Maduro contra PROVEA el defensor Marino Alvarado, August 24, 2015.

⁴⁰⁶ El Universal. Secuestran y roban al activista de derechos humanos Marino Alvarado, October 1, 2015.

⁴⁰⁷ PROVEA. Secuestran, roban y golpean a activista de DDHH Marino Alvarado e hijo en su vivienda, October 1, 2015.

⁴⁰⁸ OVP. EL OVP condena y rechaza el secuestro, robo y las agresiones sufridas por el defensor de derechos humanos Marino Alvarado, received by the IACHR on October 2, 2015.

⁴⁰⁹ IACHR, Precautionary measure No. 438/15 – Marino Alvarado, Venezuela, October 14, 2015.

⁴¹⁰ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the “2015 Report of the IACHR, Observations of the State on Chapter IV,” AGEV-000136, received December 14, 2015, p. 71.

Not every accusation made against a human rights activist entails harassment, for this requires a systematic, continuous, and directed attack aimed at getting those citizens to abandon the task of protecting human rights. In other words, harassment not only exposes the target to public ridicule, but such accusations also entail pressure to get one to abandon the area of safeguarding human rights. Nonetheless, the Venezuelan State continues to endeavor to keep such an important mission from being tarnished to the detriment of protection for human rights.⁴¹¹

252. As the Commission has stated before, acts of violence and other attacks on human rights defenders not only affect individual rights; they are also an attack on the fundamental role of rights defenders in society, and leave the people they work for unprotected. The Commission also recalls that the work of rights defenders is essential to the construction of a solid and lasting democratic society, and has a leading role in the process to achieve full respect for the rule of law and the strengthening of democracy.

2. On the Draft of the International Cooperation Bill

253. The IACHR learned that the National Assembly activated the process or approval of the International Cooperation Bill that was approved in first discussion in June 2006 and was allegedly presented for second discussion in November 2015. In this regard, the Commission maintains its concerns already stated since 2006.⁴¹² Among the principal concerns The Commission highlighted the vagueness of the language of some of its provisions and the broad discretion granted to the authorities in charge of regulating the law, which creates the risk that this law could be interpreted in a restrictive manner to limit, among other things, the exercise of the rights of association, freedom of expression, political participation, and equality, and could seriously affect the functioning of nongovernmental organizations.⁴¹³

254. The IACHR further stated that the mandatory registration of nongovernmental organizations in the "Integrated Registration System" as an essential condition in order to be recognized by the Venezuelan State as entities capable of carrying out cooperation activities with their counterparts in other countries",⁴¹⁴ could be interpreted to mean that only organizations accepted as part of the Integrated Registration System can conduct their activities, thus limiting the activities and funding sources of nongovernmental organizations, whose independent role is essential for the strengthening of democracy in Venezuela⁴¹⁵. The Commission stressed also that those laws that give authorities discretionary power to authorize the establishment and operation of organizations through registration records contravene international standards.⁴¹⁶

255. The Commission further noted that the draft legislation also contains limits on the financing of nongovernmental organizations. In this regard it stressed that "human rights defenders have the right to seek and obtain economic resources to finance their work. The states must guarantee the exercise of this right in the broadest possible manner, and promote it, for example, through tax exemptions to organizations dedicated to protecting human rights."⁴¹⁷ In this regard, the IACHR considers that civil society organizations

⁴¹¹ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 72.

⁴¹² Since 2006 in its Press Release No. 26/06, in Chapter IV of its Annual Report of 2006, in the letter sent to the State in 2009, under the faculties provided for in art. 41 of the American Convention, in its reports about the situation of human rights defenders in the Americas, in its *Democracy and Human Rights in Venezuela* Report of 2009, also in Chapter IV of later Annual Reports.

⁴¹³ IACHR. *Report on the Situation of Human Rights Defenders in the Americas* (2006), Cf. IACHR *Second Report on the Situation of Human Rights Defenders in the Americas* (2011) para. 165; IACHR. recommendation 17, *Democracy and Human Rights in Venezuela*, December 30, 2009, paras. 577 and 580.

⁴¹⁴ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 579.

⁴¹⁵ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 578.

⁴¹⁶ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 579.

⁴¹⁷ IACHR. Report on the Situation of Human Rights Defenders in the Americas. March 7, 2006, para. 40. IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 584.

may legitimately receive funds from foreign or international NGOs, or from foreign governments, to promote human rights. The State is obligated to guarantee their establishment and operation without imposing restrictions beyond those allowed under the right to freedom of association enshrined in Article 16 of the American Convention on Human Rights.⁴¹⁸

256. Finally, the IACHR maintains its preoccupation about Article 10 of the mentioned bill regarding the creation, by the President of the Republic, of a body of a special technical character for international cooperation, given that it could be understood to mean that nongovernmental organizations that receive international cooperation funds must subject themselves to the guidelines of this body⁴¹⁹. In light of the abovementioned concerns, the Commission requested information from the State under its faculties established in Article 18 of its Statute⁴²⁰. The Commission reiterates its concerns noted and hopes that they will be taken into account by the State so as not to curtail directly or indirectly the work of nongovernmental organizations.⁴²¹

V. GUARANTEES OF JUDICIAL INDEPENDENCE, DUE PROCESS OF LAW AND EFFECTIVE ACCESS TO JUSTICE

257. The Commission has been monitoring the situation of independence and impartiality of the Judicial Power in Venezuela. Thus, since its report *Democracy and Human Rights in Venezuela* of 2009 and its subsequent Annual Reports, the Commission has expressed concern about aspects that might affect such guarantees, particularly the high proportion of judges and prosecutors in provisional appointments and the alleged failures to implement some of the legal and constitutional procedures in the process for their appointment and dismissal.

258. In its previous reports on Venezuela, the Commission repeatedly observed how the lack of independence and autonomy of the judiciary from political power constitutes one of the weakest points in Venezuelan democracy. In the same line, it has noted that this lack of independence has allowed the State to use punitive power to criminalize human rights defenders, penalize peaceful protest, criminally prosecute political dissidents and impose administrative incapacities for political opponents to exercise of public office.

259. In its considerations on the situation of judicial independence in Venezuela, the IACHR has also borne in mind the concern noted in the United Nations system on this situation in recent years.⁴²² As the Commission has noted on other occasions, one of the recommendations made to the Venezuelan State in the context of the universal periodic review was that related to taking steps to ensure the independence of the Judicial Power, in particular as regards the establishment of clear and transparent procedures for the appointment of judges and prosecutors, and "bring[...] to an end the provisional nature of judicial appointments".⁴²³ However, the State of Venezuela rejected these recommendations.⁴²⁴ In its response to the draft of this chapter the State indicated:

⁴¹⁸ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 585.

⁴¹⁹ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 586.

⁴²⁰ Information request to the State, November 25, 2015.

⁴²¹ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 587.

⁴²² See, among others: UN. CAT. *Observaciones finales sobre el tercer y cuarto informes periódicos de la República Bolivariana de Venezuela*. Advanced unpublished version. November 2014, p. 7; and OHCHR, "Preocupante la situación de la justicia en Venezuela", *advierte experto de la ONU*, July 30, 2009. See also: IACHR, 2014 Annual Report. Chapter IV on Venezuela, para. 539.

⁴²³ Recommendations 96.14-96.20. *Report of the Working Group on the Universal Periodic Review, Venezuela (Bolivarian Republic of)*, December 7, 2011.

⁴²⁴ In this regard, the State indicated. "8. Non-acceptance of recommendations 96.13-96.14-96.15-96.16-96.17-96.18-96.19-96.20-96.21-96.22-96.24, is based on considerations on the interference that these recommendations make to our sovereignty, autonomy, independence and national self-determination, inalienable rights of the State of Venezuela, but also our Judicial Power acts in many important legal jurisdictional decisions aimed at implementing the "just right" in its remarkable and momentous development [...]". *Report of the Working Group on the Universal Periodic Review, Venezuela, (Bolivarian Republic of), Opinions on the conclusions and/or recommendations, voluntary agreements and replies responses presented by the State*, February 16, 2012.

we have witnessed since 2003 as allegations have been made on the matter not only for the Inter-American Commission on Human Rights, but also by the Human Rights Commission of the UN and various national and international NGO 's. This is a kind of orchestrated campaign [...]. This malicious matrix is based on three cornerstones: 1. The provisional nature of positions and lack of competitive hiring processes for entering the judicial career service [...] ; 2. The budget aspect [...] ; 3. The regime for the imposition of disciplinary sanctions at all levels⁴²⁵

260. In this context, the information received by the IACHR in 2015 reaffirms that the situation of judicial independence in Venezuela continues to be affected by factors such as the provisional status of a large number of judges and prosecutors of the Public Ministry, the designations made by the Judicial Commission of the Supreme Court, and the appointment of members of the Supreme Court, among other serious reports of purported meddling of the political authorities in the judicial branch. One of such cases, which the Commission has already referred to, is the criminal proceeding brought against Mr. Leopoldo López for the events of February 2014 in Venezuela. In that context and in the face of the considerations in this section on the provisional nature of a substantial part of the judges and prosecutors in Venezuela, the IACHR notes that there have also been serious allegations by one of the prosecutors who was assigned to work on the case internally and who, after the trial court's verdict against Mr. López, reportedly left the country and denounced that he was "pressured" to present the indictment in the case. According to the information available, the prosecutor – who was provisional – was removed from his position and the General Attorney of the Republic announced that an investigation has been initiated against him for abandonment of his position⁴²⁶.

261. In addition, civil society organizations have alleged before the Commission that there is a context of "profound de-institutionalization" in the country that widely affects the independence of the branches of government and that "control over State institutions is exercised mainly by the Executive Power, and the official ruling party".⁴²⁷ For the Commission is also worrisome the repercussions that this situation could have on the high rates of impunity that are registered in Venezuela in connection to human rights violations, not only in terms of the lack of an adequate response from the State to address the situation, but also that these circumstances aggravate the situation of impunity.⁴²⁸ As has been indicated in other sections, the inability of obtaining public and updated official figures is also an obstacle for this type of analysis.

262. Related to the foregoing, in July 2015, the CCPR released its concluding observations on the situation of human rights in Venezuela. The CCPR regretted not having received information about the percentage of prosecutors from the General Attorney's Office having titular tenure, and, in this regard, it is worried by reports that this number would be very low. The Committee also expressed concern at reports about the negative consequences that might follow for some judges, in the exercise of their functions, in adopting unfavorable decisions towards the Government, as happened in the case of Judge Afiuni. In particular, it recommended that the State take urgent steps to secure and protect the full autonomy,

⁴²⁵ Government of the Bolivarian Republic of Venezuela. Communication from the State on the draft of the "Report IACHR 2015 Observations of the State on Chapter IV". AGEV-000136, received December 14, 2015, p. 25. As regards the financial autonomy of the judicial branch, the State indicated: "In the 1996 and 1997 budgets the financial resources of the judiciary were at 0.8474% and 0.9056% of the national budget, respectively. In 1998 the budget of the judiciary was estimated at 1.2304% of the national budget. In the budget for next year corresponding to 2015 the budgetary allocation for the judiciary is approximately 3%; no doubt this is a considerable gain with respect to what existed in the past, thereby guaranteeing budgetary and financial autonomy. Page 34 of the communication of December 14, 2015.

⁴²⁶ Public Ministry, [Fiscal General: Franklin Nieves se dejó presionar por factores políticos nacionales y extranjeros](#), October 26, 2015; El Universal, [Ortega Díaz destituyó a Franklin Nieves por "violiar su juramento"](#), October 26, 2015; and Últimas Noticias. [FGR: Ministerio Público nunca presionó a fiscal nieves](#), October 26, 2015.

⁴²⁷ Information presented by civil society during the hearing on the [general situation of human rights in Venezuela](#), at the IACHR's 154th period of sessions, March 17, 2015.

⁴²⁸ Information presented by civil society during the hearing on the [general situation of human rights in Venezuela](#), at the IACHR's 154th period of sessions, March 17, 2015.

independence and impartiality of judges and prosecutors and ensure that the exercise of their duty is free from all pressures and interference. In particular, it indicated that the State should take urgent measures to correct the provisional status, which the majority of the judges and prosecutors had. It also noted that the State must ensure that the legal situation of Judge Afiuni is resolved as soon as possible in a fair, independent and impartial trial, and that there is a prompt, thorough, independent and impartial investigation into the allegations of mistreatment and sexual violence she suffered during her detention.⁴²⁹

263. In general, the CCPR noted that the lack of independence of the Judicial Power is one of its main concerns and indicated that only 34% of the judges are titular and the remainder have temporary tenure, implying a structural problem and a lack of autonomy, given that justice operators are subject to discretionary removal.⁴³⁰

264. In this regard, the IACHR recalls that the organs of the inter-American system have ruled in contentious cases on the repercussions generated by the lack of guarantees in the transition process of the Judicial Power, which began in Venezuela with the adoption of the 1999 Constitution.⁴³¹ Thus, the Court and the Commission have examined how the transition process resulted in a high proportion of judges in provisional positions, subject to procedures for removal from office that were incompatible with the American Convention.⁴³² In the *Case of Reverón Trujillo*, the I/A Court determined that provisional judges in Venezuela "[...] do not have stability in their position, they are appointed discretionally and may be removed without being subject to any previously established proceeding [...]"⁴³³ For its part, the Commission has held that in the said context of transition, the Judicial Commission of the Supreme Court⁴³⁴ has ordered the removal of hundreds of judges for more than a decade, a power that has been exercised discretionally and outside the minimum guarantees required by the Convention.⁴³⁵

265. During the hearing held in March 2015, on the general human rights situation, the civil society organizations complained that "almost 80% of judges in Venezuela are provisional, so that every year freely appointed judges continue to be appointed and removed without due process proceedings and without open public examination"⁴³⁶. They also indicated that these judges are removed by the Judicial

⁴²⁹ OHCHR. CCPR. Concluding Observations on the Fourth Periodic Report on the Bolivarian Republic of Venezuela, July 23, 2015.

⁴³⁰ U.N. News Center, UN highlights lack of independence in Judicial Power in Venezuela, July 23, 2015.

⁴³¹ In the process of constitutional transition that became the adoption of the 1999 Constitution, the National Constituent Assembly advanced a "restructuring of the Judicial Power", during which the "Decree Reorganizing all organs of Judicial Power" was enacted on August 12, 1999. The Constituent Assembly also declared the Judicial Power "to be in crisis and reorganization". The said Decree established that "all judicial positions should be filled through public competitions; removed the stability enshrined in law for all acting judges; and indicated that they could participate in competitions that are open to cover their positions [...]". See: IACHR's complaint before the I/A Court, *Case of Mercedes Chocrón Chocrón*, November 25, 2009 paras. 31-32.

⁴³² Specifically, the IACHR has brought the Venezuelan State before the I/A Court in three cases concerning the dismissal of judicial officials in a situation of provisionality and/or temporality. See: Application of the IACHR before the I/A Court, *Case of Ana María Ruggeri Cova, Perkins Rocha Contreras and Juan Carlos Apitz* ("First Court of Contentious Administrative Disputes"), November 29, 2006; IACHR application before the I/A Court, *Case of Maria Cristina Reverón Trujillo*, November 9, 2007; and Application of the IACHR before the I/A Court, *Case of Mercedes Chocrón Chocrón*, November 25, 2009.

⁴³³ I/A Court H.R., *Case of Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of June 30, 2009. Series C No. 197, at para.160.

⁴³⁴ The Plenary Chamber of the Supreme Court., in exercise of the powers conferred on it by Article 267 of the Venezuelan Constitution, issued the Regulations on the Management, Government and Judicial Administration of the Judicial Power (published in the Official Gazette of the Bolivarian Republic of Venezuela No. 37,014, of 15/08/2000), which created both the Executive Department of the Judiciary as a subsidiary body. The Judicial Commission of the Supreme Court is responsible for appointing judges on a provisional or interim basis - in order to fill vacancies that occur in the Judicial Power - and power to remove them, if no disciplinary issues arise, without any trial or due process.

⁴³⁵ IACHR's final written observations before the I/A Court in the *Case of Mercedes Chocrón Chocrón v. Venezuela*, March 24, 2011, para. 9.

⁴³⁶ Information presented at the hearing on the General Situation of Human Rights in Venezuela, held at the 154th period of sessions, March 17, 2015.

Commission on the basis of an argument stated in a single line: "their appointment has been annulled"⁴³⁷ Therefore, they consider that judges are subject to external pressures, in line with what the Inter-American Court has already decided⁴³⁸. The CAT made a similar pronouncement in its December 2014 report on Venezuela in which it indicated that it was deeply concerned about the lack of independence of the Judicial Power from the Executive Power.⁴³⁹

266. In that context, in its Annual Reports the Commission has also monitored information available on the number of judges and prosecutors whose appointments are provisional and the removals decided by the Judicial Commission of the Supreme Court.⁴⁴⁰ The official figures obtained by the Commission on this situation in Venezuela date from 2012, when the State reported that at that moment only 43% of Venezuelan judges were titular judges.⁴⁴¹ Since then, and specifically in its 2012, 2013, and 2014 Annual Reports, the Commission has analyzed the approximate number of courts that make up the Judicial Branch in Venezuela, and has found that most are made up of judges who are not titular judges. In addition, the IACHR has monitored the situation of appointments and removals without any prior disciplinary proceeding.⁴⁴² In this respect, the Commission takes into account the updated figures provided by the organizations participating in the hearing on "General Situation of Human Rights in Venezuela" held in March 2015, which indicated that in 2014, there were 94 judges appointed without security of tenure, including temporary, provisional, ad hoc or 'visiting' judges.⁴⁴³

267. The figures offered by the President of the Supreme Court at the beginning of the 2015 judicial year indicate that in 2014 the Judicial Commission appointed 1,547 judges of various statuses in 2014, namely: 135 provisional judges; 576 temporary judges; 304 ad hoc judges; and 219 'visiting' judges; and since 2007, not a single qualification examination has been held.⁴⁴⁴

268. Following the same methodology used in earlier years and according to the information available on the Supreme Court's Web site and periodicals published by the Executive Directorate of the Judiciary,⁴⁴⁵ the Commission notes that up until August 2015, the Judicial Commission of the Supreme Court has continued with the appointment and nomination of judges in the country's various courts, which consist almost entirely of provisional nature or which are designated as temporary, 'visiting' or ad hoc to decide on a specific case. In most, the designations continue to be based on relocations, replacement and/or the creation of new courts, or to cover substitutions of other judicial officials.

⁴³⁷ Information presented at the hearing on the *General Situation of Human Rights in Venezuela*, held at the 154th period of sessions, March 17, 2015.

⁴³⁸ Information presented at the hearing on the *General Situation of Human Rights in Venezuela*, held at the 154th period of sessions, March 17, 2015.

⁴³⁹ UN, CAT, *Concluding Observations on the Third and Fourth Periodical Reports Combined of the Bolivarian Republic of Venezuela*, CAT/C/VEN/CO/3-4, December 12, 2014, para. 16.

⁴⁴⁰ According to information provided by the State, as of 2012 43% of Venezuelan judges were titular judges. Observations by the Venezuelan State on the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to 2012 (AGEV/000039), February 22, 2013. IACHR, 2012 Annual Report. Chapter IV on Venezuela, para. 476.

⁴⁴¹ Observations of the Venezuelan State on the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to 2012 (AGEV/000039), February 22, 2013.

⁴⁴² IACHR, 2013 Annual Report, Chapter IV on Venezuela, para. 639.

⁴⁴³ Information received during the hearing on the *General Situation of Human Rights in Venezuela*, held at the 154th Period of Sessions, March 17, 2015.

⁴⁴⁴ Opening by Gladys Maria Gutierrez Alvarado, President of the Tribunal Supremo de Justicia, Opening of the Judicial Year, at <http://www.tsj.gov.ve/documents/10184/89293/Palabras+de+Apertura+del+A%C3%B1o+Judicial+2015.+Gladys+Mar%C3%ADa+Guti%C3%A9rrez+Alvarado+Presidenta+del+Tribunal+Supremo+de+Justicia>, and *El Universal*, *TSJ ratifica su potestad de remover jueces provisorios sin proceso previo*, August 12, 2015; *Infovzla*, *TSJ retains exclusive right to dismiss provisional judges without a prior hearing*, August 13, 2013.

⁴⁴⁵ Supreme Court, *Designaciones*.

269. Specifically, a perusal of the information available for the months of January to August 2015 shows that the Supreme Court has agreed to the appointment of about 90 judges across the country, of which only 6 are titular judges.⁴⁴⁶ Moreover, during the first 8 months of 2015, there were 53 resolutions recording the annulment of the appointment of judges in Venezuela.⁴⁴⁷ It is also obvious that the total number of appointments, 15 of which were for temporary judges, 30 were ad hoc appointments to deal with specific cases, 18 of which were provisional judges including appointments consistent with the creation of a court, the resignation of another judge and replacements; and finally, one appointment was of a ‘visiting’ judge.⁴⁴⁸ The State responded noting:

At present, the roster of trial court judges (*Jueces de Instancia*) for all jurisdictions, including the new ones such as violence against women and the Municipal Courts for Criminal Control consists of 2,231 judges, of whom 34% are titular, as the result of public competitions held in 2002, 2005, and 2006.” It also indicated that “the highest Court is waiting, to hold new public competitive processes, for the National Assembly to approve the draft Law on the Statute of the Judicial Function, which regulates entry by public competitive process and judicial promotion. It is part of the process of Judicial Restructuring that began with the Constituent Assembly in 1999 and that has continued to date with advances such as the creation of the Judicial Disciplinary Jurisdiction (*Jurisdicción Disciplinaria Judicial*) (2009) with appeal provided for two instances, which is a novelty on an international level, and which guarantees stability for judges.”⁴⁴⁹

The State also argued that “this is perhaps one of our greatest challenges: applying processes for selecting judicial officers through the respective competitive processes and enforcing a disciplinary regime that guarantees due process of law and the right to defense as provided for in Article 267 of the Constitution.”⁴⁵⁰

270. In other words, the situation found by the Commission in its previous Annual Reports continues and has not changed substantially in 2015. Moreover, the Commission takes into account that in August 2015 the Constitutional Chamber of the Supreme Court ruled on a nullity action filed in 2009 against the Code of Ethics. In its 2013 Annual Report, the IACHR stated its concern over the decision of May 7, 2013, by which the Constitutional Chamber declared the action admissible but also had decreed a series of precautionary measures, including the suspension of what was provided for in that Code on its application to temporary, occasion, accidental, and provisional judges.⁴⁵¹

271. This new decision of the Constitutional Chamber establishes that the judicial disciplinary jurisdiction has no power to prosecute provisional judges implicated in any irregularities; and reiterated that this power rests with itself, through the Judicial Commission, rejecting the arguments filed against the 2013 decision by the President of the Court and the Judicial Disciplinary Tribunal.⁴⁵² The foregoing translates into only a small number of the more than 2,000 judges in Venezuela who could be subject to a

⁴⁴⁶ Six titular judges comprising of one expressly appointed as titular and five appointed without specifying their status in the appointment resolution. The rest of the cases relate to the appointment of judges provisionally, ad hoc, or ‘visiting’ to rule on specific matters.

⁴⁴⁷ Supreme Court, *Designaciones*. Figures for January to August 2015, inclusive.

⁴⁴⁸ Supreme Court, *Designaciones*. Figures for January to August 2015, inclusive.

⁴⁴⁹ Government of the Bolivarian Republic of Venezuela. Communication from the State on the draft of the “Report IACHR 2015 Observations of the State on Chapter IV”. AGEV-000136, received December 14, 2015, p. 32.

⁴⁵⁰ Government of the Bolivarian Republic of Venezuela. Communication from the State on the draft of the “Report IACHR 2015 Observations of the State on Chapter IV”. AGEV-000136, received December 14, 2015, p. 36.

⁴⁵¹ IACHR, 2013 Annual Report. Chapter IV on Venezuela, paras. 652-656.

⁴⁵² Supreme Court. Judgment 1028 of August 11, 2015, Case file No. 09-1038. See also. *El Universal*. [TSJ affirms its power to remove provisional judges without prior hearings, of August 12, 2015](#), August 12, 2015; *Infovzla*, [TSJ retains exclusive right to dismiss provisional judges without a prior hearing](#), August 13, 2015.

disciplinary proceeding, having a titular position, and the rest would continue being removed by the Judicial Commission, that is, without complying with minimal due process guarantees.⁴⁵³

272. In this respect, it should be recalled that the Inter-American Court, ruling in contentious cases on Venezuela, has established that

provisional judges in Venezuela exercise exactly the same duties as titular judges, that is, to administer justice.. Thus, the parties have the right, derived from the Venezuelan Constitution itself and the American Convention, to have judges who upon solving their controversies are and appear to be independent. For this, the State shall offer the guarantees that derive from the principle of judicial independence, of both titular and provisional judges..⁴⁵⁴

273. In that judgment, the Court ordered that the Supreme Court and other state bodies within a reasonable time bring into line the rules and practices of the free removal of non-titular judges.⁴⁵⁵ In view of this, the IACHR states its profound concern over this decision, which is at odds with the recommendations that have consistently been made to the Venezuelan State both to overcome the situation of provisional judges in the Judiciary and to have a judicial disciplinary system that guarantees due process in the removal of judges and prosecutors.

274. The Commission has also been monitoring the situation of provisionality found in a high number of cases with prosecutors employed by the General Attorney's Office with National, State and Municipal competence, the prosecutors before the Plenary Chamber and the Cassation (*Sala de Casación*), Constitutional and Political Administrative and Electoral Chambers of the Supreme Court, and before the Contentious Administrative Courts.⁴⁵⁶ According to information available on the official website of the Public Ministry, in 2015, none of the prosecutors with national jurisdiction have at least one titular prosecutor, but at least one is provisional; and one or more prosecutors are auxiliary.⁴⁵⁷ According to available information, and to the announcement published in the Office Gazette No.40.410 of May 13, 2014,⁴⁵⁸ the Public Ministry issued an application for "IV Public Contest credentials and examination for entry as career prosecutor for the posts of fifteen prosecutors of the Caracas Metropolitan Area, in charge of the National School of Prosecutors.⁴⁵⁹ In the process, only one person qualified in the written test⁴⁶⁰ and the oral examination was set in July this year.⁴⁶¹ As of the drafting of this report no information was available on the results of this process.

⁴⁵³ El Universal. TSI ratifica su potestad de remover jueces provisorios sin proceso previo, 12 de agosto de 2015; Infovzla, TSI se reserva exclusividad de destituir jueces provisorios sin juicio previo, August 13, 2015.

⁴⁵⁴ I/A Court, *Case of Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of June 30, 2009. Series C No. 197, para. 114.

⁴⁵⁵ I/A Court, *Case of Reverón Trujillo v. Venezuela*. Preliminary Objection, Merits, Reparations, and Costs. Judgment of June 30, 2009. Series C No. 197, para. 193.

⁴⁵⁶ IACHR, 2013 Annual Report, Chapter IV on Venezuela, para. 647.

⁴⁵⁷ Available at: <http://act2.mp.gob.ve/>

⁴⁵⁸ Available at: http://escueladefiscales.mp.gob.ve/userfiles/file/III_CONCURSO/GACETA.pdf

⁴⁵⁹ Call available at: <http://escueladefiscales.mp.gob.ve/site/?m=CBOTGQoTGRjUCQoZBhERCg==&CW=1tg=>. See: International Commission of Jurists, Strengthening the Rule of Law in Venezuela, May 2014, p. 4. The Commission pointed out that "[...] the Rules for Evaluations and Public Competitions for Entry into and Promotion within the Judicial Career have fallen into disuse, since no competitions have been organized and all appointments since 2002 have been made without any sort of oversight or procedure". IACHR. *Report on Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter III, para. 204.

⁴⁶⁰ Public Ministry. Public School of Prosecutors. Resultados de la evaluación de cocimientos correspondiente a la prueba escrita del IV concurso público de credenciales and de oposición para el ingreso a la carrera fiscal para la provisión de cargos fiscales del Área Metropolitana de Caracas. Last visited on September 17, 2014.

⁴⁶¹ Noticias24. MP aplicó la prueba oral del IV Concurso Público de Credenciales and Oposición de la Carrera Fiscal, July 30, 2015.

275. Among other situations involving serious allegations of lack of independence of the Judiciary, and in the context of provisional judges and prosecutors, the IACHR has also monitored the situation of the 31st Judge of Control of the Metropolitan Area of Caracas, María Lourdes Afiuni.⁴⁶² For the Commission the alleged removal and persecution of judicial officers as retaliation for their judicial decisions for allegedly having acted against the interests of the Government. In the United Nations, organs such as the CAT have also considered it troubling that the prosecution of Judge Maria Lourdes Afiuni, like the dismissal of provisional judges, allegedly for taking decisions unfavorable to the Government, have negatively impacted the independence of other judges.⁴⁶³

276. On June 29, 2015, in the evaluation session on Venezuela before the Human Rights Committee of the UN, when questioned by one of the members as to why a judge is 'judged' for taking a decision, the National Attorney General, Luisa Ortega Diaz said that "so the lawyer Yadh Ben Achour, representative of Tunisia, shuts his mouth, it is not true that Judge Afiuni has been raped or tortured. He is just speculating".⁴⁶⁴ The prosecutor also argued that the judge "was never taken to military hospital grounds. She was always treated by doctors she trusted".⁴⁶⁵

277. The defense of Judge Afiuni reported that the next day, during the hearing of the trial against the judge in Venezuela, Afiuni told the judge about the torture, abuse and rape she allegedly suffered during her detention at the National Institute of Feminine Orientation (*Instituto Nacional de Orientación Femenina* NIFO); and she explained to the court "how they destroyed her vagina, anus and bladder when NIFO wardens and Ministry of Justice officials raped her,"⁴⁶⁶ among other serious violations of her human rights. The defense of Judge Afiuni also recalled that on several occasions, Afiuni was transferred to the Dr. Carlos Arvelo Military Hospital to undergo medical examinations and that on one occasion, "to perform a gynecological examination on her, she was made to undress in the presence of more than 20 GNB officials".⁴⁶⁷ Also during the hearing, Judge Afiuni requested permission to travel to Geneva to lodge a complaint against the General Prosecutor's Office, which was denied.⁴⁶⁸ In addition, since December 2009, Judge Afiuni has been suspended from her post as titular judge without pay, and disciplinary proceedings before the Judicial Disciplinary Tribunal have been paralyzed.⁴⁶⁹

278. On the other hand, the Commission also continued to monitor the appointment of justices of the Supreme Court. During the hearing held in March 2015, civil society organizations complained that the appointment of justices of the Supreme Court held in December 2014 was done in breach of the applicable constitutional parameters.⁴⁷⁰ They indicated that the Constitution provides that the appointment of senior

⁴⁶² Judge Afiuni was arrested December 10, 2009, after handing down a decision to replace the measure depriving citizen Eligio Cedeño of liberty, replacing it by a less onerous precautionary measure. The decision was based on the provisions of the Organic Code of Criminal Procedure, which establishes a maximum period of two years for pre-trial detention; and Opinion No. 10/2009 (Venezuela) handed down by the Working Group on Arbitrary Detention of the Human Rights Council on September 1, 2009, which found that Cedeño's detention was arbitrary, based on its prolonged duration. The next day, on a national radio and television broadcast, then-President of the Republic Hugo Chávez called Judge Afiuni a "bandit" ("*bandida*"), demanded "harsh measures" ("*dureza*") against her, and asked that she be given the maximum prison sentence of 30 years. IACHR, 2012 Annual Report, Chapter IV on Venezuela, paras. 485- 486.

⁴⁶³ U.N. CAT, *Concluding Observations on the Third and Fourth Periodical Reports Combined of the Bolivarian Republic of Venezuela*, CAT/C/VEN/CO/3-4, December 12, 2014, para. 16.

⁴⁶⁴ *El Universal*. [Afiuni rompió el silencio and habló en el juicio](#), June 30, 2015.

⁴⁶⁵ *El Universal*. [Afiuni rompió el silencio and habló en el juicio](#), June 30, 2015.

⁴⁶⁶ *El Universal*. [Afiuni rompió el silencio and habló en el juicio](#), June 30, 2015; [ABC.es](#) and La Patilla. [¿Qué fue de la juez Afiuni?](#), June 24 and 25, 2015.

⁴⁶⁷ *El Universal*. [Afiuni rompió el silencio and habló en el juicio](#), June 30, 2015.

⁴⁶⁸ *El Universal*. [Afiuni rompió el silencio and habló en el juicio](#), June 30, 2015.

⁴⁶⁹ International Commission of Jurists, [Strengthening the Rule of Law in Venezuela](#), May 2014; *El Universal*, [Defensa asegura que la juez Afiuni está anulada profesionalmente](#), December 10, 2014; *El Universal*, [Tribunal Disciplinario no realizó juicio administrativo contra Afiuni](#), January 22, 2015; and *El Universal*, [Suspenden juicio disciplinario contra la jueza Afiuni](#), April 12, 2015.

⁴⁷⁰ Information presented at the hearing on the [General Situation of Human Rights in Venezuela](#), held at the 154th Period of Sessions, March 17, 2015.

officials should be ratified by two thirds of the National Assembly and that a qualified majority qualified was not reached for lack of consensus.⁴⁷¹ In this regard, the Commission reported in its 2014 Annual Report that the election was undertaken with a simple majority vote in the National Assembly, involving the support of the PSUV,⁴⁷² so that the opposition National Assembly members "saved their vote".⁴⁷³

279. According to the procedure and provisions of the Organic Law of the Supreme Court, the election was carried out in this way as allowed by this legislation after four plenary sessions convened by the National Assembly for that purpose, without a two third majority of votes in favor having been reached.⁴⁷⁴ In this regard, in its country report on Venezuela in 2009, the Commission took account of this eventuality being included in the aforementioned Organic Law enacted in 2004 by the National Assembly, also with the approval of a simple majority of pro-Government deputies. The Commission thus noted that this possibility "eliminated the requirement for broad political consensus in the election of judges,"⁴⁷⁵ and that in general, the rules established in the Organic Law of the Supreme Court regarding these appointment procedures lacked "adequate provisions to prevent other branches of the State from influencing the independence of the court, or that temporary slim majorities can decide the composition without prior consultation with society through a broad and transparent debate".⁴⁷⁶ For their part, civil society organizations indicated at the hearing that this type of election is understood as "a disincentive to seek consensus".⁴⁷⁷

280. Likewise, the Commission has also monitored the renovatio of several positions in the Electoral and Judicial Power in 2014, through expedited selection processes without sufficient guarantees to ensure the values of pluralism and diversity, inherent to democratic models; as well as the principles of equality and non-discrimination, which continues affect the parameters of a real and participatory democracy in Venezuela. Regarding the appointment in December 2014 of the posts to the (Judicial) Power, the Constitutional Chamber of the Supreme Court ruled on a request filed by the President of the National Assembly to declare the "omission" of the legislature, since there was a failure to reach the constitutionally mandated majority (two thirds). The Chamber proceeded with the appointment of three main rectors (including 2 who were re-elected to office), and 6 substitutes.⁴⁷⁸ In this regard, civil society organizations rejected such designations due to the alleged lack of independence of the justices and the Supreme Court justices, and given that two rectors were re-elected who participated in previous elections denounced due to the existence of "electoral opportunism" in favor of the ruling party.⁴⁷⁹ At the hearing held in March they also indicated that the Court had made these appointments "without the authority to do so".⁴⁸⁰

281. In light of the above, the Commission reiterates its comments made since 2009 to the Venezuelan State, such that the consolidation of democracy requires the effective participation of all sectors of society in the political, social, economic and cultural life of the nation.⁴⁸¹ The Commission recalls the need

⁴⁷¹ Information presented at the hearing on the General Situation of Human Rights in Venezuela, held at the 154th Period of Sessions, March 17, 2015.

⁴⁷² AN, AN designó nuevos magistrados al TSJ, December 28, 2014; *El Universal*, Mayoría del PSUV designó a 16 magistrados del TSJ, December 29, 2014.

⁴⁷³ *El Universal*, Chavistas designaron a los nuevos magistrados del TSJ, December 28, 2014.

⁴⁷⁴ IACHR, Democracy and Human Rights in Venezuela, December 30, 2009, para. 195.

⁴⁷⁵ IACHR, Democracy and Human Rights in Venezuela, December 30, 2009, para. 198.

⁴⁷⁶ IACHR, Democracy and Human Rights in Venezuela, December 30, 2009, para. 198.

⁴⁷⁷ Information presented at the hearing of the General Situation of Human Rights in Venezuela, held at the 154th Period of Sessions, March 17, 2015.

⁴⁷⁸ Supreme Court, Constitutional Chamber. Judgment No. 18629. Case File No. 14-1343, of December 26, 2014.

⁴⁷⁹ Statements of the *Ciudadanía Activa*, *Compromiso Ciudadano*, *Grupo La Colina* and *Súmate* Organizations. See: *El Nacional*, ONG rechazan designación de Lucenas and de Oblitas, December 29, 2014.

⁴⁸⁰ Information presented at the hearing of the General Situation of Human Rights in Venezuela, held at the 154th Period of Sessions, March 17, 2015.

⁴⁸¹ Cf. IACHR, Democracy and Human Rights in Venezuela, December 30, 2009, para. 1.158.

for the renewal process of the public authorities in Venezuela to be advanced according to these values of pluralism and participation. This has been put forward as an essential point to overcome the climate of political polarization in the country. This was similarly raised during the dialogue process undertaken in early 2014, with the intervention of the UNASUR (Union of Southamerican Nations - *Unión de Naciones Suramericanas*.)⁴⁸²

VI. HUMAN RIGHTS SITUATIONS RELATED TO OTHER SPECIFIC GROUPS AND ISSUES

A. Persons in the context of human mobility

282. The Commission has monitored the human rights situation of Colombian migrants, refugees, and asylum seekers who have been deported or have returned to Colombia following the closure of the main border crossing point between San Antonio in Táchira State, Venezuela, and Cúcuta, Norte de Santander Department, Colombia, on August 19, 2015 and the declaration of a state of emergency by the President of Venezuela, Nicolás Maduro,⁴⁸³ on August 21, 2015.⁴⁸⁴

283. For this purpose, the IACHR visited the border between Colombia and Venezuela from September 10-12, 2015. In accordance with the rules that govern its mandate, the IACHR sought the necessary consent from the States of Colombia and Venezuela, and received an affirmative reply from Colombia, so the visit could only include that country. The IACHR deeply regrets the lack of a response by the Government of the Bolivarian Republic of Venezuela to the request to visit that country and monitor *in situ* the human rights situation that prompted the visit.⁴⁸⁵

284. Based on its visit, the Commission issued its Preliminary Observations on that visit and reiterates them in this section. During the visit the IACHR could see the serious humanitarian crisis of the deportees and people who returned out of fear, and because of the grave situation they were experiencing in Venezuela. The Commission received troubling reports about the way in which the deportations from Venezuela were carried out, suggesting that these individuals suffered multiple human rights violations and were subjected to collective expulsion. In this context, the IACHR received serious complaints about violations of the rights to liberty and to personal security and integrity; to equal protection; to the right to privacy; to protection for mothers; to protection for children; to freedom of movement and residence; to the preservation of health and well-being; to education; to work; protection from searches and seizures; to property; to protection from arbitrary arrest; to judicial protection and due process of law; the prohibition against collective expulsion; to request and receive asylum; and of the principle of no forced return (*non-refoulement*).

285. The Commission received testimony and information indicating that starting on August 21, 2015, the migration point between Villa del Rosario, Colombia, and San Antonio del Táchira, Venezuela, experienced a crisis because of the arrival *en masse* of deportees from Venezuela or persons who had decided to return to Colombia for fear of deportation. OCHA reported that between August 21 and September 9, 1,482 Colombians were deported from Venezuela through the departments of Norte de

⁴⁸² *El Nacional*, *Unasur se moviliza para levantar el diálogo en Venezuela*, May 18, 2014.

⁴⁸³ TelesurTV, *Presidente Maduro decreta Estado de Excepción en cinco municipios de Táchira*, August 21, 2015.

⁴⁸⁴ Venezuela, *Official Gazette No. 6,194*, containing Decree 1,950, which declares the State of Emergency in six municipalities of the state of Táchira. August 21, 2015. Since closing the border with Colombia, President Maduro progressively extended the state of emergency decree to the point of reaching a total of 23 municipalities in the states of Táchira, Zulia, Apure, and Amazonas. *Táchira*: Bolívar, Pedro María Ureña, Junín, Capacho Nuevo, Capacho Viejo, Rafael Urdaneta, Lobatera, Ayacucho, García de Hevia, and Panamericano. *Zulia*: Mara, Guajira, Almirante Padilla, Jesús Enrique Lossada, La Cañada de Urdaneta, Machiques, Rosario de Perijá, Jesús María Semprún, Catatumbo, and Colón. *Apure*: Páez, Rómulo Gallegos, and Pedro Camejo. *Amazonas*: Ature. This geographic space covers the entire land border of Venezuela with Colombia. In addition, on November 13, 2015, the Venezuelan executive declared a 60-day extension to the state of emergency in the border municipalities of the states of Zulia and Apure, through *Official Gazette No. 40,788*.

⁴⁸⁵ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

Santander, La Guajira, Arauca, and Vichada. According to the OCHA, another 19,952 Colombians had returned to Colombia as a result of the situation they faced in Venezuela. Many of these persons had to return for the difficulty they were experiencing in getting food and health services, and acts of discrimination and persecution by authorities, principally the GNB, but also in some cases by private parties. The total number of deportees and returnees came to 21,434.⁴⁸⁶

286. Based on the information gathered and the international obligations regarding human rights, the IACHR again urges the Venezuelan State to establish mechanisms with the Colombian State that will permit reunification of all families that were separated in this context, and the restoration of assets and household goods of the affected persons, or failing that, compensation for them.⁴⁸⁷

287. The Commission reiterates that it urges the Venezuelan State to put an immediate stop to any collective, arbitrary, and/or summary expulsion and to urgently adopt all necessary measures to guarantee that any undocumented migrant has access to immigration proceedings that provide guarantees of due process prior to deportation and that the principle of family unity is protected. The Commission considers that Venezuela must guarantee the application of international standards on the use of force in immigration control operations, using detention of migrants as an exceptional measure, prohibiting the detention of migrant children and adolescents, detention in conditions of humane treatment, and the prohibition of mass expulsions. The Commission again urges Venezuela to guarantee that Colombian refugees and asylum seekers are not deported or returned to Colombia.

288. The Commission notes that after its visit, President Nicolás Maduro and President Juan Manuel Santos had a meeting in Quito, Ecuador, in which they reached seven agreements tending to the gradual normalization of the border between Venezuela and Colombia.⁴⁸⁸

289. As it said in its press release, the Commission remains ready to cooperate with the States of Venezuela and Colombia to search for lasting, comprehensive solutions that will protect human rights and comply with international standards on the subject.

290. The Commission notes that there has been a history of immigration between Colombia and Venezuela. According to the United Nations Population Division, 820,000 Colombians were living in Venezuela in 2013.⁴⁸⁹ In its response to the draft of this chapter, the State indicated that 5,600,000 Colombians live in Venezuela [...and...] thanks to the inclusive policies implemented by President Chavez, today over 2,000.00 Colombian living in the country have identification documents and were nationalized, actively participate in the political, social, economic and cultural life of the country."⁴⁹⁰ The impact of Colombia's internal armed conflict, and other forms of violence and the search for opportunities for better employment and a better life have acted as expulsion and attraction factors that during recent decades have led a significant number of Colombians to migrate to Venezuela. In its response to the draft of this chapter the Venezuelan State indicated: "domestic policies and realities that have to do with the conflict, which dates back over 60 years in the sister country, have spilled over the borders and permeated our social, economic, and cultural reality. Phenomena such as kidnapping, mounting crime, violence, paramilitary and terrorist

⁴⁸⁶ OCHA. Colombia: Situación humanitaria en frontera colombo-venezolana. Informe de situación No. 5. September 10, 2015. In its latest Informe de Situación No. 10, of October 1, 2015, OCHA reported that as of that date the figure of Colombians deported from Venezuela through Norte de Santander, La Guajira, and Arauca, was 1,768; and a total of 22,194 persons returned through the departments of Norte de Santander, La Guajira, Arauca, and Vichada since Venezuela began to close the border.

⁴⁸⁷ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See Annex-Preliminary Observations.

⁴⁸⁸ TeleSur. Reunión entre Maduro y Santos se dio en "excelente ambiente." September 23, 2015.

⁴⁸⁹ Colombia, Informe Defensoría del Pueblo de Análisis de Peticiones Recepcionadas por la Defensoría del Pueblo con Ocasión al Estado de Excepción Decretado por el Gobierno Venezolano en los Municipios del Estado de Táchira con Frontera Colombiana. September 10, 2015 [Document in Archive of the IACHR].

⁴⁹⁰ Government of the Bolivarian Republic of Venezuela. Communication from the State on the draft of the "Report IACHR 2015 Observations of the State on Chapter IV". AGEV-000136, received December 14, 2015, p. 67-68.

practices have all become dangerously established in our society and the Venezuelan State is under moral and legal obligations to fight, repel, and punish them.”⁴⁹¹

291. The Commission has repeatedly received testimony and information that since August 21, 2015, the situation at the migration point between Villa del Rosario, Colombia, and San Antonio del Táchira, Venezuela, became critical due to the arrival *en masse* of deportees from Venezuela or individuals who had decided to return to Colombia for fear of deportation. The closure of the frontier would also appear to have severely impaired the social dynamics of that border area—where historically people living on both sides of the frontier had typically moved freely—causing serious harm in terms of access to health services, education, work, and goods and services. As a result of these circumstances, this zone is in the grip of a humanitarian crisis.⁴⁹²

292. During its visit, the IACHR received a report from the Colombian Ombudsman, Jorge Armando Otálora Gómez, which stated that between August 22 and September 7, 1,654 complaints had been registered corresponding to 345 deportees and 1254 returnees. The report indicated that 73 percent of those who filed complaints had been in an irregular immigration status in Venezuela. Of the complaints received, 931 were lodged by women and 723 by men. Furthermore, the complaints filed registered a total of 2,027 children, 439 adolescents, and 195 older persons adversely affected by the grave humanitarian situation. The report also indicated that 60 percent claimed to live in conditions of extreme poverty, which had been made worse by the loss of their homes, property, goods and chattels, and jobs upon their departure from Venezuela. The Ombudsman's Office also reported that 26 percent of this group said that they had been victims of the armed conflict in Colombia.⁴⁹³

293. The Ombudsman's report also recorded that a further 94 complaints were received between September 8 and 10, bringing the total number of complaints received to 1,748. The report also registered 623 complaints of physical and verbal abuse, 554 instances of family separation, 302 acts of theft or dispossession of property, 203 home demolitions, 187 instances of withholding and/or destruction of identity documents, 106 deprivations of liberty, and 6 cases of sexual violence. Also registered were 2 cases of deportation of refugees, 2 cases of deportation of asylum seekers, and 2 cases of forced returnees.⁴⁹⁴

294. Upon visiting the shelters and hotels, the IACHR noted that many of the deportees and people who had returned on their own initiative were families with young children, some of whom were only days old, and even cases of children who had been born in the shelters a few days earlier. The IACHR also observed pregnant women, chronically ill people, and older persons. Some of these individuals, particularly the children, were Venezuelan nationals; others were Colombian naturalized Venezuelan nationals. People to whom the IACHR delegation spoke said that they had lived in Venezuela for several years, including periods that ranged from a year and a half to more than 40 years.⁴⁹⁵

295. A substantial proportion of those interviewed by the IACHR said that they had been deported *en masse* and that those procedures did not offer due process guarantees. As regards the different ways in which the deportations or returns of Colombians had occurred since these events began, many told the IACHR that on August 21, agents of the GNB had knocked on their doors or demolished their homes.

⁴⁹¹ Government of the Bolivarian Republic of Venezuela. Communication from the State on the draft of the “Report IACHR 2015 Observations of the State on Chapter IV”. AGEV-000136, received December 14, 2015, p. 68.

⁴⁹² IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁴⁹³ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁴⁹⁴ Colombia, *Informe Defensoría del Pueblo de Análisis de Peticiones Recepcionadas por la Defensoría del Pueblo con Ocasión al Estado de Excepción Decretado por el Gobierno Venezolano en los Municipios del Estado de Táchira con Frontera Colombiana*, September 10, 2015 [Document in Archive of the IACHR].

⁴⁹⁵ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

They then demanded to see their identity documents and, upon identifying them as Colombian nationals, requisitioned their homes, evicted them, and took them to a field where they were made to stand in the sun without water, food, or toilet facilities for several hours—as many as 12 hours in some cases. They said that the agents told them that they were to undergo a census or “legalization.” They were then driven in groups aboard military convoys to Simón Bolívar International Bridge. Some said that, once there, they had a complete set of fingerprints taken, were photographed, and then deported. Others said that the agents gave them 24 hours to leave the country.⁴⁹⁶

296. The persons interviewed consistently said that during these operations they were victims of theft of their household effects and money by agents of the GNB, and that their homes were demolished together with their goods and chattels. Some claimed to have been shoved and beaten by the agents, while others said that the children were mistreated and scolded. However, some deportees said that they had not suffered mistreatment.⁴⁹⁷

297. Of the persons interviewed by the IACHR, almost half said that they had decided to return on their own initiative because of fear of harassment of Colombians in Venezuela, as well as the impossibility of buying food or obtaining other services because, as Colombians, they were refused sale or access. They said that for some months they had not been allowed to buy food in the markets, where people had also been detained by the GNB. Among the acts of harassment, some people interviewed described being insulted for being Colombian by agents of the GNB, who repeatedly referred to them as “paramilitaries” or “*paracos*” (Tr: slang for paramilitary) if they were men, and “whores” in the case of women. They also said that for some time various Venezuelan officials had been issuing public statements, blaming Colombians for crime and the lack of certain products in Venezuela, which had fomented discrimination against Colombians.⁴⁹⁸

298. As regards people who returned to Colombia of their own accord, the information supplied by them consistently indicated that they had decided to return upon seeing how the authorities were carrying out the deportations and that they had reached Colombia by crossing the Táchira River along trails on the border in the Department of Norte de Santander. Some said that they had paid money to GNB agents to enable them to cross the frontier.⁴⁹⁹

1. Equality and non-discrimination: Immigration operations targeting Colombians

299. The Commission notes that when the state of emergency was declared and the border closed, there was a military buildup in the frontier region involving the deployment of an additional 1,500 troops to Táchira. The IACHR received information that Venezuelan officials had raided and destroyed homes located along the bank of the Táchira River, where settlements mainly inhabited by Colombians had sprung up.⁵⁰⁰

300. The Commission has rejected identity control operations or immigration or police raids based on the national origin of a particular group of people, carried out in public places and neighborhoods with a high concentration of migrants in order to detain those with irregular status. The IACHR considers that the immigration raids and operations in neighborhoods and areas predominantly inhabited by

⁴⁹⁶ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁴⁹⁷ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁴⁹⁸ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁴⁹⁹ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁴⁹⁹ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁵⁰⁰ El Mundo. [El ejército venezolano revisa 'casa por casa' una parte de la frontera con Colombia](#). August 28, 2015.

Colombians amounted to a practice that violated the principle of equality before the law enshrined in Article II of the American Declaration.⁵⁰¹

301. The State, in its response to the draft of this chapter, indicated:

The operations have been carried out with absolute respect for human rights and today we can say that after the implementation of those measures more than 2,000 of the Colombians who decided to cross the border have returned to the country and have applied for regular status.⁵⁰²

2. Integrity and inviolability of the home and property: Excessive use of force in evictions

302. The IACHR delegation received testimonies from Colombians deported from Venezuela stating that Venezuelan officials had removed them from their homes either forcibly or by means of deception and that the officials committed abuses and used excessive force before proceeding arbitrarily and collectively to deport them. The Commission received copious reports that Venezuelan officials marked homes "R" (for *revisada* or "checked") and painted the letter "D" (for demolish) on the homes of Colombian nationals, before proceeding to demolish those homes, after evicting and arbitrarily deporting the people who had lived there. The way in which the operations were carried out (by violently bursting into homes or using deception) meant that these people were prevented from taking their documents and goods and household effects with them.⁵⁰³ The Commission notes that this information is consistent with the information compiled by the Ombudsman's Office in its report.⁵⁰⁴

303. The Commission believes it necessary to emphasize that within any immigration control procedure, States are obliged to guarantee that their authorities respect the rights to life and physical and psychological integrity of all persons, regardless of their immigration status.⁵⁰⁵ Likewise, the IACHR recalls that rape and other forms of sexual violence against a detainee by an official of the State must be regarded as an especially grave and abhorrent form of torture, given the ease with which the offender can exploit the vulnerability and weakened resistance of his victim. In particular, sexual violence against women is a gross violation of human rights.

304. The Commission also notes that at the time of their detention and subsequent expulsion, the deportees had no opportunity to gather their goods and chattels, personal effects, and cash that they had in their homes. In such circumstances, the Commission considers that the expulsion of the victims implied the de facto loss of all those items that remained in Venezuelan territory, which constitutes an unlawful and arbitrary deprivation of their property. Furthermore, in many cases, property was destroyed with the violent entry to, and demolition of, their homes by the Venezuelan authorities, in violation of the rights to property and inviolability of the home.⁵⁰⁶

⁵⁰¹ Cf. IACHR, Report on the Merits No. 64/12, Case 12,271, Benito Tide Méndez et al. (Dominican Republic), March 29, 2012, paras. 261-274.

⁵⁰² Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 68.

⁵⁰³ BBC Mundo. "D", la marca que condena al derrumbe las casas de los colombianos deportados de Venezuela. August 26, 2015.

⁵⁰⁴ Colombia, *Informe Defensoría del Pueblo de Análisis de Peticiones Recepcionadas por la Defensoría del Pueblo con Ocasión al Estado de Excepción Decretado por el Gobierno Venezolano en los Municipios del Estado de Táchira con Frontera Colombiana*, September 10, 2015 [Document in the Archive of the IACHR].

⁵⁰⁵ Cf. IACHR, Report on the Merits No. 64/12, Case 12,271, Benito Tide Méndez et al. (Dominican Republic), March 29, 2012, paras. 165 and 182.

⁵⁰⁶ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

3. Immigration detention

305. According to the information supplied by persons interviewed and civil society organizations, the Venezuelan authorities detained Colombian nationals for periods of 12 to 14 hours (in some cases for days, reportedly), including children, persons with disabilities, people with chronic illnesses, and older persons, in places without the most basic sanitary facilities (without access to drinking water or food), without a court order, and without the possibility to challenge their detention. Reportedly, the detained persons were then summarily and collectively expelled to Colombian territory.⁵⁰⁷

306. In keeping with Article XXV of the American Declaration and as the IACHR has held, the standard for the exceptionality of pre-trial detention must be even higher where detention of migrants is concerned because immigration violations ought not to be construed as criminal offenses. The facts under examination have also disclosed violations of the prohibition against the detention of child and adolescent migrants.

307. In the context of the practices used in the detention of Colombian migrants in Venezuela, the Commission considers it important to reiterate that international standards establish that detention must be applied only as an exceptional measure and after having analyzed the necessity in each case. In all cases, States must avoid prolongation of detention and must ensure that it is as brief as possible. Furthermore, in addition to the effects that immigration detention can have on the right to personal liberty, detention can frequently have serious consequences for a detained migrant's personal integrity and his or her physical and mental health.

308. With regard to the situation of child and adolescent migrants, the Commission believes it necessary to underline that when they are deprived of their liberty they are at greater risk of torture and mistreatment owing to their vulnerability and unique needs. For that reason, the Commission considers that even short-term detention of child migrants is not only a violation of the rights of the child, but also amounts to cruel, inhuman, and degrading treatment.

4. Collective expulsions

309. In the course of its visit, the IACHR delegation was told that after the Colombians were forcibly evicted from their homes, they were collectively deported from Venezuelan territory in a summary and arbitrary manner. The Commission wishes to recall that the Venezuelan State has an obligation to analyze and adopt a separate reasoned decision on each deportation that it carries out. Accordingly, the Commission reiterates that collective expulsions are manifestly contrary to international law.⁵⁰⁸ The IACHR recalls that the declaration of a state of emergency cannot abrogate the prohibition against collective expulsions.

310. The Commission has also established that collective expulsions generate multiple human rights violations. The summary manner in which expulsions of this type are carried out also results on occasion in the expulsion of nationals, residents, or persons in need of international protection, many of whom are often children.⁵⁰⁹

⁵⁰⁷ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁵⁰⁸ IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁵⁰⁹ I/A Court HR. Preliminary Objections, Merits, Reparations and Costs. *Case of Expelled Dominicans and Haitians v. Dominican Republic (Tide Méndez)*, August 28, 2014.

5. Due process for migrants

311. The IACHR also received abundant information concerning multiple instances of arbitrary and collective deportation of Colombians from Venezuela since early 2015. However, the Commission observes that since the closure of the frontier and the declaration of a state of emergency by the Venezuelan State in August 2015, the situation created by the deportations has worsened significantly. The information gathered by the IACHR suggests that these deportations are being carried out arbitrarily and in disregard of the due process guarantees of migrants, the principle of family unity, the best interests of the child, the right to humane treatment, and the right to property of these persons. The Foreign Status and Migration Law (*Ley de Extranjería y Migración*) (Law No. 37.944 of 2004) requires an administrative proceeding to be instituted against anyone with irregular immigration status in Venezuela, which at a minimum includes a notice of initiation of proceedings, a hearing, and a challengeable final decision.⁵¹⁰

312. The IACHR reiterates that, in keeping with international norms and standards, immigrants subject to proceedings that may lead to deportation minimum guarantees must be respected. These include: (i) the right to be heard by the relevant authority in the context of the deportation proceeding and to have sufficient opportunity to exercise their right to a defense; (ii) the right to interpretation and translation; (iii) the right to have legal representation; (iv) the right to consular protection from the moment of detention; (v) the right to receive notification of a deportation order; (vi) access to an effective remedy to contest a deportation decision; (vii) the right to appeal a deportation decision; and (viii) the right to suspension of deportation while the matter is under appeal. The information gathered by the Commission during the visit indicates that none of these guarantees was observed by the Venezuelan authorities in the context of the deportations carried out after August 21, 2015.

6. The right to seek and receive asylum and the principle of *non-refoulement*

313. According to information provided by the OCHA, more than 150 Colombian asylum-seekers and refugees have been identified among the deportees and returnees.⁵¹¹ The information gathered by the IACHR suggested that in the framework of these events Colombian refugees and asylum seekers have apparently been deported or forcibly returned from Venezuela to Colombia. The IACHR delegation interviewed multiple individuals who were recognized as refugees or were in the process of seeking asylum in Venezuela.⁵¹²

314. Article XXVII of the American Declaration recognizes the right to seek and receive asylum, the cornerstone of which is the principle of *non-refoulement*. The Commission finds it necessary to recall that the obligation of states not to expel, repatriate, or return refugees or asylum seekers to territories where their life or liberty are in danger is a basic principle of protection enshrined in the Convention relating to the Status of Refugees that admits no reservations. In many respects, the principle is the logical complement to the right to seek and receive asylum. It has become a standard of international law that is mandatory for all states. Furthermore, international human rights law has established *non-refoulement* as a fundamental component of the absolute prohibition of torture and other cruel, inhuman, or degrading treatment or punishment. The Commission notes that Venezuela acceded to the 1967 Protocol to the Convention relating to the Status of Refugees on September 19, 1986.

315. The information gathered by the Commission indicates serious violations of the right to seek and receive asylum and of the principle of *non-refoulement*, particularly in relation to the deportation or return of refugees and asylum seekers to Colombia. Of the people interviewed, a considerable number of those who were recognized as refugees or applying for asylum in Venezuela said that they had been deported by Venezuelan officials to Colombia where their life, liberty, or physical integrity were reportedly

⁵¹⁰ Venezuela. Law on Immigration Matters (*Ley de Extranjería y Migración*). May 24, 2004.

⁵¹¹ OCHA. Colombia: Situación humanitaria en frontera colombo-venezolana. *Informe de situación No. 5*, September 10, 2015.

⁵¹² IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

at risk as a result of different forms of persecution and, in particular, violence connected with Colombia's armed conflict. Some of them said that upon displaying their letter of asylum application or documents that identified them as refugees, they were torn up by GNB agents.⁵¹³

316. The IACHR is also concerned about the impact of the closure of the Colombia-Venezuela border on the right of refugees to seek international protection, which is limited when frontiers are closed, as it prevents the entry and departure of persons who are victims of persecution in their countries of origin and are entitled to international protection.

7. Family life and best interests of the child

317. The IACHR has also received a host of reports that many of those deported had been separated from their families, particularly parents who were separated from their minor children. In some cases, adults have allegedly been deported to Colombia without their children and other family members. There were also cases reported of children and adolescents born to Colombian parents in Venezuela being retained. Some of the women interviewed said that they had decided to return to Colombia after GNB agents threatened to take their Venezuelan children away from them, saying that "the children are for the fatherland," which had also been indicated by other authorities. In addition, some people who were in Colombia said that they had been unable to return to Venezuela after the frontier was sealed, which had prevented them from being reunited with their families who were on the Venezuelan side.⁵¹⁴

318. The Commission notes that the Venezuelan authorities did not adopt special measures of protection for children who were deported; nor were those children identified at the time of their detention and deportation; nor were special measures adopted to keep them and their families separate from other adult detainees or to ensure their right to a hearing in connection with those matters. In addition, they were not given water, food, diapers, or access to special care. The Commission also received information concerning the adverse impact of the deportations on family dynamics, particularly because of the distress and anxiety that the families who were separated are suffering, especially when those separations involve children. Given the possibility that parents or relatives of persons entitled to Venezuelan nationality may be deported, the IACHR considers that proceedings that could result in the deportation of such persons must take into consideration the principle of the best interests of the children of migrants and the right of the person subject to deportation proceedings to protection of his or her right to a family life and the principle of family unity, in keeping with human rights norms and standards.⁵¹⁵

B. Persons deprived of liberty

319. The situation of persons deprived of liberty in Venezuela continues to be one of the most serious in the hemisphere. This is due to the violence created by the activities of criminal gangs operating within the prisons; arms trafficking—including the trafficking of military weapons and explosives—in which the GNB is involved; the impunity with which most of the crimes committed inside the prisons are treated—particularly those committed by the ringleaders of the criminal gangs (the so-called "*pranes*" or, as they are called officially, "negative leaders"), and in general, the lack of effective State control inside the penitentiaries. The Commission has evaluated the information provided by the State on various occasions regarding its efforts to address this situation. Nevertheless, the information received by the IACHR with respect to the penitentiary centers in Venezuela indicates that the State's policies continue to be insufficient to guarantee the rights of persons deprived of liberty, and in particular, to prevent the ongoing recurrence of the prison violence that has caused alarming numbers of deaths and injuries in recent years.

⁵¹³IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁵¹⁴IACHR. Press Release No. 109/15. IACHR Concludes Visit to Colombia's Border with Venezuela, September 28, 2015. See [Annex-Preliminary Observations](#).

⁵¹⁵1/A Court HR. Rights and guarantees of children in the context of migration and/or in need of international protection. Advisory Opinion OC-21/14 of August 19, 2014.

320. The information that the Commission has monitored during the period under analysis evidences the fact that serious violence persists inside the penitentiaries. In this regard, the IACHR observes that in its Concluding Observations, the CAT (Committee Against Torture) expressed its concern over the number of violent incidents in the penitentiaries reportedly involving inmates as well as the authorities in charge of reestablishing control.⁵¹⁶ On its part, in its briefing to the CAT for the 53rd session in November 2014, Amnesty International underscored that an important source of the violence and risks to the lives and safety of persons deprived of liberty is the widespread availability of firearms inside the prisons.⁵¹⁷

321. Against this backdrop of violence, the CAT reported, according to official figures, that 140 inmates died in 2014.⁵¹⁸ Nonetheless, this Commission observes that according to civil society organizations, the figure is likely higher. The OVP reported 309 dead and 179 wounded during the same period.⁵¹⁹ The OVP also reports that 109 persons died in the prisons and 30 were wounded during the first six months of 2015.⁵²⁰ According to Amnesty International, the vast majority of deaths occur by the use of weapons, including firearms, and mostly attributable to violence among inmates⁵²¹. On its part, the CAT expressed its concern over the fact that inmates are required to go through military formation drills (close-order drills) and that women are reportedly subjected to body cavity searches before entering the prisons as visitors.⁵²²

322. Additionally, in this context of violence, the Commission received with great concern information on the deaths of more than 40 inmates in November 2014 at the David Vilorio Central Western Regional Penitentiary (*Centro Penitenciario de la Región Centro Occidental*), formerly known as the Uribana Prison, located in the State of Lara. According to the information received, inmates at that prison carried out various acts of protest on November 24 and 25, 2014, including a hunger strike, because of alleged abuse by the prison authorities. On November 25, the authorities had started a process for the mass transfer of inmates to other prisons, and had tried to control the situation by sending National Guard members to the detention center. The next day, the authorities publicly announced that a number of inmates had overdosed on a combination of medications. According to updated figures provided by the Ministry of Penitentiary Affairs, the total death toll was 48.⁵²³ The Commission issued a press release urging the State of Venezuela to investigate these events and take the necessary measures to prevent their repetition.⁵²⁴

323. The Commission also continued to receive troublesome information about the high levels of overcrowding in the prisons. With regard to this issue, Amnesty International underscored that, according to the estimates of local non-governmental organizations, the Venezuelan penitentiary system is overpopulated. It stated that the system is designed to accommodate just 32,000 inmates, but is reportedly housing nearly 55,000 (60% of whom are in pretrial detention).⁵²⁵ In addition, some 14,000 prisoners are reportedly being held at police facilities.⁵²⁶ The Commission has also received information on the

⁵¹⁶ CAT, Concluding observations on the third and fourth periodic reports of the Bolivarian Republic of Venezuela, November 2014, para. 19.

⁵¹⁷ AI, Briefing to the UN Committee Against Torture, November 2014.

⁵¹⁸ CAT, Concluding observations on the third and fourth periodic reports of the Bolivarian Republic of Venezuela, November 2014, para. 19.

⁵¹⁹ Informe 21. Violencia en cárceles venezolanas dejó 309 reclusos muertos en 2014, February 25, 2015; PROVEA, Observatorio Venezolano de Prisiones: Hacinamiento es crítico, February 24, 2015.

⁵²⁰ OVP, Informe General sobre la Situación Carcelaria de Venezuela, October 16, 2015, p. 12.

⁵²¹ AI, Briefing to the UN Committee Against Torture, 53rd session (November 3-28, 2014), p. 21.

⁵²² CAT, Concluding observations on the third and fourth periodic reports of the Bolivarian Republic of Venezuela, November 2014, para. 19.

⁵²³ Panorama, Ministra Varela confirmó que 48 reos murieron por intoxicación en cárcel de Uribana, December 11, 2014, El Nacional, Varela: Son 48 los fallecidos por intoxicación en Uribana, December 10, 2014.

⁵²⁴ IACHR, IACHR Regrets Deaths Due to Reported Drug Overdose in Jail of Venezuela, December 11, 2014.

⁵²⁵ AI, Briefing to the UN Committee Against Torture, 53rd session (November 3-28, 2014), p. 18.

⁵²⁶ AI, Briefing to the UN Committee Against Torture, 53rd session (November 3-28, 2014), p. 18.

overcrowding found in most police stations nationwide, especially in Caracas; such detention centers, despite being temporary holding facilities, “have become centers where prisoners are held indefinitely awaiting trial and there are even persons who have already been convicted.”⁵²⁷ According to the OVP, the reasons for the overcrowding include “procedural delays, amendments to the Organic Code of Criminal Procedure, a lack of new detention centers, and the excessive use of prison as a nearly exclusive penalty.”⁵²⁸ In addition, the CAT expressed its concern over “the significant discrepancy” with regard to this issue, given that civil society claims that the prisons are overcrowded by 190%, while the State maintains that the jails are not overcrowded.⁵²⁹ As this Commission has stated on prior occasions, prison overcrowding is one of the main problems faced by persons deprived of their liberty in Venezuela.⁵³⁰ Therefore, it considers that the State must intensify its efforts to address this situation and guarantee the principles of transparency and accountability in the design of penitentiary policies and programs. In addition, in relation to medical care, the IACHR notes the findings of the previously cited OVP report that most Venezuelan detention facilities lack medical services, and that the most frequent illnesses are dermatological, gastrointestinal, and respiratory.⁵³¹

324. The IACHR observes that the problem of overcrowding has given place to situations that affect the life and integrity not only of persons deprived of liberty, but also of family members and visitors, and authorities and personnel of the prison system itself. In that regard, the Commission notes the fire that occurred in the dawn hours of August 31, 2015, in one pavilion of the facility, *Internado Judicial de Carabobo*, which is known as the “Tocuyito” prison, in the state of Carobobo in Venezuela, in which 16 persons (eight of them women) lost their lives, and 11 were injured.⁵³² According to information that is a matter of public knowledge the women who lost their lives were visiting the prison. The cause of the fire has yet to be determined by the authorities; the OVP indicates that according to family members the fire may have been caused by the explosion of a grenade said to have been in the possession of the prisoners, a short-circuit in one of the pavilions, or a steel cable coming loose.⁵³³

325. The IACHR issued two precautionary measures during the year related to conditions of detention in Venezuelan prisons incompatible with international standards. On March 2, 2015, the Commission asked the Venezuelan State to take measures to guarantee the rights of inmates Lorent Saleh and Gerardo Carrero⁵³⁴, who complained that they did not receive adequate medical attention and that they were being held in unsuitable conditions. Of the various precautionary measures issued by the IACHR to the State in 2015, this is the only one in respect of which it has sent a response to the requests for information. On April 20, 2015, the IACHR issued precautionary measures on behalf of opposition politicians Daniel Ceballos and Leopoldo López, in order to ensure that the conditions of their detention adhered to international standards. In a press release dated May 29, 2015, the IACHR expressed its concern over the State’s failure to comply with that precautionary measure⁵³⁵ (see *supra* III).

326. On March 18, 2015, the IACHR expressed its deep concern over the death of Rodolfo González, who had been held in custody at the headquarters of the SEBIN, accused of being the “logistical

⁵²⁷ OVP, Informe General sobre la Situación Carcelaria de Venezuela, October 16, 2015, pp. 32 and 33.

⁵²⁸ Informe 21. Violencia en cárceles venezolanas dejó 309 reclusos muertos en 2014, February 25, 2015.

⁵²⁹ CAT, Concluding observations on the third and fourth periodic reports of the Bolivarian Republic of Venezuela, November 2014, para. 18.

⁵³⁰ IACHR, *Annual Report 2014*; IACHR, Democracy and Human Rights in Venezuela, December 30, 2009, para. 44.

⁵³¹ Informe 21. Violencia en cárceles venezolanas dejó 309 reclusos muertos en 2014, February 25, 2015.

⁵³² The regional office for South America of the United Nations High Commissioner on Human Rights issued a pronouncement on these events. Centro de Noticias ONU, ONU lamenta siniestro en cárcel de Venezuela que deja 18 muertos, September 3, 2015.

⁵³³ OVP, Informe General sobre la Situación Carcelaria de Venezuela, October 16, 2015, p. 12.

⁵³⁴ IACHR. Precautionary measure - 223/13 Lorent Saleh and Gerardo Carrero, Venezuela, March 2, 2015.

⁵³⁵ IACHR, Press Release IACHR Expresses Concern over Measures Taken against Leopoldo López and Daniel Ceballos in Venezuela, May 29, 2015.

coordinator” of the protests that took place in February 2014.⁵³⁶ In particular, the IACHR noted the context in which this death took place, given the public condemnation by UN agencies, academic sectors, civil society organizations, and human rights defenders of the conditions in which SEBIN detainees are kept, and the alleged use of torture and cruel, inhuman, and degrading treatment.⁵³⁷

327. The Commission recalls that the Inter-American Court of Human Rights has issued provisional measures on behalf of the inmates of eight penitentiary centers, which remain in effect: the Monagas Judicial Confinement Center (La Pica);⁵³⁸ the Yare I and Yare II Capital Region Penitentiary Center;⁵³⁹ the Capital El Rodeo I & El Rodeo II Judicial Confinement Center;⁵⁴⁰ the Penitentiary Center of the Central Occidental Region (Uribana Prison);⁵⁴¹ the Aragua Penitentiary Center (Tocorón Jail);⁵⁴² the Vista Hermosa Judicial Confinement Center of Ciudad Bolívar;⁵⁴³ and the Penitentiary Center of the Andean Region (CEPRA).⁵⁴⁴

328. In this regard, the Commission emphatically reiterates that the State must investigate and punish those persons, including civilian and military authorities, involved in arms trafficking in the prisons. In addition, it is essential to implement all violence prevention measures. The Venezuelan State must also conduct immediate, exhaustive, and impartial investigations into the various acts of violence that have occurred recently in the country’s penitentiary systems, in order to identify the perpetrators and impose the appropriate penalties, including administrative and disciplinary penalties, as a mechanism to prevent the recurrence of new acts of violence.

C. Indigenous peoples

329. Several problems identified in the IACHR’s 2014 Annual Report continue to be cause for concern.⁵⁴⁵ In 2015, the major concerns are: the harmful effects of illegal mining on indigenous peoples that directly affect their lands and their subsistence;⁵⁴⁶ the connection between illegal mining and the reported increase in the presence of paramilitaries;⁵⁴⁷ and the proper delimitation of lands that continues to be a problem for a large number of indigenous peoples.

330. According to public information, paramilitary groups from Colombia are allegedly protecting illegal mining activity in certain areas of the country by means of coercion, threats, and intimidation tactics, in order to create fear and contribute to the displacement of indigenous communities.⁵⁴⁸ In addition, the alleged involvement of members of the military in illegal mining and acts of intimidation

⁵³⁶ IACHR, Press Release [IACHR Expresses Concern over Measures Taken against Leopoldo López and Daniel Ceballos in Venezuela](#), May 29, 2015.

⁵³⁷ IACHR, Press Release [IACHR Expresses its Concern over the Death of Rodolfo González in Venezuela](#), March 18, 2015.

⁵³⁸ I/A Court, Order of February 2006.

⁵³⁹ I/A Court, Order of March 30, 2006.

⁵⁴⁰ I/A Court, Order of February 8, 2008.

⁵⁴¹ I/A Court, Order of February 2, 2007.

⁵⁴² I/A Court, Order of November 14, 2010.

⁵⁴³ I/A Court Order of May 15, 2011.

⁵⁴⁴ I/A Court Order of September 6, 2012.

⁵⁴⁵ IACHR, [Annual Report 2014, Chapter IV, Venezuela](#), paras. 593-595.

⁵⁴⁶ Forest Peoples Programme, [Venezuela: Indigenous peoples call again for recognition of their territorial rights and an end to mining on their lands](#), June 8, 2015.

⁵⁴⁷ International Work Group for Indigenous Affairs, [The Indigenous World 2015](#), p. 139.

⁵⁴⁸ LAMMP, [“También somos Venezuela”: Indigenous Peoples raise the alarm as paramilitaries and illegal miners cross over their territories](#), January 30, 2015.

toward the indigenous population has come to light.⁵⁴⁹ This situation has sparked protests by indigenous peoples, including the case of the members of the Kanaimó indigenous community who shut down the airport in the Canaima National Park for several days in June 2015 to demand an end to the illegal mining in the area.⁵⁵⁰

331. In addition, the death of a Yanomami youth was reported in May 2015. The information indicates that the young man was allegedly disturbing the peace, and was arrested and brutally beaten by members of the municipal police of Atures, resulting in his death.⁵⁵¹ Similarly, the Committee on the Rights of the Child expressed its concern over information indicating that indigenous children are involved in illegal gold mining, in slavery-like conditions, in the upper Orinoco and the Casiquiare and Guainia-Rio Negro basins.⁵⁵² According to the Committee, this may amount to the sale of children, and it is troublesome that no case of sale of children has yet been registered by the State.⁵⁵³ The information further indicates that those children are also victims of child prostitution and trafficking.⁵⁵⁴

332. With respect to the issue of land delimitation, although there is a regulatory framework that is favorable to the exercise of indigenous peoples' rights, the Coordinating Body of Indigenous Organizations of the Venezuelan Amazon has complained that only 12.4% of indigenous lands and habitats have been delimited.⁵⁵⁵ The Commission also received information indicating that indigenous peoples are of the opinion that the territories delimited by the government have been considerably reduced or have been fragmented in the areas requested by the communities, and that the titles granted have not been issued to collective entities.⁵⁵⁶

333. The IACHR also notes with concern the information it has received about the failure to observe the right to prior, free, and informed consultation, as there is an apparent absence of appropriate mechanisms for participation and consultation with indigenous peoples. The information submitted to the IACHR indicates, for example, that, through Decree 1.606 published in Official Gazette 40.559 of February 10, 2015, the State renewed five coal mining concessions affecting the Yukpa, Wayúu, and Barí indigenous peoples of the State of Zulia, without engaging in a consultation process with those communities.⁵⁵⁷

334. In addition, the Commission received information about the presumed methane gas pollution from petroleum activities in the Kariña de Tascabaña indigenous communities in the State of

⁵⁴⁹ Survival International, *Venezuelan Indians denounce military abuses and illegal mining*, April 2, 2015; Forest Peoples Programme, *Venezuela: Ye'kwana and Sanema of the Caura have again appealed to the Government to halt abuse of their rights by the armed forces*, March 26, 2015.

⁵⁵⁰ El Tiempo, *Indígenas pemones cerraron aeropuerto de Canaima en rechazo a minería ilegal*, June 1, 2015; Globovisión, *Indígenas reabren aeropuerto de Canaima tras protesta por minería ilegal*, June 3, 2015.

⁵⁵¹ International Work Group for Indigenous Affairs, *Venezuela: Policía mata a joven Yanomami*, May 8, 2015.

⁵⁵² UN, *Committee on the Rights of the Child, Concluding observations on the report submitted by the Bolivarian Republic of Venezuela under art. 12, para. 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, CRC/C/OPSC/VE, November 3, 2014.

⁵⁵³ UN, *Committee on the Rights of the Child, Concluding observations on the report submitted by the Bolivarian Republic of Venezuela under art. 12, para. 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, CRC/C/OPSC/VE, November 3, 2014.

⁵⁵⁴ UN, *Committee on the Rights of the Child, Concluding observations on the report submitted by the Bolivarian Republic of Venezuela under art. 12, para. 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, CRC/C/OPSC/VE, November 3, 2014.

⁵⁵⁵ Laboratorio de Paz, *Informe alternativo sobre la aplicación del Pacto de Derechos Civiles y Políticos en los pueblos indígenas en Venezuela*, June 2015, para. 4.

⁵⁵⁶ Laboratorio de Paz, *Informe alternativo sobre la aplicación del Pacto de Derechos Civiles y Políticos en los pueblos indígenas en Venezuela*, June 2015, para. 5.

⁵⁵⁷ Laboratorio de Paz, *Informe alternativo sobre la aplicación del Pacto de Derechos Civiles y Políticos en los pueblos indígenas en Venezuela*, June 2015, para. 12.

Anzoátegui.⁵⁵⁸ According to this information, the pollution of the Tascabaña River has been reported since 2000 to Petróleos de Venezuela S.A. (PDVSA), the company that coordinates oil and gas extraction activities in Venezuela. In order to keep the residents of the communities from consuming water from the river, PDVSA reportedly installed water storage tanks, which are supplied weekly by water trucks. However, the pollution is said to be affecting the communities' way of life, as they have had to give up their traditional crops (*conucos*) and fishing, and have reportedly been exposed to illnesses as a result of the pollution.⁵⁵⁹

335. Finally, the Commission is concerned about the reports concerning the deaths of Henry Ipuana and Daiver Fernández, indigenous Colombians from the Wayuu community who were in Venezuela on September 20, 2015 to attend a funeral ritual, and were attacked and shot by alleged GNB members in the municipality of Uribia in La Guajira.⁵⁶⁰ In view of these events, the Commission urges the State to establish the cause of this crime, identify, prosecute, and punish the perpetrators, and implement fair reparation measures for the victims' families.

D. Situation of lesbian, gay, bisexual, transgender, and intersex persons (LGBTI)

336. The IACHR commends the work carried out by the State of Venezuela, mainly with its Human Rights Ombudsman's Office, to defend and promote the rights of lesbian, gay, bisexual, and transgender persons.⁵⁶¹ Nevertheless, during this period, the IACHR continued to receive information of concern about acts of violence against LGBT persons, in particular killings—especially of transgender women—, alleged situations of abuse by the police, statements made by senior authorities of the State who promote prejudice and stigmatize LGBT persons, absence of legal protection for same-sex couples, discrimination in the exercise of economic, social, and cultural rights of LGBT persons, and discrimination against those defending the rights of LGBT persons, among others. According to Venezuela Diversa, “even when [the government] presents [the] country with a progressive social and legal context it continues to lag far behind in providing express protection against all kinds of discrimination for reasons of sexual orientation, identity, and gender expression.”⁵⁶²

337. The IACHR highlights the actions adopted by the Human Rights Ombudsperson's Office, especially under the mandate of former Ombudsperson Gabriela Ramírez (between 2007 and 2014), aimed at promoting, overseeing, and defending the human rights of LGBT persons, concretely in order to (a) recognize the LGBTI population as a population living a situation of vulnerability; (b) hear the complaints filed in cases of rights violation for sexual orientation or gender identity; (c) assess, with the participation of the affected persons, the human rights situation; (d) train civil servants of the Human Rights Ombudsperson's Office and those in charge of enforcing the law on human rights for the LGBTI population; (e) undertake activities to promote and disseminate the human rights of the LGBTI population; and (f) propose judicial and legislative actions for the benefit of the LGBTI population.⁵⁶³ Likewise, the IACHR commends the State for holding the Forum on "Homophobia in Institutions" aimed at civil servants and organized by the Delegate Human Rights Ombudsperson's Office of the state of Bolívar.⁵⁶⁴

338. Furthermore, the IACHR deems the agreement reached between the directors of the CNE and the representatives of the political parties to allow transgender persons to submit their candidacies on

⁵⁵⁸ Civilis Derechos Humanos, Laboratorio de Paz, PROVEA, Hearing Request for the 156th Session, Right to a Clean Environment, Rights of Indigenous Peoples.

⁵⁵⁹ Laboratorio de Paz, Tecnología e investigación por cultura de paz, [Informe sobre extractivismo en Venezuela](#), p. 4.

⁵⁶⁰ El Espectador. [Denuncian asesinato de dos indígenas Wayuu a manos de Guardia venezolana](#), September 20, 2015.

⁵⁶¹ During this period, the IACHR did not receive any information about the human rights situation of intersex persons.

⁵⁶² Venezuela Diversa, [Libertad de expresión de las personas LGBTI en Venezuela](#), May 5, 2014.

⁵⁶³ Response by the Bolivarian Republic of Venezuela to the IACHR questionnaire on the situation of violence against LGBTI persons, AGEV/000373, December 20, 2013, received by the IACHR on December 26, 2013.

⁵⁶⁴ Defensoría del Pueblo (Human Rights Ombudsman's Office), [DdP forma a servidoras y servidores públicos en materia de Sexo-Género Diversidad](#), November 6, 2014.

the basis of their present gender rather than the one assigned to them at birth as highly positive.⁵⁶⁵ Regarding this, the Commission notes that, on August 7, 2015, the CNE formalized the registration of Tamara Adrián for the parliamentary elections of December 2015.⁵⁶⁶

339. The IACHR takes note that the Special Human Rights Ombudsperson's Office for LGBTI persons, whose establishment was announced back in 2010, has not yet been installed, and that as yet apparently there is no information about the reasons for the failure to concretize this announcement.⁵⁶⁷ The latest urgent request made by civil society to establish this Special Ombudsperson's Office was by Venezuela Diversa, on May 17, 2015.⁵⁶⁸

340. On March 17, 2015, a hearing was held at IACHR headquarters on the situation of the human rights of LGBT persons in Venezuela.⁵⁶⁹ During the hearing, civil society organizations provided information about: statements made by senior officials of the State that promote prejudice and stigmatize LGBT persons; the absence of legal protection for same-sex couples; the situation of human rights defenders; and crimes of prejudice against LGBT persons. The petitioners indicated that, in Venezuela, there are no public policies aimed at protecting and safeguarding the human rights of LGBT persons. It was alleged that there are no statistical data on the LGBT population, which renders diverse sexual orientations and gender identities invisible and leads to cruel, inhumane, and degrading treatment. Likewise, they indicated that transgender persons do not benefit from any legislation that safeguards their rights, such as recognition of their gender identity.

341. At this hearing, the State highlighted the measures adopted to protect and promote the rights of LGBT persons, in particular the actions carried out by the Human Rights Ombudsperson's Office and the investigation of cases of killings. The State pointed out that it was a cultural issue and that it could possibly be resolved only generationally. The State indicated that, in the years 2010-2014, 21 case files were opened for complaints lodged by LGBT persons in eight states of the country. Likewise, it indicated that the Constitutional Chamber of the Supreme Court of Justice issued judgment 190, which recognizes the prohibition to discriminate on the basis of sexual orientation. It indicated that this judgment led to the drafting of four domestic laws, one ministerial resolution, state resolutions, and a regional Constitution, which recognizes the protection of LGBT persons. The State also mentioned the Second Socialist Plan for the Nation's Development where LGBT persons are recognized as a vulnerable group that merits protection.

342. For several years, the IACHR has been receiving information that is cause for concern about the number of killings of transgender women in Venezuela. In May 2015, the Project Transrespecto versus Transphobia reported that, between January 2008 and December 31, 2014, 85 killings of transgender persons were recorded in Venezuela, the country which ranks third along with Colombia for the highest number of killings reported in Latin America.⁵⁷⁰ In 2015, the IACHR learned about the killing of three transgender women within less than 30 days in the city of Maracaibo, state of Zulia. Regarding this, Venezuela Diversa reported that "the inertia of the criminal investigation unit regarding these crimes does not make it possible to identify if they involve police officers who have sexual ties with these persons and who receive financial gains from the kind of work that the victims do or if the perpetrators were customers,

⁵⁶⁵ *El Tiempo*, Tamara Adrián será la primera candidata transgénero de la historia política venezolana, August 6, 2015.

⁵⁶⁶ *The Washington Blade*, Trans woman running for Venezuelan National Assembly, September 2, 2015.

⁵⁶⁷ *Orbita Gay*, Hace un año Gabriela Ramírez prometió por segunda vez creación de Defensoría Especial para la Diversidad Sexual, November 21, 2014.

⁵⁶⁸ Venezuela Diversa, Comunicado: Día Internacional contra la Homofobia, Transfobia y Bifobia, May 17, 2015.

⁵⁶⁹ IACHR, Public Hearing: Human rights situation of LGBT persons in Venezuela, March 17, 2015. Video, audio and photos available at: <http://www.oas.org/es/cidh/audiencias/TopicsList.aspx?Lang=es&Topic=32>.

⁵⁷⁰ Brazil ranks first and Mexico second, both countries with a population that is substantially higher than that of Venezuela. Proyecto Transrespecto versus Transfobia en el mundo, Cifras alarmantes: más de 1.700 personas trans asesinadas en los últimos 7 años, May 8, 2015.

individual persons, or organized groups who acted cold-bloodedly and with premeditation, to exterminate them blinded by hate, as indicated by a source close to one of the women killed.”⁵⁷¹

343. The IACHR also learned about the killing involving shots fired at the head of two transgender women in Caracas, on Avenida Libertador, a place where normally transgender women carry out their sex work; and the killing of a gay man, Jhonny Enrique Márquez, who had sustained 15 gunshots.⁵⁷² Also according to information received on September 15, 2015, Javier Briceño “Bonny”, gay man and recognized hair stylist was killed in Margarita. His body was found with more than ten wounds from a bladed weapon.⁵⁷³ Likewise, it received information on civil society’s call for the State to accept “the final recommendations adopted by the United Nations Human Rights Committee at its 114th period of session in June 2015, on acts of discrimination and violence for reasons of sexual orientation or gender identity;”⁵⁷⁴ and specifically the call on the Prosecution Service of the Republic to “order the investigation of this incident and the other killings of LGBT persons that occurred in our country.”⁵⁷⁵

344. The Commission has received information about Venezuela not having any specific law that would require the State to safeguard and protect the right to equality and non-discrimination of LGBTI persons or any strategic public plans, programs, or services to meet the needs and demands of said persons.⁵⁷⁶ Likewise, no progress has been made in terms of legislation or policies and practices to investigate and process acts of violence in the courts.⁵⁷⁷

345. Likewise, the IACHR has received complaints about arbitrary detentions, torture, and other selective cruel and degrading treatment against transgender women during the exercise of their sexual work, especially in October 2012, when 23 transgender women were detained on Avenida Libertador in Caracas, and then taken to a police station where electric shocks were given to them, their face and body beaten, and insults proffered about their sexual orientation and gender identity.⁵⁷⁸

346. In 2015, the Commission received information about discrimination for reasons of sexual orientation, diverse gender manifestations and identities with respect to access to the rights to work, education, housing, health, and establishing a family.⁵⁷⁹ According to the information received by the IACHR, on October 28, 2015, personnel from the National Institute of Parks (*Instituto Nacional de Parques INPARQUES*), allegedly caught and expelled a same-sex couple because they were hugging each other in the park “José María Ochoa Pile” in the city of Barquisimeto (Lara state).⁵⁸⁰ Also, information provided by civil society indicated that, in public and private schools, LGBT persons or those who are perceived as such sustain insults, intimidation, and physical punishment by other students and even teachers, leading to high

⁵⁷¹ Venezuela Diversa, [Odio a Trans desatado en Maracaibo: tres asesinatos en menos de un mes](#), May 16, 2015.

⁵⁷² Venezuela Diversa, [Acribillan a balazos a joven gay en Monagas](#), August 4, 2015.

⁵⁷³ Venezuela Diversa, [De manera salvaje asesinan a reconocido estilista de Margarita](#), September 17, 2015.

⁵⁷⁴ Venezuela Diversa, [Asesinan con disparo en la cabeza a dos mujeres trans en Caracas](#), May 18, 2015.

⁵⁷⁵ Venezuela Diversa, [Asesinan con disparo en la cabeza a dos mujeres trans en Caracas](#), May 18, 2015.

⁵⁷⁶ ACCSI and UNAF, “La discriminación y la impunidad no son iguales ante la ley” [Discrimination and impunity are not equal before the law], 2014, p. 5.

⁵⁷⁷ ACCSI and UNAF, “La discriminación y la impunidad no son iguales ante la ley” [Discrimination and impunity are not equal before the law], 2014, p. 6.

⁵⁷⁸ Venezuela Diversa, Informe Alternativo al Comité de Derechos Civiles y Políticos de las Naciones Unidas: El Disfrute de los Derechos Civiles y Políticos es Garantía de Verdadera Inclusión de las Personas LGBTI [Alternative Report for the United Nations Committee on Economic, Social and Cultural Rights (CESCR): The Enjoyment of Civil and Political Rights Guarantees the Genuine Inclusion of LGBTI Persons], June 2015.

⁵⁷⁹ Venezuela Diversa, Informe Alternativo para el Comité de DESC de las Naciones Unidas: Todos los DESC sin discriminar por orientación sexual, identidad y expresión de género [Alternative Report for the United Nations Committee on Economic, Social and Cultural Rights (CESCR): All of the ESCRs without discriminating against sexual orientation, identity, or expression of Gender], May 2015.

⁵⁸⁰ Venezuela Diversa, [Pareja gay es expulsada de parque público en Barquisimeto](#), October 30, 2015.

dropout rates. Likewise, it is alleged that LGBT persons do not enter the formal job market, face intimidation at the workplace, receive lower salaries, and dismissal. As a result, LGBT persons are confined to earning a living in sexual work, beauty salons, fast-food establishments, and informal vending, where abuse of force and cruel, denigrating, and inhumane treatment by state agents are common. Likewise, it is claimed that transgender persons, as a rule, cannot gain access to loan arrangements for housing, even when they make payments to the Voluntary Savings Fund, because the regulations for permitting access to these loans give priority to traditional heterosexual family units.⁵⁸¹

347. Furthermore, according to information provided by civil society, same-sex couples do not enjoy the same rights as those of opposite-sex partners and they are denied their "rights regarding joint property assets when the couple is dissolved because of either separation or death," and other social and economic rights and obligations that members of a family comprised of persons of the opposite sex are entitled to.⁵⁸²

348. With respect to the right to health, Venezuela Diversa claims that, in Venezuela, "LGBTI persons are the target of psychological aggression, distress, and humiliation when they need health services in general and especially when they go for treatments and services for HIV and AIDS."⁵⁸³ It is of special concern that there are no health programs and policies aimed at transgender persons and that body transformations are carried with rudimentary means, without proper quality conditions or qualified staff because of the absence of access to the health system. Regarding this, the IACHR was informed of the death of Anyely Fon Park, a 20-year-old transgender woman, after clandestine silicone injections were administered in her buttocks in the city of Valencia on May 18, 2015.⁵⁸⁴

349. Furthermore, the IACHR has received information that is cause for concern about the situation of those defending the human rights of LGBTI persons and who criticize the government. Venezuela Diversa indicates that, on the basis of the press release published by the Commission with regard to the killing of the transgender woman Lulu in 2012⁵⁸⁵ and because of remarks included by the Commission in chapter IV of IACHR's annual reports, the representatives of Venezuela Diversa are allegedly suffering from reprisals by the government and the organization is being viewed as subversive.⁵⁸⁶ It indicates that the reprisals are aimed at discrediting the work of promoting and defending human rights for the benefit of LGBTI persons and groups and shutting off the possibility of coordinating and calling for the enforceability of rights with the State and its institutions.

350. Likewise, the IACHR has been informed about LGBTI persons and organizations who refused to submit to or receive orders from the government's political party, those who are not registered in the Gran Polo Patriótico Simón Bolívar, those who have ties with sectors opposing the government, those who are critical of or question the government's policies, those who wish to remain autonomous with respect to political party issues, and more recently those who resort to the Inter-American Human Rights System, who are usually almost completely excluded by civil servants in charge of the branches of

⁵⁸¹ Venezuela Diversa. Informe Alternativo para el Comité de DESC de las Naciones Unidas: Todos los DESC sin discriminar por orientación sexual, identidad y expresión de género [Alternative Report for the United Nations Committee on Economic, Social and Cultural Rights (CESCR): All of the ESCRs without discriminating against sexual orientation, identity, or expression of Gender], May 2015.

⁵⁸² Venezuela Diversa. Informe Alternativo para el Comité de DESC de las Naciones Unidas: Todos los DESC sin discriminar por orientación sexual, identidad y expresión de género [Alternative Report for the United Nations Committee on Economic, Social and Cultural Rights (CESCR): All of the ESCRs without discriminating against sexual orientation, identity, or expression of Gender], May 2015.

⁵⁸³ Venezuela Diversa. Informe Alternativo para el Comité de DESC de las Naciones Unidas: Todos los DESC sin discriminar por orientación sexual, identidad y expresión de género [Alternative Report for the United Nations Committee on Economic, Social and Cultural Rights (CESCR): All of the ESCRs without discriminating against sexual orientation, identity, or expression of Gender], May 2015.

⁵⁸⁴ Venezuela Diversa, [Muere mujer trans en Valencia luego de inyectarse silicona en glúteos](#), May 20, 2015.

⁵⁸⁵ IACHR, Press Release No. 59/12, [IACHR Condemns Murder of Trans Woman in Venezuela](#), June 7, 2012.

⁵⁸⁶ Communication from the Venezuela Diversa organization to the LGBTI Rapporteurship of the IACHR, July 29, 2014.

government, who dismiss their petitions and focus exclusively on opposite-sex persons and organizations that are considered revolutionary.⁵⁸⁷ Without prejudice, the IACHR learned about a communication sent by the current Human Rights Ombudsperson on January 8, 2015 inviting Yonathan Matheus (Venezuela Diversa) to hold a meeting with the Ombudsperson to "establish channels of communication."⁵⁸⁸ This meeting was reportedly held on January 22, 2015.⁵⁸⁹

351. The IACHR has received alarming information about the constraints on the right to freedom of expression of LGBT persons and the few forums for disseminating ideas about matters related to the human rights of LGBT persons. Specifically, one of the country's main newspapers, *El Universal*, had allegedly censored an article by the Human Rights Ombudsperson Rafael Garrido on the situation of LGBT persons in Venezuela⁵⁹⁰ and had expressly stated that its editorial policy did not allow writing about LGBT issues.⁵⁹¹ The IACHR also received information that leaders of the civil society organization Venezuela Diversa had had trouble, at the beginning, to secure state authorization to hold a walk against homophobia, but finally had managed to hold the walk.⁵⁹²

352. Finally, the IACHR was informed that Yonathan Matheus, when returning to Venezuela, after having participated in the hearing with the IACHR on March 2015, reported that he was followed, watched, and photographed by various men, one of whom was subsequently found at the side of a staff of SENIAT (National Integrated Customs and Tax Administration - *Servicio Nacional Integrado de Administración Aduanera y Tributaria*) when his luggage was checked upon arrival at the International Airport of Maiquetía.⁵⁹³

353. The IACHR has also received information about statements made by senior officials of the State of Venezuela who have used homophobic and transphobic expressions. For example, the IACHR takes note of the statements made by Freddy Bernal, Chair of the President's Commission for Police Reform, who in March 2015 stated that "[a] homosexual can indeed be a police officer as long as he does not publicly show his sexual appetite, wish to wear a pink shirt or put lipstick on."⁵⁹⁴

354. The Inter-American Commission urges the State, as it did on the occasion of the hearing held in March 2015,⁵⁹⁵ to adopt a non-pathology-inducing gender identity law that recognizes the identity of transgender persons and that facilitates their access to body transformations; to prevent, punish, and investigate acts of violence and discrimination against LGBT persons; and broaden state measures, including by adopting laws and public policies for the benefit of LGBT persons, in particular in order safeguard their economic, social, and cultural rights without discrimination. Finally, the IACHR urges to promote the participation of all civil society organizations, including those that can be viewed as critical of the government, in the public debate about the rights of LGBT persons.

⁵⁸⁷ Venezuela Diversa, [Poderes públicos de Venezuela desestiman las solicitudes de organizaciones LGBTI no vinculadas al partido del Gobierno](#), April 2, 2015.

⁵⁸⁸ Sintabu, [Defensor del Pueblo, Tarek William Saab se reunió con organizaciones LGBT](#) (no date).

⁵⁸⁹ The IACHR does not have any information confirming that the meeting did indeed take place or what might have been the outcome of the meeting.

⁵⁹⁰ Rafael Garrido, [Petición para firmar en el portal Change.org: El diario El Universal incluya temas LGBTI en su línea editorial](#), June 2015.

⁵⁹¹ Juan Carlos Figueroa, [Venezuela: El Universal dice que se reserva el derecho de censurar a LGBTI](#), July 4, 2015.

⁵⁹² Venezuela Diversa, [Alcaldes de Libertador y Chacao violan la Constitución Nacional al negar y obstaculizar el derecho a la manifestación pacífica de la ONG Venezuela Diversa](#), May 5, 2014.

⁵⁹³ Information sent by email by Jonathan Matheus to the working team of the Rapporteur for the Rights of LGBTI Persons, IACHR. Communication received on March 21, 2015.

⁵⁹⁴ *El Universal*, [Bernal: a la hora de reclutar no basta con no tener antecedentes penales](#), March 18, 2015. See also Bruno Bimbi, [En la Venezuela bolivariana no hay lugar para maricones](#), March 23, 2015. See the statements made by Freddy Bernal: Cosapública.net, [Estuchen las reveladoras declaraciones del Sr. Freddy Bernal](#).

⁵⁹⁵ IACHR, Press Release No. 37A, [Report on the 154th period of sessions of the IACHR](#), June 19, 2015.

E. Women's rights

355. The IACHR has followed up on the situation of women's rights in Venezuela in 2015 and has identified aspects that continue to be highly distressing, as well as on progress achieved in public policymaking.

356. It is noteworthy that, in February 2015, the First National Plan for the Protection of Women's Sexual and Reproductive Rights was presented, principally aimed at ensuring knowledge about, promotion, protection, and exercise of the sexual and reproductive rights of Venezuelan women, especially of those women living a situation of higher social risk, so that they can as a result exercise autonomy over their bodies and sexuality. This Plan has arisen in response to social problems in the country, with a teenage pregnancy rate (for young women between 15 and 19 years old) that, in absolute terms, accounts for an average of 180,000 early pregnancies every year.⁵⁹⁶ Regarding this, it must be recalled that, in 2014, Venezuela ranked first in South America in terms of unplanned teenage pregnancies, with a total of 101 pregnancies for every 1,000 adolescents in that age range.⁵⁹⁷ The IACHR also welcomes the recognition of obstetric violence against women in the Organic Law on Women's Right to a Life Free from Violence.⁵⁹⁸

357. Furthermore, the Commission stresses what was indicated by the CAT in its Final Comments regarding Venezuela on December 12, 2014, where it pointed out that it was concerned that, despite the progressive rise in cases of violence against women, especially homicides, and the high number of complaints, the percentage of charges filed by the Prosecution Service was low and the application of protection measures insufficient.⁵⁹⁹ It also showed concern for the limited number of shelters available and the absence of information about assistance and comprehensive reparations for the victims.⁶⁰⁰

358. According to information in the public domain, from January to May 2015, 290 killings of women were reported, and in 2014, 516 were reported.⁶⁰¹ Although homicides were recorded in all the states, most of the known cases took place in the country's central northern region, in the states of Carabobo (59), Distrito Capital (58), Miranda (53), and Aragua (41).

359. In addition, during the hearing on the general human rights situation held in October, the organizations that requested the hearing reported that from January to September 2015, 263 females were assassinated, 70% with a firearm, 12% with a cutting weapon, 5% by asphyxia, 5% by physical force, and 1% by burns. They indicated that 62% of these females were women 18 to 40 years of age, and that 13% were girls or adolescents.⁶⁰² With respect to the states with the most violence against women, they indicated that the Capital District had 67 cases (25%), Aragua 33 cases (13%), Miranda, Anzoátegui 15 cases (8%),

⁵⁹⁶ The strategic goals of this National Plan for the Protection of Women's Sexual and Reproductive Rights are: (i) producing transformative knowledge about the bodies of women as subjects or rights, free to take informed decisions about their sexual and reproductive rights autonomously, safely, and responsibly; (ii) ensuring comprehensive quality care services with a gender approach and without any discrimination against women, in matters involving their sexual and reproductive rights; (iii) promoting the active and pivotal participation of bodies such as community councils, gender equality and equity committees, the President's Council for Women, the WHO, NGOs, as well as the more than 480 women's organizations in Venezuela; and (iv) establishing communication campaigns that makes it possible for women of all ages to have the knowledge need for family planning to ensure happy and safe motherhood.

⁵⁹⁷ UNFPA, *Boletín Informativa del Día Mundial de la Prevención del Embarazo no Planificado en Adolescentes*, year 2014 No. 140, September, 26.

⁵⁹⁸ *Organic Law on Women's Rights to a Life Free from Violence*, November 25, 2014.

⁵⁹⁹ UN, CAT, *Concluding Observations on the Third and Fourth Periodical Reports Combined of the Bolivarian Republic of Venezuela*, CAT/C/VEN/CO/3-4, December 12, 2014, para. 17.

⁶⁰⁰ UN, CAT, *Concluding Observations on the Third and Fourth Periodical Reports Combined of the Bolivarian Republic of Venezuela*, CAT/C/VEN/CO/3-4, December 12, 2014, para. 17.

⁶⁰¹ *El Nacional*, *Homicidios de mujeres aumentaron 103% en 106 años*, June 20, 2015.

⁶⁰² Information presented by civil society during the hearing on the general situation of human rights in Venezuela, during the 156th period of sessions of the IACHR, October 19, 2015.

and the rest 116 cases (42%).⁶⁰³ They indicated that from January to May 2015, a total of 37,256 reports of violence against women were on record, of which there were 19,200 indictments, i.e. 52%.⁶⁰⁴ Finally, they noted that of the 52 investigations initiated into cases defined as femicide and induced suicide, there were 19 indictments (35.2%), two dismissals (3.7%), 32 persons under investigation (59%), and one conviction.⁶⁰⁵

360. In its observations on the draft of this chapter the State informed the IACHR that from 2008 to 2015 the Public Ministry has filed 54,437 accusations in relation to crimes identified in the Organic Law on Women's Rights to a Life Free from Violence.⁶⁰⁶ It indicated that when that law was amended, the first results have been 52 cases in which, as of December 2015, there have been 19 accusations and two dismissals, with 32 cases in the investigative phase.⁶⁰⁷ In addition, regarding the measures of protection granted to women victims, it indicated that from 2014 to May 2015 a total of 55,485 measures have been issued, 14,619 of which have been confirmed by the Specialized Courts.⁶⁰⁸

361. The State also reported on various actions implemented to prevent, eradicate, and punish violence against women, such as the Organic Law for Women's Right to a Life Free from Violence (2007), and the same law as amended in 2014.⁶⁰⁹ The State has also reported on the creation, since 2008, of 79 Courts of Special Criminal Control and three Courts of Appeals in the Federal District, Zulia, and Lara to judge the crimes of violence against women that are defined in the Organic Law, among which are physical, sexual, institutional, and obstetric violence, sexual slavery, sexual harassment, femicide, and inducing suicide.⁶¹⁰ The State has also reiterated information that was presented in 2014 regarding the adoption of programs to provide services to women; nonetheless, no information has been presented that allows the IACHR to assess the results obtained since they were implemented.⁶¹¹ Accordingly, the IACHR once again emphasizes the profound concern that the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) has stated about the continuing and generalized increase of violence against women despite the existence of that law and the other actions taken by the State.⁶¹²

F. Situation of Afro-descendants

362. In 2015, the IACHR continued following up on the various institutional measures adopted by the State to prevent and eliminate racial discrimination in the country. It recognized that, despite the difficulties and obstacles that still prevail, the State is implementing various actions to tackle the problem.

⁶⁰³ Information presented by civil society during the hearing on the general situation of human rights in Venezuela, during the 156th period of sessions of the IACHR, October 19, 2015.

⁶⁰⁴ Information presented by civil society during the hearing on the general situation of human rights in Venezuela, during the 156th period of sessions of the IACHR, October 19, 2015.

⁶⁰⁵ Information presented by civil society during the hearing on the general situation of human rights in Venezuela, during the 156th period of sessions of the IACHR, October 19, 2015.

⁶⁰⁶ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 70.

⁶⁰⁷ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 71.

⁶⁰⁸ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 71.

⁶⁰⁹ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 40.

⁶¹⁰ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 40.

⁶¹¹ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, pp. 40-43.

⁶¹² CEDAW, *Concluding observations on the combined seventh and eighth periodic reports of the Bolivarian Republic of Venezuela*, CEDAW/C/VEN/CO/7-8, November 14, 2014, para. 18; IACHR, Annual Report 2014. Chapter IV on Venezuela, para. 634.

363. The IACHR takes note that, in July 2015, the National Institute against Racial Discrimination (*Instituto Nacional contra la Discriminación Racial*(INCODIR)) started the National Consultation on Racial Discrimination for the purpose of compiling basic information that would make it possible to draft the National Plan for the Prevention and Elimination of Racial Discrimination.⁶¹³ The Commission recognizes this initiative, but deems it is important to stress how important it is for the authorities in charge of these processes to ensure access to official, public, and up-to-date information. As it has done in the past, the IACHR once again observes the limited amount of information available about INCODIR's actions, leading to obstacles that do not make it possible for Venezuelan society to participate in them and be informed.⁶¹⁴

G. Children and adolescents

364. Among its recommendations to the State, as enshrined in its 2014 Annual Report, the Commission recommended

Implementing adequate measures aimed at ensuring effective disarmament to prevent violence and build up the protection system for children for duly providing assistance to the victims of violence and their next of kin.

365. Regarding this, the Commission commends Venezuela for having implemented the National Disarmament Program in 2015, as policies for voluntary disarmament. By implementing that plan, the State has collected and disabled 7,643 firearms from January to April 2015, which accounts for a substantial increase compared to the same period in 2014.⁶¹⁵

366. Venezuela has also recorded noteworthy progress in reforming legislation on children and adolescents. Reform of the Basic Law for the Protection of Children and Adolescents (*Ley Orgánica para la Protección de Niñas, Niños y Adolescentes* (LOPNA)), in force since June 2015, establishes a policy for minimal criminal intervention, with a safeguard approach, and raised the minimum age for criminal responsibility from 12 to 14 years old. Although this age continues to be low compared to international standards, it involves a noteworthy breakthrough toward providing better safeguards for the rights of adolescent offenders. Nevertheless, this reform doubles the sentences involving deprivation of liberty for adolescents convicted of committing felonies, who may have to serve sentences of six to ten years in prison, in violation of standards calling for the least possible use of deprivation of liberty for persons under 18 years of age.⁶¹⁶ In addition, as part of the stated aim of the legal reform intended to establish a restorative justice model, the tasks of designing and implementing programs that do not entail deprivation of liberty are delegated to the Community Councils at the local level; such programs are aimed at rehabilitation and social reinsertion for adolescents who have committed criminal infractions. Nonetheless, the law does not establish the mechanisms or resources needed to actually undertake that transfer of responsibilities. The lack of suitable and trained personnel at the local level, and of specialized experiences and programs in this area, represents a major obstacle to the effective implementation of the law and the attainment of its objectives. In addition, the need to strengthen the national systems for the protection of children at the local level and make sure there are working well is bound up with that concern.

367. Furthermore, the Commission notes that homicide rates for children and adolescents have to a large extent raised. UNICEF (United Nations Children's Fund) reported, in September 2014, that Venezuela ranks third among countries with the highest rate of homicides in children in the region, with 20 homicides for every 100,000 children.⁶¹⁷ These figures stem from the context of insecurity and violence that

⁶¹³ *El Tiempo*, [Venezolanos diseñan plan para hacer cumplir ley contra discriminación racial](#), July 22, 2015; La Radio del Sur, [Venezuela impulsa políticas para la erradicación de la discriminación racial](#), July 7, 2015.

⁶¹⁴ IACHR, [Annual Report 2014, Chapter IV, Venezuela](#), para. 639.

⁶¹⁵ *Noticias 24*, [Plan Nacional de Desarme Voluntario ha motivado la entrega de 7.643 armas de fuego en 2015](#), May 14, 2015.

⁶¹⁶ NTN24, [Gobierno venezolano delega responsabilidades a consejos comunales en la protección de niños y adolescentes](#), June 16, 2015.

⁶¹⁷ UNICEF, [Informe Ocultos a plena luz](#), September 2014.

the country is living, in addition to an alleged rise in the excessive and illegal use of force by the State's security agents. According to a 2014 study by CECODAP, which was published in 2015, in Venezuela 13.8% of children and adolescents, especially those between 15 and 18 years of age, die as a result of actions taken by State security bodies, accounting for a 55.5% increase over the preceding year.⁶¹⁸ Another study indicates that 80% of deaths by the police force took place as part of clashes in the context of insecurity and that the remaining 20% because of executions and protests against the government.⁶¹⁹ Extrajudicial executions of children and adolescents using firearms in Venezuela and impunity for these crimes are a matter of concern.⁶²⁰

H. Economic social and cultural rights (ESCR)

368. In light of the information received, the Commission has acknowledged and appreciated the progress made in the field of economic, social and cultural rights through policies and measures adopted in order to address the shortcomings in the enjoyment of economic, social and cultural rights that affect large segments of the Venezuelan population. The priority given by the State to these measures is essential to ensure a dignified life for the population and is crucial to maintaining democratic stability. Notwithstanding this, the Commission notes that while the Venezuelan authorities have continued to implement actions for the promotion and fulfillment of economic, social and cultural rights, some challenges still persist and there are situations of serious concern, especially in the areas connected with the right to food and health.

369. In this context, the Commission has taken note of the UN ESCR Committee's (CESCR) Concluding Observations on Venezuela's third periodic report, in particular regarding the recognition of the progress made by the State in terms of poverty and inequality reduction.⁶²¹ For its part, the State submitted information to the Commission within the framework of a hearing on ESCR, held during the 154th Period of Sessions on the progress made through social investment. The following achievements are listed: 10% of people who were living in poverty would have increased their rate of school attendance in primary education; the average rate of years of school attendance for people aged 25 and older in the poorest households increased from 5.2 years of schooling in 1998, to 7.3 years in 2014; and there was a 10% increase in the employment rate rising from 68.5% in 1998 to 74.6% in 2014.⁶²² In addition, it was reported that the coverage from the national public health system reached 82% of the population; access to drinking water had gone from 80% in 1998 to 95% in 2014; and the percentage of inadequate housing in 1998 was 6.6%, and had fallen to 4.2% for 2014.⁶²³

370. Notwithstanding the aforementioned advances, these observations suggest that despite significant poverty reduction through the implementation of "missions", there is a downward trend in the rate of poverty reduction in the last few years.⁶²⁴ Various civil society organizations have indicated to the Commission that official poverty rates managed by the National Statistics Institute (*Instituto de Estadísticas*

⁶¹⁸ See FUNDEPRO [Aumentaron en 55% muertes de jóvenes a manos de policías](#), February 27, 2015; CECODAP [Año 2014. Somos Noticia. Un panorama sobre las diferentes formas e violencia contra niños, niñas y adolescentes](#) (2015). See *La Patilla*. [Aumenta cifra de adolescentes asesinados en Venezuela](#), May 7, 2015.

⁶¹⁹ *La Patilla*. [Aumenta cifra de adolescentes asesinados en Venezuela](#), May 7, 2015.

⁶²⁰ El Universal, [Impunidad llega a la ONU](#), June 28, 2015 and El Universal, [Violencia adolescente](#), March 22, 2015.

⁶²¹ UN, CESCR, [Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela](#), June 19, 2015, para. 5.

⁶²² IACHR. Hearing on Economic, Social and Cultural Rights held at the 154th Period of Sessions with the Government of the Bolivarian Republic of Venezuela, Department of Popular Power for Planning, *Venezuela en Cifras, Nuestra transición al Socialismo*, February 2015.

⁶²³ IACHR. Hearing on Economic, Social and Cultural Rights held at the 154th Period of Sessions with the Government of the Bolivarian Republic of Venezuela, Department of Popular Power for Planning, *Venezuela en Cifras, Nuestra transición al Socialismo*, February 2015.

⁶²⁴ UN, CESCR, [Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela](#), June 19, 2015, para. 24.

Nacionales (INE)) show that by 2012, poverty had fallen to 21.2%, but in turn increased to 27.3% in 2013.⁶²⁵ Meanwhile, PROVEA reported⁶²⁶ that the factors contributing to the deterioration in living conditions for the Venezuelan population include the low income earned by public and private workers⁶²⁷. Proving insufficient to cover the cost of living according to the official basic basket index,⁶²⁸ the currency devaluations and the high inflation rate.⁶²⁹

371. In its observations regarding the draft version of this chapter the State presented information about economic, social, and cultural rights, specifically with respect to the eight millennium development goals, with percentage figures most of which were for the 1998-2013 period. Thus the State indicated that:

The government policy reinforces poverty reduction, cyclical and structural, by the the National System of Missions and the Grant Missions, established in August 2013 to meet the necessities of employment, health, education, housing and improvement of habitat, in collaboration with organizations of People's Power . [...] The distribution of income presented a progressive tendency to reduce inequality."⁶³⁰

372. Regarding the right to food, the Commission has received information on the progress achieved in the fight against malnutrition by expanding the "School Meals Program" and the food subsidy for low-income families, promoted by food programs and food distribution networks at a lower cost.⁶³¹ The Commission also took note of the progress made by the State in the strengthening of agricultural production and the integration of small food producers into the local economy. However, the information available also indicates that the State has increased dependence on food imports, with consequences in terms of shortages and scarcity of food and basic consumer goods, both in public and private chains.⁶³² In this regard, the Commission has constantly received information on shortages of some food items. It has also been argued that food shortages have caused overcrowding in supermarkets and food distribution centers in the population's attempt to obtain scarce consumer goods. The situation has led to unrest among the population and as a response; the Venezuelan government announced that the army and police forces would undertake the prevention of further disruption by protecting these places and ensuring that people feel safer.⁶³³

373. Amid the period of shortages, on July 31, 21 year old Gustavo Patinez Gómez was killed during a riot and looting that broke out in a supermarket and three smaller shops in the city of San Félix, Bolivar State. Some of the media reported that his death was caused by gunfire from a member of the GNB.⁶³⁴ The riot that resulted in a total of 60 detainees, was denounced by President Maduro as a

⁶²⁵ Information presented at the hearing on the situation of economic, social and cultural rights in Venezuela, held at the headquarters on March 17, 2015, 154th Period of Sessions.

⁶²⁶ PROVEA. Request for a Hearing for the 156th Period of Sessions, Economic and Social Crises deepens.

⁶²⁷ PROVEA. Request for a Hearing for the 156th Period of Sessions, Economic and Social Crises deepens.

⁶²⁸ Reports in its request for a hearing for the 156th Session, that the minimum wage in 2014, both in public and in private, was 4,889.11 bolivars per month, while the Standard Food Basket (CAN) was calculated by INE to be 6,382.62 bolivars. Meanwhile, according to information published in the Extraordinary Gazette No. 6,181, a 30% increase in the minimum wage was made official.

⁶²⁹ El Universo, *Alta inflación and devaluación agobian a Venezuela and Brasil*, August 5, 2015.

⁶³⁰ Gobierno Bolivariano de Venezuela. Comunicación del Estado al borrador de "Informe CIDH 2015 Observaciones del Estado al Capítulo IV". AGEV-000136 recibida el 14 de diciembre de 2015, págs. 51-67.

⁶³¹ UN, CESCR, *Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela*, June 19, 2015, paras. 5 and 6.

⁶³² UN, CESCR, *Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela*, July 19, 2015, para. 26.

⁶³³ El Espectador, *Maduro ordenó militarizar supermercados and tiendas de Venezuela*, January 9, 2015.

⁶³⁴ Nexofin. *Venezuela: un muerto and 60 detenidos en saqueos por comida en el sur del país*, July 31, 2015. Infobae. *El joven asesinado en el saqueo de San Félix era albañil and tenía una bebé de cuatro meses*, July 31, 2015.

prearranged assembly, organized by the right, pointing to a group of armed individuals as responsible for the death of the young man.⁶³⁵

374. On August 1, MUD called the "national day of protest against hunger and crime and freedom" for August 8. The demonstrations were held in all 23 state capitals of Venezuela, plus the District of the capital.⁶³⁶ In this regard, the MUD Secretary General pointed out that the riots and looting were acts of citizens desperate due to hunger and food shortages that have led them to these regrettable acts of violence.⁶³⁷

375. Another aspect of concern to the Commission is the impact of shortages of basic goods (food, milk, infant formula, medicines etc.) on young children, particularly in relation to the essential nutrition for infants, which endangers the health of Venezuelan boys, girls and adolescents.⁶³⁸ The UN ESCR Committee has indicated that the sudden rise in food prices due to currency inflation, seriously compromises the human right to food in Venezuela.⁶³⁹ The lack of food needed in early childhood is of considerable concern, especially the shortage of infant formula.

376. According to the State, "as of 2014 undernourishment had fallen 19 points, affecting only 2%" of the population.⁶⁴⁰

377. The lack of medicines and medical supplies is also of concern given their impact on the enjoyment of the right to physical integrity and health of children and adults.⁶⁴¹ In this regard, the media have reported that the shortage of medicines could reach 95% in public health institutions. This shortage is of particular concern in the case of children and adults living with HIV since there would be a shortage of antiretroviral drugs.

378. In this situation, additional information indicates that there would have been constant cuts in the supply of basic services such as domestic gas and electricity, which occur with greater frequency and extent in the interior regions of the country.⁶⁴²

379. Regarding the right to work, the Commission notes there is still a high percentage of unemployed, particularly among young people and women. Despite the adoption of the Mama Rosa Plan for Equality and Gender Equity (2013-2019), inequality between men and women in the enjoyment of ESCR still persists, particularly in the workplace.⁶⁴³ With regard to union rights, the Commission received information indicating that Venezuela was assessed by the Committee on the Application of Standards of the International Labor Organization (ILO) for alleged acts of violence and intimidation against leaders and members of trade unions and the State authorities' alleged interference in the elections of representatives

⁶³⁵ AVN. Maduro repudió hechos violentos perpetrados en San Félix and anunció despliegue de la OLP en Bolívar, July 31, 2015. Infobae. Violencia and saqueos en Venezuela: para Maduro fue una conspiración de la derecha, July 31, 2015.

⁶³⁶ Latin News Daily, Daily Briefing, MUD calls for demo following food riot death, August 3, 2015.

⁶³⁷ EFE. Venezuela Disturbios. Una muerte en un saqueo en Venezuela aviva las críticas por los efectos de la crisis nacional, August 1, 2015.

⁶³⁸ *El Nacional*. El hambre oculta tras la escasez, June 7, 2015.

⁶³⁹ CESCR. 55th Session. Document No. E/C.12/2015/SR. 24, held on June 2, 2015. Available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/114/11/PDF/G1511411.pdf?OpenElement>

⁶⁴⁰ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 54.

⁶⁴¹ *El Universal*. León Natera: Medicine shortages reach 95% in public hospitals, May 3, 2015; Entorno inteligentes.

⁶⁴² IACHR, 154th Period of Sessions, Hearing No.20, Situation of Social, Economic, and Cultural Rights in Venezuela, held at headquarters on March 17, 2015.

⁶⁴³ UN, CESCR, Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela, June 19, 2015, para. 17.

within trade unions.⁶⁴⁴ Meanwhile, OVCS pointed out that between 2010 and 2014, 40% of the 27,832-recorded protests have been labor-related, one of the highest rates in Latin America.⁶⁴⁵

380. Regarding the right to education, the Commission notes that while the State has increased investment to improve access to education, there is information indicating that the content of public education may be inconsistent with the full development of the human personality and respect for human rights.⁶⁴⁶ According to information received by the Commission during the hearing "Situation of Economic, Social and Cultural Rights in Venezuela", since 2001, the country has embarked upon a process of transformation of education, called "community model", which incorporates social, organizational and academic trends, which could be incompatible with human rights treaties ratified by Venezuela, the Constitution and which was also rejected by the population in the 2007 Referendum.⁶⁴⁷ The petitioners indicated that the new model presents the following problematic issues, among others: a) it is discriminatory towards those parents who wish to educate their children under a different school of thought than the socialist ideal; b) the curriculum it implements would not be official, since this was rejected in 2008 by various sectors of society, by reason of its ideological content and academic faults; c) it annuls the action of the parent associations denying them state recognition and instead imposes organizational figures incorporating partisan political groups in the administrative and pedagogical running of the school; e) requires teachers to interrupt their academic activities to attend pro-government political demonstrations on pain of alleged threats of dismissal.⁶⁴⁸

381. The State, for its part, reported that the coverage in education for 2014 was 76% in early education and 93.4% for primary schooling.⁶⁴⁹ It also indicated that access to secondary education for 2014 was 74.8%; and 71.6% for higher education. It indicated that since 1998 Venezuela has established 16 new universities that are free of charge, and as of 2015 "the government has endowed all educational areas with free Wi-Fi."⁶⁵⁰

382. Concerning the right to adequate housing, the Commission received information suggesting that despite the creation of the "Great Housing Mission Venezuela" program – which seeks to change the paradigm of mass construction of housing units—large scale informal settlements and the lack of housing still persist, as well as a lack of consideration and attention given to the deficiencies found in the State-built houses, and the deterioration of the urban environment.⁶⁵¹

383. With regard to social security, there are reports that the comprehensive social security system mandated by the Organic Law of the Social Security System has still not been implemented.⁶⁵² Regarding the right to health, the Commission observes that there are still reports of the challenges in terms

⁶⁴⁴ Business and Human Rights Resource Centre, Venezuela: Situación de los derechos laborales se discutió en la OIT, June 6, 2015.

⁶⁴⁵ El Estímulo. Guerra al Sindicato. April 10, 2015.

⁶⁴⁶ UN, CESCR, Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela, June 19, 2015, para. 30.

⁶⁴⁷ Information presented at the hearing on the situation of economic, social and cultural rights in Venezuela, held at the headquarters on March 17, 2015, 154th Period of Sessions.

⁶⁴⁸ Information presented at the hearing on the situation of economic, social and cultural rights in Venezuela, held at the headquarters on March 17, 2015, 154th Period of Sessions.

⁶⁴⁹ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 55.

⁶⁵⁰ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, pp. 55 and 67.

⁶⁵¹ UN, CESCR, Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela, June 19, 2015, para. 25.

⁶⁵² UN, CESCR, Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela, June 19, 2015, para. 21.

of the supply of basic provisions, medicines, and surgical and medical equipment. From the information provided to the Commission, it is evident that the public health services—on which more than 60% of the population depend—have deteriorated, which has severely impaired its operation in accordance with the minimum standards of proper and timely health care. In private services, there is also a lack of secured care, given that they have been impacted by the shortage of medical supplies along with the public services.⁶⁵³ A specific example of the problem is the case of the JM de los Rios Children’s Hospital where 260 out of 420 beds are inoperative; the areas of infectious diseases, neurosurgery and emergency are not operating; tomography and ultrasound equipment is inoperative; 4,428 children have been on the waiting list since 2012 due to the suspension of selective surgeries.⁶⁵⁴

384. The State reported that as of 2014 Venezuela has 13,700 centers for medical care.⁶⁵⁵ It mentioned the legislation that protects sexual health, reproduction, care in childbirth, and the rights of mothers and children, and it further noted that 2003 saw the beginning of the National Strategic Plan for HIV-AIDS, mentioning the activities carried out as part of the plan.⁶⁵⁶

385. For its part, Human Rights Watch (HRW) reported that many patients are unable to receive essential medical treatment, and others are on the waiting list to undergo surgery that could be vital, because doctors do not have the necessary elements to operate.⁶⁵⁷ There has also been a reported increase in cases of HIV/AIDS and constant periods of shortage of antiretroviral drugs,⁶⁵⁸ as well as of the major elements for chemotherapy and combination drugs given to counter its harmful effects.⁶⁵⁹ In this context, Physicians for Health, a network of resident doctors working in public hospitals around the country, reported the results of a survey of 130 public hospitals in 19 states, which showed that 44% of operating theatres are inoperative, and that 94% of the laboratories have malfunctions.⁶⁶⁰ It noted that in this context, there are shortages of 60% of medicines or medical supplies normally required; and drugs included on the "Model List of Essential Medicines" of the World Health Organization⁶⁶¹ are not be available in pharmacies.⁶⁶² Similarly, according to information provided by HRW, the Government has not guaranteed that essential drugs and medical supplies were available in the public health care system; and currency exchange restrictions and price controls imposed by the Government have hampered the possibility that the drugs might have been supplied by pharmaceutical companies.⁶⁶³

⁶⁵³ Information presented at the hearing on the situation of economic, social and cultural rights in Venezuela, held at the headquarters on March 17, 2015, 154th Period of Sessions.

⁶⁵⁴ Information presented at the hearing on the situation of economic, social and cultural rights in Venezuela, held at the headquarters on March 17, 2015, 154th Period of Sessions.

⁶⁵⁵ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 59.

⁶⁵⁶ Government of the Bolivarian Republic of Venezuela. Communication of the State in response to the draft of the "2015 Report of the IACHR, Observations of the State on Chapter IV," AGEV-000136, received December 14, 2015, p. 60.

⁶⁵⁷ HRW. News item, Presentación ante el Comité de Derechos Económicos, Sociales and Culturales de la UN en preparación de su examen de Venezuela, June 1, 2015.

⁶⁵⁸ UN, CESCR, Concluding Observations on the Third Periodic Report on the Bolivarian Republic of Venezuela, June 19, 2015, para. 29.

⁶⁵⁹ El Nacional, Quimioterapias están en la lista de escasez, August 5, 2015.

⁶⁶⁰ HRW, News item, Crisis in Venezuela’s health system, April 29, 2015.

⁶⁶¹ OMS, Model List of Essential Medicines.

⁶⁶² HRW, News item, Crisis in Venezuela’s health system, April 29, 2015.

⁶⁶³ HRW, News item, Crisis in Venezuela’s health system, April 29, 2015.

VII. RECOMMENDATIONS

386. On the basis of the analysis above and especially the follow-up on the human rights situation conducted by IACHR, the Commission is making the following recommendations to the State of Venezuela:

Citizen security

1. Take comprehensive measures to guarantee citizen security, especially with respect to the level of homicides.
2. Reformulate the policies and practices of the security forces in relation to citizens' security so as to ensure they are carried out in a human rights framework.
3. Train public law enforcement officials in protection of and respect for human rights.
4. Limit the participation of members of the armed forces in law enforcement actions that are appropriate for police, and when exceptional circumstances require their involvement, they should be subordinate to civil authority.
5. Reserve the use and limit the duration of states of emergency for situations of extreme gravity that are truly exceptional.

Political rights

6. Guarantee the full exercise of political rights by all persons, regardless of their stance on government policies, and adopt the necessary measures to promote tolerance and pluralism in the exercise of political rights.
7. Abstain from taking reprisals against or using the State's punitive power to intimidate or punish individuals because of their political opinion and guarantee pluralism in opportunities for democratic expression, including respect for demonstrations and protests that are carried out in exercise of the right of assembly and peaceful demonstration.
8. Foster a climate of tolerance that favors the active participation and sharing of ideas of diverse sectors of society, and design institutions that promote and do not inhibit public discussion or make it more difficult.

Freedom of expression

9. Adopt appropriate mechanisms to prevent violence against members of the media, both under normal situations and in the context of public demonstrations, including public condemnation of any act of aggression, instruction and training of civil servants, especially of police or security forces, and, if necessary, the issuance of codes of conduct or guidelines concerning that right.
10. Give journalists the utmost guarantees against being detained, threatened, or attacked for exercising their profession in the context of a public demonstration. Their materials and the tools of their trade should be neither destroyed nor confiscated. Nor should they be summoned as witnesses by institutions of justice; and the authorities should respect their right not to disclose their sources of information. The state should protect the transmission by domestic and foreign media outlets of live coverage of demonstrations and public actions and should abide by their duty not to take measures to regulate or curtail the free circulation of information in such contexts.

11. Remove all disproportionate or discriminatory restrictions that prevent radio and television operators, in any modality, from fully carrying out their assigned commercial, social, or public missions. License or frequency assignment processes should be open, public, and transparent, under clear, pre-established rules, to prevent the assignment, withdrawal, or nonrenewal of frequencies or licenses for discriminatory or arbitrary reasons. To that end, the assignment and regulation process should be guided by a technical body independent of the government, which should have autonomy from short-term political pressures, be subject to all guarantees of due process, and be placed under judicial control.
12. Promote the amendment of ambiguous or imprecise criminal laws that curtail freedom of expression in a disproportionate manner, such as those designed to protect the honor of ideas or institutions, or those designed to protect national security or the peace, so as to eliminate the use of criminal proceedings to inhibit free democratic debate on matters of public interest and the full exercise of political rights. Also, promote the repeal of disrespect laws (*desacato*) laws, whatever their form, because such laws are contrary to inter-American standards and restrict public debate, an essential element of a functioning democracy.
13. Adopt laws on public access to information, in keeping with inter-American standards, so as to give all persons the tools to effectively monitor government operations, public administration, and the control of corruption, which are essential to the democratic process.
14. Refrain from exerting direct or indirect pressure to silence the reporting work of media members, in keeping with principle 13 of the Declaration of Principles on Freedom of Expression.
15. Restore full enjoyment of the rights to freedom of thought, opinion and expression in those areas that remain under state of emergency, because the State has not explained the compelling reasons that would support the limitation of these rights in the context of the alleged border crisis, especially having in mind the importance of the full enjoyment of these rights in the context of elections.

Human rights defenders

16. Ensure conditions so that human rights defenders can work freely without fear of intimidation and reprisals; protect them when they are the target of threats to prevent attempts on their life or integrity.
17. At the highest levels of government, publicly condemn acts of violence against human rights defenders, to prevent actions that encourage crimes against them, and prevent the continued stigmatization for the simple fact that they work to promote or protect human rights.
18. Take the necessary measures for serious and effective investigation of violations committed against the defenders, whether by state agents or private parties. That investigation must be undertaken with due diligence in an exhaustive, serious, and impartial manner. In addition, the IACHR urges the State to adopt all necessary measures to guarantee the right to life, integrity, and security of human rights defenders.

Administration of justice

19. Effectively guarantee the separation and independence of the branches of government, taking urgent measures to ensure the independence of the judicial branch, strengthening

the procedures for appointment and removal of judges and prosecutors, affirming their stability in office and eliminating the situation of temporary appointment applicable to the vast majority of judges and prosecutors.

20. Adopt the necessary measures to protect the life and humane treatment of all individuals, as well as specific measures needed to protect journalists, human rights defenders, union leaders, persons who participate in public demonstrations, persons deprived of liberty, children and adolescents, indigenous peoples, persons of African descent, and the LGBTI population. In addition, strengthen the institutional capacity of the courts to combat the pattern of impunity in cases of violence and guarantee due diligence and effectiveness in investigations of these acts.

Persons in the context of human mobility

21. Establish jointly with the Colombian State a mechanism for reunification of all families that were separated as a result of the deportations that took place since August 21, 2015.
22. In conjunction with the Colombian State, implement a mechanism for restitution of assets and household goods of persons deported and persons who returned from Venezuela after August 21, 2015. With respect to assets and household goods that cannot be restored, take measures to compensate persons affected by their loss.
23. Put an immediate stop to any collective, arbitrary, and/or summary expulsion and urgently adopt all necessary measures to guarantee that any undocumented migrant has access to immigration proceedings that provide guarantees of due process prior to deportation and that the principle of family unity is protected.
24. Adopt all necessary measures to guarantee the application of international standards on the use of force in immigration control operations, using detention of migrants as an exceptional measure; prohibit the detention of migrant children and adolescents; apply detention in conditions of humane treatment; and prohibit mass expulsions.
25. Adopt all necessary measures to guarantee that Colombian refugees and asylum seekers are not deported or returned to Colombia.

Persons deprived of liberty

26. Implement measures to reduce overcrowding in prisons and raise detention conditions to international standards, particularly to ensure the internal security in the prisons, effective control of firearms inside the prisons, adequate separation of persons deprived of liberty in accordance with the categories and criteria established in the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, and prohibiting occupation of the facilities that exceeds the number of available places.
27. Adopt without delay the necessary measures to address the causes of prison violence, especially through the investigation and punishment of persons involved in firearms trafficking in the prisons. In addition, implement all those measures aimed at preventing violence and eliminate the possession of firearms in all prisons.
28. Take the necessary measures to ensure that prison staff use force as a last resort after exhausting all other available approaches, and for the time and to the degree needed to guarantee security, internal order, protection of the basic rights of the population deprived of liberty, the staff, or visitors.

29. Conduct immediate, exhaustive, and impartial investigations of the various acts of violence that have recently taken place in the country's prisons, to identify those responsible for them and apply the corresponding sanctions, both administrative and disciplinary, as a mechanism to prevent the recurrence of violent acts.
30. Take the necessary measures to eradicate the military instruction of the prison population, and increase activities for their social reentry.

Indigenous peoples

31. Intensify efforts to protect the effective enjoyment of the right to territory of indigenous peoples as the first step for protecting their basic rights, through prompt demarcation, boundary setting, and titling of their ancestral territories.
32. Take the necessary measures to guarantee the indigenous peoples' right to prior, free, informed, and culturally adequate consultation, especially in the context of projects for investment, extraction, and development. The consultation procedures must be carried out in good faith, in order to reach an agreement or receive the prior, free, and informed consent of the indigenous peoples.
33. Protect the life and integrity of Venezuelan indigenous individuals in keeping with the State's obligations under inter-American instruments; particularly, prevent aggression and harassment against traditional authorities and indigenous leaders who are known to be in real and immediate risk.
34. Investigate human rights violations committed against indigenous peoples and their members, punish the material and intellectual authors of those violations, and pay reparations individually and collectively to the victims.
35. Adopt decisive measures for effective control and eradication of illegal mining in indigenous territories, and abstain from any actions that favor illegal mining activity by State agents or third parties acting with the consent and tolerance of the State.

Women

36. Take necessary measures to ensure that cases of gender-based violence are investigated with due diligence in a timely, complete, and impartial manner, that the responsible parties are duly punished, and that the victims receive comprehensive reparations.
37. Adopt a comprehensive, coordinated, and adequately funded government policy to ensure that the victims of violence have full access to adequate judicial protection, and that acts of violence are properly prevented, investigated, punished, and compensated.
38. Continue working on adequate measures to strengthen the sexual and reproductive rights of women and girls.

Lesbian, gay, bisexual, trans, and intersex persons (LGBTI)

39. Apply due diligence to prevent, punish, and investigate acts of violence against LGBT persons.
40. Adopt the necessary government measures, including legislation and public policies in favor of LGBT persons, especially with a view to protection of their economic, social, and cultural rights without discrimination.
41. Adopt a non-pathologizing gender identity law that recognizes the identity of trans persons.

42. Make it possible for all civil society organizations, including those that may be considered critical of the government, to participate in the public debate on the rights of LGBT persons.

Persons of African descent

43. Strengthen measures adopted by the State for the prevention and eradication of racial discrimination in the country, and ensure transparency and accountability of the institutions responsible for these processes.
44. Adopt the necessary measures to guarantee the effective access to justice of the population of African descent, as a basic mechanism for the protection of their human rights.

Children and adolescents

45. Adopt all measures to guarantee the right of children and adolescents to take part in demonstrations with due protection for their right to freedom of expression and assembly.
46. Strengthen the system for protecting children, especially at the local level, to prevent violence and to protect children and adolescents in the face of violence, in addition to giving the attention they need to the victims of violence and their families. Design comprehensive policies that strengthen the factors of protection and diminish the risk factors of the involvement of children and adolescents in acts of violence and crime that draw on the participation and opinions of the children and adolescents themselves, in addition to the inhabitants of the areas hardest hit by the violence.
47. Continue implementing adequate measures to reduce the number of weapons in the hands of private persons in Venezuela.
48. Ensure that restorative justice programs are strengthened as an alternative to juvenile criminal proceedings, and to deprivation of liberty, so as to facilitate the processes of rehabilitation and social reintegration in cases involving juvenile offenders.
49. Investigate homicides and prosecute responsible parties, and guarantee due reparation for homicides committed against children, with special emphasis on deaths caused by State agents.
50. Review and adapt the existing protocols on the use of force by the security forces of the State, especially when children are involved or could be affected by the intervention of the security forces. Ensure that all situations involving the use of force against children and adolescents are duly investigated as a duty of the prosecutorial authorities in a serious and impartial manner, internally, as well as the possibility of filing a complaint with the courts.
51. Implement institutional mechanisms to permit the prompt provision of food, basic medicines, and baby formula, taking into account the absolute priority of these policies for children and adolescents.

Economic, social, and cultural rights

52. Adopt public policies that enable the long-term continuity of efforts to guarantee economic, social, and cultural rights, ensuring that they are focused on the full enjoyment of these rights and generating conditions of real equality.

53. Intensify efforts to gradually achieve full effectiveness of the right to food and health in Venezuela. Adopt public policies that will reverse the trend of lack of supplies, especially in the health sector.
54. With respect to the right to health, adopt measures to guarantee the availability and quality of health services, ensuring that health care establishments and centers have trained medical personnel, medicine, and appropriate hospital equipment.
55. Continue with the work of poverty reduction efforts and programs in urban and rural areas, and ensure that they have a human rights approach, giving priority to meeting the rights of historically marginalized groups.
56. With respect to the right to work, carry out coordinated inter-sector strategies in the areas of access to resources, decent work, and education to guarantee the economic and social empowerment of women and youth, through the exercise of their rights. Also, adopt measures to guarantee the right to participate in union activity in the country.
57. Investigate alleged pollution from mining activities, and if necessary take the necessary measures to mitigate and reverse it, and where appropriate to provide adequate, culturally appropriate compensation to the individuals, groups, or communities affected.
58. With respect to education, the IACHR recommends taking the necessary measures to guarantee that education promotes full respect for human rights, and the active participation of representatives of civil society and the government.