

CHAPTER IV.B VENEZUELA

I. INTRODUCTION

1. During 2016, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) has continued to monitor the overall human rights situation in Venezuela and has observed persistent structural situations that affect the human rights of Venezuelans and led to a grave political, social, and economic crisis. These structural situations identified by the Commission have first of all included a worsening of the citizen security situation, related to the right to life and humane treatment.

2. Second, there has been deterioration of the rule of law and democratic institutions. Reports continue of lack of access to justice and an independent and impartial judicial branch, while on the other hand, political polarization has been exacerbated, resulting in open confrontation between the legislative branch and the other State authorities that has affected the balance and separation of powers necessary for a democratic society. In this context, the Commission has also observed a corresponding impact on political rights and the right to participate in public life.

3. Third, a deterioration of the right to freedom of expression has been observed, including the arbitrary detention and imprisonment of opposition figures and individuals who publicly express their disagreement with the government; repression of and undue restrictions on the right to protest; dismissal of public employees or threatening them with losing their jobs should they express political opinions against the government; campaigns to stigmatize and harass journalists, opposition politicians, and citizens; the use of criminal law and other State controls to punish or inhibit the work of a critical media; and impediments to the right to access to information.

4. Fourth, access to economic, social, and cultural rights (ESCR) has been severely restricted. Shortages and scarcity of food, medicine, water, and electricity have led to a grave crisis, contributing to disease outbreaks and other affects on health. The response to the situation has been deficient and in some situations entailed a lack of access to necessarily medical care. This has severely affected children, sick individuals, pregnant women, people with disabilities, and the elderly, among other groups. In this context, added to the political context, public protests have increased, and security forces have responded to them by using force.

5. The Commission has also continued to observe the precarious situations of human rights defenders, people deprived of liberty, migrants and refugees, and other particularly vulnerable groups. Finally, the Commission continues to find it difficult to conduct monitoring given that access to public information on the performance of State bodies is scarce, as is access to official data that would enable it to evaluate respect for human rights in Venezuela.

6. Upon evaluation of the human rights situation in Venezuela, the IACHR has decided to add Venezuela to this Chapter¹ pursuant to Article 59, section 6(a)(i) of the Rules of Procedure of the IACHR, which establishes that in order for a Member States to be included in this chapter, there must be:

a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of

¹ Commissioner Paulo Vannuchi expressed his disagreement with regard to Chapter IV B of the IACHR Annual Report, for which reason he voted against it.

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 [...]

7. The Commission has also decided to include Venezuela in this chapter pursuant to section 6(d)(iii) of the article cited above on having identified the persistence of “the presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration [...]” such as grave failures to comply with decisions of the Commission and decisions of the Inter-American Court of Human Rights, issued while Venezuela was under its jurisdiction and was a State Party to the American Convention on Human Rights (hereinafter “the American Convention”).

8. On December 20, 2016, the IACHR sent the State a copy of the preliminary draft of this section of its 2016 Annual Report, in accordance with Article 59, section 10 of its Rules of Procedure, and asked it to reply with its comments within a period of one month. The IACHR later extended the deadline to January 30, 2017. The State submitted its response on January 30, 2017,² rejecting its inclusion in this chapter.³ Its comments have been included in this chapter where pertinent. The Commission approved this chapter on March 15, 2017.

9. In its comments on the draft of this chapter, the State indicated that “the conditions set forth in inter-American law for including Venezuela in Chapter IV.B have not been met [...]. The Venezuelan Government therefore takes note of the Commission’s offer [to conduct a country visit], but emphasizes that it is not possible to accept any mechanism that would involve the Venezuelan State’s acceptance of its arbitrary inclusion in Chapter IV.B.”⁴ The State notes that “like the other countries in the region, on issues of human rights, Venezuela has strengths as well as weaknesses. However, no objective and nondiscriminatory analysis would lead to the conclusion that the human rights situation” in Venezuela deserves treatment by the OAS different from what it gives to other States.⁵ Moreover, the State indicated its “willingness to have a constructive dialogue with the IACHR toward moving forward in compliance with its international obligations [...]”⁶

10. The IACHR has based its analysis on its monitoring of the overall human rights situations conducted throughout 2016 using information collected during hearings that included the active participation of the State, on information available from other public sources; on its petitions and cases mechanism; on its precautionary measures mechanism; on the State’s responses to requests for information from the IACHR on various human rights issues made under the authority established in Article 18 of the Statute of the Commission; and on the information contributed by civil society and other international organizations. All this was taken into account using the methodology established in Article 59 of the Rules of Procedure of the IACHR.

11. For its part, the State argues that this chapter is “largely supported by unofficial sources with little objectivity” given that it is based “largely on information collected from private media outlets whose editorial stances are clearly antigovernment [...]”⁷ The State does a count of the sources of

² Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017. Available in Spanish only.

³ Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 5.

⁴ Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 6.

⁵ Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 11.

⁶ Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 7.

⁷ Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 18.

information used by the IACHR in its draft report and concludes that 47% of the sources used in the chapter are media outlets, with that figure rising to 62% in the section on freedom of expression. Other sources it identifies include civil society organizations (17%), reports from governments or regional organizations (10%), official State documents (10%), information from the inter-American system (10%), IACHR hearings (5%), and information from international human rights bodies (1%).⁸ Venezuela notes that "it is especially concerning that the State's official information is practically ignored and it reiterates its rejection of the methodology used, especially the sourcing."⁹ Regarding this, it should be noted that the Commission continues to find it difficult to access official sources and public information on the performance of State agencies and on the figures compiled by the State that would enable evaluation of whether human rights are effectively being respected. Based on this, the IACHR calls on the Venezuelan State to make official sources of information and statistics available so as to enable effective monitoring of the measures adopted by the State to address the IACHR's recommendations and the issues it addresses in its successive annual reports.

12. The Commission has also noted that some progress has been made this year on human rights in Venezuela. In February, Venezuela adopted its first National Human Rights Plan, while in April it established the National Commission for Truth, Justice, Victim Response, and Peace (see *infra* II). Also, on September 22, the State presented the Human Rights Council of the United Nations (UN) with the progress it had made on access to justice and the right to defense. Specifically, it indicated that between 2013 and 2016, the Office of the Public Defender helped more than 2 million users in its various areas of competence. These included the elderly, children, adolescents, Afro-descendants, lesbian, gay, bisexual and trans (LGBT) persons, indigenous peoples, people with disabilities, and others. Also, regarding criminal jurisdiction, the Commission highlighted that throughout 2015 and in the first half of 2016, the Office of the Public Defender represented 22,709 people facing criminal proceedings at different stages.¹⁰

13. This chapter of the Annual Report is divided into six sections: I) an introduction; II) the position of the State toward the Inter-American system; III) the overall human rights situation, which includes: A) the situation of citizen security; B) rule of law and democracy in Venezuela; C) freedom of expression; and D) economic, social, and cultural rights; and IV) vulnerable groups, which includes: A) human rights defenders; B) people deprived of liberty; C) migrants and refugees; D) lesbian, gay, transsexual, and bisexual persons; E) indigenous peoples; and F) children and adolescents; as well as V) conclusions VI) the Commission's recommendations for the Venezuelan State.

II. POSITION OF THE STATE TOWARD THE INTER-AMERICAN SYSTEM

14. The Commission recalls that its last visit to Venezuela took place in May 2002, following the coup d'état that took place in April of that same year. Since the publication of its *Report on the Situation of Human Rights in Venezuela* in 2003 resulting from that visit, the Commission has taken a number of steps to seek State consent to an *in loco* visit to the country. To date, the State has not allowed any visits, which not only affects the authorities assigned to the Commission as the Organization of American States (OAS) main body for promoting and protecting human rights, but also weakens the protection system created by the Organization's Member States.

15. It should be recalled that Venezuela denounced the American Convention. This denunciation entered into force on September 10, 2013. It remains subject to the competence of the Commission and the obligations established in the OAS Charter, the American Declaration of the Rights and Duties of Man (hereinafter "the American Declaration"), and other applicable instruments.

⁸ Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report](#), Venezuela, received on January 30, 2017, paras. 20 and 22.

⁹ Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report](#), Venezuela, received on January 30, 2017, paras. 20, 21, and 22.

¹⁰ Bolivarian Government of Venezuela, [Venezuela expuso avances en la ONU en materia de defensa pública](#), September 2016.

16. The Commission has already indicated that despite the denunciation, as a member of the OAS, the Venezuelan State is still under the jurisdiction of the Commission and subject to the obligations of the OAS Charter and the American Declaration.¹¹ Likewise, the Commission reiterates that the human rights violations that took place in Venezuela during the period in which the State was a party to the American Convention are binding to the State in keeping with the obligations established in that Convention. Venezuela ratified the Convention on June 23, 1977, and the denunciation entered into force on September 10, 2013. Consequently, the petitions that the Inter-American Commission received previously and has received subsequent to September 10, 2013, that allege human rights violations that took place prior to that date will be processed in light of the State's obligations under the American Convention, and they may also be heard by the Inter-American Court.¹² As a member State of the OAS, Venezuela is still under the jurisdiction of the Commission and subject to the obligations contained in the OAS Charter and the American Declaration.

17. The Commission reiterates, however, that Venezuela set a grave precedent by failing to substantially comply with the judgments issued by the Inter-American Court,¹³ and its courts have declared certain decisions from the Inter-American Court to be unexecutable on finding they violate the Constitution. The Commission has stated repeatedly that Venezuela's position of neither accepting nor complying with the decisions and recommendations of international human rights bodies, and the bodies of the Inter-American human rights system in particular, under the argument that they run contrary to national sovereignty conflicts with the applicable principles of international law.¹⁴ The State's decision to not comply with the decisions handed down by the Court while Venezuela was under its jurisdiction and its failure to comply with decisions of the IACHR remained unchanged in 2016.

18. On several occasions, the IACHR has expressed deep concern at the setback entailed in this denunciation and in Venezuela's position toward the system as regards the OAS Member States' shared objective of moving toward the universalization of the inter-American human rights system. It has also expressed concern that the residents of Venezuela have lost in the Inter-American Court a court that protects their rights.¹⁵

19. The IACHR has used the various mechanisms provided for in the American Convention and its Rules of Procedure to monitor the human rights situation in the country, and in 2009, it issued the report *Democracy and Human Rights in Venezuela*. The Commission has monitored the human rights situation in Chapter IV of its Annual Reports from 2010 to 2015. This year, the IACHR granted four precautionary measures and continued monitoring the precautionary measures granted in previous years. Pursuant to the authorities established in Article 18 of its Statute, the IACHR also requested information from the State on the situation of television channel Globovisión; the situation of the miners who have disappeared in the state of Bolívar; the reports of lynchings in Venezuela; and the limitations on the right to freedom of expression and political opinion in the framework of a campaign to request a referendum to recall President Nicolás Maduro. The State has participated in all the hearings held this year by the Commission. The Commission continues analyzing the overall human rights situation in Venezuela in this chapter of its 2016 Annual Report.

20. The IACHR reiterates that it continues to communicate openly with the State to support the process of complying with the recommendations of this report and to advise it on compliance where

¹¹IACHR, [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.

¹²IACHR, Annual Report 2012. Chapter IV on Venezuela, para. 524.

¹³Inter-American Court. *Cases of El Amparo, Blanco Romero et al., Montero Aranguren et al., Barreto Leiva and Usón Ramírez v. Venezuela*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 20, 2015.

¹⁴IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, para. 1,161.

¹⁵IACHR, [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.

necessary; as well as to move forward jointly in the protection of human rights of the residence of Venezuela. In this regard, the IACHR is pleased that in its response, the State has noted its willingness to hold a constructive dialogue with the IACHR.

III. OVERALL HUMAN RIGHTS SITUATION

21. As noted, the overall human rights situation in 2016 has been in decline in the context of polarization and of political, economic, and social crisis. In this section, four structural issues are examined that gravely affect the overall human rights situation in the country: the situation of citizen security; the right to freedom of expression; the crisis confronted due to the lack of access to ESCR; and the situation of the rule of law and democratic institutions in Venezuela. Regarding the latter subject, the Commission will examine the status of the state of emergency and economic emergency declared by the State, the administration of justice, and judicial independence; the separation and balance of powers; the attempt to activate a referendum to recall President Nicolás Maduro; and the initiative for dialogue between the government and the opposition.

22. It should also be highlighted that in April, at the request of the State, the IACHR held a hearing on the overall situation of human rights in Venezuela during which the States' representatives reported on the adoption in February of the first National Human Rights Plan in the country.¹⁶ It indicated that its draft version was subjected to a broad and inclusive national consultation process with all sectors of society. The process included vulnerable groups; more than 150 human rights organizations that made contributions and submitted proposals; police and the military; children; and other social actors. It indicated that the plan is comprised of 213 programmatic actions around five focal points: building an emancipatory human rights culture; strengthening institutionality to guarantee the rights of everyone; participation of the people in a leading role for full enjoyment of human rights; relations with the international human rights systems and bodies from a transformative perspective; and deepening the human rights focus of State legislation, politics, and actions.¹⁷ In its comments on the draft of this chapter, the State also indicated that the plan's objective is to "establish structural conditions that enable ongoing improvements and respect for, guarantee of, and enjoyment of the human rights of all individuals subject to the jurisdiction of the Venezuelan State, the consolidation of well-being, and the conquest of supreme social happiness."¹⁸

23. For their part, the civil society representatives who participated in the hearing responded that the consultation on the aforementioned National Plan did not allow them to discuss the use of the justice system for political persecution and only the recommendations of pro-government organizations were heard.

24. The State also indicated that progress had been made on its policy of comprehensive compensation for victims of human rights violations and the adoption of mechanisms to provide them with healthcare and rehabilitation.¹⁹ In April, the National Commission for Truth, Justice, Victim Response, and Peace was established.²⁰ The State reported that 18 of the Commission's recommendations contained in Chapter IV of its 2014 Annual Report on Venezuela were explicitly included in the National Human Rights Plan.²¹ The Commission welcomes the inclusion of these recommendations into the National Human Rights Plan and will continue to monitor the actions that the State takes to effectively comply with them.

¹⁶ Decree No. 2,254 approving the National Human Rights Plan 2015-2019, drafted by the National Human Rights Council. Reprinted. Official Gazette, March 2, 2016.

¹⁷ IACHR, [Hearing on the General Human Rights Situation in Venezuela](#), April 4, 2016.

¹⁸ Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 35.

¹⁹ IACHR, [Hearing on the General Human Rights Situation in Venezuela](#), April 4, 2016.

²⁰ AVN, People's Power, Truth Commission establish guidelines for providing reparations to victims of violence, April 25, 2016.

²¹ Recommendations of the 2014 Annual Report of the IACHR included in the National Human Rights Plan 2016-2019 of the Bolivarian Republic of Venezuela, submitted by the State during the [Hearing on the General Human Rights Situation in Venezuela](#), April

25. For their part, the civil society organizations also gave statements on the government's contempt for and rejection of the decisions of the Inter-American system and the concerning consequences the denunciation of the American Convention would have for Venezuela, which in their opinion would leave the population unprotected.²²

26. In November, Venezuela was evaluated in the second cycle of the UN's universal periodic review on human rights.²³ The draft report contains 274 recommendations for Venezuela, which match closely with the challenges identified for Venezuela by the IACHR in recent years. The recommendations from a number of States stand out, including: a) engage in a dialogue among all Venezuelans, including the opposition, to resolve Venezuela's political divisions, economic crisis and humanitarian situation; b) invite and accept the visits requested by the UN and the IACHR; c) take measures to reduce the number of homicides, address the level of impunity, and stop the abuses by the security forces; d) strengthen measures to ensure the investigation and sanction of all politically-motivated acts of violence that took place in the country in recent years, "mak[ing] a proportional use of force during protests and proceed[ing] to the immediate release of political prisoners;" e) ensure that no one is detained arbitrarily and that all persons who are charged with an offense have access to a fair and impartial trial, while ensuring the independence of the judiciary; f) take the necessary measures to respect the separation of powers and independence; g) remove all restrictions preventing full enjoyment of the right to freedom of expression and association and allow the opposition to express itself, the National Assembly to perform its functions, and the media to be independent, and also allow peaceful protests. The State must submit its response to these recommendations by March 2017.²⁴

A. Situation of citizen security

27. The Commission continues to be concerned at Venezuela's security situation. During 2016, the IACHR has consistently received information on the alarming increase in crime in Venezuela. The country's homicide rate continues to be one of the highest in the region and in the world.²⁵ In February, the Venezuelan Violence Observatory (*Observatorio de Venezolano de Violencia*, OVV) reported that the homicide rate in 2015 reached 90 homicides per 100,000 residents, and each year the crime rates set new records.²⁶ According to a study by the UN Office on Drugs and Crime (UNODC), the 2014 homicide rate in Venezuela was 19.03 for every 100,000 residents.²⁷ Meanwhile, the Office of the Attorney General of the Republic reported that homicides increased by 47% during the first quarter of 2016 compared to the same period in 2014²⁸ (comparative figures are not available for 2015).

28. In May, the Attorney General of the Republic reported that in Venezuela during the first quarter of 2016, 4,969 violent deaths were reported, an increase of 300 deaths compared to the first quarter of 2015, according to official figures.²⁹ At the same time, unofficial figures indicate that the morgue of one city alone (the Bello Monte morgue, in Caracas) handled 2,210 bodies in the first four months of the year (475

4, 2016 Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 37.

²² IACHR, [Hearing on the General Human Rights Situation in Venezuela](#), April 4, 2016.

²³ *The United Nations Live & on demand*, [Venezuela Review - 26th Session of Universal Periodic Review](#), November 1, 2016.

²⁴ UN, General Assembly, [Draft report of the Working Group on the Universal Periodic Review](#), November 3, 2016.

²⁵ *InSight Crime, Tools and Data. 2015 Homicide rates in Latin America and the Caribbean*. Venezuela has the second highest homicide rate in Latin America after El Salvador (90 per 100,000 residents).

²⁶ Venezuelan Violence Observatory (OVV), [2015 Tasa de homicidios llegó a 90 por casa 100 mil habitantes](#), February 18, 2016; El Universo, [Cifras de la violencia en Venezuela rompen récords cada año que pasa](#), August 14, 2016.

²⁷ UNODC, *Global Study on Homicide 2013, Trends, Contexts, Data*. Available at: <https://data.unodc.org/#state:3>, May 18, 2016.

²⁸ *InSight Crime*, [Venezuela Murder Rate Rises Amid Security Crackdown](#), May 5, 2016.

²⁹ La Opinión, [4,969 muertes violentas en Venezuela durante los primeros tres meses de 2016](#), May 3, 2016.

bodies in January, 449 in February, 401 in March, and 495 in April). During Holy Week alone it handled 119 bodies, or 17 per day.³⁰ Some media and several deputies of the National Assembly reported that in July, the morgue was fenced off to prevent the entry of media and victims of the violence.³¹

29. For the purposes of comparison, the media have reported that in 2012 there were 21,692 murders, a 12% increase over the previous year; in 2013, that number rose to 24,763; in 2014 it increased to 24,980; and in 2015, Venezuela finished the year as the most violent country in Latin America, with 27,875 murders.³² Also, in January the organization Security, Justice, and Peace (CCSP-JP) reported that in 2015, Caracas was the city with the highest homicide rate in the world.³³ As indicated previously, lack of access to information on official crime statistics for the country persists, constituting an obstacle to monitoring the situation and implementing policies for addressing it. According to reports, since 2005, the government has banned dissemination of crime statistics for the country, which up until that point had been made public in the weekly Judicial Police bulletin.³⁴

30. The Commission has continued monitoring the programs implemented by the State for combating violence.³⁵ In July 2015, the so-called “Operation to Liberate the People” (OLP) was launched. It has been harshly criticized by civil society organizations, who report that it includes alleged illegal detentions and extrajudicial executions disguised as clashes with the police.³⁶ It has also been noted that the State agents implementing it include members of the Bolivarian National Guard (GNB).³⁷

31. During the hearing on the OLP held by the IACHR in April, Human Rights Watch (HRW) and PROVEA, who requested the hearing, submitted their report *Unchecked Power* on the operations.³⁸ They stated that the operation includes surprise, large-scale, and illegal searches by police and soldiers of homes in poor areas. During these sweeps, grave violations of fundamental rights have taken place, and the State agents have not been held accountable for their actions.³⁹ They indicate that in 24 of these operations, there have been 14,000 arbitrary arrests, resulting in charges for only 100 individuals. They stated that 445 people have died in the OLP operations.⁴⁰

32. The participating organizations indicated they had collected direct testimony from victims stating that at least 20 people had been executed after having been neutralized. They also stated that the sweeps are conducted at night and include theft of belongings, destruction of property, and the burning of homes, and that those arrested are not informed of the charges. They reported that the response from the Office of the Public Prosecutor and the Office of the Ombudsman has not been sufficient. They stated that the

³⁰ La Opinión, [4,969 muertes violentas en Venezuela durante los primeros tres meses de 2016](#), May 3, 2016.

³¹ Sumarium, [Niegan acceso a diputados de la AN a la morgue de Bello Monte](#), August 17, 2016; Noticiero Venevisión, [Impiden constatar condiciones de la morgue de Bello Monte](#), August 17, 2016; El Correo del Orinoco, [Parcialmente cerrada entrada de la Morgue de Bello Monte](#), July 26, 2016.

³² El Universo, [Cifras de la violencia en Venezuela rompen récords cada año que pasa](#), August 14, 2016.

³³ CCSP-JP, [Caracas, Venezuela, la ciudad más violenta del mundo en 2015](#), January 25, 2016. This ranking does not take cities in war zones into account, nor cities for which it does not have information.

³⁴ El País, [La violencia arrecia en Caracas con más de 500 homicidios en julio](#), August 4, 2016.

³⁵ IACHR Report on Democracy and Human Rights in Venezuela (2009) Chapter VI, The right to life, to humane treatment, and to personal liberty and security A) Violence and citizen security 1) Protection and promotion of public security b) State policies and programs to guarantee citizen security; see also El Universo, [Cifras de la violencia en Venezuela rompen récords cada año que pasa](#), August 14, 2016; PROVEA, [HRW y PROVEA presentaron informe conjunto sobre abusos de OLP](#), April 4, 2016.

³⁶ El Universo, [Cifras de la violencia en Venezuela rompen récords cada año que pasa](#), August 14, 2016; PROVEA, [HRW y PROVEA presentaron informe conjunto sobre abusos de OLP](#), April 4, 2016.

³⁷ *InSight Crime*, [Colectivos: la cara oculta de la OLP en Venezuela](#), August 5, 2016.

³⁸ HRW and PROVEA, [Unchecked Power \(2016\)](#).

³⁹ IACHR, [Hearing on human rights and the “Operation to Liberate the People” in Venezuela](#), April 4, 2016.

⁴⁰ El Universo, [Cifras de la violencia en Venezuela rompen récords cada año que pasa](#), August 14, 2016; PROVEA, [HRW y PROVEA presentaron informe conjunto sobre abusos de OLP](#), April 4, 2016.

OLP is a repetition of the illegal actions taken by police that have been identified since 2006 by the National Police Reform Commission, and that they violate the Constitution, which requires that citizen security bodies be civilian.⁴¹

33. The State responded that it would look carefully at the report *Unchecked Power* and stated that its housing policy in Venezuela has been emblematic.⁴² It stated that what is at issue is 1% of the homes delivered by the program Gran Misión Vivienda, noting that citizens have been clamoring for the State to take action to return peace and security to these areas, which are controlled by criminals.⁴³ In May, President Maduro stated: “we are here to stay with the new phase of the OLP,”⁴⁴ announcing that its new phase would correct the problems, errors, and weaknesses of the first phase. He stated that the central purpose of the new phase was to “eradicate cells whose political objective was to destabilize the country of the Venezuelans.”⁴⁵

34. As an example, it was reported that witnesses stated that on June 25, “colectivos” traveling on motorcycles and trucks comprising more than 100 armed men and women wearing dark shirts and military style trousers came to Ciudad Caribia and announced the following: the organization of the Local Food and Production Committees (*Comités Locales de Alimentación y Producción*, CLAP); vengeance for the violent death of a member of the United Socialist Party of Venezuela (PSUV); and an end to the construction unions. The next day, the GNB arrested people with connections to the construction union. On June 30, armed groups of masked man arrived in the early morning hours riding GNB motorcycles and driving National Bolivarian Intelligence Service (*Servicio Bolivariano de Inteligencia Nacional*, SEBIN) trucks, saying they were conducting an OLP. They surrounded the place and conducted abusive illegal searches and threatened extrajudicial executions.⁴⁶ This operation resulted in 6 dead and 10 arrested. Some media outlets reported that during the operation, members of the gang known as “*Los Sindicalistas*” (Union Members) were killed,⁴⁷ while others reported that one of the dead was Johan Perez, a Union Member of the Bolivarian Workers Union and construction contractor.⁴⁸

35. In June, PROVEA reported that during the first five months of the operation, only 1,600 detainees were brought before the courts, meaning that more than 15,000 people were innocent of the crimes of which they were accused.⁴⁹

36. The Commission notes that in July, the Attorney General of the Republic expressed concern regarding the OLPs, stating that she had received a number of complaints, especially of human rights violations. She indicated that there was a high rate of OLP participants belonging to the GNB being criminally processed in response to complaints over destruction of homes, theft, and misconduct. For their part, HRW and PROVEA indicated that in its report to the National Assembly, the Attorney General presented a list of 245 deaths, of which only three were State agents. They thus conclude that these death were not from clashes, as the State argues, but rather from extrajudicial executions.⁵⁰

⁴¹ IACHR, [Hearing on human rights and the “Operation to Liberate the People” in Venezuela](#), April 4, 2016.

⁴² IACHR, [Hearing on human rights and the “Operation to Liberate the People” in Venezuela](#), April 4, 2016.

⁴³ IACHR, [Hearing on human rights and the “Operation to Liberate the People” in Venezuela](#), April 4, 2016.

⁴⁴ VTV, [Nueva fase de las Operaciones de Liberación del Pueblo \(OLP\) para continuar protegiendo a los venezolanos](#), May 30, 2016.

⁴⁵ VTV, [Nueva fase de las Operaciones de Liberación del Pueblo \(OLP\) para continuar protegiendo a los venezolanos](#), May 30, 2016.

⁴⁶ Runrunes, [Colectivos comandan las OLP y ejecutan a presuntos delincuentes para tomar control de los territorios](#), June 17, 2016.

⁴⁷ Analítica, [OLP en Ciudad Caribia dejó 6 muertos y 10 detenidos](#), July 1, 2016; Sumarium, [OLP en Ciudad Caribia dejó 10 detenidos y 6 fallecidos](#), June 30, 2016.

⁴⁸ La Voz, [Un delegado sindical entre muertos de ciudad Caribia](#), July 2, 2016; El Carabobeño, [Delegado sindical ultimado por la OLP en Ciudad Caribia](#); July 1, 2016; *InSight Crime*, [Black Ops: The Dark Side of Venezuela’s OLPs](#), August 5, 2016.

⁴⁹ Venezolanonews, [Las OLP violan DDHH en intento de frenar los crímenes en Venezuela](#), July 17, 2016.

⁵⁰ Venezuelanalysis, [Venezuela’s Attorney General Voices Concerns over Government Anti-Crime Operation](#), July 21, 2016.

37. Prior to the launch of this operation, in August 2015, the IACHR had requested information from the State under the authority of Article 18 of its Statute.⁵¹ In a response received in April 2016, the State indicated that during execution of the OLPs, 292 people had died, allegedly due to the actions of officials assigned to various State investigative bodies: specifically, 247 died in 2015 and 45 in 2016. Among the dead were 12 adolescents. The State also reported that 211 criminal investigations had been launched with the purpose of clarifying the circumstances of these deaths, close the file on the cases where appropriate, and bring charges where necessary.⁵²

38. It was also reported that during an OLP operation in August on the border with Colombia in which three FANB officers and a civilian were shot, Colombian citizen Érica Moncada was arrested and accused of being "a collaborator in the attack on the guards." Her lawyer states that her main "crime" was being the wife of Carlos Andrés Arando, who was accused by an anonymous "cooperating patriot" of being the perpetrator in the attack on the authorities. It was reported that since then, she had been held without a court order and isolated from her family and attorneys, and was waiting to be tried before a military court. According to her attorney, Érika Moncada had been suffocated with plastic bags to obtain "confessions;" raped and tortured with a beating that broke open a breast implant, causing unbearable pain; and electrocuted on her breasts.⁵³

39. Also, since October, the disappearances of 20 young people have been reported to the Public Ministry and the Office of the Ombudsman. The young people were allegedly arrested by Army officials in the municipality of Acevedo in the state of Miranda during an OLP on October 15. Eight of them were released after having been tortured and after signing documents against their will and without having read them.⁵⁴ It was later learned that mass graves were discovered in two areas of Barlovento: in the La Maturetera sector of the Brion municipality and in the Aragüita sector, in Acevedo. The bodies of 10 of the detainees were found in a mass grave in the former and the bodies of the other two were found in a shared grave in the latter.⁵⁵ Regarding this, the Public Ministry reported that 11 Army officials had been charged with the death of the 12 people whose bodies were found.⁵⁶ In its comments on the draft of this chapter, the State said that based on these events, a total of 18 soldiers of the National Bolivarian Army were deprived of liberty, and in a statement issued by the Ministry of the People's Defense Authority, the FANB rejected the conduct of the soldiers allegedly involved in the aforementioned incidents and publicized the decision of the President of the Republic to demote and discharge the aforementioned soldiers.⁵⁷

40. In November, nine men were allegedly shot in the head and killed in the El Porvenir sector of Cariaco, Sucre state.⁵⁸ Regarding this, the authorities reported that five GNB officers were deprived of

⁵¹ IACHR, request for information from the State, August 2015; IACHR, Annual Report 2015, Chapter IV. B Venezuela, para. 51.

⁵² Permanent Mission of the Bolivarian Republic of Venezuela to the OAS, Note II.2.E8.D-OEA.16-242 of April 21, 2016.

⁵³ Caracol Radio, [Amnistía Internacional denuncia detención y tortura de colombiana en Venezuela](#), November 25, 2016, La Patilla, [Al: colombiana detenida arbitrariamente es torturada, agredida sexualmente y enjuiciada ante tribunal militar](#), November 25, 2016, Diario Las Américas, [Las terribles torturas a Erica Moncada, detenida en Venezuela](#), November 30, 2016.

⁵⁴ Actualidad, [Cronología. Los muertos de Barlovento o cómo una OLP terminó en masacre](#), December 2, 2016.

⁵⁵ Elizer Ramírez, Antony Vargas, Antonio Aladejo, Luis Sanz, Dennys Acevedo, Oscar Rodríguez, Yorman Mejias, Freddy Hernández, Víctor Manuel Martínez, Jairo Rivas, Kenry González, and Carlos Marchena. Actualidad, [Cronología. Los muertos de Barlovento o cómo una OLP terminó en masacre](#), December 2, 2016.

⁵⁶ COFAVIC, [Comunicado: medidas de seguridad basadas en violaciones de derechos humanos, miedo y deshumanización profundizan la exclusión social y atentan contrala democracia en Venezuela](#), November 29, 2016, El Nuevo Herald, [Cadáveres de 12 detenidos en operativos policiales revive polémica en Venezuela](#), November 28, 2016.

⁵⁷ Ministry of the People's Defense Authority, press release of the FANB on the Barlovento incidents, November 26, 2016 in: Últimas Noticias, [FANB repudia desaparición forzada de varias personas en Barlovento](#), November 26, 2016; Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 40; Alba ciudad 96.3 FM, [Presidente Maduro ordenó expulsar de la FANB a militares implicados en masacre en Barlovento](#), November 28, 2016.

⁵⁸ COFAVIC, [Comunicado: medidas de seguridad basadas en violaciones de derechos humanos, miedo y deshumanización profundizan la exclusión social y atentan contrala democracia en Venezuela](#), November 29, 2016, El Nuevo Herald, [Cadáveres de 12 detenidos en operativos policiales revive polémica en Venezuela](#), November 28, 2016.

liberty for allegedly committing the crime of aggravated intentional homicide with malice, conspiracy, improper use of a service weapon, and aggravated theft.⁵⁹

41. Regarding this, the IACHR recalls that the use of force must be exceptional and proportionally limited by the authorities. Force may only be used when all other means of control have been tried and failed. Interpretation of this must be restrictive, and the use of force must be minimized under all circumstances to no more than absolutely necessary.⁶⁰

42. On another matter, since the Executive Branch issued Decree 2,323 declaring a state of emergency and an economic emergency, the IACHR has issued statements on, among other issues, the authorities granted to the Bolivarian National Armed Forces (*Fuerza Armada Nacional Bolivariana*, FANB) for citizen control, including the “correct distribution and sale of food and essential goods,” the protection of wooded areas, and oversight of the CLAPs.⁶¹ It reiterated that because the armed forces was not properly trained to do citizen security work, it was the responsibility of civilian police, duly trained and respectful of human rights, to guarantee safety and maintain public order domestically.⁶²

43. The IACHR reiterates that States have the unavoidable obligation, in line with their international human rights obligations, to adopt all measures necessary to protect the life and personal integrity of everyone under their jurisdiction, and that the existence of high rates of violence and criminality diminishes the rule of law and contributes to eroding the democratic progress made in recent decades in the region. Thus, the implementation of comprehensive citizen security public policies that are respectful of human rights is fundamental for the validity of the democratic system.⁶³

44. There were a number of reports of forced disappearances in 2016. In October, the World Organization against Torture (OMCT) reported on the forced disappearances of Carlos Gabriel Marchena Silva, Eliecer Ramírez, Anthony Vargas, Antonio Miguén Aladejo, Luis Alirio Sanz, Dennys Acevedo, Oscar Rodríguez, Yorman Mejías, Freddy Hernández, Kendri González, Víctor Manuel Martínez, Susano Farfán, and Jairo Rivas in the municipality of Acevedo, Miranda state, and urged the authorities to locate them. It indicated that the detentions were made during an OLP operation between October 7 and 15 that included the participation of at least 18 soldiers. It expressed concern that the alleged victims may have been mistreated or victims of extrajudicial execution because as of November 4, their whereabouts and physical status were not known despite the fact that complaints regarding the incident were filed with the Office of the Public Prosecutor and the Office of the Ombudsman.⁶⁴

45. Also, the Commission requested information from the State under the authority of Article 18 of its Statute on acts of violence that took place in the town of Tumeremo on February 4, 2016. Allegedly, 28 minors who worked informally in the municipality of Sifonte, Bolívar state, were disappeared.⁶⁵ The media reported that a gang led by Henry Norberto Bonalde, alias “El Topo,” had allegedly massacred them.⁶⁶ It was

⁵⁹ COFAVIC, [Comunicado: medidas de seguridad basadas en violaciones de derechos humanos, miedo y deshumanización profundizan la exclusión social y atentan contra la democracia en Venezuela](#), November 29, 2016, El Nuevo Herald, [Cadáveres de 12 detenidos en operativos policiales revive polémica en Venezuela](#), November 28, 2016.

⁶⁰ IACHR, Annual Report 2015, Chapter IV(B), para. 51.

⁶¹ IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

⁶² IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

⁶³ See IACHR, Annual Report 2015, Chapter IV(B), para. 52.

⁶⁴ OMCT, Case VEN 041116, Forced disappearance / Fear for physical integrity / Fear of impunity, November 4, 2016.

⁶⁵ IACHR, Request for information from the State, May 21, 2016.

⁶⁶ El Mundo, [Venezuela vive su propia masacre de iguala tras la desaparición de 28 mineros ilegales](#), March 8, 2016.

also reported that the minors had been dismembered and that witnesses stated that the attackers had included members of the SEBIN and the Criminal and Forensic Investigations Agency.⁶⁷

46. In its response, the State reported that 17 bodies were found and identified and 16 of them were turned over to their families. They all had fractured skulls from bullet wounds.⁶⁸ It indicated that there were 17 victims, not 28, and that none of them had been dismembered, as reported. The State reported that officials with the Office of Social Management of the Office of the Public Prosecutor provided comprehensive assistance.⁶⁹ The State did not report the names of the individuals identified and provided no information on the whereabouts of the other individuals alleged to have been disappeared.

47. The Santa María Institute for Criminal and Forensic Sciences reported that kidnapping increase by 170% in Venezuela in 2016. The finding was based on a report on citizen perceptions and considered “an indication of the State’s inability to provide safety at a time in which the economic and political crisis continue to hurt the nation.”⁷⁰ It stated that kidnappings had quintupled during the first five months of the year,⁷¹ basing its statements on anecdotal evidence and perceptions, as no official data was available. It also indicates that kidnappings are significantly underreported, estimating that only 8% of cases are reported to the police.

48. Also, the IACHR has issued statements on the proliferation of speculators—known as “*bachaqueros*”—acts of corruption, clashes between private parties, looting of stores and shopping centers, and violence during demonstrations and acts of social protest, all of which pose a grave risk to citizen security.⁷² Additionally, in response to increasing reports of and information on people taking justice into their own hands, in May the Commission asked the State under the authority of Article 18 of its Statute about the concerning increase in the number of lynchings reported in different parts of Venezuela in the context of the insecurity and violence facing the country.⁷³ According to reports from the Attorney General, between January and March, 74 lynchings took place resulting in 37 deaths and another 37 people injured, most of them young people and adolescents.⁷⁴ The Commission inquired into the figures on lynchings for 2016 and sought information on the circumstances, the investigations conducted, and the implementation of actions to prevent repetition.⁷⁵ The State did not submit a response.

49. Also, the Commission highlights that on November 3, the National Office for Comprehensive Care for Victims of Violence was created. Its duties include drafting and approving institutional policies for providing comprehensive care to victims of violence.⁷⁶

50. The Commission reiterates that States must adopt measures not only to protect their citizens from human rights violations committed by State agents but also, when it is aware of or should be aware of acts of violence between private parties, it has the obligation to take reasonable measures to

⁶⁷ FPV, Report on cases of murders and disappearances in Tumeremo (Bolívar state, Venezuela) FPV s/f; Tal Cual, [Amnistía Internacional activa acciones sobre caso de mineros de Tumeremo](#), March 11, 2016.

⁶⁸ Permanent Mission of the Bolivarian Republic of Venezuela to the OAS, Note II.2.E8.D-OEA.16-284 of May 3, 2016.

⁶⁹ Permanent Mission of the Bolivarian Republic of Venezuela to the OAS, Note II.2.E8.D-OEA.16-284 of May 3, 2016.

⁷⁰ *InSight Crime*, [Report Claims Huge Rise in Venezuela Kidnappings](#), June 15, 2016. [El Nacional. Secuestros aumentaron 170% y el Estado se muestra incapaz de combatirlo. June 13, 2016.](#)

⁷¹ *InSight Crime*, [Report Claims Huge Rise in Venezuela Kidnappings](#), June 15, 2016.

⁷² CIDH, Press Release No. 096/16, [IACHR Calls on Venezuelan State to Adopt Comprehensive Measures in the Face of Scarcity in Venezuela](#), July 22, 2016.

⁷³ IACHR, Request for information from the State, May 23, 2016.

⁷⁴ El Estímulo, [Fiscal: van 37 fallecidos por linchamientos en Venezuela en 2016](#), May 3, 2016; Últimas Noticias, [37 personas han fallecido por linchamientos este año](#), May 3, 2016.

⁷⁵ IACHR, Request for information from the State, May 21, 2016.

⁷⁶ Decree N° 2,531. Official Gazette of the Bolivarian Republic of Venezuela No. 41,023 of November 3, 2016, Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 38.

prevent and punish these acts.⁷⁷ The Commission has also pointed out States' obligations regarding the actions of non-State actors involved in organized crime, corruption, drug trafficking, and other activities.⁷⁸

51. The Commission has made a series of recommendations to Venezuela for addressing this situation of insecurity and violence, invoking compliance with its obligations to respect and guarantee human rights and urging it to evaluate its citizen security policies from that perspective.⁷⁹ It has also indicated that the lynchings are both a justice problem and a citizen security problem, and that it is the State's responsibility to take the measures necessary for State bodies to address it and resolve it in keeping with international human rights standards.⁸⁰

52. Based on this, the IACHR reiterates that the State's actions on this matter are still insufficient. The Commission remains concerned at the reports of violence committed by State agents in the context of high crime rates and Venezuela's structural situation of impunity. The Commission also reiterates that certain actions taken by the State to address this situation—such as the OLP operations—represent significant challenges from the perspective of the human rights the State must guarantee as it implements citizen security policies.⁸¹

B. Rule of law and democracy in Venezuela

53. During 2016, the Commission has observed a significant deterioration in Venezuela's institutionality; the separation, independence, and balance of state powers; respect for political rights; and democratic institutions, as described in this section.

1. State of emergency and economic emergency

54. First, the Commission observes that the State began the year by declaring a nationwide state of emergency and economic emergency through executive decrees 2,184⁸² and 2,323,⁸³ respectively. Both decrees were issued in a context of protests and increasing violence, partly the result of progressive and worsening shortages of food and medicine, infrastructure deterioration, and polarization and political conflict.⁸⁴ These executive decrees were also issued in response to the declaration of a humanitarian emergency⁸⁵ by the National Assembly in January, which was rejected by the Executive Branch. The states of emergency and of economic emergency have been extended throughout the year.⁸⁶ Despite these extensions,

⁷⁷ IACHR, Report on Citizen Security and Human Rights, December 31, 2009, para. 40.

⁷⁸ See IACHR, Annual Report 2015, Chapter IV(B), para. 37.

⁷⁹ Report on Citizen Security and Human Rights, December 31, 2009, para. 35.

⁸⁰ See IACHR, [Justice and Social Inclusion: The challenges of democracy in Guatemala \(2003\)](#), para. 133 and following; IACHR, Press Release No. 46/14 [IACHR Expresses Concern for Vigilante Attacks in Argentina](#), April 24, 2014.

⁸¹ See IACHR, Annual Report 2015, Chapter IV(B), para. 39.

⁸² Decree No. 2,184, published in Extraordinary Official Gazette No. 6,214 of January 14, 2016, which declared a nationwide state of economic emergency lasting 60 days.

⁸³ Decree No. 2,323, declaring a state of emergency and of economic emergency due to extraordinary social, economic, political, natural, and ecological circumstances gravely affecting the national economy. Published in Extraordinary Official Gazette of the Bolivarian Republic of Venezuela No. 6,227, May 13, 2016.

⁸⁴ See HRW, Venezuela: Revoke Emergency Decree. May 19, 2016.

⁸⁵ BBC, [Asamblea Nacional de Venezuela declara "crisis humanitaria de salud" por escasez de medicamentos](#), January 27, 2016, and [Acuerdo mediante el cual se declara crisis humanitaria e inexistencia de seguridad alimentaria de la población venezolana](#), January 11, 2016.

⁸⁶ Decree No. 2,452 declaring a state of emergency and economic emergency due to extraordinary social, economic, and political circumstances affecting constitutional order, social peace, the security of the Nation, public institutions, and the citizens residing in the Republic in order for the National Executive to take urgent, conclusive, exceptional, and necessary measures to ensure the population fully enjoys its rights, to preserve domestic order, timely access to goods, services, food, medicine, and other essential products; published in Extraordinary Official Gazette of the Bolivarian Republic of Venezuela No. 6,256, September 13, 2016. Extended

the emergency situations these decrees were issued to address remain, as this chapter will show, especially in the section on ESCR.

55. Very early on in its history, the Commission recognized the importance of maintaining the rule of law and constitutional law when invoking states of emergency. In 1968, the Commission established a fundamental requirement: a state of emergency can only be invoked to preserve democracy. Suspension of constitutional guarantees and martial law are only compatible with representative democracy if they do not restrict the validity of the rule of law or constitutional law, nor alter the authorities of the branches of government or the functioning of checks and balances.⁸⁷

56. As indicated previously (see *supra* III.A), the decree gives the Executive Branch discretionary powers using broad and ambiguous language, gives the FANB policing powers, and allows financing of civil society organizations to be blocked. The IACHR expressed concern, indicating that the adoption of these measures is exceptional and must reasonably match the needs of the situation in question without going beyond what is strictly necessary, thereby avoiding extension over time, disproportionality, or diversion or abuses of power, arbitrary use of which affects democracy and limits freedom of expression, equal protection, and freedom of association as established in the American Declaration.⁸⁸ The Commission was also concerned that this decree could compromise respect for the rule of law and separation of State powers. The IACHR observes that this decree granted the Executive Branch discretionary powers and used broad and ambiguous language to establish concepts such as “destabilizing actions that threaten security and national sovereignty” to make it possible to adopt public security measures and “special plans.”⁸⁹

2. Administration of justice and judicial independence

57. Continuing with the monitoring the Commission performs of access to justice and the fragile status of judicial independence, it has observed in the past that a large number of judges in Venezuela have provisional appointments and can be removed without a disciplinary proceeding, a situation that persisted in 2016. In this regard, it should be noted that the Constitutional Chamber of the Supreme Tribunal of Justice (TSJ)⁹⁰ ratified its authority to remove temporary judges, stating that the judicial disciplinary jurisdiction does not have authority to process provisional judges accused of any irregularities. PROVEA stated that this means that fewer than 700 of the country’s 2000 judges have a right to trials with due process guarantees because they are permanent, while the remaining 66%, because they are temporary, can be removed by the Judicial Committee at any moment and without any prior procedure.⁹¹ It indicated that according to the TSJ, in 2015, the number of floating judges increased to 279; 54 courts were established throughout the country; and 1576 administrative judges were appointed, along with 555 civil judges and 292 criminal judges.⁹²

58. The Venezuelan Justice Observatory (*Observatorio Venezolano de la Justicia, OVJ*) conducted an investigation into management of the judiciary. The first thing it discovered was opacity in this area, as

five times throughout the year, with the latest extension on November 13, 2016. VTV, [Prorrogado por 60 días decreto de Estado de Excepción y Emergencia Económica](#), November 13, 2016.

⁸⁷ IACHR, Resolution on the Protection of Human Rights during Suspension of Constitutional Guarantees or State of Emergency, in: Report on the Work Conducted during the Eighteenth Period of Sessions, July 1968, p. 47. See IACHR, [Report No. 48/00](#), Case 11,166, Walter Humberto Vásquez, Peru, April 13, 2000, para. 30.

⁸⁸ IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

⁸⁹ IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

⁹⁰ TSJ, Judgment No. 1082 of August 11, 2015; see PROVEA, 2015 Annual Report, Provisionalidad de jueces sigue erosionando independencia del Poder Judicial, July 19, 2016.

⁹¹ TSJ, Judgment No. 1082 of August 11, 2015; see PROVEA, 2015 Annual Report, Provisionalidad de jueces sigue erosionando independencia del Poder Judicial, July 19, 2016.

⁹² TSJ, Judgment No. 1082 of August 11, 2015; see PROVEA, 2015 Annual Report, Provisionalidad de jueces sigue erosionando independencia del Poder Judicial, July 19, 2016.

data is scarce and unclear. It found that from 2001 to 2004, the TSJ handed down a total of 10,500 decisions, while between 2005 and 2015, it handed down 7,400, a decline in efficiency of more than 30%.⁹³ It also found that almost two thirds of all judges (67.35%) are not permanent— that is, they have not been appointed through the public process required by the Constitution.⁹⁴ It found that the Judicial Branch does not fulfill its obligation of providing an account of its performance and reporting on its budget, and it stopped providing statistics on the courts five years ago. It also found that the information on “case files resolved” mixes together all types of decisions (the majority being to simply admit cases) and does not specify which matters were effectively concluded and which are pending, nor the number of years by which they are delayed. Finally, it found that on average, less than 25% of court rulings are final.⁹⁵

59. This year, in a communication to the UN Human Rights Council’s Special Rapporteur on the Independence of Judges and Lawyers, the Instituto Iberoamericano de Derecho Procesal expressed concern at “the serious deterioration of the independence of the judiciary” in Venezuela and its consequences for the exercise of fundamental rights in a situation in which democracy is notably weekend. It urgently requested that actions be taken to mitigate and eliminate these serious human rights violations as soon as possible.⁹⁶

60. Using the same methodology as in previous years and according to the information made available on the TSJ’s website and the regular publications of the Executive Directorate of the Magistracy,⁹⁷ the Commission observes that as of September 2016, the Judicial Committee of the TSJ continues to name and designate judges in courts throughout the country, almost all of which are provisional or appointed temporarily. In most cases, the appointments continue to be for reasons such as transfers, replacements, and/or creation of new courts, or to provide replacements for other court officials.

61. Specifically, based on the information available for the months of January through September 2016, the TSJ has appointed 49 judges throughout the country, of which seven are permanent.⁹⁸ Moreover, during the first nine months of 2016, 18 resolutions were issued to nullify appointments of judges in Venezuela.⁹⁹ Of the total appointments, 23 were temporary judges, and 19 were provisional, including appointments for creating a new court, to replace a judge who resigned, and replacements.¹⁰⁰

62. Regarding this, in its comments on the draft of this chapter, the State indicated that on August 23, 2016, the TSJ published its “Rules for Evaluation and the Competitive Selection Processes for Hiring and Promotion within the Judiciary.” Its objective is to regulate hiring, promotion, and career permanency within the judiciary through public competitive selection processes and performance evaluations, in observance of the provisions of Article 255 of the Constitution of the Bolivarian Republic of Venezuela.¹⁰¹ It also reported on the so-called “competitive selection process for admitting the nonpermanent judges currently serving to career posts,” carried out on December 6, by the Judicial Committee of the TSJ. Its objective was to regularize the permanent appointment of judges in the judicial circuits of the Caracas Metropolitan Area, Miranda and Vargas states, with competence in the areas of

⁹³ Venezuelan Justice Observatory (OVJ), [Informe sobre el desempeño del poder judicial venezolano \(2001-2015\)](#). See Carauta Digital, [Observatorio Venezolano de la Justicia rechaza la “ineficiencia” del TSJ](#), August 26, 2016.

⁹⁴ OVJ, [Informe sobre el desempeño del poder judicial venezolano \(2001-2015\)](#), pg. 55

⁹⁵ OVJ, [Informe sobre el desempeño del poder judicial venezolano \(2001-2015\)](#), Conclusions.

⁹⁶ Instituto Iberoamericano de Derecho Procesal, [Presentation to the UN on respect for judicial independence and impartiality in Venezuela](#), September 8, 2016.

⁹⁷ TSJ, [Appointments](#).

⁹⁸ TSJ, [Appointments](#). Figures from January through the end of September 2016.

⁹⁹ TSJ, [Appointments](#). Figures from January through the end of September 2016.

¹⁰⁰ TSJ, [Appointments](#). Figures from January through the end of September 2016.

¹⁰¹ Official Gazette of the Bolivarian Republic of Venezuela No. 40,972. Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B. IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 38.

adversarial administrative and tax law, ordinary criminal law, violence against women, criminal responsibility of adolescents, protection of children and adolescents, labor law, and agrarian law.¹⁰²

63. The Commission has also continued monitoring the temporary status of a high number of prosecutors in public prosecutor offices at the national, state, and municipal levels, as well as of prosecutors before the Plenary Chamber and the cassation, constitutional, political administrative, and electoral chambers of the TSJ, and before the adversarial administrative courts.¹⁰³ According to the information available on the official website of the Office of the Public Prosecutor, in 2016, none of the prosecutors in its various offices with national jurisdiction are permanent. Rather, of the 208 prosecutors, 84 are provisional and 124 are auxiliary.¹⁰⁴

64. Regarding this, the State reported that from October 17, 2011, to November 2016, five permanent positions with workplace stability have been opened for applications. It noted that more than 900 attorneys have entered the program for beginning a career as a public prosecutor and for specializing in the exercise of prosecutorial duties.¹⁰⁵ According to the press release issued by the Public Ministry, during the ceremony for the Fifth Competitive Application Process for Entering the Prosecutor Career, the Attorney General of the Republic urged Public Ministry directors to motivate prosecutors to participate in the hiring process is to be opened in the future for the National Prosecutor School, while highlighting that it was important for all the institution's officials to always respect the Constitution.¹⁰⁶

65. The State also reported that the National Human Rights Plan includes the following strategic actions: (i) continue to conduct public hiring processes for career judges and the Public Ministry; (ii) speed up the process to transform the system of justice to guarantee that the whole population has access under conditions of real equality, thereby ensuring timely protection of their rights and guarantees, especially for groups traditionally excluded from the system; and (iii) strengthen the mechanisms for coordinating the actors of the justice system, set forth in the Justice System Act.¹⁰⁷

66. In September, the State presented its progress on guaranteeing access to justice, the right to defense, and general protection of human rights of the Venezuelan people to the plenary of countries represented at the UN Human Right Council. It indicated that in Venezuela, "more favorable conditions are in place for guaranteeing the full and effective exercise of the human right to organized, direct, and protagonist participation, with personalized support for all citizens who require it, free of charge."¹⁰⁸

67. For its part, the Fundación Pro Bono Venezuela reported to the IACHR that access to justice in the country is precarious. It expressed concern at the lack of access to an adequate, timely, and just legal proceeding for defending human rights. Among the many factors that block access to this, it identified: a) the population's scarce financial resources, making it difficult to access an attorney; b) lack of trust in the

¹⁰² TSJ, Call for applications for the position of judge, December 6, 2016. Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 43.

¹⁰³ IACHR, Annual Report 2013, Chap. IV on Venezuela, para. 647, IACHR, Annual Report 2015, Chap. IV on Venezuela, para. 274.

¹⁰⁴ [Office of the Public Prosecutor](#), accessed on October 28, 2016.

¹⁰⁵ Public Ministry, [Fiscal juramentó a las acreedoras del V Concurso de credenciales y de oposición para el ingreso a la carrera judicial](#), November 9, 2016. Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 44.

¹⁰⁶ Public Ministry, [Fiscal juramentó a las acreedoras del V Concurso de credenciales y de oposición para el ingreso a la carrera judicial](#), November 9, 2016. Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 44 and press release from the Public Ministry of the Bolivarian Republic of Venezuela: [RSS - Public Ministry](#), February 22, 2017.

¹⁰⁷ National Human Rights Plan, strategic line 3, programmatic action 9; strategic line 3, programmatic action 1; and strategic line 2, programmatic action 2. Bolivarian Republic of Venezuela, [Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela](#), received on January 30, 2017, para. 45.

¹⁰⁸ Bolivarian Government of Venezuela, [Venezuela expuso avances en la ONU en materia de defensa pública](#), September 2016.

judiciary due to the slim chance of receiving timely and adequate service; c) the lack of preparation and equipment in public institutions; d) the uncertainty among public servants given the number of provisional and temporary judges that can be removed from their positions for simple irregularities, producing a lack of judicial independence and progressiveness when judicial decisions are made; e) procedural delay; and f) the TSJ's uncertain budget.¹⁰⁹ It also highlighted the lack of information and training of public servants on the State's international obligations, as well as a shortage of public defenders, prosecutors, judges, and officials.¹¹⁰

68. It should be noted that subsequent to the issuing of decree 2,323 declaring a state of emergency and economic emergency, 125 Venezuelan and international human rights organizations gave statements on the need for the international community to press for this decree to be revoked. They stated that:

Since the government's political takeover of the Supreme Court in 2004, the judiciary has ceased to function as an independent branch of government, and has routinely validated the government's policies and practices that fail to meet international human rights standards. The National Assembly, which was controlled by government supporters for most of the past decade, repeatedly enacted "enabling laws" granting the president broad powers to legislate. It repacked the Supreme Court, most recently in December 2015, to ensure that a loyal court remained in place.¹¹¹

69. Regarding this, the IACHR recalls once more that the bodies of this system have established that the provisional judges in Venezuela exercise exactly the same functions as permanent judges—that is, they administer justice—for which reason the State must provide the guarantees emanating from the principle of judicial independence to provisional judges the same as to permanent judges.¹¹² The Commission reiterates that one of the essential elements of representative democracy is the independence of the branches of government.¹¹³

3. Separation and balance of powers

70. Since the legislative elections took place in 2015, giving the opposition a majority in the National Assembly—in the form of a coalition known as the Democratic Unity Roundtable (*Mesa de Unidad Democrática*, MUD)—the opposition majority has been in open confrontation with the executive branch, the judiciary, and the electoral branch, which are all staffed with senior pro-government officials. In this context, the National Assembly has approved a series of laws that have been overturned by the Constitutional Chamber of the TSJ under President Maduro's requirement that it review the constitutionality of these laws before they go into effect. It has also been observed that the TSJ has issued judgments with the initial effect of limiting the powers of the National Assembly.¹¹⁴ Most recently, it declared the actions of the National Assembly manifestly unconstitutional and "absolutely null and lacking all validity and legal effect," including

¹⁰⁹ Request for hearing from the Fundación Pro Bono Venezuela (ProVene) on the fragile right to access to justice in Venezuela, October 5, 2016. Attached to the UN Human Rights Council's Universal periodic review on Venezuela on the access to justice in Venezuela.

¹¹⁰ ProVene, Report for the UN Human Rights Council's Universal periodic review on Venezuela on the access to justice in Venezuela, October 5, 2016.

¹¹¹ HRW, [Venezuela Should Revoke Emergency Decree](#), June 6, 2016.

¹¹² Inter-American Court, Case of Reverón Trujillo v. Venezuela, Preliminary Objection, Merits, and Reparations, Judgment of June 30, 2009. Series C, No. 197, para. 114, IACHR, application filed before the Inter-American Court in the case of Maria Cristian Reverón Trujillo v. Venezuela (2007), para. 78.

¹¹³ Article 3 of the Inter-American Democratic Charter.

¹¹⁴ TSJ, Constitutional Chamber, [judgment No. 9](#), March 1, 2016.

the laws it passed, as long as it disregards the legal authority of the Electoral Chamber;¹¹⁵ this violates the principle of the separation of powers that is necessary for democratic society, as described hereinafter.

71. For its part, the State believes that the members of the different branches of government are independent and autonomous, as they are appointed by the National Parliament through constitutionally-established procedures.¹¹⁶

72. Toward the beginning of the year, in February, after the National Assembly's initial passage of a law to strengthen national production, President Maduro called on Venezuelans to "mobilize and rebel" against the bill, saying that it "seeks to privatize [...] all public, socialist, communal, or mixed entities in which the working class has a stake."¹¹⁷

73. In March, the TSJ issued a decision to "place democratic limits on the National Assembly in response to unconstitutional actions." The decision limited parliamentary oversight exclusively to the executive branch, eliminating the possibility that the National Assembly could oversee the acts of the judicial, electoral, and citizen branches.¹¹⁸ For its part, the National Assembly rejected this judgment as nonbinding and asked the OAS to invoke the Inter-American Democratic Charter, arguing that the judgment alters the country's constitutional order.¹¹⁹

74. The TSJ also issued a series of decisions upholding the actions of the Electoral Chamber and the emergency decrees issued by the Executive Branch. Of the 112 seats obtained by the opposition in the national assembly in the December 6, 2015 election, the Electoral Chamber ordered three indigenous opposition deputies and one pro-government deputy from Amazonas state removed, with which the opposition lost its super majority in the National Assembly.¹²⁰ The Constitutional Chamber issued a judgment ratifying this decision.¹²¹ Regarding this, the IACHR received information from deputies of the National Assembly indicating that the voters of the state of Amazonas still are not represented in the National Assembly because the situation has not yet been resolved. In July, the IACHR expressed concern at the lack of representation of indigenous peoples in the National Assembly.¹²²

75. Also, the TSJ found economic emergency decree 2,184¹²³ and decree 2,323¹²⁴ extending the state of emergency and economic emergency for 60 days issued by the President of the Republic and rejected by the National Assembly to be constitutional and valid "due to extraordinary social, economic, political, natural, and ecological circumstances gravely affecting the national economy."¹²⁵

¹¹⁵ TSJ, [Judgment of September 2, 2016](#).

¹¹⁶ National Human Rights Plan, strategic line 3, programmatic action 9; strategic line 3, programmatic action 1; and strategic line 2, programmatic action 2. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 81.

¹¹⁷ Télam, [Maduro llamó a rebelarse contra la ley para la producción nacional](#), March 2, 2016; El Mundo, [Maduro pide una "rebelión" de venezolanos contra la ley de producción nacional](#), March 2, 2016.

¹¹⁸ TSJ, Constitutional Chamber, [judgment No. 9](#), March 1, 2016.

¹¹⁹ La Nación, [Parlamento de Venezuela pide que OEA intervenga ante crisis institucional](#), March 3, 2016.

¹²⁰ El Universal, [TSJ ordena la desincorporación de los tres diputados opositores de Amazonas](#), January 11, 2016, El Nacional, [Diputados de Amazonas solicitaron su desincorporación de la AN](#), January 13, 2016.

¹²¹ Noticias 24, [TSJ declara procedente desacato de la AN ante juramentación de los diputados de Amazonas](#), January 11, 2016.

¹²² IACHR, Press Release No. 107/16, [IACHR Expresses Concern about Lack of Representation of Indigenous Peoples in National Assembly of Venezuela](#), July 29, 2016.

¹²³ TSJ, [Decree of economic emergency remains valid](#), February 11, 2016.

¹²⁴ TSJ, [TSJ finds decree declaring state of emergency and economic emergency to be constitutional](#), May 19, 2016.

¹²⁵ Noticia al Día, [Con 107 votos AN rechaza decreto de emergencia económica emitido por Maduro](#), January 22, 2016, and El Capitolio TV, ANTV, [El parlamento de todos. 17 de mayo de 2016](#), May 23, 2016.

76. As indicated above, the IACHR expressed concern at this last decree because it could harm respect for the rule of law and separation of State powers.¹²⁶ It also observed that this decree allows the suspension of financing agreements between domestic natural or legal persons and foreign entities or bodies “when they are presumed to be used for political purposes or to destabilize the Republic”¹²⁷ (see *infra* IV A). The IACHR found that this decree could severely restrict the freedom to express political ideas, public debate, the right of the population to receive information from a variety of sources, and the exercise of the right to protest, all of which affects political pluralism, which is a fundamental principle for all democratic societies.¹²⁸

77. The TSJ also ruled inadmissible a constitutional challenge to the appointment of five magistrates. The challenge was filed by the previous national Assembly during a special session in December 2015 and argued the appointment was unconstitutional and illegal.¹²⁹ The TSJ also ruled the Amendment to the Law on the Central Bank of Venezuela unconstitutional because it “attempts to attribute authorities to the National Parliament to appoint, ratify, and remove the President and other directors of the BCV.”¹³⁰ Through partial amendment of this law, the National Assembly reestablished its comptroller authorities over the Central Bank and authority to appoint the BCV’s Board of Directors. It also required the Bank to publish economic indicators.¹³¹

78. Likewise, the TSJ declared the Amnesty and Reconciliation Act adopted in March by the National Assembly unconstitutional.¹³² The act granted amnesty to the opposition politicians deprived of liberty.¹³³ For its part, the Executive Branch said this law “violates all international case law on amnesty,” was retroactive from 1999, and even covered possible future crimes.¹³⁴

79. In a hearing before the IACHR, civil society replied that the bill specifically covered political crimes. It noted that there were 82 political prisoners, and that 3,785 individuals had been detained for political reasons since 2014.¹³⁵ It highlighted that since 2014, the UN Working Group on Arbitrary Detention had reached a decision on 327 of these cases.¹³⁶

80. In addition, the TSJ also declared the National Assembly’s Rules of Procedure and Parliamentary Rules¹³⁷ unconstitutional, along with, for economic reasons, the Voucher Act to provide food

¹²⁶ IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

¹²⁷ IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

¹²⁸ Decree 2,323, Article 2.18. See IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

¹²⁹ The National Assembly approved a report on July 14, 2016, recommending canceling the judicial appointments made by the previous National Assembly in December 2015 based on the argument that they were the result of a procedure other than the one that should have been followed. ProDavicni, [Asamblea Nacional dejó sin efecto los nombramientos de magistrados en el TSJ: ¿Y ahora? por José I. Hernández](#), July 14, 2016; see TSJ, [Judgment of March 29, 2016](#).

¹³⁰ TSJ, [Amendment of central bank law in Venezuela declared unconstitutional](#), March 31, 2016.

¹³¹ See EFE, [El Supremo venezolano declara inconstitucional la reforma de Ley de Banco Central](#), April 1, 2016.

¹³² TSJ, [TSJ declares national amnesty and reconciliation act unconstitutional](#), April 11, 2016.

¹³³ As of October 26, 2016, the Foro Penal Venezolano (FPV) reported there were 110 political prisoners. FPV, [Summary of political prisoners](#); See [Draft Amnesty and Reconciliation Act](#) 2016.

¹³⁴ EFE, [Venezuela pide a la ONU que investigue la constitucionalidad de la ley de amnistía](#), March 2, 2016, and La Jornada, [Venezuela pide a ONU estudiar ley de amnistía para presos políticos](#), March 2, 2016.

¹³⁵ IACHR, [Hearing on the General Human Rights Situation in Venezuela](#), April 4, 2016.

¹³⁶ IACHR, [Hearing on the General Human Rights Situation in Venezuela](#), April 4, 2016.

¹³⁷ El Informador, [TSJ declara nulidad a reforma parcial del Reglamento de Interior y Debate de la AN](#), April 22, 2016, and Noticias 24, [TSJ admitió solicitud de los diputados opositores sobre la Ley de Interior y de Debate de la AN](#), April 22, 2016.

and medicine to pensioners and retirees and passed by the National Assembly on March 30.¹³⁸ It should also be noted that the Second Adversarial Administrative Court banned unauthorized demonstrations in front of the National Electoral Council (CNE) and ordered the GNB to shut down violent demonstrations.¹³⁹

81. It should also be highlighted that in the OAS, in response to complaints filed by the National Assembly and its requests for application of the Inter-American Democratic Charter to the situation of Venezuela,¹⁴⁰ on May 30, Secretary General Luis Almagro presented a brief calling a meeting of the Permanent Council in accordance with Article 20 of the aforementioned Charter to push for restoration of democratic institutionalism in Venezuela.¹⁴¹ The OAS Permanent Council issued a resolution expressing its “support for the initiative of former presidents José Luis Rodríguez Zapatero of Spain, Leonel Fernández of the Dominican Republic, and Martín Torrijos of Panama to reopen effective dialogue between the government and the opposition,” and for the various dialogue initiatives on respect for human rights.¹⁴²

82. In September, the TSJ issued a preliminary constitutional oversight judgment on the Organic Law issued that year reserving gold exploration and exploitation activities for the State. The judgment established that:

[...] the acts issued by the National Assembly are manifestly unconstitutional and absolutely null and lacking all validity and legal effect, including the laws it passes, as long as it disregards the legal authority of the Electoral Chamber.¹⁴³

83. The Court further held that the National Assembly was in contempt on having sworn in the three deputies from Amazonas state that the Electoral Chamber of the TSJ had ordered suspended while suits filed to challenge their election were investigated.¹⁴⁴ In view of this, the IACHR expressed concern at this decision through which the TSJ declared all decisions of the National Assembly¹⁴⁵ null and lacking legal validity, thereby violating the principle of separation of powers that is necessary for democratic society.

84. Since the issuing of that judgment, a number of acts or authorities of the National Assembly have subsequently been annulled, limited, or obstructed by other judgments issued by the TSJ. For example, in response to the National Assembly’s rejection of presidential decree No. 2,452 extending the state of emergency, the TSJ ruled ex officio and without having received any petition because it was “newsworthy,” arguing that all the actions of the National Assembly, including the agreement, would be null, nonexistent, and without affect as long as the “illegal situation” of contempt continued, including those it learns of due to their “newsworthiness.”¹⁴⁶

85. Later, at the request of President Maduro, the TSJ ruled to extend the declaration of unconstitutionality of the acts coming from the National Assembly¹⁴⁷ as long as it disregards the legal authority of the Electoral Chamber. It also ruled in that judgment that the President must submit the fiscal

¹³⁸ VTV, [Tribunal Supremo declara constitucionalidad de Ley de Bono para la Alimentación y Medicinas](#), May 1, 2016, and ProDavinci, [La Ley de Bonos es constitucional e inaplicable según Sala Constitucional](#), May 2, 2016.

¹³⁹ Panorama, [Esta es la sentencia del TSJ que prohíbe las manifestaciones frente a sedes del CNE](#), May 23, 2016, and Informe 21, [Publican sentencia del TSJ que prohíbe manifestaciones cerca del CNE](#), May 23, 2016.

¹⁴⁰ National Assembly, [The basis for the OAS invoking the Inter-American Charter for Venezuela’s situation](#), May 16, 2016.

¹⁴¹ OAS, General Secretariat, [Report of the General Secretariat](#), May 30, 2016.

¹⁴² OAS, Permanent Council, [Resol. CP-DEC.63 \(2076/16\)](#), June 1, 2016.

¹⁴³ TSJ, [Judgment of September 2, 2016](#).

¹⁴⁴ TSJ, [Judgment of September 2, 2016](#).

¹⁴⁵ IACHR, Press Release No. 132/16, IACHR Expresses Concern Regarding Restrictions in the Exercise of Fundamental Rights in Venezuela, September 14, 2016.

¹⁴⁶ TSJ, Constitutional Chamber, [judgment No. 810](#), September 21, 2016.

¹⁴⁷ TSJ, Constitutional Chamber, [judgment No. 814](#), October 11, 2016.

year 2017 national budget before the TSJ by decree with rank and force of law. The TSJ indicated that based on that decision, the National Assembly will not be able to alter the budget items “or obstruct or interfere with the provisions” established in the budgetary decree.¹⁴⁸ Prior to this, it was the National Assembly that was in charge of approving the budget proposed by the President of the Republic. It also held that the President was constitutionally relieved of any obligation to submit to any attempt at political oversight the legislative body might exercise as long as the majority of deputies continued to disregard the legal authority of the Electoral Chamber.¹⁴⁹

86. The result of the conflict described above is damage to the effective separation and balance of State powers that is necessary in a democratic society. In this regard, the Commission recalls that Article 3 of the Inter-American Democratic Charter holds that “Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law; [...] and the separation of powers and independence of the branches of government. In this regard, the Inter-American Court has highlighted that the separation of powers is closely related not only to the consolidation of democracy but also with the preservation of the liberties and human rights of citizens.¹⁵⁰

87. It should be noted that in its comments on the draft of this chapter, the State indicated that in 2016, the National Assembly “has repeatedly acted in contempt for the decisions issued by the highest court of the Republic, thereby violating the Constitution and the country’s current law.” It stated that this contempt has been recognized by the opposition parties in the framework of the national dialogue process, in which it was agreed in the area of politics to move toward overcoming the situation of the National Assembly’s contempt as declared by the TSJ.¹⁵¹

4. Political rights and right to participate in public life

88. The Commission notes that the political opposition continues to be criminalized, deprived of liberty, or subject to retaliation for their political activities. This year, the situation has escalated to include physical attacks and even the murder of political activists. According to publicly available information, in May 2016 in the state of Lara, Germán Mavare, a political leader with opposition party Un Nuevo Tiempo, who had been threatened, was killed with a gunshot to the head while he was handing out invitations to attend a political event.¹⁵² The IACHR condemned his murder and called on the State to conduct an investigation—with respect for due process—to clear up the facts, bring those responsible to trial, and punish them.¹⁵³ The Commission also learned of the murder of La Causa R activist Diomar Carrasquel. He was shot multiple times during an event to promote the activation of the recall referendum in Unare, Bolívar state.¹⁵⁴

89. The IACHR also expressed deep concern at reports of attacks and acts of violence against demonstrators during protests.¹⁵⁵ Since the end of April, marches have taken place in Venezuela to protest deteriorating access to water, food, and healthcare. In this context, in April, the Executive Secretary of the MUD, Jesús Torrealba, reported that he was beaten and had rocks thrown at him while leading a March in

¹⁴⁸ TSJ, Constitutional Chamber, [judgment No. 814](#), October 11, 2016.

¹⁴⁹ TSJ, Constitutional Chamber, [judgment No. 814](#), October 11, 2016.

¹⁵⁰ Inter-American Court. Case of the Supreme Court of Justice (Quintana Coello *et al.*) v. Ecuador, judgment of August 23, 2013, para. 179.

¹⁵¹ Prodavinci, [Lea acá el comunicado Conjunto del Gobierno y la MUD #MonitorProDaVinci](#), November 12, 2016, Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 92.

¹⁵² Informe 21, [Asesinan en Lara a dirigente de Un Nuevo Tiempo Germán Mavare](#), June 5, 2016; El Mundo, [Muere de un disparo en la cabeza un dirigente opositor venezolano](#), June 5, 2016.

¹⁵³ IACHR, Press Release No. 66/16, [IACHR Condemns Murder of Opposition Leader in Venezuela](#), May 16, 2016.

¹⁵⁴ NTN 24, [Asesinan de múltiples disparos a joven opositor durante evento político](#), July 13, 2016.

¹⁵⁵ IACHR, Press Release No. 66/16, [IACHR Condemns Murder of Opposition Leader in Venezuela](#), May 16, 2016.

Caracas to protest electricity cuts,¹⁵⁶ and that the National Bolivarian Police had not acted to stop it. According to media reports, the Secretary for Safety and Public Order of the Zulia state government warned that “when we see protests turning political, we will use force against them.”¹⁵⁷ The IACHR emphatically called on the State to take urgent measures to guarantee the rights of assembly and freedom of expression can be exercised in Venezuela without violence or harassment.¹⁵⁸

90. Regarding political persecution, the media has reported a significant increase in arrests of opposition figures who dissent publicly.¹⁵⁹ For example, according to the information received, the SEBIN arrested political leaders with the party Voluntad Popular and accused them of being the “lead figures in the conspiracy” against the government.¹⁶⁰ In June, GNB troops arrested Gabriel Salomón San Miguel Rodríguez and Francisco Javier Márquez Lara in Apartadero as they headed toward Cojedes-Portuguesa.¹⁶¹ The detainees, activists with Voluntad Popular, were on their way to participate in the signature validation process for the recall referendum.¹⁶² Reports indicate that the arrests took place without a court order. They were accused of money laundering and incitement, although supposedly were not arrested in flagrante;¹⁶³ they were allegedly interrogated without the presence of their attorneys and held in isolation.¹⁶⁴ It was subsequently reported that Gabriel San Miguel was released on August 6.¹⁶⁵

91. Also, in July, Daniel Ceballos, a leader with Voluntad Popular and beneficiary of precautionary measures issued by the IACHR, was transferred by SEBIN agents from house arrest to a common prison.¹⁶⁶ In August, former student leader Yon Goicoechea, a member of the Voluntad Popular party, and Carlos Melo, leader of the Avanzada Progresista party, were arrested at Voluntad Popular headquarters in Caracas.¹⁶⁷ In September, Delson Guarate, the mayor of the municipality Mario Briceño Iragorry, Aragua state, and a member of Voluntad Popular, was arrested and his home was searched.¹⁶⁸ They are accused of planning “the placement of explosive devices, they had firearms and counterfeit dollars in their possession.”¹⁶⁹ Civil society organizations have claimed that the arrests were illegal and that the

¹⁵⁶ El Nuevo Diario, [Secretario de la MUD denuncia agresión de chavistas](#), April 30, 2016.

¹⁵⁷ El Nacional, [En 24 horas hubo al menos seis saqueos en Maracaibo](#), April 26, 2016.

¹⁵⁸ IACHR, Press Release No. 66/16, [IACHR Condemns Murder of Opposition Leader in Venezuela](#), May 16, 2016.

¹⁵⁹ El Mundo, [Las autoridades penitenciarias de Ramo Verde endurecen el régimen carcelario de Leopoldo López](#), July 9, 2016.

¹⁶⁰ EFE, [El partido de López, en la mira de las autoridades venezolanas por supuesto golpismo](#), September 5, 2016.

¹⁶¹ ProIuris, communication to the IACHR “Arbitrary detention of Francisco Márquez and Garbiel San Miguel”, June 21, 2016; VTV, [Detenidos dos militantes de Voluntad Popular con Bs. 3 millones para financiar saqueos](#), June 22, 2016.

¹⁶² HRW, [Statement of Human Rights Watch on the arrest of Márquez and San Miguel](#), June 21, 2016.

¹⁶³ ProDavinci, [Sobre la detención arbitraria de Francisco Márquez y Gabriel San Miguel, José Ignacio Hernández, José Ignacio Hernández G.](#), June 22, 2016.

¹⁶⁴ Press release from ProIuris, June 21, 2016. See La Patilla, [EXPEDIENTE: Caso detención de Francisco Márquez y Gabriel San Miguel](#), June 22, 2016. See Transparency International, [Transparencia Venezuela exige la liberación de Márquez y San Miguel](#), June 23, 2016.

¹⁶⁵ Noticias Venezuela, [Liberaron al dirigente de VP Gabriel San Miguel “Gabo”](#), August 6, 2016 y Rununes, [Extraoficial: ordenan liberación de Gabriel San Miguel \(Francisco Márquez seguirá recluido\)](#), August 5, 2016.

¹⁶⁶ Reuters, [Trasladan a ex alcalde opositor venezolano a cárcel común desde arresto domiciliario](#), August 27, 2016.

¹⁶⁷ El Nacional, [Secretario de Avanzada Progresista: Carlos Melo fue llevado al Sebin para ser investigado](#), August 30, 2016.

¹⁶⁸ Panorama, [Voluntad Popular denunció detención de Delson Guarate, alcalde de Mario Briceño Iragorry](#), September 2, 2016.

¹⁶⁹ IACHR, Press Release No. 132/16, [IACHR Expresses Concern Regarding Restrictions in the Exercise of Fundamental Rights in Venezuela](#), September 14, 2016.

detainees were held incommunicado and mistreated.¹⁷⁰ The IACHR expressed concern over, among other matters, the wave of arrests of and cases brought against members of opposition parties.¹⁷¹

92. The Commission also received information on a series of incidents of persecution and threats toward David Smolansky, the mayor of the El Hatillo municipality, Miranda State, and a member of the Voluntad Popular party. These included an incident in February when a number of individuals broke into his residence to steal information and leave anti-Semitic messages painted on the walls. Information was also provided on acts of surveillance conducted by public officials and smear campaigns carried out by Diosdado Cabello, former president of the national assembly, against the mayor.¹⁷²

93. A court order was issued in October banning former presidential candidate Henrique Capriles from leaving the country, along with the members of the MUD: Jesús Torrealba, Ramón José Medina, José Cartaya, Oscar Barreto, Ricardo Sucre, Luis Aparicio, and Arnoldo Gabaldón. According to reports, the crimes of which they are accused were not specified.¹⁷³

94. The Human Rights Center of the Universidad Católica Andrés Bello (CDH-UCAB) and PROVEA reported to the IACHR that the State has a policy of discrimination based on political motives that mainly affects the employees of public institutions and has a negative impact on civil, political, and social rights. They indicated that in 2016, cases of persecution in the context of the request to activate the recall referendum were documented, including arbitrary detentions, suspension of salaries, dismissals, and exclusion from social programs, all as a means of political retaliation.¹⁷⁴

95. Through its precautionary measures mechanism, the Commission has also been monitoring the security situation of people who oppose government policies. In 2016, the Commission issued a series of precautionary measures aimed at protecting the lives and personal integrity of Amel Salame Ajami,¹⁷⁵ Américo De Grazia,¹⁷⁶ and Lester Toledo,¹⁷⁷ who claimed to be at risk of retaliation or harassment in response to their political stances and public criticism. In particular, the Commission continues to monitor the situation of Leopoldo López, leader of opposition party Voluntad Popular, who continues to state that he is subject to violent searches in his cell, has been placed in solitary confinement, and is held under a restrictive detention regime that violates international standards. The Commission has also received information on the continual harassment faced by Lilian Tintori (his wife) and his family when they visit Leopoldo López at the National Military Prisoners Center (CENAPROMIL), also known as “Ramo Verde.” This harassment and restrictions on visits is alleged to include invasive searches, asking family members to take off all their clothes, inappropriate comments from prison officials, degrading searches, and other situations that the family members of Leopoldo López have called arbitrary and violent.

96. In this context, on April 1, 2016, the IACHR decided to broaden the aforementioned precautionary measures to protect the life and personal integrity of Juan Carlos Gutiérrez and Ana Leonor

¹⁷⁰ La Nación, [Máxima tensión en Venezuela ante la marcha de la oposición - 01.09.2016 - LA NACION](#), September 1, 2016; Ok diario, [Maduro detiene a 126 opositores tras el éxito de la manifestación de Caracas](#), September 3, 2016; El Pitazo.com, [Foro Penal Venezolano registró 72 detenidos después de la Toma de Caracas | El Pitazo](#), September 2, 2016; Diario de Ferrol, [La oposición de Venezuela denuncia 126 detenciones arbitrarias - Mundo - Diario de Ferrol](#), September 4, 2016.

¹⁷¹ IACHR, Press Release No. 132/16, [IACHR Expresses Concern Regarding Restrictions in the Exercise of Fundamental Rights in Venezuela](#), September 14, 2016.

¹⁷² Document presented to the IACHR on November 30, 2016. See 2001, [Smolansky denunció que 2 GNB lo persiguieron por órdenes del Ministro González López](#).

¹⁷³ El Mundo, [Henrique Capriles denuncia que le han prohibido salir de Venezuela](#), October 21, 2016.

¹⁷⁴ Request for a hearing filed by the Human Rights Center of the Universidad Católica Andrés Bello (CDH-UCAB) and PROVEA on the exercise of political rights, received by the IACHR on October 8, 2016.

¹⁷⁵ IACHR, [MC 58/16](#) Kamel Salame Ajami (Venezuela), April 15, 2016.

¹⁷⁶ IACHR, [MC 359/16](#) Américo de Grazia (Venezuela), June 21, 2016.

¹⁷⁷ IACHR, [MC 413/16](#) Lester Toledo (Venezuela), June 4, 2016.

Acosta, Leopoldo López's legal counsel.¹⁷⁸ According to the information received, both individuals have allegedly been subject to acts of violence, threats, and harassment as a direct result of their work as Mr. López's attorneys.

97. In its comments on the draft of this report, the State reported that the conditions under which Leopoldo López is imprisoned meet international standards. He is being held in a space measuring 11.33 m², among other conditions.¹⁷⁹ The State also reported that he was guaranteed visits from his relatives, friends, and attorneys; had access to daily telephone calls; participated in other recreational activities; and was provided with medical care, among other conditions pursuant to applicable standards.¹⁸⁰ The State also indicated that searches of visitors are conducted in accordance with international human rights standards.¹⁸¹

98. A complaint was filed with the International Criminal Court alleging systemic torture and cruel, inhuman, and degrading treatment against opposition figures and demonstrators in the country.¹⁸² Along the same lines, HRW has accused the Venezuelan government of "launching a brutal campaign of repression against the opposition and arbitrarily detaining 21 people since May," following the launch of the recall referendum campaign.¹⁸³

99. Finally, the Commission notes that the Venezuelan Penal Forum (FPV) maintains a list of 110 people that it calls its "political prisoners list."¹⁸⁴ It also reported that between January 2014 and September 30, 2016, 3,758 politically motivated arrests took place, for reasons including publishing messages on social networks against the government or some public official, participating in a political demonstration or social protest against shortages of food or basic products, insecurity, or the poor functioning of a public service, and other reasons. Of these arrests, 101 people remain deprived of liberty, and of these, 24 have been convicted, while 77 were being held with judicial processes pending. It also indicated that 2,055 people were subject to measures restricting their liberty and were facing trials. It further indicated that between January 1 and September 30 of 2016, 2,436 arrests were recorded, "of which 35 political prisoners were kept imprisoned."¹⁸⁵

100. In light of this context of harassment, persecution, criminalization, and attacks on opposition politicians, which have escalated to include the death of some, the IACHR recalls that since 2009, it has indicated to Venezuela that consolidation of democracy requires increased effective participation of all social sectors in the political, social, economic, and cultural life of a nation. The effective implementation of the values of pluralism and participation is essential for overcoming the country's current climate of polarization.¹⁸⁶

¹⁷⁸ IACHR, [Expansion of precautionary measures benefits for Leopoldo López regarding Venezuela](#), April 1, 2016.

¹⁷⁹ 159th Period of Sessions of the IACHR, Panama City, December 2, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 47.

¹⁸⁰ Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 48.

¹⁸¹ Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 49.

¹⁸² La Patilla, [Presentada en la Corte Penal Internacional la sistematización de la tortura en Venezuela](#), July 26, 2016.

¹⁸³ La Nación, [Denuncian torturas a los opositores venezolanos](#), July 28, 2016.

¹⁸⁴ FPV, [Political Prisoners List](#), accessed on October 26, 2016.

¹⁸⁵ FPV, [Reporte sobre la represión del Estado Venezolano – Resumen ejecutivo](#), September 2016, accessed on November 8, 2016.

¹⁸⁶ IACHR, Democracy and Human Rights in Venezuela, December 30, 2009, para. 1,158.

a) Recall referendum

101. The MUD's request filed with the CNE in March¹⁸⁷ to activate the process to recall President Maduro via referendum further exacerbated the social and political conflict Venezuela. This section provides a description of the process launched for this referendum. As of the date of the presentation of this chapter, after multiple stumbles, the process was postponed indefinitely following an injunction issued by regional criminal courts in six states in Venezuela in the context of criminal charges filed for crimes allegedly involved in the collection of the 1% of signatures necessary to activate the referendum process.¹⁸⁸

102. Following the request filed by the MUD to start the referendum process, in April the National Assembly approved the referendum law to clarify and regulate the process referendums must follow while at the same time activating the referendum against President Maduro.¹⁸⁹ Although the Venezuelan Constitution allows for various types of referendums and a number of laws are in place on the matter, the details of the requirements are not clearly spelled out.¹⁹⁰ The Constitution establishes that all officials elected by the popular vote can be recalled once they have served half their term.¹⁹¹ The State indicated that President Maduro was elected to complete the constitutional period begun on January 10, 2013, by the deceased President Hugo Chávez Frías, so the halfway point of his six-year term was reached on January 10, 2016¹⁹². This law was also declared unconstitutional by the TSJ.¹⁹³

103. In June, the CNE declared 1.3 million of the signatures requesting activation of the referendum to be valid.¹⁹⁴ This figure was validated by the President of the CNE on August 1.¹⁹⁵ At that time, the opposition was awaiting the CNE's announcement of the date on which 20% of the signatures had been collected in order to start the recall referendum process.¹⁹⁶ In this context, the opposition held

¹⁸⁷ See Mundo Oriental, [Respuesta del CNE sobre inicio del revocatorio será después de Semana Santa](#), March 16, 2016.

¹⁸⁸ Globovisión, [Tribunales penales anulaban recolección del 1% de firmas en cinco estados del país](#), October 20, 2016 and National Electoral Council, [Poder Electoral acata medidas cautelares ordenadas por tribunales de la República](#), October 20, 2016.

¹⁸⁹ La Nación, [Asamblea Nacional aprueba ley de referendo en Venezuela](#), March 10, 2016.

¹⁹⁰ CNE, [Regulations for Recalls 2007](#); BBC, [Venezuela aprueba una ley para activar el referéndum revocatorio de Maduro](#), April 21, 2016; Venezuelan Constitution, Article 72. "All officials and magistrates elected by popular vote can be recalled.

Once half of an elected official's term has elapsed, no fewer than 20% of registered voters in the corresponding constituency may request a referendum to recall the official.

When the same or greater number of voters who elected an official vote to recall him or her, as long as the number of voters is equal to or greater than 25% of registered voters, the official will be considered recalled and the office will be immediately filled pursuant to this Constitution and the law.

Recalls for professional organizations will be conducted in accordance with the provisions of the law.

During the term to which an official was elected, no more than one recall referendum may be held."

¹⁹¹Art. 200 of Chapter V of Resolution No. 070327-341 National Electoral Council: an official will be considered recalled if the following concurrent conditions are met:

1. If the number of voters participating in the vote is at least twenty-five percent (25%) of the total electorate;
2. If the number of votes in favor of the recall is equal to or greater than the number of voters who elected the official;
3. If the number of votes in favor of the recall is greater than the number of voters voting against the recall, Recall referendum regulations, March 27, 2007; also see BBC, [Venezuela aprueba una ley para activar el referéndum revocatorio de Maduro](#), April 21, 2016.

¹⁹² Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 87.

¹⁹³ TSJ, Constitutional Chamber, [Judgment No. 264](#), April 11, 2016.

¹⁹⁴ El Mundo, [El poder electoral venezolano valida 1.3 millones de firmas para el revocatorio](#), June 8, 2016.

¹⁹⁵ See La Jornada, [Poder electoral venezolano discutirá el 1 de agosto si activa revocatorio](#), July 26, 2016.; Efecto Cocuyo, [7 claves sobre lo que dijo Tibisay Lucena del referendo revocatorio](#), August 10, 2016.

¹⁹⁶ La Jornada, [Poder electoral venezolano discutirá el 1 de agosto si activa revocatorio](#), July 26, 2016. To recall President Maduro, at least 7.5 million voters would have to vote yes.

demonstrations calling on the CNE to not delay the initial process of reviewing the signatures in order to schedule the recall referendum.¹⁹⁷

104. For its part, the State said that there had been "a massive usurpation or theft of the identities of thousands of Venezuelans committed by those promoting the recall referendum when they processed the request."¹⁹⁸ In this regard, it indicated that according to the CNE's "Report on the Results of the Digitalization and Fingerprinting of the Rolls Expressing Support," the identities and signatures of 10,995 deceased people, 1,335 politically ineligible people, and 3,003 minors were illegally used and incorporated in the request to activate the presidential recall referendum.¹⁹⁹

105. Also, it was reported that people supporting the recall referendum faced retaliation.²⁰⁰ For example, a number of signers were threatened with being fired,²⁰¹ or were actually fired.²⁰² It was also reported that a number of public officials serving in roles in which they can be freely appointed and removed as well as in management were dismissed because they expressed support for the referendum to recall President Maduro.²⁰³ The Ministry of Communication issued a public announcement giving a deadline of 48 hours to dismiss all functionaries whose names were found on a list delivered by the president to the heads of the ministries of food, basic enterprises, and finance and labor, as well as the office of the presidency.²⁰⁴ Meanwhile, the Ombudsman of Venezuela has questioned the firing of functionaries for signing the recall:

The right to work must always be evaluated based on the efficiency of both employees that may be freely dismissed and employees that may not, and their commitment to the institution, to the country, and to peace. He stated that if a person is not working efficiently, regardless of whether he or she has a political affiliation with the opposition or with the government, "he or she will be subject to evaluation. That being said, the evaluation will have to be well grounded [...] to improve the country's efficiency and productivity."²⁰⁵

106. On August 15, the OAS Member States issued a press release calling on Venezuelan authorities to guarantee the Venezuelan people's exercise of their constitutional rights, and that it clearly and without delay grant the referendum to recall the president, "thereby contributing to quickly and effectively resolving the country's current political, social, and economic difficulties."²⁰⁶

¹⁹⁷ Actual, [Agreden a opositores venezolanos en una manifestación para exigir el referéndum contra Maduro](#), April 8, 2016; Rtve, [La policía de Venezuela impide la marcha de la oposición en caracas para exigir un referéndum](#), May 18, 2016; BBC, [Autoridades de Venezuela vuelven a dispersar una marcha de la oposición para exigir revocatorio](#) June 7, 2016; and SIPSE, [Bloquean manifestaciones "anti Maduro" en Venezuela](#), July 27, 2016. Will regulations establish that the referendum must be carried out within 90 days of the CNE calling for it: Article 30 of Resolution 070906-2770, regulations for promoting and requesting recall referendums for public officials elected through a popular vote. Resolution No. 070906-2770. Electoral Gazette N° 405, Friday, December 18, 2007.

¹⁹⁸ 159th Period of Sessions of the IACHR, Panama City, December 2, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 50.

¹⁹⁹ CNE, Report on the results of rolls of expression of support for the recall referendum, May 31, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 51.

²⁰⁰ El Litoral, [Pese a las amenazas se acorta el camino al revocatorio venezolano](#), June 18, 2016.

²⁰¹ La Nación, [En Venezuela quieren despedir a los que firmaron el referéndum revocatorio contra Maduro](#), May 5, 2016.

²⁰² Diario Las Américas, [Destituyen a funcionarios del Seniat por firmar por el revocatorio](#), June 21, 2016; Revista Semana, [Maduro toma medidas contra funcionarios que firmaron a favor del revocatorio](#), August 23, 2016.

²⁰³ Venezolana de Televisión (VTV), [Jorge Rodríguez: no puede haber en cargos directivos de confianza personas que estén contra la revolución](#), August 22, 2016; El Correo del Orinoco.com, [Más despidos por firmar por el referendo revocatorio](#), August 25, 2016; El Nuevo Herald, [Despedidos empleados públicos que firmaron para revocatorio contra Maduro](#), June 30, 2016.

²⁰⁴ VTV, [Jorge Rodríguez: no puede haber en cargos directivos de confianza personas que estén contra la revolución](#), August 22, 2016.

²⁰⁵ Xinhua Español, [Ombudsman venezolano cuestiona despido de funcionarios firmantes del revocatorio | Spanish.xinhuanet.com](#), August 24, 2016.

²⁰⁶ OAS. [Joint press release of OAS Member States on recent events in the Bolivarian Republic of Venezuela](#); August 11, 2016.

107. The MUD called for demonstrations that it dubbed “Occupy Caracas” on September 1,²⁰⁷ to be attended by crowds of people from all over the country. The march included the participation of indigenous leaders from Amazonas state²⁰⁸ and continued into the evening with a “*cacerolazo*.” A counter-march called by the PSUV was also held. Both marches were national in their scope.

108. For their part, civil society organizations issued a report on the events surrounding these gatherings and observed that from August 30 to September 2, incidents took place that involved the violation or limitation of the exercise of the rights to protest, free travel, association and assembly for legal purposes, personal liberty and integrity, and other rights. They report that 34 arbitrary detentions were made, and there were eight cases of harassment, five cases of impeding travel, three of searches, one violation of the right to life, and three cases of the violation of the right the physical integrity.²⁰⁹

109. The MUD called for two more marches on September 7 and 13, with the expectation that the CNE would issue its decision on the referendum on September 13.²¹⁰ Following these marches, the IACHR condemned the wave of threats, arrests, searches, and criminal proceedings brought against members of opposition political parties, peaceful demonstrators, and journalists in the context of a series of restrictions on the exercise of fundamental rights imposed by the government on those expressing support for a referendum to recall the president. It also expressed regret over the mass dismissal of public functionaries, allegedly for having signed the recall referendum request.²¹¹

110. On September 21, the CNE announced the timeline and conditions for collecting the signatures of a minimum 20% of registered voters in order to activate the referendum against the President of the Republic, as requested by the MUD. The CNE initially said the collection would take place on the October 26, 27, and 28, 2016. Also, the CNE indicated that signatures had to be collected from 20% of registered voters in each of Venezuela’s 24 states, rather than 20% of total registered voters nationwide.²¹² It also reported that 5,392 fingerprint scanners would be installed for validating the signatures in 1,355 voting centers, open seven hours per day. However, the MUD indicated that 19,500 machines would be needed, located throughout the country, in order to collect the signatures in three days.²¹³

111. According to the timeline for collecting the signatures (expressions of support) announced by the CNE, the 90-day deadline for holding the referendum would start in December, putting it halfway through the first quarter of 2017. Based on these dates, the referendum would take place after January 10, 2017, and according to the Constitution, should President Maduro be recalled subsequent to that date, the remainder of his term (until 2019) must be served by his vice president, who was named by the current president.²¹⁴

²⁰⁷ La Nación, [La oposición apuesta su última carta a tomar la calle](#), August 11, 2016.

²⁰⁸ *Latinews*, [Venezuela’s opposition declares ‘1-S’ a success](#), September 2, 2016.

²⁰⁹ Red de Activistas Ciudadanos por los Derechos Humanos (REDAC), Centro de Justicia y Paz (CEPAZ), and the Human Rights Center of the Universidad Metropolitana, [Citizen human rights monitoring](#), September 2016.

²¹⁰ OAS, [Joint Statement of the General Secretariat of the OAS and the Carter Center](#), September 1, 2016.

²¹¹ IACHR, Press Release No. 132/16, [IACHR Expresses Concern Regarding Restrictions in the Exercise of Fundamental Rights in Venezuela](#); IACHR, September 14, 2016.

²¹² See Article 15: Once half of an elected official’s term has elapsed, a recall referendum may be requested by no fewer than 20% of voters registered in the Electoral Registry at the time of the request in the corresponding constituency, pursuant to the terms of Article 72 of the Bolivarian Constitution of Venezuela. Resolution 070906-2770, regulations for promoting and requesting recall referendums for public officials elected by popular vote. Resolution No. 070906-2770. Electoral Gazette N° 405, Friday, December 18, 2007.

²¹³ T51, Telemundo Miami, [Venezuela: fijan fecha para recaudar firmas del revocatorio](#), September 21, 2016; Crónica, [Anuncian fecha para recolección de firmas en Venezuela](#); September 21, 2016; Univision, “La oposición venezolana llama a más protestas de calle para presionar por el referendo contra Maduro, 26 de septiembre de 2016.”

²¹⁴ Clarín, [Revés para la oposición en Venezuela: el revocatorio se realizaría recién en 2017](#), September 22, 2016, El Nacional, [CNE aprobó que 20% del revocatorio se realices por estado](#), September 21, 2016.

112. On October 17, the Electoral Chamber of the TSJ ruled that, among other things, the recall referendum petition must collect the signatures of 20% of registered voters in each one of the states and the Capital District of the Republic, and that failing collection of this percentage in each one of the states or in the Capital District, the presidential recall could not be held.²¹⁵

113. On October 20, the regional criminal courts of the states of Aragua, Bolívar, Apure, Monagas, and Carabobo issued five injunctions ordering the indefinite postponement of any act resulting from the MUD's collection of the 1% of expressions of support for activation of the recall referendum. The injunctions were issued in the context of investigations into criminal charges filed for the crimes of giving false statements to a public functionary, taking advantage of a forged document, and giving false information to the Electoral Branch.²¹⁶ Based on this, the CNE halted any act that could be issued as a consequence of the collection, therefore freezing the process to collect 20% of the signatures until a new court order is issued.²¹⁷ A number of civil society organizations denounced these actions, alleging that they annulled the collection of signatures "suddenly" and "without legal authority." According to the information available, the injunctions—issued simultaneously by the various courts—were implemented almost immediately by the CNE. This raises the possibility that the decisions were coordinated to block the citizenry from evaluating the president's performance through a referendum.²¹⁸

114. On October 21, 13 OAS Member States expressed deep concern at the aforementioned decision issued by the CNE to postpone the signature collection process. In their view, the freezing of the process and the decision of the judiciary to prevent the main opposition leaders from leaving Venezuela impacted the possibility of establishing a process of dialogue between the government and the opposition that would enable peaceful resolution of the critical situation facing this sister nation. They also reiterated their call for all political actors to make conclusive efforts to have a national dialog peacefully and as soon as possible, either directly or with the support of intermediaries, so as to find durable solutions that favor democracy and social stability and guarantee full respect for human rights, the separation of powers, and institutional strengthening.²¹⁹

115. On October 23, the National Assembly approved a draft agreement for restoring the Constitution of the Republic, institutional order, and democracy, which, among other things, declared that constitutional order in Venezuela has been violated and that an ongoing coup d'état was taking place, executed by the administration headed by President Maduro.²²⁰ The National Assembly announced that it would begin impeachment proceedings against President Maduro and hold debates on accusations of the president's alleged dual nationality.²²¹

116. On October 26, a mass march was held. Dubbed "occupy Venezuela," it was called by the MUD to protest suspension of the proceedings for holding the recall referendum. Reportes were that at least 120 people were injured and 245 detained,²²² with multiple clashes, including the following: two state police

²¹⁵ TSJ, Resolution No. 147 October 17, 2016; ProDaVinci, [Sobre la exigencia del 20% ratificada por decisión de la Sala Electoral: por José Ignacio Hernández](#), October 18, 2016.

²¹⁶ Globovisión, [Tribunales penales anulaban recolección del 1% de firmas en cinco estados del país](#), October 20, 2016 and National Electoral Council, [Poder Electoral acata medidas cautelares ordenadas por tribunales de la República](#), October 20, 2016.

²¹⁷ CNE [Poder Electoral acata medidas cautelares ordenadas por tribunales de la República](#), October 20, 2016.

²¹⁸ IACHR, Press Release No. 154/16 IACHR and Office of the Special Rapporteur for Freedom of Expression Condemn Measures to Shut Down Spaces for Political Participation in Venezuela and Raise Alarm at their Impact on Democracy, Oct. 25, 2016.

²¹⁹ States of Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, United States of America, Guatemala, Honduras, Mexico, Paraguay, Peru, and Uruguay. [Joint press release of OAS Member States on recent events in the Bolivarian Republic of Venezuela](#); October 22, 2016.

²²⁰ National Assembly, [Agreement to restore constitutional order in Venezuela](#), October 23, 2016.

²²¹ National Assembly, [National Assembly declares constitutional order has been violated and that a coup d'état has taken place in Venezuela](#), October 23, 2016.

²²² La Nación, [Toma de Venezuela: un policía muerto, más de 120 heridos y 245 detenidos](#), October 27, 2016.

officers were shot and one killed in San Antonio de los Altos; the so-called chavista “colectivos” fired on opposition marchers in Mérida; four young people were shot in Maracaibo; an activist with political party Primero Justicia lost an eye in Barinas; the Student Movement reported that at least 50 of its members were on the final list of people injured in Táchira; and the headquarters of the Voluntad Popular party in Vargas was destroyed and robbed.²²³ The demonstration was part of a series of actions the MUD took, including a general strike October 28 and a march to the Miraflores presidential residence scheduled for November 3,²²⁴ which was later canceled as talks began between the government and the opposition, as described in the following section.

117. The Commission has recognized the presidential recall referendum as an exercise of political rights, as well as an expression of political opinion protected by the right to freedom of expression and the principle of nondiscrimination.²²⁵ When the aforementioned court rulings were issued, the Commission condemned the State’s actions aimed at closing vital spaces for political participation in Venezuela and persecuting those who have exercised their right to freedom of expression and raised the alarm as to the impact these measures have on democracy.²²⁶ It also indicated that all these actions on the part of the State have taken place in the context of a profound weakening of the separation of powers in the country and crisis at all levels, reiterating that there is a “direct relationship between the exercise of political rights and the concept of democracy as a form of State organization.”²²⁷

118. The Commission recalled that in the inter-American system, the relationship between human rights, political rights, and democracy was captured in the Inter-American Democratic Charter, which establishes that:

Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms, access to and the exercise of power in accordance with the rule of law, the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, the pluralistic system of political parties and organizations, and the separation of powers and independence of the branches of government.²²⁸

119. Based on this, the Commission reiterates its call for the State to fulfill its duty to facilitate mechanisms of political participation and decision-making such as the recall referendum and cease such actions preventing the exercise of the rights of persons to elect their representatives and hold them accountable.²²⁹

²²³ La Nación, [Toma de Venezuela: un policía muerto, más de 120 heridos y 245 detenidos](#), October 27, 2016.

²²⁴ BBC Mundo, [Toma de Venezuela: cientos de miles salen a las calles para protestar contra el gobierno de Nicolás Maduro](#), October 26, 2016.

²²⁵ See IACHR, Rocío San Miguel Sosa *et al. v. Venezuela*, No.75/15 Case 12,923, October 28, 2015 and IACHR Report, Press Release No. 154/16 IACHR and Office of the Special Rapporteur for Freedom of Expression Condemn Measures to Shut Down Spaces for Political Participation in Venezuela and Raise Alarm at their Impact on Democracy, Oct. 25, 2016.

²²⁶ IACHR, Press Release No. 154/16 IACHR and Office of the Special Rapporteur for Freedom of Expression Condemn Measures to Shut Down Spaces for Political Participation in Venezuela and Raise Alarm at their Impact on Democracy, Oct. 25, 2016.

²²⁷ IACHR, Press Release No. 154/16 IACHR and Office of the Special Rapporteur for Freedom of Expression Condemn Measures to Shut Down Spaces for Political Participation in Venezuela and Raise Alarm at their Impact on Democracy, Oct. 25, 2016.

²²⁸ IACHR, Press Release No. 154/16 IACHR and Office of the Special Rapporteur for Freedom of Expression Condemn Measures to Shut Down Spaces for Political Participation in Venezuela and Raise Alarm at their Impact on Democracy, Oct. 25, 2016.

²²⁹ IACHR, Press Release No. 154/16 IACHR and Office of the Special Rapporteur for Freedom of Expression Condemn Measures to Shut Down Spaces for Political Participation in Venezuela and Raise Alarm at their Impact on Democracy, Oct. 25, 2016.

5. Dialogue initiative

120. In addition to the UNASUR initiative with former presidents José Luis Rodríguez Zapatero of Spain, Leonel Fernández of the Dominican Republic, and Martín Torrijos of Panama to support the process of national dialogue, initiatives were launched in the OAS to encourage an effective dialogue between the government and the opposition.²³⁰ After the “occupy Venezuela” march, 12 OAS member States expressed concern at the situation facing the country and reiterated their call for the parties to have the political will to establish a constructive dialogue to come up with solutions that respect the rule of law and constitutional guarantees and enable all Venezuelans to exercise their fundamental rights.²³¹

121. Also, in October, 25 former heads of State expressed through the “Iniciativa Democrática de España y las Américas” (IDEA) that they were concerned at the National Assembly’s declaration that the constitutional order had been violated with the “decision in collusion” of the Judicial branch, electoral branch, and the TSJ with subordinate criminal judges to suspend the referendum. They stated that it represented a severe attack on democracy and loss of legitimacy of the Venezuelan regime pursuant to the provisions of the Inter-American Democratic Charter and other clauses on democracy in applicable international treaties. They also urged the OAS to execute the democracy protection mechanisms provided for under its regulations and welcomed the Holy See’s involvement in the dialogue initiative.²³²

122. A meeting between President Maduro and Pope Francis at the Holy See heralded the start of dialogue, with an invitation to the Venezuelan Government and the MUD to attend a first formal meeting on October 30. Some representatives of the MUD attended, however others did not participate. Voluntad Popular indicated that it would not attend because the government did not take action to improve conditions and prevent repression, harassment, and persecution.²³³ Four working tables were planned as a result of the meeting: respect for sovereignty; victim reparations; electoral calendar; and the economic situation. Each working table would be coordinated by a representative of the Vatican and a mediator appointed by UNASUR.²³⁴

123. The State indicated that as a result of the actions of the Judiciary and the Public Ministry,²³⁵ on October 31, the government freed five members of the opposition who had been deprived of liberty.²³⁶ On November 1, National Assembly president Henry Ramos Allup, temporarily called off the march to the Miraflores presidential residence as a gesture of support for the talks; he also announced the suspension of the impeachment trial of President Maduro.²³⁷ However, the member from the Voluntad Popular party, Leopoldo López, expressed concern at these measures.²³⁸

²³⁰ UNASUR, [Secretaría General renueva su apuesta por el diálogo, la convivencia y la paz en Venezuela](#), May 23, 2016.

²³¹ Argentina, Brazil, Chile, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Paraguay, Peru, and Uruguay. Foreign Ministry, Republic of Argentina, [Press release from the governments of Argentina, Brazil, Colombia, Costa Rica, Chile, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, and Uruguay](#), October 26, 2016.

²³² Iniciativa Democrática de España y las Américas (IDEA), [Statement on the violation of constitutional order in Venezuela](#), October 27, 2016.

²³³ PanamPost, Noticias y Análisis de las Américas, [Inició el diálogo en Venezuela entre una oposición dividida y un régimen “de paz y amor”](#), October 31, 2016.

²³⁴ Daily Briefing, Venezuela’s Maduro meets opposition, October 30, 2016; BBC, [“Un profundo desafío”: gobierno y oposición de Venezuela inicial un difícil proceso de diálogo](#), October 31, 2016; CNN, [Inicia diálogo entre gobierno y oposición en Venezuela](#), October 31, 2016.

²³⁵ República Bolivariana de Venezuela, Observaciones al proyecto de Capítulo IV B, Informe Anual de la CIDH, Venezuela, recibida el 30 de enero de 201, párr. 89.

²³⁶ Carlos Melo, Andrés Moreno, Marco Trejo, Coromoto Rodríguez, and Andrés León, El Día, [Gobierno de Maduro libera a cinco presos políticos](#), November 2, 2016.

²³⁷ CNN, [Suspenden convocatoria a marcha opositora hacia el Palacio de Miraflores](#), November 1, 2016.

²³⁸ Daily Briefing, Venezuela’s political opposition fractures, November 2, 2016.

124. For its part, the State reported that a joint press release was issued by the National Government and the MUD on November 12 as a result of the second plenary meeting of the national dialogue process in which “political sectors of the opposition recognize the existence of mechanisms of ‘sabotage, boycott, or attacks on the Venezuelan economy’ that have resulted in situations that affect the supply of food and medicine, ruling out the existence of an alleged ‘humanitarian crisis’ in the country.”²³⁹

125. The Commission reiterates that only through strengthening the open channels of dialogue, respect for the plurality of ideas and opinions, and respect for and guarantee of the right of all sectors to participate in a country’s political life can a solution to this political conflict be found, a conflict that seriously affects Venezuelan society as a whole. The Commission calls on the government and the opposition to maintain and strengthen this dialogue mechanism toward finding participatory solutions within the framework of respect for human rights.

C. Freedom of Expression

126. Throughout 2016, the IACHR and its Office of the Special Rapporteur for Freedom of Expression received reports of the ongoing deterioration in the right to freedom of expression and access to information, the exercise of which authorities have blocked by both applying and skirting the law. The actions it has been monitoring include arbitrary detention and imprisonment of opposition figures and individuals who publicly express their disagreement with the government or express themselves through the media; repression of and undue restrictions on the right to protest; firing of public employees or threatening them with losing their jobs should they express political opinions against the government; campaigns to stigmatize and harass journalists, opposition politicians, and citizens; the use of criminal law and other State controls to punish or inhibit the work of a critical media; impediments to the right to access to information; and the use of a variety of indirect methods to improperly restrict the right to freedom of expression through media or over the internet.

127. The IACHR and its Office of the Special Rapporteur expressed their concerns in three letters to the State requesting information on specific incidents,²⁴⁰ as well as through the issuing of four press releases reiterating the standards that the Inter-American system has established for guaranteeing the full exercise of freedom of expression and access to information.²⁴¹

128. During the hearing on the situation of the right to freedom of expression and information in Venezuela, held in December 2016, the applicants said that a social and economic crisis was taking place in Venezuela, and that in this context, the media were neither plural nor diverse, as media outlets that were independent from the government had been penalized. They added that all international and regional human rights bodies were in agreement that the media’s freedom of expression in Venezuela is being violated and that their recommendations have not been followed. They also pointed to discrimination in the exercise of the right to participate in government, indicating for example that the contents of the lists of names of people supporting the recall referendum was published, resulting in the arrest of some of them. The State said that full freedom of expression exists in a legal framework that is in compliance with all international standards.

²³⁹ Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 28.

²⁴⁰ The Office of the Special Rapporteur for Freedom of Expression asked the Venezuelan State for information on the situation of television channel Globovisión on February 8; on the alleged illegitimate restrictions on journalism and the media on August 2; and on allegations of limitations to the right to freedom of expression and political opinion on September 2. Available in the archives of the Office of the Special Rapporteur.

²⁴¹ IACHR. May 16, 2016. [Press Release: 66/16, IACHR Condemns Murder of Opposition Leader in Venezuela](#), May 16, 2016. June 9, 2016. [Press Release: 73/16 - IACHR Expresses Concern over Detentions and Attacks on Demonstrators and Journalists in the Context of Protests in Venezuela](#); IACHR. September 14, 2016. [Press Release: 132/16, IACHR Expresses Concern Regarding Restrictions in the Exercise of Fundamental Rights in Venezuela](#); IACHR. October 25, 2016. [Press Release: 153/16 - IACHR and Office of the Special Rapporteur for Freedom of Expression Condemn Measures to Shut Down Spaces for Political Participation in Venezuela and Raise Alarm at their Impact on Democracy](#).

It added that there is broad transparency and access to public information and alleged that a campaign of vandalism carried out by paramilitary groups against telecommunications infrastructure has left entire areas in the dark. The IACHR expressed concern at the arrest of journalist Braulio Jatar over the publication of a video containing information in the public interest. It also expressed concern at the retaliation for the exercise of the right to express public opinion in the form of signing in support of the referendum. The Commission also insisted on the need to conduct a country visit.²⁴²

129. In its comments on the draft of this chapter, the State said "it is neither State practice nor policy to arrest or harass journalists or limit the exercise of their profession." It noted that "in Venezuela, no journalists have been arrested or subjected to legal proceedings based on their professional activities."²⁴³

1. Journalism and freedom of the press

130. Throughout the year, journalism continues to face multiple direct and indirect obstacles due to actions by State agents or civilians acting with their acquiescence. A few of the most concerning cases are described hereinafter.

a) Attacks, threats, and intimidation

131. According to the information received, there were at least 30 cases of communicators being attacked in various ways, including beatings, threats, arrests, confiscation of equipment, and destruction of journalistic evidence by State agents, including members of the GNB, the SEBIN, and the Guard of the People (one of the GNB's operating units, responsible for preventative work, according to its organizational chart), as well as a number of local police departments. Here are a few of the most concerning cases.

132. On January 15, reporter Fabiana Barboza and photographer Yorvis Weffer, with *Diario La Costa*, were attacked by GNB soldiers while covering a protest. The soldiers temporarily confiscated Weffer's camera and erased the photographs it contained;²⁴⁴ on January 4, soldiers with the People's Guard detained journalist Diana Moreno, with the newspaper *El Impulso*, allegedly for taking pictures in a supermarket located in a shopping center in Barquisimeto, Lara state;²⁴⁵ on March 28, journalists Faviana Delgado and Humberto Matheus, with *La Versión*; José Antonio González and María Fuenmayor, with *La Verdad*; and Ángel Romero and José López, with *Noticia al Día*, were detained, beaten, intimidated, and threatened by Zulia state police officers and forced to erase images documenting a clash between the detainees and the guards at the El Marite jail, run by the Zulia state police.²⁴⁶ On April 21, the journalists covering a protest held by National Assembly deputies at CNE headquarters in Caracas were forced to leave the building by GNB troops and later attacked by a group of civilians, allegedly government sympathizers;²⁴⁷ on March 9, in Atena de Tumeremo,

²⁴² IACHR, [Hearing on the situation of the right to freedom of expression and information in Venezuela](#), December 2, 2016.

²⁴³ Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 56.

²⁴⁴ Instituto Prensa y Sociedad Venezuela (IPYS). February 16, 2016. [Carabobo: Reporteros de Diario La Costa fueron agredidos por la Guardia Nacional](#); *Diario La Costa*. January 15, 2015. [GNB agrede a periodista y reportero gráfico de Diario La Costa; Confirmado. January 16, 2016. Carabobo CNP press release.](#)

²⁴⁵ NTN24. February 4, 2016. [Liberan a periodista detenida en Barquisimeto por tomar fotos en un supermercado](#); El Impulso journalist Diana Moreno allegedly detained for taking pictures inside a shopping center. Twitter account of [El Impulso @elimpulso.com](#). 4 Feb 2016 - 10:37 AM; La Patilla. February 4, 2016. [Detienen a periodista de El Impulso](#); Ipys Venezuela. February 5, 2016. [Periodista del Diario El Impulso fue retenida por la Guardia del Pueblo en un supermercado](#); Ipys Venezuela. February 23, 2016. [Periodista introduce demanda en Ministerio Público por detención arbitraria.](#)

²⁴⁶ Efecto Cocuyo. March 28, 2016. [Tres policías heridos y seis periodistas retenidos durante motín en cárcel de Maracaibo](#); Espacio Público. March 29, 2016. [Policía a fotógrafo en El Marite: "o entregas la cámara o te voy a pegar dos tiros"](#); Tal Cual March 28, 2016. [Detuvieron y agredieron a periodistas en retén de El Marite](#); Ipys Venezuela. March 29, 2016. [Policía regional agredió a periodistas en cobertura carcelaria.](#)

²⁴⁷ NTN24. April 21, 2016. ["Todo ocurre con la mirada complaciente de las autoridades": periodista de NTN24 tras agresión de la GNB a la prensa en el CNE](#); La Patilla. April 21, 2016. [GNB y oficialistas agreden a periodistas en el CNE \(Video\)](#). "#LIVE Attacks

Bolívar state, journalists were on their way to the El Miamo mine where the 28 miners were allegedly disappeared and massacred on March 4 when they were intercepted by Criminal and Forensic Investigations Unit (CICPC) agents who confiscated their work equipment and cellular telephones before allowing them to visit the scene of the incidents. They said they were trying to prevent up-to-the-minute information from being sent from there.²⁴⁸

133. More than 30 cases were also reported of journalists who, during the course of their work, were injured, illegally detained, beaten, threatened, intimidated, and had their equipment stolen by individual civilians or groups of civilians aligned with the government. In a significant portion of these cases, the attacks on communicators took place despite the presence of police officers.

134. For example, on February 16, journalist Eleida Briceño, with *El Tiempo*, was shot in the leg while covering a confrontation between neighbors and CICPC officers;²⁴⁹ on March 9, journalists Rafael Urdaneta and Fabiola Niño, with *El Venezolano TV*; René Méndez with *NTN 24*, and Manuel Cardozo with broadcaster *Ecos del Torbes* were detained and subject to threats, harassment, and attempted robbery by a group of masked individuals while covering a protest at the Escuela Técnica Industrial, located in the municipality of San Cristóbal, Táchira state²⁵⁰; on February 29, while covering the visit of the chair of the health committee of the National Assembly to the University Hospital of Maracaibo, a group of around 20 journalists were attacked by members of the Bolivarian Circles—grassroots organizations created by the PSUV to spread the ideas of the Bolivarian revolution—who had come to stop the deputy’s visit to the hospital;²⁵¹ on April 7, journalists Alejandro Hernández, with *Circuito Éxitos*; Antonieta La Rocca, with *Telecaribe*; Alejandro Molina, with *Notiminuto*; and Luis Pérez Rojas, with *Caraota Digital*, were attacked while covering a visit by leaders of the Primero Justicia party to the CNE. The attack was allegedly carried out by a group aligned with the government.²⁵² On April 12, freelance photographer Miguel González was attacked and robbed by government sympathizers outside the CNE while covering the MUD’s delivery of signatures to launch the recall process.²⁵³

reported on journalists at CNE headquarters in Caracas. Details at <http://goo.gl/ikCGkF>." Twitter account of VivoPlay @vivoplaynet. [21 Apr 2016 - 1:11 PM](#); Contrapunto. April 21, 2016. [Grupos violentos agredieron a periodistas venezolanos que cubrían protesta en el CNE](#); CNN en Español. April 21, 2016. [Agreden a periodistas en sede del Consejo Nacional Electoral de Venezuela](#); Contrapunto. April 21, 2016. [Grupos violentos agredieron a periodistas venezolanos que cubrían protesta en el CNE](#); Diario Contraste. April 21, 2016. [Diputados y periodistas fueron agredidos por la GNB para desalojar el CNE \(Fotos+Videos\)](#); Ipy Venezuela. April 25, 2016. [Atacaron a equipos reporteros durante cobertura en el CNE](#).

²⁴⁸ Efecto Cocuyo. March 9, 2016. [Cuando estaban a punto de llegar a la mina en Tumeremo, el Cicpc devolvió a los periodistas](#); Espacio Público. March 10, 2016. [CICPC impide que reporteros "informen al momento" desde Tumeremo](#). Efecto Cocuyo. March 16, 2016. [Tumeremo se hundió en el dolor durante el entierro de 10 de sus mineros masacrados](#).

²⁴⁹ El Mercurio. February 16, 2015. [Periodista Eleida Briceño resultó herida durante cumplimiento de su labor](#); Sumarium. February 16, 2015. [Periodista de sucesos recibió un tiro en la pierna durante una pauta](#).

²⁵⁰ El Pitazo. February 12, 2016. [Agredieron a periodista y reportero gráfico durante protestas en Táchira](#); Espacio Público. March 9, 2016. [Secuestran y amenazan de muerte a 4 periodistas en Táchira](#); Espacio Público. March 9, 2016. [Secuestran y amenazan de muerte a 4 periodistas en Táchira](#); Espacio Público. March 12, 2016. ["CNP Táchira rechaza las agresiones a periodistas y medios de comunicación"](#); Ecos del Torbes. March 10, 2016. [Identificados los sujetos que atacaron a periodistas Fabiola Niño y Manuel Cardozo en la ETI](#); Noticias 24. March 10, 2016. [Fueron identificados los sujetos que asaltaron a periodistas en la ETI](#).

²⁵¹ Bien dateao.com. March 1, 2016. [María Fernanda Muñoz: Respeto](#); El Pitazo. February 29, 2016. [Círculos Bolivarianos impiden con violencia ingreso de diputados al Hospital Universitario de Maracaibo](#); El Correo del Orinoco. March 2, 2016. [Agresión a periodistas en el Hospital Universitario de Maracaibo es rechazada por el CNP](#); La Patilla. March 1, 2016. [CNP Zulia exige respeto a la labor periodística ante agresión en el HUM](#); Entorno Inteligente. March 2, 2016. [Niegan agresión a periodistas en el HUM](#); La verdad. March 2, 2016. [Niegan agresión a periodistas en el HUM](#); Círculos Bolivarianos. July 8, 2010. [Libro de los círculos bolivarianos](#).

²⁵² Espacio Público. April 7, 2016. [Agreden y roban a seis periodistas en inmediaciones del CNE](#); Analítica. April 7, 2016. [Agreden y roban a periodistas en inmediaciones del CNE](#); Un Bombazo. April 7, 2016. [Periodistas pagan los platos rotos en ataque de chavistas a la MUD frente al CNE](#); El Tiempo. April 12, 2016. [Oposición entrega firmas en el CNE para iniciar trámite de revocatorio de Maduro](#).

²⁵³ Espacio Público. April 13, 2016. [PNB a reportero agredido y robado: "no podemos hacer nada, aquí no hay estado de derecho"](#).

135. Principle 9 of the Declaration of Principles on Freedom of Expression establishes that, “The 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 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.”²⁵⁴ In line with this, the IACHR issued a press release on June 9 that called on the Venezuelan State “to guarantee and protect the physical integrity and security of demonstrators and journalists during public protests” and recalled that “protection of freedom of expression requires authorities to ensure the necessary conditions for journalists to be able to cover noteworthy events of interest to the public, such as those involving public protests.”²⁵⁵ Also, the Office of the Special Rapporteur issued a press release on August 4 jointly with the United Nation’s Special Rapporteur on the right to freedom of opinion and expression recalling that “Law enforcement agents must protect and not harass reporters and journalists who are carrying out their legitimate work informing the public,” and that “threats or attacks against journalists and the media not only violate the rights of these persons but undermine the ability of Venezuelans and others elsewhere to be informed on events of critical importance.”²⁵⁶

b) Stigmatizing statements

136. Attacks and acts of intimidation against journalists and media take place in a context of stigmatization by government officials, including President Maduro and legislator and first vice president of the United Socialist Party of Venezuela Diosdado Cabello, who accuse them of being part of an attempted “*coup d’état*” supported by foreign governments and including the participation of media outlets that are critical of the government.

137. According to publicly available information, on January 6, President Maduro accused the owners of TV stations Televen and Globovisión of repeating how they behaved in 2002, when former President Hugo Chávez was temporarily deposed. During a mandatory national TV broadcast, the president said “... Now they are unleashed... You see what Televen is like, right?... what Globovisión is like... You look at Globovisión and Televen and April 9, 2002 all over again. You’re going to make a mistake, you owners of Globovisión and Televen... and you won’t be able to take it back...”;²⁵⁷ on January 30, he stated that “the private media” are making “war” on him, although he only mentioned the leading television channels by name;²⁵⁸ on June 2, during broadcast of his program “En Contacto con Maduro,” he announced that he would take “a series of actions under international law” to bring an end to the “campaign of psychological warfare” that Spanish media outlets had launched against Venezuela. The president made his statements following accusations on May 17 and 28 of an alleged plan to conduct a “military intervention” to depose him, hatched in Madrid;²⁵⁹ on October 8, during a mandatory television broadcast, President Maduro ordered the Petroleum Minister, Eulogio del Pino, to file suit against a newspaper “directed from Miami” for allegedly disseminating false information on state oil company PDVSA. Although President Maduro did not mention the

²⁵⁴ IACHR. Office of the Special Rapporteur for Freedom of Expression. [Declaration of Principles on Freedom of Expression](#).

²⁵⁵ IACHR. June 9, 2016. [Press Release: 73/16 - IACHR Expresses Concern over Detentions and Attacks on Demonstrators and Journalists in the Context of Protests in Venezuela](#).

²⁵⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 4, 2016. [Joint press release R110/16 Venezuela / Crisis: UN and Inter-American experts raise alarm at deterioration of media freedom](#).

²⁵⁷ El Nacional. January 6, 2016. [Maduro a los medios de comunicación: “Después no vale arrepentimiento”](#); Notilogía. January 7, 2016. [Maduro amenaza a directiva de Globovisión y Televen](#); La Patilla. January 7, 2016. [Vladimir Villegas responde a las amenazas de Maduro contra Globovisión \(Video\)](#).

²⁵⁸ Globovisión, January 30, 2016. [Maduro a Globovisión, Venevisión y Televen: Sigán la guerra contra mí pero vamos a producir](#).

²⁵⁹ 20 minutos. May 17, 2016. [Maduro denuncia campaña para justificar intervención militar](#); ABC. May 28, 2016. [Maduro insiste en que desde Madrid se hace campaña para invadir Venezuela](#); La Vanguardia. June 1, 2016. [Maduro dice que presentará acciones legales en España para que cese su “campaña de guerra”](#).

newspaper by name, the editor of *El Nuevo País*, Rafael Poleo, stated on his twitter account that the message from the president was aimed at his publication.²⁶⁰

138. For his part, legislator and first PSUV vice president Diosdado Cabello said on March 16 during the broadcast of his television program “Con el Mazo Dando” that “the owners of media companies Televen, Globovisión, Venevisión, are once again involved in a coup d’état... I say this responsibly... 2002, we defeated them; now we will do it again. The only difference will be the treatment you will receive. That will be the only difference;”²⁶¹ on August 30, during a public demonstration in Caracas, he reiterated his statements, saying: “... I’ll tell you this *escuálidos* [scrawny people, an epithet for members of the opposition], and by *escuálidos* I also mean the owners of the media: we will be victorious... but don’t even dream you will receive the same treatment as in 2002. Don’t even dream of it. Everyone who is actively participating in the coup d’état, let’s call it what it is; whether they have money or no; whether or not they wear a priest’s collar, they will go to prison to pay for the crimes they are committing.”²⁶²

139. The Inter-American Court has found repeatedly that public officials “are guarantors of the fundamental rights of persons, and therefore, their statements cannot be construed as direct or indirect interference with the rights of those seeking to contribute to the public debate through the expression and dissemination of thought. This duty is particularly accentuated in situations of greater social conflict, disruption of public order, or social and political polarization, precisely due to the combination of risks involved for certain persons or groups at a given time.”²⁶³

c) Prior censorship and indirect restrictions

140. The use of prior censorship as a mechanism of undue restriction on journalism work and the free distribution of information in the public interest has also been reported to the IACHR.

141. On June 8, the Constitutional Chamber of the TSJ²⁶⁴ issued a judgment banning Venezuelan media, in particular the websites *La Patilla* and *Caraota Digital*, from distributing videos containing images of lynchings of suspected criminals by private individuals.²⁶⁵ In this regard, the Office of the Special Rapporteur issued statement indicating that the judgment “establishes a disproportional and unreasonable restriction confronting Inter American and global standards for the right to freedom of expression” as “exercise of the right to freedom of expression cannot be subject to prior censorship.”²⁶⁶

142. On August 23, the Second Trial Court of the Civil, Mercantile, and Traffic Circuit of Barinas state banned newspapers *Diario de Los Llanos*, *La Prensa*, and *La Noticia*—which are published there—from

²⁶⁰ EFE. October 8, 2016. [Maduro ordena demandar a periódico por difundir información falsa de PDVSA](#); Analítica. October 9, 2016. [Maduro ordenó demandar medios de comunicación que difundan información falsa de PDVSA](#); NTN24. October 9, 2016. [Maduro ordena demandar a diario venezolano El Nuevo País, por redifundir trabajo sobre crítica situación de Pdvsa](#); Siente América. October 9, 2016. [Bloomberg: Venezuela pretende empeñar a la icónica marca americana Citgo para sobrevivir](#).

²⁶¹ Noticias24/YouTube. March 16, 2016. [Con el Mazo Dando, Wednesday, March 16, 2016](#) [1:02:31].

²⁶² Notitotal. August 30, 2016. [Las amenazas de Cabello a la oposición venezolana de cara al 1-S \(Video\)](#); Noticias. August 30, 2016. [La advertencia de Diosdado Cabello a los medios de comunicación](#); La Voz. August 31, 2016. [Diosdado Cabello: “Atrévase a entrar en Caracas”](#).

²⁶³ Inter-American Court. Case of Perozo et al v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No. 195. Para. 151. See Inter-American Court. Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009. Series C No.194. Para. 139.

²⁶⁴ TSJ. Constitutional Chamber. June 8, 2016. Available at [TSJ condemns lynchings, finding that they run contrary to social coexistence, the human condition, and the rule of law](#).

²⁶⁵ Hoy en Noticias/YouTube. April 6, 2016. [La GNB lo capturó y luego lo entregó a la gente para que lo lincharan \(VIDEO\)](#); La Patilla. June 8, 2016. [TSJ prohíbe a LaPatilla, a Caraota Digital y a todos los medios de comunicación publicar videos de linchamientos](#); Informe21. June 8, 2016. [TSJ prohíbe a medios de comunicación publicar videos de linchamientos](#); CNN en español. June 9, 2016. [Tribunal Supremo de Justicia de Venezuela prohíbe a medios publicar videos de linchamientos](#).

²⁶⁶ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 4, 2016. [Joint press release R110/16 Venezuela / Crisis: UN and Inter-American experts raise alarm at deterioration of media freedom](#).

printing “information or statements from politicians, leaders, or any citizen accusing Governor (Adán) Chávez of criminal acts unless charges for them have been filed in a court of law.” According to the information available through the judicial proceeding brought by Governor Chávez, this was in response to publications in the three aforementioned newspapers indicating an investigation had been ordered and launched by the Comptroller Committee of the National Assembly into irregularities in the execution of works in his state.²⁶⁷

143. A study conducted by IPYS Venezuela found that 43 website had been systematically blocked by one or more of the country’s leading Internet service providers. Almost 19% of the blocked sites were media outlets, including the website of Colombia-based NTN24, which is blocked by all Internet service providers. According to the study, “the criteria for blocking websites in Venezuela seems to be politically motivated,” as in addition to systematic blocking of websites distributing banned content, such as websites with information on the parallel dollar market, the next two most significant categories of blocked sites are media outlets and blogs that are critical of the government and the ruling party.²⁶⁸

144. The State reported that the number of Internet users in Venezuela had increased from 300,000 in 1998 to 17 million in 2016, or 65% of all Venezuelans. A significant number of these users access the Internet through low-cost or free wired connections. The State indicated that Venezuela has set up 5,000 free Wi-Fi access points and more than 1,000 Internet cafés.²⁶⁹ For their part, the representatives of civil society at the public hearing on freedom of expression in Venezuela held during the 159th Period of Sessions recognized that Venezuela has a very high rate of Internet use. However, they expressed concern at download speeds (1.5 mbps), the difficulty accessing the service, rising fees, and Conatel’s constant announcements of new Internet regulations.²⁷⁰

145. The IACHR reiterates that Principle 5 of its Declaration of Principles establishes that, “Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

146. The IACHR and its Office of the Special Rapporteur have also been informed of a variety of mechanisms of indirect restriction used in Venezuela to block the work of communicators and the free circulation of ideas and opinions. One practice that was common during 2016 was blocking the purchase of and access to newsprint by establishing a State monopoly on acquiring foreign currency and importing newsprint. The 86 newspapers that are members of the Chamber of Regional Newspapers of Venezuela declared an emergency on January 27, as the policies under which the Alfredo Maneiro Editorial Complex distributes newsprint have made it increasingly difficult for newspapers that take an editorial stance that is not in line with the government’s interests to stay in circulation. Many of them have been forced to reduce their size, shorten their print runs, suspend regional additions, and, in some cases, such as that of the newspaper *El Carabobeño*, definitively suspend circulation after 82 years in print.²⁷¹

²⁶⁷ CNP. August 23, 2016. [Periódicos de Barinas no podrán publicar notas contra Adán Chávez](#); Tal Cual. August 24, 2016. CNP: [Tribunal y gobernador Adán Chávez agreden la libertad de expresión](#); El Universal. August 23, 2016. [Prohíben a periódicos barineses denunciar al gobernador Adan Chávez](#).

²⁶⁸ IPYS Venezuela. Undated. *Navegar con Libertad. Perspectivas de la red en Venezuela*. Available at <http://ipysvenezuela.org/navegarconlibertad/>.

²⁶⁹ IACHR, Hearing on freedom of expression in Venezuela, December 2, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 55.

²⁷⁰ IACHR, Hearing on freedom of expression in Venezuela, December 2, 2016.

²⁷¹ National Assembly. Permanent Committee on the People’s Power and the Media. April 19, 2016. Communication on the situation of print media in Venezuela Available in the archive of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights; IAPA April 11, 2016. [Mid-year Meeting. Report on Venezuela](#); 2001. January 28, 2016. [86 periódicos del país se declaran en emergencia](#); Globovisión. January 28, 2016. [Se declaran en emergencia 86 periódicos del país](#); El informador. January 28, 2016. [En emergencia 86 periódicos venezolanos](#); El Nacional. December 22, 2015. [Diario La Nación circulará a un solo cuerpo por falta de papel](#); La Opinión. December 22, 2015. [Diario La Nación reduce su edición impresa temporalmente](#); El Carabobeño. March 17, 2016. [La portada de la última versión impresa de El Carabobeño](#); El Carabobeño. March 16, 2016. [Estudiantes de](#)

147. State power to assign radio frequencies continues to be used by the government as a mechanism for rewarding or punishing media outlets depending on their editorial stances. In 2016, the processes for renewing and granting radio and television concessions continued to be postponed by authorities. This is concerning to the IACHR and its Office of the Special Rapporteur because the uncertainty resulting from the lack of a government response to requests for confirmation of concessions can lead communicators to self censor and become an indirect measure of undue restriction on freedom of expression. Regarding this, on April 21, a number of civil society and university student organizations delivered a letter to the offices of the National Telecommunications Commission (Conatel) urging it to speed up those processes. The signers expressed concern at the “lack of plurality and diversity in the concessions granted for broadcast media, as the processes are not governed by clear criteria but rather by politics, with close to 200 media outlets holding expired concessions, many of which have turned in the required documentation yet are kept in a limbo that encourages them to self-censor to avoid non-renewal of their licenses.”²⁷²

148. Regarding this, in a judgment issued on June 22, 2015, in the case of *Marcel Granier et al. v. Venezuela*, the Inter-American Court emphasized that in the exercise of its authority to regulate the broadcast spectrum, the State must respect the guidelines imposed by the right to freedom of expression. The Court stressed the need for States to establish clear and precise processes for granting or renewing radio broadcasting concessions or licenses that adhere to objective criteria so as to prevent arbitrariness.²⁷³ It stated that this regulation cannot be based on “a government’s political disagreement with a particular editorial stance.”²⁷⁴ In its ruling, the Court ordered the Venezuelan State to “take all the measures necessary to guarantee that all future processes for assigning and renewing frequencies for radio and television are conducted in a way that is open, independent, and transparent” (unofficial translation).²⁷⁵

149. Regarding this, in its comments on the draft of this chapter, the State noted that “the private sector controls 67% of the radio spectrum in Venezuela and completely dominates the subscription radio and television sector.” It also noted that 7 out of 10 homes have cable or satellite television, and over-the-air and paid television reach nearly 100% of families. It stressed that “the process of democratizing the radio spectrum carried out over the last 16 years has strength in the public media system and created more than 300 small community radio and television broadcasters.”²⁷⁶ The representatives of civil society at the public hearing on freedom of expression in Venezuela held during the 159th Period of Sessions expressed concern at the lack of pluralism in the radio spectrum, noting that 15 of the over-the-air television channels are completely funded by the State, compared to three private broadcasters. In addition, 300 broadcasters do not have permits that are duly registered.²⁷⁷

150. According to the information received, during the second half of 2016, at least nine journalists working for media outlets based in Qatar, Colombia, France, and the United States were prevented from entering Venezuelan territory “on failing to comply with [Venezuela’s] entry requirements,” pursuant to the “Migration and Alien Status Act.” The journalists reported that compliance with these requirements is

[la UAM condenan salida de circulación de El Carabobeño](#); El Carabobeño. March 16, 2016. [Ciudadanos expresaron su apoyo a El Carabobeño en concentración](#).

²⁷² Espacio Público. April 21, 2016. [Exigen a Conatel respuesta inmediata sobre concesiones de frecuencias radioeléctricas](#); Notiminuto. April 21, 2016. [CNP exige a Conatel rapidez en concesiones para radio y televisión](#); National Association of Journalists (CNP). April 21, 2016. [Exigen a Conatel respuesta inmediata sobre concesiones de frecuencias radioeléctricas](#).

²⁷³ Inter-American Court. *Case of Granier et al. (RCTV) v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of June 22, 2015. Para. 171.

²⁷⁴ Inter-American Court. *Case of Granier et al. (RCTV) v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of June 22, 2015. Para. 194.

²⁷⁵ Inter-American Court. *Case of Granier et al. (RCTV) v. Venezuela*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of June 22, 2015. Operative Paragraph 18.

²⁷⁶ IACHR, Hearing on freedom of expression in Venezuela, December 2, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 54.

²⁷⁷ IACHR, Hearing on freedom of expression in Venezuela, December 2, 2016.

based on rules that are difficult to understand and make it materially impossible to obtain a visa to enter the country.²⁷⁸

151. The IACHR's Declaration of Principles on Freedom of Expression states in its Principle 13 that "The 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."

d) Subsequent liability and criminalization of criticism

152. The IACHR and its Office of the Special Rapporteur have reiterated their concern over the use of criminal proceedings to punish and inhibit expression that is critical of the actions of State authorities or on issues in the public interest, particularly through charges of criminal defamation. In Venezuela, these criminal proceedings have been accompanied by court orders that include censorship and restrictions to the personal liberty of the accused, disproportionately affecting the work of journalists and the media.

153. For example, on May 11, the Sixth Criminal Trial Court of Bolívar state convicted the director of *Correo del Caroní*, David Natera Febres, and sentenced him to four years in prison and the payment of a fine equivalent to 1,137 tax units for defamation based on his paper's coverage of the case of alleged corruption involving State company Ferrominera del Orinoco.²⁷⁹ The court also banned him from leaving the country; it ordered him to appear before it every 30 days until his sentence is final and can be executed; it issued an injunction prohibiting the disposal or encumbrance of the newspaper's assets and banned the *Correo del Caroní* from publishing information on the case.²⁸⁰ On March 14, the Office of the Special Rapporteur issued a press release expressing concern at these facts.²⁸¹

154. The president and editor of the newspaper *El Nacional*, Miguel Henrique Otero, and the director of the website *La Patilla*, Alberto Federico Ravell, remained outside Venezuela during 2016 due to the risk they faced of being arrested if they returned to their country, as legal proceedings had been opened against them for the crime of "ongoing and aggravated defamation."²⁸² On November 9, the IACHR asked the

²⁷⁸ El Pitazo. August 29, 2016. [Retienen en Maiquetía a periodistas de Al Jazeera que cubrirían "Toma de Caracas"](#); Lanacionweb.com. August 30, 2016. [No pudieron entrar a Venezuela periodistas de Al Jazeera que cubrirían "toma de Caracas"](#); Le Monde. September 1, 2016. [Le Venezuela expulse des journalistes, dont l'envoyée spéciale du «Monde»](#); Archy World News. September 1, 2016. [Venezuela expels journalists, including the correspondent of "World"](#); El Nuevo Herald. August 31, 2016. [Corresponsal del Miami Herald detenido y expulsado de Venezuela](#); NPR. August 31, 2016. [Ahead Of Major Protest, Venezuela Kicked Me \(And Other Journalists\) Out](#); Caracol Radio. August 31, 2016. [Gobierno venezolano impide entrada de periodista de Caracol Radio](#); Espacio Público. August 31, 2016. [Gobierno está obligado a respetar trabajo de la prensa nacional e internacional](#); Grupo Fórmula. September 2, 2016. [Francia condena negativa venezolana a ingreso de periodista](#).

²⁷⁹ Correo del Caroní. July 15, 2013. ["El Tiburón" que extorsionaba en la ciudad del hierro](#); Correo del Caroní. July 16, 2013. [Pioneros de FMO repudian saqueo de su empresa por la corrupción](#); Correo del Caroní. September 6, 2013. [Fiscalía solicita enjuiciamiento de empresario por el caso FMO](#); Correo del Caroní. March 18, 2016. [La investigación periodística detrás de la sentencia contra Correo del Caroní](#), March 18, 2016.

²⁸⁰ Correo del Caroní. March 11, 2016. [Tribunal condena a Correo del Caroní por investigar y publicar notas sobre la corrupción en Ferrominera](#); Ipsy Venezuela. March 11, 2016. [La censura tiene un aval judicial en la sentencia contra el Correo del Caroní](#); Espacio Público. March 11, 2016. [Espacio Público rechaza sentencia contra el Correo del Caroní por informar sobre corrupción](#); El País. March 11, 2016. [Condenado a cuatro años el director de un diario en Venezuela](#).

²⁸¹ IACHR. Office of the Special Rapporteur for Freedom of Expression. March 14, 2016. [Press Release R34/16. Office of the Special Rapporteur Expresses Concern over Defamation Conviction in Venezuela](#).

²⁸² Globovisión. June 14, 2016. [Miguel Henrique Otero: "Si regreso a Venezuela me encarcelan"](#); May 14, 2015. [Alberto Federico Ravell no confirmó si viene a Venezuela a enfrentar juicio por difamación](#); La Jornada, May 15, 2015. [Directivos de medios volverán a Venezuela a enfrentar juicio](#).

State to adopt precautionary measures to the benefit of Miguel Henrique Otero, President and editor of *El Nacional*; Alberto Federico Ravell, director of *La Patilla*, and his daughter, Isabel Cristina Ravell; and Teodoro Petkoff, director of *Tal Cual*, due to the judicial harassment of these media outlets and their leadership by public officials.²⁸³

155. The IACHR and its Office of the Special Rapporteur have indicated that using these criminal offenses as mechanisms for assigning subsequent liability for speech that is specifically protected is a violation of freedom of the freedom of expression protected by Article 13 of the American Convention and Article IV of the American Declaration. The Commission and the Inter-American Court have emphatically held that this type of expression enjoys greater protection in the framework of the Inter-American system for the protection of human rights.²⁸⁴ This protection has been justified by, among other things, the importance of maintaining a legal framework that encourages public debate, as well as the fact that public servants voluntarily expose themselves to greater social scrutiny and have more and better opportunities to contribute to the public discussion.²⁸⁵

156. Also of concern to the IACHR and its Office of the Special Rapporteur is the use of criminal law by public officials as a tool to intimidate and criminalize criticism. Of particular concern is the opening of criminal proceedings against journalists based on unsubstantiated allegations. On September 3, journalist Braulio Jatar, director of the website *Reporte Confidencial*, was arrested and held in an undisclosed location for 36 hours after he published a series of videos on his website documenting a type of protest (“*cacerolazo*”) that took place during a visit made by President Maduro to Villa Rosa, on Margarita Island. According to the information available, the demonstration resulted in the arrest of 30 people. All of them were later released except the communicator.²⁸⁶ The communicator was later charged with money laundering, as a large amount of money was supposedly found in his car. His defense attorney reported that the Public Prosecutor did not have evidence to charge him with any crime.²⁸⁷

²⁸³ IACHR. Office of the Special Rapporteur for Freedom of Expression. August 24, 2015. Press Release 93/15: [IACHR and the Special Rapporteur Express Deep Concern over the Stigmatization and Judicial Harassment against Three Media Outlets in Venezuela](#); IACHR. [Annual Report 2015, 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. Doc. 48/15, December 31, 2015. Para. 1237 and 1238.

²⁸⁴ IACHR. [Annual Report 1994](#). Chapter V: Report on the Compatibility of “Desacato” laws with the American Convention on Human Rights. OAS/Ser. L/V/II.88. doc. 9 rev. February 17, 1995, IACHR. [Annual Report 2004, Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter VI (*desacato* and criminal defamation laws). OEA/Ser.L/V/II.122. Doc. 5 rev. 1. February 23, 2005. Para. 155 and following; IACHR. [Annual Report 2009, Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter III (Inter-American Framework on the Right to Freedom of Expression). OEA/SER.L/V/II. Doc. 51. December 30, 2009. Pg. 245 and following. Inter-American Court *Case of Ivcher Bronstein v. Peru*. Merits, Reparations, and Costs. Judgment of February 6, 2001. Series C No. 74; *Case of Herrera Ulloa v. Costa Rica*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of July 2, 2004. Series C No. 107; *Case of Ricardo Canese v. Paraguay*. Merits, Reparations, and Costs. Judgment dated August 31, 2004. Series C No. 111; *Case of Palamara Iribarne v. Chile*. Merits, Reparations, and Costs. Judgment of November 22, 2005. Series C No. 135; *Case of Kimel v. Argentina*. Merits, Reparations, and Costs. Judgment of May 2, 2008, Series C No. 177, technical note on international standards of freedom of expression and crimes against honor and the adjustment of legal provisions on crimes against honor presented in the draft bill to amend the Brazilian Penal Code, November 4, 2013, in: 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), para. 125, November 4, 2013.

²⁸⁵ Inter-American Court, *Case of Tristán Donoso v. Panama*. Preliminary Objections, Merits, Reparations and Costs, Judgment of January 27, 2009, Series C, No. 193. Para. 122.

²⁸⁶ PanAm. September 5, 2016. [Nuevo preso político en Venezuela: imputan a periodista que divulgó video de Maduro](#); Reporte Confidencial. September 5, 2016. [La policía política de Venezuela confirma la detención del director de un diario digital](#); El Nuevo Herald. September 5, 2016. [Oposición venezolana: detención del periodista es ‘otro crimen del régimen’](#); Notimérica.com. September 6, 2016. [El director de ‘Reporte Confidencial’, imputado en Venezuela por blanqueo](#); Notitotal. September 12, 2016. [Chile “exige” a Venezuela que informe lugar de detención de Braulio Jatar](#); Te interesa. September 25 [El director de Reporte Confidencial es trasladado a una prisión en Sucre](#); Reporte Confidencial. September 25, 2016. Defensor del Pueblo confirma que Braulio Jatar fue trasladado al internado de Sucre; Cuatro Vientos. September 12, 2016. [Tensión entre Chile y Venezuela por la detención de un periodista](#); NTN24. September 21, 2016. [Familiares retoman contacto con el abogado Braulio Jatar detenido en Venezuela](#).

²⁸⁷ El Estímulo, [Abogado de Braulio Jatar: condiciones de prisión pueden provocar un infarto](#), November 16, 2016.

2. Social protest and public demonstrations

157. The lack of good quality and accessible food, water, and medicine, claims from unions, and demands that the CNE process a referendum to recall President Maduro led to numerous protests in Venezuela throughout the year. The IACHR notes with concern information indicating that where they express dissent and criticism of the government, these demonstrations and protests were subject to a series of restrictions—including refusal to grant prior authorization to protests in front of public institutions, automatic dispersal of protests considered illegal, abusive use of force by security forces, mass arrest of demonstrators, and stigmatization and criminalization of organizers—that are not compatible with the right to freedom of expression and assembly. The following is an overview of some of the facts that have been especially concerning to the IACHR and its Office of the Special Rapporteur for Freedom of Expression:

a) Prior authorization or permit requirement

158. According to the information available, Venezuelan State authorities continue to require prior authorization for holding meetings and demonstrations, despite the fact that the national Constitution guarantees the right of all people to “meet, publicly or privately, without prior permit.”²⁸⁸ Additionally, court rulings have been issued restricting the use of emblematic spaces, such as the headquarters of the National Electoral Council and its surrounding area, for holding public demonstrations.²⁸⁹ According to the information available, this requirement is discriminatory, as it is applied only to the demonstrations and protests organized by sectors of society that are critical of the government and has been used to deny the exercise of the right to meet “within hearing and sight” of the State institutions at which the demands or claims are being directed.

159. On May 18, 2016, the Second Adversarial Administrative Court, in Caracas, issued a ruling stating that “to protect the rights invoked and foster an environment of social and citizen peace, as well as to prevent general psychological disturbance, especially among the workers and governors of the National Electoral Council,” it would issue an injunction ordering the commander of the GNB and the director of the National Bolivarian Police to take:

the security measures necessary to permanently protect the offices of the National Electoral Council and its surroundings, nationally, in order to prevent unauthorized events, marches, protests, unpermitted gatherings, and violent demonstrations called by political and civil society organizations that may limit worker access and disrupt the normal operation of the offices of the National Electoral Council, nationally; [...] to municipality authorities so that in the framework of their authority to grant permits, they comply with the legal requirements to prevent violent gatherings, [and to] the National Executive Branch to evaluate, pursuant to articles 47 and 48 of the Organic Law on National Security, declaring the spaces adjacent to the offices of the Electoral Branch as security zones.

160. The IACHR has expressed that “in democracies, states should act based on the legality of protests or public demonstrations and under the assumption that they do not constitute a threat to public order. This means an approach focused on building the highest levels of citizen participation, with the streets and plazas considered privileged places for public expression.”²⁹⁰ In this sense, it has reiterated that

²⁸⁸ TSJ. [Case File Nº 14-0277](#). April 24, 2014. Article 53 of the Political Constitution establishes that, “unarmed people have the right to meet, publicly or privately, without prior permit, for legal purposes. Meetings in public places will be regulated under the law.” Meanwhile, Article 68 establishes that “citizens have the right to peaceful and unarmed demonstration without any requirements other than those established by law.” In April 2014, the TSJ found that the authorization must be granted by the highest civil authority of a jurisdiction, “noncompliance with which limits the right to peaceful demonstration absolutely, thereby preventing any meeting or demonstration from being held.”

²⁸⁹ Sumarium. May 21, 2016. [TSJ prohíbe manifestaciones frente a sedes del CNE](#); El Nacional. May 21, 2016. [Prohíben manifestaciones en los alrededores del CNE](#).

²⁹⁰ In that regard, the United Nations Human Rights Council recognized that protests “can make a positive contribution to the development, strengthening and effectiveness of democratic systems, and to democratic processes.” UN Human Rights Council, Resolution A/HRC/25/L.20, preamble. The Office of the Special Rapporteur for Freedom of Expression of the IACHR has underscored

requiring prior authorization or permit to hold demonstrations and protests in public spaces is not compatible with international human rights law and best practices and has urged those States that still require prior authorization or permit to eliminate this requirement and explicitly establish a general presumption in favor of the exercise of the right to assembly and freedom of expression.

b) Use of force and participation of the military in the management of public demonstrations.

161. Both abusive use of force through the use of firearms and the participation of the military in controlling and managing public demonstrations continue to be concerning during 2016. According to the information obtained, during the demonstrations that took place over food shortages in different parts of the country, at least four people were shot to death by security forces.²⁹¹ According to available information, these incidents took place in the municipalities of San Cristóbal²⁹², Sucre,²⁹³ and Cariaco²⁹⁴ on June 5, 9, and 10, as well as in the town of Lagunillas²⁹⁵ on June 15.

162. Soldiers with the Bolivarian National Guard are implicated in these incidents. In this regard, the IACHR reiterates its concern over resolution 008610, “Rules of engagement for the Bolivarian National Armed Forces performing public order and social peace and citizen coexistence oversight duties at public meetings and demonstrations,” which allow armed interventions in public meetings and demonstrations and allows the use of firearms in them. The Commission addressed this resolution in depth in Chapter IV B of its Annual Report 2015²⁹⁶ and asked the State for information on February 27, 2015, pursuant to the authorities established in Article 18 of its Statute.²⁹⁷ The Commission has received no reply on the matter. The Office of the United Nations High Commissioner on Human Rights issued a similar statement, finding the authorization of the Venezuelan military to participate in suppression of demonstrations to be incompatible with the Venezuelan military’s human rights obligations.²⁹⁸

that the participation of societies through public demonstrations is important for consolidating democracy. IACHR, Report of the Office of the Special Rapporteur for Freedom of Expression, 2005, Chap. V, “Public Demonstrations as an Exercise of Freedom of Expression and Freedom of Assembly.” Para. 91.

²⁹¹ Runrunes. June 12, 2016. [La guerra del hambre: 3 muertos y 47 saqueos por comida en 10 días](#); El venezolano news. June 14, 2016. [Tres venezolanos han muerto durante represión a protestas por comida](#); La Patilla. June 14, 2016. [Torrealba: Tres muertos en disturbios por hambre en un país al que entran millones de dólares](#); EFE. June 15, 2016. [Las protestas en Venezuela ya dejan 4 muertos mientras el Gobierno intenta diálogo](#).

²⁹² FPV. Undated. [Report on the repression of the Venezuelan State, January 2014 – May 2016 \(p. 1\)](#); El Pitazo. June 6, 2016. [“A mi esposa le disparó a quemarropa un policía del grupo Rayo”](#); La Patilla. June 6, 2016. [Habla la hija de Jenny Ortíz, la mujer asesinada con perdigonazos en la cara: “Le desfiguraron el rostro” \(Video\)](#); La Opinión. June 6, 2016. [Protestas por alimentos en Táchira cobran primera víctima fatal](#).

²⁹³ El Tiempo. June 11, 2016. [Disturbios en Caracas dejaron un muerto y varios heridos en dos días](#); Venevisión. June 10, 2016. [Un joven fue asesinado durante los hechos violentos de este jueves en Petare](#); El Pitazo. June 10, 2016. [Fiscalía investigará muerte de joven en Petare tras situación irregular](#).

²⁹⁴ Control ciudadano. June 13, 2016. [Detienen a sargento de la GNB por muerte de joven durante protesta en Sucre](#); Noticias Venezuela. June 15, 2016. [“El Cumanazo” una nueva página en la historia de horror del Socialismo del XXI](#); El Universal. June 16, 2016. [Detienen preventivamente a GN sospechoso de asesinar a joven en Cariaco](#); Globovisión. June 16, 2016. [Detienen a sargento involucrado en muerte de manifestante en Sucre](#).

²⁹⁵ La Voz. June 15, 2016. [Muere menor de edad herido en protestas en la población de Lagunillas](#); Infobae. June 16, 2016. [Hambre y muerte en Venezuela: un joven de 17 años fue baleado durante un saqueo](#); Maduradas. June 15, 2016. [¡DESASTROSO! Muere joven herido con perdigones en protesta por comida en Lagunillas](#).

²⁹⁶ IACHR, Annual Report 2015. Chapter IV, Venezuela, December 31, 2015, paras. 123-128.

²⁹⁷ IACHR, Request for information from the State on Resolution No. 008610 of the Ministry of the People’s Power for Defense, February 18, 2015.

²⁹⁸ UN. [OACNUDH: sobre control de manifestaciones públicas en Venezuela](#) February 10, 2015.

163. The IACHR reiterates that firearms should not be included among the tools used for controlling social protests.²⁹⁹ There is no scenario that would justify the use of lethal force to break up a protest or demonstration or indiscriminately disperse the crowd.³⁰⁰ States must implement mechanisms to effectively ban the use of lethal force as an option for controlling public demonstrations.³⁰¹ The IACHR has also strongly emphasized that domestic security and order must be “exclusively the purview of duly organized and trained civilian police forces, not military armed forces.” Given the imperative social interest of the exercise of the rights involved in public protests or demonstrations to democratic life, the Commission has found that in this area specifically the reasoning behind banning the involvement of soldiers and armed forces is even stronger.

c) Attacks on demonstrators by third parties or non-State agents

164. The protection of the exercise of the rights to assembly and freedom of expression entails not only a State obligation to not interfere with their exercise but also a duty to adopt, during and prior to certain circumstances, positive measures to ensure them.³⁰² These measures include the duty to protect the rights of demonstrators during a protest from acts committed by private or nonstate actors.³⁰³ They also encompass the obligation to investigate and punish anyone who commits acts of violence against the life or personal integrity of demonstrators.

165. For example, the IACHR and its Office of the Special Rapporteur received concerning information on attacks on leaders, representatives, and members of opposition parties during the protests organized to seek activation of the mechanism to hold a recall referendum, including the attacks that took place on June 9, when a group of opposition deputies demonstrating in front of the headquarters of the electoral branch in Caracas were attacked by individuals presumed to be government sympathizers. The attack took place despite the presence of the police and the GNB.³⁰⁴

d) Stigmatization and criminalization of social protest

166. A statement issued on August 31 by 30 Venezuelan human rights organizations accused public media of being used to criminalize, stigmatize, and create a climate of anxiety and terror against the right to peaceful protest. The use of public media to single out, criminalize, and accused citizens without evidence is contrary to the rule of law and due process, which are inherent to justice that is truly democratic.³⁰⁵

²⁹⁹ UN Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, “Use of force during demonstrations,” A/HRC/17/28. May 23, 2011, para. 75. Also see: AI. [Use of force: Guidelines for implementation of the UN Basic Principles on the use of force and firearms by law enforcement officials](#), August 2015, pg. 148 i.

³⁰⁰ During its 25th period of sessions, the United Nations Human Right Committee issued a statement on “The promotion and protection of human rights in the context of peaceful protests” (para. 11 and 13) in which it “Affirms that nothing can ever justify the indiscriminate use of lethal force against a crowd, which is unlawful under international human rights law” and “Urges all States to avoid using force during peaceful protests and to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force.” Human Rights Committee. 25th Period of Sessions Resolution 25/... “The promotion and protection of human rights in the context of peaceful protests.” A/HRC/25/L.20. March 24, 2014, paras. 11 and 13.

³⁰¹ IACHR, [Report on Citizen Security and Human Rights](#), December 31, 2009, para. 201.

³⁰² IACHR, Report on Citizen Security and Human Rights, 2009, para. 192; IACHR, Report on the Situation of Human Rights Defenders in the Americas, 2011, para. 133.

³⁰³ Access to Justice and Social Inclusion: The Road towards Strengthening Democracy in Bolivia, OEA/Ser.L/V/II.Doc. 34, June 28, 2007, para. 43. IACHR, Report on the Situation of Human Rights Defenders in the Americas, 2006, para. 63.

³⁰⁴ EFE. June 9, 2016. [Golpean a diputados opositores durante protesta por el revocatorio en Venezuela](#); RPP. June 9, 2016. [Venezuela: Golpean a diputados opositores durante protesta por revocatorio](#); La Patilla. June 7, 2016. [Capriles: Los derechos constitucionales no se negocian](#); El Nacional. June 15, 2016. [Julio Borges denunció al general Zavarce por agresión frente al CNE](#).

³⁰⁵ Efecto Cocuyo. August 31, 2016. [ONG instaron al Defensor del Pueblo a velar por el derecho a la protesta pacífica](#); Fundación Reflejos Venezuela. August 31, 2016. [ONGs rechazan obstáculos y amenazas contra el derecho a la manifestación pacífica de la ciudadanía](#).

167. Indeed, according to the information available, senior officials of the national government made statements linking the demonstration called for September 1 to a plan by the Venezuelan opposition to carry out a coup. For example, the vice president of Venezuela, Aristóbulo Isturiz, stated on August 28 that “it’s not a March, this is a destabilization plan, a coup to topple President Maduro (...), they want to destabilize the country, a death, prisoner, someone beaten up, so they can say that’s what they’re fighting against, but they don’t have the capacity to mobilize the people.” Deputy Diosdado Cabello stated that “what is going to end on September 1 is that low-life, imperialism-serving opposition,” adding that “this is a terrorist protest to topple the government.” As a result, on August 29, Deputy Diosdado Cabello made a call to government supporters to block all traffic traveling toward Caracas, announcing that “nothing coming from the Andes or the west to Caracas will pass.”

168. Also, it was reported that President Nicolás Maduro has stated that eventually, “Erdogan (the president of Turkey) is going to look like a nursing child compared to the Bolivarian revolution if the right tries a coup.” Likewise, Deputy Cabello announced that “the law will be applied” to every member of the opposition who “trespasses it,” and that they are on alert for any “subversive attack from the right.” He stated that intelligence agencies are conducting operations to capture the alleged conspirators.

169. The statements were followed by the rest of members of opposition political parties, particularly from the Voluntad Popular party. On August 26 Daniel Ceballos, former mayor of the San Cristóbal municipality, under house arrest on charges of rebellion, was transferred to prison. His imprisonment was allegedly justified by the discovery of an escape plan.³⁰⁶ On August 29, Yon Goicoechea, leader of the Voluntad Popular party, was arrested for allegedly possessing “detonation cords for explosives.”³⁰⁷ On August 30 the leader of the party Avanzada Progresista, Carlos Melo, was also arrested for allegedly being in possession of explosive materials.³⁰⁸ On September 2, Delson Guarate, mayor of the municipality of Mario Briceño Iragorry and a member of Voluntad Popular, was arrested as the alleged perpetrator of the crimes of violation of land use regulations, possession of fire arms, criminal conspiracy, and improper disposal of solid hazardous waste.³⁰⁹ On September 5, the Venezuelan government asked the government of Colombia to arrest and extradite Lester Toledo,³¹⁰ a leader of Voluntad Popular, accusing him of the crimes of financing terrorism and criminal conspiracy.³¹¹

170. Voluntad Popular is led by Leopoldo López. On August 12, the Appellate Court of the TSJ upheld the judgment sentencing him to almost 14 years in prison for the crimes of public incitement, criminal

³⁰⁶ BBC. August 27, 2016. [Venezuela: envían a prisión al exalcalde opositor Daniel Ceballos](#); PanAm. August 27, 2016. [Venezuela: Trasladan a preso político Daniel Ceballos a la cárcel](#); El Mundo. August 27, 2016. [Encarcelado Daniel Ceballos a sólo cinco días de la ‘toma de Caracas’](#); CNN en Español. August 27, 2016. [Venezuela: por un supuesto plan de fuga, trasladan a una cárcel al opositor Daniel Ceballos](#).

³⁰⁷ El Nacional. August 29, 2016. [Denuncian desaparición forzada de Yon Goicoechea](#); El Nuevo Herald. August 29, 2016. [Detienen a opositor Yon Goicoechea por “portar material para explosivos”](#); Telesur. August 29, 2016. [Detienen en Venezuela a opositor equipado con explosivos](#); El Nacional. August 30, 2016. [MUD: Detención de Yon Goicoechea es un “falso positivo”](#); El Universal. September 19, 2016. [Defensa de Goicoechea asegura que su detención viola Código Procesal Penal](#); País Zeta. September 22, 2016. [Esposa de Goicoechea denuncia pase de factura](#).

³⁰⁸ Panorama. August 30, 2016. [Henri Falcón: Denunciamos la detención arbitraria del compañero Carlos Melo](#); El Nacional. August 30, 2016. [Sebin detuvo a Carlos Melo en Centro Plaza](#); Maduradas. 31 de agosto de 2016. [¡ENTÉRATE! Por esto el Sebin detuvo a Carlos Melo, según Reverol](#); El Venezolano News. August 31, 2016. [Por presunto explosivo fue detenido el dirigente opositor Carlos Melo](#).

³⁰⁹ El Nacional. September 2, 2016. [Delson Guarate fue detenido por supuestos delitos ambientales](#); La Patilla. September 2, 2016. [Sebin se lleva detenido al alcalde Delson Guarate](#); El Pitazo. September 13, 2016. [Delson Guarate es trasladado al Hospital Militar para ser examinado](#).

³¹⁰ El Estímulo. September 5, 2016. [Sebin pide a Colombia captura y extradición de más activistas opositores](#); RNV. Undated. [Venezuela solicitará a Colombia extradición de opositores vinculados a actos terroristas](#); Cubanet. September 6, 2016. [Maduro pide apoyo a Colombia para detener a opositores](#).

³¹¹ El Mundo, August 29, 2016. [El chavismo persigue a la oposición ante la ‘toma de Caracas’](#); El Nacional. September 14, 2016. [Asociación de Alcaldes condenó persecución política por parte del gobierno](#); Civilis AC. Undated. [Joint statement | NGOs reject obstacles and threats to citizens’ right to peaceful protest](#).

conspiracy, property damage, and arson based on statements made by the political leader in a video recorded on February 12, 2014, calling people to participate in protests against measures taken by the government.³¹²

171. Likewise, Marco Trejo, César Cuellar, James Mathison, and Andrés Eloy Moreno Febres-Cordero face a similar situation. They were arrested by SEBIN officers as the authors of a *Primera Justicia* video calling on law enforcement officers to not repress demonstrations and protests. The detainees were charged with the crimes of offense to the national armed forces; usurpation of authority against military duty and honor; improper use of military decorations, insignias and titles; and offenses against military administration, as well as “incitement to rebellion.” Based on this, the Public Prosecutor would be seeking a sentence of 15 years in prison. It is extremely concerning to the IACHR that this criminal proceeding is taking place in a military court.³¹³

172. The Commission has expressed particular concern at the use of criminalization and the State’s punitive power by State and non-State actors to control, punish, or prevent the exercise of the right to protest. The IACHR “has found that criminalization processes usually begins with the filing of baseless allegations or complaints based on criminal offenses that do not conform to the principle of legality or criminal offenses that do not meet inter-American standards. These criminal offenses are often linked to punishable conduct such as “incitement to rebellion,” “terrorism,” “sabotage” “incitement to crime,” and “attack on or resistance to public authority,” and tend to be arbitrarily applied by the authorities. Often, the misuse of criminal law is preceded by statements made by public officials in which human rights defenders are accused of committing crimes.”³¹⁴ It has thus recommended that States take the measures necessary to ensure that authorities or third parties do not use the State’s punitive power and its bodies of justice to punish or inhibit the exercise of the right to social protest, as well as refrain from making statements to stigmatize protests and suggest that people participating in them are acting improperly or illegally simply by issuing calls to take to the streets.

3. Access to public information

173. For a number of years, the Office of the Special Rapporteur has followed with concern the situation of the right to access to information in Venezuela.³¹⁵ Unlike the vast majority of countries in the region, Venezuela does not have a law on access to public information and in the last decade, the National Assembly and the Executive Branch have issued dozens of rules establishing broad and ambiguous exceptions to access to the public information.³¹⁶ Also, the judicial and administrative remedies that could be

³¹² El Universo. August 12, 2016. [Venezuela: Justicia confirma la condena de casi 14 años contra el opositor Leopoldo López](#); HRN. August 12, 2016. [Justicia venezolana confirma condena de opositor Leopoldo López](#); El País. August 14, 2016. [Felipe González: “La condena a Leopoldo López confirma el sometimiento de la justicia al poder de Maduro”](#); Soy Chile. August 12, 2016. [Opositor venezolano Leopoldo López seguirá preso tras confirmarse su sentencia](#).

³¹³ *Primero Justicia*. September 19, 2016. [Statement from Primera Justicia on the arrest of three communication professionals](#); Periodistadigital.com. September 16, 2016. [El vídeo que atraviesa como una bala el corazón de los duros militares chavistas](#); Control Ciudadano. September 20, 2016. [Detienen a productores de micro audiovisual dirigido a militares](#); 800 noticias. September 24, 2016. [Denuncian la detención arbitraria de Andrés Moreno Febres-Cordero](#).

³¹⁴ IACHR. [Criminalization of the Work of Human Rights Defenders](#). OEA/SER.L/V/II. Doc. 49/15. December 31, 2015.

³¹⁵ IACHR. Annual Report 2010. 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. Doc. 5, March 7, 2011, paras. 489-499; IACHR. Annual Report 2011. 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. Doc. 69. December 30, 2011. Para. 520-522; IACHR. Annual Report 2012. 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.147. Doc. 1. March 5, 2013. Para. 521-528; 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. 912-915; IACHR. Annual Report 2014. 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, March 9, 2014, para. 1100-1102. IACHR. Annual Report 2015. 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, 2015, para. 1205-1210.

³¹⁶ Information submitted by civil society organizations in the context of a hearing held during the 156th Period of Sessions of the IACHR, available through the Office of the Special Rapporteur for Freedom of Expression of the IACHR and *Transparencia Venezuela*. [Es Legal pero Injusto](#). 2014. Includes the Organic Public Administration Act of July 31, 2008, the Central Bank of Venezuela Act of May 7,

used for the purposes of access of that information have repeatedly been shown to be ineffective for that purpose.³¹⁷

174. The nonexistence of a legislative framework guaranteeing the right to access to public information in Venezuela continues to present an obstacle to its effective exercise. In this regard, the IACHR and its Office of the Special Rapporteur received information on judgments handed down in which, contrary to established Inter-American standards, the courts declared the remedies filed by citizens against the authorities' refusal to provide public information to be inadmissible based on a standard adopted by the Constitutional Chamber of the TSJ in June 2010 according to which "even when the text of the Constitution recognizes citizens' right to be informed, external limits are established to the exercise of that right, with the understanding that no rights are absolute." Based on this standard, the Political Administrative Chamber of the TSJ declared a suit filed by civil society organization Espacio Público against the Minister of the People's Power for Penitentiary Services, Iris Varela, to be inadmissible. The suit sought to obtain statistical information on inmate deaths and health in the prisons managed by that ministry.³¹⁸ The suit was denied because in the Court's opinion, it did not comply with the requirement "that the volume of the information requested be proportional to its intended use."³¹⁹

175. The IACHR and its Office of the Special Rapporteur reiterate their recommendation that the State adopt legislation on access to public information in keeping with inter-American standards in order to provide all people with tools for effectively monitoring State operations, supervising public administration, and controlling corruption, all of which are essential for democracy. The IACHR and its Office of the Special Rapporteur also call on Venezuela's judicial authorities to guarantee this right and ensure their rulings comply with international standards on the subject at all times.

D. Economic, social, and cultural rights (ESCR)

176. During 2016, the extreme shortage and scarcity of basic medications and food in Venezuela has developed into a crisis that has greatly compromise the effective enjoyment of a number of ESCR-related rights. Food shortages in Venezuela affects more than 80% of the population³²⁰ and the average Venezuelan citizen does not have the purchasing power to afford the basic food basket.³²¹

177. Regarding this, in its comments on the draft of this chapter, the State cited the statements of the executive Secretariat of the Economic Commission for Latin America and the Caribbean (ECLAC), Alecia Bárcena, to the effect that:

It cannot be ignored how many people have been taken out of poverty (...) The country is not facing a humanitarian crisis, definitively not, this should be made clear. There are shortages of certain products and political tension, but many elements are still in place for

2010, the Public Contracting Act of September 6, 2010, the Organic Electricity System and Services Act of December 14, 2010, the Regulations for the Classification and Handling of Public Administration Information of December 21, 2010, the Organic Act Creating the Central Planning Committee of January 28, 2011, the law creating the Strategic Center for the Security and Protection of the Fatherland of October 24, 2013, the Organic Fair Prices Act of January 23, 2014, the China-Venezuela Agreement. Second Protocol of the Amendment of the China-Venezuela Joint Financing Agreement of May 22, 2012, Law Approving the Framework Agreement on Housing and Habitat Cooperation between the Government of the Bolivarian Republic of Venezuela and the Government of the Argentine Republic of October 17, 2013.

³¹⁷ Information submitted by civil society organizations in the context of a hearing on the human rights situation of Venezuela, held during the 156th Period of Sessions of the IACHR.

³¹⁸ IPYS Venezuela. August 18, 2015. [Espacio Público demandó a ministra Iris Varela por negar cifras de muertes en centros penitenciarios](#); Espacio Público. March 7, 2016. [TSJ declares suit against Iris Varela inadmissible](#); TSJ. February 10, 2016. [Presiding judge: María Carolina Ameliach Villarroel. Case File No. 2015-0877](#).

³¹⁹ TSJ, February 10, 2016. [Presiding judge: María Carolina Ameliach Villarroel. Case File No. 2015-0877](#).

³²⁰ Analítica, [Escasez de alimentos básicos en el país supera el 80% según Datanálisis](#), May 27, 2016.

³²¹ According to information from the Center for Documentation and Social Analysis of the Venezuelan Federation of Teachers.

Venezuela to be a vibrant and economically thriving country, and it is making efforts to diversify its production.³²²

178. The State also noted that the representative in Venezuela of the United Nation's Food and Agriculture Organization (FAO) has stated that "Venezuela does not need humanitarian aid."³²³

179. During the hearings on the right to health and access to medication in Venezuela, held in April and June, the IACHR was informed by the organizations of the State's failure to fulfill its duty to safeguard and supervise the companies that produce medications and the lack of minimum adequate conditions in public health centers, loss of personnel, fragility of infrastructure and equipment, shortages of medicines, inputs, and medical materials, and the closure or suspension of medical services.³²⁴

180. They also pointed to the grave situation resulting from a more than 95% reduction in spending on healthcare in the national budget from 2000 to 2012, meaning Venezuela is among the countries with the lowest public expenditure on health in the region.³²⁵ For its part, the State indicated that Venezuela has made important progress on health care since it recognized the right to health as a fundamental right. However, it did not provide specific figures or information.³²⁶ The information it did provide indicated that Venezuela has 20 doctors for every 10,000 residents, and that its adjusted mortality rate is lower than the regional average. It also noted that in recent years, the number of health centers in the country has increased by 332.95%. More than 20,000 comprehensive community doctors have graduated and more than 35,000 more are currently being trained, with investment in the health sector reaching close to US\$26 million.³²⁷ It also stated that free access to medication is guaranteed for people with chronic illnesses based on active ingredient, noting that from January to May 2016, 260,724,360 doses of medicine were distributed.³²⁸ It also reported that a law was passed to promote and protect the right to equality of people living with HIV, as well as laws to provide universal healthcare that have enabled significant expansion in terms of healthcare coverage, medical staff, and infrastructure³²⁹. It indicated that a list of 230 high-cost medications are guaranteed free of charge, providing a total of 788,000 people with pharmaceutical treatment.³³⁰ The State acknowledged a problem with availability of medications, but said it was not a humanitarian crisis.³³¹

181. The State reported that during 2016, the country faced a severe economic situation "fundamentally the result of actions aimed at affecting the functioning of the national economy for political purposes," and that the economic situation has led to difficulties in making certain foods and medicines fully available. It noted that the issue of availability of medications is directly linked "to what we have called the economic war on our country that includes the manipulation of the price per barrel of oil that thanks to certain geopolitical interests has collapsed from \$100 to around \$20." This has meant that "monthly oil income to Venezuela's treasury dropped from US\$3.5 billion to US\$70 million at the price of oil in February of

³²² El Mundo, [Cepal: Venezuela no vive una crisis humanitaria](#), October 26, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 26.

³²³ El Mundo, [Venezuela no necesita ayuda humanitaria](#), July 19, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 26.

³²⁴ IACHR, [Hearing on the right to health in Venezuela](#), April 4, 2016; [Hearing on the right to health and access to medications in Venezuela](#), June 7, 2016.

³²⁵ World Bank, [Public sector health spending \(% of total health spending\)](#), 2014.

³²⁶ IACHR, [Hearing on the right to health in Venezuela](#), April 4, 2016.

³²⁷ IACHR, [Hearing on the Right to health and access to medications in Venezuela](#), June 7, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 58.

³²⁸ IACHR, [Hearing on the right to health and access to medications in Venezuela](#), June 7, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 59.

³²⁹ IACHR, [Hearing on the right to health in Venezuela](#), April 4, 2016.

³³⁰ Hearing on the right to health and access to medications in Venezuela, June 7, 2016. Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 60.

³³¹ IACHR, [Hearing on the right to health and access to medications in Venezuela](#), April 4, 2016.

this year”, directly impacting the issue of availability of medications. The State explained that Venezuela has historically had a policy of providing foreign currency to the private sector for importing both medicine and the raw materials needed to produce medications domestically.³³²

182. It indicated that this has not meant that the State has pared back its policy of fulfilling economic, social, and cultural rights. For example, the percentage of the budget aimed at social investment reached a record 73%, higher than the 71.4% dedicated to this in the 2015 budget.³³³

183. The IACHR has been also monitoring the situation and has learned of a statement issued jointly by the Venezuelan Society on Infectious Disease (SIV) and other networks and nongovernmental organizations that work with people with HIV and doctors who care for patients with HIV. The statement indicates that currently, Venezuela “does not have any of the HIV treatments considered first-line by international guidelines.”³³⁴

184. Also, during the hearing on the overall human rights situation in Venezuela held in April 2016, civil society organizations described a grave food crisis, indicating that since 2015, more than 1,200 protest had taken place over food and food shortages. They noted an increase in looting and attempted looting across the country, adding that the State’s response has been repression. The various measures taken by the State to ration consumption of staple foods such as creating networks for trading food and medicine have led to the creation of groups of speculators or “*bachaqueros*,” which has exacerbated confrontations between people, as well as the looting of stores and shopping centers.³³⁵

185. In July, President Maduro announced the creation of the “Great Sovereign Supply Mission,” saying it would be directed by a “supply Commandant” appointed by him and by senior military officials. He indicated that the new mission will have the authority to issue orders on the purchase, sale, and distribution of food, medicine, personal hygiene, and home cleaning products, with the ministries in charge of these areas placed under its control.³³⁶ According to a number of news items in the media, the plan would militarize almost the entire food distribution chain for 18 primary categories and 50 priority categories, including for scarce staple goods like milk, beef, sugar, rice, and corn flour.³³⁷

186. In the framework of its 26th period of sessions, the UN human rights committee conducted the second cycle of its universal periodic review on human rights, on Venezuela. To do so, the United Nations High Commissioner on Human Rights has collected the information received from civil society, which has reported that Venezuelans’ access to basic health services continue to deteriorate and that the medical staff in charge of health centers are forced to take responsibility for the respective treatments “as the authorities do not allow them to disclose the lack of medicines.”³³⁸ In its report for the Universal Periodic Review, the State indicated that in response to adverse economic conditions, it has deployed policies to safeguard socioeconomic rights through the “State of Economic Emergency” and “State of Emergency and Economic

³³²IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 29.

³³³IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 79.

³³⁴ Venezuelan Society on Infectious Disease (SIV), [Public statement on the shortage of antiretroviral medications in Venezuela](#), November 6, 2016.

³³⁵ IACHR, [Hearing on the General Human Rights Situation in Venezuela](#), April 4, 2016.

³³⁶ ProDavinci, [¿Qué es la Gran Misión Abastecimiento Soberano y Seguro, anunciada por Nicolás Maduro?](#), July 12, 2016.

³³⁷ Sipse.com, [Militariza Maduro la distribución de alimentos en Venezuela](#), August 25, 2016; Analítica, [Militarización de distribución de alimentos no resolverá problema de escasez](#), July 13, 2016; Tal Cual Digital, [Militarización del sector alimentos y laboral suspende garantías para derechos humanos](#), July 28, 2016; AVN, [Fanb supervisa correcta distribución de medicamentos en Aragua](#), July 12, 2016.

³³⁸ UN, Human Right Council, Summary prepared by the UNHCR in accordance with to paragraph 15(c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of Council resolution 16/21, Venezuela (Bolivarian Republic of), A/HRC/WG.6/26/VEN/3, August 23, 2016, pg. 11, para. 86.

Emergency” decrees, noting that these laws have been applied to strengthen the continuity of social policies through investment in agricultural and industrial productive infrastructure, supply of medicines, food, and other essential products for life, and special measures for reducing tax evasion.³³⁹

187. During the hearing on the human rights housing in Venezuela, held in December 2016, the State reported on its “Great Housing Mission Venezuela,” and its “Great New Tricolor Barrio Mission.” It emphasized the success of its new approach to housing policy from 2009 to 2016. During this period, the amount of inadequate housing was reduced and 1,828,596 adequate homes were built. It stated that the goal is to build 3 million homes by 2019, and that progress has been made in developing subdivisions and remodeling homes. It reported on the financial investment that between 2011 and 2016 was aimed at building decent homes for every family that needs them, noting that in 2010, the largest mass homebuilding program in the history of the country was launched, granting urban land titles and providing homes to people. It said that the right to housing has been guaranteed without distinction, and families in poverty were given priority.³⁴⁰ The State also reported that despite Venezuela's economic difficulties, in 2016, the State built and delivered 359,000 homes and fully remodeled more than 335,000 homes through the Great Barrio Mission New Tricolor Barrio.³⁴¹

188. For their part, the organizations participating in the hearing submitted information on a lack of access to housing policy information and contradictions in the figures on the policy's execution; violations to the legal certainty of inherent possession of the right to a decent home; and violations of the right to housing as a result of the OLP. The organizations asked the State not to retaliate against the people participating in the hearing. The IACHR highlighted the importance of the measures adopted for making progress and not regressing with regard to the right to housing in the country. It reiterated to the State the importance of ensuring that petitioners and victims can participate before the bodies of the inter-American system in an environment free of reprisal and retaliation.³⁴²

189. During the hearing on human rights in the context of the “Orinoco Mining Crescent” (hereinafter the “Mining Crescent”), the petitioners indicated that Decree 2248 published on February 24, 2016, creating the Mining Crescent represents a violation of international standards and the Venezuelan Constitution. Specifically, they allege that environmental and social impact studies were not conducted and that the corresponding prior, free, and informed consultations were not carried out. They also pointed to the effect that the Mining Crescent had on the demarcation of land and territories of indigenous peoples and communities, on the rights to freedom of assembly and peaceful association, and on labor rights. They emphasized the relationship between the Mining Crescent and the government's emergency authorities. For its part, the State indicated that the project's objective is not an extractive policy. Rather, the intention is for mining to drive the economy. The State invoked the principle of self-determination to apply sustainable models that ensure the economic, political, and social conditions necessary to fulfill human rights and indicated that conditions have been put in place for all stakeholders to be able to participate. The IACHR reiterated the importance of not permitting any type of retaliation against organizations that appear before it so as to safeguard their right to defend their human rights.³⁴³

190. The IACHR also received information indicating that the government implemented a series of measures to deal with the energy crisis and water shortage resulting from, among other factors, the severe drought exacerbated by the “El Niño” phenomenon. Among these measures, in February the government launched an energy savings plan that included reducing the public sector work week to two days, as well as

³³⁹ UN, Human Right Council, [National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 - Bolivarian Republic of Venezuela, A/HRC/WG.6/26/VEN/1](#), August 22, 2016, pg. 7, para. 17.

³⁴⁰ IACHR, [Hearing on freedom of expression in Venezuela](#), December 2, 2016.

³⁴¹ IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 62.

³⁴² IACHR, [Hearing on freedom of expression in Venezuela](#), December 2, 2016.

³⁴³ IACHR, [Hearing on human rights in the context of the “Arco Minero del Orinoco” project in Venezuela](#), December 2, 2016.

providing paid time off. This lack of public services and the cuts to the working hours of public servants has also affected the services needed by Venezuelans.³⁴⁴ Notwithstanding the above measures, the shortage of good-quality water and personal hygiene products has resulted in outbreaks of diseases such as scabies, malaria, diarrhea and amoebiasis. Limiting access to a steady supply of water has affected the cleanliness of food and utensils. Water storage in homes has increased the prevalence of mosquitoes that carry dengue, zika, and chikungunya. Also, power outages mean that cold storage cannot be guaranteed for preserving food and biological products (vaccinations) in clinic freezers: once their temperature increases, they become inviable or lose their effectiveness.³⁴⁵

191. In response to the crisis, the IACHR has issued statements emphasizing this situation's particular effects on vulnerable individuals and groups, such as young children, pregnant women, the elderly, people with disabilities, people with chronic illnesses and HIV, and other particularly affected groups.³⁴⁶ The Commission also stated emphatically its concern at the health conditions in medical centers, the significant number of neonatal deaths, the absence of the necessary maternal health medical services needed by pregnant and postpartum women, the reuse of disposable supplies and utensils, and the long wait for vital surgeries.³⁴⁷

192. Regarding this, the IACHR recalls that States have an obligation to guarantee access to sufficient quantities of drinking water as an unavoidable condition for the satisfaction and exercise of a number of human rights, such as the rights to life, to personal integrity, to health, and others.³⁴⁸

IV. VULNERABLE GROUPS

A. Human Rights Defenders

193. During this year, the Commission has continued to receive information on grave attacks on the work of human rights defenders in Venezuela. It has continued to monitor situations of criminalization and judicial harassment, such as the opening of criminal and administrative investigations into human rights defenders,³⁴⁹ limits on access to international funding for human rights defender organizations,³⁵⁰ and harassment and defamation at the hands of authorities, as described hereinafter.³⁵¹

194. In January, it was reported that Héctor Sánchez Losada had been murdered. Sánchez Losada had been a member of the Human Rights Committee of the Federation of Bar Associations in the state of Monagas, created under a project led by the OVP in 20 states in Venezuela. He was killed by two unidentified individuals in the city of Maturín, Monagas state.³⁵²

³⁴⁴ El Universal, [Trabajadores públicos retoman jornada laboral de toda la semana: laborarán de 8 a 13 horas](#), June 13, 2016.

³⁴⁵ Servicios Informativos y Publicitarios del Sureste, [Crisis en Venezuela se agrava con enfermedades](#), April 7, 2016.

³⁴⁶ IACHR, Press Release No. 096/16, [IACHR Calls on Venezuelan State to Adopt Comprehensive Measures in the Face of Scarcity in Venezuela](#), July 22, 2016.

³⁴⁷ IACHR, Press Release No. 096/16, [IACHR Calls on Venezuelan State to Adopt Comprehensive Measures in the Face of Scarcity in Venezuela](#), July 22, 2016.

³⁴⁸ IACHR, [Annual Report 2015 Access to Water in the Americas. An Introduction to the Human Right to Water in the Inter-American System](#), para. 67, pg. 502.

³⁴⁹ HRW, [Venezuela's Humanitarian Crisis – Severe Medical and Food Shortages. Inadequate and Repressive Government Response](#), October 24, 2016.

³⁵⁰ Presidential Decree 2,323, May 13, 2016, published in Extraordinary Official Gazette No. 6,227, Art. 2(18).

³⁵¹ Request for a hearing filed by the (CDH-UCAB) and PROVEA on the discrimination in the exercise of political rights, received by the IACHR on October 8, 2016.

³⁵² *Frontline Defenders*, [Asesinato de Héctor Sánchez Losada](#), January 22, 2016; OVP, [Observatorio de Prisiones exige investigación sobre el asesinato de Héctor Sánchez Lozada \(Comunicado\)](#), January 23, 2016.

195. The Commission is also concerned at the various defamation campaigns launched by the authorities against human rights defenders. It notes that through a number of different media outlets, the authorities have continued to describe the actions of civil society organizations and human rights defender organizations as crimes of “betraying the Fatherland” or “destabilization.”³⁵³ Through these campaigns, the government has issued statements assailing the work of human rights defenders, repeating accusations on their alleged intentions to attack democracy. For example, during his weekly state TV program “Con el Mazo Dando,” former National Assembly president and current deputy Diosdado Cabello has stated multiple times that the participation of human rights organizations in public hearings before the IACHR or the UN Committee were intended deliberately to destabilize the government.³⁵⁴ For example, in June, Deputy Cabello called the director of the OVCS, Marco Antonio Ponce, a “traitor” because he was going to participate in the 47th Ordinary Period of Sessions of the General Assembly of the OAS. Mr. Cabello then gave information on the flight Mr. Ponce would be taking, including his seat number on the plane.³⁵⁵

196. In May, State newspaper *Ciudad CCS* published an article entitled “International Patrons of NGO Criollas Revealed,” with pictures of Rafael Uzcatégui, a human rights defender with PROVEA; Rocío San Miguel, with Control Ciudadano; and Marco Ponce, with OVCS. The article stated that these organizations “are nothing more than instruments of United States foreign policy” and “façades for receiving foreign financing. They have been set up as “grass roots” organizations to challenge national sovereignty, as many of them are no more than channels for distributing logistical and financial resources.”³⁵⁶ Likewise, another article published on the website “Con el Mazo Dando” suggested that staff with OVCS, FPV, PROVEA, and other civil society organizations were agents of the political opposition and responsible for inciting violence through “*guarimbas*” (blockades).³⁵⁷

197. Frontline Defenders reported in October that Deputy Cabello reported on his TV program and his website that OVP Director Humberto Prado Sifontes receives financing from the National Endowment for Democracy, “some of which he steals to deposit in a company he supposedly has registered in Panama under the name of his wife.” The group indicated that the article also states that this “imaginary company” deals in arms trafficking. It noted that these false statements are aimed at discrediting the human rights defender and generating hostility toward him.³⁵⁸

198. As the Commission has indicated in its press release (see *supra* III(B)(iii), decree 2,323 enables the suspension of financing agreements struck with foreign entities “when it is presumed used for political purposes or to destabilize the Republic.”³⁵⁹ In this regard, the Commission has held that “human rights defenders have the right to seek and obtain economic resources to finance their work. States must guarantee the exercise of this right in the broadest possible manner, and promote it.”³⁶⁰ The IACHR reiterates

³⁵³ Diario Las Américas, [Opositores acusados de “traición a la patria” continuarán denunciando la situación de Venezuela](#), May 10, 2016; El Nuevo Herald; [Diputados opositores venezolanos continuarán periplo pese a denuncia](#), May 10, 2016; Efecto Cocuyo, “Qué hay detrás de la ‘traición a la patria’ que el Gobierno imputa a los diputados opositores,” June 29, 2016; See presidential decree 2,323, May 13, 2016, published in Extraordinary Official Gazette No. 6,227.

³⁵⁴ HRW, [World Report 2016](#), 2016, pgs. 634-635.

³⁵⁵ Con el Mazo Dando, ¡Vendepatria! Ponce y Alvarado irán con Almagro a Dominicana para tratar de rayar los Clap, June 8, 2016; Diario Tal Cual, [Director de OVCS es víctima de campaña de desprestigio por el gobierno](#), June 16, 2016; Frontline Defenders, [Defensor de derechos humanos Marco Antonio Ponce blanco de campaña de desprestigio](#), June 15, 2016.

³⁵⁶ Ciudad CSS, [Revelan mecenas internacionales de ONG criollas](#), May 5, 2016; Frontline Defenders, [Defensor de derechos humanos Marco Antonio Ponce blanco de campaña de desprestigio](#), June 15, 2016.

³⁵⁷ Con el Mazo Dando, “Más de 15 millones de dólares ha destinado la NED a ONG en Venezuela (+infografía),” May 20, 2016.

³⁵⁸ Frontline Defenders, [Campaña de desprestigio contra el Director del OVP Humberto Prado Sifontes](#), October 28, 2016; web page “Con el mazo dando”, [¡Sepa qué esconde Humberto Prado en Panamá!](#), October 26, 2016.

³⁵⁹ IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

³⁶⁰ IACHR, [Report on the Situation of Human Rights Defenders in the Americas](#), OEA/Ser.L/V/II.124, Doc. 5 rev.1, March 7, 2006, para. 40.

that civil society organizations may legitimately receive funds from foreign or international NGOs or from foreign governments to promote human rights, and that the State is required to guarantee their establishment and operations without imposing restrictions beyond those permitted under the right to freedom of association.³⁶¹

199. For its part, HRW stated that the imprecise language used in the aforementioned decree seems designed to stifle the ability of independent civil society organizations to operate effectively without fear of retaliation.³⁶²

200. For its part, the State noted that during the Universal Periodic Review of the United Nations, it “recognized the work that human rights defenders do and described in the measures implemented domestically to continue promoting the work that they do.”³⁶³

201. Based on this, it is observed that human rights defenders continue to face serious obstacles to doing their work. The Commission reiterates that harassment of and attacks on human rights defenders not only impact their own rights as guaranteed to all humans, but also threaten the fundamental role these defenders play in society and render defenseless everyone on whose behalf they work. The Commission also recalls that the work of human rights defenders is essential for building a democratic and lasting society. They play a leading role in the process of fully realizing the rule of law and the strengthening of democracy.³⁶⁴

B. Persons deprived of liberty

202. During this year, the Commission continued to receive concerning information on grave violations to the human rights of people deprived of liberty in Venezuela. The situation faced by this particularly at-risk group is one of the most serious on the continent,³⁶⁵ involving overcrowding; excessive use of preventative detention; deplorable detention conditions; general violence; lack of effective State control; and corruption in the form of the so-called “vaccinations” (fees charged to inmates for their safety in detention centers).

203. As the Commission has expressed previously, the overcrowding in Venezuelan prisons is one of the main problems facing people deprived of liberty in the country.³⁶⁶ According to the OVP, at the end of 2015, prisons were 190% over capacity.³⁶⁷ The IACHR was also informed of the excessive use of preventative detention in the country, which, as indicated by the IACHR, has a direct impact on the increase in the prison population and therefore the negative consequences of overcrowding.³⁶⁸ Specifically, according to information provided by the OVP, 69% of all people deprived of liberty are in preventative detention.³⁶⁹

³⁶¹ IACHR, Press Release No. 71/16, [IACHR Expresses its Concern Regarding the Declaration of a “State of Exception and Economic Emergency” in Venezuela](#), June 1, 2016.

³⁶² HRW, [Venezuela’s Humanitarian Crisis – Severe Medical and Food Shortages, Inadequate and Repressive Government Response](#), October 24, 2016.

³⁶³ IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 64.

³⁶⁴ IACHR, [Report on the Situation of Human Rights Defenders in the Americas](#), OEA/Ser.L/V/II.124, Doc. 5 rev.1, March 7, 2006, para. 23.

³⁶⁵ According to the OVP, about 1,622 deaths over the last five years during the term of Ministry of Penitentiary Services Iris Varela, OVP, [Doctor Humberto Prado: El sistema penitenciario de Venezuela se quiebra entre pranes, motines, secuestros y muerte](#), August 16, 2016.

³⁶⁶ IACHR, Annual Report 2015; IACHR, Democracy and Human Rights in Venezuela, December 30, 2009, para. 44.

³⁶⁷ OVP, [Report on the prison situation in Venezuela](#), 2015.

³⁶⁸ IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, para. 295.

³⁶⁹ IACHR, [Hearing on the human rights situation of people deprived of liberty in Venezuela](#), December 2, 2016.

According to information available to the Commission, this situation results mainly from violations of the due process rights of accused people and a lack of coordination between the bodies of the judiciary and the Penitentiary Ministry.³⁷⁰

204. The IACHR likewise observes that violence from riots, confrontations between members of criminal gangs, attacks with firearms, and other disturbances remains prevalent. On March 22, 2016, the IACHR expressed concern over this situation and condemned the violent deaths of 12 people deprived of liberty at the José Antonio Anzoátegui Judicial Jail and Police Headquarters, both in Anzoátegui state, as well as in the Fénix Community Penitentiary, located in the state of Lara, Venezuela. These violent incidents arising from clashes between inmates took place during early 2016 and in three detention centers known to be significantly overcrowded.³⁷¹ Also, according to information available to the Commission, a grenade explosion in the General Penitentiary of Venezuela (PG V), located in the state of Guárico, killed approximately 11 people and injured 22.³⁷²

205. Other information available to the IACHR indicates that women deprived of liberty are particularly at risk considering the lack of gender-focused penitentiary policies and that conditions are deplorable in the only women's prison.³⁷³

206. Likewise, indications are that the majority of illegal acts committed within prisons, particularly by the heads of criminal gangs (the so-called "pranes" or as they are known officially, the "negative leaders") remain in impunity, and the State still fails to effectively exercise control over the prison populations.³⁷⁴

207. Regarding detention conditions in the prisons, the IACHR has received information on the risk to life and personal integrity that people deprived of liberty face due to a lack of cleanliness, poor medical care, insufficient opportunity for personal hygiene, inadequate food, and shortage of drinking water.³⁷⁵ Specifically, the IACHR expresses particular concern at the use of police jails as permanent detention centers despite the fact that these detention centers are set up for temporary detention. Now they are overcrowded and lack the infrastructure and basic services to ensure a dignified detention conditions.³⁷⁶

208. Regarding medical care in detention centers, the Commission has been informed of shortages of medical staff and lack of medicine and equipment. This has led to the death of people deprived of

³⁷⁰ OVP, request for thematic hearing on the human rights situation of people deprived of liberty in Venezuela, 159th ordinary period of sessions, October 3, 2016. and OVP, information sent to the IACHR in the framework of the public hearing called on measures to reduce preventative detention in the Americas, held on a April 4, 2016, during the 157th ordinary period of sessions.

³⁷¹ IACHR, Press Release 41/16, [IACHR Condemns Violent Deaths in Three Detention Centers in Venezuela](#). Washington, D.C., March 22, 2016.

³⁷² Efecto, [Granada explotó en la PGV en preparativos para fiesta de cumpleaños del pran](#), September 16, 2016. Also see: El Nacional, [Fiesta de "pran" en la PGV terminó con muertos y heridos](#), September 14, 2016; Caraota Digital, [Suben a seis los fallecidos por explosión de granada en la PGV](#), September 15, 2016, and El Estímulo, [OVP reporta 8 muertos y más de 32 heridos por explosión en la PGV](#), September 15, 2016. The Commission was provided with information on these events on September 15, 2016, by the OVP.

³⁷³ OVP, request for thematic hearing on the human rights situation of people deprived of liberty in Venezuela, 159th ordinary period of sessions, October 3, 2016.

³⁷⁴ OVP, information sent to the IACHR in the framework of the public hearing called on measures to reduce preventative detention in the Americas, held on a April 4, 2016, during the 157th ordinary period of sessions. [Doctor Humberto Prado: El sistema penitenciario de Venezuela se quiebra entre pranes, motines, secuestros y muerte](#), August 14, 2016 and OVP, [OVP submits eight solutions to the penitentiary crisis in the country](#) July 3, 2016.

³⁷⁵ OVP, information sent to the IACHR in the framework of the public hearing called on measures to reduce preventative detention in the Americas, held on a April 4, 2016. Also see: OVP, [Prisoners do not receive medicine, even from family members](#), July 5, 2016.

³⁷⁶ Along these lines, see OVP, information sent to the IACHR in the framework of the public hearing called on measures to reduce preventative detention in the Americas, held on April 4, 2016, during the 157th ordinary period of sessions, and PROVEA, information sent to the IACHR via email, October 4, 2016.

liberty from infectious disease, gastrointestinal illness, and respiratory and skin disease.³⁷⁷ In particular, the IACHR has information indicating a lack of regular checkups in jails and prisons for people with HIV or tuberculosis. This is especially concerning considering that these illnesses are common in the prison population due to an absence of preventative care and support.³⁷⁸

209. The Commission notes that in Venezuela, as of May 2015, 159 people were detained for every 100,000 residents.³⁷⁹ During the hearing held in December on the human rights situation of people deprived of liberty in Venezuela, the OVP reported that as of October 30, 2016, 55,000 people were deprived of liberty. Of these, 37,950 were being processed, 16,500 were being punished, and 550 were on work detail. It noted that approximately 33,000 people were being held in National Police, state police, municipal police, and CICPC headquarters and stations. It indicated that 69% of inmates are in pretrial detention despite the plans implemented by the State to reduce procedural backlog. This is mainly due to a lack of coordination between the bodies that administer justice and the Penitentiary Ministry. It also stated that individuals in pretrial detention face deficiencies with regard to health and judicial protection guarantees. For its part, the State said that new penitentiaries have been built and a number of health and education programs were under development. For its part, the Commission expressed its willingness to conduct a site visit to the penitentiaries in Venezuela should the State consent to such a visit.³⁸⁰

210. The State, meanwhile, reported that 38 penitentiaries had been built or remodeled, increasing installed capacity to more than 57,000 inmates. This has enabled it to address overcrowding, given that the current penitentiary population is approximately 55,000 inmates.³⁸¹ It indicated that implementation of the Penitentiary and Disciplinary Regime reached 100% for the women's facilities and 100% in facilities for adolescents who come in conflict with criminal law, as well as 96% in facilities for adult males. The State notes that this has enabled it to retake control of these facilities and eradicate the "negative leaders" who have historically existed in the country's prisons.³⁸² It also reported that it guarantees the right to food to people deprived of liberty by providing them with three balanced meals a day, in accordance with the nutritional requirements of the penitentiary population.³⁸³

211. The State highlighted the inauguration of the first stage of the Penitentiary Technology and Security System, which enables the blocking of cellular phones and real-time monitoring of all the country's prisons through investment of approximately US\$155 million. It also highlighted the existence of 10 chapters of the Penitentiary Orchestra System, through which the reintroduction of inmates to society is aided through the study and practice of music.³⁸⁴

212. Considering the information examined in this section, the IACHR expresses concern at the grave situation facing people deprived of liberty in Venezuela, which reflects a failure to adopt effective prison policies to guarantee the rights of people deprived of liberty, mainly the rights to life and personal integrity.

³⁷⁷ OVP, [Prisoners do not receive medicine or visits from family members](#), July 5, 2016.

³⁷⁸ OVP, information sent to the IACHR in the framework of the public hearing called on measures to reduce preventative detention in the Americas, held on a April 4, 2016, during the 157th ordinary period of sessions, and OVP, [Prisoners do not receive medicine, even from family members](#), July 5, 2016.

³⁷⁹ Institute for Criminal Policy Research, [World Prison Studies, Venezuela](#), May 2015.

³⁸⁰ IACHR, [Hearing on the human rights situation of people deprived of liberty in Venezuela](#), December 2, 2016.

³⁸¹ IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 67.

³⁸² IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 68.

³⁸³ IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 69.

³⁸⁴ IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 70.

C. Migrants and refugees

213. During this year, the Commission has continued to monitor the human rights situation of migrants, refugees, and asylum applicants in Venezuela. Specifically, it has been monitoring the situation resulting from the closure of the border in six municipalities of the state of Táchira between Venezuela and Colombia, ordered by President Maduro in August 2015.³⁸⁵ According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), following the closure of the border, GNB troops carried out an operation to collectively expel 1,950 undocumented Colombian migrants living in Venezuela.³⁸⁶ According to HRW, none of the more than 700 Colombians interviewed by the Office of the Ombudsman of Colombia after having been deported from Venezuela said they had been given a hearing to challenge the expulsion.³⁸⁷

214. In 2016, the IACHR received information indicating that while the border was closed, the negative impact on the social dynamic deepened, especially regarding trade and access to healthcare services, education, and work. This situation particularly affected the Colombian children and adolescents living in Venezuela and studying in Cúcuta (Colombia), or living in Colombia and going to school in Venezuela.³⁸⁸

215. The Commission notes that since January, measures have been taken to partially and temporarily reopen the border for students and cargo and public service vehicles.³⁸⁹ Also, the governments of Colombia and Venezuela agreed to adopt a special identity document³⁹⁰ as a step toward gradually reopening the border. In February, the Venezuelan government announced a partial opening of the border.³⁹¹ Finally, on August 13, 2016, after a bilateral agreement was reached, the progressive reopening of the border was begun, and it was decided to adopt new immigration regulations along with measures for combating the proliferation of illegal activities.³⁹² However, this year, the border with Colombia has remained partially closed.³⁹³ and measures were implemented to close it once again by the end of this year.³⁹⁴

216. For its part, COFAVIC is very concerned at the spreading phenomenon of forced internal displacement in a number of states in the country, including areas of Caracas. It noted that internally displaced families flee because of a lack of institutional protection. It said that families that are forcibly displaced face a variety of difficulties for having fled their homes or places of residence and are especially vulnerable given that they flee in search of security and protection, leaving behind their life projects as a result of situations of generalized violence and grave violations of human rights.³⁹⁵

217. In addition, the representative of the United Nations High Commissioner for Refugees (UNHCR) in Colombia warned of “the silent arrival of a lot of people who cross the border (from Venezuela)

³⁸⁵ IACHR, [Preliminary observations on the visit to Colombia’s border with Venezuela](#), September 28, 2015.

³⁸⁶ OCHA, [Colombia: Humanitarian situation on the Colombia-Venezuela border. Situation Report No. 12](#), October 15, 2015, pg. 1; Protection Cluster – Colombia, [Situation of the Colombia-Venezuela Border: Protection Gaps and Recommendations](#), October 23, 2015, p. 1. Also see HRW, *Unchecked Power: Police and Military Raids in Low-Income and Immigrant Communities in Venezuela*, April 2016.

³⁸⁷ HRW, [Unchecked Power: Police and Military Raids in Low-Income and Immigrant Communities in Venezuela](#), April 2016.

³⁸⁸ Revista Semana, [El corredor educativo no es una cuestión política](#), January 21, 2016.

³⁸⁹ Revista Semana, [Venezuela reabrirá parcialmente frontera con Colombia](#), February 26, 2016.

³⁹⁰ Tal Cual, [Conozca la cédula fronteriza para pasar a Colombia](#), August 9, 2016.

³⁹¹ Telesur, [Venezuela abrirá parcialmente frontera con Colombia este sábado](#), February 26, 2016; CNN, [abren parcialmente frontera entre Colombia y Venezuela](#), February 29, 2016.

³⁹² Revista Semana, [Más de 30.000 personas cruzaron la frontera el primer día de reapertura](#), August 13, 2016.

³⁹³ Human Right Commission of the State of Zulia (CODHEZ), Request for thematic hearing on the militarization of the Venezuelan Guajira, October 10, 2016, pg. 2.

³⁹⁴ Caracol, [Maduro ordena cerrar frontera de Venezuela con Colombia por 72 horas](#), 13 de diciembre e 2016, Telesur, [Venezuela cierra la frontera con Colombia por 72 horas](#), 12 de diciembre de 2016.

³⁹⁵ COFAVIC, [Comunicado público: procedimientos de seguridad ciudadana ejecutados por el Estado venezolano están incurriendo en crímenes de lesa humanidad](#), December 10, 2016, International Human Rights Day.

and stay on the Colombian side with irregular immigration status,” mainly seeking security and medical attention in response to the crisis the country is facing, despite the closure of border crossings.³⁹⁶

218. Another area of concern has to do with the constant stream of Venezuelans migrating to different South American and European countries,³⁹⁷ especially Colombia.³⁹⁸ According to publicly available information, the factors leading Venezuelan citizens to leave include urban insecurity resulting from State and non-State actors, inequality, poverty, a failure to guarantee economic, social, and cultural rights, political instability, and corruption.³⁹⁹

D. Lesbian, gay, transexual, bisexual, and intersex (LGBTI) persons

219. Civil society organizations report that in the context of the situation of shortages and scarcity affecting Venezuela, LGBT persons have been victims of mistreatment, humiliation, and discrimination and been turned away when trying to purchase food, basic goods, and medicines.⁴⁰⁰ Reports indicate that the situation “is exacerbated for trans people due to the legal and social exclusion of which they are victims.”⁴⁰¹ This has been reported by deputy, attorney, and activist Tamara Adrián, who said clerks at a supermarket refused to sell her food because her national ID card did not match her gender identity.⁴⁰² A cashier at a supermarket in Caracas stated that this was not intended as a malicious act against these people. “Ever since they started using the fingerprint machines, you see everything. The other day, a man came dressed like a woman and want to buy. The fingerprint was fine, but I couldn’t tell if it was his real identity. I asked my boss and he told me I could not sell to him because he could be lying in order to “*bachaquear*” [resell]. I just follow orders.”⁴⁰³ Lack of trust in the administration of justice and mismanagement in matters involving sexual orientation, gender identity, and gender expression have also been reported.⁴⁰⁴

220. The Inter-American Commission reiterates its concern that a culture prevails in Venezuela in which acts of violence and attacks against LGBT persons—trans persons in particular—is normalized.⁴⁰⁵ The IACHR also reiterates its concern at the high rates of violence against LGBT persons in Venezuela. According to a report prepared by a civil society organization, between January and May of this year, at least 10 murders took place,⁴⁰⁶ all of them committed in public.⁴⁰⁷ The same organization reported that during that time period, 16 LGBT persons had been attacked.

³⁹⁶ La Nación, [Preocupa a la ONU la migración de venezolanos](#), July 23, 2016; El Nuevo Herald, [ACNUR advierte ‘llegada silenciosa de mucha gente’ de Venezuela a Colombia](#), July 22, 2016; El Tiempo, [Las caras de la crisis de migración venezolana en Bogotá](#), August 9, 2016.

³⁹⁷ El País, [El exilio venezolano en el mundo](#), October 28, 2015.

³⁹⁸ Noticias Hoy México, [Las caras de la migración venezolana en Bogotá](#), August 9, 2016.

³⁹⁹ El País, [La emigración de Venezuela a España se dispara en los dos últimos años](#), July 1, 2016.

⁴⁰⁰ Acción Ciudadana Contra el SIDA (ACCSI), [Informe Venezuela 2016 Crímenes de Odio por Orientación sexual, Identidad de género y Expresión de género en la noticia de los Medios de Comunicación y Organizaciones de la Sociedad Civil](#), 2016, p. 17.

⁴⁰¹ Notitotal, [El drama de ser transgénero e intentar comprar alimentos](#), July 31, 2016.

⁴⁰² Canal de noticia, [Niegan venta de alimentos a Tamara Adrián porque su CI no coincide con su género](#), May 31, 2016.

⁴⁰³ ACCSI, [Informe Venezuela 2016 Crímenes de Odio por Orientación sexual, Identidad de género y Expresión de género en la noticia de los Medios de Comunicación y Organizaciones de la Sociedad Civil](#), 2016, p. 17.

⁴⁰⁴ ACCSI, [Informe Venezuela 2016 Crímenes de Odio por Orientación sexual, Identidad de género y Expresión de género en la noticia de los Medios de Comunicación y Organizaciones de la Sociedad Civil](#), 2016, p. 17.

⁴⁰⁵ IACHR, [Violence against Lesbians, Gays, Bisexuals, Trans and Intersex persons \(LGBTI\) in the Americas](#), November 12, 2015, pg. 246, para. 427.

⁴⁰⁶ ACCSI, [Informe Venezuela 2016 Crímenes de Odio por Orientación sexual, Identidad de género y Expresión de género en la noticia de los Medios de Comunicación y Organizaciones de la Sociedad Civil](#), 2016, p. 63.

⁴⁰⁷ ACCSI, [Informe Venezuela 2016 Crímenes de Odio por Orientación sexual, Identidad de género y Expresión de género en la noticia de los Medios de Comunicación y Organizaciones de la Sociedad Civil](#), 2016, p. 80.

221. For its part, the Commission expresses alarm at the situation faced by defenders of LGBTI persons in Venezuela. The Commission has received information indicating that since 2014, Yonathan Matheus and Wendell Oviedo, spokespeople with the NGO Venezuela Diversa, have been persecuted, harassed, and photographed without their consent by unknown individuals. They have received death threats several times, forcing them to leave the country and relocate to the United States.

222. The IACHR has established that the members of organizations promoting and defending the rights of LGBTI persons play a fundamental role in the region in terms of supervising the State to ensure it complies with its obligations and, in general, in the process of promoting equality for LGBTI persons.⁴⁰⁸ The Commission reiterates that the human rights defenders who identify themselves as LGBTI and work to protect and promote the human rights of LGBTI persons face alarming levels of vulnerability to violence due to the intersection of their sexual orientation and/or gender identity with their roles as human rights defenders and the causes they defend.⁴⁰⁹

223. As far as good practices, the IACHR highlights that in June of this year, the Ordinance on Discrimination in All Areas and Forms in the Municipality of Chacao, Caracas, passed the first vote. The ordinance is sponsored by councilmember Diego Scharifker, who, in explaining the need for it, said “we all know what happens to homosexual persons at the Altamira Plaza. They walk through the Plaza holding hands or displaying affection and citizens—in some cases municipal police officials—use violence and force against these people That’s discrimination”.⁴¹⁰ The Commission also highlights the approval of Decree No. 006 of May 17, 2016, by the Government of the Capital District, published in Official Gazette of the Capital District No. 387, which declares Caracas a territory free of homophobia, transphobia, and any kind of social discrimination as part of a full recognition of the LGBTI community that lives in the country.⁴¹¹ It also notes Resolution N°DDPG-2016-46845 of the Office of the Public Defender adopting measures to ensure equal protection and nondiscrimination of the LGBTI community in all of that State institution’s facilities.⁴¹²

224. The State also reported on the actions called for in its National Human Rights Plan on the rights of LGBTI persons with regard to the promotion and protection of the right to equality and nondiscrimination due to sexual orientation, gender identity, or gender expression; promoting messages aimed at ensuring respect for the right to equal protection and nondiscrimination in all public and private environments, with particular emphasis on groups or sectors that have historically been discriminated against; and creating and maintaining specialized mechanisms within the Office of the Ombudsman and the Public Ministry to promote and protect these rights.⁴¹³

E. Indigenous peoples

225. The Commission has been following the situation of indigenous peoples in Venezuela, especially with regard to the process of demarcating their lands, the status of the protection of the right to prior consultation, the living conditions of the Añú and Wayúu peoples after the declaration of the state of emergency, and the notable militarization of the area near the border with Colombia.

⁴⁰⁸ IACHR, “[Violence against LGBTI Persons](#)”, OAS/Ser.L/V/II.rev.2 Doc. 36, November 12, 2015, pg. 196, para. 333.

⁴⁰⁹ IACHR, “[Violence against LGBTI Persons](#)”, OAS/Ser.L/V/II.rev.2 Doc. 36, November 12, 2015 pg. 197, para. 335.

⁴¹⁰ Councilman Diego Scharifker, Session of the Municipal Council of Chacao of May 3, 2016, [Presentation of the draft Ordinance on Discrimination in Chacao](#), min. 1:12.

⁴¹¹ IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 72.

⁴¹² IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 73.

⁴¹³ IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 74.

226. Regarding land demarcation, civil society organizations report that until 2014, progress was being made in the process to demarcate the land, with 93 collective property land titles delivered, benefiting 545 communities representing 20,271 families and a total area of 2,951,852.66 hectares.⁴¹⁴ However, they noted that a detailed review of the National Demarcation Process and its official results over the last 15 years show that of the number of communities surveyed, only approximately 12.4% of indigenous territory has been demarcated. Likewise, the demarcation process has not been expedited and no significant progress has been made as far as the number of hectares recognized or indigenous peoples benefited.⁴¹⁵ The organizations indicate that despite progress with regard to policy, speeding up the processes of demarcating the land ready to be processed remains a challenge for the State,⁴¹⁶ as does providing support to the numerous indigenous peoples and communities that have not been able to conduct these processes on their own.⁴¹⁷

227. Regarding prior, free, and informed consultation, according to indigenous organizations and civil society, in recent years the State continued to plan and execute actions on indigenous territories without consulting the peoples affected and without their prior consent as required under international standards on the subject. The Association of Indigenous Peoples of Venezuela (APIVEN) states that in February, the Compañía Anónima de Materiales Industriales Nacionales y Productos Estratégicos Globales (National Industrial Materials and Global Strategic Products Corporation, CAMINPEG)⁴¹⁸ was formed, and decree 2,231 gave the Armed Forces authority to carry out “everything having to do with legal activities for petroleum, gas, and general mining services without any limitation.” They stated that two weeks after these decrees were handed down, the Executive Branch announced the signing of agreements with mining companies for what has come to be known as the “Orinoco Mining Belt.” The agreements cover exploration for, certification, and extraction of gold, copper, coltan, and other minerals on indigenous territories.⁴¹⁹ The State decided on all these actions without consulting the affected indigenous peoples beforehand and without performing the effective demarcation of their territories.⁴²⁰

228. Regarding this, the State reported the creation of the Presidential Committee on Eco-socialism and Protection of Indigenous Peoples in Mining Activities, whose objective is to “ensure the preservation of the natural and cosmological elements of indigenous peoples in the context of the development of mining projects in the country.”⁴²¹ It also indicated that in 2016, more than 58 consultation

⁴¹⁴ Wataniba Socioenvironmental Working Group of the Amazon, [Voluntary contribution to the Second Cycle of the Universal Periodic Review of the Bolivarian Republic of Venezuela, 26th Session of the Universal Periodic Review Work Group, 2012-2016 Period](#), October-November 2016, para. 9.

⁴¹⁵ Wataniba Group, [Voluntary contribution to the Second Cycle of the Universal Periodic Review of the Bolivarian Republic of Venezuela, 26th Session of the Universal Periodic Review Work Group, 2012-2016 Period](#), October-November 2016, para. 9.

⁴¹⁶ The IACHR has received information indicating that in the state of Amazonas, for example, case files are pending for the Uwottüja and Jivi peoples in the Autana municipality in the Siapapo River and Orinoco Medio basin; the Yabarana Multiethnic people of the Manapiare municipality in the Parucito River Basin; the Ye'kuana-Sanemá people of the municipality of Manapiare in Alto Ventuari; the Ye'kuana people of the municipality of Alto Orinoco; and the Yanomami people of the Alto Orinoco municipality. Association of Indigenous Peoples of Venezuela (APIVEN), [Situation of the human rights of indigenous peoples in Venezuela, Report for the Second Cycle of the Universal Periodic Review of Venezuela, in the 26th period of sessions of the Human Right Council of the United Nations](#), March 2016, pg. 2.

⁴¹⁷ Wataniba Group, [Voluntary contribution to the Second Cycle of the Universal Periodic Review of the Bolivarian Republic of Venezuela, 26th Session of the Universal Periodic Review Work Group, 2012-2016 Period](#), October-November 2016, para. 9.

⁴¹⁸ Decree of February 10, 2016, Official Gazette No. 40,845.

⁴¹⁹ Association of Indigenous Peoples of Venezuela (APIVEN), [Situation of the human rights of indigenous peoples in Venezuela, Report for the Second Cycle of the Universal Periodic Review of Venezuela, in the 26th period of sessions of the Human Right Council of the United Nations](#), March 2016, pg. 4.

⁴²⁰ APIVEN, [Situation of the human rights of indigenous peoples in Venezuela, Report for the Second Cycle of the Universal Periodic Review of Venezuela, in the 26th period of sessions of the Human Right Council of the United Nations](#), March 2016, pg. 4.

⁴²¹ IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 76.

meetings were held with the following indigenous communities: Mapoyo, Eñepa, Huotujja, Jivi, Curripaco, Baniva, Pume, Piapoco, Sanema, Baré, Pemón, Kariña, Ye'kwana, Warao, Akawaio, and Arawako.⁴²²

229. In 2016, incidents of violence between soldiers and Wayúus resulting from the closure of the border crossing persisted, without any investigation into them and those responsible. Soldiers continued to mistreat members of the Añú and Wayúu peoples. During the state of emergency, the Commission for Human Rights of Zulia State (CODHEZ) conducted a survey of 100 residents of La Guajira where respondents were asked whether they had ever been threatened and/or assaulted by security officials during the state of exception; 38 people said yes, 60 said no, and 2 did not answer the question.⁴²³

230. Regarding indigenous jurisdiction, civil society organizations indicated that although it is recognized by the Constitution of the Bolivarian Republic of Venezuela and the Indigenous Peoples and Communities Act, it is crucial to create a special law to regulate it, precisely define its limits, and establish how general jurisdiction would articulate with indigenous jurisdiction.⁴²⁴ Currently, the indigenous jurisdiction hears and rules on criminal and noncriminal cases between indigenous individuals.

231. With regard to militarization, CODHEZ reported to the Commission that despite the withdrawal of the soldiers, their functions have been taken over by the “Strategic Comprehensive Development Regions” (REDI) and the “Comprehensive Defense Operating Zones” (ZODI), which fall under military rule and are under the FANB’s Strategic Operational Command. It stated specifically that La Guajira, formerly a military district on the border with Colombia, Zulia state, is inhabited by Añú and Wayúu peoples.⁴²⁵ They note that since September 2015, when the government declared a state of emergency, militarization was reinforced. They indicated that the state of emergency restricted civil and political rights, such as the inviolability of the home and private communications, freedom of movement, private or public assembly, the right to public demonstration, and economic freedom.⁴²⁶ They noted that the presidential decree was enacted without prior consultation with indigenous peoples’ legitimate authorities, as required by the Organic Indigenous Peoples and Communities Act⁴²⁷ and that despite the decree stating that a “humanitarian corridor” would be created for free movement of indigenous peoples, in practice this has not been the case.⁴²⁸

⁴²² IACHR, [Hearing on the right to health](#), April 4, 2016; Bolivarian Republic of Venezuela, Comments on the draft of Chapter IV B, IACHR Annual Report, Venezuela, received on January 30, 2017, para. 77.

⁴²³ CODHEZ and Proyecto M, [Report for the Second Cycle of the Universal Periodic Review of Venezuela](#), October-November 2016, paras. 9-10; Laboratorio de Paz, [Alixel Cabrera: “Exceso” de militarización provoca cifras rojas en la Guajira](#), August 18, 2016.

⁴²⁴ Wataniba Socioenvironmental Working Group of the Amazon, [Voluntary contribution to the Second Cycle of the Universal Periodic Review of the Bolivarian Republic of Venezuela, 26th Session of the Universal Periodic Review Work Group, 2012-2016 Period](#), October-November 2016, para. 8.

⁴²⁵ [Presidential Decree No. 7,938](#), published in the Official Gazette of the Republic number 39,583, December 29, 2010; Request for thematic hearing on the militarization of the Venezuelan Guajira, October 10, 2016, pg. 1. According to the 2011 census of the National Statistics Institute, 443,544 indigenous people live in Zulia, or 61.2% of the national indigenous population, 1.63% of the country’s total population, and 12% of Zulia’s population (3,704,404 people). Additionally, the Wayúu people is the predominant indigenous ethnicity in Venezuela, present in all the country’s federal entities. They account for 1.52% of the country’s total population and 57.05% of the total indigenous population. The municipality of La Guajira, Zulia state, has 65,545 inhabitants, of which 88.25% are indigenous.

⁴²⁶ CODHEZ, Request for thematic hearing on the militarization of the Venezuelan Guajira, October 10, 2016, pg. 2; CODHEZ and Proyecto M, [Report for the Second Cycle of the Universal Periodic Review of Venezuela for the 26th Period of Sessions](#), October-November 2016, para. 2; La Patilla, [Cronología de los Estados de Excepción en la frontera colombo-venezolana](#), September 16, 2016.

⁴²⁷ CODHEZ, Request for thematic hearing on the militarization of the Venezuelan Guajira, October 10, 2016, pg. 2; CODEHZ and Proyecto M, [Report for the Second Cycle of the Universal Periodic Review of Venezuela, 26th Period of Sessions](#), October-November 2016, para. 3; Laboratorio de Paz, [Militarización de territorio Wayúu](#), May 7, 2016.

⁴²⁸ CODHEZ, Request for thematic hearing on the militarization of the Venezuelan Guajira, October 10, 2016, pg. 2

F. Children and adolescents

232. The scarcity and shortages of food, medicine, medical inputs and materials, and other basic products that the country faces and that has continued during 2016 makes children and adolescents especially vulnerable, as the IACHR has warned during the course of this year.⁴²⁹ The increased scarcity and high cost of pasteurized milk, baby formula and other derivatives, food of high nutritional value, cereals, vitamin supplements, and nutritional supplements that puts the right to food, childhood nutrition, and the nutrition of pregnant and nursing mothers at risk is concerning. It affects the right to health and the growth and development of children. Based on the importance of good nutrition for children, especially nursing infants and in early childhood, the effects of these shortages can put children's lives at risk and harm their health for the rest of their lives. Thus one of the most concerning pieces of information was submitted by organizations that care for orphans. They reported that they have reduced the amount and quality of the supply of food necessary to provide an adequate standard of living to the children by 72.22%.⁴³⁰

233. It is also noted that the nutritional support program implemented by the Education Ministry does not extend to all public education facilities, and the food provided has been reduced in terms of amount, variety, and quality. This situation is associated with an increase in absence from school, affecting the right to education.⁴³¹ Teachers are missing school so they themselves can find food and basic goods by standing in long lines on their designated days, causing interruptions to classes and irregularity as far as the provision of educational services. This seriously affects children's rights to education. Estimates are that children miss an average of 40% of their classes.⁴³² One study on public schools in the state of Miranda in 2016 found that 48.1% of students missed class for reasons related to food (there was no food, they were weak, they were saving to buy food, they went to stand in line to buy food).⁴³³ The number of classes has been cut back due to suspension of educational services to save money. This violates the number of days required in the Organic Education Act and the priority that the State should place on education.⁴³⁴ According to some sources, the annual dropout rate has doubled and more than a quarter of adolescents are not enrolled. The security situation is also affecting the right to education by increasing absence and drop-out rates.⁴³⁵ Student attendance declined by around 30%—as did attendance of some teachers—due to insecurity and violence in the form of robberies, theft, and vandalism, including theft of equipment, materials, and supplies.⁴³⁶

234. Regarding the right to health, deterioration in the country's health infrastructure, lack of staff, and shortages of medications and medical supplies, as well as technical equipment in laboratories that no longer functions and power outages all prevent the health needs of children and young people from being adequately met.⁴³⁷ Infant mortality has increased, especially of newborns. In April, it was reported that a total of 82 newborns had died in the state of Zulia during the first quarter of the year.⁴³⁸ Similarly, 71 newborns

⁴²⁹ IACHR, Press Release No. 096/16, [IACHR Calls on Venezuelan State to Adopt Comprehensive Measures in the Face of Scarcity in Venezuela](#), July 22, 2016.

⁴³⁰ In the framework of the Universal Periodic Review process, CDH-UCAB, [Contribuciones de la sociedad civil venezolana, 2do ciclo EPU Venezuela 2016](#), pg 59.

⁴³¹ CDH-UCAB, [Contribuciones de la sociedad civil venezolana, 2do ciclo EPU Venezuela 2016](#), pg 59.

⁴³² *Associated Press*, [No food, no teachers, violence in failing Venezuela schools](#), June 17, 2016.

⁴³³ CDH-UCAB, [Contribuciones de la sociedad civil venezolana, 2do ciclo EPU Venezuela 2016](#), pgs. 5 and 6.

⁴³⁴ CDH-UCAB, [Contribuciones de la sociedad civil venezolana, 2do ciclo EPU Venezuela 2016](#), pgs. 5 and 6.

⁴³⁵ *Associated Press*, [No food, no teachers, violence in failing Venezuela schools](#), June 17, 2016.

⁴³⁶ CDH-UCAB, [Contribuciones de la sociedad civil venezolana, 2do ciclo EPU Venezuela 2016](#), pgs. 5 and 6.

⁴³⁷ IACHR, Press Release No. 096/16, [IACHR Calls on Venezuelan State to Adopt Comprehensive Measures in the Face of Scarcity in Venezuela](#), July 22, 2016. IACHR, 158th Extraordinary Period of Session, [Right to Health and Access to Medicine in Venezuela](#), June 7, 2016, Santiago, Chile; New York Times, [Dying Infants and No Medicine: Inside Venezuela's Failing Hospitals](#), May 15, 2016.

⁴³⁸ El Nacional, [Más de 80 neonatos han muerto en el Zulia durante 2016](#), April 10, 2016.

were reported dead in Táchira through March 31, an increase of 25% compared to the same period in 2015.⁴³⁹

235. According to figures from the Ministry of Health, the infant mortality rate rose from 14.8 to 18.6 from 2014 to 2016, with 80% of the deaths being of babies less than 28 days old who died in hospitals.⁴⁴⁰ Pediatric hospitals such as the Hospital J.M. de los Ríos, a national pediatric center for the treatment of certain illnesses in children, has severe deficits in medical and hospital care, according to reports from the Sociedad Médica and the General Comptroller of the Republic. The IACHR has also been made aware of the grave situation of children with blood diseases and cancer cared for in that hospital, who on a number of occasions have had to deal with its suspension of hospitalization services.⁴⁴¹

236. Decree No. 2,303 of the Presidency of the Republic, dated April 26, 2016, establishes “special temporary paid leave while the effects of the “El Niño” weather phenomenon on the Simón Bolívar Hydroelectric Plant persist,” declaring Wednesday, Thursday, and Friday as “no work” days for public sector employees as a way to save electricity. This situation has limited the administrative and judicial services provided to children and adolescents, such as social protection services and response services for at-risk children and victims. No priority was placed on children, and their higher interests and special need for protection and care in the situation facing the country were not taken into account.⁴⁴²

237. The IACHR has also expressed concern at the climate of violence and insecurity facing the country and its impacts on children and adolescents.⁴⁴³ In 2016, the Citizens’ Council for Public Security and Criminal Justice, an organization that conducts an annual study to collect homicide statistics for cities throughout the world, rated Caracas as the most insecure and violent city in the world, along with seven other Venezuelan cities.⁴⁴⁴ Homicide is the leading cause of death among adolescents and young people, mainly among the poor. The Country Programme Action Plan signed by UNICEF and the State for the period (2015-2019) states that the homicide rate among adolescents is one of the highest in Latin America and mainly affects adolescent males. According to UNICEF, Venezuela is among the top three countries in Latin America in terms of homicides of children and adolescents.⁴⁴⁵

G. Afro-descendants

238. The IACHR expressed concern at the scarcity of information available in 2016 on the human rights situation of Afro-descendent persons, and Afro-descendent women in particular. With regard to this, the Inter-American Commission has expressed concern at the structural inequality facing the Afro-descendent population in the region and the particularly pressing situation faced by Afro-descendent women, adolescents, and children as a result of the persistence of institutional norms and practices that block them from fully exercising their human rights. This Commission recently noted that Afro-descendent women are among the most marginalized social groups in the region, warning likewise that one of the main challenges

⁴³⁹ El Periódico Venezolano, [¡Cifras de exterminio! 71 bebés recién nacidos han muerto en Hospital de Táchira](#), May 3, 2016.

⁴⁴⁰ In the framework of the UPR process, CDH-UCAB, [Contribuciones de la sociedad civil venezolana. 2ndo ciclo EPU Venezuela 2016](#), pg 60; El Nacional, [A la semana mueren 194 niños en el país](#), June 24, 2016. Also, the United Nations country group expresses its concern at the neonatal deaths contributions to the Universal Periodic Review, UN, Human Right Council, collected by the UNHCR, A/HRC/WG.6/26/VEN/2, August 25, 2016, paragraph 47. para. 77.

⁴⁴¹ In the framework of the UPR process, CDH-UCAB, [Contribuciones de la sociedad civil venezolana. 2ndo ciclo EPU Venezuela 2016](#), pg 60.

⁴⁴² Infovzla, [Decreto de días no laborables compromete la protección de los niños, niñas y adolescentes](#), May 11, 2016. El Universal, [Trabajadores públicos retoman jornada laboral de toda la semana: laborarán de 8 a 13 horas](#), June 13, 2016.

⁴⁴³ IACHR, [Violence, children and organized crime](#), OEA/Ser.L/V/II.Doc. 40/15, 2015, paras. 41, 45, 56, 57, 59, 150, and 195, among others.

⁴⁴⁴ CCSP-JP, [Las 50 ciudades más violentas del mundo en 2015](#), January 26, 2016.

⁴⁴⁵ UNICEF and the State of Venezuela, [Country Programme Action Plan](#) (2015-2019), p. 6. UNICEF, [Ocultos a plena luz](#), pg. 2.

they face is the institutional violence they suffer at the hands of government and judicial authorities.⁴⁴⁶ In this regard, the IACHR asks the Venezuelan State to collect, with all due diligence, information on the human rights situation of Afro-descendent persons—and Afro-descendent women in particular—and report to the IACHR on the policy and measures adopted to meet their needs.

V. CONCLUSIONS

239. Based on this analysis of the overall human rights situation in Venezuela, the Commission observes that in 2016, the persistent structural situations that affect the human rights of Venezuelans have worsened and led to a severe political, social, and economic crisis. These situations include the worsening citizen security situation; the state of emergency in place in Venezuela during the whole year; the lack of effective separation, independence, and balance of State power; and the violation of freedom of expression, political rights, and the right of all social actors to participate in public life, as well as the persistent lack of effective access to independent and impartial justice; and other violations of rights of particularly vulnerable groups. It has also been observed that Venezuela is facing a severe-crisis that directly affects access to ESCRs. All of this, added to the political conflict and institutional weakness, have a negative effect on the rule of law in Venezuela.

VI. RECOMMENDATIONS

240. Pursuant to the above analysis and the monitoring that the IACHR has conducted of the human rights situation, the Commission gives the following recommendations to the State of Venezuela:

Situation of citizen security

- Take comprehensive measures to guarantee citizen security, especially with regard to the homicide rate;
- Reform the policies and practices of security forces related to crime-fighting operations to bring them into a framework of respect for human rights;
- Implement measures to prevent the excessive use of force by security forces, and where excessive force is used, duly investigate, try, and punish those responsible;
- Limit the participation of the military in public order operations, which are the responsibility of the police; where the military does get involved in exceptional situations, place it under civilian authority;
- Adopt the measures necessary to protect the life and personal integrity of all people and the specific measures necessary to protect social communicators, human rights defenders, union members, people participating in public demonstrations, people deprived of liberty, children, adolescents, indigenous peoples, Afro-descendant persons, and the LGBTI population; and
- Train public servants in charge of public order work on the protection and respect for human rights.

Rule of law and democracy

- Place a deadline on the use of states of emergency and use them only in situations of extreme gravity that are true emergencies;
- Effectively guarantee the separation, independence and balance of public powers, and specifically, take urgent measures to ensure the independence of the judiciary,

⁴⁴⁶ IACHR, Press Release No. 040/16, [IACHR Urges States to Adopt Measures to Protect the Rights of Afro-Descendent Women](#), March 21, 2016.

strengthening procedures for appointing and removing judges and prosecutors, ensuring the stability of their positions, and eliminating the provisional nature of the posts of the large majority of judges and prosecutors; also, improve the institutional capacity of the judiciary to combat impunity and human rights violation;

- Guarantee the full exercise of political rights for all people regardless of their political stance, and take the measures necessary to promote tolerance and pluralism in the exercise of political rights;
- Refrain from retaliation or using the punitive power of the State to intimidate or punish people based on their political opinions, and guarantee the pluralism of spaces for the exercise of democracy, including electoral processes; and respect demonstrations and protests carried out in the exercise of the right to peaceful assembly and demonstration.

Freedom of Expression

- Grant journalists the highest level of protection to ensure they are not detained, threatened, or attacked for exercising their profession, especially during a public demonstration. Their work materials and tools must not be destroyed or confiscated. They also must not be called as witnesses by judicial agencies, and authorities must respect their right to keep their sources of information confidential. The State must guarantee national and foreign media the ability to broadcast live during demonstrations and public events and not adopt measures to regulate or limit the free circulation of information;
- Refrain from exerting direct or indirect pressure aimed at silencing journalists, in accordance with Principle 13 of the Declaration of Principles on Freedom of Expression. In particular, remove all disproportionate or discriminatory restrictions that prevent media outlets of all formats, from effectively completing their commercial, social, or public missions;
- Change ambiguous or imprecise criminal laws that disproportionately limit freedom of expression, such as laws intended to protect the honor of ideas or institutions or that seek to protect national security or public peace, in order to prevent the use of criminal proceedings to inhibit free democratic debate on matters of public interest and the full exercise of political rights. Also, move to repeal *desacato* laws, no matter what form they take, as these laws violate Inter-American standards and restrict public debate, which is an essential element for the functioning of democracy;
- Adopt whatever legislative or other measures may be necessary to regulate the use of force—lethal and less lethal—by security forces for controlling social protest, pursuant to the standards of the Inter-American system. With this in mind, the IACHR recommends striking down resolution 008610, Rules of engagement for the Bolivarian National Armed Forces performing public order and social peace and citizen coexistence oversight duties at public meetings and demonstrations, which allow armed interventions in public meetings and demonstrations, which allows the use of firearms for this work, and guarantee the right to participate in public demonstrations without prior permit; and
- Adopt legislation on access to public information in keeping with inter-American standards in order to provide all people with tools for effectively monitoring State operations, supervising public administration, and controlling corruption, all of which are essential for democracy.

Economic, social, and cultural rights (ESCR)

- Intensify measures to address the shortage and insecurity in access to economic, social and cultural rights, ensuring that they focus on the full enjoyment of these rights and create conditions of real equality;
- Take urgent human rights-focused public policy measures that take into account the special condition of vulnerable people and groups such as children, pregnant women, the elderly, and people with disabilities and chronic illnesses, among others, and meet people's basic

needs in order to guarantee their rights to health and food, pursuant to international law; and

- Take measures to ensure the availability and quality of healthcare services, ensuring that the facilities and care centers have adequate trained medical staff, medications, and hospital equipment.

Human Rights Defenders

- Publicly and unequivocally recognize the fundamental role that human rights defenders play in guaranteeing democracy and the rule of law and society. This commitment should be reflected at all levels of the State, national and local, and in the actions of the executive, legislative, and judicial branches;
- Refrain from making statements that stigmatize human rights defenders and suggest that they, along with human rights organizations, are acting improperly or illegally just because of the work they do promoting and protecting human rights. Likewise, the State must guarantee that public officials receive specific instructions in this regard, and that officials who do not follow those instructions properly be subject to appropriate disciplinary measures;
- Respect the right of human rights defenders and civil society organizations to manage their resources, including their funding, in compliance with legitimate laws and to plan their activities with full independence and no improper influence by authorities; and
- Amend and/or repeal any legislation that prohibits or criminalizes human rights defenders or organizations due to the simple fact that they receive foreign funding to support their work.

Persons deprived of liberty

- Adopt and implement comprehensive public policies aimed at ensuring that detainees in any prison are held in decent conditions that are congruent with the principle of humane treatment. In this sense, adopt measures aimed at the following: a) reducing overcrowding; b) improving detention conditions; c) preventing, diagnosing, and treating illnesses in a timely fashion; d) caring for the needs of particularly at-risk groups of inmates; and e) providing adequate food;
- Take the urgent and necessary measures to stop using police jails as permanent prisons, and increase State control over penitentiaries;
- Implement all measures necessary to prevent violence and conduct immediate, exhaustive, and impartial investigations into the various incidents of violence that have recently taken place in the country's penitentiaries to identify those responsible and punish them appropriately—including using administrative and disciplinary sanctions—as a mechanism of prevention to stop new incidents of violence from taking place; and
- In order to reduce the use of preventative detention and thereby address overcrowding, use pretrial measures other than preventative detention. In this sense, take specific steps such as the following: a) put adequate regulations in place on the use and application of alternative measures; b) ensure the necessary resources are allocated to make them functional and used for the greatest number of people possible; and c) apply the measures rationally based on their purpose and effectiveness, according to the characteristics of each case.

Migrants and refugees

- Urgently and without delay take all necessary measures to ensure that the applicable inter-American and international standards on procedures for deporting foreigners are respected;

- Adopt measures aimed at comprehensively compensating people who were victims of the collective expulsions following the closure of border in August 2015; and
- Adopt measures to prevent situations of deprivation or denial of rights—in particular the rights to health, right to food, right to work, right to decent housing, and other economic, social, and cultural rights—that may be factors behind the forced migration of people from Venezuela.

Lesbian, gay, bisexual, and trans, and intersex (LGBTI) persons

- Take measures, including legislative, public policy, and state programs, to address the underlying causes of violence against trans and genderqueer persons. Among other things, these measures must ensure that people have access without discrimination to formal employment, education, healthcare, and housing;
- Establish or strengthen specialized departments or units within the Office of the Ombudsman to address the situation of violence and discrimination faced by LGBTI persons;
- Adopt antidiscrimination legislation or change existing legislation to ban all kinds of discrimination, including discrimination based on sexual orientation, gender identity and gender expression, sexual characteristics, or factors related to an identity as intersex;
- Adopt a gender identity law that recognizes the right of trans persons to change the name and gender marker on birth certificates, identity documents, and other legal documents through quick and simple processes, without the need to present evaluations or medical or psychological/psychiatric certifications; and
- Take measures to prevent, investigate, punish, and provide reparations for violence aimed at defenders of the rights of LGBTI persons, who face greater vulnerability due to the intersection of their orientation and/or identity, their role as human rights defenders, and the issues in which they work. The specific measures must be designed and adopted in consultation with defenders and activists and should include measures to effectively address violence against trans defenders who are sex workers. These measures must also take into account the specific characteristics of violence perpetrated against defenders of the human rights of LGBTI persons by State security forces, as well as by gangs and members of illegal armed groups.

Indigenous peoples

- Regarding the process to demarcate indigenous lands, the State must adopt measures to accelerate the processes of granting collective property titles to all indigenous peoples who have presented their case files to the regional demarcation committees. In this sense, the Venezuelan State must take urgent actions to speed up this process, as established in the National Human Rights Plan; and
- The State must take measures to respect and guarantee the right of indigenous peoples to prior, free, and informed consultation on all matters pertinent to their territories. The policies adopted by the State must also structurally and comprehensively take into account their rights, world view, and needs, as well as their right to live free from all discrimination.

Children and adolescents

- Given the acute shortages and scarcity of medicines, medical supplies, and food in Venezuela, take all measures necessary to make it a priority to guarantee the rights of children and adolescents, particularly to protect their rights to health, food, personal integrity, development, and life;
- Increase investment in basic education and ensure education that is high-quality, universal, free of charge, accessible and adapted, and provided in environments that are safe and free of violence and discrimination. Regularly collect and publish information on enrollment

- levels, absenteeism, and the dropout rate, as well as the results of educational quality assessments to enable monitoring of compliance with the right to education;
- Review the measures taken to address the energy crisis in order to ensure that the services directed at children are not affected and to prioritize their higher interests and special needs for protection and care; and
 - Adopt public citizen security policies that take into account the rights of children and adolescents. In particular, articulate measures for preventing children and adolescents from being captured, used, and exploited by criminal groups to conduct illegal activities, as well as decrease the high rates of child and adolescent victimization by the violence in the country with programs that have clear and precise objectives and measurable indicators that make it possible to monitor and evaluate the policies.

Afro-descendants

- Collect, with all due diligence, information on the human rights situation of Afro-descendent persons—and Afro-descendent women in particular—and report to the IACHR on the policy and measures adopted to meet their needs.