

Sessions to Analyse the Situation in Venezuela
Facilitated by Luis Moreno Ocampo, Special Advisor to the Secretary General
of the Organization of American States for Crimes Against Humanity

Summary of the Session of September 15, 2017

The first to testify at the hearings of September 15 was Captain Igor Eduardo Nieto Buitrago, a former member of the Bolivarian National Armed Forces (FANB). In his statement, Nieto described circumstances where he disagreed with the FANB authorities.

The first occurred between 2003 and 2005, when Nieto was working under the unified command responsible for directing the operation *Plan Republica* in relation to the elections taking place in that period. He mentioned that polling places were closed earlier in areas where the opposition had a majority. When he brought his concerns to his supervisor, he told him that the matter was above his pay grade. In 2005, Nieto was transferred to the Venezuelan Military Industry Company (*Compañía Anonima Venezolana de Industrias Militares*, CAVIM). In his new role as CAVIM legal counsel, in July 2008, Nieto learned of activities that violated international treaties and the country's constitution. He explained that there was a plan to smuggle arms, rifles and ammunition to Bolivia and Uruguay. His commander, the general who was the CAVIM president, apparently also expressed his disagreement with the situation. The then-President, Hugo Chávez, ultimately ordered the president of CAVIM and his staff, which included Nieto, to be replaced.

After he left CAVIM, the military opened a criminal investigation in 2011 against Nieto, the general, and other officers who registered their concern about the smuggling case. Nieto said that the prosecution did not act in accordance with the law in his case and that during the two years that he was being prosecuted, he was denied access to the record of the proceedings, prevented from putting forward evidence, and had his due process guarantees restricted. The case is still open.

With respect to the military jurisdiction, Nieto said that the Court-Martial receives instructions and maintains absolute control over all courts. That control is *de facto*, he said, since by law each judge is supposed to be independent. He recalled that after the preliminary hearing in his case he had an impromptu informal conversation with the supervisory judge (*juez de control*). When he asked the prosecutor why he had acted as he did in the investigation and why he was not allowed to present evidence, the judge replied that he was obeying an order from the minister of defense. He said that the military courts do not enforce the law, but carry out orders from above.

He also recalled that from April 2014 to March 2015 he was the victim of persecution and intimidation because he had been close to Lieutenant Colonel José Gustavo Arocha. Nieto said that later he was the victim of a number of attacks, including shots fired at his home, and that he filed a complaint but no investigation was carried out. In December 2014, he received a call in which threats were made against him and his family, which he likewise reported to the

authorities. He said that no one investigated and "no one gave me any security." After those incidents he decided to go into exile in March 2015.

Nieto said that President Nicolás Maduro had made a decision to use military justice for civilians. As evidence, he cited a case involving the arbitrary arrest by Bolivarian National Guard (GNB) and by Bolivarian National Intelligence Service (SEBIN) personnel of someone close to his family. A person close to Nieto contacted the judge handling the case. According to Nieto, the judge indicated that she had received instructions that they were to deprive political leaders of liberty and precautionary measures were to be imposed on demonstrators so as to intimidate. Nieto received information that in the arrest of his family member, the GNB, Department of Military Counterintelligence (*Dirección General de Inteligencia Militar* - DGIM), SEBIN, and others without any type of credential acted together.

Lastly, Nieto indicated that the regime was using two generic crimes to prosecute civilians under military justice: treason and assaulting military personnel. He commented that, since these were undefined crimes, anyone could be brought before the military justice apparatus.

The second person to give statements was retired FANB Lt. Col. José Gustavo Arocha. After studying at the Military Academy in the 1980s, he experienced what he described as a “disgraceful revision of the Armed Forces” in the context of the protests and repression of civilians during the Caracazo [the wave of protests, riots, looting, shootings and massacres that began on 27 February 1989 in the Venezuelan capital Caracas and surrounding towns] in 1989. He explained that at that time, a promise not to repress had been given.

In 2002, he began to note a degree of politicization of the armed forces inconsistent with service as a professional soldier. Based on the promise allegedly given years earlier, and in order to avoid confrontation between military members and the public in the context of the 2007 constitutional reform referendum, Arocha contacted members of the opposition, such as Yon Goicoechea and the student movement. He indicated that, in that year, although he held a good command position, his military career ended. Arocha continued talks with the opposition and student movement, and his persecution by the regime began.

On May 2, 2014, he stated, “he lost his company, family, and dignity.” For allegedly financing terrorism, Arocha was held by the SEBIN, in subhuman conditions. He explained that he was later transferred, by order, to *La Tumba* (The Tomb), a prison five stories underground. He was held in cramped quarters, isolated, naked, with the light on constantly, in cold temperatures, without any knowledge of the time. He was detained in this condition for six months.

Arocha was interrogated. He said that the interrogations took place on the same floor as his cell. He was visited by a prosecutor at least three times, and interrogated by the director of SEBIN, General González López, at least five times in La Tumba. When Arocha finally agreed to sign a statement, he was brought once before a judge. Arocha agreed to sign the statement on condition that he could leave La Tumba for house arrest and that another prisoner would be released. Arocha said that he had agreed to sign because he already had his escape to the United States planned upon his release. He also recalled that when he asked the director of SEBIN for guarantee that he would be released, the director answered that the President of the Republic was apprised of his case and that therefore, the President himself was guaranteeing it.

Major General García Plaza explained how the command structure and law and order work in Venezuela. The General had held various public positions, including serving as Deputy Defense Minister, People's Power Minister for Water and Air Transportation, and Minister of Food. He said he resigned as Minister of Food after disagreeing with President Nicolás Maduro over the criteria used to allocate food distribution in low-income parishes. According to the General, parishes selected for food distribution were predetermined based on poverty and extreme poverty indicators published by the National Institute of Statistics. He stated, however, that food subsidy criteria for the poor were replaced by political indicators. García went on to explain that parishes were instead prioritized on a political basis, using two indicators: voting population and level of sympathy for the government. Parishes that were no longer priority had their inventories depleted. When he raised this matter with President Maduro over telephone, the President told him that accomplishing both missions called for flexibility.

After he resigned, three ministers, including the Minister of Defense, warning him that President Maduro would open legal proceedings against him, advised him to leave the country. Major General García Plaza left Venezuela in January 2016. He insisted that justice in Venezuela was based only on the government structure. He explained, for example, that he witnessed a conversation between the Vice President and Cilia Flores discussing whether or not to issue to an individual a precautionary measure. He further stated that no ruling prepared by the Supreme Court of Justice (TSJ) is issued without the approval of Elvis Amoroso and Cilia Flores.

The General devoted part of his testimony to explaining the 2017 Zamora Strategic Plan, one of whose underlying assumptions being precisely to consider people that they "thought were, or who actually were, political dissidents" the enemy. In other words, under Plan Zamora, civilian dissenters are labeled as an internal threat, confirming that Plan Zamora has turned the country into a theater of operations – with a formal and an informal structure in the Plan Zamora chain of command.

The President heads up the formal structure, followed by the Operational Strategic Command (CEO) at the second tier, along with FANBs, the Bolivarian National Militia, and Local Supply and Production Committees (CLAP). He emphasized, however, that there is a parallel structure to the CEO, called the Anti-Coup Command comprising Vice President Tareck El Aissami, Diosdado Cabello, Pedro Carreño, and Fredy Bernal. He said that while the Anti-Coup Command was not part of the military structure, it did get its authority from President Maduro; and that CLAPs were logistical food distribution units that are now empowered to be involved in local activities, in coordination with FANBs. According to García Plaza, the Anti-Coup Command operates autonomously.

Besides the activation of Plan Zamora this year, he noted that a Ministry of Defense directive has been in place since 2015 allowing the progressive use of force by the National Guard, and even possible use of firearms. Major General García Plaza viewed that directive as a mistake, since it left the door open to the possibility of individual interpretation of firearms use by law enforcement officers, under Plan Zamora. He added that the number of people deprived of liberty has increased since the Plan was activated, under the guise of attacking "the sentinel" (military personnel) or for being "guarimbero," a colloquial term from the demonstrations, which is non-existent from a military standpoint.