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Report for the Fifth Review of Venezuela of the ICCPR at the 139th Session of the Human Rights Committee

Presented by:

Defiende Venezuela (DV): Founded in 2017. DV is an NGO dedicated to the defense and promotion of human rights in Venezuela, through international litigation before the various human rights protection systems. Currently, more than 4000 people have been trained in human rights and we have more than 1000 victims represented before international protection bodies.

Observatorio de Derechos Humanos de Los Andes (ODHULA): Created in March 2014, it is dedicated to the promotion and defense of human rights with special attention to academic freedom and the right to science. It provides free legal assistance to victims of human rights violations.

Epikēia: It is dedicated to the promotion and defense of access to justice, democratic institutions, academic freedom, university autonomy and the right to science. Its mission focuses on fostering citizenship, democratic values and human rights in non-democratic contexts.



September 12, 2023

Introduction:

1. The purpose of this report is to present a comprehensive assessment of the human rights situation in Venezuela for the period spanning from 2014 to 2023. The report focuses on several critical aspects related to the observance of human rights in Venezuela and addresses key issues that have arisen during this period.
2. The rights and topics covered in this report include the observance of human rights in the context of protests, the impact on rights in the context of security operations, the independence of the Judiciary, alleged acts of intimidation, disqualification, threats, and/or attacks against journalists, human rights defenders, and lawyers. Additionally, it addresses alleged arbitrary detentions of some members of the political opposition, including those committed due to their contribution to the work of the Human Rights Committee and the Fact Finding Mission (FFM). These issues are analyzed in light of various articles of the ICCPR.
3. The sources reviewed for this report include the ICCPR, General Comments by the Human Rights Committee, Optional Protocols, and Related Resolutions. It also incorporates the replies of the Bolivarian Republic of Venezuela to the list of issues concerning its fifth periodic report. Additionally, reports from the Inter-American Commission on Human Rights (IACHR) and the Organization of American States (OAS), reports from the Office of the United Nations High Commissioner for Human Rights (OHCHR), reports from the United Nations Fact-Finding Mission (FFM), and documented cases by organizations such as Defiende Venezuela and Observatorio de Derechos Humanos de Los Andes have been considered. The methodology employed in the preparation of this report involved a comprehensive analysis of the aforementioned sources, which were scrutinized to provide an evidence-based assessment of the human rights situation in Venezuela.

Chapter I: Observance of human rights in the context of demonstrations:

4. In the context of the demonstrations, the safeguarding of human rights is essential and relates directly to several fundamental rights enshrined in the International Covenant on Civil and Political Rights (ICCPR). These rights, in particular **Articles 6, 7, 9, 10, and 21** such as the right to life, freedom from torture and cruel and inhuman treatment, right to personal liberty, conditions of detention and right to peaceful assembly, play a crucial role in ensuring that the State acts in accordance with international human rights standards in the event of protests in that country.

Noncompliance and irregularities by the Venezuelan State

5. According to the Venezuelan Public Prosecutor's Office, between April 1 and July 30, 2017, a total of 124 deaths related to social protests were registered in Venezuela. Among these deaths, at least 46 are identified with protesters who lost their lives due to the action of State security forces, while 26 of them were caused by armed groups linked to the government, known as "colectivos".¹ These

¹ IACHR, Venezuela Country Report, Situation of human rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 210. OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, Geneva, August 2017. Available at: https://www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_EN.pdf, pp. 10 and 11. Human Rights and Foro Penal,

figures are striking, especially when contrasted with the deaths of security forces, which, according to the Venezuelan State, were a total of 9.² According to the Public Prosecutor's Office, at least 1958 complaints were received for injuries in the aforementioned context, of which 60% were allegedly caused by members of the State security forces.³ However, it is reported that close to 4,000 people were injured in this context.⁴

6. According to the IACHR, the high number of people injured or killed is the result of the use of firearms or the excessive use of less lethal weapons, such as tear gas and pellets⁵. In effect, the State security forces have allegedly made excessive use of less lethal weapons; in particular, by aiming directly at buildings and homes in residential areas or firing at close range at civilians and demonstrators⁶.
7. Due to the significant participation of the student movement in the political protests in the context, violence has especially affected young people, particularly children and adolescents. As a result of the repression, 19 children and adolescents have reportedly died, 10 of them as a result of firearm wounds. In turn, the Public Prosecutor's Office received reports of at least 53 children and adolescents injured during the protests.⁷
8. In an investigation carried out by Defiende Venezuela of 12 public cases, it was determined that at least 6 of them were young people, 2 of them minors. It was confirmed that 6 of them were students (university and high school).⁸
9. Likewise, the Office of the United Nations High Commissioner for Human Rights (hereinafter: "OHCHR Office") has pointed out that, in the context of political demonstrations, the security forces carried out arbitrary, violent and illegal searches, with the purpose of arresting demonstrators.⁹ These raids were perpetrated in operations in residential areas with the

Arremetida contra opositores; Brutalidad, tortura y persecución política en Venezuela, November 2017. Available at: https://www.hrw.org/sites/default/files/report_pdf/venezuela/1117sp_web.pdf, p. 60.

² IACHR, Venezuela Country Report, Situation of Human Rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 210.

³ IACHR, Venezuela Country Report, Situation of Human Rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 213.

⁴ OAS, Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela, Washington D.C., May 29, 2018. Available at: <http://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf>, p. 71. OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, Geneva, August 2017. Available at: https://www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_EN.pdf, pp. 14 - 15.

⁵ OAS, Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela, Washington D.C., May 29, 2018. Available at: <http://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf>, p. 94. IACHR, Venezuela Country Report, Situation of Human Rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 213.

⁶ IACHR, Venezuela Country Report, Situation of human rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 214. OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, Geneva, August 2017. Available at: https://www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_EN.pdf, pp. 12 - 13.

⁷ IACHR, Venezuela Country Report, Situation of Human Rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 215.

⁸ DEFIENDE VENEZUELA (2023) Patrones e irregularidades en las ejecuciones extrajudiciales en el contexto de las protestas masivas en Venezuela ver en: <https://defiendevenezuela.org/wp-content/uploads/2023/07/Informe-DV-Patrones-e-irregularidades-en-las-investigaciones-de-las-ejecuciones-extrajudiciales-en-el-contexto-de-las-protestas-masivas-en-Venezuela.pdf>

⁹ OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, Geneva, August 2017. Available at: https://www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_EN.pdf, pp. 16-17. Human Rights and Foro Penal, Onslaught against opponents; Brutality, torture and political persecution in Venezuela, November 2017. Available at: https://www.hrw.org/sites/default/files/report_pdf/venezuela/1117sp_web.pdf, p. 26.

participation of the Bolivarian National Guard (hereinafter: "GNB"), the Bolivarian National Intelligence Service (hereinafter: "SEBIN") and the Bolivarian National Police (hereinafter: "PNB"). These events, registered in the month of June 2017 in the states of Mérida, Lara, Táchira, Carabobo, Zulia, Miranda and Capital District (Caracas)¹⁰.

10. In fact, in a case of *Defiende Venezuela* that is currently on the list of contentious cases pending before the Inter-American Court of Human Rights, security forces composed of more than 200 police officers, a tankette and a helicopter illegally entered the house of the former mayor of the Campo Elías municipality in Mérida, entered the house without a search warrant and allegedly ransacked it. J.P.L, son of the mayor, was arrested without a warrant. He was subsequently doused with gasoline and threatened to set it on fire if he did not tell where his father was. He was also brutally beaten and tortured. He was finally taken to the Helicoide (SEBIN) and held for more than 8 months; he was never brought before a judge.¹¹
11. On the other hand, according to the IACHR, between January 1, 2014, and October 31, 2017, 11,993 arbitrary detentions took place in Venezuela. However, between April 1 and August 31, 2017, 5,341 such detentions took place, 1,414 in the month of July alone¹². It should be noted that 90% of the arrests in the indicated context took place without a warrant, being subsequently justified as a consequence of the commission of flagrant crimes. However, the available information gathered by the IACHR demonstrated the abusive use that the Venezuelan State has made of the figure of "flagrancy", under which arrests of persons perceived as political opponents have been carried out, even while they are carrying out daily activities that cannot be qualified as crimes under any objective legal assessment.¹³
12. Likewise, multiple violations of due process of law have been reported for persons detained in the context analyzed. In this regard, it has been indicated that the detained persons would not be notified of the charges of the detention until the moment of being taken to court days later. In many cases, detainees have been held incommunicado from their lawyers and family members until their presentation in court¹⁴ and have been transferred in the early hours of the morning and without prior notice to other detention centers. Frequently, the courts have imposed formal requirements - such as the provision of sureties - for the granting of precautionary measures to detainees, thus

¹⁰ *Ibid*: para. 217. OAS, Report of the General Secretariat of the Organization of American States and of the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela, Washington D.C, May 29, 2018. Available at: <http://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf>, p. 185.

¹¹ CASO LARES RANGEL Y OTROS VS. VENEZUELA https://www.corteidh.or.cr/docs/tramite/lares_rangel_y_otros.pdf

¹² IACHR, Venezuela Country Report, Situation of Human Rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, paras. 237 and 238. Similar: OAS, Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela, Washington D.C, May 29, 2018. Available at: <http://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf>, pp. 226 and 229. Human Rights and Foro Penal, Arremetida contra opositores; Brutalidad, tortura y persecución política en Venezuela, November 2017. Available at: https://www.hrw.org/sites/default/files/report_pdf/venezuela/1117sp_web.pdf, p. 26.

¹³ Amnesty International, Venezuela: Silence by force: Arbitrary detentions for political reasons in Venezuela. April 26, 2017. Available at: <https://www.amnesty.org/download/Documents/AMR5360142017ENGLISH.PDF>, pp. 7 and 8. IACHR, Venezuela Country Report, Situation of human rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 239. OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, Geneva, August 2017. Available at: https://www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_EN.pdf, pp. 20 and 21. OAS, Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela, Washington D.C, May 29, 2018. Available at: <http://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf>, p. 185.

¹⁴ OAS, Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela, Washington D.C, May 29, 2018. Available at: <http://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf>, p. 194.

prolonging their detention in an unjustified manner. In addition, there have been cases in which custodial authorities have refused to comply with court orders for release without any legal justification.¹⁵

13. The methods of arbitrary detention frequently employed in the context of political demonstrations have encouraged the perpetration of other serious human rights violations, such as ill-treatment, torture or forced disappearances¹⁶. On the other hand, according to the OHCHR Office, almost all detainees in this context were subjected to some form of mistreatment, amounting in many cases to torture¹⁷. In this regard, according to the Venezuelan Attorney General's Office, 72 complaints of torture related to 174 detentions in the context of demonstrations between 2017 and 2019 were reported¹⁸.
14. The ill-treatment generally started from the moment of arrest, when the security forces often used excessive and unnecessary force, injuring - sometimes seriously - the detainees through blows, kicks and pepper spray¹⁹. Once detained, the victims were subjected to various acts of torture and ill-treatment that took place especially in the detention centers of the SEBIN and the Directorate of Military Counterintelligence (hereinafter "DGCIM") in Caracas, as well as in garrisons and other GNB facilities throughout the country²⁰.
15. Torture, executed for the purpose of obtaining information and punishing participation in protest activities, was frequently exercised during interrogations; and included: blows with blunt objects such as sticks, bats, helmets, pliers and weapons all over the body, including the genitals; asphyxiation with tear gas, electrocution, subjection to stress positions for long periods of time; burns on the skin with cigarettes and gun barrels; torment with songs and slogans in favor of the government; sexual aggression and threats against family members and loved ones²¹.

¹⁵ *Ibid*: p. 197.

¹⁶ Amnesty International, Venezuela: Silence by Force: Arbitrary Detentions for Political Reasons in Venezuela. April 26, 2017. Available at: <https://www.amnesty.org/download/Documents/AMR5360142017ENGLISH.PDF>, p. 4.

¹⁷ OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, Geneva, August 2017. Available at: https://www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_EN.pdf, p. 17. Similar: IACHR, Venezuela Country Report, Situation of human rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 245.

¹⁸ OHCHR, Human rights in the Bolivarian Republic of Venezuela, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Bolivarian Republic of Venezuela, July 5, 2019. Available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_18.docx&ved=2ahUKEwjQu6fbsejzAhUaBGM BHd-HDSIQFjAAegQIBRAB&usg=AOvVaw0m3sYu_ifVfl3DEB7w2V9N&csid=1565033852969, para. 43.

¹⁹ OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, Geneva, August 2017. Available at: https://www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_EN.pdf, p. 18.

²⁰ *Ibid*: p. 19. With numerous examples: IACHR, Venezuela Country Report, Human Rights Situation in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 246. Human Rights and Foro Penal, Arremetida contra opositores; Brutalidad, tortura y persecución política en Venezuela, November 2017. Available at: https://www.hrw.org/sites/default/files/report_pdf/venezuela/1117sp_web.pdf, p. 27.

²¹ OHCHR, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, Geneva, August 2017. Available at: https://www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_EN.pdf, pp. 18 and 19. Also: Amnesty International, Silencio a la Fuerza: Detenciones Arbitrarias por Motivos Políticos en Venezuela. April 26, 2017. Available at: <https://www.amnesty.org/download/Documents/AMR5360142017ENGLISH.PDF>, p. 10. *Vid*: IACHR, Venezuela Country Report, Situation of Human Rights in Venezuela, December 31, 2017. Available at: <http://www.oas.org/es/cidh/informes/pdfs/Venezuela2018-es.pdf>, para. 248. OAS, Report of the General Secretariat of the Organization of American States and of the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela, Washington D.C, May 29, 2018. Available at: <http://www.oas.org/documents/spa/press/Informe-Panel-Independiente-Venezuela-ES.pdf>, p. 380. Human Rights and Foro Penal, Arremetida contra opositores; Brutalidad, tortura y persecución política en Venezuela, November 2017. Available at: https://www.hrw.org/sites/default/files/report_pdf/venezuela/1117sp_web.pdf, p. 27. OHCHR, Human rights in the Bolivarian Republic of Venezuela, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Bolivarian Republic of Venezuela, July 5, 2019. Available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session41/Documents/A_HRC_41_18.docx&ved=2ahUKEwjQu6fbsejzAhUaBGM BHd-HDSIQFjAAegQIBRAB&usg=AOvVaw0m3sYu_ifVfl3DEB7w2V9N&csid=1565033852969, para. 43.

16. The Venezuelan Constitution establishes the basic security structure and the chain of command of the security forces. However, since 2014, the Maduro government has made changes to the security framework through the adoption of laws, plans and policies, mainly by the President and the Ministry of Popular Power for Defense, most of them through presidential decrees or *ad-hoc* plans, dispensing with the legislative process²². The Zamora Plan, together with the laws, plans and policies adopted since 2014, systematically refers to concepts that are part of the Bolivarian security doctrine established by former President Hugo Chávez, which includes: civic-military union, integral defense and maintenance of internal order²³.
17. Consequently, since 2014, it can be appreciated in Venezuela the existence of a line of state conduct consisting in silencing the opposition of the Maduro government, also carried out through the disproportionate repression of public protest demonstrations through the use of the FAN and groups of armed civilians (*colectivos*), producing in many cases considerable injuries and the death of demonstrators, military dissidents (or persons perceived as such) and their families and friends, as well as their imprisonment and subsequent subjection to torture, inhumane treatment and inhumane detention conditions. All this in accordance with a state policy directly activated by the President of the Republic, Nicolás Maduro, with the purpose of annulling political dissidence. Thus, violating Articles 6, 7, 9, 10 and 21 of the ICCPR.

Chapter II: Affectation of Rights in the Context of Security Operations

18. The protection of human rights in the context of security operations is essential and relates directly to several fundamental rights enshrined in the International Covenant on Civil and Political Rights, specifically Articles 6, 9 and 10. Article 6 of the Covenant establishes the protection of the right to life as a right inherent to the human person and protected by law.²⁴ This means that during security operations, the authorities have the responsibility to ensure that no individual is arbitrarily deprived of his or her life. This article prohibits the indiscriminate imposition of the death penalty and highlights the importance of protecting vulnerable groups, such as minors and pregnant women.

Noncompliances and irregularities by the Venezuelan State

a. Extrajudicial executions

19. Venezuela faces a serious situation of personal insecurity. Violent death rates are among the highest in the world. The MP documented 21,752 intentional homicides (a rate of 70.1 per 100,000 inhabitants) in 2016, the last year for which official information is available.²⁵ The Venezuelan Violence Observatory (OVV) estimates the following figures for violent deaths: in 2017, 26,616 violent deaths (89 per 100,000); in 2018, 23,047 violent deaths (81.4 per 100,000); in 2019,²⁶ 16,506 violent deaths (60.6 per 100,000); in 2020, 11,891 violent deaths (45.6 per 100,000),²⁷ and

²² *Ibidem*, para. 166.

²³ *Ibidem*, para. 167.

²⁴ International Covenant on Civil and Political Rights (ICCPR). Part III. Article 6.

²⁵ Detailed conclusions of the FFM. September 15, 2020. A/HRC/45/CRP.11, para. 1002.

²⁶ *Ibid.*, para. 1004.

²⁷ Venezuelan Violence Observatory, Social Sciences Laboratory. Informe anual de violencia 2020. December 2020, p. 4. Available at https://observatoriodeviolencia.org.ve/wp-content/uploads/2020/12/DEF_INFORME-ANUAL-DE-VIOLENCIA-2020-OVV.pdf.

in 2021, 11,081 (40.9 per 100,000).²⁸ These deaths include those committed by security forces in security operations.

20. The Office of the United Nations High Commissioner for Human Rights (OHCHR) has noted that there has been a persistent pattern of excessive use of force in security operations in Venezuela since at least 2012.²⁹ The Venezuelan state has organized its security operations under a series of high-level security plans, the details of which are unknown as they are generally not publicly available. Such plans are framed within successive states of exception approved by President Maduro, starting with Decree 2323 of May 13, 2016 establishing a "State of Exception and Economic Emergency"³⁰ which grants broad, vague and discretionary powers to the National Executive to, among other things, design and implement public security actions "*against destabilizing actions that threaten the peace of the Nation*". This decree has been followed by numerous extensions of the state of emergency and exception.³¹
21. In this sense, the Venezuelan government has adopted increasingly aggressive security tactics that have led to a series of human rights violations, especially to the right to life, with an alarming number of extrajudicial executions.³² Since 2013, and especially in 2015, an increase in deaths at the hands of State security forces began to become evident, reaching the highest levels ever recorded in the history of Venezuela.³³
22. In July 2015, the Venezuelan Government issued the "*People's Liberation Operations*" (OLPs), a series of joint military and police operations described by the Government as "*specially designed to free the territories from criminal activity*". In August 2015, President Maduro referred to them as the most appropriate means to combat crime and achieve peace,³⁴ and in May 2016, he announced the start of a new phase of the OLPs from a "*presidential command post*", adding that this post was coordinated by Diosdado Cabello and that the Minister of the Interior was directing the operations.³⁵ In July 2016, the Minister of Interior announced that 143 OLPs had been carried out during the first semester of 2016.³⁶
23. In January 2017, responding to widespread criticism of the abuses committed in the previous operations, the Venezuelan government relaunched the OLPs as the "Operations for the Humanist Liberation of the People" (OLHPs)³⁷, and by mid-2017 stopped publicly mentioning the OLPs or OLHPs. On July 14, 2017, the president announced that the FAES, a police force attached to the Bolivarian National Police (hereinafter "PNB"), would play the leading role in the fight against crime.³⁸

²⁸ Ibid., para. 2.

²⁹ OHCHR Report, June 2018. Human Rights Violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight, p. 14.

³⁰ Decree 2323 of May 13, 2016, published in Official Gazette No. 6227. Disponible en: http://vendata.org/gacetitas/2016/05/6227_13-05-2016.pdf?#page=1

³¹ Detailed conclusions of the FFM. September 15, 2020. A/HRC/45/CRP.11, para. 226.

³² Ibid., para. 1017.

³³ Keymer Avila, PROVEA. Special Report: FAES does not depend on anyone. Published on May 5, 2022, p. 31. Available at: <https://provea.org/actualidad/informe-especial-el-faes-no-depende-de-nadie/>

³⁴ Detailed conclusions of the FFM. September 15, 2020. A/HRC/45/CRP.11, para. 1020.

³⁵ Ibid., para. 1022.

³⁶ Ibid., para. 1024.

³⁷ Detailed Findings of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela (hereinafter FFM).15 September 2020. A/HRC/45/CRP.11, para. 1025.

³⁸ Ibid., para. 1031.

24. The OHCHR has documented extrajudicial executions since the beginning of 2018 by the FAES in the framework of the security operations that replaced the OLPs and OLHPs, and the Office identified a *common modus operandi* in the cases of 20 young people killed by the FAES between June 2018 and April 2019.³⁹ Between 2017 and 2020, 8,734 victims were counted due to the intervention of the action of all security forces, of which at least 26% (2,260 victims) correspond to the FAES.⁴⁰ According to PROVEA, extrajudicial or summary executions represent approximately 89% of the cases of violation of the right to life in Venezuela.⁴¹
25. Venezuelan NGOs PROVEA and Fundación Gumilla recorded 2,853 killings in the context of security operations or protests in Venezuela in 2020, and the NGO Monitor de Víctimas recorded 87 extrajudicial executions by various Venezuelan State security forces in the Caracas Metropolitan Area from June 1, 2020 to March 22, 2021. The Office documented 16 cases of killings in the context of security operations.⁴² On the other hand, the NGO Monitor de Víctimas recorded that, within the figure of 599 homicides occurred in Caracas in 2020, extrajudicial executions were the motive that claimed more victims, for a total of 204 people executed.⁴³ Meanwhile, in the state of Lara, Monitor de Víctimas counted 201 homicides during 9 months of 2020, starting in April of that year. That is, an average of 23 deaths per month was registered, and in 61.58% of the cases the security forces were the perpetrators. Specifically, there are 125 victims of extrajudicial executions in the state of Lara, mostly killed by the FAES.⁴⁴
26. Venezuela ranks last in the World Justice Project's Rule of Law Index 2021,⁴⁵ and according to FFM, systematic impunity reigns in the country, characterized by a policy of arbitrary arrests, the influence of high-level authorities in criminal proceedings and the absence of impartial and independent judges.⁴⁶ According to OHCHR, institutions responsible for the protection of human rights, such as the Attorney General's Office, the courts and the Ombudsman's Office, often fail to conduct prompt, effective, thorough, independent, impartial and transparent investigations into human rights violations and other crimes committed by Venezuelan state agents, nor do they bring perpetrators to justice or protect victims and witnesses.⁴⁷
27. In Venezuela, criminal investigations correspond to an auxiliary activity to the Public Prosecutor's Office, which is the holder of the criminal action and the governing body of these investigations. Particularly, the police body in charge of carrying out auxiliary criminal investigations is the Scientific, Criminal and Criminalistic Investigations Corps (hereinafter "CICPC"), which has been seriously criticized in the performance of its functions, due to its strong authoritarian and anti-

³⁹ OHCHR report on the human rights situation in Venezuela. July 2019. A/HRC/41/18. Para. 47.

⁴⁰ Keymer Avila, PROVEA. Informe especial: El FAES no depende de nadie. Published on May 5, 2022, p. 26. Available at: <https://provea.org/actualidad/informe-especial-el-faes-no-depende-de-nadie/>

⁴¹ *Ibid.*, p. 30.

⁴² OHCHR Report on the human rights situation in Venezuela. June-July 2021. A/HRC/47/55. Para. 5.

⁴³ Victims Monitor and Mi Convive. Report 2021. Chapter I: 50 homicide victims every month in Caracas. Available at: <https://alianza.shorthandstories.com/monitor-de-victimas-informe-2021-capitulo-1/index.html>.

⁴⁴ Victims Monitor and Mi Convive. Report 2021. Chapter IV: in Lara the security forces are the main victimizer. Available at: <https://alianza.shorthandstories.com/monitor-de-victimas-informe-2021-capitulo-4/index.html>.

⁴⁵ World Justice Project Rule of Law Index. Available at: <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-law-index-2021>.

⁴⁶ FFM Report. September 16, 2021. Available at: <https://www.ohchr.org/es/hr-bodies/hrc/ffmv/index>.

⁴⁷ OHCHR report on the human rights situation in Venezuela. July 2019. A/HRC/41/18. Para. 33.

popular nature, dependent and subordinated to the political power, dispersed and uncoordinated in its actions, whose function revolves around the control of the popular sectors.⁴⁸

28. Therefore, since 2017 it is evident that most of the reported, remain in impunity, due to the lack of serious and diligent investigations that would lead, within a reasonable period of time, to the determination of responsibilities and application of sanctions. The main shortcomings in the investigations consist specifically in the practice of deficient and incomplete autopsies; the failure to initiate ex officio investigations despite the fact that these are crimes of public action; undue delays in the criminal judicial processes by remaining for a prolonged period of time in the preparatory or investigation phase without all the proceedings being carried out; the constant substitution of prosecutors; the lack of a proper investigation; the constant substitution of prosecutors; the lack of a proper investigation of the crimes; the lack of a proper investigation of the crimes; and the lack of a proper investigation of the crimes; the constant substitution of prosecutors; the lack of access to the case file by family members and human rights defenders; the deficient practice of ballistic expertise that would allow for judicial evidence of reconstruction of the facts to clarify the extrajudicial executions; among others.⁴⁹
29. In the FFM's findings in 2020, it was identified that in OLPs, OLHPs and subsequent similar operations, a pattern was evident in which the authorities claimed that the deaths occurred during a "confrontation" or in the midst of a "Resistance to Authority".⁵⁰ Concurring with the FFM, the OHCHR notes that the authorities classify killings resulting from security operations as "Resistance to Authority." Specifically, the OHCHR notes that the number of such killings is unusually high: in 2018, the government recorded 5,287 such killings, while the OVV cited 7,523 killings for Resistance to Authority. Subsequently, between January 1 and May 19, 2019, the Government reported 1,569 such killings.⁵¹
30. Defiende Venezuela through the *Programa Transforma*⁵² has conducted a detailed investigation, highlighting the documentation of twenty-two (22) indirect victims in six (6) court cases examined. These victims represent family members and loved ones of victims of extrajudicial executions, emphasizing the importance of recognizing the emotional and economic impact they have suffered. In addition, the findings have revealed an alarming pattern in the conduct of the Special Action Forces (FAES), including the profiling of victims, the use of violent and deadly tactics, and the manipulation of the crime scene to fit a narrative of "Resistance to Authority." Impunity prevails in all cases, raising serious concerns of lack of accountability.⁵³
31. In four (04) of the six (06) cases, the authorities made reference to the criminal offense of "Resistance to Authority" to justify the extrajudicial executions. Specifically, in the cases of C.R.E,

⁴⁸ Keymer Avila, Police? of investigation: Reflections (initial from the theory) on the nature of its function and organ of ascription. 2011. P. 8. Available at: <https://www.pensamientopenal.com.ar/system/files/2011/11/doctrina32615.pdf>. See also: Keymer Ávila. Construcción de indicadores sobre el uso de la fuerza letal en Venezuela, in Homicidio, riesgo, significado y castigo. 1st edition. Universidad Católica Andrés Bello, Caracas, 2020. P. 20. It is stated that the CICPC "paradoxically and historically, is pointed out as the most lethal security force in the country".

⁴⁹ Defiende Venezuela (2022). Remisión de OL respecto a los patrones y deficiencias de investigación de las ejecuciones extrajudiciales en el contexto de operativos policiales en Venezuela.

⁵⁰ Detailed conclusions of the FFM. September 15, 2020. A/HRC/45/CRP.11, para. 1042.

⁵¹ Ibid, para. 50

⁵² Ver: <https://programatransforma.org/>

⁵³ Defiende Venezuela (2022). Remisión de OL respecto a los patrones y deficiencias de investigación de las ejecuciones extrajudiciales en el contexto de operativos policiales en Venezuela.

teenager murdered in El Tocuyo; E.R.T, man murdered in Carora; L.P.Y, man executed in the city of Barquisimeto; and G.C, murdered in Caracas. In addition, the research conducted by Defiende Venezuela concluded that all these crimes remain unpunished, including those cases where there were eyewitnesses. These findings underscore the urgency of addressing these human rights violations, ensuring adequate protection and reparations for victims and their families.⁵⁴

32. Moreover, in January 2021, following acts of violence carried out by criminal groups in Caracas led by the Koki gang, the Venezuelan State activated a police offensive called "Operation Indio Guaicaipuro" causing a massacre of twenty-three (23) civilians at the hands of police and military, the largest number of victims in a single security raid during the last fifty (50) years in Venezuela, called the "Massacre of La Vega". The victims were first detained and later killed in front of their families or in places close to the places where they were detained⁵⁵.

b. Arbitrary detentions in Operation Thunder

33. During 2022, three phases of "Operation Thunder" were carried out in Altagracia de Orituco, Venezuela. The first phase began in April and focused on Altagracia de Orituco, involving several security forces. More than 40 people were arrested and at least 21 vehicles were illegally seized. This operation involved more than 800 officers and 30 vehicles, among them 10 tanks from different state security forces, including the Directorate Against Organized Crime (DCDO), the Directorate of Criminal Investigations (DIP), and the National Anti-Extortion and Kidnapping Command (CONAS). The security forces claim that it was to combat the gang "El Tren del Llano" and drug trafficking groups.
34. In September 2022, a second phase of "Operation Thunder" was carried out, which expanded its scope to three additional municipalities in the state of Guárico, in addition to Altagracia de Orituco. More than 1031 officers from different state security forces participated, including the Bolivarian National Police (PNB), the Bolivarian National Guard (GNB), the Scientific, Criminal and Criminalistic Investigations Corps (CICPC), the Bolivarian National Intelligence Service (SEBIN) and the DCDO, among others. The third phase, at the end of 2022, included the municipalities of Leonardo Infante, José Félix Ribas and Pedro Zaraza, as well as Altagracia de Orituco. It also involved numerous officials from different state security forces, including the PNB, GNB, CICPC, CONAS, SEBIN and DCDO. More than 130 people were reported captured in the first five days.
35. In all phases, human rights violations, illegal searches, arbitrary detentions and other controversial practices by security officials were reported. These operations generated concern and calls for investigations into possible excesses and violations of fundamental rights. Defiende Venezuela has documented 19 cases of "Operation Trueno" and, after analyzing the information gathered, came to several conclusions and findings regarding human rights violations perpetrated by Venezuelan state security forces during this operation. These findings include the lack of arrest warrants, illegal searches, use of physical and verbal violence, theft of property, demands for payment in foreign currency to release detainees, alteration of records, lack of access to trusted lawyers, delays in

⁵⁴ Idem.

⁵⁵ Provea. One year after the La Vega massacre, those responsible are still not accountable to justice. 2022. <https://provea.org/publicaciones/investigaciones/tras-un-ano-de-la-masacre-de-la-vega-los-responsables-siguen-siguen-sin-rendir-cuentas-a-la-justicia/>

court appearances, precarious conditions in detention centers, and a policy of not applying justice to members of the "El Tren del Llano" gang, among others. The security forces have also criminalized family ties to members of this gang.

36. Recently in March 2023, the Working Group on Arbitrary Detention declared the arbitrary detention of a subject detained in this context. The detention falls under category I and III of the Group, precisely because there was an arrest without judicial power and without legal basis.⁵⁶
37. The group also affirmed that the right to the presumption of innocence, legal assistance and that his personal integrity was violated by acts of torture in the context of an enforced disappearance. The conduct described appears to violate the absolute prohibition of torture as a peremptory norm of international law, as well as Articles 5 of the Universal Declaration of Human Rights, 7 of the Covenant and 2 and 16 of the Convention against Torture. In the opinion of the group, the situation of the case under review amounts to a systematic practice of depriving persons of their liberty without respect for the rights enshrined in international law in Venezuela. Widespread or systematic arrest, in violation of the norms of international law, may constitute crimes against humanity.⁵⁷

Chapter III: Independence of the Judiciary

38. The independence of the judiciary, together with autonomy and impartiality, are instituted in international human rights law as basic principles of judicial activity, necessary for the reasonable application of justice in a democratic society. Article 14.1 of the International Covenant on Civil and Political Rights (ICCPR) establishes the right of everyone "to a fair and public hearing by a competent, independent and impartial tribunal". Judicial independence is a guarantee that the courts that administer justice, integrally, make decisions based on the law, without being subject to political pressure or, in general, to external influences that may interfere with the performance of their function.

Non-compliance and irregularities by the Venezuelan State

39. In Venezuela the guarantees of judicial independence are structurally unfulfilled, this, despite a set of captious reforms to some laws related to the justice system that, in practice, are not effective⁵⁸. From the judges that make up the Supreme Court of Justice, to the judges of lower hierarchy in the structure of the judiciary show the shortcomings previously pointed out and object of attention by the Human Rights Committee.
40. Indeed, according to various documentation and evidence pointed out by international human rights organizations, including the Universal System for the Protection of Human Rights, and also by civil society, in Venezuela there is a serious lack of independence and autonomy in the judiciary, which has been progressively eroded and aggravated since 2014 with massive human

⁵⁶ Opiniones aprobadas por el Grupo de Trabajo sobre la Detención Arbitraria en su 95° período de sesiones, 14 a 18 de noviembre de 2022. Ver: <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session95/A-HRC-WGAD-2022-87-AEV.pdf>

⁵⁷ Idem

⁵⁸ Observatorio de Derechos Humanos de la Universidad de Los Andes (2023). La Corte Penal Internacional en Venezuela, p. 34. Available in: <https://www.uladhh.org.ve/wp-content/uploads/2023/03/Informe-LA-CORTE-PENAL-INTERNACIONAL-EN-VENEZUELA.pdf>

rights violations. Such problem, still persists today and there are no signs of improvement, despite some reforms that, in reality, have no practical effects⁵⁹ .

41. The OHCHR through its report published on July 15, 2020, echoes the Mission's concerns, when it notes that, in Venezuela, "the independence of the justice system is significantly undermined due to insecurity in the tenure of judges and prosecutors, lack of transparency in the process of their appointment, precarious working conditions and political interference, including the close relations that exist between members of the TSJ with the Government and the ruling party. This situation prevents the judiciary from exercising its key role as an independent actor in the protection of human rights and contributes to impunity and the persistence of human rights violations"⁶⁰ .
42. A clear example in practice of this situation is the way in which the Supreme Court of Justice (TSJ) annihilated the National Assembly (AN), of opposition majority, elected in 2015, violating multiple classes of rights, especially political rights. The OHCHR noted that between December 2015 and May 2020, "the Court pronounced 127 sentences invalidating decisions of the National Assembly. Since March 2017, the TSJ has removed parliamentary immunity from 29 opposition assembly members without following the procedure provided in the Constitution and without due process."⁶¹ .
43. In this regard, civil society organizations documented that, from December 2015 to January 2021, the TSJ annulled the opposition-majority NA, using rulings that, as a clear sign of the absence of independence of the judiciary, stripped the Parliament of its functions, accounting for at least 145 rulings of the highest court against the Legislative Branch, which annulled its functions and had serious consequences on the rule of law, democracy and human rights⁶² .
44. By 2019 only about 15% of judges in Venezuela were career judges according to some civil society research⁶³ . The OHCHR has noted that "since 2002 no public appointment competition for tenured judges has been organized"⁶⁴ . The Mission, in its 2020 detailed findings (A/HRC/45/33CRP.11), notes that "the vast majority of judges are appointed on a provisional basis, which means that they can be selected, as well as dismissed, without cause or compliance with the process established in the Constitution"⁶⁵ . This links the entire structure of the judiciary, from the bases of the judiciary

⁵⁹ Observatorio de Derechos Humanos de la Universidad de Los Andes (2022). *Corruption and impunity in the Venezuelan criminal justice system, with special reference to the Andean region*. Available at: <https://www.uladdhh.org.ve/wp-content/uploads/2022/08/6.-Informe.Corrupcion-en-la-justicia-penal-venezolana-con-especial-referencia-a-la-region-andina-copia.pdf>

⁶⁰ United Nations High Commissioner for Human Rights. *Independence of the justice system and access to justice, including violations of economic and social rights in the Bolivarian Republic of Venezuela, and the human rights situation in the region of the Orinoco Mining Arc*. July 15, 2020. A/HRC/44/54, para. 66. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/242/34/PDF/G2024234.pdf?OpenElement>.

⁶¹ *Idem*, para. 12.

⁶² Access to Justice (January 2, 2021). *The TSJ vs. the NA*. Available at: <https://accesoalajusticia.org/el-tsj-vs-la-an/>.

⁶³ Armando Info (July 7, 2019). *The law of the Judiciary: the poorer the province, the more chavistas are the judges*. Available at: <https://armando.info/la-ley-del-poder-judicial-mientras-mas-pobre-la-provincia-mas-chavistas-son-los-jueces/>. This study was cited by the United Nations Human Rights Council (September 15, 2020). Detailed findings of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela. A/HRC/45/33CRP.11, para. 159.

⁶⁴ United Nations High Commissioner for Human Rights (July 15, 2020). *Independence of the justice system and access to justice, including violations of economic and social rights in the Bolivarian Republic of Venezuela, and the human rights situation in the region of the Orinoco Mining Arc*. A/HRC/44/54, para. 8.

⁶⁵ United Nations Human Rights Council (September 15, 2020). *Detailed Findings of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela*. A/HRC/45/33CRP.11, para. 157.

with judges of first instance and appellate judges, whose appointment does not conform to international standards⁶⁶.

45. In fact, a report by ODHULA, shows that the judiciary in the criminal area of courts of first instance and courts of appeal in some of the regional entities is made up of judges who, for the most part, have provisional status. In one of the most vulnerable regions of Venezuela, the Andean region (composed of the states of Merida, Tachira and Trujillo), it was observed that the criminal judiciary is made up of 133 judges for ordinary crimes and crimes related to the Protection of Children and Adolescents and Violence Against Women, which includes the extensions of El Vigia (Merida state) and San Antonio (Tachira state).
46. According to the information provided by the official website of the TSJ, the status of the criminal judiciary in the Andean region is made up of 39 judges who have the status of tenured judges, which represents only 25% of the total. Consequently, it was revealed that provisional status predominates with a total of 67 judges, representing 42.9% of the positions in the regional judiciary. This is followed by temporary positions with 19 judges (12.2%), then itinerant judges with 18 judges (11.5%), as well as substitute positions with 12 judges (7.7%) and, finally, there is only one accidental judge (0.6%)⁶⁷.
47. Even more serious, the number of tenured judges could be much lower, as these data are not very reliable, since the State does not show updated data on the number of judges in the judiciary and their conditions of appointment, which hinders its transparency⁶⁸. It should be added that the Venezuelan State is categorized, according to the Global Impunity Index (IGI)⁶⁹, as one of the countries with statistical impunity and structural problems, related to high levels of corruption and lack of transparency in the public function, obtaining an IGI of 45.82^{70,71} which shows that despite the lack and/or deficiency of information, it still has a high impunity index that could be higher if the necessary statistical information were known.
48. This problem of lack of guarantees of judicial independence has had practical consequences in the administration of justice, generating an environment conducive to judicial corruption and affecting the lives of people who are arbitrarily and preventively detained without legal justification and under political pressure, in which judges, prosecutors and other members of the criminal justice system collude to violate human rights⁷². This can be individually evidenced in the so-called "guarimba cases", that is, a group of young adults, mostly men and university students, who were

⁶⁶ *Idem*, para. 100. The Mission notes in this regard that one hundred percent of the respondents who completed the questionnaire to support its investigation stated that the process of appointing judges in Venezuela does not conform to the law.

⁶⁷ Observatorio de Derechos Humanos de la Universidad de Los Andes (2022). *Corruption and impunity in the Venezuelan criminal justice system, with special reference to the Andean region*, p. 25. Available in: <https://www.uladdhh.org.ve/wp-content/uploads/2022/08/6.-Informe.Corrupcion-en-la-justicia-penal-venezolana-con-especial-referencia-a-la-region-andina-copia.pdf>

⁶⁸ *Idem*, pp. 19-20.

⁶⁹ It is based on a quantitative methodology that focuses on measuring the structure and functioning of the security and justice systems, as well as respect for human rights in each country.

⁷⁰ Center on Impunity and Justice (2020). *Global Impunity Index 2020: Impunity Scale in the World*, Universidad de las Américas Puebla, p. 12. Available at: <https://www.udlap.mx/cesij/files/indices-globales/0-IGI-2020-UDLAP.pdf>.

⁷¹ *Idem*, p. 65.

⁷² See Observatorio de Derechos Humanos de la Universidad de Los Andes (2021). *Political persecution and impunity: participation of judges and prosecutors in human rights violations. Mérida 2014-2021*. Available at: <https://www.uladdhh.org.ve/wp-content/uploads/2021/08/4.-INFORME-IMPUNIDAD.pdf>

arbitrarily detained relating them to punishable acts that happened in the context of the protests that occurred between 2014 and 2017.⁷³

49. As part of the structural consequences of a judiciary without independence, the victims of the "guarimba cases" and their lawyers faced the following obstacles during their trials: 1) procedural delays, 2) undue charges, 3) manipulation, misplacement and denial of files, 4) lack of substantiation of judicial decisions, 5) corruption in the case distribution system, and 6) failure to perform their duties.⁷⁴
50. From 2015 the State persists in the politicization of the judiciary and in the non-compliance of its basic guarantees. Appointment processes are not implemented according to the law, the vast majority of judges are provisional, that is, they lack job immobility and therefore are not protected against pressures from the executive branch. Therefore, the State fails to comply with its obligations under Article 14.1 of the International Covenant on Civil and Political Rights.

Chapter IV: Alleged acts of intimidation, disqualification, threats and/or aggression against journalists, human rights defenders and labor union leaders

51. In the context of alleged acts of intimidation, disqualification, threats and/or attacks against journalists, human rights defenders and labor union leaders, it is essential to recall the importance of safeguarding the rights enshrined in the International Covenant on Civil and Political Rights, in particular Articles 9, 18, 19, 21 and 22.

Cases of intimidation and arbitrary detentions of human rights defenders

52. The Venezuelan government has continuously threatened the autonomy, independence and free exercise of the rights of association of individuals and organizations through administrative controls and regulations, extensive legislation and restrictive jurisprudence of the courts.⁷⁵ The Maduro regime's policy of systematic persecution of human rights defenders is part of the same line of repression and control that has been exercised during the pandemic, which is contrary to the State's international obligations, since it violates the right to defend rights and the right to freedom of assembly and association.⁷⁶
53. Based on the alleged need to protect the State from interests alien or contrary to the citizenry, including the defense of the Nation's security, there are at least 11 laws in Venezuela that restrict the space of civil society, including the action of defenders, groups, communities, organizations and coalitions.⁷⁷ Among them is the 2017 Law against Hate, issued by the National Constituent Assembly (ANC), aimed at censoring, criminalizing and suppressing fundamental freedoms by

⁷³ See Observatorio de Derechos Humanos de la Universidad de Los Andes (2022). *Human rights violations: "guarimba cases" in the Andean region of Venezuela*. Available at: <https://www.uladdhh.org.ve/wp-content/uploads/2022/12/5.-Reporte-Casos-Guarimba.pdf>

⁷⁴ See Observatorio de Derechos Humanos de la Universidad de Los Andes (2022). *Corruption and impunity in Venezuelan criminal justice, with special reference to the Andean region*, pp. 30-31. Available at: <https://www.uladdhh.org.ve/wp-content/uploads/2022/08/6.-Informe.Corrupcion-en-la-justicia-penal-venezolana-con-especial-referencia-a-la-region-andina-copia.pdf>

⁷⁵ Civilis. "Threats and Restrictions on Freedom of Association in Venezuela." March 2016. Available at: <http://www.civilisac.org/civilis/wp-content/uploads/Amenazas-y-Restricciones-on-Freedom-of-Association-in-Venezuela.pdf>.

⁷⁶ Cepaz. Persecuted for defending human rights in pandemic. May 1, 2020. Available at: <https://cepaz.org/articulos/perseguidos-por-defender-los-derechos-humanos-en-pandemia/>

⁷⁷ Civilis. "Amenazas y Restricciones a la Libertad de Asociación en Venezuela." March 2016. Available at: <http://www.civilisac.org/civilis/wp-content/uploads/Amenazas-y-Restricciones-a-la-Libertad-de-Asociación-en-Venezuela.pdf>.

categorizing as "hate crimes" all forms of expression carried out by the media and dissent, as well as the activities of civil associations and human rights defenders, under ambiguous, unfounded and broadly discretionary criteria, in line with a policy of criminalization and repudiation of the constitutional and democratic order.⁷⁸ As well as the imposition of restrictions on registration activities for Non-Governmental Organizations (NGOs), associations and foundations in the State Registries.⁷⁹

54. Criminalization has consisted of stigmatization, discrediting speeches and campaigns against human rights defenders and organizations in the public media. In recent years, and especially since 2012, political leaders of the ruling party in Venezuela have taken it upon themselves to criminalize members of civil society who work for the effective protection of human rights and scrutinize government actions and policies.⁸⁰ One of them is president of the National Constituent Assembly and current deputy of the National Assembly, through his weekly program on national television called "Con el Mazo Dando".
55. This program has "unmasked" a significant number of human rights defenders, members of civil society and politicians,⁸¹ resulting in arrests and damage to their property by state security forces. On two occasions: February 19, 2020 and March 28, 2020, Diosdado Cabello announced that the ANC would revise the laws that allow funding of NGOs from other countries to establish severe sanctions on those receiving U.S. funding, further threatening freedom of association and the right to defend rights in Venezuela.⁸² Most recently, on December 10, 2020 accused NGOs of hiding money to benefit several opposition politicians.⁸³
56. Likewise, on May 3, 2020, the NGO "Provea" issued a series of tweets demanding respect for the human rights of the citizens detained for their alleged participation in an invasion attempt of alleged terrorist nature, whom the government labeled as mercenaries. After the publication, high government authorities made public speeches, criminalizing "Provea", accusing it of justifying the mercenary invasion and of being an NGO financed by the CIA.⁸⁴ Following the aforementioned attacks by the Maduro regime against the organization, the Secretary General of the United Nations included PROVEA in the Report on reprisals for cooperating with the UN, dated September 25, 2020.⁸⁵
57. The pro-government deputy also requested the opening of an investigation against Provea's General Coordinator, because the human rights defender published a tweet refuting the criminalization of human rights defenders, pointing out that the United Socialist Party of

⁷⁸ Civilis. "New Threat to Civic Space in Venezuela." Available at: <https://www.civilisac.org/alertas/nueva-amenaza-al-espacio-civico-venezuela>

⁷⁹ CEPAZ, October 3, 2019, NGOs warn of possible escalation of arbitrary restrictions on the rights and freedoms of civil society and human rights defenders in Venezuela retrieved from: <http://tinyurl.com/uug246vj> dated February 4, 2021

⁸⁰ IACHR. Venezuela Country Report: Human Rights Situation in Venezuela. 2017. P. 46.

⁸¹ Joint Report: Stigmatization, Intimidation and Retaliation against Human Rights Defenders in Venezuela. Available at: <https://www.civilisac.org/civilis/wp-content/uploads/InformeDefensoresVenezuelaCIDHDefinitivo.pdf>

⁸² Con el Mazo Dando (2020). ANC to evaluate laws on financing NGOs from abroad (+Cabello). Available at: ¡Ya basta! ANC to evaluate laws on NGO financing. (conelmazodando.com.ve).

⁸³ El Nacional. Cabello: We will urge the MP to apply the law against NGOs that hide money from opponents. December 10, 2020. Available at: <https://www.elnacional.com/venezuela/cabello-exhortaremos-al-mp-a-que-aplique-la-ley-contra-ong-que-esconden-dinero-a-opositores/>

⁸⁴ Las Americas Newspaper. Maduro's regime accuses NGO PROVEA of "destabilizing Venezuela". February 20, 2020. Available at: <https://www.diariolasamericas.com/america-latina/regimen-maduro-acusa-ong-provea-desestabilizar-venezuela-n4193364>.

⁸⁵ Human Rights Council. A/HRC/45/36. "Cooperation with the United Nations, its representatives and mechanisms in the field of human rights". September 25, 2020.

Venezuela (PSUV) has also benefited from international cooperation.⁸⁶ However, threats against civil society members and human rights defenders are not limited to stigmatization through television and social networks.⁸⁷ Government groups have also requested investigations and ordered illegal searches and, in general, have promoted the persecution of citizens for exercising civil and political rights. These actions are possible due to the control that the executive maintains over the judiciary.⁸⁸

58. For example, on January 14, 2020, police officers entered without a warrant the premises of the NGO Prepara Familia, an organization dedicated since 2008 to defend the rights of hospitalized children, and attempted to "confiscate" humanitarian supplies. The supplies were to be delivered to the children of the most important health care center in the country: JM de los Ríos. Likewise, the National Bolivarian Police (PNB) threatened to arrest the director of the organization.⁸⁹
59. Additionally, on June 4, 2020, the Bolivarian National Intelligence Service (Sebin) raided the headquarters of the Fundación Futuro Presente, for allegedly financing the logistics of training mercenaries in Colombia for the execution of the failed Operation Gideon. The actions were linked to the arrest warrant against its founder and opposition leader, Yon Goicoechea, on May 21, 2020, for his alleged "participation in the operation".⁹⁰
60. In June 2020, the Bolivarian National Intelligence Service (SEBIN) raided the headquarters of the Fundación Futuro Presente on the grounds that the entity allegedly financed the logistics of training mercenaries in Colombia for the execution of a terrorist act.⁹¹ Likewise, on September 7, 2020, a group of officers of the Special Actions Force (FAES) of the Bolivarian National Police raided the headquarters of the NGO Acción Solidaria, an organization that provides medicines to people with chronic diseases such as HIV. Six members of this NGO were arrested in the course of the procedure.⁹²
61. In November and December 2020, the headquarters of the organizations "Alimenta la Solidaridad", "Mi Convive" and "Convite" were raided by security and intelligence forces, equipment was stolen and some bank accounts were frozen, due to police procedures that are being carried out to investigate the financing they receive and the humanitarian work they carry out through medicines, health care and food.⁹³

⁸⁶ Efecto Cocuyo. "ONG se-solidarizan con Provea y su director tras amenazas de Diosdado Cabello," January 13, 2020. Available at: <https://efectococuyo.com/politica/ong-se-solidarizan-with-provea-and-its-director-after-threats-from-diosdado-cabello/>

⁸⁷ Cepaz. Persecuted for defending human rights in pandemic. May 1, 2020. Available at: <https://cepaz.org/articulos/perseguidos-por-defender-los-derechos-humanos-en-pandemia/>

⁸⁸ IACHR. Venezuela Country Report: Human Rights Situation in Venezuela. 2017. P. 46.e

⁸⁹ Tal Cual. PNB raided the headquarters of NGO Prepara Familia: They tried to seize medical material. January 14, 2020. Available at: <https://talcualdigital.com/pnb-allana-ilegalmente-sede-de-ong-prepara-familia/>

⁹⁰ El Universal. Sebin raided headquarters of Fundación Futuro Presente. June 4, 2020. Available at: <https://www.eluniversal.com/politica/72411/sebin-allano-sede-de-fundacion-futuro-presente>

⁹¹ IACHR. 1039-17. Resolution 42/2020, August 6, 2020 (AMPLIACIÓN)⁹ Todos Ahora. "Ministerio Público del régimen ordenó allanar a la fundación Futuro Presente" (Public Prosecutor's Office of the regime ordered to raid the Futuro Presente foundation). Available at: <https://www.todosahora.com/venezuela/ministerio-publico-del-regimen-ordeno-allanar-a-la-fundacion-futuro-presente/>

⁹² El Impulso. FAES raids headquarters of NGO Acción Solidaria and arrests 6 of its members #7Sep. 7 September 2020. Available at: <https://www.elimpulso.com/2020/09/07/faes-allana-sede-de-ong-accion-solidaria-y-detiene-a-6-de-sus-miembros-7sep/>

⁹³ Chronicle One. "The house of the parents of Roberto Patiño, director of Alimenta la Solidaridad, is raided and bank accounts of the organization are frozen". November 25, 2020. Available at: <https://cronica.uno/allanan-la-casa-de-los-padres-de-roberto-patino-director-de-alimenta-la-solidaridad-y-congelan-cuentas-bancarias-de-la-organizacion/>; El Nacional. "FAES burst into the headquarters of the NGO Acción Solidaria." September 7, 2020. Available at: <https://www.elnacional.com/venezuela/faes-irrupcio-en-la-sede-de-la-ong-accion-solidaria/>; El Diario. "Another blow to NGOs: Convite headquarters raided by regime officials". December 15, 2020. Available at: <https://eldiario.com/2020/12/15/convite-allanamiento-sede/>

62. On January 12, 2021, in the city of Maracaibo, in the state of Zulia, the headquarters of the non-governmental organization Azul Positivo, an organization with 16 years of trajectory, which carries out preventive health actions against HIV-AIDS, was raided by a mixed commission of state agents including several members of the Criminal Investigation Service of the state of Zulia (SIPEZ) and the DGCIM, based on the execution of an administrative procedure for the activities of the organization's humanitarian assistance program in the state of Zulia. Subsequently, 6 members of the organization were arrested and charged with the crimes of fraudulent handling of smart cards or similar instruments, criminal association and money laundering.⁹⁴
63. Moreover, the director of FundaREDES, found himself detained in July 2021 following his exposure of harassment by state entities. As two long years have transpired, he patiently awaits justice, all the while grappling with a deteriorating health condition exacerbated by the absence of adequate medical care.⁹⁵
64. Defiende Venezuela's work has not been without its challenges and hostilities. On Thursday, August 24, 2023, a video appeared on the YouTube account "Venezolandia" accusing Defiende Venezuela, Sin Mordaza, Provea and Acción Solidaria of financing the presidential campaign of opposition leader M.C.M. On August 29, 2023, Mario Silva, host of the program "La Hojilla" broadcasted in the state channel VTV, broadcasted live the Venezolandia videos. At the end of his playback, he accused these people of having received payments from the opposition to betray the interests of the country. These facts reflect a growing political polarization and accusations of irregular financing in the Venezuelan political environment.⁹⁶
65. As can be seen, smear and stigmatization campaigns by the media, threats, harassment, illegal searches and arbitrary detentions are part of a pattern of persecution against organizations and individuals who defend human rights. The persecution seeks to demobilize anyone to prevent them from documenting, denouncing and disseminating the critical situation, which becomes more acute in times of pandemic,⁹⁷ even when the fundamental work of human rights defenders is recognized in international human rights conventions ratified by Venezuela.

Cases of intimidation and arbitrary detentions of labor union leaders

66. Venezuela has an unfavorable track record for union leaders. Between 2000 and 2018, the highest number of complaints have been exercised before the Committee on Freedom of Association of the International Labor Organization by Venezuelan trade union organizations.⁹⁸

⁹⁴ Monitoreamos.com. UN demands respect for the integrity and human rights of the workers of the NGO "Azul Positivo. January 12, 2020. Available at: <https://monitoreamos.com/destacado/onu-demands-respect-integrity-and-ddhh-from-workers-of-the-humanitarian-blue-positive-organization>

⁹⁵ OMCT. Venezuela: José Javier Tarazona continúa detenido arbitrariamente. November 11, 2022. Available at:

<https://www.omct.org/es/recursos/llamamientos-urgentes/venezuela-jos%C3%A9-javier-tarazona-contin%C3%B9a-detenido-arbitrariamente>

⁹⁶ Youtube. La Hojilla with Mario Silva August 29, 2023. Available at: <https://www.youtube.com/watch?v=nNvVtHrIQGs>

⁹⁷ Cepaz. Persecuted for defending human rights in pandemic. May 1, 2020. Available at: <https://cepaz.org/articulos/perseguidos-por-defender-los-derechos-humanos-en-pandemia/>

⁹⁸ PROVEA. Informe Especial | Política de Estado contra la libertad sindical en Venezuela: criminalización y encarcelamiento de sindicalistas 2021. Publicado el 1 de mayo de 2021. Disponible en: <https://provea.org/publicaciones/especial-politica-de-estado-contra-la-libertad-sindical-envenezuela-criminalizacion-y-encarcelamiento-de-sindicalistas-2021-2/>

67. OHCHR, indicated that between 2018 and 2019, several union leaders and many workers were arbitrarily dismissed and detained. union leaders and many workers who had protested in demand for decent wages and working conditions were arbitrarily dismissed and detained.4 decent working conditions.⁹⁹
68. Venezuelan civil society organizations have also been engaged in denouncing abuses by the Venezuelan State against union leaders. The Non-Governmental Organization Espacio Público, denounced the case of a worker and union member of CORPOELEC, who was arrested on February 14, 2018, for warning in an audio that electrical failures were increasing in frequency and that some processes should be corrected, otherwise the Venezuelan electrical system would suffer a collapse. The fact was considered by SEBIN as "dissemination of false information to cause panic and anxiety".¹⁰⁰
69. That situation was replicated in the case of a union leader and Executive Director of the United Federation of Venezuelan Workers, who had been arrested and imprisoned on November 18, 2020 by officials of the DGCIM in Puerto La Cruz, Anzoátegui, for leading some demonstrations demanding the reactivation of the SICOPROSA insurance, salary increase and the restitution of several contractual benefits in the Venezuelan oil industry; as well as for denouncing through his Twitter account, the irregularities of the state-owned Petróleos de Venezuela (PDVSA) related to the production and distribution of fuel in the country which, at that time, was going through a severe crisis during the context of the COVID-19 pandemic.¹⁰¹
70. In 2023, the persecution, detention and conviction of union leaders increased. On January 9, workers of several companies that make up the CVG protested in favor of their labor rights, the State responded with a strong repression and massive detention of at least 12 workers who must face charges of instigation to hatred, agitation, association to commit crimes and disturbance of the public order¹⁰². This situation was repeated again in June 2023, when 3 SIDOR workers disappeared and were imprisoned, after a new wave of protests due to the failure of the State to comply with the agreements signed in January 2023, they are currently imprisoned in the DGCIM of Boleita.¹⁰³
71. At the same time, different workers' unions composed of teachers, nurses and administrative employees from different sectors, active and retired workers, called for national protests against the ONAPRE instructions¹⁰⁴.

⁹⁹ ACNUDH. Situación de los derechos humanos en la República Bolivariana de Venezuela. 4 de julio de 2019. Párr. 36. Disponible en: <https://www.refworld.org.es/docid/5d1e31224.html>

¹⁰⁰ Espacio Público. "Detienen a Sindicalista de Corpoelec por denunciar el colapso eléctrico". Publicado el 16 de febrero de 2018. Disponible en: <https://espaciopublico.org/detienen-sindicalista-corpoelec-denunciar-colapso-electrico/>

¹⁰¹ Espacio Público. "Excarcelan al sindicalista Eudis Girot tras 1 año y 7 meses detenido". Publicado el 26 de abril de 2022. Disponible en: <https://espaciopublico.org/excarcelan-al-sindicalista-eudis-girot-tras-1-ano-y-7-meses-detenido/>

¹⁰² Correo del Caroní. Twitter (@francescadiasm). Tweet publicado el 12 de enero de 2023. Disponible en: <https://twitter.com/francescadiasm/status/1613634783481073664>. Runrunes. "Oficialismo disolvió protesta en Sidor con detenciones, amedrentamiento y sin conceder aumento". Publicado el 16 de enero de 2023. Noticia digital disponible en: <https://runrun.es/noticias/492620/oficialismo-disolvio-protesta-en-sidor-con-detenciones-amedrentamiento-y-sin-conceder-aumento/>

¹⁰³ Familiares de trabajadores de Sidor detenidos por la Dgcim aún desconocen su paradero. 13 de junio de 2023. Disponible en: <https://eldiariodeguayana.com.ve/familiares-de-trabajadores-de-sidor-detenido-por-la-dgcim-aun-desconocen-su-paradero/>

¹⁰⁴ El Diario. "¿Qué es el instructivo de la Onapre y por qué los trabajadores públicos piden su anulación?". Publicado el 30 de agosto de 2022. Noticia digital disponible en: <https://eldiario.com/2022/08/04/que-es-el-instructivo-de-la-onapre/>.

72. On January 15, 2023, armed pro-government groups, called "colectivos", disseminated a video in which they exhort, with a threatening tone, not to protest for salary increases in Maracay and other cities of Aragua. The self-styled "colectivo" affirmed that its group is organized and monitoring the protests, with the willingness to take to the streets to "defend the peace of the country" if necessary. In Apure, a commander of the Bolivarian National Guard, Frank Freites, threatened teachers for exercising their right to public demonstration with sending paramilitary groups known as "colectivos", organized and financed by the dictatorship, in an attempt to dissolve the protests.¹⁰⁵
73. One of the most affected union groups is Coalición Sindical Nacional de Trabajadores (CSNT), who were granted precautionary measures by the IACHR due to repeated attacks against their personal integrity and freedom of association.¹⁰⁶
74. Recently, in August 2023, six union leaders were sentenced to 16 years in prison for exercising their right to freedom of expression and association. The Attorney General of the Bolivarian Republic of Venezuela, stated on August 3, 2023 that "these subjects were not prosecuted for requesting salary improvements, but were being tried for carrying out conspiratorial acts against the State. Whoever transgresses the law and as a psychopath breaks the rules, is investigated and finally convicted."¹⁰⁷
75. Recently, in September 2023, another subject was linked to the cause of the convicted union leaders, a student of the Central University of Venezuela, who is also a member of the Users' Commission of the University's dining hall. After his arrest by State security forces, he was missing from August 23 until August 31, when his relatives found out his whereabouts at the PNB headquarters in Los Chaguaramos, Libertador municipality of Caracas.¹⁰⁸
76. His lawyers denounce that the student was subjected to acts of torture and mistreated by the police officers who interrogated him, who took his belongings and forced him to record a video in which he himself stated his links with the trade unionists taken to prison and described their terrorist activities.¹⁰⁹

Conclusions and suggested recommendations for consideration by the Committee

77. In light of the findings presented, it is imperative for the committee to recommend that Venezuela undertake the following measures to effectively address human rights violations within the

¹⁰⁵ Diario las Américas. "Paramilitares del chavismo amenazan a docentes en protesta". Publicado el 22 de Enero de 2023. Noticia digital disponible en: <https://www.diariolasamericas.com/americas-latina/paramilitares-del-chavismo-amenazan-docentes-protesta-n5328821>

¹⁰⁶ Ver en: https://www.oas.org/en/iachr/isForm/?File=/en/iachr/media_center/preleases/2023/056.asp

¹⁰⁷ El Nacional. Tarek William Saab sobre los activistas condenados a 16 años de cárcel: "Fueron procesados por conspirar contra el Estado". 03 de agosto de 2023. Disponible en: <https://www.elnacional.com/venezuela/tarek-william-saab-sobre-los-activistas-condenados-a-16-anos-de-carcel-fueron-procesados-por-conspirar-contra-el-estado/>

¹⁰⁸ <https://elpais.com/internacional/2023-09-08/la-detencion-de-un-universitario-bajo-acusaciones-de-terrorismo-pone-en-alerta-a-las-ong-en-venezuela.html>

¹⁰⁹ Idem

country. These recommendations may be considered as potential discussion points to be included in the Closing Remarks of the examination.

- a. Ensure that, in accordance with Article 9 of the Covenant, individuals deprived of their liberty enjoy all fundamental legal safeguards from the moment of deprivation of liberty.
- b. Guarantee that no individual is subjected to arbitrary detention and ensure that all individuals facing charges have access to a fair and impartial trial.
- c. Heighten efforts to ensure the effective prevention of torture and ill-treatment and to penalize those responsible for such acts.
- d. Ratify the Optional Protocol against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the Inquiry Procedure under the Optional Protocol to the Convention on the Rights of the Child; and the Convention for the Protection of All Persons from Enforced Disappearance.
- e. Ensure that law enforcement operations are carried out primarily by civilian and not military authorities, to the greatest extent possible. Also that there is physical supervision by the Public Prosecutor's Office and that there is genuine judicial control by judges over police actions.
- f. Implement measures to prevent and effectively eliminate the excessive use of force by members of the security forces, particularly in situations involving protests, and bolster training in human rights and the appropriate use of force.
- g. The State must also ensure that all cases of violent deaths are promptly, thoroughly, independently, and impartially investigated, and that the perpetrators are brought to justice and duly sanctioned.
- h. Ensure that all human rights violations, including those that may have been committed by individuals with the tacit approval of state agents, are investigated promptly and comprehensively, with independence and impartiality, and that the perpetrators are brought to justice and receive sanctions commensurate with the severity of their actions.
- i. Provide robust protection to journalists, human rights defenders, social activists, and lawyers facing intimidation, threats, and attacks due to their work in monitoring and reporting on human rights issues and other matters of public interest.
- j. Ensure that no state agent takes actions or engages in acts that could be interpreted as intimidation, persecution, disqualification, or undue interference with the work of journalists, human rights defenders, social activists, lawyers, and members of the political opposition, or that violate their rights as outlined in the Covenant.
- k. Assure that all allegations regarding acts of intimidation and threats against human rights defenders, journalists and the civil society are promptly, thoroughly, independently, and impartially investigated, and that the perpetrators are brought to justice and appropriately sanctioned.