



Urgent request to open a preliminary examination in Venezuela

For crimes against humanity committed against the civilian population since February 2014

Group of Families of Venezuelan Victims

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About the authors:

The authors are a group of families of Venezuelan victims who are presented by Carlos Vecchio and Juan Carlos Gutiérrez. The allegations in this communication, drafted in collaboration with Joanna Frivet, Francisco José Quintana, Juancarlos Vargas and **[REDACTED]**,¹ stem from their first hand experience of the incidents during which their family members, not identified by name for security reasons, have suffered various forms of violence at the hands of the national security forces of the GoV and the pro government armed paramilitaries under the de facto control of the Presidency.

Due to the fear of being targeted for further violence, as so many families of victims have already been, these family members have chosen to remain anonymous at this stage but remain available to be interviewed by the Office of the Prosecutor on request.

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I. Introduction

The Group of Families of Venezuelan Victims hereby request the Prosecutor of the ICC to formally commence a preliminary examination on the alleged crimes committed by high level officials of the Government of Venezuela (GoV) at least in the Metropolitan District of Caracas and the states of Aragua, Táchira, Carabobo, Merida, Lara, Zulia and Miranda since the beginning of February 2014.

The crimes happened in the context of a largely peaceful uprising by unarmed civilians which started in early February 2014 prompted by the deteriorating socio-economic crisis in Venezuela. The GoV, including the President Maduro himself and members of his inner circle in high-level government positions, loosely labeled as “fascists” the demonstrators and any other individual perceived as dissidents and made them criminals using the Presidency’s control over the Office of the General Prosecutor and the Judiciary. Reliable and corroborated open sources information available demonstrate how, President Maduro with members of his inner circle constituting the Political High Command of the Bolivarian Revolution, designed a plan to prevent, restrict, punish dissent, organized and participated its implementation by committing crimes against humanity against the civilian population.

As part of this plan since February 2014, the President Maduro and members of his inner circle deployed the national security forces and pro government armed paramilitaries under the de facto control of the President which responded to widespread, initially peaceful demonstrations with brutal indiscriminate and disproportionate violence. The national security forces cracked down on the mostly peaceful demonstrators and civilians, the press and the political opposition perceived to be fascists unleashing excessive and indiscriminate force against them including by firing live ammunition directly at peaceful protestors during and in the immediate aftermath the demonstrations resulting in the death of at least between 33 to 36 civilians since February 2014 and the arbitrary arrest of at least 638 individuals who were freed after being detained without even being brought to court as required by law and the imprisonment of between 3,351 and 3,758 people.² As at 31 May 2015, there were still 77 political prisoners of which 12 students and six women.

² See the following figures: AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas. *Amnesty International*. [ONLINE] 24 March. Available from: <https://www.es.amnesty.org/uploads/media/DatosYCifrasVenezuelaMarzo2015.pdf> [Accessed 19 October, 2015]; and FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015). *United Nations* [ONLINE]. Available from: http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/VEN/INT_CCPR_CSS_VEN_20238_E.pdf Please note that while the AI figures relate to the period February 2014 to March 2015, the Foro Penal figures cover the period February 2014 to May 2015.

There is reliable and corroborated open source information which confirms that at least 437 individuals arrested during the protests were victims of torture according to the UN Committee against Torture and 138 victims of cases of torture or cruel and inhuman treatment according to Foro Penal.³

At least 878 civilians were injured since February 2014 according to official sources⁴ of which at least 138 were wounded by gunshot, 330 by pellets, 72 people by being beaten up, 34 people were injured by blunt objects and the remaining 280 wounded suffered injuries of various kinds.⁵

In addition, the persecution of a significant number of civilians perceived to be fascists, including political leaders, political activists, businessmen, media owners, employees, journalists and media employees as well as human rights and NGO leaders and lawyers, who have been victims of serious and repeated threats and attempts to their lives and liberties on the basis of their political beliefs. Although the exact numbers of cases are unconfirmed due to the fear of reporting victimization and the absence of adequate judicial remedies, the number of incidents, of individuals exiled following persecution and the consistency of the reports illustrate the existing policy of the GoV.

In many locations and on most occasions, the pro government armed paramilitaries, called on by the President himself and other high level officials, acted in coordination with the units of the national security forces deployed, under the protection of the army, the national and local police and the intelligence services.

In addition, as will be presented in more details, as a result of the de-facto supremacy of the Presidency over the judiciary, which it controls by making loyalist appointments, threatening temporary judges of being sacked and imprisoning dissident judges, the GoV has been implementing, a policy of para-judicial persecution against all those perceived as “fascists” by subjecting them to false and malicious prosecutions. This para-judicial persecution, which has been denounced repeatedly by the Inter-American Court of Human Rights, involves threatening individuals of being prosecuted, paralysing the judicial process and detaining demonstrators, individuals perceived as being fascists and members of the Government perceived as being wavering in their commitment to discredit them, legalise and legitimize the repression and thereby consolidate their claim to power by removing the dissidents from the political scene.

³ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings

⁴ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. *Amnesty International* [ONLINE] 24 March. Available from: <https://www.amnesty.org/en/documents/amr53/1239/2015/en/> [Accessed 19 October, 2015]

⁵ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos. *Programa Venezolano de Educación-Acción en Derechos Humanos* [Online] 6 July. Available from: <http://www.derechos.org/ve/pw/wp-content/uploads/Informe-final-protestas2.pdf> [Accessed 19 October, 2015]

Information will be presented to demonstrate the collusion between the judiciary and the Presidency which has been denounced by the Inter-American Court of Human Rights and secondly to show how pervasive this form of persecution was throughout the Venezuelan territories since February 2014.

The widespread violent repression and massive crack down on protestors has been denounced by many local and international NGOs including Foro Penal, IFEX,⁶ HRW, Amnesty International as well as regional organizations such as the OAS⁷ and the Inter American Court. But the GoV has been ignoring calls for moderation, refused to make reforms and despite promises for investigation and prosecution of perpetrators has made no significant progress.

The growing number of arbitrary arrests and incidents of violence and persecution continued to escalate the demonstrations after February 2014 until July 2015 after which the number of demonstrations decreased but the repression continued by other means.

Despite the widespread reports of crimes committed by GoV national security forces and pro government armed paramilitaries, in January 2015, the GoV implemented a new military strategy authorizing the use of lethal force on protesters and deployed untrained military officers against the protestors in February 2015 when civilians took the streets again to commemorate the anniversary of the start of the protests causing more deaths, casualties and arbitrary arrests.

The significant amount of corroborated open source information available confirms that the incidents presented meet the threshold for constituting at least the crimes against humanity of:

- a) murder pursuant to Article 7(a);
- b) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law pursuant to Article 7(e);
- c) torture pursuant to Article 7(f);
- d) persecution against any identifiable group on political grounds pursuant to Article 7 (h); and

⁶ See, for example: IFEX. (2014) Government gets aggressive with media in attempt to hide violence in Venezuela. [ONLINE] 14 February. Available from: https://www.ifex.org/venezuela/2014/02/14/protests_violent_caracas [Accessed 19 October, 2015]; See also: IFEX. (2015) Profile: Rayma Suprani. *International Freedom of Expression Exchange*. [ONLINE] 29 September. Available from: <https://www.ifex.org/venezuela/> [Accessed 19 October, 2015]

⁷ OAS Permanent Council, 7 March 2014 says they reject “all forms of violence and intolerance, while calling on all sectors for peace, calm and respect for human rights and fundamental liberties including the rights to freedom of expression and peaceful assembly, freedom of movement, health and education”

- e) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health pursuant to Article 7 (h) of the Rome Statute were committed.

It is submitted, in light of the information presented in this report, that the situation is “not manifestly outside the jurisdiction of the Court” and that the OTP should formally commence a preliminary examination in the situation involving crimes committed against the civilians in Venezuela since February 2014.

The authors understand that the process of preliminary examination as well as the standards applicable for review are spread over different phases and as such that further information may be required in due course should the Office of the Prosecutor (OTP) decide to formally commence a preliminary examination. As such they undertake to provide full cooperation, as and when required, to facilitate the OTP’s access to further information available to it, in particular to facilitate access to victims and other local NGOs in the relevant areas.

The request is classified as urgent in light of the upcoming elections in Venezuela scheduled for the 6 December 2015 and the threats made by President Maduro: “If the right group [the opposition parties] takes the election many very grave things would happen including street confrontations (...) I will be the first person to go to the streets to defend with the people our revolution. Our country can only be governed by revolutionaries (...). the opposition should pray and light candles to their saints so that the elections are won by us otherwise it would be total chaos. (...) I swear that under no circumstances would I surrender the achievements of our revolutions. I will not betray our people. Lets be prepared to defend our homeland and to win in any way, at any cost because our future is in play. Massacre and death will take place if the chavista revolution fails.”⁸

These threats coming from the President of a state party are particularly concerning considering the significant number of civilian casualties and political prisoners already made by the GoV since February 2014. The prompt intervention of the Office of the Prosecutor is required to bring justice to the victims and to prevent further violence.

⁸ El Nacional. (2015) *El Nacional* [Online] 22 June 2015. Available from: http://www.el-nacional.com/politica/Maduro-lanzara-calle-oposicion-AN_0_651535042.html. [Accessed 4 November, 2015]

II. Jurisdiction

A. Territorial and temporal jurisdiction

Since Venezuela ratified the Rome Statute on 7 June 2000,⁹ the Court has jurisdiction over crimes perpetrated in the territory and/or by nationals of the Venezuela from 1 July 2002. As such the alleged crimes which form the focus of this communication committed since on or about February 2014 until the date of submission of this communication are under the temporal jurisdiction of the Court.

B. Material jurisdiction of the Court

Upon conducting research of corroborated open source material available on the crimes committed in the territory of Venezuela since February 2014, the authors have concluded that:

a) the violence on the territory of Venezuela during the relevant period has reached unprecedented levels, and that during and in the context of this attack, the crimes against humanity of:

- i) murder pursuant to Article 7(a);
- ii) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law pursuant to Article 7(e);
- iii) torture pursuant to Article 7(f);
- iv) persecution against any identifiable group on political grounds pursuant to Article 7 (h); and
- v) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health pursuant to Article 7 (h) of the Rome Statute were committed.

b) there is a wealth of reliable and corroborated open source information which demonstrate that the GoV, under the leadership of President Maduro, has adopted a state policy to attack part of the civilian population perceived as dissidents to prevent, restrict, monitor, punish dissent and cover up crimes in order to retain power by all means including the commission of crimes against humanity.

Pursuant to this policy, between as from early February 2014, the GoV's national security forces under the de jure control of Maduro and pro government armed

⁹ Venezuela signed on 14 October 1998 and deposited its instrument of ratification of the Rome Statute on 7 June 2000. See: ICC. (2003) Venezuela. *International Criminal Courts*. [ONLINE] 11 March. Available from: http://www.icc-cpi.int/en_menus/asp/states%20parties/latin%20american%20and%20caribbean%20states/Pages/venezuela.aspx [Accessed 19 October, 2015]

paramilitaries under the de facto control of Maduro perpetrated a widespread and systematic attack against the civilians perceived as dissidents at least in the Metropolitan District of Caracas and the states of Aragua, Táchira, Carabobo, Merida, Lara, Zulia and Miranda resulting in:

- i) the death of between 33 to 36 civilians since February 2014;¹⁰
- ii) the imprisonment of between 3,351 and 3,758 people who were arrested in the protests since February 2014.¹¹ Amnesty International reported that of the five cases it investigated all of them had been arbitrarily detained¹² while Foro Penal reported at least 638 cases of arbitrary arrests where individuals were freed after being detained without even being brought to court as required by law. As at 31 May 2015, there were still 77 people incarcerated for political motives, of which 12 students and six women.
- iii) the torture of 437 individuals during the protests¹³ reported by the UN Committee against Torture and 138 cases of torture or cruel and inhuman treatment during detention registered by Foro Penal.¹⁴
- iv) other inhumane acts inflicted on at least 878 civilians injured since February 2014 according to official sources¹⁵ of which at least 138 were wounded by gunshot, 330 by pellets, 72 people by being beaten up, 34 people were injured by blunt objects and the remaining 280 wounded suffered injuries of various kinds.¹⁶
- v) the persecution of a significant number of civilians perceived to be fascists, including political leaders, political activists, businessmen, media owners,

¹⁰ AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas; Also see: LA PATILLA. (2014) Así marchó la oposición en Venezuela. *La Patilla*. [ONLINE] 12 February. Available from: <http://www.lapatilla.com/site/2014/02/12/asi-marcho-la-oposicion-en-venezuela-fotos/> [Accessed 19 October, 2015]; Also see: FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings

¹¹Please note that while the AI figures relate to the period February 2014 to March 2015, the Foro Penal figures cover the period February 2014 to May 2015. See: AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas; Also see: FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings

¹²Opposition leader, Leopoldo López; the mayor of San Cristobal and opposition leader, Daniel Ceballos, LGBTI activist Rosmit Mantilla remain detained while Marcelo and Christian Holdack Crovato have been released pending trial. See: AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas

¹³AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas

¹⁴FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings

¹⁵AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity

¹⁶PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos

employees, journalists and media employees as well as human rights and NGO leaders and lawyers, who have been victims of serious and repeated threats and attempts to their lives and liberties on the basis of their political beliefs. Although the exact numbers of cases are unconfirmed due to the fear of reporting victimization and the absence of adequate judicial remedies, the numerous incidents of exiled individuals and the consistency of the reports illustrate the existing policy of the GoV.

All of the crimes allegedly committed since early February 2014 until the submission of this communication appear to fall within the jurisdiction of the ICC. In the below paragraphs, the authors provides summarized information on the places and the time-period of the alleged commission of the crimes, and the persons or groups involved. It is to be noted that while general allegations will be made in relation to each crime relying on open source corroborated by civil society organizations, selected specific incidents that are particular illustrative of the allegations will also be presented to illustrate the serious nature of the allegations and to demonstrate that there is at least substantial grounds to suspect that crimes within the jurisdiction of the Court are being committed, requiring further analysis and consideration by the OTP through the preliminary examination process.

1. Factual allegations

The main affected areas of the violence arising from the situation include at least cities and residential neighbourhoods in the Metropolitan District of Caracas and the states of Aragua, Táchira, Carabobo, Merida, Lara, Zulia and Miranda.

On 14 April 2013, Nicolás Maduro, who had been designated as Chávez's successor by Chávez himself, narrowly won the elections called for following the death of former President Hugo Chávez¹⁷ by 50.8%.¹⁸

Shortly after this victory, Maduro's leadership was challenged by Henrique Capriles, runner-up and opposition leader and by masses of civilians, who claimed that

¹⁷ The CNE's first bulletin, with over 99 per cent of the votes counted, indicated Maduro had won with 7,505,338 votes (50.66 per cent) over Capriles who obtained 7,270,403 (49.07 per cent).

¹⁸ NYT. (2013) Maduro gained 50.8% of the vote to 49.1% to Capriles. Venezuela Gives Chávez Protégé Narrow Victory. *New York Times*. [Online] 14 April. Available from: <http://www.nytimes.com/2013/04/15/world/americas/venezuelans-vote-for-successor-to-Chavez.html> [Accessed 7 September] (noting that in an unexpectedly close race, Nicolás Maduro, Hugo Chávez's handpicked political heir, was chosen by Venezuelans to serve the remainder of Chávez's six-year term as president); See: USA TODAY. (2013) Officials say Maduro defeated Henrique Capriles by only about 200,000 votes. *USA Today*. [Online] Available from: <http://www.usatoday.com/story/news/world/2013/04/14/venezuela-election-maduro-capriles/2081677/> [Accessed 28 August, 2015] (Noting that Venezuelan officials say Nicolás Maduro defeated Henrique Capriles by only about 300,000 votes; the margin was 50.8% to 49.1%)

irregularities had occurred during the electoral process¹⁹ and demanded a recount, in light of the refusal of the NEC to audit the results.²⁰ The government initially responded by deploying National Guard Riot troops with armoured vehicles, which fired tear gas, but it later withdrew them.²¹ Scores of demonstrators were detained.²² A group of political parties – called the Democratic Unity Roundtable (Mesa de la Unidad Democrática (MUD)) also challenged the result through national courts, but their claims were dismissed.²³

Facing this mass popular challenge to his leadership,²⁴ Maduro and members of his inner circle, which he had placed in strategic positions in the GoV due to the broad scope of powers attributed him as the President, designed a campaign to quell and silence dissent against the regime in order to maintain power by any means including the commission of crimes against humanity against civilians.

Firstly, as early as in May 2013, Maduro and members of his inner circle in high level government positions developed a policy of exploiting real or perceived grievances between different political ideologies, promoting the idea of a polarization between those aligned with him and the perceived dissidents which he considered to be threats to his government. Maduro himself, his inner circle and high level public officials started to loosely brand anyone who disagreed with the regime, whether they are students protesting against the crime rate, citizens pacifically demanding changes to GoV policies, mayors, political opposition members or journalists as ‘fascist’ to identify them as enemies of the state. Maduro himself promised to use an “iron fist” against the fascists and to put them all in prison, turning them into criminals. Maduro made personal threats against many individuals including Leopoldo Lopez,²⁵ Antonio Ledezma,²⁶

¹⁹ ICG. (2013) Venezuela: A House Divided. *International Crisis Group*. [Online] 16 May. Available from: <http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/b028-venezuela-a-house-divided.aspx>. [Accessed 19 October, 2015] p.6.

²⁰ NOTICIAS24. (2013) Este es el discurso completo de Tibisay Lucena durante la proclamación de Maduro. *Noticias24*. [Online] 15 April. Available from: <http://www.noticias24.com/venezuela/noticia/162903/este-es-el-discurso-completo-de-tibisay-lucena-durante-la-proclmacion-de-maduro/> [Accessed 19 October, 2015]

²¹ ICG. (2013) Venezuela: A House Divided. p.7

²² ICG. (2013) Venezuela: A House Divided. p.12

²³ EUROPAPRESS. (2013) Equipo de Capriles rechaza supervisar la auditoria de las presidenciales por metodos empleados por CNE. *Europapress*. [Online] 30 April. Available from: <http://www.europapress.es/latam/venezuela/noticia-venezuela-equipo-capriles-rechaza-supervisar-auditoria-presidenciales-metodos-empleados-cne-20130430201348.html> [Accessed 19 October, 2015]

²⁴ ICG. (2013) Venezuela: A House Divided. p.7

²⁵ EL UNIVERSAL. (2013) López a Maduro: Aquí el asustado eres tú porque presentamos tu ilegitimidad. *El Universal*. [Online] 7 May. Available from: <http://www.eluniversal.com/nacional-y-politica/130507/Lopez-a-maduro-aqui-el-asustado-eres-tu-porque-presentamos-tu-ilegitim> [Accessed 19 October, 2015]; ULTIMAS NOTICIAS. (2013) Maduro: En su momento mandaremos a Leopoldo López a Tocrorón. *Ultimas Noticias*. [Online] 21 November. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/video---maduro-en-su-momento-mandaremos-a-leopoldo.aspx> [Accessed 19 October, 2015]; CRONIASTA. (2014) Violencia en

Daniel Ceballos and the successor of Scarano as San Diego mayor following his arrest.²⁷ Adán Chávez, Governor of Barinas, member of the PSUV and brother of former President Chávez, threatened the mayors José Luis Machín and Ronald Aguilar by stating that they could end like Scarano and Ceballos.²⁸ On 27 March 2014, Tareck El Aissami, Governor of Aragua and member of the PSUV, accused Delson Guárate, mayor of Iragorry, of perpetrating the crimes of instigation of violence and committing terrorism, conspiracy and murders.²⁹

Secondly, Maduro and members of this inner circle, designed and implemented a nationwide security plan - called the Homeland Security plan, to prevent, restrict, monitor, punish dissent and cover up the crimes.

As from May 2013, Maduro deployed the 37,000 National security forces under his de jure control, including the National Bolivarian Guard, the National Police and the intelligence services, as well as the national police under his de facto control across the Venezuelan territory to implement the GoV's policy of repression.

Given the absence of an armed resistance in Venezuela, those designated as "fascists" were all unarmed civilians showing dissent against the GoV.³⁰ Maduro publicly threatened the perceived dissidents with his a policy of persecution implemented through the militarization of residential neighbourhoods implementing rings spaces around villages with checkpoints held by the Bolivarian Army and the National Guard with the authority to conduct body inspections and verification of papers; constant patrolling rounds within communities "seeking contact with people, processing

Venezuela: Maduro amenazó con detener a quienes se movilizan "sin permiso." *Cronista*. [Online] 13 February. Available from: <http://www.cronista.com/internacionales/-Violencia-en-Venezuela-Maduro-amenazo-con-detener-a-quienes-se-movilicen-sin-permiso-20140213-0084.html> [Accessed 19 October, 2015]

²⁶ LA NACION. (2015) Nicolás Maduro: "Ledezma debe responder a la Justicia por los delitos cometidos contra la paz del país." *La Nación*. [Online] 20 February. Available from: <http://www.lanacion.com.ar/1769832-nicolas-maduro-ledezma-debe-responder-a-la-justicia-por-los-delitos-cometidos-contra-la-paz-del-pais> [Accessed 19 October, 2015]

²⁷ MADURADAS. (2014) DICTADOR SUELTO! Maduro al próximo alcalde de San Diego: El primer paso en falso va preso. *Maduradas*. [Online] 23t April. Available from: <http://www.maduradas.com/dictador-suelto-maduro-al-proximo-alcalde-de-san-diego-el-primer-paso-en-falso-va-presos/> [Accessed 19 October, 2015]

²⁸ LA PATILLA. (2014) Adán Chávez se suma a las amenazas de encarcelamiento a alcaldes opositores. *La Patilla*. [Online] 21 March. Available from: <http://www.lapatilla.com/site/2014/03/21/adan-chavez-se-suma-a-las-amenazas-de-encarcelamiento-a-alcaldes-opositores/> [Accessed 19 October, 2015]

²⁹ NOTICIAS24. Denuncia ante el MP a Delson Guárate por "actos terroristas": "Lo espera una celda fría." *Noticias 24*. [Online] 27 March. Available from: <http://www.noticias24.com/venezuela/noticia/230797/gobernador-tareck-el-aissami-denunciara-a-alcalde-nelson-guarate/> [Accessed 19 October, 2015]

³⁰ VALL, J.A.G. (2014) El mantra fascista de Maduro. *Martinoticias*. [Online] 27 February. Available from: <http://www.martinoticias.com/content/venezuela-mantra-fascismo/32462.html> [Accessed 19 October, 2015]

information and neutralizing the disturbers of the public peace” and the deployment of Intelligence Services nationwide for surveillance and patrol.

It is in this context that, spontaneous civil protests started in early February 2014 in San Cristobal, Táchira State.³¹ Students, prompted by the deteriorating socio-economic crisis and the lack of security in Venezuela, in particular an incident of rape on the campus, spontaneously yet peacefully set out to demonstrate on the campus their disapproval of GoV policies demanding reforms. The demonstration was repressed with disproportionate violence by the local police, and ended with a number of students and police officers wounded, and two students arbitrarily arrested because they were suspected of taking pictures and filming the repression with their mobile phones. The arrested students were also severely injured by the police agents.³²

During the following days including on the 6 and 7 February 2014, in reaction to the arrest of the two students,³³ a series of protests were started by students in several cities across the country, including in and around San Cristóbal, Mérida and Maracaibo³⁴ calling for the students’ release.³⁵

Thirdly, President Maduro, in collaboration with members of his inner circle deployed the National Guard, the National Police, the local police, the intelligence services under his de jure control and called on the pro government armed forces under his de facto control to attack the demonstrators which he referred to as “right wing fascists”.³⁶

³¹ PRODAVINCI. (2014) 5 claves para entender las protestas estudiantiles en Venezuela. *Prodavinci*. [Online] 10 February. Available from: <http://prodavinci.com/2014/02/10/actualidad/5-claves-para-entender-las-protestas-estudiantiles-en-venezuela/> [Accessed 19 October, 2015]

³² EL NACIONAL. (2014) Liberaron a estudiantes detenidos por protestas en ULA Táchira. *El Nacional*. [Online] 6 February. Available: http://www.el-nacional.com/regiones/Liberaron-estudiantes-detenido-ULA-Tachira_0_350365216.html [Accessed 19 October, 2015]

³³ These students were conditionally released on February 5. OJO, R. (2014) ¿Qué ocurrió en la Universidad de Los Andes de Táchira? *Ojo*. [Online] 6 February. Available from: <http://revistaajo.com/2014/02/06/que-ocurrio-en-la-universidad-de-los-andes-de-tachira/> [Accessed 19 October, 2015]

³⁴ OJO, R. (2014); Also see: EL NACIONAL. (2014) Liberaron a estudiantes detenidos por protestas en ULA Táchira

³⁵ Venezuela Charges Opposition Leader, Protests Erupt, YAHOO!, Apr. 5, 2014, available at <http://news.yahoo.com/jailed-venezuelan-opposition-leader-formally-charged-185439105.html>; Venezuela Forces ‘Clear’ Protest City of San Cristobal, supra note 91; Venezuela Court Rejects Release of Opposition Leader, YAHOO!, Mar. 28, 2014, available at <http://news.yahoo.com/venezuela-court-rejects-release-opposition-leader-184521764.html>; What Lies Behind the Protests in Venezuela?, supra note 90; Vivia Sequera, Did Attempted Rape Ignite Venezuela’s National Protests?, CHRISTIAN SCIENCE MONITOR, Feb. 22, 2014, Sequera, V. (2014) Did attempted rape ignite Venezuela's national protests? *The Christian Science Monitor*. [Online] 22th February. Available from: <http://www.csmonitor.com/World/Latest-News-Wires/2014/0222/did-attempted-rape-ignite-Venezuela-s-nationalprotests> [Accessed 19 October, 2015]

³⁶ CNN. (2014) Manifestantes en Táchira: ¿Estudiantes o “fascistas”? *CNN*. [Online] 6 February. Available from: <http://cnnespanol.cnn.com/2014/02/06/tension-por-enfrentamientos-entre->

President Maduro also called on pro government armed paramilitaries under his de facto control to join the GoV national security forces deployed to defend the state against the fascists. This is evidenced by the fact that on March 5 2014, Maduro personally called on the pro government armed paramilitaries to “extinguish the demonstrators” on National TV as part of a mandatory broadcast (cadena nacional). He said: “These groups of *guarimberos*, fascists and violent [people], and today now other sectors of the country’s population as well have gone out on the streets, I call on the UBCh, on the communal councils, on communities, on colectivos: flame that is lit, flame that is extinguished.”

Similarly, on February 16 2014, the Governor of the state of Carabobo, Francisco Ameliach, issued a tweet calling on the Unidades de Batalla Bolívar-Chávez (UBCh)—a group of pro government armed paramilitaries under the de facto control of Maduro to launch a rapid counterattack against protesters. Ameliach said the order would come from the President of the National Assembly, Diosdado Cabello, a close ally of President Maduro. The February 16 tweet, which was later deleted from his feed, said: “UBCH get ready for the swift counterattack. Diosdado will give the order. #GringosAndFascistsShowRespect”

The pro government armed paramilitary groups responded to both these tweets by deploying in coordination with the national security forces to respond violently to:

- i) the demonstrations of students on 6 and 7 February 2014 in San Cristóbal;
- ii) the student demonstrations on or about the 8 to the 12th February 2014 in many cities across the county, including in the Metropolitan District of Caracas and the states of Aragua, Táchira, Carabobo, Merida, Lara, Zulia and Miranda;³⁷
- iii) the civilian demonstrations on 12 February 2014 across Venezuela including in the Metropolitan District of Caracas and the states of Aragua, Táchira, Carabobo, Merida, Lara, Zulia and Miranda;
- iv) the regular civilian demonstrations diversified to include pacific marches, gatherings (concentrations) and barricades (“*guarimbas*”) from on or about the 13 February 2014 to the end of October 2014 across Venezuela including in the Metropolitan District of Caracas and the states of Aragua, Táchira, Carabobo, Merida, Lara, Zulia and Miranda;
- v) the civilian demonstrations including pacific marches, gatherings (concentrations) and barricades (“*guarimbas*”) from on or about early February

[estudiantes-y-policias-en-tachira-venezuela/](#) [Accessed 19 October, 2015]; Also see: CAMPOS, G. (2014) Maria Gabriela Varela en Conclusiones CNN. *Youtube*. [Online] 8 February. Available from: <https://www.youtube.com/watch?v=sE-bwZegEn8> [Accessed 19 October, 2015]; Also see: ROJAS, L. (2014) El enfrentamiento entre Fernando del Rincón y la secretaria de Gobierno del Táchira. *Youtube*. [Online] 2 July. Available from: <https://www.youtube.com/watch?v=0X3ZGJqLGUg> [Accessed 19 October, 2015]

³⁷ CNN. (2014) Manifiestantes en Táchira: ¿Estudiantes o “fascistas”?

2014 to June 2014 and thereafter from January to August 2015.

The national security forces deployed in coordination with the pro government armed paramilitaries, routinely used indiscriminate and excessive force against unarmed protestors across the various cities in Venezuela including by the firing live ammunition on the crowd and rubber bullets at close range against unarmed civilian protestors causing a significant number of deaths and injuries. They made inappropriate use of riot gear, tear gas and rubber bullets to beat up and shoot unarmed civilians within close range directly at the bodies of the demonstrators causing the death of several individuals over the period.

The National Security forces pursuant to the GoV's policy also coordinated attacks with members of the pro government armed paramilitaries dressed in civilian clothes on motorcycles in various locations. In many incidents, the National Security forces were deployed together and acted in close coordination. The National security forces repeatedly in many locations encouraged and aided and abetted the attacks committed by the groups of pro government armed militias against the civilians by their direct and active contribution and/or their failure to intervene to prevent crimes against civilians. In many locations, National Security Forces gave way to members of the pro government armed paramilitaries dressed in civilian clothes on motorcycles and provided them with a safe passage to indiscriminately shoot at the crowd to disperse them without giving warnings and drive up to demonstrators as they were trying to escape to beat them up.

The attack on the demonstrators did not stop until all the civilians cleared the areas. The national security forces acting in coordination with the pro government armed paramilitaries systematically chased demonstrators into residential areas attacking civilians on the street and in their homes in the neighborhoods where demonstrators were trying to escape to.

They forcefully cleared barricades in several neighbourhoods established by civilians to protect themselves and to prevent the national security forces and the pro government armed paramilitaries from entering their neighborhoods. These peaceful manifestations were violently cleared by national security forces acting with members of the pro government armed paramilitaries firing rubber bullets, using tear gas and high-pressure water cannons on demonstrators without warning or giving them the option of leaving the area.

The National Security Forces acting in coordination with the pro government armed paramilitaries also systematically implemented a campaign pursuant to the GoV's policy to cover up the crimes committed during and in the context of the demonstrations. In several locations and across the whole period, the national security forces and pro

government armed paramilitaries systematically targeted individuals who had been taking photographs or filming protests, subjecting them to beatings, confiscating their cameras and mobile phones whether they were professional journalists or civilian or arbitrarily arresting them.

Fourthly, the national security forces under the leadership of Maduro implemented Maduro's policy of imprisonment of perceived dissidents by conducting a campaign of arbitrary arrests, illegal detention and persecuting detainees through acts of tortures and other inhumane acts to prevent, restrict, monitor, punish dissent and cover up the crimes in order to retain power by all means. Scores of demonstrators were arbitrarily arrested and illegally detained during and in the context of the demonstrations.

According to information released by the Office of General Prosecutor, at least 3351 civilians were arrested and detained from February to December 2014, while a local NGO report confirms that this number rose to 3758 in May 2015, of which 370 were minors.

The information available indicates that many people were not arrest and detained during the protests, but when they were either moving away from places of protest or in nearby areas or thereafter in the days following the protests. Some police records even indicate that arbitrary arrest and illegal detentions were ordered because officers assumed the people concerned were going to commit offences. Members of the security forces forced entry into homes in areas where roads had been blocked, arbitrarily arrested and illegally detained people without a warrant

Many of those arbitrarily arrested were subjected to short term detentions, being released after being subjected to mental and physical torture and abuses, without being charged. 92% of these people were arbitrarily arrested and illegally detained without an arrest warrant and were released without court order after being subject to short term detentions.

Detainees were not informed of the reasons for their detention. In many cases, the civilians were detained incommunicado without being allowed the right to contact a lawyer or their families. The authorities also did not notify families of the arrests and detention, forcing families and lawyers to visit different places to try to locate them. This happened also in cases involving minors and in several instances, the families and lawyers were deliberately misled by the national security forces in relation to the detention and location of detainees.

When lawyers visited the places of detention to request access to detainees and to police stations to find out the reasons for their detention, officials refused to provide

information on the grounds and circumstances of the arrests and denied them access to the detainees citing “orders from above”.

Dozens of detainees reported torture and other cruel, inhuman or degrading treatment of detainees by members of the national security forces and detention officers, at the time of arrest, detention, during transfer and at detention centers. While in detention they were kicked, beaten and threatened with death and sexual violence. The aim of the torture, cruel, inhuman or degrading treatment of detainees appears to have been to punish them for their participation, or alleged participation in the protests and threaten them from voicing dissent against the GoV.

Many were beaten by members of the National security forces and detention officers, who allegedly punched, kicked and hit detainees with blunt objects, such as helmets, including when detainees were being restrained on the ground at the time of detention. Others including female detainees were doused with water and then electric shocks were applied to their arms, breasts and genitals.

In many instances, all the detainees, both men and women, were held in the same room and kept blindfolded for several hours where they could hear those being beaten. Many were allegedly forced to kneel or stand for long periods at detention centers. Some were forced to watch while other detainees were beaten. Many were threatened that they would be killed and buried in pieces. In one reported case, an officer allegedly poured petrol onto a young detainee while threatening him.

Fifthly, this policy was implemented with the collaboration of Prosecutors in the Office of Public Prosecutions and judges under the de facto control of the President. The several Judges who publicly expressed their support for the GoV’s policy such as the President of the Supreme Tribunal of Justice have publicly expressed her support for the Executive’s revolutionary agenda both in her judicial work and public life where she has openly stated her agreement with proposals made by the President,³⁸ allowed the national security forces to remain unaccountable for and allowed Prosecutions to conduct proceedings against detainees in spite of flagrant abuses such as:

- a) arbitrary arrests;
- b) illegal short term detention without court order;

³⁸ DPLF et al. (2009) *Situation of the Judiciary in Venezuela: Due Process of Law Foundation, International Commission of Jurists, and Venezuelan Network of Peace Activists*. Document presented to the IACHR at the hearing of the same name held during its 134 Period of Sessions, March 24, 2009; also see: IACHR. (2009) *Democracy and Human Rights in Venezuela. Inter-American Commission on Human Rights*. [Online] 30 December. Available from: http://www.cidh.oas.org/countryrep/Venezuela2009eng/VE09CHAPIIIENG.htm#_ftnref119 [Accessed 22th August, 2015]

- c) severe abuse of process against detainees;
- d) acts amounting to torture and other inhumane acts;
- e) violation to the rights of the defendant including by being denied access to legal advice, prevented from notifying their families, being denied information on the charges until their appearance in court, denied the time to prepare their defence, denied the right to equality of arms;
- f) false and malicious charges being brought against the detainees ;
- g) cases with little to no evidence of the charges; and
- h) clear bias or lack of independence of the judges.

Despite the fact that these arrests were made pursuant to a GoV policy, these arrests and detentions of civilians perceived as dissidents made as a result of this GoV policy were unlawful in light of the fact that they were not made on the basis of legislations lawfully adopted and implemented in accordance with the Venezuelan Constitution and they were made with the main aim of targeting groups of civilians and persecuting them on the basis of political grounds.

In many cases, those arbitrarily arrested were charged with offences despite not having been caught committing any crime. Many were charged with criminal conspiracy (asociación para delinquir), under the Organized Crime and Terrorism Funding of Terrorism Act (Ley Orgánica contra la Delincuencia Organizada y Financiamiento al Terrorismo), which establishes prison sentences of six to ten years.

In order to sustain his plan to arrest all the perceived dissidents, whether they committed crimes or not, Maduro also implemented a policy, acting together with the General Prosecutor and members of the judiciary under his de facto control due to their loyalty to the PSUV, to subject the fascists to false, malicious and abusive prosecutions. Many civilians perceived as dissidents were arrested pursuant to charges, without foundation which are deliberately fabricated by the General Prosecutor and Prosecutors under the PSUV control.

Indications that the judiciary has participated in the cover up of the abuse of process is that none of the charges were dismissed despite the blatant and grave abuses committed by the Police and the General Prosecutor's office. Some charges were allowed to stand despite being brought based almost exclusively on police reports and, in several instances, on what was plausibly denounced by detainees as planted evidence.

The judges allowed cases to proceed and to be determined applying unjustifiably low thresholds of standard of proof to the Prosecution's evidence due to bias towards the GoV and relying exclusively on police reports despite allegations of abuse of process. Convictions and judicial decisions were based on minimalistic evidence such as a piece of barbed wire in some cases. Evidence in particular email correspondences presented

by the Prosecutor's office that was challenged in relation to its authenticity was admitted without granting proper weight to the lack of reliability of the material.

Furthermore the judiciary itself contributed to the abuse of process by conducting court hearings routinely and inexplicably in the middle of the night, a practice that was not common before, and with inexplicable delays forcing counsels and family members to wait for hours in courts, in military facilities, or in other where places hearings were held. The proceedings were conducted without affording an equal footing to the parties to defend themselves and a court where the bias is a little less than a fact publicly acknowledged.

In 296 cases where civilians have been released pursuant to court orders, the judges have imposed abusive conditions for conditional release (*medidas cautelares*) preventing the accused from exercising their fundamental rights to freedom of assembly and expression, such as prohibiting them from participating in demonstrations or talking to the media, confiscation of passports for indefinite period of time.

In addition, challenges that went against the interest of the state are overlooked or the findings were in the GoV's favour.

Sixthly, the GoV's policy to persecute the perceived dissidents did not stop at those within the GoV's custody. Using the presence of the national security forces and pro government armed paramilitaries deployed on the ground, the GoV also implemented a policy of persecution to further threaten the perceived dissidents who were released and those not arrested to prevent, restrict, monitor and punish dissent and cover up the crimes in order to retain power by all means.

Using the dialectic of conspiracy, Maduro and members of his inner circle criminalised dissent thereby legitimising and providing an unrestricted license to the national security forces and pro government armed paramilitaries to persecute perceived dissidents, their family members, friends and social support networks as well as anyone who loosely associated with or communicating with them.

This persecution targeted students who participated or allegedly participated in protests, political opponents, law professors, journalists, NGO members and businessmen. Dozens of journalists and civilians were threatened, harassed, assaulted and their cameras and mobile phones were confiscated by national security forces and members of the pro government armed paramilitaries. Offices of NGOs and political parties were broken into and sacked.³⁹

³⁹ EL NACIONAL. (2014) Atacan sede de Voluntad Popular en Zulia. *El Nacional*. [Online] 28 March. Available from: <http://www.el-nacional.com/politica/Atacan-sede-Voluntad-Popular->

Seventhly, the GoV further implemented a policy of denying and covering up the crimes by restricting access to social media platforms, restricting media licenses of TV broadcast companies and blocking broadcasts reporting about the GoV's involvement. The National Telecommunications Commission of Venezuela (Comisión Nacional de Telecomunicaciones de Venezuela, CONATEL) and the Social Accountability in Radio and Television Board (Directorio de Responsabilidad Social en Radio y Televisión) publicly criticized some media and indicated that their coverage violated the Social Accountability in Radio, Television and Electronic Media Act (Ley de Responsabilidad Social en Radio, Televisión y Medios Electrónicos), which stipulates that the media must not show images that condone violence or disturb public order.

The GoV also politicised the protests painting them as acts organized merely by opposition leaders to destabilise the GoV in order to avert the international scrutiny of their response. In addition, despite the fact that in a majority of the cases documented by civil society organizations and victims, eyewitnesses, lawyers, and journalists, corroborated by video footage and photographs, the protests were peaceful, the GoV deliberately alleged that the protests were violent to justify their use of force as a first means of managing the demonstrations and the indiscriminate attacks against the unarmed demonstrators.

Even in the few instances where small groups of individuals committed acts of violence, these were in most cases in response to the aggression of the national security forces and members of pro government armed paramilitaries and the protestors were unarmed, throwing stones or bottles, or burning vehicles while the militarised national security forces and members of the pro government armed paramilitaries confronted them with lethal weapons and non lethal weapons used disproportionately.

The GoV's cover up policy also included retaliation against several victims who reported the crimes. Members of judiciary, acting pursuant to the GoV's policy ignored

[Zulia_5_381011901.html](#) [Accessed 19 October, 2015]; SEIJAS, D. (2015) Colectivos Atacan sede de la ucsar por vista del Alcalde Ramón muchacho. *Unidad*. [Online] 10 June. Available from: <http://webcache.googleusercontent.com/search?q=cache:H3sfQZmi5F4J:www.unidadvenezuela.org/2015/06/colectivos-atacan-sede-de-la-ucsar-por-presencia-de-alcalde-ramon-muchaco/+&cd=15&hl=es&ct=clnk&gl=uk> [Accessed 19 October, 2015]; VENEZUELA AL DÍA. (2014) Allanan nuevamente sede de Voluntad Popular en Caracas. *Venezuela al Día*. [Online] 17 February. Available from: <http://www.venezuelaaldia.com/2014/02/allanan-nuevamente-sede-de-voluntad-popular-en-caracas-video> [Accessed 19 October, 2015]; LA PATILLA. (2014) Con bombas molotov atacan sede de AD. *La Patilla*. [Online] 13 March. Available from: <http://www.lapatilla.com/site/2014/03/13/con-bombas-molotov-atacan-sede-de-ad/> [Accessed 19 October, 2015]; EL UNIVERSAL. (2014) Sebin allanó sede de las ONG "Un Mundo Sin Mordaza" y "Humano y Libre." *El Universal*. [Online] 1 May. Available from: <http://www.eluniversal.com/nacional-y-politica/140501/sebin-allano-sede-de-las-ong-un-mundo-sin-mordaza-y-humano-y-libre> [Accessed 19 October, 2015]

complaints against Prosecutors and other public officials including member of the national security forces for abuse of power, abuse of process, and other crimes committed against the civilians perceived as dissident and detainees despite compelling evidence on the involvement of government officials including high level officials and influential individuals connected to the GoV.

Lastly, following the increasing tensions within Venezuela as the first anniversary of the start of the demonstrations was approaching in February 2015 and more demonstrations were anticipated, the GoV attempted to legitimise and legalise its violent response.

The Ministry of Defence announced a new policy on the 27 January 2015 formalizing the GoV's order to the national security forces to use lethal force including firearms and other weapons, to prevent what the government considers to be disorder and aggression against the elected government.

This constitutes an unequivocal order to the national security forces already reported to have committed violent crimes against the demonstrators to intervene in protests and use force against the protestors. Even though the wording of the directive provides for the use of lethal force when demonstrators are violent, it fails to provide for proportionality in the use of force and for the discriminate application of the force only to those individuals who are violent. The only safeguard of the provision is the requirement that firearms be used when it is "unavoidable". The absence of qualification of what amounts to a situation where use of a firearm is unavoidable especially with regards to units already alleged to have committed crimes, including by the use of excessive force, is bluntly insufficient to ensure that crimes will not be committed again.

Moreover, the resolution unleashes the same units of the national security forces previously deployed and blamed for crimes against the protestors without any additional training. This policy approved by Vladimir López Padrino, a General heading the Ministry of Defence, publicly and formally acknowledges the GoV's intention to quell protests by any means necessary including the commission of crimes against humanity and intends to legalise such a policy.

The protest which occurred in February 2015 were indeed repressed even more violently significantly increasing the number of casualties. The following months showed another peak in the use of violence against perceived dissidents and demonstrators and a change in the approach of the GoV resulted in at least 6 civilians were killed as a result of the alleged intervention of the national security forces and the pro government armed paramilitaries in the context of demonstrations. Several students, were found dead shot with their hands still tied behind their backs in the head a few days after being

abducted.⁴⁰

To this day, the GoV's campaign of repression is ongoing as Maduro is trying to remain in power as the congressional elections of 2015 are approaching.⁴¹ The number of casualties from the GoV's campaign of attacks against the civilian population is slowly but steadily increasing as the GoV had upped the level of violence it uses against civilians and renewed its attempts at legitimising its policies to prevent, restrict, monitor, punish dissent and cover up the crimes.

Comparing figures released by the Office of General Prosecutor and NGOs for different periods it is estimated that around 407 people were detained between December 2014 and May 2015. For instance, on February 19, SEBIN's officers broke into the office of the Mayor of Caracas, Antonio Ledezma, arbitrarily arrested and illegally detained him without arrest warrant.⁴² He is a member of the opposition party Alianza Bravo Pueblo and a member of the opposition alliance MUD.⁴³ Maduro stated about this incident on

⁴⁰ BBC. (2015) Lo que se sabe sobre la muerte de 6 estudiantes en Venezuela. *BBC Mundo* [Online] 15 February. Available from: http://www.bbc.com/mundo/noticias/2015/02/150225_venezuela_estudiantes_muertes_kluivert_dp [Accessed 22 October, 2015]; LA PATILLA. (2015) Van seis estudiantes muertos durante febrero. *La Patilla*. [Online] 23 February. Available from: <http://www.lapatilla.com/site/2015/02/23/van-seis-estudiantes-muertos-durante-febrero/> [Accessed 22 October, 2015]; PÉREZ, R.A. Qué pasa en Venezuela? Van 6 jóvenes muertos en 6 días de protestas. *Aleteia*. [Online] 23th February. Available from: <http://es.aleteia.org/2015/02/25/que-pasa-en-venezuela-van-6-jovenes-muertos-en-6-dias-de-protestas/> [Accessed 22 October, 2015]

⁴¹ VÁSQUEZ, A. (2015) El chavismo redobla la represión. *El Mundo*. [Online] 8 July. Available from: <http://www.elmundo.es/internacional/2015/07/08/559c2acb268e3e031c8b458d.html> [Accessed 22 October, 2015]; VÁZQUEZ-GER. (2015) Guía para entender las elecciones en Venezuela. *El País*. [Online] 26 August. Available from: http://internacional.elpais.com/internacional/2015/08/26/actualidad/1440606405_989887.html [Accessed 22 October, 2015]; INFOBAE. (2015) Venezuela: el chavismo está tercero en una encuesta para las elecciones parlamentarias. *Infobae Americana*. [Online] 28 July. Available from: <http://www.infobae.com/2015/07/28/1744543-venezuela-el-chavismo-esta-tercero-una-encuesta-las-elecciones-parlamentarias> [Accessed 22 October, 2015]; EL UNIVERSAL. (2015) Oposición venezolana irá unida a elecciones legislativas. *El Universal*. [Online] 24 July. Available from: <http://www.eluniversal.com.mx/articulo/mundo/2015/07/24/oposicion-venezolana-ira-unida-elecciones-legislativas> [Accessed 22 October, 2015]

⁴² SABIN, L. (2015) Mayor Antonio Ledezma arrested and dragged out of office 'like a dog' by police in Venezuela. *Independent*. [Online] 20 February. Available from: <http://www.independent.co.uk/news/world/americas/mayor-antonio-ledezma-arrested-and-dragged-out-of-office-like-a-dog-by-police-in-venezuela-10058691.html> [Accessed 22 October, 2015]; BBC. (2009) Fue legal la detención del líder opositor venezolano Antonio Ledezma? *BBC Mundo*. [Online] 20 February. Available from: http://www.bbc.co.uk/mundo/noticias/2015/02/150220_venezuela_legalidad_arresto_ledezma_yv [Accessed 22 October, 2015]; HRW. (2015) UNASUR: Condemn Abuses in Venezuela. *Human Rights Watch*. [Online] 26 February. Available from: <http://www.hrw.org/news/2015/02/26/unasur-condemn-abuses-venezuela> [Accessed 22 October, 2015]

⁴³ BBC. (2015) Quién es Antonio Ledezma, el alcalde opositor arrestado por el gobierno de Venezuela. *BBC Mundo*. [Online] 20 February. Available from: http://www.bbc.co.uk/mundo/noticias/2015/02/150219_perfil_antonio_ledezma_en [Accessed 22 October, 2015]

the national compulsory broadcast that: “Ledezma will be held accountable for all his crimes”.⁴⁴ Ledezma was translated to Ramo Verde, a military prison for dangerous offenders.

There was a significant but undocument number of cases of tortures, persecution and other inhumane acts of which a few are presented in the specific crimes sections below.

Throughout the relevant period, the GoV ruthlessly implemented this plan rewarding the individuals committing crimes on their behalf such as former SEBIN Managing Director Major General Gustavo Gonzalez Lopez, who was promoted to Minister of Popular Power for Interior, Justice and Peace after he was sanctioned by the US government for illegally repressing protesters⁴⁵ while others failing to implement the GoV’s policy or showing dissent were arrested and charged.

2.Groups and individuals involved in the commission of the crimes

The information available suggests that this course of conduct was designed and organized at the highest level of the state apparatus and was executed by at least the following individuals:

[REDACTED]

3.Contextual elements of the crime

The contextual elements of crimes against humanity are set out in the chapeau element of article 7 (1) as follows: 'crimes against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

⁴⁴ LA NACION. (2015) Nicolás Maduro: Ledezma debe responder a la Justicia por los delitos cometidos contra la paz del país

⁴⁵ KURMANAEV, A. (2015) Venezuela Promotes Spy Chief Banned by Obama Administration. *Bloomberg Business*. [Online] 10 March. Available from: <http://www.bloomberg.com/news/articles/2015-03-10/venezuelan-spy-chief-banned-by-obama-named-as-interior-minister> [Accessed 22 October, 2015]; DIARIO LAS AMERICAS. (2015) Uno de los sancionados por EEUU, ahora es ministro de Maduro. *Diario las Americanas*. [Online] 11 March. Available from: http://www.diariolasamericas.com/4848_venezuela/2993147_uno-siete-sancionados-eeuu-flamante-ministro-maduro.html [Accessed 22 October, 2015]; BBC. (2015) La desafiante respuesta de Maduro a las sanciones de Estados Unidos. *BBC Mundo*. [Online] 10 March. Available from: http://www.bbc.com/mundo/ultimas_noticias/2015/03/150310_ultnot_venezuela_maduro_responde_sanciones_obama_ng [Accessed 22 October, 2015]

Article 7(2)(a) of the Statute further indicates that: '[a]ttack directed against any civilian population' means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.

These encompass five contextual elements for crimes against humanity: (i) an attack directed against any civilian population, (ii) a State or organizational policy, (iii) the widespread or systematic nature of the attack, (iv) a nexus between the individual act and the attack, and (v) knowledge of the attack. In light of the nature of the current stage of the request to open a preliminary examination, the mental element under article 30(3) of the Statute will be addressed by outlining the role of the individuals who are clearly implicated at the highest level of the GoV.

a) An attack directed against any civilian population

The attack consists of a course of conduct involving the multiple commission of acts referred to in article 7(1). The term is not restricted to a military attack, but refers to a campaign or operation carried out against the civilian population.

The term “directed against any civilian population” requires showing that the attacks were directed against the civilian population as a whole and not against randomly selected individuals. It is not necessary for the potential civilian victims of a crime under article 7 of the Statute to constitute a group distinguished by nationality, ethnicity or other distinguishing features. Such a distinction is only necessary for a finding of persecution pursuant to article 7(1)(h).⁴⁶

⁴⁶ In the Katanga and Ngudjolo case, Pre-Trial Chamber I observed “as opposed to war crimes which are provided for in article 8 of the Statute, the term ‘civilian population’ within the meaning of article 7 of the Statute affords rights and protections to ‘any civilian population’ regardless of their nationality, ethnicity or other distinguishing feature” PRE-TRIAL CHAMBER I. (2008) ICC-01/04-01/07-717 (Situation in the Democratic Republic of the Congo in the Case of *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*). *International Criminal Court*. [Online] 30 September Available from: <http://www.icc-cpi.int/iccdocs/doc/doc571253.pdf> [Accessed 27 October, 2015] para.399. In the Bemba case, Pre-Trial Chamber II similarly observed that “the potential civilian victims under article 7 of the Statute could be of any nationality, ethnicity or other distinguishing features”; PRE-TRIAL CHAMBER II. (2009) ICC-01/05-01/08-424 (Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo). *International Criminal Court*. [Online] 15 June. Available from: <http://www.icc-cpi.int/iccdocs/doc/doc699541.pdf> [Accessed 27 October, 2015] para.76. However, in the Situation in Kenya, Pre-Trial Chamber II ruled “the potential civilian victims of a crime under article 7 of the Statute are groups distinguished by nationality, ethnicity or other distinguishing features”; PRE-TRIAL CHAMBER II. (2010) ICC-01/09-19-Corr (Situation in the Republic of Kenya, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya). *International Criminal Court*. [Online] 31 March. Available from: <http://www.icc-cpi.int/iccdocs/doc/doc854562.pdf> [Accessed 27 October, 2015] para. 81

Furthermore, there is no need to establish that the entire civilian population of the geographical area in question was being targeted. However, the civilian population must be the primary object of the attack in question and cannot merely be an incidental victim. The term “civilian population” refers to persons who are civilians, as opposed to members of armed forces and other legitimate combatants.

It appears from the available information that National security forces and pro government armed paramilitaries deployed by the GoV in response to the protests committed widespread and systematic attacks against the civilians perceived as dissidents in pursuance of a policy of the GoV under the leadership of President Maduro to launch violent attacks against individuals perceived as being against the Maduro regime in order to retain power by all means. It is alleged that a number of attacks took place in at least the Metropolitan District of Caracas and the states of Aragua, Táchira, Carabobo, Merida and Miranda since February 2014.

(i) Independent protests in early February 2014 in Táchira, San Cristóbal

On 4 February 2014, a spontaneously student protest began right after the attempted rape of a female student on a university campus in the city of San Cristóbal, Táchira State.⁴⁷ This spontaneous and initially peaceful protest was repressed with disproportionate violence by the local police, and ended with a number of students and police officers wounded, and two students under arrest because they were suspected of taking pictures and filming the repression with their mobile phones. These arrested students referred to by President Maduro and the local Governor Vielma Mora as “right wing fascists”⁴⁸ were severely injured by the police agents.⁴⁹

During the following days, in reaction to the arrest of the two students,⁵⁰ a series of protests started in several cities across the country, including San Cristóbal, Mérida and Maracaibo.⁵¹ On February 6 and 7, the protests in San Cristóbal resulted in a crackdown by the GoV and at least five student were imprisoned: the Manrique brothers (Reinaldo and Leonardo), Gerad Rosales and Jesús Gómez, charged with participating in violent acts, including burning down the residence of the Táchira State

⁴⁷ PRODAVINCI. (2014) 5 claves para entender las protestas estudiantiles en Venezuela.

⁴⁸ CNN. (2014) Manifestantes en Táchira: ¿Estudiantes o “fascistas”?; Also see: CAMPOS, G. (2014) Maria Gabriela Varela en Conclusiones CNN; and ROJAS, L. (2014) El enfrentamiento entre Fernando del Rincón y la secretaria de Gobierno del Táchira

⁴⁹ EL NACIONAL. (2014) Liberaron a estudiantes detenidos por protestas en ULA Táchira.

⁵⁰ These students were conditionally released on February 5; See: OJO, R. (2014) ¿Qué ocurrió en la Universidad de Los Andes de Táchira?

⁵¹ OJO, R. (2014) ¿Qué ocurrió en la Universidad de Los Andes de Táchira?; Also see: EL NACIONAL. (2014) Liberaron a estudiantes detenidos por protestas en ULA Táchira

Governor.⁵² The arrests of at least some of these students was immediately criticised by several Venezuelan NGOs, including Fundeci, Fundepro, Foro Penal Venezolano and Una Ventana a La Libertad for being without foundation.⁵³ For instance, when the incidents took place, Reinaldo Manrique was at a meeting with the Governor's wife negotiating the ending of the protests.⁵⁴ The students were kept incommunicado and sent to a prison in another city.⁵⁵ They have now been conditionally released, but one of them spent 33 days in prison.⁵⁶

These events further escalated and led to demonstrations throughout Venezuela calling for the students' release in many cities within the county,⁵⁷ and many acts of disproportionate repression were reported, including the indiscriminate use of live ammunition by pro government armed paramilitaries.

On Monday February 10th 2014, Leopoldo López, one of the most notorious opposition leaders tried to fly to San Cristóbal and the national airline, owned by the GoV, cancelled the flight after Lopez got on the plane with the help of the passengers.⁵⁸

⁵² ARRÁIZ, L.E. (2014) Ascienden a cinco el número de estudiantes detenidos en Táchira. *El Universal*. [Online] 9 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140209/ascienden-a-cinco-el-numero-de-estudiantes-detenidos-en-tachira> [Accessed 22 October, 2015]; CNN. (2014) Denuncian detenciones arbitrarias de estudiantes en Venezuela. *CNN Español*. [Online] 10 February. Available from: <http://cnnespanol.cnn.com/2014/02/10/autoridades-de-venezuela-detienen-a-estudiantes-mientras-continuan-las-manifestaciones/> [Accessed 22 October, 2015]

⁵³ EL UNIVERSAL. (2014) Organizaciones condenan que el Gobierno criminalice protesta de estudiantes. *El Universal*. [Online] 9 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140209/organizaciones-condenan-que-el-gobierno-criminalice-protesta-de-estudi> [Accessed 22 October, 2015]; SEGOVIA, S. (2014) Defensores de DD HH condenan arresto de estudiantes de Táchira. *El Tiempo*. [Online] 10 February. Available from: <http://eltiempo.com.ve/venezuela/protesta/defensores-de-dd-hh-condenan-arresto-de-estudiantes-de-tachira/125493> [Accessed 22 October, 2015]

⁵⁴ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos. pp. 14-15

⁵⁵ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos. pp. 14-15

⁵⁶ EL NACIONAL. (2014) Hermanos Manrique se encontraron con sus padres. *El Nacional*. [Online] 15 February. Available from http://www.el-nacional.com/regiones/Breves-Regiones_0_355764605.html [Accessed 22 October, 2015]; Also see: DELGADO, E. (2014) Rodríguez Torres confirma liberación de líder de JAVU. *El Nacional*. [Online] 12 March. Available from: http://www.el-nacional.com/regiones/Rodriguez-Torres-confirma-liberacion-JAVU_0_371363014.html [Accessed 22 October, 2015]; Also see: DELGADO, E. (2014) Universitarios del Táchira rechazarán declaraciones de ministro Rodríguez Torres. *El Nacional*. [Online] 13 March. Available from: http://www.el-nacional.com/regiones/Universitarios-Tachira-declaraciones-Rodriguez-Torres_0_371963052.html [Accessed 22 October, 2015]

⁵⁷ CNN. (2014) Manifestantes en Táchira: ¿Estudiantes o "fascistas"?

⁵⁸ DE ROSA, A. (2014) Cancelan vuelo de Conviasa para evitar que Leopoldo López viaje al Táchira. *El Universal*. [Online] 10 Febrero. Available from: <http://www.eluniversal.com/nacional-y-politica/140210/cancelan-vuelo-de-conviasa-para-evitar-que-leopoldo-lopez-viaje-al-tac> [Accessed 22 October, 2015]; ULTIMAS NOTICIAS. (2014) Así secaron a Leopoldo López del avión de Conviasa. *Ultimas Noticias*. [Online] 10 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/video---asi-sacaron-a-leopoldo-lopez-del-avion-de-asp> [Accessed 22 October, 2015]

In light of these events, the student leaders called for a protest in Caracas to be held on 12 February 2014 to demand the release of students detained during earlier marches and meaningful reforms.⁵⁹

(ii) Protests on 12 February 2014 in Caracas, San Cristóbal, Carabobo and Miranda

Student-led demonstrations began on 12 February 2014 in many cities all over Venezuela, including Caracas, San Cristobal, Carabobo and Miranda.⁶⁰ The pro-government students also organized a demonstration in the west of downtown Caracas.⁶¹

In Caracas, the demonstration which was initially pacific and culminated in front of the headquarters of the Office of Public Prosecutions, where the students went to present a petition demanding the release of the detained students in Táchira. Clashes between the students, the security forces and a pro-government armed paramilitary group resulted in dozens of detentions and injuries. Two people were killed by being shot in the head as part of a disproportionate repression led by pro government armed paramilitary groups –called colectivos, and the Bolivarian Service on National Intelligence (SEBIN) including student Bassil Da Costa. Da Costa was among a protesting crowd in La Candelaria neighbourhood when SEBIN officers opened fire against them, and a bullet allegedly fired by SEBIN officer José Ramón Perdomo Camacho reached his head and killed him.⁶²

The shooting was part of an articulated repression operation against the demonstrators that included the collaboration of the Bolivarian National Guard and the Bolivarian National Police (PNB).⁶³ Video footage shows these two forces patrolling the protests

⁵⁹ February 12 was specifically chosen because it was the 200 anniversary of the Battle of La Victoria, a battle where students played a prominent role in the Venezuelan city of La Victoria's resistance against attacks by the Spanish army during Venezuela's campaign for independence. February 12 is also designated as Venezuela's Youth Day.

⁶⁰ LA PATILLA. (2014) Así marchó la oposición en Venezuela

⁶¹ ANDRADE, A. (2014) Estudiantes oficialistas marcharán el 12 de febrero por la pacificación nacional. *Noticiero Venevision*. [Online] 10 February. <http://www.noticierovenevision.net/politica/2014/febrero/10/88937=estudiantes-oficialistas-marcharan-el-12-de-febrero-por-la-pacificacion-nacional-> [Accessed 22 October, 2015]

⁶² MOLINA, T. (2014) Mismo Sebin mató a Dacosta y Montoya. *El Universal*. [Online] 28 March. Available from: <http://www.eluniversal.com/sucesos/140328/mismo-sebin-mato-a-dacosta-y-montoya> [Accessed 22 October, 2015]; ULTIMAS NOTICIAS. (2014) Preso otro agente del Sebin por dos muertes del 12-F. *Ultimas Noticias*. [Online] 18 March. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/preso-otro-agente-del-sebin-por-dos-muertes-del-12.aspx> [Accessed 22 October, 2015]; RUNRUNES. (2015) La investigación que desarmó la historia oficial sobre el 12F. *Runrunes*. [Online] 16 June. Available from: <http://runrun.es/rr-es-plus/investigacion/186376/la-investigacion-que-desarmo-la-historia-oficial-sobre-el-12f.html> [Accessed October, 2015]

⁶³ RUNRUNES. (2015) La investigación que desarmó la historia oficial sobre el 12F

and remaining still while the SEBIN opened fire against the crowd.⁶⁴

The news of the murder of Bassil da Costa spread quickly through social networks such as Twitter, causing a profound indignation and leading to a set of riots all across the country.⁶⁵ In Caracas, many people began to protest before different GoV facilities, which generated a clash between them and the police and ended in the burning of some cars and damages to the GoV's buildings.⁶⁶

A few hours later, in the Municipality of Chacao, State of Miranda, two persons alleged to be pro government armed paramilitary members dressed as civilians who were on a motorcycle and appeared to be patrolling the protests in Chacao shot the student Robert Redman in the face.⁶⁷

Student Christian Holdack was arrested and tortured because of filming the protest. He

⁶⁴ TARRE, M. (2014) El asesinato de Bassil Alejandro Dacosta. *El Nacional*. [Online] 23 March. Available from: http://www.el-nacional.com/opinion/asesinato-Bassil-Alejandro-Dacosta_0_376162439.html [Accessed 22 October, 2015]; INFOBAE. (2014) Video: así mataron al estudiante Bassil Da Costa en Venezuela. *Infobae América*. [Online] 13 February. Available from: <http://www.infobae.com/2014/02/13/1543445-video-asi-mataron-al-estudiante-bassil-da-costa-venezuela> [Accessed 22 October, 2015]

⁶⁵ EL JOROPO. (2014) Resumen de protestas estudiantiles del 12-02-2014 en varios Estados de Venezuela. *El Joropo.com*. [Online] 12 February. Available from: <http://www.eljoropo.com/site/resumen-de-protestas-estudiantiles-del-12-03-2014-en-varios-estados-de-venezuela/> [Accessed 22 October, 2015]; ULTIMAS NOTICIAS. (2014) Liberan a 47 detenidos tras protestas en Barquisimeto. *Ultimas Noticias*. [Online] 13 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/liberan-a-47-detenidos-tras-protestas-en-barquisim.aspx> [Accessed 22 October, 2015]; ULTIMAS NOTICIAS. (2014) Valencia amaneció amodorrada tras los disturbios nocturnos. *Ultimas Noticias*. [Online] 13 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/valencia-amanecio-amodorrada-tras-los-disturbios-n.aspx> [Accessed 22 October, 2015]; ULTIMAS NOTICIAS. (2014) Manifestaciones en Barquisimeto dejan al menos 21 heridos. *Ultimas Noticias*. [Online] 12 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/manifestaciones-en-barquisimeto-dejan-al-menos-21-.aspx> [Accessed 22 October, 2015]

⁶⁶ ULTIMAS NOTICIAS. (2014) Destrozos en la Fiscalía tras muerte de estudiante en la marcha opositora. *Ultimas Noticias*. [Online] 13 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/fotos---destrozos-en-la-fiscalia-tras-muerte-de-es.aspx> [Accessed 22 October, 2015]; ULTIMAS NOTICIAS. (2014) 3 muertos y 28 heridos tras hechos violentos del 12-F. *Ultimas Noticias*. [Online] 13 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/fotos---3-muertos-y-28-heridos-tras-hechos-violent.aspx> [Accessed 22 October, 2015]; AVN. (2014) Grupos violentos asedian sede de Venezolana de Televisión. *Agencia Venezolana de Noticias*. [Online] 13 February. Available from: <http://www.avn.info.ve/contenido/grupos-violentos-asedian-sede-venezolana-televisi%C3%B3n> [Accessed 22 October, 2015]

⁶⁷ ULTIMAS NOTICIAS. (2014) A Redman le dio dio fue un tiro a lo loco. *Ultimas Noticias*. [Online] 23 February. Available from: <http://runrun.es/wp-content/uploads/2015/02/Captura-de-pantalla-2015-02-09-a-las-18.05.10.png> [Accessed 22 October, 2015]; ULTIMAS NOTICIAS. (2014) Vecinos relatan cómo fue el asesinato de Rodman en Chacao. *Ultimas Noticias*. [Online] 13 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/vecinos-relatan-como-fue-el-asesinato-de-rodman-en.aspx> [Accessed 22 October, 2015]

was released with conditional measures one year later.⁶⁸

As a result of the events, in total at least three people died or were wounded,⁶⁹ some of them by being shot, such as Bassil Da Costa and Robert Redman.⁷⁰

All around the country, several students were arrested, detained and subjected to torture that day.⁷¹ For instance, Human Rights activist Inti Rodríguez (member of the Venezuelan NGO PROVEA) was detained for two hours, beaten and threatened to death by members of the SEBIN and of the pro-government armed paramilitaries. They took away all of his belongings and the documents he was carrying. Subsequently, they threatened his family. Rodríguez left his home for security reasons.⁷² Other people who were detained and tortured include Marco Aurelio Coello, 18; Luis Felipe Boada, 25; Cristian Holdack, 34; Nelson Gil, 22; Demian Martín, 19; and Ángel de Jesús González, 19.⁷³

(iii) *The crackdown on the protestors and the perceived dissidents after 12 February 2014*

After the events of 12 February 2014, the protests diversified in many cities across the country into pacific marches and gatherings (concentrations), riots or even barricades (“guarimbas”) for a period of eight months, in which they took place almost daily. These protests were repressed by the use of force and resulted in disproportionate violence often used indiscriminately against the unarmed civilians.

⁶⁸ ULTIMAS NOTICIAS. (2015) Otorgan libertad condicional a Christian Holdack. *Ultimas Noticias*. [Online] 17 March. Available from:

<http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/otorgan-libertad-condicional-a-christian-holdack.aspx> [Accessed 22 October, 2015]

⁶⁹ MOLINA, T. (2014) Jornada de protesta dejó tres muertos. *El Universal*. [Online] 13 February. Available from: <http://www.eluniversal.com/sucesos/140213/jornada-de-protesta-dejo-tres-muertos> [Accessed 22 October, 2015]; ULTIMAS NOTICIAS. (2014) 3 muertos y 28 heridos tras hechos violentos del 12-F

⁷⁰ ULTIMAS NOTICIAS. (2014) Liberan a 47 detenidos tras protestas en Barquisimeto; MOLINA, T. (2014) Jornada de protesta dejó tres muertos

⁷¹ EL NACIONAL. (2014) Hermanos Manrique se encontraron con sus padres

⁷² AMNESTY INTERNATIONAL. (2014) Venezuela: human rights at risk amid protests. *Amnesty International*. [Online] Available from: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAAahUKEwi5_eiU-tfIAhVU1GMKHf2eARI&url=https%3A%2F%2Fwww.amnesty.org%2Fdownload%2FDocuments%2F4000%2Famr530092014en.pdf&usq=AFQjCNHNPK4NLC4wOCKRMBHGHL96sdBQ&sig2=AYbP_k9MJ1Jpl4RwSRJQIA [Accessed 22 October, 2015] p.11

⁷³ HRW. (2014) Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System. *Human Rights Watch*. [Online] 5 May. Available from: <http://www.hrw.org/reports/2014/05/05/punished-protesting> [Accessed 22 October, 2015] p.94

At least 33 and 36 civilians were killed in the context of the protests since 12 February 2014.⁷⁴ For instance, on 18 February 2014, in Valencia, Carabobo State, student Génesis Carmona was shot in her face allegedly by pro-government armed paramilitaries on motorbikes who were repressing the protest in which she was participating.⁷⁵ On February 19, in Valencia, Carabobo, Geraldine Moreno, a young student was shot in her face a close distance with a pellet gun by members of the National Guard and died.⁷⁶ In Caracas, José Alejandro Márquez, was beaten until his death by GNB officers, because he was filming them with his mobile phone as they were repressing a barricade.⁷⁷

The intensity and violence of the repression was maintained from early February 2014 to on or about October 2014. On the 22 March 2014 for instance three more persons were killed by the pro government armed paramilitaries, Argenis Hernández in San Diego (Carabobo State), Wilfredo Rey in Táchira State and Jesús Orlando Labrador in Mérida State.⁷⁸

⁷⁴ AMNESTY INTERNATIONAL. (2014) Venezuela: informe para el comité contra la tortura de las naciones unidas. 53A session (3-28 november 2014). *Amnesty International*. [Online] 3 November. Available from: <https://www.amnesty.org/es/documents/AMR53/020/2014/es/> [Accessed 22 October, 2015]; Also see: AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas

⁷⁵ EL NACIONAL. (2014) Ordenan pase a juicio a estudiante por caso Génesis Carmona. *El Nacional*. [Online] 21 August. Available from: http://www.el-nacional.com/sucesos/Ordenan-juicio-estudiante-Genesis-Carmona_0_468553188.html [Accessed 22 October, 2015]

⁷⁶ WALLIS, D. (2014) Venezuela deaths rise as unrest claims student and biker. *Reuters*. [Online] 22 February. Available from: <http://www.reuters.com/article/2014/02/22/us-venezuela-protests-idUSBREA1L0TO20140222> [Accessed 22 October, 2015]; RODRÍGUEZ, M. (2014) Cuando se cayó Geraldine le dispararon en la cara otra vez. *El Universal*. [Online] 22 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140222/cuando-se-cayo-geraldine-le-dispararon-en-la-cara-otra-vez> [Accessed 22 October, 2015]

⁷⁷ MATAMOROS, N. (2014) Falleció José Alejandro Márquez tras varios días en coma. *El Universal*. [Online] 23 February. Available from: <http://www.eluniversal.com/sucesos/140223/fallecio-jose-alejandro-marquez-tras-varios-dias-en-coma> [Accessed 22 October, 2015]; MADURADAS. (2014) INDIGNANTE! Muere José Alejandro Márquez por brutal golpiza de la GNB en La Candelaria. *Maduradas*. [Online] 23 February. Available form: <http://www.maduradas.com/indignante-muere-jose-alejandro-marquez-por-brutal-golpiza-de-la-gnb-en-la-candelaria-foto/> [Accessed 22 October, 2015]; INFOBAE. (2014) Venezuela: lo mataron por grabar la represión de militares. *Infobae*. [Online] 24 February. Available from: <http://www.infobae.com/2014/02/24/1545911-venezuela-lo-mataron-grabar-la-represion-militares> [Accessed 22 October, 2015]

⁷⁸ BBC. (2014) 'Two killed' in latest Venezuela protests. *BBC*. [Online] 23 March. Available from: <http://www.bbc.com/news/world-us-canada-26704001>; RODRÍGUEZ, M. (2014) Muere joven herido durante protestas en San Diego. *El Universal*. [Online] 22 March. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140322/muere-joven-herido-durante-protestas-en-san-diego> [Accessed 23 October, 2015]; AP. (2014) 3 more deaths in Venezuela as both sides march. *Associated Press*. [Online] 23 March. Available from: https://archive.is/20140323094606/www.washingtonpost.com/world/the_americas/3-more-deaths-in-venezuela-as-both-sides-march/2014/03/22/3a48c652-b222-11e3-b8b3-44b1d1cd4c1f_story.html [Accessed 22 October, 2015]; ORE, D. and ELLSWORTH, B. (2014) Venezuela death toll rises to 34 as troops and protesters clash. *Reuters*. [Online] 22 March. Available from: <http://news.yahoo.com/venezuela-death-toll-rises-34-troops-protesters-clash-011631747.html> [Accessed 22 October, 2015]; ULTIMA HORA. (2014) Se reporta otra muerte en medio de las

It has been reported that the repression of the protests has resulted in between 854⁷⁹ and 870 injured people⁸⁰ between February and April 2014⁸¹ of which 138 were wounded by gunshot, 330 by pellets, 72 people by being beaten up, 34 people were injured by blunt objects and the remaining 280 wounded suffered injuries of various kinds.⁸² 300 of the wounded were police officers. An example of the brutal repression during this period is the case of protester Gengis Pinto: on 19 February 2014, despite the fact that he had been detained and was offering no resistance, a member of the National Guard fired pellets at his face in San Antonio de Los Altos, Miranda State. They continued to beat and threaten him while questioning him, and he was refused him medical assistance for several hours.⁸³

The UN Committee against Torture has expressed concern about reports that establish that 437 people were attacked and/or kidnapped and subjected to short-term arbitrary detentions by pro-government armed paramilitaries while demonstrators were gathered between February and April 2014.⁸⁴

Incidents such as the following took place during this period. On 22 March 2014 in San Jacinto, Maracay, the police operated with pro-government armed paramilitaries to arrest and injure many civilians, including Jaime Yéspica.⁸⁵ In San Antonio, Mérida State, Luis Alberto Gutiérrez Prieto, Gengis Pinto, Joaquín Sumalla Chacín, Andrés Bonilla, Steven Guía Espinoza were arrested and subjected to torture and other

protestas en Venezuela. *Ultima Hora*. Available from: <http://www.ultimahora.com/se-reporta-otra-muerte-medio-las-protestas-venezuela-n777474.html> [Accessed 22 October, 2015]

⁷⁹ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos; AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas.

⁸⁰ AMNESTY INTERNATIONAL. (2014) Venezuela: informe para el comité contra la tortura de las naciones unidas. 53A session (3-28 november 2014); AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas.

⁸¹ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos

⁸² PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos

⁸³ HRW. (2015) Venezuela: New Military Authority to Curb Protests. *Human Rights Watch*. [Online] 12 February. Available from: <http://www.hrw.org/news/2015/02/12/venezuela-new-military-authority-curb-protests> [Accessed 22 October, 2015]

⁸⁴ UN. (2014) Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes. *United Nations*. [Online] 12 December. Available from: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2FCO%2FVEN%2FCO%2F3-4&Lang=en [Accessed 22 October, 2015]

⁸⁵ In this video you can see how the pro government armed paramilitaries hurts Jaime with the acquiescence of the local police ELSELVATICO. (2014) Brutal golpiza a estudiante Jaime Yespica en Aragua 19-03-2014. *Youtube*. [Online Video] 19 March. Available from: <https://www.youtube.com/watch?v=T9Ni7yrSkIA> [Accessed 22 October, 2015]; Also see: ELSELVATICO. (2014) Testimonio de Jaime Yespica (Estudiante de la UCV agredido en San Jacinto, Maracay). *Youtube*. [Online] 22 March. Available from: https://www.youtube.com/watch?v=w_ZWGJmYrk [Accessed 22 October, 2015]

inhuman acts.⁸⁶

Furthermore, on 3 April 2014, certain pro government armed paramilitaries attacked the campus of the Universidad Central de Venezuela, destroyed installations, publicly undressed a student and attacked a journalist. Instead of intervening to stop the pro government armed paramilitaries, the National Guard repressed a demonstration outside the university.⁸⁷ Nicolás Maduro, instead of holding the pro-government pro government armed paramilitaries and the National Guard accountable, ordered himself an investigation pointing to “fascist bands” as responsible for the attacks. He also called the Armed Forces to remain alert of “any secession plan” and “coup plan” and asked them to have “one thousand eyes, one thousand ears to detect these plans on time”.⁸⁸

On 17 March, Rafael Angel Cardozo was detained by members of the Bolivarian National Police in the Táchira State and was punched and beaten in the face with helmets, deprived of sleep and threatened with death.⁸⁹ Moreover, Gerardo Carrero, a student who was arrested on May 8, 2014 in Caracas, was hit for twelve consecutive hours with tables and he was secluded in a cell located in basement 5 of the headquarters of SEBIN, known as “the tomb”.⁹⁰

There have also been reports of other crimes being committed such as sexual violence based ones, but these crimes (possibly due to a lack of reporting) do not currently meet the threshold for constituting the commission of crimes against humanity. For example,

⁸⁶ GUILLÉN, E. (2014) Ataque a alumno de UCV en Aragua fue captado en video. *El Universal*. [Online] 21 March. Available from: <http://www.eluniversal.com/nacional-y-politica/140321/ataque-a-alumno-de-ucv-en-aragua-fue-captado-en-video> [Accessed 22 October, 2015]; LAPATILLA. (2014) Video perturbador: Colectivos a punto de asesinar un estudiante en Maracay. *La Patilla*. [Online] 21 March. Available from: <http://www.lapatilla.com/site/2014/03/21/video-perturbador-colectivos-a-punto-de-asesinar-un-estudiante-en-maracay/> [Accessed 22 October, 2015]

⁸⁷ Universidad Católica Andrés Bello (UCAB); “Que no quede rastro”, at 7. Available at: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/Que%20no%20quede%20rastro%20Informe.pdf EL UNIVERSAL. (2014) CDH-UCAB reportó 331 detenciones, la mayoría víctimas de agresiones. *El Universal*. [Online] 4 March. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140304/cdh-ucab-reporto-331-detenciones-la-mayoria-victimas-de-agresiones-imp> [Accessed 22 October, 2015]

⁸⁸ INFOBAE. (2014) Maduro pone en "alerta preventiva a las FFAA" y pide "mil ojos ante los golpistas." *Infobae América*. [Online] 4 April. Available from: <http://www.infobae.com/2014/04/04/1555037-maduro-pone-alerta-preventiva-las-ffaa-y-pide-mil-ojos-los-golpistas> [Accessed 22 October, 2015]; URGENTE24. (2014) Maduro: "Mil ojos ante los golpistas" y una carta al pueblo de USA. *Urgente24.com* [Online] 4 April. Available from: <http://www.urgente24.com/225393-maduro-mil-ojos-ante-los-golpistas-y-una-carta-al-pueblo-de-usa> [Accessed 22 October, 2015]; NOTICIAS24. (2014) Pide a la Fanb tener “mil ojos y mil oídos” para “neutralizar” planes secesionistas. *Noticias24*. [Online] 4 April. Available from: <http://www.noticias24.com/venezuela/noticia/232332/reitera-su-denuncia-sobre-un-presunto-plan-secesionista-a-venezuela-no-la-va-a-desintegrar-nadie/> [Accessed 22 October, 2015]

⁸⁹ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.34

⁹⁰ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings. p.11

following a protest in Valencia, Carabobo, on 13 February Juan Manuel Carrasco was tortured and raped using a gun,⁹¹ and Gloria Tobon, was beaten and threatened with electric shocks applied to her arms, breasts and genitals by National Guard officers after her arrest on 19 March.

A total of 3,351 people were arrested during the protests since February 2014, of which 1,402 are confronting allegations of crimes committed during the protests.⁹² It is alleged that all of the detentions whether the arrests were legal or not became illegal as a result of the absence of due process of which the suspects have been subjected to, including incommunicado detention, denial of access to legal assistance, to inform family members and violation of right to be informed of charges.

Several NGOs (most notably “Foro Penal Venezolano”) have systematically denounced the manipulation of evidence in the cases against protestors by the National Bolivarian Police.⁹³ Members of the police have been reported to have visited hospitals to demand the doctors to hand them the bullets that they extracted from the wounded demonstrators.⁹⁴ Another reputed local NGO “Centro de Derechos Humanos de la UCAB” denounced that most of the students detained on the 12th February 2014 were detained incommunicado and were denied access to legal assistance.⁹⁵

As a consequence and given the overall GoV’s policy to target dissent, it is alleged that the 1,402 individuals currently being prosecuted are being targeted through false, malicious and abusive charges as will be detailed below.

⁹¹ EL UNIVERSAL. (2014) Estudiante ratificó denuncia de violación con fusil. *El Universal*. [Online] 26 February. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140226/estudiante-ratifico-denuncia-de-violacion-con-fusil> [Accessed 22 October, 2015]; Later The National Prosecutor’s Office said that he wasn’t rape: ALBA CIUDAD. (2014) Fiscalía determinó que Juan Manuel Carrasco no fue víctima de violación en Carabobo. *Alba Ciudad*. [Online] 24 February. Available from: <http://albaciudad.org/wp/index.php/2014/02/fiscalia-determino-que-no-hubo-caso-de-violacion-en-carabobo/> [Accessed 22 October, 2015]

⁹² AMNESTY INTERNATIONAL, (2015) Venezuela submission the United Nations Human Rights Committee. *Amnesty International*. [Online] 3 June. Available from: <https://www.amnesty.org/en/documents/amr53/1769/2015/en/> [Accessed 23 October, 2015] pp.22-23

⁹³ PEÑALOZA, P.P. and ALONSO, F. (2014) Afirman que policía manipuló pruebas para no ser inculpada. *El Universal*. [Online] 15 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140215/afirman-que-policia-manipulo-pruebas-para-no-ser-incriminada> [Accessed 23 October, 2015]

⁹⁴ NTN24. (2014) Policía venezolana acude a hospitales para pedir balas extraídas a heridos, según abogado defensor de DD.HH. *Nuestra Tele Noticias*. [Online] 1 July. Available from: <http://ntn24online.co/video/policia-venezolana-acude-a-hospitales-para-pedir-balas-extraidas-a-heridos-segun-abogado-defensor-de-3785> [Accessed 22 October, 2015] (includes video)

⁹⁵ Universidad Católica Andrés Bello (UCAB), Centro de Derechos Humanos, “Que no quede ni rastro”, especially section 2. Available at: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/Que%20no%20quede%20rastros%20Informe.pdf

On 17 February, 2014, the Office of Public Prosecutions issued an arrest warrant against opposition leader and Human Rights activist Carlos Vecchio for allegedly planning violent acts that occurred after the demonstrations that raised on February 12, 2014. Vecchio was charged with the crimes of arson, public incitement, damages to property and association to commit crimes. After spending three months hiding, Carlos Vecchio, fled the country and has been since living in the exile.

On 22 February, Luis Augusto Matheus Chirinos was detained in Valencia (Carabobo State) by approximately 10 members of the National Guard and was subsequently held incommunicado for two days before being charged with several crimes. On March 22, Matheus was granted conditional liberty, despite his lawyer provided strong evidence demonstrating his innocence.⁹⁶ Moreover, on 22 March 2014, 18 demonstrators were arrested, including Raúl Baduel, son of the political prisoner and former Commander in Chief of the Army and Defence Minister Raúl Isaías Baduel.⁹⁷

These individuals have been subject to several due process violations. On the 19 March 2014, the GoV targeted two mayors of two municipalities where the protest were intense: the Mayor of San Cristóbal Daniel Ceballos and the Mayor of San Diego Enzo Scarano.⁹⁸ They were detained because, according to the GoV, they had planned the protests in their municipalities and were sentenced to prison by the Supreme Tribunal of Justice (TSJ); which is not the competent court for this trial according to Venezuelan laws.⁹⁹

⁹⁶ HRW. (2014) Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System

⁹⁷ <http://www.elperiodiquito.com/article/144436/Batalla-campal-en-San-Jacinto>

⁹⁸ EL UNIVERSAL. (2014) Daniel Ceballos fue detenido en Caracas. *El Universal*. [Online] 19 March.

Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140319/daniel-ceballos-fue-detenido-en-caracas> [Accessed 23 October, 2015];

INFORME21. (2014) Así fue como el SEBIN arrestó al alcalde Daniel Ceballos. *Informe21* [Online] 20 March. Available from: <http://informe21.com/arresto/asi-fue-como-el-sebin-arresto-al-alcalde-daniel-ceballos-video> [Accessed 23 October, 2013] (includes video); ULTIMAS NOTICIAS. (2014) TSJ

sentencia a 1 año de prisión y cese de funciones a Daniel Caballos. *Ultimas Noticias*. [Online] 26 March.

Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/tsj-sentencia-a-1-ano-de-prision-y-cese-de-funcion.aspx> [Accessed 23 October, 2015]; VT. (2014) Sancionado Daniel

Ceballos a 12 meses de prisión por permitir obstáculos en vías públicas. *Venezolana de Televisión*. [Online] 25 March. Available from: <http://www.vtv.gob.ve/articulos/2014/03/25/daniel-ceballos-es-sancionado-a-12-meses-de-prision-mas-las-accesorias-de-ley-tuits-8479.html> [Accessed 23 October,

2015]

⁹⁹ REPORTERO24. (2014) REPRESIÓN: Detenido en el Sebin alcalde Enzo Scarano. *Reportero24*.

[Online] 20 March. Available from: <http://www.reportero24.com/2014/03/represion-detenido-en-el-sebin-alcalde-enzo-scarano/> [Accessed 23 October, 2015]; PANORAMA. (2015) Alcalde de San Diego,

Enzo Scarano, tras ser detenido: "Lo que sí me han hecho pasar es hambre." *Panorama.com.ve* [Online] 8 February. Available from: http://www.panorama.com.ve/contenidos/2014/03/20/noticia_0156.html

[Accessed 23 October, 2015]; EL NACIONAL. (2014) Detenidos en el Sebin alcaldes Daniel Ceballos y Enzo Scarano. *El Nacional*. [Online] 20 March. Available from: http://www.el-nacional.com/politica/Detenidos-Sebin-Daniel-Ceballos-Scarano_0_376162385.html [Accessed 23

October, 2015]

The attacks against mayors were a clear pattern pursuant to the GOV's policy. Nicolás Maduro himself publicly threatened with prison the successor of Scarano as San Diego mayor following his arrest.¹⁰⁰ Adán Chávez, Governor of Barinas, member of the PSUV and brother of former President Chávez, threatened the mayors José Luis Machín and Ronald Aguilar by stating that they could end like Scarano and Ceballos.¹⁰¹ On 27 March 2014, Tareck El Aissami, Governor of Aragua and member of the PSUV, accused Delson Guárate, mayor of Iragorry, of perpetrating the crimes of instigation of violence and committing terrorism, conspiracy and murders.¹⁰² In April 2014, the Venezuelan Mayors' Association denounced that 23 of the 76 opposition majors had been subject to judicial persecution.¹⁰³

The GoV attack on opposition politicians did not stop at mayors. In March 2014, the National Assembly stripped congresswoman María Corina Machado from her seat at the Assembly.¹⁰⁴ Diosdado Cabello, president of the Assembly, argued that she had "accepted a position with the hostile government of Panama as an alternate representative".¹⁰⁵ A few days before, Panama's representative to the OAS had yielded his time to Machado, so that she could address the committee and speak about the crisis in Venezuela. The Supreme Tribunal of Justice confirmed the decision of the National Assembly.¹⁰⁶ The move was widely criticised and qualified as illegal by local and

¹⁰⁰ MADURADAS. (2014) DICTADOR SUELTO! Maduro amenaza con cárcel al alcalde Ramón Muchacho

¹⁰¹ LA PATILLA. (2014) Adán Chávez se suma a las amenazas de encarcelamiento a alcaldes opositores

¹⁰² NOTICIAS24. (2014) Denuncia ante el MP a Delson Guárate por "actos terroristas": "Lo espera una celda fría"

¹⁰³ NOTICIAS24. (2014) Asociación de Alcaldes por Venezuela solicitó una "audiencia privada con la Unasur." *Noticias24*. [Online] 4 April. Available from: <http://www.noticias24.com/venezuela/noticia/232251/asociacion-de-alcaldes-por-venezuela-solicito-una-audiencia-privada-con-unasur/> [Accessed 23 October, 2015]

¹⁰⁴ BBC. Venezuela: Opposition legislator Machado returns to Caracas. *BBC*. [Online] 27 March. Available from: <http://www.bbc.co.uk/news/world-latin-america-26761798> [Accessed 23 October, 2015]; THE GUARDIAN. (2015) Venezuelan hardliner María Corina Machado barred from public office. *The Guardian*. [Online] 14 July. Available from: <http://www.theguardian.com/world/2015/jul/15/venezuelan-hardliner-maria-corina-machado-barrred-from-public-office> [Accessed 23 October, 2015]

¹⁰⁵ PANAM POST. (2014) Venezuela: María Corina Machado Loses Parliamentary Immunity. *Panam Post*. [Online] 24 March. Available from: <http://panampost.com/panam-staff/2014/03/24/venezuela-maria-corina-machado-loses-parliamentary-immunity/> [Accessed 23 October, 2015]

¹⁰⁶ NOTICIAS24. (2014) Diosdado Cabello: María Corina ya no es diputada y no podrá entrar al Parlamento. *Noticias24*. [Online] 24 March. Available from: <http://www.noticias24.com/venezuela/noticia/230166/an-prohibe-ingreso-de-mcm-al-parlamento-y-suspende-su-sueldo-hasta-que-termine-investigacion-en-su-contra/> [Accessed 23 October, 2015] (Video included); EL UNIVERSAL. (2014) María Corina Machado: Soy diputada mientras el pueblo así lo quiera. *El Universal*. [Online] 24 March. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140324/maria-corina-machado-soy-diputada-mientras-el-pueblo-asi-lo-quiera> [Accessed 23 October, 2015]; NOTICIAS24. (2014) Participación de MCM en asamblea de la OEA tiene consecuencias jurídicas. *Noticias24*. [Online] 30 March. Available from: <http://www.noticias24.com/venezuela/noticia/231295/tsj-estudiara-el-caso-de-maria-corina->

international NGOs.¹⁰⁷

Furthermore, on 25 March 2014, Maduro announced the arrest of three members of the Air Force. Maduro argued that they were “related to certain oppositions sectors” which were allegedly planning a coup d’état, though no evidence has been produced.¹⁰⁸ By the 29 April, Maduro had arrested 30 members of the Air Force on the same grounds.¹⁰⁹ Rocío San Miguel, renowned human rights defender and specialist in military issues, claimed that with this accusation the GoV sought to control the Air Force, by intimidating and deterring political dissent.¹¹⁰

Similarly, on 5 February 2014, Salvatore Lucchese, the director of the San Diego Police, was arrested for allegedly failing to abide a ruling of the TSJ that forbid certain protests.¹¹¹ Amnesty International declared that his detention could be the first step in a witch-hunt across the country¹¹².

Most notably, on 13 February 2014, the judge Ralenys Tovar Guillén issued an arrest warrant against opposition leader Leopoldo López accusing him of “causing serious

[machado-antes-de-pronunciar-el-veredicto/](#) [Accessed 23 October, 2015]; NOTICIAS24. (2014) TSJ señala que los artículos 149 y 191 fueron aplicados de forma “efectiva” en el caso de MCM. *Noticias24*. [Online] 31 March. Available from: <http://www.noticias24.com/venezuela/noticia/231534/tsj-senala-que-los-articulos-149-y-191-fueron-aplicados-de-forma-efectiva-en-el-caso-de-mcm/> [Accessed 23 October, 2015]

¹⁰⁷ HRW. (2014) La verdadera amenaza a la democracia en Venezuela. *Human Rights Watch*. [Online] 17 April. Available from: <https://www.hrw.org/es/news/2014/04/17/la-verdadera-amenaza-la-democracia-en-venezuela> [Accessed 23 October, 2015]; CARAOTA DIGITAL. (2015) Súmate: Contraloría no tiene facultad para inhabilitar a candidatos a la Asamblea Nacional. *Carlota Digital*. [Online] 18 July. Available from: <http://caraotadigital.net/sumate-contraloria-no-tiene-facultad-para-inhabilitar-a-candidatos-a-la-asamblea-nacional/> [Accessed 23 October, 2015]

¹⁰⁸ NOTICIAS24. (2014) Capturan a tres generales de la Aviación que “pretendían alzar a la Fuerza Aérea contra el Gobierno.” *Noticias24*. [Online] 25 March. Available from: <http://www.noticias24.com/venezuela/noticia/230400/capturan-a-tres-generales-de-la-aviacion-que-pretendian-alzar-la-fuerza-aerea-contra-el-gobierno/> [Accessed 23 October, 2015]

¹⁰⁹ EL COMERCIO. (2014) Venezuela: 30 oficiales arrestados por conspirar contra Maduro. *El Comercio*. [Online] 14 April. Available from: <http://elcomercio.pe/mundo/latinoamerica/venezuela-30-oficiales-arrestados-conspirar-contra-maduro-noticia-1722709> [Accessed 23 October, 2015]; EL NUEVO HERALD. (2014) Detenidos al menos 30 oficiales en Venezuela. *El Nuevo Herald*. [Online] 15 April. Available from: <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article2032584.html> [Accessed 23 October, 2015]

¹¹⁰ MADURADAS. (2014) INCREÍBLE! Con militares detenidos buscan sembrar temor al desacato de órdenes ilegales. *Maduradas*. [Online] 29 April. Available from: <http://www.maduradas.com/increible-con-militares-detenido-buscan-sembrar-temor-al-desacato-de-ordenes-ilegales/> [Accessed 23 October, 2015]

¹¹¹ LA PATILLA. (2014) Diez meses de prisión dicta TSJ al alcalde y al director de policía de San Diego Enzo Scarano y Salvatore Lucchese. *La Patilla*. [Online] 19 March. Available from: <http://www.lapatilla.com/site/2014/03/19/diez-meses-de-prision-dicta-tsj-al-alcalde-de-san-diego-enzo-scarano/> [Accessed 23 October, 2015]

¹¹² AMNESTY INTERNATIONAL. (2014) Venezuela: El arresto del alcalde Ceballos podría ser el inicio de una “caza de brujas.” *Amnesty International*. [Online] 20 March. Available from: <http://www.amnistia.me/profiles/blogs/alcalde-ceballos> [Accessed 23 October, 2015]

injuries, public intimidation, burning a public building, and damage to public property" and terrorism.¹¹³ Following a few days of threats,¹¹⁴ on 18 February 2014, after a demonstration in Plaza Brion, Chacao, Caracas, calling together the people to join him in a pacific demonstration to demand an investigation of the events to clarify the GoV responsibility, the release of the politics prisoners, the end of the repression and the disarming of the “colectivos”,¹¹⁵ Leopoldo López publicly surrendered himself to the GNB.¹¹⁶ On the 15 February 2014, Nicolás Maduro in TV accused him of being a “fascist” and a “coward” responsible for the damages in the Office of Public Prosecutions, and called the people and the FANB to be alert.¹¹⁷ In the overall context of absence of separation of powers between the Executive and the Judiciary, such a qualification as an enemy of the state by the President himself subjects Mr Lopez to an inevitable outcome in relation to his trial, as proven by the many previous similar cases determined in the GoV’s favour.

While, as reported by local and international NGOs and media, most of the protests were peaceful,¹¹⁸ there have been allegations by the GoV that some of the protests were violent. In those cases on which violence aroused during the protests, the GoV security

¹¹³ EL TIEMPO. (2014) Venezuela: El arresto del alcalde Ceballos podría ser el inicio de una “caza de brujas.” Un tribunal ordena la detención de Leopoldo López. *El Tiempo*. [Online] 13 February. Available from: <http://eltiempo.com.ve/venezuela/politica/un-tribunal-ordena-la-detencion-de-leopoldo-lopez/126105> [Accessed 23 October, 2015]

¹¹⁴ BOBBIO, L. (2014) Allanan casa del padre de Leopoldo López. *El Nacional*. [Online] 15 February. Available from: http://www.el-nacional.com/sociedad/Allanan-casa-papa-Leopoldo-Lopez_0_356364548.html [Accessed 23 October, 2015]; EL VELEZOLANO. (2014) En video: funcionarios de la DIM allanaron violentamente la sede de VP. *El Venezolano*. [Online] 17 February. Available from: <http://elvenezolanonews.com/fotos-y-video-comision-de-contrainteligencia-militar-allana-violentamente-sede-de-vp/> [Accessed 23 October, 2015]; ULTIMAS NOTICIAS. (2014) Denuncian que Dgim intentó allanar “de forma violenta” sede de VP. *Ultimas Noticias*. [Online] 13 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/denuncian-que-dgin-intento-allanar-de-forma-violen.aspx> [Accessed 23 October, 2015] (video included)

¹¹⁵ NONTIENDO. (2014) Leopoldo López se pronuncia en este VIDEO y convoca marchar el 18F. *Nontiendo*. [Online] 16 February. Available from: <http://www.nontiendo.com/noticias/leopoldo-Lopez-se-pronuncia-en-este-video-y-convoca-marchar-el-18f> [Accessed 23 October, 2015]

¹¹⁶ EL UNIVERSAL. (2014) Leopoldo López se entrega a funcionarios de la GG. *El Universal*. [Online] 18 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140218/leopoldo-Lopez-se-entrega-a-funcionarios-de-la-gn> [Accessed 23 October, 2015]; ULTIMAS NOTICIAS. (2014) Entrega de Leopoldo López. *Youtube*. [Online] 18 February. Available from: <https://www.youtube.com/watch?v=dYUIOaTK5Ys> [Accessed 23 October, 2015]; EL PAIS. (2014) Hallado muerto Rodolfo González, prisionero político venezolano. *El Pais*. [Online] 19 February. Available from: http://internacional.elpais.com/internacional/2014/02/19/actualidad/1392848599_869836.html [Accessed 23 October, 2015]

¹¹⁷ NOTICIAS24. (2014) Nicolás Maduro a Leopoldo López: “Cobarde fascista entrégate, te estamos buscando.” *Noticias24*. [Online] 15 February. Available from: <http://www.noticias24.com/venezuela/noticia/222387/maduro-informa-que-leopoldo-Lopez-esta-profugo-de-la-justicia-cobarde-entregate-te-estamos-buscando/> [Accessed 23 October, 2015]

¹¹⁸ HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System; OVCS (2014). Conflictividad social en Venezuela en 2014. *Observatorio Venezolano de Conflictividad Social*. [Online] Available from: <http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2015/01/Conflictividad-en-Venezuela-2014.pdf> [Accessed 23 October, 2015]

forces, acting together with pro government armed paramilitaries, were reported to have triggered the violence by indiscriminately attacking entire demonstrations, and in some cases bystanders.¹¹⁹

In addition, even though the acts of violence were isolated to small groups of protestors, many sources confirm that the protestors were unarmed across the country and that they responded in the worse cases by throwing rocks and bottles at the national security forces, which used indiscriminate force including live ammunition in retaliation. Furthermore, even the presence of individuals who are taking part in hostilities within a crowd does not affect the status of the civilians nor justify the indiscriminate targeting of civilians on the basis of military necessity or other purposes.¹²⁰

The indiscriminate nature of the attacks can be gathered not only from video footages of the incidents but also from the number of casualties, the profile of the victims and their testimonies as to what they were doing when they were attacked. A few instances that are illustrative of this fact include Marvinia Jiménez who was detained in Valencia on 24 February by National Guards officers and beaten with a helmet while she lay on the ground, restrained, just because she filming the protest and Moisés Guanchez, who was beaten and wounded by rubber bullets when detained by the GNB, as he left his workplace at the La Cascada Shopping Centre¹²¹ on the 3 March 2014. Similarly in Merida, on the same day, Giselle Rubilar Figueroa a civilian was shot dead when she was removing debris from a barricade near her home in Mérida. The next day in San Cristóbal, student Daniel Tinoco died after being shot in the chest by pro-government armed groups on motorbikes. Another two demonstrators who were with Tinoco were shot and wounded. Moreover, in Valencia, Isabelica sector, on 12 March 2014, certain pro government armed paramilitaries members on motorbikes fired against demonstrators and killed Jesús Enrique Acosta, who was shot in the head, and Guillermo Alfonso Sánchez Velásquez. They also injured five other persons.¹²²

On 6 March 2014, in Caracas, GNB officer Acner Isaac Lopez and motorbike taxi driver José Gregorio Amaris were killed by pro government armed paramilitaries

¹¹⁹ HRW (2014). Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System; OVCS (2014). Conflictividad social en Venezuela en 2014

¹²⁰ ICC. *Prosecutor v Fofana and Kondewa*. Appeal judgment. 28 May, 2008. para. 247

¹²¹ UZCATEGUI, R. (2014) La orfandad de llamarse Moisés Guánchez. *Worldpress*. [Online] 1 December. Available from: <https://rafaeluzcategui.wordpress.com/2014/12/01/la-orfandad-de-llamarse-moisés-guánchez/> [Accessed 23 October, 2015]

¹²² ROMERO, T. (2014) Sepultaron a Jesús Enrique Acosta y Guillermo Sánchez en Valencia. *El Nacional*. [Online] 14 March. Available from: http://www.el-nacional.com/regiones/Sepultaron-Enrique-Guillermo-Sanchez-Valencia_0_372562996.html [Accessed 23 October, 2015]; REPORTE CONFIDENTIAL. (2014) Estudiante, Adulto y niña (6) asesinados en La Isabelica en manifestaciones. *Reporte Confidencial*. [Online] 12 March. Available from: <http://reporteconfidencial.info/noticia/3214648/cuatro-personas-heridas-de-bala-en-la-isabelica-de-valencia-fotos/> [Accessed 23 October, 2015]

members on motorbikes as they were trying to dismantle a barricade erected by opposition demonstrators.¹²³ No member of these groups has been punished for their responsibility in these cases.

One of the main steps the GoV took on top of quelling the protests was to attempt to control the information about them, intimidating the communication media in many different ways. Firstly, the GoV targeted the communication media. For instance, the GoV took NTN24 (a Colombian news station) off the air, after it covered the protests while most Venezuelan media stations were either ignoring the protests after the headings warning that coverage of the demonstrations could lead to prosecution.¹²⁴ William Castillo, National Commission of Telecommunications (CONATEL) Director, justified the ban from broadcasting.¹²⁵ The next day, NTN24's Twitter account was hacked.¹²⁶ Moreover, President Nicolás Maduro himself, denounced Agence France Press (AFP) for leading the “manipulation”¹²⁷ and the GoV implemented a ban on Twitter images inside Venezuela to prevent people sharing images of the repression. The Venezuelan Twitter users reported that images were not visible inside the country and Twitter confirmed that they were blocked by the GoV.¹²⁸

Maduro also called for retaliations in the social network on the 12th March 2014, authorizing the Armed Forces to respond to any “twitter attack.”¹²⁹ An officer from the

¹²³ AMNESTY INTERNATIONAL. (2014) Venezuela: human rights at risk amid protests. p.7

¹²⁴ EL UNIVERSAL. (2014) Señal del canal NTN24 fue sacada de la parrilla de cable. *El Universal*. [Online] 13 February. Available from: <http://www.eluniversal.com/arte-y-entretenimiento/140213/senal-del-canal-ntn24-fue-sacada-de-la-parrilla-de-cable> [Accessed 23 October, 2015]; VENPRENSA. (2014) Conatel: Venezuela está viviendo una guerra electrónica. *Venprensa*. [Online] 15 February. Available from: <http://www.venprensa.com.ve/conatel-venezuela-esta-viviendo-una-guerra-electronica/> [Accessed 23 October, 2015]; ESPACIO PUBLICO. (2014) Censuran al canal internacional NTN24. *Espacio Publico*. [Online] 12 February. Available from: <http://espaciopublico.org/index.php/component/content/article/2841-censuran-al-canal-internacional-ntq> [Accessed 23 October, 2015]; APORREA. (2014) William Castillo: En Venezuela estamos viviendo un esquema de guerra electrónica. *Aporrea*. [Online] 15 February. Available from: <http://www.aporrea.org/actualidad/n245230.html> [Accessed 23 October, 2015]

¹²⁵ VENPRENSA. (2014) Conatel: Venezuela está viviendo una guerra electrónica; ESPACIO PUBLICO. (2014) Censuran al canal internacional NTN24; APORREA. (2014) William Castillo: En Venezuela estamos viviendo un esquema de guerra electrónica

¹²⁶ LA PATILLA. (2015) Hackean cuenta Twitter de NTN24 Venezuela: “no volverán.” *La Patilla*. [Online] 23 October. Available from: <http://www.lapatilla.com/site/2014/02/14/hackean-cuenta-twitter-de-ntn24-venezuela-no-volveran/> [Accessed 23 October, 2015]

¹²⁷ INFORME21. (2014) Maduro: Denuncio a la AFP porque está a la cabeza de la manipulación. *Informe21*. [Online] 13 February. Available from: <http://informe21.com/politica/maduro-denuncio-a-la-afp-porque-esta-a-la-cabeza-de-la-manipulacion> [Accessed 23 October, 2015]

¹²⁸ ULTIMAS NOTICIAS. (2014) Twitter confirma bloqueo de imágenes en Venezuela. *Ultimas Noticias*. [Online] 14 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/twitter-confirma-bloqueo-por-parte-del-gobierno-de.aspx> [Accessed 23 October, 2015]

¹²⁹ MADURADAS. (2014) Maduro autorizó a la FANB a responder por Twitter a opositores que les insulten. *Maduradas*. [Online] 16 March. Available from: <http://www.maduradas.com/maduro->

Bolivarian National Police (PNB) who retweeted a message against the GoV was fired and accused of “instigating the perpetration of crimes.”¹³⁰

The National Communication Company of Venezuela (CANTV) a state company which is the main provider of internet services in the country was alleged to have blocked the internet connection in some areas and to have blocked specific webpages.¹³¹

Delcy Rodríguez, the Minister of Communication and Information, now the Minister of Foreign Affairs, also declared that the GoV would take actions against international communication media for “media manipulation.”¹³² One month later, the same Minister requested an investigation against “El Aragueño” newspaper for allegedly spreading violent messages through their crosswords.¹³³ According to the NGO “Espacio Público”, between the 12th and 16 of February 2014, 21 journalists suffered a violation of their freedom of expression during the exercise of their profession, 11 journalists were detained, 17 were assaulted, 2 were threatened, 8 were robbed and one was shot.¹³⁴ On the 15 March 2014, a Chilean journalist was hit and threatened to be “disappeared” by six members of the Bolivarian National Guard (GNB) for recording with a camera the moment when they were arresting a demonstrator who was unconscious because of the punches he had received.¹³⁵

Secondly, the GoV targeted demonstrations that recorded the repression as will be demonstrated by many cases throughout this document. In Caracas, José Alejandro Márquez was captured because he was filming the repression and was punched until death by GNB members.¹³⁶ Diosdado Cabello, the President of the National Assembly

[autorizo-a-la-fanb-a-responder-por-twitter-a-opositores-que-les-insulten-video/](#) [Accessed 23 October, 2015]

¹³⁰ MADURADAS. (2014) ¿OPINAR ES DELITO? Destituyen a PNB por enviar un mensaje en contra del Gobierno. *Maduradas*. [Online] 16 March. Available from: <http://www.maduradas.com/opinar-es-delito-destituyen-a-pnb-por-enviar-un-mensaje-en-contra-del-gobierno/> [Accessed 23 October, 2015]

¹³¹ GBV. (2015) La Artillería del Pensamiento. *Gobierno Bolivariano de Venezolano*. [Online] 23 October. Available from: <http://www.correodelorinoco.gob.ve/ciencia-tecnologia/cantv-desmiente-estar-involucrada-falla-twitter/> [Accessed 23 October, 2015]

¹³² NOTICIAS24. (2014) Muestran fotos falsas que han sido divulgadas por las redes sociales. *Noticias24*. [Online] 16 February. Available from: <http://www.noticias24.com/venezuela/noticia/222492/muestran-fotos-falsas-que-han-sido-divulgadas-por-las-redes-sociales/> [Accessed 23 October, 2015]

¹³³ GBV. (2015) La Artillería del Pensamiento

¹³⁴ “Los Trances de la Libertad de Expresión”. Espacio Público, available on <http://espaciopublico.org/index.php/noticias/1-libertad-de-expresi/2866-libertad-de-expresion-febrero-2014-periodistas-venezuela-informe-espacio-publico>

¹³⁵ ESPACIO PUBLICO. (2014) Espacio Público: violaciones a la libertad de expresión a periodistas entre el 12 y 16 de February. *Espacio Publico*. [Online] 18 February. Available from: <http://www.maduradas.com/libertad-gnb-amenaza-con-desaparecer-a-periodista-chileno-que-grababa-protestas-video/> [Accessed 23 October, 2015]

¹³⁶ MATAMOROS, N. (2014) Falleció José Alejandro Márquez tras varios días en coma; MADURADAS. (2014) INDIGNANTE! Muere José Alejandro Márquez por brutal golpiza de la GNB en La Candelaria; INFOBAE. (2014) Venezuela: lo mataron por grabar la represión de militares

accused him of being a paramilitary who was training to kill Maduro and showed pictures of Márquez wearing military clothes and firing weapons,¹³⁷ which were later demonstrated to be an elaborate lie.¹³⁸ Furthermore, as previously mentioned, on 24 February 2014, Marvinia Jiménez was detained by GNB officers for taking pictures of a protest and was repeatedly hit on her face with a helmet.¹³⁹

(iv) *Attempts to request meaningful reforms and negotiate with the GoV*

In April 2014, a dialogue process was initiated between the GoV and MUD, which ended without any result.¹⁴⁰ Paramilitary group Movimiento Revolucionario Tupamaro's leader José Pinto was among the GoV designated spokesmen.¹⁴¹

In the meanwhile, the protests and demonstrations all around the country continued to take place and so did the violent and disproportionate repression. On 22 April 2014, the National Police arrested certain students and their lawyer Marcelo Crovato, a member of the NGO Foro Penal Venezolano, while he was defending them.¹⁴² Crovato was held almost a year under arrest and received a house-arrest measure on the 26 February 2015.¹⁴³ On 10 April, a SEBIN officer was captured by neighbours of Sucre and handed to the Sucre police after being found recording and photographing a citizen assembly, in which student leader Gaby Arellano was participating.¹⁴⁴ Moreover, on 30 April, a civilian with Asperger syndrome, Xavier Beckles, was arrested and beaten.

Furthermore, Maduro announced on TV that several individuals had been arrested charged with participating in a major conspiracy against the GoV. Rodolfo González, nicknamed "El Aviador" ("The Aviator") was described by Maduro as being "one of the

¹³⁷ VIVAS, V. (2014) Muerte de José Alejandro Márquez en Venezuela. *Youtube*. [Online] 3 January. Available from: <https://www.youtube.com/watch?v=MR9aUA4lv-4> [Accessed 23 October, 2015]

¹³⁸ See page XX in murder section [WHAT IS THIS?]

¹³⁹ TuKarmaTV. (2014) -video estabilizado- La brutal golpiza a Marvinia Jimenez por 'guardia del pueblo.' *Youtube*. [Online] 26 February. Available from: https://www.youtube.com/watch?v=ls_WbABCD4s [Accessed 23 October, 2015]

¹⁴⁰ MADURADAS. (2014) ;HASTA AHORA MONÓLOGO! Inicia "diálogo" nacional con largo y aburrido discurso de Maduro. *Maduradas*. [Online] 10 April. Available from: <http://www.maduradas.com/hasta-ahora-monologo-inicia-dialogo-nacional-con-largo-y-aburrido-discurso-de-maduro/> [Accessed 23 October, 2015]

¹⁴¹ MADURADAS. (2014) ;ASÍ DE ABSURDO! Líder Tupamaro propuso "Premio Nobel de la Paz" a Nicolás Maduro. *Maduradas*. [Online] 11 April. Available from: <http://www.maduradas.com/asi-de-absurdo-lider-tupamaro-propuso-premio-nobel-de-la-paz-a-nicolas-maduro-video/> [Accessed 23 October, 2015]

¹⁴² AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. pp.36-37

¹⁴³ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p36

¹⁴⁴ EL PROPRIO. (2014) Funcionario del Sebin fue detenido mientras perseguía a Gaby Arellano. *El Proprio*. [Online] 10 April. Available from: http://www.elpropio.com/actualidad/Funcionario-Sebin-perseguia-Gaby-Arellanos_0_497950237.html [Accessed 23 October, 2015]; VÁSQUEZ, E. (2014) Vecinos denuncian intervención del Sebin en asamblea ciudadana. *El Universal*. [Online] 10 April. Available from: <http://www.eluniversal.com/caracas/140410/vecinos-denuncian-intervencion-del-sebin-en-asamblea-ciudadana> [Accessed 23 October, 2015]

brains behind the armed insurrection in Venezuela”.¹⁴⁵ Maduro stated that González had weapons and money, and that he had hired snipers and planned several barricades around the country, especially in Altamira. Then Minister of Interior, Justice and Peace Miguel Rodríguez Torrez elaborated on the details of the plan on TV and accused González of being a “logistic operator” of the barricades and protests. Rodríguez Torres stated that González was working with several other individuals, including then mayor of Caracas Antonio Ledezma, Floirán Barrios, Darío Ramírez, Pablo Medina, Mirta Fernández, Rosmith Mantilla, Ana Karina García, Iván Carratú Molina (former Deputy Admiral of the Navy), Iván Ballesteros (a journalist, later summarily fired from his radio program following an order of CONATEL), Victor Ruiz, Lilian Tintori (Leopoldo López’s wife) and several students leaders, including Juan Requesens and Gaby Arellano, among others.

The GoV could never present strong evidence against González. González was a 64-year-old private pilot who, along with his wife, supported the students that protested in Altamira, giving them food and water.¹⁴⁶ He committed suicide in jail one day before his scheduled transfer to one of the most dangerous prisons in Venezuela. His death caused public outrage and several NGOs demanded an investigation of the case and expressed their concerns.¹⁴⁷

On 16 April 2014, PSUV congressman Juan Carlos Alemán filed a criminal complaint before the Office of Public Prosecutions charging Óscar García Mendoza, a renowned opposition member and banker, María Corina Machado (former congresswoman previously dismissed from the National Assembly by the pro-government majority), Otto Reich (former American Ambassador to the United Nations), Diego Arria (former Governor of Caracas and Venezuelan Permanent Representative of Venezuela to the United Nations) and Alfonso Rivas (renowned opposition businessman), among many others, with perpetrating treason, conspiracy and criminal association.

¹⁴⁵ GLOBOVISION. (2014) Capturan a El Aviador, presunto "cerebro de las guarimbas." *Globovision*. [Online] 29 April. Available from: <http://globovision.com/capturan-a-presunto-cerebro-de-la-insurreccion-guarimbera/> [Accessed 23 October, 2015]; EL PROPRIO. (2014) Capturan a “el aviador” supuesto cerebro de las guaridas venezolanas. *El Propio*. [Online] 29 April. Available from: http://www.elpropio.com/actualidad/Capturan-Aviador-supuesto-guarimbas-venezolanas_0_509349119.html [Accessed 23 October, 2015]

¹⁴⁶ REPORTERO24. (2015) REPRESIÓN: Muere en prisión Rodolfo González “El Aviador.” *Reportero24*. [Online] 13 March. Available from: <http://www.reportero24.com/2015/03/represion-muere-en-prision-rodolfo-gonzalez-el-aviador/> [Accessed 23 October, 2015]; MEZA, A. (2015) Hallado muerto Rodolfo González, prisionero político venezolano. *El País*. [Online] 13 March. Available from: http://internacional.elpais.com/internacional/2015/03/13/actualidad/1426274492_683809.html [Accessed 23 October, 2015]; VENEZUELA AL DÍA. (2015) Provea denunciará ante la CIDH tortura psicológica contra Rodolfo González. *Venezuela al Día*. [Online] 15 March. Available from: <http://www.venezuelaaldia.com/2015/03/provea-denunciara-ante-la-cidh-tortura-psicologica-contra-rodolfo-gonzalez/> [Accessed 23 October, 2015]

¹⁴⁷ VENEZUELA AL DÍA. (2015) Provea denunciará ante la CIDH tortura psicológica contra Rodolfo González

By 2 May 2014, 2,553 people had been detained for alleged crimes related to the protests and political dissidence.¹⁴⁸ Several NGOs, such as Foro Penal, and victims denounced tortures and ill-treatment in different detention centres and prisons.¹⁴⁹ According to Foro Penal, some victims were forced to sing a statement declaring that they had not been victims of any mistreatment.¹⁵⁰

On 24 April 2014, after the student movement called for a pacific demonstration in Caracas downtown, the Constitutional Chamber of the TSJ held that the right to protest pacifically was not absolute and that an authorization was required from the local authorities before holding a peaceful protest.¹⁵¹ Thereby, the TSJ turned all the protestors into criminals and thus into legitimate targets of violence. This decision was heavily criticized as violating human rights standards but no judicial recourse is available to the victims.

Six days later, General Prosecutor Luisa Ortega Díaz claimed that “there are no political prisoners [in Venezuela]. The prisoners are in jail because of their ideas.” In addition, she stated that the GoV had been respecting human rights and the Venezuelan law. She personally mocked victims who reported instances of sexual violence during a televised press conference, holding up a photo of a rifle and asking rhetorically: “Do you think that a person who has been violated, who had a rifle inserted in his anus, could sit down to make a declaration at his hearing?”¹⁵²

In April 2014, the SEBIN broke and entered into NGOs premises such as “Un Mundo

¹⁴⁸ LA RAZON. (2014) Detenciones a menores de edad durante protestas violan derechos establecidos en la Lopna. *La Razon*. [Online] 2 May. Available from: <http://www.larazon.net/2014/05/02/detenciones-a-menores-de-edad-durante-protestas-violan-derechos-establecidos-en-la-lopna/>

¹⁴⁹ See, for instance, HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System. See Foro Penal, *Protesta y Derechos Humanos* (May 2014). Available at: http://www.foropenal.com/file/1878/download?token=rupB_OHG

¹⁵⁰ Foro Penal, *Protesta y Derechos Humanos* (May 2014), especially pages 43-46. Available at: http://www.foropenal.com/file/1878/download?token=rupB_OHG

¹⁵¹ EL IMPULSO. (2014) TSJ: “Derecho a la protesta no es absoluto.” *El Impulso*. [Online] 25 April. Available from: <http://elimpulso.com/articulo/tsj-derecho-a-la-protesta-no-es-absoluto> [Accessed 24 October, 2015]; EL TIEMPO. (2014) TSJ: derecho a la protesta pacífica no es absoluto. *El Tiempo*. [Online] 25 April. Available from: <http://eltiempo.com.ve/venezuela/medida/tsj-derecho-a-la-protesta-pacifica-no-es-absoluto/136347> [Accessed 23 October, 2015]

¹⁵² Luisa Ortega Diaz: In Venezuela there was neither manifestation nor peaceful protest. See: MORENO, J.T. (2014) Luisa Ortega Díaz: En Venezuela no hubo ninguna manifestación ni protesta pacífica. *El Nacional*. [Online] 30 May. Available from: http://www.el-nacional.com/politica/Luisa-Ortega-Diaz-Venezuela-manifestacion_0_418758411.html [Accessed 23 October, 2014]; Also see: HENDERSON, V.L. (2014) Human Rights Watch Alert: All-Star Cast Doing Dirty Work for Venezuelan Regime? *Panama Post*. [Online] 23 May. Available from: <http://panamapost.com/victoria-henderson/2014/05/23/human-rights-watch-alert-all-star-cast-doing-dirty-work-for-venezuelan-regime/> [Accessed 23 October, 2015]

Sin Mordaza” and “Humano y Libre” and charged its members with conspiracy and association to commit crimes. Rodrigo Diamanti, a student leader who has been nominated as a Global Shaper by the World Economic Forum, was among the accused. Moreover, “Observatorio Venezolano de Prisiones (OVP)” Director, Humberto Prado, denounced that his NGO was a victim of defamation, harassment and threats from GoV agents.

Minister Miguel Rodríguez Torres explained on TV that the proceedings in the NGOs premises obeyed to the fact that their members were suspected of conspiring against the GoV. Furthermore, he argued that some of them were responsible for the organisation of the protests and the violence, along with other well-known individuals. He specifically named the following persons as perpetrators, without providing any evidence: Álvaro Uribe (former President of Colombia), Juan Requesens, Gaby Arellano, David Smolansky, Leopoldo López, Lilian Tintori, Diego Arria, Antonio Ledezma, Pablo Medina, Robert Alonso, Eligio Cedeño, Henrique Salas Römer, María Corina Machado, Delsa Solórzano, Humberto Prado, Gustavo Tovar Arroyo, Vicente Fox, Roderick Navarro, Yon Goicoechea, Jim Chard, Lorent Saleh, José Antonio Colina, Roger Noriega, Julio Rivas, Jorge Aurelio Noguera Cotes, Freddy Curupe, Robin Meyer, Pedro Burelli, Pedro Enrique Paraqueimo Hernández and Iván Ballesteros.¹⁵³ He designated all these persons as criminals and fascists. The GoV thus continued its strategy of accusing any political dissident as a conspirator without providing any kind of proof.

On 8 May 2014, 243 students were detained while they were peacefully occupying some public space in Caracas in protest.¹⁵⁴ Minister Rodríguez Torres claimed that he had

¹⁵³ INFORME21. (2014) Lista de supuestos conspiradores presentada por Rodríguez Torres. *Informe21*. [Online] 2 May. Available from: <http://informe21.com/miguel-rodriguez-torres/rodriguez-torres-denuncia-presunta-conspiracion-contra-el-pais> [Accessed 23 October, 2015]; MADURADAS. (2014) ¡SIN PRUEBAS! Rodríguez Torres acusó a Salas Romer, Javú, Uribe, Tintori y la Colonia Tovar. *Maduradas*. [Online] 2 May. Available from: <http://www.maduradas.com/sin-pruebas-rodriguez-torres-acuso-a-salas-romer-javu-uribe-tintori-y-la-colonia-tovar/> [Accessed 23 October, 2015]; EL NACIONAL. (2014) Rodríguez Torres: Departamento de Estado está detrás de planes conspirativos contra el Gobierno. *El Nacional*. [Online] 2 May. Available from: http://www.el-nacional.com/politica/Rodriguez-Torres-detalles-insurreccionales-Gobierno_0_401959873.html [Accessed 23 October, 2015]

¹⁵⁴ CLARIN. (2014) Arrestan a 243 estudiantes en Caracas acusados de “terroristas.” *Clarín*. [Online] 8 May. Available from: http://www.clarin.com/mundo/Arrestan-estudiantes-Caracas-acusados-terroristas_0_1135086554.html [Accessed 23 October, 2015]; PERÚ21. (2014) Venezuela: 243 estudiantes detenidos en campamento por militares. *Perú21*. [Online] 8 May. Available from: <http://peru21.pe/mundo/venezuela-militares-detienen-243-manifestantes-que-acampaban-caracas-2182343> [Accessed 23 October, 2015]; LA NACION. (2014) Venezuela: desmantelaron campamentos de protesta y detuvieron a 243 opositores. *La Nación*. [Online] 8 May. Available from: <http://www.lanacion.com.ar/1688724-venezuela-desmantelaron-campamentos-de-protesta-y-detuvieron-a-250-opositores> [Accessed October 23 October, 2014]; EL MUNDO. (2014) Rodríguez Torres: Hay 243 detenidos por desalojos a campamentos. *El Mundo*. [Online] 8 May. Available from:

proof that those individuals were planning terrorist acts, but that evidence was never made public.¹⁵⁵

On 19 May 2014, Minister Rodríguez Torres announced the creation of an elite “Special Brigade” of no more than 60 officers to “combat groups who create violence, specially paramilitary groups and drug trafficking (...) and the organized bands who seek to destabilize the daily life of the people” under his personal command.¹⁵⁶

On 28 May 2014, the Political High Command of the Bolivarian Revolution represented in that instance by the Vice-president Jorge Arreaza, First Lady Cilia Flores, Minister of Energy Rafael Ramirez, Mayor of Libertador Municipality Jorge Rodríguez and the Governor of Aragua State Tareck El Aissami presented at a TV show hosted by National Assembly President Diosdado Cabello and broadcasted by public TV (“Con el Mazo Dando” which vaguely translates as “Hitting with the Maze”) a series of emails allegedly belonging to Maria Corina Machado and other public figures. According to these politicians, these e-mails demonstrated that Machado, Gustavo Tarre Briceño, Diego Arria, Henrique Salas Römer, Eligio Cedenó, Pedro Mario Burelli and Ricardo Koesling, along with other well-known Venezuelan political actors and the US Ambassador in Colombia Kevin Whitaker, were engaged in a plan to undermine the stability of the Republic of Venezuela and assassinate Nicolás Maduro, Diosdado Cabello and Tareck El Aissami.¹⁵⁷ Diosdado Cabello and Jorge Rodríguez presented further evidence on 12 June 2014, and stated that the plan involved assassinating President Maduro and perpetrating a coup in Venezuela.¹⁵⁸

<http://www.elmundo.com.ve/noticias/actualidad/noticias/rodriguez-torres--hay-243-detenido-por-desalojos.aspx> [Accessed 23 October, 2015]

¹⁵⁵ LA NACION. (2014) Venezuela: desmantelaron campamentos de protesta y detuvieron a 243 opositores; EL MUNDO. (2014) Rodríguez Torres: Hay 243 detenidos por desalojos a campamentos

¹⁵⁶ GLOBOVISION. (2014) Gobierno activará "brigada especial" contra grupos generadores de violencia. *Globovision*. [Online] 16 May. Available from: <http://globovision.com/gobierno-activara-brigada-especial-contra-grupos-generadores-de-violencia/> [Accessed 23 October, 2015]; EL NACIONAL. (2014) Cuestionan activación brigada especial de Rodríguez Torres. *El Nacional*. [Online] 20 May. Available from: http://www.el-nacional.com/politica/Cuestionan-activacion-especial-Rodriguez-Torres_0_412758823.html [Accessed 23 October, 2015]

¹⁵⁷ VT. (28 May) El Aissamí: Están en marcha planes magnicidas de ultraderecha y funcionarios EEUU para amenazar la Paz y el futuro del país. *Venezolana de Televisión*. [Online] 28 May. Available from: <http://www.vtv.gob.ve/articulos/2014/05/28/el-aisami-estan-en-marcha-planes-magnicidas-de-ultraderecha-y-funcionarios-de-eeuu-para-amenazar-la-paz-y-el-futuro-de-familias-venezolanas-557.html> [Accessed 23 October, 2015]

¹⁵⁸ HERNÁNDEZ, A.M. (2014) Jorge Rodríguez presenta nuevas supuestas pruebas de plan magnicida. *El Universal*. [Online] 13 June. Available from: <http://www.eluniversal.com/nacional-y-politica/140613/jorge-rodriguez-presenta-nuevas-supuestas-pruebas-de-plan-magnicida> [Accessed 23 October, 2015]; LA PATILLA. (2014) Cabello presentó nuevas pruebas del supuesto magnicidio. *La Patilla*. [Online] 12 June. Available from: <http://www.lapatilla.com/site/2014/06/12/cabello-presento-nuevas-pruebas-del-supuesto-magnicidio/> [Accessed 23 October, 2015]; MADURADAS. (2014) ;CUENTO CHIMBO! Diego Arria califica de “invención fantástica” el plan magnicida. *Maduradas*. [Online] 12 June. Available from: <http://www.maduradas.com/cuento-chimbo-diego-arria-califica-de-invencion-fantastica-el-plan-magnicida/> [Accessed 23 October, 2015]

On 12 June 2014, General Prosecutor Luisa Ortega Díaz named nine people “as witnesses” and called them to give testimony on their alleged involvement in the plot to assassinate President Maduro. Furthermore, Ortega Díaz issued an arrest warrant against former Governor of Caracas Diego Arria; the former external director of the state-owned oil and natural gas company PDVSA, Pedro Mario Burelli, and the lawyer Ricardo Koesling.¹⁵⁹

Pedro Mario Burelli hired a cybersecurity forensics expert in an effort to clear his name. The expert stated on 30 June 2014 that the emails used by the GoV to accuse political opponents and U.S. diplomats of conspiring to assassinate President Nicolás Maduro were not authentic. According to the expert, the GoV fabricated the four e-mails attributed to Burelli.¹⁶⁰

On November 28, 2014 the Office of Public Prosecutions officially accused María Corina Machado of being involved in a plan to murder President Nicolás Maduro.¹⁶¹ General Prosecutor Luisa Ortega Díaz announced that Machado would be prosecuted by National Prosecutor Katherine Harrington.¹⁶² Prosecutor Harrington was also designated to investigate Henrique Salas Römer, Diego Arria Salicetti, Ricardo Emilio

¹⁵⁹ ALONSO, J.F. (2014) Fiscalía pidió a Interpol detener a Arria, Burelli y Koesling. *El Universal*. [Online] 12 June. Available from: <http://www.eluniversal.com/nacional-y-politica/140612/fiscalia-pidio-a-interpol-detener-a-arria-burelli-y-koesling> [Accessed 23 October, 2015]; NOTICIA AL DIA. (2014) Solicitan a Interpol captura para Arria, Burelli y Koesling: Citan a Gaby Arellano como testigo en el Sebin. *Noticia al Dia*. [Online] 11 June. Available from: <http://noticiaaldia.com/2014/06/fiscal-ordenamos-la-aprehension-de-diego-arria-pedro-burelli-y-ricardo-koesling/> [Accessed 23 October, 2015]

¹⁶⁰ DE CÓRDOBA, J. (2014) Expert Says Emails Used to Accuse Maduro Opponents of Assassination Plot Are Fake. *The Wall Street Journal*. [Online] 30 June. Available from: <http://www.wsj.com/articles/expert-says-emails-used-to-accuse-maduro-opponents-of-assassination-plot-are-fake-1404171138> [Accessed 23 October]

¹⁶¹ EL UNIVERSAL. (2014) Experto califica de "falsos" correos que vinculan a Burelli con magnicidio. *El Universal*. [Online] 1 July. Available: <http://www.eluniversal.com/nacional-y-politica/140701/experto-califica-de-falsos-correos-que-vinculan-a-burelli-con-magnicid> [Accessed 23 October, 2015]; NOTITARDE. (2015) “Son falsos correos que vinculan a Burelli con plan magnicida.” *Notitarde*. [Online] 24 October. Available from: <http://www.notitarde.com/pais/son-falsos-correos-que-vinculan-a-burelli-con-plan-magnicida-2189337/2014/07/02/335924/> [Accessed 23 October, 2015]; LA PATILLA. (2014) Experto asegura que son falsos los correos que vinculan a Burelli con magnicidio. *La Patilla*. [Online] 1 July. Available from: <http://www.lapatilla.com/site/2014/07/01/experto-asegura-que-son-falsos-los-correos-que-vinculan-a-burelli-con-magnicidio/> [Accessed 23 October, 2015]

¹⁶² After being sanctioned for alleged Human Rights violations by the US government, then Prosecutor Katherine Harrington was promoted. She is now Vice-Minister of Criminal Investigations, in charge of overseeing criminal investigations. See: WPR. (2015) Venezuela Officials Sanctioned by U.S. Get Promotions. *World Politics Review*. [Online] 8 April. Available from: <http://www.worldpoliticsreview.com/articles/15483/venezuela-officials-sanctioned-by-u-s-get-promotions#> [Accessed 23 October, 2015]; EL UNIVERSAL. (2015) Katherine Harrington designada viceministra de Investigación Penal. *El Universal*. [Online] 7 April. Available from: <http://www.eluniversal.com/nacional-y-politica/150407/katherine-harrington-designada-viceministra-de-investigacion-penal> [Accessed 23 October, 2015]

Koesling, Gustavo Tarre Briceno, Pedro Mario Burelli and Robert Alonso for the same events.

On October 1 2014, Robert Serra, a young congressman close to the pro-government armed paramilitaries, was stabbed to death.¹⁶³ Members of the GoV publicly accused Alvaro Uribe, Lorent Saleh, Henrique Salas Römer, María Corina Machado, Leopoldo López, Carlos Berrizbeitia of being involved in his death.¹⁶⁴

Subsequently, eight Twitter users were arrested for different incidents related to Robert Serra's murder. Four of them for allegedly publishing tweets that predicted Serra's assassination, another one for allegedly hacking into the accounts of senior PSUV leaders, and the rest for publishing tweets following Serra's death (one of them for publishing pictures of the dead body).¹⁶⁵ Their lawyers denounced several due process violations, including irregularities in their detention and disproportional use of force against them.¹⁶⁶

On 15 October 2014, Nicolás Maduro appeared on TV to present a video that accused several opposition members of participating in the assassination of Robert Serra, though

¹⁶³ GLOBALVOICES. (2014) Venezuela: Usuarios de Twitter detenidos tras asesinato de diputado socialista. *GlobalVoices*. [Online] 23 October. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/las-claves-tras-el-asesinato-de-robert-serra-y-mar.aspx> [Accessed 23 October, 2015]; EL VENEZOLANO. (2014) ¿Quién mató al Diputado Robert Serra? El hombre fuerte de los colectivos chavistas. *El Venezolano*. [Online] 5 October. Available from: <http://elvenezolanonews.com/quien-mato-al-diputado-robert-serra-el-hombre-fuerte-de-los-colectivos-chavistas/> [Accessed 23 October, 2015]

¹⁶⁴ ANTICH, F.O. (2014) Las mentiras de Maduro. *El Columnero*. [Online] 27 October. Available from: <http://www.elcolumnero.com/fernando-choa/las-mentiras-de-maduro> [Accessed 23 October, 2015]; MADURADAS. (2014) ¡EL JUEGO SUCIO DEL RÉGIMEN! Consignan “pruebas” que vincularían a OPOSICIÓN en caso Serra. *Maduradas*. [Online] 21 October. Available from: <http://www.maduradas.com/el-juego-sucio-del-regimen-consignan-pruebas-que-vincularian-a-oposicion-en-caso-serra/> [Accessed 23 October, 2015]; MADURADAS. (2014) ¿HASTA CUÁNDO LA BURLA? Maduro relaciona asesinato de Serra con sinfín de opositores. *Maduradas*. [Online] 15 October. Available from: <http://www.maduradas.com/hasta-cuando-la-burla-maduro-relaciona-asesinato-de-serra-con-sinfin-de-opositores-video/> [Accessed 23 October, 2015]

¹⁶⁵ IACHR. (2015) Annual Report 2014. *IACHR*. [Online] 12 January. Available from: <http://www.oas.org/en/iachr/docs/annual/2014/docs-en/Annual2014-chap4Venezuela.pdf> [Accessed 23 October, 2015]; GLOBAL VOICES. (2014) Venezuela: Usuarios de Twitter detenidos tras asesinatos de diputado socialista. *Global Voices*. [Online] 23 October. Available from: <https://es.globalvoices.org/2014/10/23/venezuela-usuarios-de-twitter-detenidos-tras-asesinato-de-diputado-socialista> [Accessed 23 October, 2015]; INFOBAE. (2014) Venezuela: "Hay tuiteros detenidos" por escribir sobre la muerte del diputado Serra. *Infobae*. [Online] 20 October. Available from: <http://www.infobae.com/2014/10/20/1603032-venezuela-hay-tuiteros-detenidos-escribir-la-muerte-del-diputado-serra> [Accessed 23 October, 2015]

¹⁶⁶ IPS. (2014) Venezuela: 7 twittersos fueron detenidos por agentes de seguridad del Estado. *Instituto Prensa y Sociedad*. [Online] 28 October. Available from: <http://ipys.org.ve/alerta/venezuela-7-twitteros-fueron-detenidos-por-agentes-de-seguridad-del-estado/> [Accessed 23 October, 2015]; FRANCO, C. (2014) Maduro encarcela a tuiteros por mensajes políticos. *Diario Las Americas*. [Online] 25 November. Available from: http://www.diariolasamericas.com/4848_venezuela/2811334_maduro-encarcela-a-tuiteros-por-mensajes-politicos.html [Accessed 23 October, 2015]

presenting no valuable evidence. The video mentioned Álvaro Uribe, Leopoldo López and government critic cartoonist Roberto Weil, among others.¹⁶⁷

Starting in June, the protests started to decrease gradually, both in number and intensity, until the end of the year.

(b) *The 2015 protests and new incidents of repression*

In 2015, although the incidents of violence against the protestors decreased with the reduced number of demonstrations, the persecution against students, private media, journalists, demonstrators, businessman and political figures through murder, imprisonment and other crimes against the humanity persisted with the same intensity.

At the beginning of 2015, following a fall in the oil prices which affected the national economy on a huge scale and produced one of the worst economic crises in Venezuelan contemporary times, the GoV accused the private economic sector of being a part of an “economic war” which seek to “reduce or limit the offer of essential massive products” with the aim of generating scarcity “to bother the population.”¹⁶⁸ This concept of “economic war” has been constantly referenced by all the GoV owned media, which has also targeted the private sector and blamed it for the scarcity.¹⁶⁹

As a result, the GoV has arrested, investigated and harassed many entrepreneurs and businessmen, and in some cases occupied their companies without paying any compensation. This was the case of big companies such as Farmatodo, Día a Día Practimerca, Zuly Milk, Distribuidora Herrera and Alimentos Polar. At least 20 business owners and senior employees have been charged with boycott,¹⁷⁰ which is a

¹⁶⁷ MADURADAS. (2014) ¿HASTA CUÁNDO LA BURLA? Maduro relaciona asesinato de Serra con sinfín de opositores

¹⁶⁸ The shortages are deliberately caused primarily by opposition sectors and private enterprises in order to cause destabilization. teleSUR at the following address: TELESUR. (2015) The Truth Behind Shortages in Venezuela. *Telesur*. [Online] 22 January. Available from: <http://www.telesurtv.net/english/telesuragenda/Economic-War-on-Venezuela-20150122-0033.html> [Accessed 23 October, 2015]; VTV. (2014) Claves para entender la “guerra económica” en Venezuela. *Venezolana de Televisión*. [Online] 16 January. Available from: <http://www.vtv.gob.ve/articulos/2014/01/16/claves-para-entender-la-guerra-economica-en-venezuela-video-9684.html> [Accessed 23 October, 2015]

¹⁶⁹ MV. (2015) Guerra Económica. *Misión Verdad*. [Online] 21 October. Available from: <http://misionverdad.com/etiquetas/guerra-economica> [Accessed 23 October, 2015]; TELESUR. (2015) Claves: Quiénes están detrás del acaparamiento en Venezuela? *Telesur*. [Online] 13 January. Available from: <http://www.telesurtv.net/news/Claves-Quienes-estan-detras-del-acaparamiento-en-Venezuela-20150113-0035.html> [Accessed 23 October, 2015]

¹⁷⁰ EL MUNDO. (2015) Más de 20 empresarios han sido acusados por boicot. *El Mundo* [Online] 23 March. Available from: <http://www.elmundo.com.ve/noticias/actualidad/judicial/mas-de-20-empresarios-han-sido-acusados-por-boicot.aspx> [Accessed 23 October, 2015]; ESCOTE, O.L. (2015) Empresarios “desfilan” por el Sebin. *2001.com*. [Online] 2 April. Available from:

crime under the “Fair Prices Law” sanctioned by Maduro in 2014. These businessmen could face between five and twelve years of prison.¹⁷¹

The repression also continued against demonstrators. On 27 January 2015, the Interior and Justice Minister published the 8610 Resolution entitled “Rules about the FANB performance, in the task of public control, social peace, and citizen communal living, in public meetings and demonstrations,” also known as “Padrino López’s Resolution”¹⁷² which allows the use of lethal force along with firearms in public demonstrations.¹⁷³ Indeed, the only safeguard of the provision to minimize damage is the requirement that firearms be used when it is “unavoidable.” However, the resolution does not clearly state the threshold when use of a firearm becomes unavoidable and given the law making peaceful protest illegal, all peaceful protestors are legitimate targets of the security forces controlled by the GoV. This resolution was fiercely objected to among diverse sectors of the country, like politics figures, universities, students, local civil society actors,¹⁷⁴ as well as international media.¹⁷⁵

One month later, as the GoV deployed the same units previously accused of committing crimes against the protestors with this new direction authorizing the lethal use of force, on 24 February 2015 the local police severely repressed a protest in San Cristóbal,

<http://www.2001.com.ve/en-la-agenda/89720/empresarios--desfilan--por-el-sebin-.html> [Accessed 23 October, 2015]

¹⁷¹ See page xxxxx persecution businessman. ABC. (2015) Crece el número de empresarios venezolanos en detención ilegal. *ABC.es* [Online] 24 October. Available from:

<http://www.abc.es/internacional/20150313/abci-crece-numero-empresarios-venezolanos-201503122119.html> [Accessed 24 October, 2015]

¹⁷² Padrino López was Minister of Defence

¹⁷³ GACETA OFICIAL. (2015) Contiene la Resolución No. 008610 del Ministerio de la Defensa. *Gaceta Oficial*. [Online] 27 January. Available from: <http://www.scribd.com/doc/254224935/Gaceta-oficial-Nº-40-589-del-27-01-2015> [Accessed 24 October, 2015]

¹⁷⁴ SÁNCHEZ, N. (2015) Estudiantes de la ULA marcharán en contra de la Resolución 8610. *El Universal*. [Online] 25 March. Available from: <http://www.eluniversal.com/nacional-y-politica/150325/estudiantes-de-la-ula-marcharan-en-contra-de-la-resolucion-8610> [Accessed 34 October, 2015]; EL UNIVERSAL. (2015) Marcha de mujeres exige anulación de resolución 8610. *El Universal*. [Online] 8 March. Available from: <http://www.eluniversal.com/nacional-y-politica/150308/marcha-de-mujeres-exige-anulacion-de-resolucion-8610> [Accessed 24 October, 2015]; NH. (2015) Rocío San Miguel: Resolución 8610 es un reconocimiento a violaciones de DDHH en Venezuela. *Notihoy*. [Online] 29 January. Available from: <http://notihoy.com/rocio-san-miguel-resolucion-8610-es-un-reconocimiento-violaciones-de-ddhh-en-venezuela/> [Accessed 24 October, 2015]; YOYO PRESS. (2015) En detalle: María Corina Machado convoca a movilización contra resolución 8610. *Yoyo Press*. [Online] 5 March. Available from: <http://yoyopress.com/2015/03/05/en-detalle-maria-corina-machado-convoca-a-movilizacion-contra-resolucion-8610/> [Accessed 23 October, 2015]; NOTICIAS UCAB. (2015) Comunicado a propósito de la Resolución N° 8610. *Noticias UCAB*. [Online] 11 February. Available from: <http://w2.ucab.edu.ve/noticias-ucab/items/comunicado-a-proposito-de-la-resolucion-n-8610.html> [Accessed 23 October, 2015]; VENEZUELA AWARENESS. (2015) 26F Solicitan nuevamente al TSJ nulidad de la resolución 8610. *Venezuela Awareness*. [Online] 26 February. Available from: <http://www.venezuelaawareness.com/tag/tsj/> [Accessed 23 October, 2015]

¹⁷⁵ <http://www.press-report.co.ve/clanek-39916798-onu-critica-a-venezuela-por-resolucion-8610>

Táchira. A 14 years-old boy scout, Kluiwerth Roa, died after an officer shot him a close distance in the face by lethal weapon.¹⁷⁶

In response to Roa's death, many protests took place along the country starting the same day of his death. The protestors demanded proper investigations and justice.¹⁷⁷ In Zulia, almost 70 students were detained in URBE University (Universidad Rafael Belloso Chacin),¹⁷⁸ and a journalist was attacked by National Guard officials who tried to take his camera.¹⁷⁹ In Mérida, five demonstrators were injured, three of them by bullets, on a demonstration on the University of the Andes (ULA).¹⁸⁰

Furthermore, in the context of the February protests, five students who were participating in unrelated protests across the country went missing. Eventually, their bodies appeared neared the protests in which each one of them was participating, and all of them showed signs of torture. Certain reports argue that they were kidnapped by

¹⁷⁶ See: NOTICIA AL DIA. (2015) Video del asesinato de Kluiwerth Roa en Táchira. *Noticia al Dia*. [Online] 25 February. Available from: <http://noticialdia.com/2015/02/video-del-asesinato-de-kluiwerth-roa-en-tachira/> [Accessed 24 October, 2015]; EL NACIONAL. (2015) Daniel Prado compañero de Kluiwerth Roa revela datos sobre la muerte en una entrevista. *El Nacional*. [Online] 27 February. Available from: http://www.el-nacional.com/sucesos/Daniel-Prado-Kluiwerth-Roa-entrevista_3_582571756.html [Accessed 24 October, 2015]

¹⁷⁷ EL NACIONAL. (2015) Universitarios corianos protestan por muerte de Kluivert Roa. *El Nacional*. [Online] 25 February. Available from: http://www.el-nacional.com/regiones/Universitarios-corianos-protestan-Kluivert-Roa_0_581341970.html [Accessed 24 October, 2015]; MIAMI DIARIO. (2015) Estudiantes venezolanos salen a las calles nuevamente por la muerte de Kluivert Roa. *Miami Diario*. [Online] 25 February. Available from: <http://www.miamidiario.com/politica/latinoamerica/venezuela/estudiantes-venezolanos-internacionales/protestas-en-venezuela/estudiantes-muertos/kluivert-roa/334961> [Accessed 24 October, 2015]; DIARIO REPUBLICA. (2015) Jóvenes protestaron también en la ciudad de Coro por la muerte de Kluivert Roa. *Diario Republica*. [Online] 25 February. Available from: <http://www.diariorepublica.com/nacionales/jovenes-protestaron-tambien-en-la-ciudad-de-coro-por-la-muerte-de-kluivert-roa> [Accessed 24 October, 2015]; CONFIRMADO. (2015) Táchira, el más indignado. Continúan protestas contra el gobierno de Nicolás Maduro. *Confirmado*. [Online] 26 February. Available from: <http://confirmado.com.ve/tachira-el-mas-indignado-continuan-protestas-contra-el-gobierno-de-Nicolas-maduro/> [Accessed 24 October, 2015]

¹⁷⁸ MADURADAS. (2015) ¡GRAVE! Enfrentamientos en URBE habrían dejado al menos 70 estudiantes detenidos este #24F. *Maduradas*. [Online] 25 February. Available from: <http://www.maduradas.com/grave-enfrentamientos-en-urbe-habrian-dejado-al-menos-70-estudiantes-detenidos-este-24f/> [Accessed 24 October, 2015]

¹⁷⁹ LA PATILLA. (2015) En video: GNB agrede a camarógrafo en Zulia mientras este lo grababa. *La Patilla*. [Online] 25 February. Available from: <http://www.lapatilla.com/site/2015/02/25/en-video-gnb-agrede-a-camarografo-en-zulia-mientras-este-lo-grababa/> [Accessed 24 October, 2015]

¹⁸⁰ LA PATILLA. (2015) Reprimen con armas de fuego a estudiantes de la ULA; cinco heridos (Fotos). *La Patilla*. [Online] 25 February. Available from: <http://www.lapatilla.com/site/2015/02/25/reprimen-con-armas-de-fuego-a-estudiantes-de-la-ula-cinco-heridos-fotos/> [Accessed 24 October, 2015]; MADURADAS. (2015) URGENTE! Reportan NUEVAMENTE 3 estudiantes heridos en protesta en ULA Mérida (+Fotos). *Maduradas*. [Online] 25 February. Available from: <http://www.maduradas.com/urgente-reportan-nuevamente-3-estudiantes-heridos-en-protesta-en-ula-merida-fotos/> [Accessed 24 October, 2015]

pro-government armed paramilitaries.¹⁸¹ 20-year-old Daniel Frías Pinto and 22-year-old Alejandro García were found in Zulia on 17 February, with their hands still tied to their back, suggesting that they had been arrested before their death.¹⁸² Jhon Barreto, who was 21 years old was found in Táchira two days later.¹⁸³ Yasmir Tovar (23) and Luis Aranyi García (21) were found in Catia, Caracas, on 21 February. All of them were killed in the same way: by a shot in their face.¹⁸⁴

Both Yasmir Tovar and Luis Aranyi Fabián were part of the Resistance Movement -a protest group formed after Leopoldo López's detention-¹⁸⁵ and used to regularly participate in opposition demonstrations, mainly in Altamira square.¹⁸⁶ As they lived in the "23 de Enero" slum, a place ruled by pro government armed paramilitaries, they had received many threats to their lives before being killed.¹⁸⁷

The persecution against the Resistance Movement increased after the death of Aranyi García and Tovar. On the 20 and 21 of March 2015, Félix Ortuño, Jeison Guarate, Léwis Pérez, Eucaris Espinoza, Geraldine Molina, Ángel Sucre and William Portillo, members of Resistance Movement (Resistencia Movement) were arrested by persons dressed as civilians, without judicial order, and turned to the National Police.¹⁸⁸ Their captors presented false evidence (drugs and weapons) to the Police. The Resistance

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- ¹⁸¹ RUNRUN. (2015) 10 semejanzas en los 6 asesinatos a jóvenes. *Runrun*. [Online] 26 February. Available from: <http://runrun.es/nacional/189450/10-semejanzas-en-los-6-asesinatos-jovenes.html> [Accessed 24 October, 2015]; Also see following footnotes
- ¹⁸² SANCHEZ, N. (2015) Uno de los asesinados en Santa Bárbara del Zulia era alumno de la ULA. *El Universal*. [Online] 19 February. Available from: <http://www.eluniversal.com/sucesos/150219/uno-de-los-asesinados-en-santa-barbara-del-zulia-era-alumno-de-la-ula> [Accessed 24 October, 2015]
- ¹⁸³ LEE, B. (2015) Venezuela Shooting Of 14-Year-Old Adds To A String Of Recent Student Deaths. *International Business Times*. [Online] 26 February. Available from: <http://www.ibtimes.com/venezuela-shooting-14-year-old-adds-string-recent-student-deaths-1830072> [Accessed 24 October, 2015]
- ¹⁸⁴ LA PATILLA. (2015) La ola de ajusticiamientos a jóvenes que alarma a Venezuela. *La Patilla*. [Online] 22 February. Available from: <http://www.lapatilla.com/site/2015/02/22/la-ola-de-ajusticiamientos-a-jovenes-que-alarma-a-venezuela/> [Accessed 24 October, 2015]
- ¹⁸⁵ EL NACIONAL VENEZUELA. (2015) Los rostros de la Resisten. *Daily Motion*. [Online] 14 April. Available form: http://www.dailymotion.com/video/x2mlt8q_los-rostros-de-la-resistencia_people [Accessed 24 October, 2015]
- ¹⁸⁶ LUGO, A. (2015) ¿Quiénes eran Yamir Tovar y Luis Fabián? *El Nacional*. [Online] 3 March. Available from: http://www.el-nacional.com/sucesos/Yamir-Tovar-Luis-Fabian_0_584941696.html [Accessed 24 October, 2015]; RÍSQUEZ, R. (2015) El último día de Yamir Tovar en 4 estaciones. *Runrun*. [Online] 2 March. Available from: <http://runrun.es/nacional/190404/el-ultimo-dia-de-yamir-tovar-en-4-estaciones.html> [Accessed 24 October, 2015]
- ¹⁸⁷ RÍSQUEZ, R. (2015) Estudiante de 'Resistencia' hallado muerto en Catia había sido amenazado por colectivos del 23 de Enero. *Runrun*. [Online] 23 February. Available from: <http://runrun.es/nacional/189169/estudiante-de-resistencia-hallado-muerto-en-catia-habia-sido-amenazado-por-colectivos-del-23-de-enero.html> [Accessed 24 October]; RÍSQUEZ, R. (2015) El último día de Yamir Tovar en 4 estaciones
- ¹⁸⁸ LUGO, A. (2015) Policías y colectivos persiguen a miembros del Movimiento Resistencia. *El Nacional*. [Online] 12 April. Available from: http://www.el-nacional.com/sucesos/Policias-colectivos-persiguen-Movimiento-Resistencia_0_608339229.html [Accessed 24 October, 2015]; and EL RAZON. (2015) El fin de semana siete estudiantes fueron arrestados. *El Razon*. [Online] 23 March. Available from: <http://www.razon.com.mx/spip.php?article253618> [Accessed 24 October, 2015]

Movement members were subsequently charged by the Office of Public Prosecutions of injuring a military officer in Chacao, Caracas.¹⁸⁹ Before they were detained, they had received several threats by phone and Twitter, and they were told that if they continued to protest they would get killed like Tovar.¹⁹⁰

Moreover, many cases of persecution against lawyers and NGOs activists have been reported. José Vicente Haro and his colleague Ms. Pierina Camposeo, who provide legal advice to members of the Resistance Movement, students and protestors (including Rodolfo González, “the aviator”) have been threatened several times.¹⁹¹ On 15 March 2015 each one of them was ambushed and threatened with a gun, at the same time, in different places of the city.¹⁹² Haro has been constantly threatened since 2013.¹⁹³ Several Human Rights activists and lawyers have been victims of prosecution since 2015.

Tamara Suju, a member of Foro Penal Venezolano who frequently publishes articles on the situation in Venezuela in several media, was accused by GoV owned media of treason and attempt to destabilize Venezuela. Feeling threatened, she had to leave the

¹⁸⁹ LUGO, A. (2015) Policías y colectivos persiguen a miembros del Movimiento Resistencia.

¹⁹⁰ LUGO, A. (2015) Policías y colectivos persiguen a miembros del Movimiento Resistencia; LUGO, A. Miembros del Movimiento Resistencia han sido intimidados. *El Nacional*. [Online] 3 March. Available from: http://www.el-nacional.com/sucesos/Miembros-Movimiento-Resistencia-intimidados_0_584341745.html [Accessed 24 October, 2015]; EL NACIONAL VENEZUELA. (2015) Los rostros de la Resistencia

¹⁹¹ NOTICIERO DIGITAL. (2015) La Verdad: Amenazan de muerte a José Vicente Haro. *Noticiero Digital*. [Online] 23 March. Available from: <http://www.noticierodigital.com/2015/03/lv-amenazan-de-muerte-a-abogado-haro-pareciera-que-son-funcionarios-de-seguridad-del-estado/> [Accessed 24 October, 2015]

¹⁹² 6TO PORDER. (2015) José Haro denuncia supuestas amenazas de muerte (+audio). *6to Poder*. [Online] 23 March. Available from: <http://www.6topoderweb.com/2.0/1/13600/jos-haro-denuncia-supuestas-amenazas-de-muerte-audio> [Accessed 24 October, 2015]; NOTICIAS DE VENEZUELA. (2015) 27Mz Continúan amenazas contra equipo del abogado José Vicente Haro. *Noticias de Venezuela*. [Online] 27 March. Available from: <http://www.noticiasdevenezuela.org/2015/03/27/27mz-continuan-amenazas-contr-equipo-del-abogado-jose-vicente-haro/> [Accessed 24 October, 2015]

¹⁹³ DÍAZ, S. (2015) Amenazan de muerte a constitucionalista José Vicente Haro. *La Verdad*. [Online] 23 March. Available from: <http://www.laverdad.com/politica/71892-amenazan-de-muerte-a-constitucionalista-jose-vicente-haro.html> [Accessed 24 October, 2015]; 6TO PORDER. (2015) José Haro denuncia supuestas amenazas de muerte (+audio)

country.¹⁹⁴ Carlos Luzberti, former President and current member of the board of Amnesty International Venezuela, has been shot two times in the last two years.¹⁹⁵

Moreover, on 19 February 2015, more than 80 police officers and SEBIN officers arrested the Caracas Mayor Antonio Ledezma under the charges of conspiracy and association to kill Nicolás Maduro, as was denounced on the 28 May 2014 and the 15 October 2014 by Maduro himself.¹⁹⁶ His lawyer declared that the GoV is using the justice system as a political persecution tool,¹⁹⁷ and that Ledezma was incriminated by a witness under torture.¹⁹⁸

On 9 April 2015, 25 former presidents of many countries signed “Declaración de Panamá sobre Venezuela” denouncing the “political persecution against the opposition and lack of separation of the five power branches”, and demanded the “immediate release of all the political prisoners” such as Ledezma, López and Ceballos.¹⁹⁹ Furthermore, on 11 March 2015 the European Parliament made a Resolution on the situation in Venezuela:

¹⁹⁴ EL NACIONAL. (2014) La abogada venezolana Tamara Sujú recibió asilo político en la República Checa. *El Nacional*. [Online] 24 November. Available from: http://www.el-nacional.com/mundo/venezolana-Tamara-Suju-Republica-Checa_0_525547571.html [Accessed 24 October, 2015]; BATALLÉ, J. (2015) Tamara Sujú Roa, asilada política venezolana. *RFI*. [Online] 21 April. Available from: <http://www.espanol.rfi.fr/americas/20150421-tamara-suju-roa-defensora-en-el-exilio> [Accessed 24 October, 2015]; EL NUEVO HERALD. (2014) La abogada venezolana Tamara Súju recibe asilo politico en la Republica Checa. *El Nuevo Herald*. [Online] 24 November. Available from: <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article4125546.html> [Accessed 24 October, 2015]

¹⁹⁵ AMNESTY INTERNATIONAL. (2015) Carlos Lusverti herido en Caracas. *Amnesty International*. [Online] 29 April. Available from: <http://www.amnistia.me/profiles/blogs/ataque-a-lusverti> [Accessed 24 October, 2015]

¹⁹⁶ EL NACIONAL. (2015) Detuvieron al alcalde Antonio Ledezma. *El Nacional*. [Online] 19 February. Available from: http://www.el-nacional.com/politica/Ledezma-denuncio-intento-allanamiento-oficina_0_577742355.html [Accessed 24 October, 2015]; CALCAÑO, M.A.S. (2015) VIDEO: Momento en que detienen a Antonio Ledezma. *Runrun*. [Online] 19 February. Available from: <http://runrun.es/rr-es-plus/188508/video-momento-en-que-detienen-antonio-ledezma.html> [Accessed 24 October, 2015]

¹⁹⁷ EL VENEZOLANO. (2015) Omar Estacio: Esteban encubriendo una persecución política con mascarada judicial. *El Venezolano*. [Online] 8 April. Available from: <http://www.elvenezolano.com/2015/04/08/omar-estacio-esteban-encubriendo-una-persecucion-politica-con-mascarada-judicial/> [Accessed 24 October, 2015]

¹⁹⁸ LA PATILLA. (2015) Omar Estacio: Un militar torturado “vendió” a Ledezma. *La Patilla*. [Online] 22 February. Available from: <http://www.lapatilla.com/site/2015/02/22/omar-estacio-un-militar-torturado-vendio-a-ledezma/> [Accessed 24 October, 2015]

¹⁹⁹ CHANG, M.L. (2015) 25 expresidentes alertan sobre persecución política e impunidad en Venezuela. *Efecto Cocuyo*. [Online] 9 April. Available from: <http://www.efectococuyo.com/efecto-cocuyo/25-expresidentes-alertan-sobre-persecucion-politica-impunidad-y-derechos-humanos-en-venezuela> [Accessed 24 October, 2015]; NOTICIERO DIGITAL. (2015) Declaración de Panamá: Grave alteración afecta a los venezolanos. *Noticiero Digital*. [Online] 9 April. Available from: <http://www.noticierodigital.com/2015/04/declaracion-de-panama-grave-alteracion-afecta-a-los-venezolanos/> [Accessed 24 October, 2015]

“Recalls its deep concern about the deteriorating situation in Venezuela and condemns the use of violence against protesters; calls on the Venezuelan authorities to immediately release Antonio Ledezma, Leopoldo López, Daniel Ceballos and all peaceful protesters, students and opposition leaders arbitrarily detained for exercising their right to freedom of expression and their fundamental rights, (...)”

3. Calls on the Venezuelan Government to cease the political persecution and repression of the democratic opposition and the violations of freedom of expression and of demonstration, and urges an end to media censorship; reminds the authorities that opposition voices are imperative for a democratic society (...)”²⁰⁰

In light of the above, there is clear information that the GoV has designed and consistently implemented a complex course of conduct targeted at the civilian population since February 2014 using various organs of the state in order to prevent, restrict, monitor, punish dissent and cover up crimes to retain power by all means.

b) Civilians as the primary target of the attack

As soon as he became aware of the weakness in his popular support that Maduro announced, in his own words that he would be “defending them [the people] from themselves” in his bid to retain political control over the country.

In May 2013, Maduro and members of his inner circle in high level government positions developed a policy of exploiting real or perceived grievances between different political ideologies, promoting the idea of a polarization between those aligned with him and the perceived dissidents which he considered to be threats to his government.

Maduro himself, his inner circle and high level public officials started to loosely brand anyone who disagrees with the regime as ‘fascist’ to identify them as enemies of the state. Whether they are students protesting against the crime rate, citizens pacifically demanding changes to GoV policies, journalists reporting about incidents implicating the regime or opposition members exercising their civil rights, they were loosely branded as ‘fascists’ by the GoV and Maduro himself.

Maduro himself uses the term fascist repeatedly whenever he refers to political protestors and anyone in the opposition for merely exercising their civil rights. More than a term used for categorization in the political discourse, Maduro used it as a political weapon²⁰¹ of condemnation intended to brand perceived dissident and label them as enemies of the state making them criminals.

²⁰⁰ EP. (2015) Joint Motion for Resolution ((2015/2582)RSP). *European Parliament*. [Online] 11 March. Available from: <http://www.europarl.europa.eu/sides/getDoc.do?type=MOTION&reference=P8-RC-2015-0236&language=EN> [Accessed 24 October, 2015]

²⁰¹ BBC. (2009) What is a fascist? *BBC*. [Online] 20 October. Available from: <http://news.bbc.co.uk/1/hi/magazine/8316271.stm> [Accessed 24 October, 2015]

Since May 2013, Maduro himself and high level public officials have openly denounced civilians perceived as dissidents and accused them of conspiracy and other related charges promising to use an iron fist against them and to put them all in jail. As such Maduro and members of his inner circle criminalized the civilians perceived as dissidents and targeted them for persecution.

Maduro together with members of his inner circle and high level officials quickly designed a plan to identify those he perceived as dissidents, publicly label them to isolate, marginalise and target them using the various organs of the state including the national security forces and the pro government armed paramilitaries under his de facto control.

Using the approach designed under Chávez in 2004 while he was himself the President of the National Assembly, Maduro has expanded the Tascon list created to identify citizens who voted against the GoV or are not actively supporting the GoV by voting for it using official electoral records provided by the CNE.

The Tascon list was initially created using official records from the CNE with signatures of individuals on electoral records to identify and create lists of names of individuals who are considered to be enemies of the state. The list created under Chávez, which contained 12 million names in 2005, was published on websites and distributed to the public sector through a software called the Maisanta programme with information on how the citizens had voted in earlier elections in order to target them for discrimination. The individuals listed as non cooperative would lose their jobs, be refused government services and discriminated against pursuant to the GoV's policy.

High level ranking government officials who were colleagues of Maduro at the time under the Chávez regime explicitly threatened retaliation against signatories of the 2004 recall referendum. The then Minister of Health Roger Capella stated to the press in March 2004 that health workers and doctors who had signed the recall referendum would be fired because it was "an act of terrorism". He rectified his comment the next day but Chávez one year later himself publicly acknowledged the discriminatory purpose of the list stating that it was time to put it aside. The National Electoral Council also dismissed members of the municipal electoral councils by explicitly stating in dismissal letters that they were removed for having signed the recall referendum.

Maduro who has now broadened this list of voters using his control of the CNE whose members elected by the National Assembly dominated by the PSUV majority. After Maduro's election and rise to power for instance, the Venezolana de Television (VTV), published from April 12, 2013, the list of 25,000 people who have participated in activities relating to the mobilization of the opposition following the elections.

The list has detailed the polling of these people, their phone numbers and names. In addition, the Executive in the state of Táchira posted on Facebook pictures of people who voted for the opposition candidate or have participated in demonstrations or so-called to protest the election results contested by the opposition.

Using the list of voters and the participation or perceived participation of individuals in protests as an indication of their political position, the policy of the GoV was then to target those identified as fascists in acts of violence and discrimination which resulted in murders, imprisonments, tortures, persecution and other inhumane acts. Given the absence of a militarised opposition to the GoV, all those targeted by the GoV were civilians protected under common Article 3 of the Geneva Convention,²⁰² most of them being particularly vulnerable due to the fact that they were unarmed.

It is also worth noting that the population did not necessarily lose its civilian status merely by the fact that some individuals within the population did not fall within the definition of civilians according to Additional Protocol I, Article 50.²⁰³ The modus operandi of the national security forces and of the pro government armed paramilitaries in targeting civilians in using excessive force while indiscriminately attacking the crowd including through the use of live ammunition illustrates that the primary aim of the operations against the demonstrators was to attack the collective of mostly unarmed civilians and not “only a limited and randomly selected number of individuals (...).”²⁰⁴ The same applies to the individual acts of violence perpetrated against civilians after the demonstrations. The targets were civilians who being perceived as dissidents and enemies of the state by virtue of their political opposition to the GoV were branded as criminals.

c) State policy

Article 7(2)(a) of the Statute imposes the requirement that the attack against any civilian population be committed “pursuant to or in furtherance of a State or organizational policy to commit such attack”.

The introduction to elements of Article 7, when explaining the meaning of policy states that “policy to commit such attack” requires that the state or organization actively

²⁰² ICC. *Prosecutor v Tadic*. Judgment Trial Chamber. 7 May 1997. paras. 637-638; ICC. *Prosecutor v Akayesu*. Judgment Trial Chamber. 2 September. 1998 para. 582; ICC. *Prosecutor v Brima et al.* Decision on Defence motions for Judgment of Acquittal Pursuant to Rule 98. 31 March, 2006. para. 42; ICC. *Prosecutor v Brima et al.* Trial Judgment. 20 June, 2007. para. 216

²⁰³ ICC. *Prosecutor v Tadic*. Trial Judgment. 7 May, 1997. para 638; ICC. *Prosecutor v Akayesu*. Judgment Trial Chamber. 2 September. 1998. para 582

²⁰⁴ ICC. *Prosecutor v Brima et al.* Trial Judgement. 20 June, 2007. para 217

promote or encourage such an attack against a civilian population. The footnote to the paragraph states “a policy, which has a civilian population as the object of the attack would be implemented by State or organizational action. Such a policy may, in exceptional circumstances, be implemented by a deliberate failure to take action, which is consciously aimed at encouraging such attack. The existence of such a policy cannot be inferred solely from the absence of governmental or organizational action”.

Neither the Statute nor the elements of crimes offer any definition of the term “attack” or “state or organisational policy”. In the case *The Prosecutor v. Katanga and Ngudjolo Chui*, Pre-Trial Chamber I found that this requirement: [...] ensures that the attack, even if carried out over a large geographical area or directed against a large number of victims, must still be thoroughly organised and follow a regular pattern. It must also be conducted in furtherance of a common policy involving public or private resources. Such a policy may be made either by groups of persons who govern a specific territory or by any organisation with the capability to commit a widespread or systematic attack against a civilian population. The policy need not be explicitly defined by the organisational group. Indeed, an attack which is planned, directed or organised - as opposed to spontaneous or isolated acts of violence - will satisfy this criterion.²⁰⁵

In relation to the term “policy”, the criteria used by the International Criminal Tribunal for the former Yugoslavia (“ICTY”) in the case against Tihomir Blaskic, were outlined in the ICTY Trial Chamber decision which held that the plan to commit an attack: [...] need not necessarily be declared expressly or even stated clearly and precisely. It may be surmised from the occurrence of a series of events, inter alia:

- The general historical circumstances and the overall political background against which the criminal acts are set;
- The establishment and implementation of autonomous political structures at any level of authority in a given territory;
- The general content of a political programme, as it appears in the writings and speeches of its authors;
- Media propaganda;
- The establishment and implementation of autonomous military structures; the mobilisation of armed forces;
- Temporally and geographically repeated and co-ordinated military offensives;
- Links between the military hierarchy and the political structure and its political programme;

²⁰⁵ PRE-TRIAL CHAMBER I. (2008) ICC-01/04-01/07-717. para.396; See also: PRE-TRIAL CHAMBER II. (2009) ICC-01/05-01/08-424 para. 81; See also: ICTY. *Prosecutor v. Tadic*, Case No. IT-94-1-T. Judgement. 7 May, 1997. para. 653; DIXON, R. and HALL, C. K. (2008) in O. Triffterer (ed.). *Commentary on the Rome Statute of the International Criminal Court: Observers' Notes, Article by Article*, 2 ed. (Munich etc.: C.H.Beck etc., 2008), p. 236.

- Alterations to the "ethnic" composition of populations;
- Discriminatory measures, whether administrative or other (banking restrictions, laissez-passer,...);
- The scale of the acts of violence perpetrated - in particular, murders and other physical acts of violence, rape, arbitrary imprisonment, deportations and expulsions or the destruction of non-military property, in particular, sacral sites.²⁰⁶

It is submitted that the GoV's response to the demonstrations since February 2014 clearly amounts to a course of conduct involving the commission of multiple acts directed solely against the civilian population and more specifically those identified as being political dissidents pursuant to a pre-established policy. The available information indicates that this policy was designed at the highest echelons of the state apparatus, including the national security forces, which were colluding with the pro government armed paramilitaries, in order to execute such a plan to attack civilians.

The incidents demonstrate an organized effort during and within the context of the demonstrations to identify and target particular individuals perceived as dissidents who would be likely to voice their disagreement or to report about the incidents.

Many incidents of a similar nature and following the same pattern of execution by various units of the national security forces and pro government armed paramilitaries coupled with the threats to the perceived dissidents and policies announced by the President himself as well as the involvement of various organs of the state in the implementation of the policy such as the prison services, prosecutors and the judiciary, point to the complex, organized, concerted and coordinated nature of the attacks.

The existence of the political objective to prevent, restrict, monitor, punish dissent and cover up the crimes to maintain power, the large scale of the attack across various locations in Venezuela during an extended time frame using significant public resources executing acts of a similar nature and following the same pattern as well as the high number of victims indicates that the attack was both widespread and systematic.

The general historical circumstances and the overall political background against which the criminal acts occurred, the general content of the political programme of the PSUV and the inflammatory speeches of its high level members including the President inciting violence and the intensive media propaganda campaign of the state owned media to fuel conflict illustrate the overall objective of the GoV to identify, threaten, persecute, imprison, torture and destroy the civilians perceived as dissidents.

²⁰⁶ ICTY. *Prosecutor v. Blaskic*. Case No. IT-95-14-T. Judgement. 3 March, 2000. para. 204

The mobilization and deployment of the national security forces by the President in the context of the Homeland security plan and subsequently to quell protests and the mobilization of pro government armed paramilitary groups by the President himself, illustrate the clear policy of the state to use physical repression against the perceived dissident as a main strategy of addressing the demonstrations to demand GoV reforms.

The establishment and implementation of the autonomous political structure of the Office of the President which is immune from accountability and the unequivocal de jure authority of the President over the military hierarchy coupled with the temporally and geographically coordinated offensives in several locations and on repeated instances with the pro government armed paramilitaries demonstrate the state policy in the implementation of the attack against the demonstrators including in the involvement of the pro government armed paramilitaries which responded to the President's call to deploy and attack protestors. It is also a prima facie indication that the GoV colluded with the pro government armed paramilitaries in order to execute the crimes in a methodical manner.

The discriminatory measures implemented by the GoV against the perceived dissidents in the form of violent threats, physical abuse, excessive use of force and indiscriminate attacks against the demonstrators, arbitrary arrests, illegal detentions, violation of right to due process, access to legal advice, the right to inform the families upon arrest, to being notified of the charges against them, the torture and other degrading and inhumane treatment imposed on them as well as the false and malicious prosecution campaign are indications that the state policy was designed at the highest echelons of the state in order to retain power by all means.

e)Widespread and systematic nature of the attack

Only the attack, and not the alleged individual acts are required to be "widespread" or "systematic". In this regard, the adjective "widespread" refers to "the large-scale nature of the attack and the number of targeted persons", while the adjective "systematic" refers to the "organised nature of the acts of violence and the improbability of their random occurrence". The existence of a State or organisational policy is an element from which the systematic nature of an attack may be inferred. The consequences of the attack upon the targeted population, the number of victims, the nature of the acts, the possible participation of officials or authorities or any identifiable patterns of crimes, could be taken into account to determine whether the attack satisfies either or both requirements of a 'widespread' or 'systematic' attack."

Based on the available information, there is a reasonable basis to believe that the attacks directed against the civilian population in the Venezuela were both widespread and systematic.

As noted in the previous section, the available information indicates that a policy was designed at the highest echelons of the State to launch violent attacks against the civilian population on the basis of perceived political affiliation in order to retain power by all means. This policy was implemented across the Venezuelan territory using all the various organs of the state resulting in an alarming number of civilian casualties since February 2014: at least between 33 and 36 civilians have been killed. At least 878 civilians were injured according to official sources²⁰⁷ of which at least 138 were wounded by gunshot, 330 by pellets, 72 people by being beaten up, 34 people were injured by blunt objects and the remaining 280 wounded suffered injuries of various kinds.²⁰⁸ Furthermore, at least 638 individuals were arbitrarily detained without even being brought to court as required by law, and at least between 3,351 and 3,758 have been imprisoned.²⁰⁹ As at 31 May 2015, there were still 77 political prisoners of which 12 were students and six were women. Moreover, at least 437 individuals arrested during the protests were victims of torture according to the UN Committee against Torture and 138 victims of cases of torture or cruel and inhuman treatment according to Foro Penal.²¹⁰

f) Nexus between the individual criminal acts and the attacks

In light of the above, a nexus between individual criminal acts and the attack can be inferred from (a) the geographic and temporal overlap between the attack and the crimes; (b) the fact that the attackers were also the perpetrators of the crimes; (c) the fact that the targeted civilians were perceived dissidents; (d) the use of excessive and indiscriminate force against unarmed demonstrators showing a blatant disregard for the lives of civilians and the relentless use of live ammunition against peaceful demonstrators; and (e) the fact that the attacks happened during a protracted period of time, showing a pattern of conduct largely attributable to the official apparatus of the state, including the National Guard, the National Police, the local police and the intelligence services combined with the unofficial forces of the pro government armed paramilitaries.

²⁰⁷ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity

²⁰⁸ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos

²⁰⁹ Figures by Amnesty International and Foro Penal Venezolano. Please note that while the AI figures relate to the period February 2014 to March 2015, the Foro Penal figures cover the period February 2014 to May 2015. See: AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas; and FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

²¹⁰ Foro Penal Venezolano, "Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)" (May 2015). See: FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

III. Information submitted

A. Background

1. The centralisation of the state since 1999

This document will start by presenting the background to the current situation in Venezuela. Although the information presented relate to a period before February 2014, it is critical to establish facts which sheds light on the current structure and organization of power within the state centralising authority within the Presidency.

President Chávez, elected in 1999, and his party the United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela*” (PSUV)) started the implementation of a state-wide strategy and ideology of social and economic measures²¹¹ aimed at empowering the poor through expanded publicly-funded social services and redistribution of Venezuela’s vast oil riches.²¹² This political strategy, also known as *Chavismo* or *Bolivarian Revolution*,²¹³ included the nationalisation of companies, the creation of social welfare programs, and an opposition to neoliberal economics.²¹⁴ These objectives were to be achieved by centralising the management of state affairs within the Presidency.

To do so, after his election in January 1999, Chávez convoked a National Constituent Assembly (*Asamblea Nacional Constituyente*) to “redefine the state”²¹⁵ through a reform of

²¹¹ REUTERS. (2012) Los 13 años de Gobierno socialista de Chávez en Venezuela. *Reuters Latin America*. [Online] 7 October. Available from:

<http://lta.reuters.com/article/domesticNews/idLTASIE89700B20121008> [Accessed: 21 August, 2015]; CASTILLO, M. AND HERNÁNDEZ, O. (2013) Hugo Chávez, el socialista que lideró la revolución bolivariana. *CNN Mexico*. [Online] 5 March. Available from:

<http://mexico.cnn.com/mundo/2013/03/05/hugo-Chavez-el-socialista-que-lidero-la-revolucion-bolivariana> [Accessed: 21 August, 2015]; PADROS, L. and PRIMERA, M. (2012) Chávez reactiva la revolución bolivariana. *El País*. [ONLINE] 8 October. Available from:

http://internacional.elpais.com/internacional/2012/10/08/actualidad/1349723699_223644.html [Accessed: 21 August, 2015]

²¹² WARNER, M. (2014) Socialism after Chávez: Political Divisions Deepen Amid Unrest in Venezuela. *PBS Newshour*. [ONLINE] 18 April. Available from: <http://www.pbs.org/newshour/bb/socialism-Chavez-political-divisions-deepen-amid-unrest-venezuela/> [Accessed: 21 August, 2015]

²¹³ EPATKO, L. (2013) In Venezuela, Will ‘Chavismo’ Last Without Hugo Chávez?. *PBS Newshour*. 12 April. Available from: <http://www.pbs.org/newshour/rundown/venezuelas-chavismo/> [Accessed: 21 August, 2015]; Epatko explains that Hugo Chávez was “the force behind ‘Chavismo,’ a left-wing political ideology that favors nationalization and social welfare programs over free market development”

²¹⁴ REUTERS. (2012) Los 13 años de Gobierno socialista de Chávez en Venezuela; PADROS, L. and PRIMERA, M. (2012) Chávez reactiva la revolución bolivariana

²¹⁵ When Chávez was sworn in office, he stated that he was searing on a "dying Constitution" and signed a decree calling for a referendum on Constitutional reform. The Decree authorized the realization of this referendum, on the basis of the "imperious need of electing a Constitutional Assembly to draft and approve a new Constitution, which makes possible a truly representative democracy, authentically responsible and alternative". Chávez called for a referendum on the Constitutional reform when he was sworn in office. VTV. (2012) Hace 14 años Chávez juró sobre la moribunda impulsar las

the constitution to enshrine the exclusivity of the Presidency on power.²¹⁶ Although the reorganisation claimed to be based on the principle of separation of powers,²¹⁷ the notion was completely distorted as the new framework was rearranged to be heavily *de jure* and *de facto* under the control and influence of the Presidency, without any effective accountability mechanism.

The new constitution²¹⁸ first reformed the legislative structure and granted it broad powers to appoint and dismiss the judges,²¹⁹ in some cases with a simple majority vote.²²⁰

The President was also empowered to “designate and remove those officials whose appointment is made subject to his discretion by this Constitution or the law” and removed term limits on all public officials.²²¹ With the PSUV majority in the National Constituent Assembly,²²² Chávez dissolved the elected Congress (*Congreso de la República*) and implemented reforms that lead to the dismissal of all the members of the Supreme

transformaciones democráticas. *Venezolana de Television*. [Online] Available from: <http://www.vtv.gob.ve/articulos/2013/02/02/hace-14-anos-Chavez-juro-sobre-la-moribunda-impulsar-las-transformaciones-democraticas-2797.html> [Accessed: 21 August, 2015]

²¹⁶ Chávez explicitly stated that he would redefine the state in a letter to the Supreme Tribunal of Justice. This was reiterated and published in official documents by the Asamblea Nacional. SCRIBD. (1999-2007) Memoria de una Revolución. Tomo I. [Online] Available from:

<http://de.scribd.com/doc/36309940/Memoria-de-una-Revolucion-Tomo-I> [Accessed: 21 August, 2015]; Also see CARDONA, R. (1999) El congreso y la CSJ son ilegítimos. *El Universal*. Available from: http://www.eluniversal.com/1999/04/13/pol_art_13112AA [Accessed: 21 August, 2015] The article states: Otra de las causas que provocó el pronunciamiento de la Corte Suprema fue una carta enviada por el primer mandatario, a los miembros de este tribunal. La esquila fue recibida en horas de la mañana, y su contenido acaparó la atención de todos los magistrados; sobre todo porque en ella Hugo Chávez hace énfasis en 'el principio de la exclusividad presidencial en la conducción del Estado’.

²¹⁷ DEZALAY, Y. and GARTH, B. (eds.). (2011) *Lawyers and the Rule of Law*. Abingdon: Routledge. p. 34

²¹⁸ VENEZUELA. *Constitution of the Bolivarian Republic of Venezuela*. (1999) [Online] Available from: <http://www.venezuelaemb.or.kr/english/ConstitutionoftheBolivarianingles.pdf> [Accessed 11 September, 2015]

²¹⁹ VENEZUELA. *Constitution of the Bolivarian Republic of Venezuela*. Title V, Chapter 1. (1999)

²²⁰ BREWER-CARÍAS, A.R. (ed.). (2010) *Dismantling Democracy in Venezuela: The Chávez authoritarian experiment*. New York: Cambridge University Press. p. 124; GALLIGAN, D.J. VERSTEEG, M. (eds.). (2013) *Social and Political Foundations of Constitutions*. New York: Cambridge University Press

²²¹ VENEZUELA. *Constitution of the Bolivarian Republic of Venezuela* CONSTITUTIONAL SECTIONS ON LEGISLATURE. Title IV, Chapter 11, Article 236(16). (1999)

²²² BREWER-CARÍAS, A.R. (2010) The 1999 Venezuelan Constitution- Making Process as an Instrument for Framing the Development of an Authoritarian Political Regime. In: Aucoin I. and Miller L.E. (eds.). *Framing the State in Times of Transition*. [Online] Available from: http://www.usip.org/sites/default/files/Framing%20e%20State/Chapter19_Framing.pdf [Accessed 11 September, 2015] p. 513; Also see: ECONOMIST. (2002) Chávez ad the Judges. *The Economist*. [Online] 15 August. Available from: <http://www.economist.com/node/1284832> [Accessed 11 September, 2015]

Tribunal of Justice (*Tribunal Supremo de Justicia*) and a total of one third of the judiciary.²²³ These positions were subsequently filled by individuals loyal to the President.²²⁴

In effect, Chávez reframed the Presidency as an institution that took over the legislative organ, neutralized the independence of the judiciary²²⁵ and of the Office of Public Prosecutions (*Ministerio Público de Venezuela*) and took control of the national security forces (including the National Police, the intelligence services, the National Guard and the Army)²²⁶ placing the Presidency in a position of *de facto* control over the whole state apparatus.

a) The Presidency's control over the Legislature since 1999

The new 1999 Constitution established a one-Chamber National Assembly (*Asamblea Nacional*), ending the tradition of bicameralism²²⁷ and included a provision to allow the delegation of legislative power to the President by way of enabling laws.²²⁸

Using PSUV's majority at the National Assembly,²²⁹ three enabling laws were enacted giving the authority to Chávez to legislate without checks and balances for a total period of 4 and a half years.²³⁰ He enacted 54 laws in 1999, 49 laws in 2000,²³¹ 58 laws in

²²³ DEZALAY AND GARTH. (2011)

²²⁴ REPORTERS WITHOUT BORDERS. (2010) El Gobierno de Hugo Chávez Toma el Control de los Medios de Comunicación. *Reporters Without Borders*. [Online] 23th June. Available from: <http://es.rsf.org/venezuela-el-gobierno-de-hugo-Chavez-toma-el-23-07-2010,38014.html> [Accessed: 21 August, 2015]; The General Prosecutor General Prosecutor's Office was restructured to fall under the Citizen Power Branch, one of the two new branches of Government created by the new constitution (Constitution of Venezuela, Title V, Chapter IV)

²²⁵ HRW. (2004) Rigging the Rule of Law: Judicial Independence Under Siege in Venezuela. *Human Rights Watch*. [Online] 16 June. Available from: <https://www.hrw.org/report/2004/06/16/rigging-rule-law/judicial-independence-under-siege-venezuela> [Accessed 23 August, 2015] ; also see: NPR. (2010) Venezuela's Chávez Tightens Grip On Judiciary. *National Public Radio*. [Online] 27 April. Available from: <http://www.npr.org/templates/story/story.php?storyId=126304030> [Accessed 27 August, 2015];

²²⁶ VENEZUELA. *Constitution of the Bolivarian Republic of Venezuela*. Title IV, Chapter 11, Article 236. (1999)

²²⁷ BREWER-CARÍAS. (2010) Dismantling Democracy in Venezuela: The Chávez authoritarian experiment. p.201

²²⁸ "Enabling laws are those enacted by a three-fifths vote of the members of the National Assembly to establish the guidelines, purposes, and framework for matters that are being delegated to the President of the Republic, with the rank and force of a law. Enabling laws must stipulate the duration of their exercise." (Constitution of Venezuela, Article 203)

²²⁹ BREWER-CARÍAS, A.R. (2010) The 1999 Venezuelan Constitution- Making Process as an Instrument for Framing the Development of an Authoritarian Political Regime; *ECONOMIST*. (2002) Chávez ad the Judges

²³⁰ Six months in 1999, 12 months in 2000, 18 months in 2007 and 24 months in 2010. See: ULTIMAS NOTICIAS (2013). Cuatro Leyes Habilitantes en 13 años. *Ultimas Noticias*. [Online] 8 October. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/cronologia---cuatro-leyes-habilitantes-en-13-anos.aspx> [Accessed: 22 August, 2015]; and SÁNCHEZ, D. (2013) En 13 años han sido aprobadas cuatro leyes habilitantes. *Nuevodia*. [Online] 15 October. Available from: <http://www.nuevodia.com.ve/politica/noticia64053.html> [Accessed: 22 August, 2015]; also see: IACHR. (2009) Democracy and Human Rights in Venezuela. *Inter-American Commission on Human Rights*.

2007 and 2008 as well as 54 law from 2010 to 2012,²³² on a wide variety of issues including the creation of criminal offences. Some of these laws were enacted without consultation as required by law.²³³

According to a report by a local civil society organization, between 2007 and 2008, 73% of the laws passed were drafted by the executive branch and only 27% by the legislative branch.²³⁴ This clearly illustrates that the President has been the main legislator despite the existence of a National Assembly.²³⁵ The scope of the powers attributed the President under these laws testify to the absence of separation of powers in the current state structure and to the supremacy of the President.

b) The Presidency's control over the Judiciary and the Office of Public Prosecutions since 1999

The new constitution invested the National Assembly with the power to restructure the judiciary, including to remove and appoint justices on the supreme tribunal²³⁶ and make decisions on the judicial budgets.²³⁷

The President used the Judicial Disciplinary Tribunals (*Comision de Funcionamiento y Reestructuracion del Sistema Judicial* (CFRSJ)) “to selectively purge judges not favourable to

[Online] 30 December. Available from:

http://www.cidh.oas.org/countryrep/Venezuela2009eng/VE09CHAPIIIENG.htm#_ftnref119

[Accessed 22th August, 2015]. Section III (3c)

²³¹ EL UNIVERSAL. (2009) Señalan al Legislativo de propiciar el abuso de poder. *El Universal*. [Online] 16 September. Available from: http://www.eluniversal.com/2009/09/16/pol_art_senalan-al-legislati_1573078 [Accessed 22 August 2015] (Report of the Parliamentary Observatory of the Citizen Identity Movement. Gathered by the press.); also see: EL NATIONAL (2009) Denuncian que la AN permite abusos de poder del Presidente. *El Nacional*. [Online] 16 September. Available from: http://www.el-nacional.com/www/site/p_contenido.php?q=nodo/99417/Nacional/Denuncian-que-la-AN-permite-abusos-de-poder-del-Presidente [Accessed 22 August, 2015]; also see: MCCARTHY-JONES. (2014) ‘Ploughing the Sea’ in a World of Regions: Venezuela's Role in Reviving Latin American Regionalism for the Twenty-First Century. *Democracy, Geopolitics and Revolution in Latin America*. [Online] Available from: http://www.academia.edu/13406640/Ploughing_the_Sea_in_a_World_of_Regions_Venezuelas_Role_in_Reviving_Latin_American_Regionalism_for_the_Twenty-First_Century [Accessed 22 August, 2015] p.49

²³² ULTIMAS NOTICIAS (2013). Cuatro Leyes Habilitantes en 13 años; SÁNCHEZ, D. (2013) En 13 años han sido aprobadas cuatro leyes habilitantes

²³³ VENEZUELA. Organic Law of the Public Administration. *Article 136 and 137*. (2001) Caracas: Official Gazette

²³⁴ EL UNIVERSAL. (2009) Señalan al Legislativo de propiciar el abuso de poder; EL NATIONAL (2009) Denuncian que la AN permite abusos de poder del Presidente

²³⁵ EL UNIVERSAL. (2009) Señalan al Legislativo de propiciar el abuso de poder; EL NATIONAL (2009) Denuncian que la AN permite abusos de poder del Presidente

²³⁶ VENEZUELA. *Constitution of the Bolivarian Republic of Venezuela*. Title V, Chapter 3, Article 264 & 265. (1999)

²³⁷ VENEZUELA. *Constitution of the Bolivarian Republic of Venezuela*. Title V, Chapter 1, Article 187(6). (1999)

the government's politics"²³⁸, replacing them with provisional judges who can be dismissed at will.²³⁹

Chávez himself stated during a different public event: “neither the Supreme Tribunal of Justice, nor any judge can be or act behind the back of the revolution and its leader.”²⁴⁰ The same language has been adopted by then Chief Justice and current Justice of the Supreme Tribunal of Justice, Luisa Estella Morales in 2009. She stated: “we cannot continue thinking about a division of powers, because that is a principle that weakens the State.”²⁴¹

Studies made by a local civil society organisation indicated that as at 2008, “96% of the cases studied in which cases were brought directly against the actions of agencies of the State were declared unfounded or received no rulings on the merits on the grounds of inadmissibility, incompetence, inapplicability, or inappropriate cause.”²⁴²

In 1999, 340 judges, amounting to one third of all the judges in Venezuela, were summarily dismissed pursuant charges of corruption or unjustified delay in deciding cases before them and replaced by temporary judges.²⁴³

In addition, most of the judges were appointed in violation of the procedure prescribed by the Constitution.²⁴⁴ The Inter-American Commission on Human Rights (IACHR) findings reveal that out of the 1451 judges appointed in 2008, and of the 359 appointed in 2009 not one was appointed through the open public competition as required by the Constitution.²⁴⁵

²³⁸ COUSO, J., HUNEEUS, A. and SIEDER, R. (2010) *Cultures of Legality: Judicialization and Political Activism in Latin America*. New York: Cambridge University Press. p. 127

²³⁹ HRW. (2008) A decade under Chávez. *Human Rights Watch*. [Online] September. Available from: <https://www.hrw.org/sites/default/files/reports/venezuela0908web.pdf> [Accessed 27 August, 2015] p. 53

²⁴⁰ IACHR. (2009) *Democracy and Human Rights in Venezuela*. paras 118 & 119; Also see: HUMAN RIGHTS FOUNDATION. (2012) Report on the State of the Independence of the Judiciary in Venezuela. *Human Rights Foundation*. [Online] 26 September. Available from: http://humanrightsfoundation.org/uploads/Legal_report_Independence_of_Judiciary_Venezuela.pdf [Accessed 23 August, 2015]; Also see: VENEZUELAN CRIMINAL FORUM (2008). *Informe que presenta la Asociación Civil Foro Penal Venezolano a tres años de su Fundación*. 6 June. pp. 58-59

²⁴¹ HUMAN RIGHTS FOUNDATION. (2012) Report on the State of the Independence of the Judiciary in Venezuela

²⁴² IACHR. (2009) *Democracy and Human Rights in Venezuela*. para. 306

²⁴³ PEREZ-PERDOMO, R. (2007) Medio siglo de historia judicial en Venezuela (1952-2005). *Cuadernos Unimetanos*. [Online] Available from: <http://dialnet.unirioja.es/servlet/articulo?codigo=3997197> [Accessed 11 September, 2015] p. 17-18

²⁴⁴ VENEZUELA. *Constitution of the Bolivarian Republic of Venezuela* CONSTITUTIONAL SECTIONS ON LEGISLATURE. Title V, Chapter 3, Article 255. (1999)

²⁴⁵

. Chapter III, Section 1(b)

Many of the replacement judges were militants of Chávez's party regardless of their professional qualifications or previous experience. Some of the new judges even had criminal records that were overlooked for their unconditional support to the principles of the Bolivarian Revolution.²⁴⁶ Already by 2001, these provisional judges amounted to more than 80% of the total number of judges in Venezuela.²⁴⁷

The Presidency also used the Judicial Commission of the Supreme Tribunal of Justice, itself under the President's control,²⁴⁸ to appoint and remove temporary judges. The Judicial Commission of the Supreme Tribunal of Justice officially maintains that it can summarily dismiss temporary judges, without cause and without the due process protections afforded to permanent judges.²⁴⁹ Provisional judges,²⁵⁰ by contrast, are according the Commission entitled to the same security of tenure as permanent judges, at least until the public competition are held to fill their posts, yet, the Judicial Commission has also summarily fired provisional judges.²⁵¹

The control of the judiciary by the Presidency since 1999 has been such that even judges have had to fear retaliation if they do not act in line the GoV's agenda. More detailed figures analysed by the IACHR show that in 2008, 64 judges were removed or suspended and between January and September 2009 72 judges were removed²⁵² in a way that was described as being "telegraphic, without grounds, rationale, procedure or appeal".²⁵³ The judges which have been dismissed include:

- a. Judge Franklin Arrieche of the Supreme Tribunal of Justice, was dismissed by the National Assembly on 15 June 2004 and according to public statements made by members of the National Assembly, Justice Arrieche was removed because he had made a decision that acquitted four members of the armed forces accused of insurrection during the events of 11 to 13 April 2002.²⁵⁴

²⁴⁶ DEZALAY and GARTH. (2011) p 34

²⁴⁷ HRW. (2008) A decade under Chávez. p. 53

²⁴⁸ Indeed, the 20 members of the new Supreme Tribunal of Justice were elected almost unanimously by the National Constituent Assembly, itself dominated by Chávez partisans. (REFERENCE)

²⁴⁹ The Judicial Commission of the Supreme Tribunal of Justice has asserted this authority explicitly in written responses to appeals filed by judges it has summarily fired. See: REUTERS. (2003) Corte Venezuela ordena dejar de ejercer médicos Cuba en Caracas. *Reuters*. 21 August

²⁵⁰ Provisional judges are named until the public competition is held to select the judges who will fill the positions on a permanent basis. On the other hand temporary judges are appointed to fill temporary openings, such as those created when a sitting judge takes a parental or sick leave. See: HRW. (2004) Rigging the Rule of Law. p.9

²⁵¹ HRW. (2004) Rigging the Rule of Law: Judicial Independence Under Siege in Venezuela. p.9

²⁵² IACHR. (2009) Democracy and Human Rights in Venezuela.

²⁵³ Information provided by the petitioners to the IACHR. See: IACHR. (2008) Hearing on the Situation of Institutionality and Human Rights Guarantees in Venezuela (133 Period of Sessions). *Inter-American Commission on Human Rights*. [Online] 28 October. Available from: <http://www.cidh.oas.org/Comunicados/English/2008/46.08eng.htm> [Accessed 23 August, 2015]

²⁵⁴ Speech by Deputy Francisco Ameliach during the oath-taking ceremony of 49 justices of the Supreme Tribunal of Justice on December 15, 2004. See: EL UNIVERSAL. (2004) Listo TSJ con 32

- b. Judge Juan Carlos Apitz was dismissed in 2003 along with four other judges for issuing a ruling which was publicly condemned by Chávez on national television.²⁵⁵ The dismissed judges brought a complaint to the IACtHR for unlawful dismissal.²⁵⁶ The IACtHR ruled that Venezuela had violated the rights of the judges and ordered that they be reinstated to similar positions in the judiciary.²⁵⁷ In December 2008, the Constitutional Chamber issued a ruling declaring that the decision of the IACtHR was unenforceable in Venezuela and as such the judges remained banished from the bench.²⁵⁸
- c. Judge Mercedes Chocrón Chocrón was removed from her position as judge of the Fortieth Control Court of Caracas by an administrative decision of the Judicial Commission. Her removal took place on 3 February 2003, one week after she had conducted a judicial inspection of the home of General Carlos Alfonso Martínez, a dissident member of the armed forces, to determine whether the State was complying with the precautionary measures extended by the IACHR.²⁵⁹ The IACHR ruled that the GoV had acted in breach of the convention by arbitrarily dismissing her from her position, without the minimum guarantees of due process. The GoV failed to adopt any measures to address the situation.²⁶⁰
- d. Judges Miguel Luna, Petra Jiménez, and María Trastoy, three members of Court of Appeals of the Criminal Judicial Circuit of the Metropolitan Area of Caracas were removed one day after releasing a number of citizens arrested for allegedly participating in the anti-government demonstrations of 27 February 2004 as the Office of Public Prosecutions had not presented sufficient evidence to justify their continued custody.²⁶¹ Hundreds of people were detained during those demonstrations, which involved violent clashes with government force.. Immediately after, on 2 March 2004, the three judges were dismissed by a resolution of the Judicial Commission that failed to cite the reasons for their removal. All three judges challenged their dismissals. One of them, Luna, was reinstated, although he has since

magistrados. *El Universal*. [Online] 16 December. Available from:

http://www.eluniversal.com/2004/12/16/pol_art_16102A [Accessed 23 August, 2015]; See also: IACHR. (2005) Annual Report 2004. *Inter-American Commission on Human Rights*. [Online] 23 February. Available from: <http://www.cidh.org/annualrep/2004eng/chap.5b.htm> [Accessed 23 August, 2015] Chapter IV: Human Rights Developments in the Region Venezuela, para. 179

²⁵⁵ NPR. (2010) Venezuela's Chávez Tightens Grip On Judiciary

²⁵⁶ Case of Apitz Barbera et al. ("First Court of Administrative Disputes") vs Venezuela. (2008)

²⁵⁷ Case of Apitz Barbera et al. ("First Court of Administrative Disputes") vs Venezuela. (2008)

Preliminary Objection, Merits, Reparations and Costs. Judgment of August 5, 2008. Series C No. 182

²⁵⁸ BREWER-CARÍAS. (2010) *Dismantling Democracy in Venezuela: The Chávez authoritarian experiment*

²⁵⁹ IACHR. (2006) Report on Admissibility No. 38/06. *Inter-American Commission on Human Rights*. [Online] 15 March. Available from: <http://cidh.org/annualrep/2006eng/VENEZUELA.549.05eng.htm> [Accessed 23 August, 2015]. Petition 549-05, Mercedes Chocrón Chocrón

²⁶⁰ IACHR. (2009) Democracy and Human Rights in Venezuela

²⁶¹ HRW. (2004) Rigging the Rule of Law: Judicial Independence Under Siege in Venezuela

then been summarily fired once again.²⁶² The other two, Trastoy and Jiménez, reported receiving no response to their appeals.²⁶³

- e. Judge Juan Carlos Márquez Barroso of the Ninth Superior Court of Fiscal Disputes was informed of his removal by the President of the Political-Administrative Chamber on 3 June 2005, after he overturned a resolution of the National Telecommunications Commission imposing a large fine on a television channel called Globovisión, that the government has referred to as a public enemy.²⁶⁴ Later, the Constitutional Chamber ordered his reinstatement on a precautionary basis.²⁶⁵
- f. The Judicial Commission voided the appointment of María Mercedes Prado as the Twenty-second Trial Judge as she was about to order the conditional release of one of the persons accused of the attacks on the Spanish and Colombian embassies on the grounds that the detainees had been held in custody for more than two years.²⁶⁶
- g. In February 2005, Mónica Fernández, judge of the Second Trial Court of the Caracas Metropolitan Area Judicial District Criminal Circuit, was also suspended. She was responsible for the judicial oversight of the warrant to search the home of Ramón Rodríguez Chacín, a former Minister of the Interior and Justice, and his subsequent imprisonment, during the events of April 2002. She was charged with criminal offenses by the Office of Public Prosecutions and later suspended without pay.²⁶⁷
- h. In July 2009, Alicia Torres, a provisional judge of the Thirteenth Criminal Control Court of the Caracas Metropolitan Area was removed two days after she claimed that she had been harassed by the Presiding Judge of the Criminal Circuit of Caracas, urging her to order an injunction against the President of the TV Channel Globovisión, Guillermo Zuloaga Núñez and his son. The IACHR after reviewing a recording of the telephone call that Judge Alicia Torres received from the head of the

²⁶² HRW. (2004) Rigging the Rule of Law: Judicial Independence Under Siege in Venezuela. p.13

²⁶³ Human Rights Watch telephone interview with María Trastoy; see: HRW. (2004) Rigging the Rule of Law. Chapter IV

²⁶⁴ IACHR. (2009) Democracy and Human Rights in Venezuela

²⁶⁵ GONZÁLEZ, C. A. (2009) *La realidad del contencioso-administrativo venezolano*. Fundación de Estudios de Derecho Administrativo. p. 102

²⁶⁶ IACHR. (2006) Chapter IV: Human Rights Developments in the Region. Venezuela. *Annual Report 2005*. [Online] Available from: <http://www.cidh.org/annualrep/2005eng/chap.4d.htm> [Accessed 25 August, 2015] para. 297

²⁶⁷ JUDICIAL COMMISSION OF THE SUPREME TRIBUNAL OF JUSTICE. (2005) Resolution No. 2005-0027. [Online] 30 November. Available from: http://historico.tsj.gob.ve/informacion/resoluciones/sp/resolucionSP_0000287.html [Accessed 12 September, 2015]

Metropolitan Area Judicial Circuit, Venicce Blanco²⁶⁸ found that she had been asked to resign if she did not sign the order. After refusing to do so, she was illegally dismissed by the Judicial Commission of the Supreme Tribunal of Justice. Her removal from office was even criticized by the then-United Nations Rapporteur on the independence of judges and lawyers.²⁶⁹

- i. On 11 August 2009, Judge Elías Álvarez, a tenured judge in charge of the First Instance Court of the Criminal Circuit of Caracas was suspended by the Judicial Commission suspended while he presided over the Súmate case. His suspension was later revised. Most recently, Álvarez allegedly confessed being subject to pressures from the GoV regarding his rulings.²⁷⁰
- j. María Lourdes Afiuni, a judge of 31 Control Court of Caracas has been imprisoned since December 2009 for ruling on the release of a political prisoner who had been detained for almost three years without charge. The UN Working Group on Arbitrary Detention had previously found that this political prisoner had been held in violation of Venezuela's international legal obligations.²⁷¹ President Chávez

²⁶⁸ EL UNIVERSAL. (2009) Podemos presenta evidencias de intimidación a ex jueza Alicia Torres. *El Universal*. [Online] 28 July. Available from: www.eluniversal.com/2009/07/28/pol_ava_podemos-presenta-evi_28A2551763.shtml [Accessed 25 August, 2015]

²⁶⁹ UN RAPPORTEUR. (2009). Preocupante la Situación de la Justicia en Venezuela. *United Nations*. [Online] 30 July. Available from: <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=7567&LangID=S> [Accessed 12 September, 2015]

²⁷⁰ IACHR. (2009) Democracy and Human Rights in Venezuela; YAJURE, J.A. (2014) Esto es lo que Runrun averiguó sobre 48 aspirantes a magistrados del TSJ. *Runrun*. [Online] 11 December. Available from: <http://runrun.es/rr-es-plus/investigacion/175289/esto-es-lo-que-runrunes-averiguo-sobre-48-aspirantes-magistrados-del-tsj.html> [Accessed 25 August, 2015]; <http://infovenezuela.org/democracy/attachments-spanish/T2%20ST03b%20N3%20Caso%20Tulio%20Alvarez%20febrero%202005.pdf> [Accessed 7 September, 2015]

²⁷¹ One of the judges targeted by the Chávez regime was María Lourdes Afiuni, a judge who was imprisoned in December 2009 after one of her rulings angered President Chávez. Afiuni's offense was her having ordered the release of Eligio Cedeño, a banker who was a political prisoner who had been detained for almost three years without trial. In ruling in Cedeño's favor, Afiuni had applied Venezuelan law and also cited to an opinion on Cedeño's case from the UN Working Group on Arbitrary Detention, which found that he was being held in violation of Venezuela's international legal obligations. Nevertheless, three days after Afiuni's arrest, President Chávez demanded that she be imprisoned for thirty years. Widely considered one of Venezuela's highest-profile political prisoners, Afiuni was subsequently imprisoned in a jail that also housed violent offenders she herself had sentenced.⁶⁸ The Working Group declared that she was arbitrarily detained, and the Inter-American Commission on Human Rights (IACHR) called for her to be tried or released. Afiuni was granted house arrest in February 2011 because of a serious medical condition. She was ultimately released from house arrest in June 2013, but to comply with the conditions of her release, she must report to the court in Caracas every 14 days and is banned from leaving the country without permission or speaking to the media. See: THE ECONOMIST. (2011) Criminals or Dissidents? *The Economist*. [Online] 17 February. Available from: <http://www.economist.com/node/18184396> [Accessed 25 August, 2015]; also see: Eligio Cedeño vs Government of Venezuela, Opinion No. 10/2009, adopted 28 May 2009, para 53;

demanded that she be imprisoned for thirty years in a jail that also housed violent offenders whom had herself sentenced. He referred to her as an “outlaw”.²⁷² The UN Working Group on Arbitrary Detention declared that she was arbitrarily detained, and the IACHR requested that she be tried or released. She is currently on trial.²⁷³

These incidents have led to a climate where the current members of the judiciary are either loyalists or act in fear of repression from the Presidency. The division of powers between the Executive, the Legislature and the Judiciary has been inexistent since the Chávez Presidency to the point where judges in Venezuela publicly express their admiration for the President. In 2006, for instance, some judges of the Supreme Tribunal of Justice chanted the slogan of Chávez's Bolivarian revolution.²⁷⁴ Similarly, the President of the Supreme Tribunal of Justice has publicly expressed her support for the Executive's revolutionary agenda and, in her judicial work, she has noted her agreement with proposals made by the President.²⁷⁵

The pervasive control of the Presidency over the Venezuelan Courts has been denounced by the United Nations Human Rights Committee since 2001 when it expressed its concern that the judges could be removed for merely fulfilling their judicial duties.²⁷⁶ The IACHR as early as 2002 denounced the GoV for controlling the Judiciary.²⁷⁷ According to a former member of the judiciary, Chávez has even been

also see: BBC. (2013) Venezuela Ends House Arrest of Judge Maria Afiumi, *BBC* [Online] 14 June.

Available from: <http://www.bbc.com/news/world-latin-america-22916391> [Accessed 25 August, 2015]

²⁷² Hugo Chávez, characterized Judge Afiumi as an “outlaw” and stated: I call for toughness against this judge, I even told the president of the Supreme Tribunal of Justice [of Justice, Luisa Estela Morales], and I tell the National Assembly: a law must be passed because a judge who frees an outlaw is much worse than the outlaw himself. It is infinitely more serious for a Republic, for a country, that an assassin, because he pays, is freed by a judge. It is more serious than an assassination; therefore, we must apply the maximum penalty against this judge and against others who do this. I call for thirty years in prison in the name of the dignity of the country. Audio recording of this speech available in Spanish at: Prensa Web of the National Radio of Venezuela. Bolivarian Government of Venezuela. Ministry of Popular Power for Communication and Information. Office of the General Prosecutor. “*Pido 30 años de prisión para la Jueza Afiumi*” (“I call for 30 years in prison for Judge Afiumi”). See: APORREA. (2009) Presidente Chávez: “Pido 30 años de prisión para la jueza Afiumi.” *Aporrea.org*. [Online] 12 November. Available from: <http://www.aporrea.org/actualidad/n146924.html> [Accessed 12 September, 2015]; also see: IACHR. (2009) Democracy and Human Rights in Venezuela. para. 298

²⁷³ BBC. (2013) Venezuela Ends House Arrest of Judge Maria Afiumi

²⁷⁴ NPR. (2010) Venezuela's Chávez Tightens Grip On Judiciary

²⁷⁵ DPLF et al. (2009) Situation of the Judiciary in Venezuela. *Due Process of Law Foundation, International Commission of Jurists, and Venezuelan Network of Peace Activists*. Document presented to the IACHR at the hearing of the same name held during its 134 Period of Sessions, March 24, 2009; also see IACHR. (2009) Democracy and Human Rights in Venezuela.

²⁷⁶ CCPR COMMITTEE. (2001) Concluding observations by the Human Rights Committee: Venezuela. *Human Rights Committee (CCPR)*. [Online] 26 April. Available from: <http://acnudh.org/en/2001/04/human-rights-committee-ccpr--venezuela-2001/> [Accessed 27 August, 2015]

²⁷⁷ IACHR. (2003) Report on the Situation of Human Rights in Venezuela. *Inter American Commission on Human Rights*. [Online] 29 December. Available from:

alleged to personally call judges to give them instructions on cases while the Vice-President is alleged to have held weekly meeting with the judges.²⁷⁸ The Presidency has also been publicly denounced for establishing and rigorously maintaining a long standing order not to release political prisoners.²⁷⁹

The control of the Presidency does not stop at the Judiciary. “The problem of temporary status also affects prosecutors in Venezuela, in that all the prosecutors of the General Prosecutor’s Office [Office of Public Prosecutions] are freely appointed and removable.”²⁸⁰ In 2008 alone, 638 prosecutors were appointed without public competition being held and without there being given regular status,²⁸¹ consequently making them subject to removal by the General Prosecutor..

The IACHR has found that “Venezuelan justice is marked by a pattern of procedural delays that affects, in particular, cases in which the executive branch has no special interest. In contrast, cases involving executive interests or persons allied with the government are resolved with the utmost dispatch. According to the information received, this situation affects the judiciary at all levels, including the Supreme Tribunal of Justice and the Office [of Public Prosecutions].”²⁸²

The IACHR has particularly raised concerns over the lack of independence which resulted in the allocation of cases for prosecution where matters are “cherry-picked” by prosecutors. Despite there being more than 1,000 prosecutors at the national level, the IACHR has concluded that “all investigations related to the interests of the ruling party and the executive branch are handled by a small group of prosecutors. It is further claimed that several of these prosecutors have been challenged by the accused in various cases, but that the General Prosecutor has not upheld any of those challenges.”²⁸³

Several sources, including former judges, have publicly denounced the existence of informal judicial networks where “General Prosecutors (...) led by high ranking public officials, including a former vice-President and a handful of Supreme Tribunal of Justice

<http://www.cidh.org/countryrep/Venezuela2003eng/toc.htm> [Accessed 27 August 2015] paras. 159-177.

²⁷⁸ ECONOMIST. (2012) Whistle-blown. *The Economist*. [Online] 26 April. Available from: <http://www.economist.com/node/21553506> [Accessed 27 August, 2015]; TELEVEN. (2012) Aponte Aponte: Chávez ordenó condenar a comisarios del 11-A. *Telegen*. [Online] 14 September. Available from: <http://www.televen.com/aponte-aponte-Chavez-ordeno-condenar-a-comisarios-del-11-a/> [Accessed 12 September, 2015] ; HUMAN RIGHTS FOUNDATION. (2012) Report on the State of the Independence of the Judiciary in Venezuela.

²⁷⁹ ECONOMIST. (2012) Whistle-blown

²⁸⁰ IACHR. (2009) Democracy and Human Rights in Venezuela

²⁸¹ IACHR. (2009) Democracy and Human Rights in Venezuela

²⁸² IACHR. (2009) Democracy and Human Rights in Venezuela. para. 307

²⁸³ h IACHR. (2009) Democracy and Human Rights in Venezuela. para. 308

Justices” take advantage of their powers to manipulate judicial outcomes.²⁸⁴

Using the Judiciary and the Office of Public Prosecutions, Chávez increasingly intimidated, censored, and prosecuted Venezuelans who were critical of the Presidency or hindered his political agenda.²⁸⁵

In addition, it is important to highlight that the lack of independence of the judiciary and the General Prosecutor Office in Venezuela, which have been acting under direct orders of the President Nicolás Maduro and the President of the National Assembly Diosdado Cabello makes impossible for victims to obtain justice for the victims of crimes against humanity committed in Venezuela since February 2014.

Despite the creation of the Truth Commission, proposed by Diosdado Cabello to investigate the crimes committed since 12 February 2014, by the National Assembly on 18 March 2014, there has been no progress. Not only has Diosdado Cabello, himself been designated as president of the Commission²⁸⁶ but the Truth Commission has not presented any result or reports of its investigations. On the contrary, the Truth commission has been denounced by the NGO Foro Penal, a tool for deception with a political commitment aimed at political negotiation and not justice.²⁸⁷

c)The Presidency’s control over the National Security Forces since 1999

Viewing the military as the backbone of the revolution,²⁸⁸ Chávez increased the Executive’s power over the military.²⁸⁹ He started by merging the Army, the Navy and the Air Force into a single unified command promoting and dismissing army officers

²⁸⁴ HUMAN RIGHTS FOUNDATION. (2012) Report on the State of the Independence of the Judiciary in Venezuela. *Human Rights Foundation*. [Online] 26 September. Available from: http://humanrightsfoundation.org/uploads/Legal_report_Independence_of_Judiciary_Venezuela.pdf [Accessed 23 August, 2015]

²⁸⁵ The GoV also sought to reshape the country’s labor movement by promoting state interference in union elections refusing to bargain collectively with established unions, engaging in favoritism toward pro-government unions and punishing workers with job dismissals and blacklisting for legitimate strike activity in violation of its obligations under the conventions of the International Labour Organization (ILO). Source: HRW. (2008) A decade under Chávez

²⁸⁶ INSERBIA. (2014) Government Establishes Truth Commission. *Inserbia*. [Online] 21 March 2014. Available from: <http://inserbia.info/today/2014/03/venezuela-two-more-opposition-politicians-detained-government-establishes-truth-commission/>

²⁸⁷ EL UNIVERSAL. (2014) Foro Penal: Comisión de la verdad podría legitimar violación a DDHH. *El Universal*. [Online] 19 March 2014. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140319/foro-penal-comision-de-la-verdad-podria-legitimar-violacion-a-ddhh>

²⁸⁸ WILSON, P. (2014) A Revolution in Green. *Foreign Affairs*. [Online] 1 October. Available from: <http://www.foreignaffairs.com/articles/142133/peter-wilson/a-revolution-in-green> [Accessed 27 August, 2015]

²⁸⁹ FLEISCHMAN, L. (2013) *Latin America in the Post-Chávez Era*. Dallas: Potomac Books. p.45

based on their loyalty to his regime.²⁹⁰ The 1999 Constitution, implemented under Chávez, changed the traditional rule that established that the Senate had the attribution to promote the military high ranks.²⁹¹ Overall, as at 2008 Chávez had expelled eight hundred military officers from the army, including high ranking officers, on suspicion of disloyalty.

He established a clear structure where the “Minister of Defence is only in charge of administrative functions while the President commands the armed forces directly”²⁹² and his reforms were threefold: “loosening restrictions on the military’s involvement in political activities, expanding the military’s role in social and economic activities and removing legislative authority over military promotions”.²⁹³ He also implemented training programmes to prepare them for conducting prolonged popular war²⁹⁴ and invested 10 billions in weaponry by 2013 creating a heavily militarized contingent of 350,000 soldiers.²⁹⁵

During the Chávez Presidency, members of the military became political actors providing bureaucratic oversight over GoV programs, conducting internal security missions and promoting economic activity. Chávez installed military men in senior positions in key GoV ministries and major state companies.²⁹⁶ He granted them preferential access to housing and cars and simplified loan procedures for them.²⁹⁷

The consolidation of the Presidency’s position at the top of the power structure also reduced accountability over the National Security Forces controlled by the Presidency and created an environment allowing the GoV to use them to enforce its political agenda including through the restriction of opposition.²⁹⁸

Most importantly, Chávez’s plan included the building of a communal state grounded in self-government institutions such as community councils and communes²⁹⁹ and he

²⁹⁰ WEST, J. (2002) *South America, Central America and the Caribbean 2002*. 10 Edition. London: Europa Publications

²⁹¹ VENEZUELA. *Constitution of Venezuela. Articles 150 & 236*. (1961). Available from: <http://www1.umn.edu/humanrts/research/venezuela-constitution.html> [Accessed 24 October, 2015]

²⁹² BRUNEAU, T.C. and MATEI, F.C. (2013) *The Routledge Handbook of Civil-military Relations*. Abingdon: Routledge. p.129

²⁹³ FLEISCHMANN, L. (2013) p. 45

²⁹⁴ BRUNEAU and MATEI. (2013) p. 129

²⁹⁵ WILSON, P. (2014) A Revolution in Green

²⁹⁶ WILSON, P. (2014) A Revolution in Green

²⁹⁷ WILSON, P. (2014) A Revolution in Green

²⁹⁸ BRUNEAU and MATEI. (2013) p.129

²⁹⁹ AZZELLINI, D. (2013) The Communal State: Communal Councils, Communes, and Workplace Democracy. NACLA. [Online] Available from: <https://nacla.org/article/communal-state-communal-councils-communes-and-workplace-democracy> [Accessed 7 September, 2015]; EL NACTIONAL (2014) Los colectivos y el poder. *El Nacional*. [Online] 23 March. Available from http://www.el-nacional.com/siete_dias/colectivos-poder_0_377362382.html [Accessed 7 September, 2015]; EL

used this plan to create and promote existing of social organisations³⁰⁰ and militarised some of these organizations with the purpose of defending the Bolivarian Revolution, because, according to him the “revolution is peaceful but armed.”³⁰¹

d)The Creation of Two Militarized Militia Groups since 1999 (the Bolivarian National Militia and the Pro Government Armed Paramilitaries)

(i)The Bolivarian National Militia

Since the failed coup of April 2002, Chávez driven by his distrust of the military corps, integrated a civilian reserve to it in order to complement the Armed Forces. Chávez originally created “an informal reserve army of popular militias that is not subordinate to the regular armed forces but is under the president’s direct command”³⁰² by special decree³⁰³ in 2005. This informal reserved was given a formal structure in 2009 with a presence throughout the country of about 667,000 men and 120,000 women at different levels of training.³⁰⁴

However, from an operational perspective the Bolivarian National Militia is directly subordinated to the President as Commander in Chief of the Armed Forces and are a part of the Venezuelan National Armed Forces (*Fuerzas Armadas Nacionales Bolivariana*) having as main function to “complement the work of the armed forces in the defence of the national and the military regions.”³⁰⁵

COMERCIO. (2014) Los Tupamaro, la fuerza de choque del chavismo. *El Comercio Mundo*. [Online] 12 February. Available from <http://elcomercio.pe/mundo/latinoamerica/tupamaros-fuerza-choque-chavismo-noticia-1709177> [Accessed 7 September, 2015]; BBC (2012) Los "colectivos urbanos" de Caracas y los niños con armas. *BBC Mundo*. [Online] 31 January. Available from: http://www.bbc.com/mundo/noticias/2012/01/120130_venezuela_colectivos_urbanos_23_enero_jp.shtml [Accessed 7 September, 2015]

³⁰⁰ Such as the *comunas*, *UBCh* (Battle Units Bolivar Chávez), *consejos comunales*, *círculos bolivarianos* (Bolivarian Circles) and the urban *colectivos* (some of them were created long before Chávez).

³⁰¹ N24. (2010) Advierte que su revolución es “pacífica, pero está armada.” *Noticias 24*. [Online] 30 August. Available from: <http://www.noticias24.com/actualidad/noticia/170186/Chavez-encabeza-caravana-en-apoyo-a-los-candidatos-a-la-an-del-psuv-en-el-23-de-enero/> [Accessed 28 August, 2015]; ORVEX. (2008) *¿Porqué la Revolución de Hugo Chávez es Pacífica y Armada?* [Online Video] 13 November. Available from: <https://www.youtube.com/watch?v=H2nsMta5xbg> [Accessed 28 August, 2015]

³⁰² FLEISCHMANN, L. (2013) p.47

³⁰³ MANRIQUE, L.E.G (2007) The Armed Forces as a Political Party: Chávez’s New ‘Geometry of Power.’ *Real Instituto Elcano*. [Online] 3 December. Available from: http://www.realinstitutoelcano.org/wps/portal/web/rielcano_en/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari117-2007#.VfPcH7QSNd0 [Accessed 12 September, 2015]

³⁰⁴ N24. (2009) Aprueban la Ley que constituye la milicia y llama “Bolivariana” a la FAN. *Noticias 24*. [Online] 6 October. Available from: <http://www.noticias24.com/actualidad/noticia/96704/aprueban-la-ley-que-constituye-la-milicia-y-llama-bolivariana-a-la-fan/> [Accessed 28 August, 2015]

³⁰⁵ FLEISCHMANN, L. (2013) p.45

Most importantly, several high level public officials, Ministers and governors are members of the Bolivarian Militia, thereby facilitating the implementation of the GoV's policies through their formal functions.³⁰⁶

(ii) *Pro Government Armed Paramilitaries*

Chávez promoted the creation of diverse kinds of civil social organisations to allow the people to develop cultural, sports and political and other kinds of social initiatives and activities in their communities. However, over time he gradually promoted the militarisation of these groups to provide to the USPV additional support independent of the military.

These social organisations who respond to the general denomination of *colectivos* received different names according to their specific function, including *Comunas*, Hugo Chávez Battle Units (*Unidades de Batalla Hugo Chávez* (commonly known as UBCh)), the Communal Council (*consejos comunales*), Bolivarian Circles (*círculos bolivarianos*) and the urban *colectivos*.

The GoV under Chávez trained, armed and provided money, vehicles and resources to some hundred of individuals in Bolivarian Circles and to the urban *colectivos*,³⁰⁷ which became groups of pro government armed paramilitaries supporting the GoV³⁰⁸ with reported numbers reaching up to 70,000 individuals.³⁰⁹

³⁰⁶ N24. (2015) Maduro condecora a la Milicia Nacional Bolivariana en su día. *Noticias 24*. [Online] 13 April. Available from: <http://www.noticias24.com/venezuela/noticia/280518/maduro-entrega-condecoraciones-en-conmemoracion-del-dia-de-la-milicia-nacional-bolivariana/> [Accessed 28 August, 2015]; APORREA. (2015) Presidente Maduro entregó condecoraciones en conmemoración al 13 de Abril. *Asamblea Popular Revolucionaria Americana*. [Online] 13 April. Available from: <https://www.aporrea.org/actualidad/n268659.html> [Accessed 28 August, 2015]

³⁰⁷ International Crisis Group defined *colectivos* as a term that “covers pro-government community organisations of various kinds, most non-violent, but it has come to be used for armed groups of the revolutionary left that have proliferated under *chavista* governments.” See: INTERNATIONAL CRISIS GROUP. (2014) Venezuela: Dangerous Inertia. *International Crisis Group*. [Online] 23 September. Available from: <http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/b031-venezuela-dangerous-inertia.aspx> [Accessed 28 August, 2015]

³⁰⁸ INTERNATIONAL CRISIS GROUP. (2011) Violence and Politics in Venezuela. *International Crisis Group*. [Online] 17 August. Available from: <http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/038-violence-and-politics-in-venezuela.aspx> [Accessed 28 August, 2015] p.17; See also the interviews with Natalia Brandler, Director of Groupe d'Études sur l'Amérique Latine (GEPAL), and Anthony Daquín ex government's adviser. RUNRUN. (2014) El Nuevo Herald: Los colectivos, orden y terror chavista en Venezuela. *Runrun*. [Online] 1 January. Available from: <http://runrun.es/opinion/impacto/98245/el-nuevo-herald-los-colectivos-orden-y-terror-chavista-en-venezuela.html> [Accessed 28 August, 2015]; REPORTER24. (2014) COLECTIVOS: Los Tupamaros, el brazo armado del chavismo. *Reporters 24*. [Online] 13 February. Available from: <http://www.reportero24.com/2014/02/colectivos-los-tupamaros-el-brazo-armado-del-chavismo/> [Accessed 28 August, 2015]; RUNRUN. (2014) ¿Qué son los Colectivos? *Runrun*. [Online] 9 February. Available from: <http://runrun.es/nacional/venezuela-2/160575/que-son-los-colectivos.html> [Accessed 28 August, 2015]; VON BERGEN, F. (2014) Los colectivos y el poder. *El Nacional*. [Online] 23 March.

These paramilitary corps aiming at defending the Bolivarian Revolution are not controlled by formal military structures but are manned by “citizens who work in public or private institutions.”³¹⁰ Despite the absence of a formal legal structure of reporting and accountability to the GoV, they are in fact under the de facto control of the GoV which provide them with the resources to operate and allow them to function with immunity from prosecution.

Not only is their training similar to that of the police force,³¹¹ they have also been known to use police resources³¹² and appear alongside high level police officials in public events.³¹³ The connection of these groups with the state is such that some of the leaders of the *Movimiento Tupamaro* (one of these paramilitary groups) was named directors of the Metropolitan Police for six months.³¹⁴ Several senior governmental officials hold close ties to members of the urban *colectivos*.³¹⁵

Available from: http://www.el-nacional.com/siete_dias/colectivos-poder_0_377362382.html [Accessed 28 August, 2015]; and TAL CUAL. (2014) *Colectivos, el otro Ejército. Tal Cual*. [Online] 23 October. Available from: <http://www.talcualdigital.com/Nota/67160/Colectivos-El-Otro-Ejercito> [Accessed 28 August, 2015]

³⁰⁹ WILSON, P. (2014) *A Revolution in Green*

³¹⁰ FLEISCHMAN, L. (2013)

³¹¹ IACHR. (2009) *Democracy and Human Rights in Venezuela*. p.205; Furthermore, as an example of the relationship between the Government and this paramilitary groups, the Penitentiary Services Secretary, Iris Valera tweeted “we, the colectivos, are the fundamental pillar of the defence of the country.” See: EL UNIVERSAL. (2014) *Varela: Colectivos son el pilar para la defensa de la patria. El Universal*. [Online] 15 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140215/varela-colectivos-son-el-pilar-para-la-defensa-de-la-patria> [Accessed 28 August, 2015]; also see: EL NACIONAL. (2014) *Varela: Colectivos somos pilar fundamental para la defensa de la patria. El Nacional*. [Online] 14 February. Available from: http://www.el-nacional.com/politica/Varela-Colectivos-fundamental-defensa-Patria_0_355764657.html [Accessed 28 August, 2015]

³¹² IACHR. (2009) *Democracy and Human Rights in Venezuela*. p.205; Furthermore, as an example of the relationship between the Government and this paramilitary groups, the Penitentiary Services Secretary, Iris Valera tweeted “we, the colectivos, are the fundamental pillar of the defence of the country.” See: EL UNIVERSAL. (2014) *Varela: Colectivos son el pilar para la defensa de la patria*; also see: EL NACIONAL. (2014) *Varela: Colectivos somos pilar fundamental para la defensa de la patria*.

³¹³ IACHR. (2009) *Democracy and Human Rights in Venezuela*. p.205; Furthermore, as an example of the relationship between the Government and this paramilitary groups, the Penitentiary Services Secretary, Iris Valera tweeted “we, the colectivos, are the fundamental pillar of the defence of the country.” See: EL UNIVERSAL. (2014) *Varela: Colectivos son el pilar para la defensa de la patria*; also see: EL NACIONAL. (2014) *Varela: Colectivos somos pilar fundamental para la defensa de la patria*.

³¹⁴ IACHR. (2009) *Democracy and Human Rights in Venezuela*. p.205; Furthermore, as an example of the relationship between the Government and this paramilitary groups, the Penitentiary Services Secretary, Iris Valera tweeted “we, the colectivos, are the fundamental pillar of the defence of the country.” See: EL UNIVERSAL. (2014) *Varela: Colectivos son el pilar para la defensa de la patria*; also see: EL NACIONAL. (2014) *Varela: Colectivos somos pilar fundamental para la defensa de la patria*.

³¹⁵ The Inter-American Commission on Human Rights states:

“775. Also of extreme concern is information received⁶⁹¹ with respect to the activities of violent groups. The information received by the Commission indicates that violent groups known as *Movimiento Tupamaro*, *Colectivo La Piedrita*, *Colectivo Alexis Vive*, *Unidad Popular Venezolana*, and *Grupo Carapaica* have been acting with the encouragement and acquiescence of the Venezuelan State. According to what has been reported to this Commission, these groups are urban in nature, have

According to the IACHR some of these “violent groups [those] known as *Movimiento Tupamaro*, *Colectivo La Piedrita*, *Colectivo Alexis Vive*, *Unidad Popular Venezolana*, and *Grupo Carapaica* have been acting with the encouragement and acquiescence of the Venezuelan State. According to what has been reported to the Commission, these groups “are urban in nature, (...) and they control popular urban areas (...)”.³¹⁶ “[T]hese groups have (...) been “act[ing] with the participation or tolerance of state agents.”³¹⁷

training similar to the police or military, some of their members belong to State entities, and they control popular urban areas, primarily in the city of Caracas. Therefore, it is necessary to have the permission of these violent groups to enter certain zones in the city.

776. According to what was reported to the Commission, these groups have a close relationship with the police forces and occasionally use their resources. In fact, the IACHR received alarming information according to which, despite not being professional police, the leaders of the *Movimiento Tupamaro* had been named directors of the metropolitan police for six months. Moreover, the Commission was informed that its leaders were clearly identified and even appeared publicly alongside leaders linked to the government.

777. According to the information received by the IACHR, the group *Colectivo La Piedrita* was involved in attacks against the television channel *Globovisión*, against political actors in *Ateneo de Caracas*, against the newspaper *El Nuevo País*, against the headquarters of the COPEI party, against the apostolic nunciature, and against the journalist Marta Colomina. An arrest warrant was issued against its principal leader, Valentín Santana, but he is still free. Additionally, the group *Unidad Popular Venezolana* is a Venezuelan political party, directed by Lina Ron, and it was involved in the forceful takeover of the Palace of the Archbishop of Caracas, as well as attacks against the television stations *RCTV* and *Globovisión*. For the last attack on this television station, an arrest warrant was issued against Lina Ron, which was lifted last October 14.

778. Upon receiving this information during its hearings, the IACHR asked the State for an official pronouncement on the existence or non-existence of these groups as well as on the legality or illegality of their actions. In his response, the representative of the State indicated: Irregular groups exist, on both sides. In Venezuela, the conflict has become so generalized that there are radical people on the opposition side. So radical that military personnel participated in the coup of April 11, more than 50 generals and officials went to protest in the Plaza Altamira and they were protesting and calling for subversion by their comrades-at-arms for four months. These situations, then, have occurred in Venezuela. In our situation, we have the case of Lina Ron, who is a compatriot who supports President Chávez but does not understand that she

must respect the law, the case of *La Piedrita*, these cases are discussed but when something happens there has been punishment. The cases of our *campesinos*, but they make sense, why? Because who starts killing *campesino* leaders, since the law on agrarian reform was passed? That is to say, since the moment when they started to combat the landed estates, from that moment, the landowners brought hired assassins from Colombia and sent them to kill *campesino* leaders. Of course, some of these *campesino* leaders, already tired of this situation, sometimes commit acts of violence as well. But all of this is a problem of the conflict, a conflict that President Chávez did not create, that has been aimed at overthrowing and ousting the government of President Chávez.

779. The Commission observes with concern the existence of violent groups that act with the participation or tolerance of state agents.”

See: IACHR. (2009) *Democracy and Human Rights in Venezuela*. p.205; Furthermore, as an example of the relationship between the Government and this paramilitary groups, the Penitentiary Services Secretary, Iris Valera tweeted “we, the colectivos, are the fundamental pillar of the defence of the country.” See: EL UNIVERSAL. (2014) *Varela: Colectivos son el pilar para la defensa de la patria*; also see: EL NACIONAL. (2014) *Varela: Colectivos somos pilar fundamental para la defensa de la patria*.

³¹⁶ IACHR. (2009) *Democracy and Human Rights in Venezuela*. p.205; Furthermore, as an example of the relationship between the Government and this paramilitary groups, the Penitentiary Services Secretary, Iris Valera tweeted “we, the colectivos, are the fundamental pillar of the defence of the

These pro government armed paramilitaries have been operating in several slum districts (barrios) in Caracas³¹⁸ and in other locations around the country where they regroup themselves under bigger organized groups perpetrating crimes. It has been reported that the Police cannot access the areas operated by the pro government armed paramilitaries without their authorisation.³¹⁹

These groups have been known to organise themselves into bigger associations. A few of them include *Frente Popular Revolucionario* (which includes 34 pro government armed paramilitary groups), *Consejo Popular Revolucionario* (which includes 28 pro government armed paramilitary groups), *Bloque Popular Revolucionario* (which includes 17 pro government armed paramilitary groups), Sergio Rodríguez (which includes 70 pro government armed paramilitary groups) and the *Secretariado Revolucionario* (which includes 102 pro government armed paramilitary groups). These paramilitary corps get further funding through diverse forms of crime, such as extortion, drug trafficking, car theft among others and they operate with under the protection of the GoV which turns a blind eye to their crimes.³²⁰

In addition some of them have specific responsibilities listed on the website of the USPV. It is estimated that there are 13,000 of these UBCh groups across Venezuela, one for each of the electoral centres in Venezuela and each one have a patrol boss.³²¹ According to a leading member of the USPV, the UBCh gather about 547,000 individuals, organized in four regions in the country, and have the capacity to respond very promptly to GoV's orders.³²² The UBCh as an organization was originally created as a social organization with electoral purposes, but their purpose is now to “defend the achievement of revolution and fight the enemies of the homeland in any field”

country.” See: EL UNIVERSAL. (2014) Varela: Colectivos son el pilar para la defensa de la patria; also see: EL NACIONAL. (2014) Varela: Colectivos somos pilar fundamental para la defensa de la patria.

³¹⁷ IACHR. (2009) Democracy and Human Rights in Venezuela. p.205; Furthermore, as an example of the relationship between the Government and this paramilitary groups, the Penitentiary Services Secretary, Iris Valera tweeted “we, the colectivos, are the fundamental pillar of the defence of the country.” See: EL UNIVERSAL. (2014) Varela: Colectivos son el pilar para la defensa de la patria; also see: EL NACIONAL. (2014) Varela: Colectivos somos pilar fundamental para la defensa de la patria.

³¹⁸ VON BERGEN, F. (2014) Los colectivos y el poder

³¹⁹ IACHR. (2009) Democracy and Human Rights in Venezuela. paras. 41 & 776

³²⁰ INTERNATIONAL CRISIS GROUP. (2011) Violence and Politics in Venezuela. p.18

³²¹ AVN. (2014) Over 13,000 UBCh ready for PSUV Congress. *Agencia Venezolana de Noticias*. [Online] 3 July. Available from: <http://www.avn.info.ve/contenido/over-13000-ubch-ready-psuv-congress> [Accessed 11 September, 2015]; NOTICIAS24. (2015) Masiva movilización: más de 13.000 Ubch se han postulado para las elecciones internas del PSUV. *Noticias 24*. [Online] 20 April. Available from: <http://www.noticias24.com/venezuela/noticia/281153/cabello-informo-que-mas-de-13-000-ubch-se-han-postulado-para-elecciones-internas-del-psuv/> [Accessed 11 September, 2015]

³²² EL NACIONAL. (2014) ¿Cómo se activaría el “Contrataque fulminante”? *El Nacional*. [Online] 17 February. Available from: http://www.el-nacional.com/politica/activaria-ataque-fulminante_0_357564498.html [Accessed 28 August, 2015]

according to Article 5 of their guiding principles.³²³ The GoV also gave them resources, such as radios, and cars, among other things to enable them to mobilize.³²⁴

As units owing allegiance to the GoV, they are under the GoV's control and implement the GoV's agenda of enforcing threats and repression.³²⁵ By the beginning of Chávez's third term, experts stated that "it was no longer possible to speak of jurisdictional boundaries between civilian and military responsibilities because these had become too permeable."³²⁶ The GoV uses these paramilitary groups under its control to enforce a dystopia whereby the repression is not only implemented by legal means but also by a criminal organization under the de facto control of the state.

For instance, members of these pro government armed paramilitaries have been known to attack journalist, the media companies,³²⁷ opposition gathering,³²⁸ among others. In 2009, the IACHR reported that the groups called *Colectivo La Piedrita* and *Unidad Popular Venezolana* were involved in attacks against the television channel Globovisión, against political actors in Ateneo de Caracas, against the newspaper *El Nuevo País*, against the headquarters of the Social Christian Party also referred to as COPEI (*Partido*

³²³ UBCh. (n.d.) Decálogo de las Unidades de Batalla Hugo Chávez (UBCh). [Online] Available from: <http://www.psuv.org.ve/decalogo-ubch/> [Accessed 28 August, 2015]

³²⁴ IACHR. (2009) Democracy and Human Rights in Venezuela. para. 775

³²⁵ The Inter-American Commission on Human Rights states: "41. The Commission's report also notes with extreme concern that in Venezuela, violent groups such as the Movimiento Tupamaro, Colectivo La Piedrita, Colectivo Alexis Vive, Unidad Popular Venezolana, and Grupo Carapaica are perpetrating acts of violence with the involvement or acquiescence of state agents. These groups have similar training to that of the police or the military, and they have taken control of underprivileged urban areas. The IACHR has received alarming information indicating that these violent groups maintain close relations with police forces and, on occasion, make use of police resources. The State has informed the Commission that irregular groups do exist on both sides in Venezuela. In the Commission's view, the fact that the agencies responsible for preventing, investigating, and punishing such acts have failed to respond appropriately has created a situation of impunity surrounding violations of rights protected by the American Convention." See: IACHR. (2009) Democracy and Human Rights in Venezuela. p. xvi. Moreover, on March, 5 2014 Maduro called the UBCh and Colectivos to fight against the "guarimbas." See: Flores, A. (2014) *Maduro Candelita que se prenda Candelita que se apaga*. [Online Video] 5 March. Available from: <https://www.youtube.com/watch?v=NZzfVjoVDEc> [Accessed 28 August, 2015]; also see: EL NACIONAL. (2014) El jefe del Estado rechazó la intervención de la OEA en asuntos internos. *El Nacional*. [Online] 6 March. Available from: http://www.el-nacional.com/politica/Maduro-colectivos-UBCH-disolver-guarimbas_0_367163541.html [Accessed 28 August, 2015]

³²⁶ BRUNEAU and MATEI. (2013) p.129

³²⁷ To learn more about this groups attacks to journalist or communications media, read the chapter "Acts of physical aggression and threats presumably linked with the exercise of journalistic activity" in the IACHR report. See: IACHR. (2009) Democracy and Human Rights in Venezuela. p.140

³²⁸ According to the Inter-American Commission on Human Rights, "121. The Commission has received information indicating the existence of "a State policy oriented at repressing social protest in Venezuela through various means." The information received by the Commission refers to an increase in the number of demonstrations suppressed, in the number of criminal proceedings initiated against persons for exercising their right to peaceful protest, and in the number of fatalities from violence in the context of demonstrations, both at the hands of the state security forces and of violent groups like the Colectivo La Piedrita, Alexis Vive, and Lina Ron and her followers." IACHR. (2009) Democracy and Human Rights in Venezuela. p.29

Socialcristiano), against the apostolic nunciature and against the journalist Marta Colomina.³²⁹ An arrest warrant was issued against the main leader of this group, Valentín Santana, but it was never executed.³³⁰

e)The scope of repression since 2004

It is this context of an erosion of the rule of law³³¹ and of the total domination and power of the Presidency to create laws, enforce them including by the National Security Forces and to control any accountability mechanism through the courts that the Presidency under Chávez expanded its control over the country and reduced the scope of basic civil liberties discriminating on the basis of political loyalties. The Presidency under Chávez created a formal framework to persecute citizens voting against the PSUV, to target political opponents and prevented dissent from civilians, political opponents, civil society actors and the media.

The persecution against businessmen also began during Chávez's government and has been ongoing ever since. One of the well-known cases involved Herman Sifontes, Juan Carlos Carvallo, Miguel Eduardo Osío and Ernesto Rangel, who are four executive directors of the taken-over brokerage firm Econoinvest, in a chain of events that destroyed 63 brokerage firms and 60 commission houses and was described by Minister of Finances Jorge Giordani, as necessary to get rid of these "scorpions" because their basis was against the ideology of the revolution.³³² The UN Working Group on Arbitrary Detention considered that the detention was arbitrary and in violation of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and requested that the Government of the Bolivarian Republic of Venezuela grant Mr. Sifontes, Mr. Rangel and Mr. Carvallo "immediate release".³³³

³²⁹ IACHR. (2009) Democracy and Human Rights in Venezuela. para. 777

³³⁰ IACHR. (2009) Democracy and Human Rights in Venezuela. p. 205, para 775 to 777; Furthermore, as an example of the relationship between the Government and this paramilitary groups, the Penitentiary Services Secretary, Iris Valera tweeted "we, the colectivos, are the fundamental pillar of the defence of the country." See: EL UNIVERSAL. (2014) Varela: Colectivos son el pilar para la defensa de la patria; also see: EL NACIONAL. (2014) Varela: Colectivos somos pilar fundamental para la defensa de la patria.

³³¹ BBC. (2007) Cinco años de cambios políticos y sociales. *BBC Mundo*. [Online] 3 April. Available from: http://news.bbc.co.uk/hi/spanish/specials/2007/Chavez/newsid_6511000/6511735.stm [Accessed 28 August, 2015]; also see: HRW. (2013) Venezuela: El legado autoritario de Chávez. *Human Rights Watch*. [Online] 5 March. Available from: <http://www.hrw.org/es/news/2013/03/05/venezuela-el-legado-autoritario-de-Chavez> [Accessed 28 August, 2015]; also see: FREEDOM HOUSE. (2013) Venezuela. *Freedom House*. [Online] Available from: <https://freedomhouse.org/report/freedom-world/2013/venezuela#.VeEATLQSNd1> [Accessed 28 August, 2015]

³³² EL UNIVERSAL. (2012) UN demands a fair trial in freedom. *El Universal*. [Online] 4 August. Available from: <http://www.eluniversal.com/economia/120804/un-demands-a-fair-trial-in-freedom>

³³³ On 29 December 2012, Herman Sifontes, Juan Carlos Carvallo, Ernesto Rangel and Miguel Osío were released with precautionary measures after been in jail for two years and seven months. They had to report periodically to court and were banned from leaving the country. BLOOMBERG. (2012) Venezuela Releases Four Econoinvest Brokerage Directors on Bail. *Bloomberg*. [Online] 29 December

The following sections will demonstrate that the centralization of the Presidency since 1999 has not changed under President Maduro. After winning the elections by a narrow margin in April 2013, he has, on the contrary, expanded and used the framework established under Chávez against the civilian population in order to maintain power by all means.

2. The current structure of the State in Venezuela

a) The Presidency under Nicolás Maduro, a continuation of the state structure established under Chávez

Described as a party member showing “unflagging loyalty”, Nicolás Maduro became “a leading spokesman for the socialist leader”³³⁴ since he joined the Chávez administration in 1999. He first became politically active as a teenager when he joined the Socialist League where he helped found the Movement of the Fifth Republic (*Movimiento Quinta República*) under which Chávez ran for president in 1998.

After Hugo Chávez became President in 1998, Maduro remained close to him. Maduro was elected to the Venezuelan Chamber of Deputies in 1998, and in 1999 he was elected as one of those designated to draft a new constitution. He then went on to serve as Deputy and subsequently as President of the National Assembly from 2005 to 2006.³³⁵

In August 2006, Maduro was appointed Minister of Foreign Affairs until October 2012, when Chávez promoted him to the position of Vice President of Venezuela.³³⁶ It is under Maduro’s mandate as Minister of Foreign Affairs and right hand of Chávez in

2012. Available from: <http://www.bloomberg.com/news/articles/2012-12-30/venezuela-releases-four-econoinvest-brokerage-directors-on-bail>. On 6 March 2014, the court dismissed and closed the case against Herman Sifontes, Juan Carlos Carvallo, Ernesto Rangel and Miguel Osío. EL NACIONAL. (2014) Directivos de casa de bolsa fueron sobredeídos de delitos cambiarios. *El Nacional*. 6 March 2014. Available from: http://www.el-nacional.com/sucesos/Directivos-acusados-cambiarios-quedaron-libertad_0_367763459.html

³³⁴ The USA Today said: “Chávez had named Maduro, his longtime foreign minister, as his choice for vice president three days after winning re-election. The 50-year-old Maduro, a burly former bus driver, has shown unflagging loyalty and become a leading spokesman for the socialist leader.” See: USA TODAY. (2012) Venezuela’s Chávez says cancer back, plans surgery. *USA Today*. [Online] 9 December. Available from: <http://www.usatoday.com/story/news/world/2012/12/08/venezuela-Chavez-cancer/1756293/> [Accessed 12 September, 2015]

³³⁵ LÓPEZ, V. and WATTS, J. (2013) Who is Nicolás Maduro? Profile of Venezuelan’s new president. *The Guardian*. [Online] 15 April. Available from: <http://www.theguardian.com/world/2013/apr/15/Nicolas-maduro-profile-venezuela-president> [Accessed 28 August, 2015]

³³⁶ JAMES, I. (2012) Venezuela’s Chávez says cancer back, plans surgery. *USA Today*. [Online] 9 December. Available from: <http://www.usatoday.com/story/news/world/2012/12/08/venezuela-Chavez-cancer/1756293/> [Accessed 28 August, 2015]

September 2012 that the GoV withdrew from the American Convention on Human Rights following a series of decisions against the GoV by the Inter-American Court of Human Rights (IACtHR).³³⁷

Maduro was also designated by Chávez to fulfil his presidential duties while he was battling cancer for over a year.³³⁸ In December 2012, Chávez announced that his recurring cancer had returned and publicly declared that should his condition worsen and a new Presidential Election be called, Venezuelans should vote for Maduro to succeed him.³³⁹ Maduro, who was Venezuela's interim leader since Chávez's death on from the 5 March 2013 and thereafter until the elections, made his position clear when he stated: "I am not Chávez, but I am his son."³⁴⁰

In April 2013, Nicolás Maduro narrowly won the elections³⁴¹ called for by the NEC³⁴² and upon taking power, Maduro made several statements to the fact that he would continue to implement Chávez ideologies and policies.³⁴³ In his victory speech on the 14

³³⁷ AI. (2013) Venezuela's withdrawal from regional human rights instrument is a serious setback. *Amnesty International*. [Online] 6 September. Available from: <https://www.amnesty.org/en/latest/news/2013/09/venezuela-s-withdrawal-regional-human-rights-instrument-serious-setback/> [Accessed 28 August, 2015]

³³⁸ INTERNATIONAL CRISIS GROUP. (2012) Dangerous Uncertainty ahead of Venezuela's Elections. *International Crisis Group*. [Online] 26 June. Available from: <http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/042-dangerous-uncertainty-ahead-of-venezuelas-elections.aspx> [Accessed 28 August, 2015] p.4

³³⁹ JAMES, I. (2012) Venezuela's Chávez says cancer back, plans surgery; INTERNATIONAL CRISIS GROUP. (2012) Dangerous Uncertainty ahead of Venezuela's Elections; PENFOLD, M. (2013) Maduro Moves Up. *Foreign Affairs*. [Online] 12 March. Available from: <https://www.foreignaffairs.com/articles/venezuela/2013-03-12/maduro-moves> [Accessed 28 August, 2015]

³⁴⁰ SHOICHET, C. (2013) Maduro: From bus driver to Venezuelan leader. *CNN*. [Online] 15 April. Available from: <http://www.cnn.com/2013/04/11/world/americas/venezuela-maduro-profile/> [Accessed 28 August, 2015]

³⁴¹ The CNE's first bulletin, with over 99 per cent of the votes counted, indicated Maduro had won with 7,505,338 votes (50.66 per cent) over Capriles who obtained 7,270,403 (49.07 per cent). See: CNE. (2013) Divulgación Presidenciales 2013. *Consejo Nacional Electoral*. [Online] 1 July. Available from: http://www.cne.gob.ve/resultado_presidencial_2013/r/1/reg_000000.html [Accessed 28 August, 2015]; NYT. (2013) Maduro gained 50.8% of the vote to 49.1% to Capriles. Venezuela Gives Chávez Protégé Narrow Victory. *New York Times*. [Online] 14 April. Available from: <http://www.nytimes.com/2013/04/15/world/americas/venezuelans-vote-for-successor-to-Chavez.html> [Accessed 7 September] (noting that in an unexpectedly close race, Nicolás Maduro, Hugo Chávez's handpicked political heir, was chosen by Venezuelans to serve the remainder of Chávez's six-year term as president); USA TODAY. (2013) Officials say Maduro defeated Henrique Capriles by only about 200,000 votes. *USA Today*. [Online] Available from: <http://www.usatoday.com/story/news/world/2013/04/14/venezuela-election-maduro-capriles/2081677/> [Accessed 28 August, 2015]

³⁴² EL UNIVERSAL. (2013) 234.935 votos dan la victoria a Maduro. *El Universal*. [Online] 15 April. Available from: <http://www.eluniversal.com/nacional-y-politica/elecciones-2013/130415/234935-votos-dan-la-victoria-a-maduro> [Accessed 28 August, 2015]

³⁴³ Maduro's op-ed at The Guardian is titled: "Under my presidency, Chávez's revolution will continue". "The media myth that our political project would fall apart without Chávez was a fundamental misreading of Venezuela's revolution. Chávez has left a solid edifice, its foundation a broad, united

April 2013, Nicolás Maduro said that a new era was beginning for the Bolivarian revolution. He stated: “I am the first Chavista president after Hugo Chávez and I am going to fulfill in full his legacy (...).”³⁴⁴ He has even claimed that he received advice from Chávez’s ghost after his death.³⁴⁵

Since he has been in power, Maduro did not change the existing structure of the state where the Presidency acts as the organ of supreme authority holding de-facto control over the other organs of the state including the legislature, the national security forces and the judiciary. On the contrary, he further consolidated and expanded the Presidency’s control over the state apparatus.

The current structure of the state will be further explored to illustrate the scope of the de facto supremacy of the Presidency over the whole state apparatus.

The GoV is a state organization structured in five main branches (the executive, the legislature, the judiciary, the citizen power and the electoral branch) that head the Bolivarian Republic of Venezuela under the Constitution of 1999..

Although the Constitution formally adopts the principle of separation of powers, the

movement that supports the process of transformation. We've lost our extraordinary leader, but his project – built collectively by workers, farmers, women, indigenous peoples, Afro-descendants, and the young – is more alive than ever.” See: MADURO, N. (2013) Under my presidency, Chávez's revolution will continue. *The Guardian*. [Online] 12 April. Available from:

<http://www.theguardian.com/commentisfree/2013/apr/12/my-presidency-Chavez-revolution-continue> [Accessed 28 August, 2015]; The op-ed, with the same title was published in Spanish at Maduro's official web-site. See: MADURO, N. (2013) Bajo mi presidencia la revolución de Chávez continuará (The Guardian) por Nicolás Maduro. *Nicolás Maduro*. [Online] 13 April. Available from: <http://www.Nicolásmaduro.org.ve/noticias/bajo-mi-presidencia-la-revolucion-de-Chavez-continuará-the-guardian-por-Nicolas-maduro/#.VeEJe7QSNdl> [Accessed 28 August, 2015]; At the G-77 in 2014, he stated that "Venezuela va a seguir por el camino de ese profeta inmenso que tuvo Sudamérica, llamado Hugo Chávez.” See: LAVANGARDIA. (2014) Maduro agradece apoyo de G77 y dice que continuará por la ruta de Chávez. *Lavanguardia*. [Online] 15 June. Available from:

<http://www.lavanguardia.com/politica/20140615/54409039597/maduro-agradece-apoyo-de-g77-y-dice-que-continuará-por-la-ruta-de-Chávez.html> [Accessed 28 August, 2015]; EL MERCURIO. (2014) Maduro agradece el apoyo del G77 y asegura que continuará por la ruta de Chávez. *El Mercurio*. [Online] 15 June. Available from:

<http://www.emol.com/noticias/internacional/2014/06/15/665322/maduro-agradece-el-apoyo-del-g77-y-dice-que-continuará-por-la-ruta-de-Chávez.html> [Accessed 28 August, 2015]; FOX NEWS. (2014) Maduro agradece apoyo de G77 y dice que continuará por la ruta de Chávez. *Fox News Latino*. [Online] 15 June. Available from: <http://latino.foxnews.com/latino/espanol/2014/06/15/maduro-agradece-apoyo-de-g77-y-dice-que-continuará-por-la-ruta-de-Chávez/> [Accessed 28 August, 2015]

³⁴⁴ DEVEREUX, C. and PONS, C.R. (2013) Maduro Proclaimed Venezuela President as Rival Vows Protests. *Bloomberg*. [Online] 15 April. Available from:

<http://www.bloomberg.com/news/articles/2013-04-15/Chavez-heir-maduro-wins-venezuela-presidency-to-continue-legacy> [Accessed 28 August, 2015]; WATKINS, T. and SHOICHET, C.E. (2014) Venezuelan President Maduro to CNN: U.S. would respond the way I did. *CNN*. [Online] 7 March. Available from: <http://www.cnn.com/2014/03/06/world/americas/Nicolas-maduro-amanpour-interview/> [Accessed 28 August, 2015]

³⁴⁵ WILSON, P. (2014) A Revolution in Green

current structure of the state as established under the Chávez Presidency is incompatible with the basic requirements of the principle of separation of powers which is in practice disregarded in favour of centralization of power to the executive. The Judiciary, Legislative, Citizen Power and Electoral branches do not enjoy independence under the current organization of the state. These branches of the state are de jure or de facto under the Presidency's control as will be demonstrated below.

b)The Executive

The Executive³⁴⁶ branch dominates the other branches of government and is vested in the elected President of the Republic, the Executive Vice-President (appointed by the President) and the Ministers. Under the 1999 constitution, the President is both head of government and chief of state and as such is in charge of the general administration of the country and the protection of the National State interests. The President is also the Commander-in-Chief of the National Army Forces.

The President can independently issue decrees (*decretos*), the Ministers may issue resolutions (“resoluciones”) regarding specific topics of their competence and the Council of Ministers can issue specific decisions with the approval of the Presidency. There are 29 Ministries in Venezuela, all of which are presided by one Minister appointed by the President³⁴⁷ and who acts as “direct organs” of the President.³⁴⁸

The Ministers constitute the Council of Ministers and are members of the cabinet in charge of Ministries³⁴⁹ who endorse, authenticate and implement certain presidential actions. As such their position is simultaneously administrative and political and acting as a collegiate body through the Council of Ministers they set national policy in all areas of governmental activity. The President decides about the size and composition of the Council of Ministers and appoints the Ministers.³⁵⁰

Figure 1: President's de jure control over the Executive

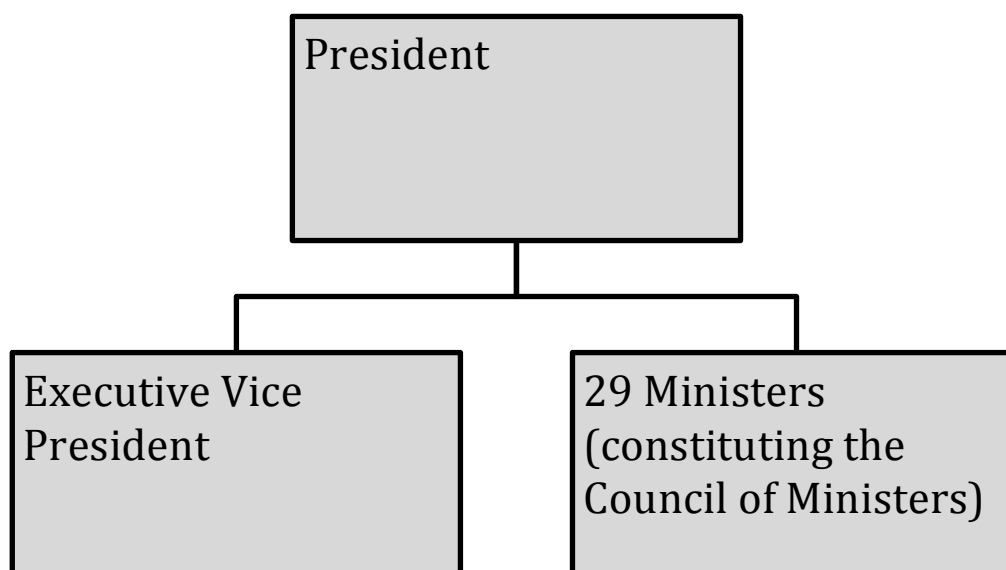
³⁴⁶ See: VENEZUELA. *Constitution of Venezuela*. Title V, Chapter II.

³⁴⁷ VENEZUELA. *Constitution of Venezuela*. Article 236.

³⁴⁸ VENEZUELA. *Constitution of Venezuela*. Article 242

³⁴⁹ These are the 29 Ministries of Venezuela: Governance Monitoring; Interior, Justice & Peace; Foreign Affairs; Planning; Economy & Finances; Defense; Commerce; Industry; Tourism; Agriculture & Lands; Higher Education, Science and Technology; Education; Health; Labor & Social Security; Ground Transportation; Air & Water Transportation; Housing Affairs; Ecosocialism, Natural Resources and Water; Petroleum and Mining Affairs; Communications & Information; Social Movements, Social Protection and Communes; Nutrition; Culture; Sports; Indigenous Peoples; Women's and Gender Affairs; Electrical Energy; Youth; Prisons and Penological Services.

³⁵⁰ VENEZUELA. *Constitution of Venezuela*. Article 236.



The Constitution of Venezuela also establishes subnational Executive branches. Its article 16 divides the territory of Venezuela into States, the Capital District, federal dependencies and federal territories. Each one of these is itself divided into Municipalities. The States are politically equal and autonomous organs with full juridical personality. There are 23 States in Venezuela and those relevant to this communication are Aragua, Tachira, Carabobo, Merida and Miranda, as well as the Metropolitan District of Caracas.

Governors are in charge of the government and administration of each State. The Legislative Council exercises the local legislative authority and Governors who are elected for a term of four years by a majority vote can be re-elected for an additional term only once immediately after their term. 20 of the 23 Governors currently in office are from the USPV³⁵¹ confirming the overwhelming control of the Presidency over the management of the States.

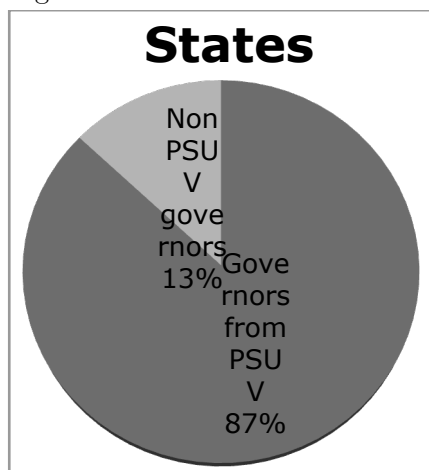
The 23 States are divided into 335 Municipalities which enjoy juridical personality and autonomy from the States and the Capital District in relation to the election of municipal authorities, the management of affairs within the scope of its competence and the creation, collection and investment of its revenues. The Mayors are in charge of the government and administration of the municipalities. 76% of the country's Mayors belong to the USPV³⁵² further entrenching the Presidency's control over the territory.

³⁵¹ For official results see: CONSEJO NACIONAL ELECTORAL. (2012) Divulgación Regionales 2012. *Consejo Nacional Electoral*. [Online] Available from: http://www.cne.gob.ve/resultado_regional_2012/r/1/reg_000000.html [Accessed 24 October, 2015]

³⁵² PSUV. (2013) Lista de Alcaldesas y Alcaldes revolucionarios. *PSUV*. [Online] 8 December. Available from: <http://www.psu.org.ve/lista-alcaldes-revolucionarios/> [Accessed 24 October, 2015]

Mayors who are not from the USPV, have been reported to have been subjected to political persecution.³⁵³ The Venezuelan Mayors' Association denounced in April 2014, that 23 of the 76 opposition's mayors were subject to judicial persecution.³⁵⁴

Figure 2 : President's de facto control over the states through the PSUV Governors



c) Other organs under the control of the Presidency

(1) De Jure control of the Presidency over the National Armed Forces and the Internal Security Forces

The National Armed Forces “consist of the Army, the Navy, the Air Force and the National Guard”,³⁵⁵ as well as the National Bolivarian Militia created by a Presidential decree.³⁵⁶ As the Commander-in-Chief of all the Armed Forces, the President is directly responsible for the strategic and operational decisions relating to the National Armed Forces of the Bolivarian Republic of Venezuela (*Fuerza Armada Nacional Bolivariana* (NAFB))³⁵⁷ and as such is de jure in charge of each one of these forces.

³⁵³ THE GUARDIAN. (2015) Venezuela agents arrest Caracas mayor. *The Guardian*. [Online] 19 February. Available from: <http://www.theguardian.com/world/2015/feb/20/venezuela-agents-arrest-caracas-mayor> [Accessed 24 October, 2015]

³⁵⁴ NOTICIAS24. (2014) Asociación de Alcaldes por Venezuela solicitó una “audiencia privada con la Unasur.” *Noticias24*. [Online] 4 April. Available from: <http://www.noticias24.com/venezuela/noticia/232251/asociacion-de-alcaldes-por-venezuela-solicito-una-audiencia-privada-con-unasur/> [Accessed 24 October, 2015]

³⁵⁵ VENEZUELA. *Constitution of Venezuela*. Article 328

³⁵⁶ Presidential Decree of President Eleazar López Contreras, published in the Official Gazette. The presidential decree divided the National Guard into the National Guard of the Interior (subdivided into the Highway, Rural, Health and Urban Services) and the Frontier National Guard, and formally set its joint command structure under the Ministries of War and Navy and of the Interior and Justice. As a national police force it was also mandated to have its own investigations service as well.

³⁵⁷ According to article 236 of the Venezuelan Constitution, the President is the commander-in-chief of

According to the Constitution of Venezuela, the President has the attribution and duty to “direct the National Armed Forces in his capacity as Commander in Chief, exercise supreme hierarchical Authority over the same and establish their contingent”³⁵⁸ and to “exercise supreme command over the National Armed Forces, promote their officers at the rank of colonel or naval captain and above, and appoint them to the positions exclusively reserved to them.”³⁵⁹

The Organic Law of the Bolivarian National Armed Force,³⁶⁰ a decree issued by President Chávez, which has the rank, value and power of a law,³⁶¹ reinforces the Presidential authority over the Armed Forces. Article 7 of the Organic Law provides that: “Military personnel in active service (...) are subordinated to the President of the Republic, Commander in Chief of the National Armed Forces, whose orders must obey and follow without delay or excuse of any kind.”

Article 329 of the Constitution establishes the general responsibility of the Army, the Navy and the Air Force in “the planning, execution and control of military operations as required to ensure the defence of the Nation” and to “[conduct] operations as required to maintain internal order within the country.” The four forces “shall carry out activities of administrative policing and criminal investigation activities as provided for by law.”

According to the Organic Law, each force has the following specific duties and attributions:

(i) The Army (*Fuerzas Terrestres or Ejército*) is responsible for planning, implementing and monitoring terrestrial military operations³⁶² in order to defend the country against

the armed forces under constitutional provisions. Therefore, he has overall supervision and control over them. See: VENEZUELA. *Constitution of Venezuela*. Article 236; The National Armed Forces comprise five service components: the Army, the Navy, the Air Force, the National Guard, and the National Militia. Harold A Trinkunas p 129; Lating America in the post Chávez era: the security threat to America, Luis Fleischman, *The orgining of the Chávez Bolivarian Revolution* p 47

³⁵⁸ VENEZUELA. *Constitution of Venezuela*. Article 236(5)

³⁵⁹ VENEZUELA. *Constitution of Venezuela*. Article 236(6)

³⁶⁰ Gaceta Oficial Extraordinaria 5.891 (Federal Registry). A full text of the Law is available at:

<http://infovenezuela.org/democracy/attachments-spanish/T6%20ST01%20P7%20V2%20LOFAN.htm>

³⁶¹ EMBASSY OF THE BOLIVIAN REPUBLIC OF VENEZUELA TO THE UNITED STATES.

(2007) Fact Sheet: Organic Law of the Bolivarian Armed Force. *Embassy of the Bolivarian Republic of Venezuela to the United States*. [Online] Available from: <http://venezuela-us.org/live/wp-content/uploads/2009/08/FS-FANB-Law-Oct-20081.pdf> [Accessed 24 October, 2015]

³⁶² VENEZUELA. *Organic Law of Police Service and National Police*. Title 1, Chaper IV, Article 19 [Online]

Available from:

http://www.mp.gob.ve/c/document_library/get_file?p_1_id=29594&folderId=14478&name=DLFE-3424.pdf [Accessed 24 October, 2015]

international and domestic threats. It is the largest military branch of Venezuela;

(ii) The Navy (*Fuerzas Navales or Armada Bolivariana*) and Marines (*Infanteria de Marina*) are responsible for the implementation, management and control of naval operations, naval aircraft, and the Coast Guard in support of Navy activities;

(iii) The Air Force (*Fuerzas Aérea or Aviación Militar*) is responsible for the implementation, management and control of military operations required for aerospace defence;

(iv) The Bolivarian National Guard of Venezuela (*Fuerzas Armadas de Cooperacion or Guardia Nacional* (FANB)) which is a military corps with police functions conducting operations required for the maintenance of internal order in the country, cooperating in military operations required to ensure the defence of the Nation, exercise administrative and police activities of Criminal Investigation assigned to it by the laws, and will actively participate in national development in the territory of the nation;

(v) The National Bolivarian Militia. The Organic Law of the Bolivarian National Armed Force created a fifth National Army Force, the National Bolivarian Militia (NBM) over which, according to the Constitutional and legal provisions, the President also has authority and control. It is an autonomous and auxiliary force, with its own chain of command. It serves as a reserve force of the Armed Forces, and has specific responsibilities on home defence and security of government facilities.

In addition, the Ministry of Interior, Justice & Peace who reports directly to the President is in control of the following internal security forces, which are therefore under the overall control of the Presidency:³⁶³

(i) The Corps of Scientific, Penal and Criminal Investigations (*Cuerpo de Investigaciones Científicas, Penales y Criminalística* (CICPC)) is Venezuela's largest national police agency, responsible for criminal investigations and forensic services;

(ii) The Corps of Bolivarian National Police (*Cuerpo de Policía Nacional Bolivariana* (CPN)) is Venezuela's national police force. It has general law enforcement attributions, including upholding the Constitution and the Law, intervening to protect people or communities in danger; patrolling in urban, suburban and rural areas; protecting people participating in public concentration or protests; safeguarding and preserving crime scenes; and protecting witnesses and victims of crimes, among many others³⁶⁴

³⁶³ VENEZUELA. *Organic Law of Police Service and National Police*. Title 1, Chapter IV, Article 17 and 22 [Online] Available from: http://www.mp.gob.ve/c/document_library/get_file?p_l_id=29594&folderId=14478&name=DLFE-3424.pdf [Accessed 24 October, 2015]

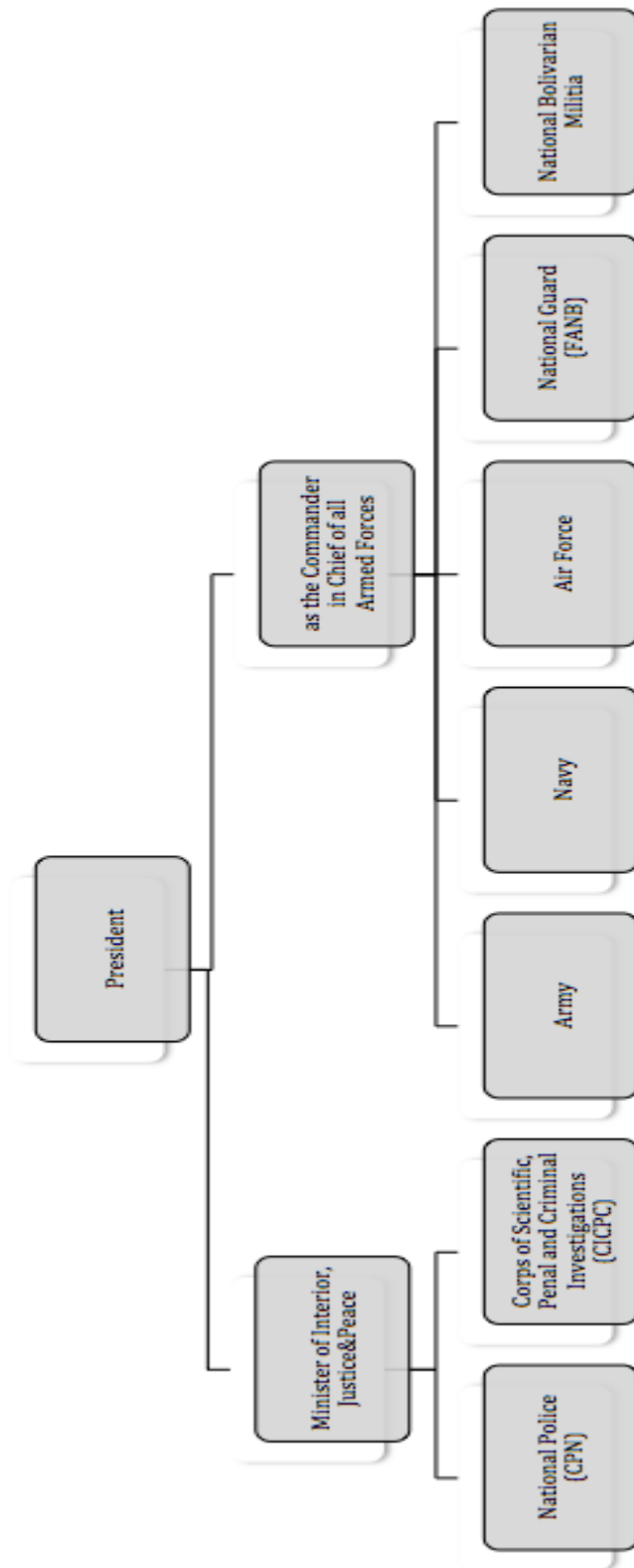
³⁶⁴ See: VENEZUELA. *Organic Law of Police Service and National Police*. Title 1, Chapter IV, Article 34

In addition, each of Venezuela's 23 States has its own police force. There are also 114 Municipal Polices.³⁶⁵ Every one of these police forces answers to its local Governor or Mayor.³⁶⁶ As mentioned previously, since most of the country's Governors and Mayors belong to the USPV at the Federal level, the Presidency has a direct control over the implementation of all the GoV's policies at ground level.

Figure 3: President's de jure control over the National Armed Forces

³⁶⁵ ULTIMAS NOTICIAS. (2015) 120 inspectores evaluarán las policías. *Ultimas Noticias*. [Online] 27 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/120-inspectores-evaluaran-las-policias.aspx> [Accessed 24 October, 2015]

³⁶⁶ Los Organismos de Seguridad Ciudadana, available at: <http://www.rena.edu.ve/cuartaEtapa/premilitar/Tema11.html>



(2) De Jure control of the Presidency over the Intelligence Services

The Intelligence Services are divided between the military and the national services but both are under the de jure control of the Presidency.

(i) The General Directorate of Military Counter-intelligence (*Dirección General de Contrainteligencia Militar*, (DGCM)), is the bureau in charge of collecting all the strategic military intelligence data, both foreign and domestic, and to coordinate the diverse institutions or departments of military intelligence of the service components of National Armed Forces and the National Militia. It is under the direct control of the Ministry of Defence who himself reports directly to the President.³⁶⁷

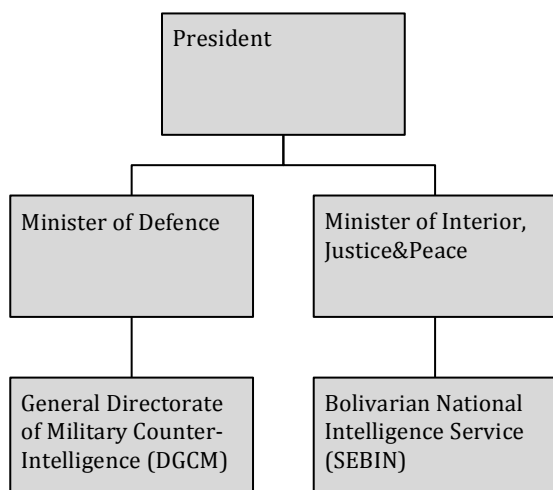
(ii) The Bolivarian National Intelligence Service (*Servicio Bolivariano de Inteligencia Nacional* (SEBIN)), is the premier intelligence agency in Venezuela. It collects information on potential foreign and domestic threats to the security of the country, and contributes towards its neutralization. It is under the direct control of the Ministry of Interior and Justice himself reporting directly to the President.³⁶⁸ Furthermore, despite the serious allegations of crimes committed by the SEBIN, the SEBIN Director, Gustavo González López, has recently been promoted to Minister of Interior, and currently holds both offices thereby cutting the chain of command short.³⁶⁹

Figure 4: President's de jure control over the military and national intelligence services

³⁶⁷ Ministry of Defence, Resolution N° 018758 (Jun 20, 1973).

³⁶⁸ Gaceta Oficial N°39.436 01 (Jun 1, 2010)

³⁶⁹ ULTIMAS NOTICIAS. (2015) Gustavo González López designado como ministro de Interior. *Últimas Noticias*. [Online] 9 March. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/gustavo-gonzalez-Lopez-designado-como-ministro-de-.aspx#ixzz3YOTutOE6> [Accessed 24 October, 2015]; GLOBOVISION. (2015) Designan nuevos ministros de Interiores y Despacho de la Presidencia. *Globovisión*. [Online] 9 March. Available from: <http://globovision.com/gustavo-gonzalez-Lopez-nuevo-ministro-de-interior-y-justicia/> [Accessed 24 October, 2015]



(3) De Jure control of the Presidency over the Penitentiaries and other detention centres

One of the 29 Ministries of Venezuela under direct control of the President is the Ministry of Prisons and Penological Services. The Ministry, currently presided by Iris Varela, a member of the National Committee of the ruling PSUV party, is responsible for planning and executing prison policies, as well as administering as well as administering all the prisons of the country. It exercises authority over the Prisons Service.

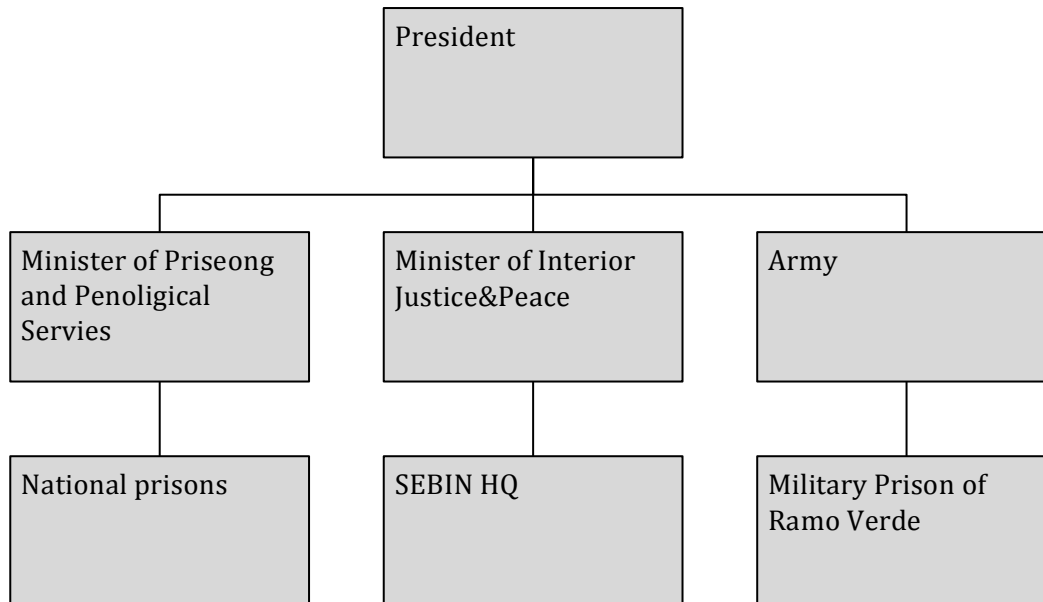
The Ministry was created under Chávez’s presidency³⁷⁰ by a decree establishing that its most relevant of these responsibilities include to “[d]esign, develop and evaluate policies, strategies, plans and programs [...] to ensure the full enjoyment and exercise of human rights of the accused and prosecuted, punished and sanctioned to rehabilitate them and improve their chances of reintegration into society.” It also “[regulates] the organization and operation of the prison system and enforcement of sentences of imprisonment, in accordance with the rules, principles and values enshrined in the Constitution of the Bolivarian Republic of Venezuela and international treaties and conventions on the matters, signed and ratified by the Republic.” As such the Presidency has a direct say over the policies adopted as well as their implementation within the penitentiary system across the Venezuelan territory.

There are two other types of detention centres, which are not formally prisons and are therefore outside of the competence of the Ministry of Prisons and Penological Services. These are the SEBIN headquarters and the Military Prison of Ramo Verde. The SEBIN headquarters is run by the SEBIN and the Military Prison of Ramo Verde is under responsibility of the Venezuelan Army. Since both the SEBIN and the

³⁷⁰ See: Decree No. 8,266. July 26, 2011

Venezuelan Army are de jure and de facto under the Presidency's control, the Executive Branch is also in control over these two detention centres.

Figure 5: President's de jure control over the Penitentiaries and detention centres



(4) De Facto control of the Presidency over the General Prosecutor and the Office of Public Prosecutions

The General Prosecutor falls within the Citizen Power Branch is one of the five independent branches of government of Venezuela.³⁷¹

In order to ensure the independence of the General Prosecutor, Article 279 of the Constitution establishes a specific procedure to appoint him. Most importantly, it provides that: “[t]he Republican Ethic Council shall convene a Citizen Power nomination Evaluating Committee, which shall be made up of a group of representatives from various sectors of society, and shall conduct public proceedings resulting in the provision of a list of three candidates from each organ member of the Citizen Power to be submitted for consideration by the National Assembly, which, by a two-thirds vote of its members, shall select (...) the member of the Citizen Power organ (...)”. The elected candidates serve for a period of seven years.³⁷²

³⁷¹ VENEZUELA. *Constitution of Venezuela*. Articles 273

³⁷² VENEZUELA. *Constitution of Venezuela*. Articles 280, 284 and 288

As a part of the Citizen Branch the Office of Public Prosecutions is also in theory independent of the authority of the Executive Branch³⁷³ and is directed by the General Prosecutor who directs the Office of Public Prosecutions and according to the Venezuelan Constitution, “perform(s) his functions directly.”³⁷⁴

Among the functions of the Office of Public Prosecutions, are to “guarantee respect for constitutional rights and guarantees in judicial proceedings, as well as those deriving from international treaties; to guarantee the speedy trial of the judicial process, the right to previous trial and a due process; to order and direct criminal investigations of the perpetration of punishable acts; to conduct on behalf of the State criminal prosecutions in those cases in which no initiative on the part of a party is required in order to initiate or continue such prosecution; and to file any appropriate actions to hold liable public officials who have incurred civil, labor, military, criminal, administrative or disciplinary liability the course of their official duties.”³⁷⁵

Despite these constitutional provisions for independence, in practice, the General Prosecutor and the Prosecutors within the Office of Public Prosecutions are under control of the Executive Branch and more specifically of the Presidency as will be demonstrated below. Their lack of independence is such that in September 2014, the International Crisis Group called on the GoV to restore the autonomy of the General Prosecutor.³⁷⁶

The current General Prosecutor is Luisa Ortega Díaz is a strong PSUV supporter, appointed in 2007 under the Presidency of Hugo Chávez for a 7-year mandate.³⁷⁷ To appoint her, the GoV took advantage of the PSUV’s domination of the General Assembly, following the opposition boycott to appoint, or reappoint, political allies to independent offices.³⁷⁸ Ortega Díaz’s first mandate was surrounded by controversy related to her lack of independency from the Presidency as confirmed by several international institutions:

³⁷³ VENEZUELA. *Constitution of Venezuela*. Chapter IV.

³⁷⁴ a VENEZUELA. *Constitution of Venezuela*. Article 284

³⁷⁵ VENEZUELA. *Constitution of Venezuela*. Article 285

³⁷⁶ INTERNATIONAL CRISIS GROUP. (2014) Venezuela: Dangerous Inertia. *International Crisis Group*. [Online] 23 September. Available from: <http://www.crisisgroup.org/~media/Files/latin-america/venezuela/b031-venezuela-dangerous-inertia> [Accessed 24 October, 2015] p.7

³⁷⁷ MINISTERIO PÚBLICO. (2015) Luisa Ortega Díaz – Curriculum Vitae. *Ministerio Público*. [Online] 24 October. Available from: <http://www.mp.gob.ve/web/guest/127> [Accessed 24 October, 2015]

³⁷⁸ INTERNATIONAL CRISIS GROUP, (2014) Venezuela: Tipping Point. *International Crisis Group*. [Online] 21 May. Available from: <http://www.crisisgroup.org/en/regions/latin-america-caribbean/andes/venezuela/b030-venezuela-tipping-point.aspx> [Accessed 24 October, 2015] p.24. Also see: HRW. (2008) A decade under Chávez. Chapter III.

(a) In 2011, Human Rights Watch noted that the General Prosecutor was not investigating or holding accountable certain public officials that may have abused their authority by using it against perceived political opponents.³⁷⁹

(b) In February 2011, Interpol removed Nelson Mezerhane, one of the owners of Globovisión and owner of a local bank, accused of embezzlement, conspiracy and fraud, from its list of “red notice” alerts, arguing that several cases from Venezuela (including this case) were related to political persecutions.³⁸⁰ General Prosecutor Ortega Díaz criticized the decision as favouring impunity and constituting “meddling” in Venezuelan internal affairs.³⁸¹

(c) In 2012, journalist Mario Villegas argued that the Office of Public Prosecutions constantly violated its constitutional duties to act in favour of the government. He stated that Ortega Díaz acted “more as a chavista than as a government official” and that presenting a complaint against the government in Venezuela was vain.³⁸²

(d) In 2014, legislator María Corina Machado was stripped of her elected post by means of dubious legal proceedings and, a few months later, charged by the Office of Public Prosecutions with conspiracy for participating in a plan to assassinate President Maduro. The role of Ortega Díaz during this whole process was heavily criticized by different sectors, which even accused her of participating in a joint plan with the PSUV to persecute opposition leaders.³⁸³

³⁷⁹ HRW. (2012) Tightening the Grip. *Human Rights Watch*. [Online] July. Available from: <http://www.hrw.org/sites/default/files/reports/venezuela0712webwcover.pdf>. [Accessed 24 October, 2015] Chapter “The Courts” and p.129

³⁸⁰ REARDON, J. (2011) “General Prosecutor Accuses INTERPOL of ‘Meddling’ in Venezuelan Internal Affairs.” *Venezuelan Analysis*. [Online] 25 February. Available from: <http://venezuelanalysis.com/news/6027> [Accessed 24 October, 2015]; HRW. (2012) Tightening the Grip. p.68

³⁸¹ REARDON, J. (2011) “General Prosecutor Accuses INTERPOL of ‘Meddling’ in Venezuelan Internal Affairs”; HRW. (2012) Tightening the Grip. p.68

³⁸² NOTICIAS24. (2012) “Mario Villegas: ‘Denunciar ante la fiscal Luisa Ortega Díaz es como gastar pólvora en zamuro.’ *Noticias24*. [Online] 6 August. Available from: <http://www.noticias24.com/venezuela/noticia/119754/mario-villegas-denunciar-ante-la-fiscal-luisa-ortega-diaz-es-como-gastar-polvora-en-zamuro/> [Accessed 24 October, 2015]

³⁸³ INTERNATIONAL CRISIS GROUP. (2014) Venezuela: Tipping Point. p.15; MEZA, A. (2014) La fiscalía acusa a la principal líder opositora por conspirar contra Maduro. *El País*. [Online] 3 December. Available from:

http://internacional.elpais.com/internacional/2014/12/03/actualidad/1417628735_257437.html

[Accessed 24 October, 2015]; DE LA ROSA, A. (2014) Recusan a Luisa Ortega Díaz por emitir opinión en caso contra Machado. *El Universal*. [Online] 2 June. Available from:

<http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140602/recusan-a-luisa-ortega-diaz-por-emitir-opinion-en-caso-contra-machado> [Accessed 24 October, 2015]; IACHR. (2015)

IACHR Expresses Deep Concern over the Situation regarding the Rule of Law in Venezuela. *Inter American Council of Human Rights*. [Online] 24 February. Available from:

http://www.oas.org/en/iachr/media_center/PReleases/2015/015.asp [Accessed 24 October, 2015]

Despite these controversies, she was reappointed by the General Assembly in December 2014, under the presidency of Maduro.³⁸⁴ Even though the Constitution required a two-third vote to appoint a General Prosecutor,³⁸⁵ she was elected by a simple majority vote³⁸⁶ using the PSUV's majority of 99 out of 163 seats in the National Assembly.³⁸⁷ Several Constitutional Law professors and experts, as well as political leaders and journalists, argued that her appointment was a clear violation of the Venezuelan Constitution.³⁸⁸

International Crisis Group has highlighted the “alacrity with which [Luisa Ortega Díaz] responds to public ‘exhortations’ from the government, as compared with her apparent lack of interest in pursuing cases presented by the opposition.”³⁸⁹ The international NGO called for the “the restoration of the rule of law, and in particular the autonomy of the judiciary, the [Office of Public Prosecutions] and other constitutionally autonomous branches of the state”.³⁹⁰

Ortega has also failed to show any sign of independence and has publicly acknowledged her acquiescence of the GoV's policies on several occasions including when she publicly mocked a victim who reported sexual violence during his detention during a televised press conference identifying him by name and holding up a photo of a rifle she asked

³⁸⁴ MINISTERIO PÚBLICO. (2015) Luisa Ortega Díaz – Curriculum Vitae

³⁸⁵ See section f, supra. [WHERE?]

³⁸⁶ RUNRUN. (2014) Nombrados Fiscal, Defensor y Contralor por mayoría simple en la AN. *Runrun*. [Online] 22 December. Available from: <http://runrun.es/nacional/177637/nombrados-fiscal-defensor-y-contralor-por-mayoria-simple-en-la.html> [Accessed 24 October, 2015]; EL NUEVO HERALD. (2014) Chavismo elige por mayoría simple a fiscal general, defensor y contralor. *El Nuevo Herald*. [Online] 22 December. Available from: <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article4824984.html> [Accessed 24 October, 2015]; MARCANO, E. (2014) Mayoría simple del PSUV designa a autoridades del Poder Ciudadano. *El Universal*. [Online] 22 December. Available from: <http://www.eluniversal.com/nacional-y-politica/141222/mayoria-simple-del-psuv-designa-a-autoridades-del-poder-ciudadano> [Accessed 24 October, 2015]

³⁸⁷ 96 PSUV seats and 3 PCV seats (direct political ally). See the official National Assembly website's list of seats per political party: <http://www.asambleanacional.gob.ve./partido>

³⁸⁸ EL UNIVERSAL. (2015) Escarrá: Orden ejecutiva contra Venezuela viola el derecho internacional y la constitución de EE UU. *El Universal*. [Online] 16 April. Available from: http://www.el-nacional.com/politica/Escarra-Orden-Venezuela-EE-UU_0_611338968.html [Accessed 24 October, 2015]; LA CRUZ, V. (2014) Fiscal acudió al Parlamento para su juramentación. *El Universal*. [Online] 22 December. Available from: <http://www.eluniversal.com/nacional-y-politica/141222/fiscal-acudio-al-parlamento-para-su-juramentacion> [Accessed 24 October, 2015]; <http://www.dw.de/venezuela-pol%C3%A9mica-por-designaci%C3%B3n-de-poderes-p%C3%ABablicos/a-18147386> ; SCHARFENBERG, E. (2014) La designación de magistrados adapta la Justicia a la medida del chavismo. *El País*. [Online] 29 December. Available from: http://internacional.elpais.com/internacional/2014/12/29/actualidad/1419893813_821054.html [Accessed 24 October, 2015]

³⁸⁹ INTERNATIONAL CRISIS GROUP. (2014) Venezuela: Tipping Point

³⁹⁰ INTERNATIONAL CRISIS GROUP. (2014) Venezuela: Tipping Point. p.18. The report refers to the Office of Public Prosecutions as the “General Prosecutor’s Office” which is an inaccurate translation. However, it is clear that it wants to refer to the Office of Public Prosecutions, since it constantly refers to the job carried on by Ortega Díaz and calls her the “General Prosecutor”, which is also inaccurate.

rhetorically: “Do you think that a person who has been violated, who had a rifle inserted in his anus, could sit down to make a declaration at his hearing?”³⁹¹

In addition, as under the Chávez regime, the Prosecutors in Venezuela are not appointed by public competition and are often temporarily appointed thus remaining subject to the General Prosecutor’s authority to remove them.³⁹² Although these findings date from 2009, there has been no restructuring or amendment in this field since then in Venezuela and the structure in place in 2009 is therefore still the same, presenting the same challenges to prosecutorial independence.

Furthermore, the IACHR has raised concerns over the lack of independence of the prosecutors, which results in the allocation of cases within the General Prosecutor’s Office where matters are “cherry-picked”.³⁹³ According to information gathered by civil society organizations, all the investigations and prosecutions related to the interests of the ruling party and the executive branch are handled by a small group of prosecutors³⁹⁴ demonstrating the scope of influence of the Executive over the prosecutions.

It is further claimed that despite that fact that several of these prosecutors have been challenged by the accused in various cases, the General Prosecutor has not upheld any of those challenges.”³⁹⁵

More recently, in October 2015, the defection of former prosecutor Franklin Nieves who sought asylum in the US with his wife and two daughters,³⁹⁶ confessed that the trial of Leopoldo Lopez in which he appeared as one of the two leading prosecutors “was a farce based on false evidence and unjustly violated his rights.”³⁹⁷ He confirmed in several interviews that “Leopoldo López is innocent” and that “This [trial] was a totally political trial which should be nullified. All of Leopoldo López’s human rights were

³⁹¹ MORENO, J.T. (2014) Luisa Ortega Díaz: En Venezuela no hubo ninguna manifestación ni protesta pacífica; Also see: HENDERSON, V.L. (2014) Human Rights Watch Alert: All-Star Cast Doing Dirty Work for Venezuelan Regime?

³⁹² IACHR. (2009) Democracy and Human Rights in Venezuela

³⁹³ IACHR. (2009) Democracy and Human Rights in Venezuela. Chapter III

³⁹⁴ IACHR. (2009) Democracy and Human Rights in Venezuela

³⁹⁵ Venezuelan Criminal Forum (NGO). *Informe que presenta la Asociación Civil Foro Penal Venezolano a tres años de su Fundación* (Report presented by the Venezuelan Criminal Forum three years after its establishment). June 6, 2008, pp. 58-59; IACHR. (2009) Democracy and Human Rights in Venezuela

³⁹⁶ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

³⁹⁷ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

violated because he was not able to present any witnesses or evidence,” Mr. Nieves said.
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He provided information on the control of the Presidency over the Office of the General Prosecutor and the judiciary stating that: “Prosecutors and judges fear that if anyone dissents from carrying out an order, he will be detained, or a criminal case will be invented against him and he will be jailed.”³⁹⁹ He said dozens of Venezuelan security officials milled around outside the courtroom doors during every one of Mr. López’s trial sessions, serving to intimidate judicial personnel into not defying orders. Nieves said that judges and prosecutors were pressured to convict political opponents of the regime by their superiors, who would give them their orders verbally in frequent meetings.

In Caracas, Ortega Díaz personally defended the trial⁴⁰⁰ and denied that Mr. Nieves was pressured and said the prosecutor was fired in recent days “because he abandoned his position.” “He ceded to the pressures of foreign factors and sectors of the country, not the General Prosecutor’s Office,” she said. “The prosecutor’s office doesn’t pressure anyone.”⁴⁰¹

These facts, in addition to the surrounding circumstances, clearly point to a Presidency which is using its influence over the Office of Public Prosecutions, to prevent, restrict, monitor and punish dissent to maintain power by prosecuting or threatening to prosecute individuals disagreeing or criticizing the regime with false, abusive and malicious charges.

(5) De facto control of the Presidency over the Judiciary

The Judiciary, which is responsible for the administration of justice, hearing cases and other matters falling under its jurisdiction, is in theory functionally, financially and administratively independent.⁴⁰² The Supreme Tribunal of Justice (Tribunal Supremo

³⁹⁸ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

³⁹⁹ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

⁴⁰⁰ MUNDO24. [2014] Luisa Ortega Díaz asegura que “no hay retardo procesal en caso de Leopoldo López.” *MUNDO24*. [Online] 6 November. Available from: <http://www.mundo24.net/luisa-ortega-diaz-asegura-que-hay-retardo-procesal-en-caso-de-leopoldo-lopez/> [Accessed 25 October, 2015]; ULTIMAS NOTICIAS. (2015) Ortega Díaz se reunió con cancilleres de Unasur. *Ultimas Noticias*. [Online] 6 March. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/ortega-diaz-se-reunio-con-cancilleres-de-unasur.aspx> [Accessed 25 October, 2015]

⁴⁰¹ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

⁴⁰² VENEZUELA. *Constitution of Venezuela*. Article 254

de Justicia) is de jure on top of the Venezuelan court system.⁴⁰³ It is made up of 32 justices (“magistrados”) all elected by the National Assembly from a shortlist presented by a Committee on Judicial Nominations that operates in the Citizen Power branch’s sphere.⁴⁰⁴

The Supreme Tribunal not only acts as the court of last resort but it also hears accusations against high public officials, certain civil actions arising between the State and individuals and acts through its Judicial Commission to appoint and remove non-tenured judges.⁴⁰⁵

As previously explained, under the state structure created during the Chávez regime, the majority of the judges were appointed without public competition as required by the Constitution⁴⁰⁶ and on provisional contracts, as acknowledged by the IACHR.⁴⁰⁷ As this system has not been changed under Maduro, the Executive still has a great deal of control over the judicial process and outcome not only at the Supreme Tribunal level but also indirectly throughout the courts in the country as the Judicial Commission of the Supreme Tribunal maintains that it can summarily dismiss temporary judges, without cause and without the due process⁴⁰⁸ as it has done in several instances previously.

In 2014, more than three fifths of judges were provisional: “At the time President Chávez took office, 60 % of the total number of judges held their position in a provisional manner; today such a number reaches 80 %. This situation has been consistently denounced by HRW. In its 2004 Report, Item IV, HRW, points out that in Venezuela, of the total number of judges (1,732). 52% are provisional judges, 26% are temporary judges and 2% hold their position with no stability whatsoever”. The Inter-American Commission on Human Rights has equally highlighted this situation in its 2003 Report.”⁴⁰⁹

⁴⁰³ VENEZUELA. *Constitution of Venezuela*. Title V, Chapter III.

⁴⁰⁴ VENEZUELA. *Constitution of Venezuela*. Article 270

⁴⁰⁵ VENEZUELA. *Constitution of Venezuela*. Title V, Chapter III.

⁴⁰⁶ VENEZUELA. *Constitution of Venezuela*. Article 255

⁴⁰⁷ DEZALAY, Y. and GARTH, B. (eds.). (2011) *Lawyers and the Rule of Law*. p 34. The remaining 80 percent hold positions as “provisional” judges (52 percent), “temporary” judges (26 percent), or other non-permanent postings (2 percent). Information provided through e-mail correspondence with Executive Director of the Magistracy, Supreme Tribunal of Justice, Ricardo Jiménez Dan, May 20, 2004. HRW. (2004) Rigging the Rule of Law. Chapter “Disposable Judges”

⁴⁰⁸ The Judicial Commission of the Supreme Tribunal of Justice has asserted this authority explicitly in written responses to appeals filed by judges it has summarily fired. REUTERS. (2003) Corte Venezuela ordena dejar de ejercer médicos Cuba en Caracas. *Reuters*. 21 August

⁴⁰⁹ SUMATE. (2005) Is the Independence of the Judicial Career Respected? *Sumate*. [Online] Available from: http://infovenezuela.org/democracy/cap2_en_2.htm [Accessed 25 October, 2015]; HRW. (2004) Manipulando el Estado de Derecho: Independencia del Poder Judicial amenazada en Venezuela. *Human Rights Watch*. [Online] June. Available from: <http://infovenezuela.org/democracy/attachments-spanish/T2%20ST02%20N1%20Manipulando.pdf> [Accessed 25 October, 2015]; IACHR. (2005)

Despite a constitutional requirement that a code of ethics and disciplinary tribunal for judges be established before 2001, it took over ten years to implement this. The constitutional branch of the Supreme Tribunal then suspended several articles of the code, exempting Supreme Tribunal judges from its provisions and ensuring that provisional judges remained subject to instant dismissal.⁴¹⁰

The Supreme Tribunal answers to the Executive Branch and in particular the President who has been denounced by former judges to have the capacity to hold regular meetings with the judges to give them directions on the outcome of their adjudications. In April 2012, the former head of the criminal chamber of the Supreme Tribunal of Justice, Eladio Aponte, claimed that sensitive judicial cases were subject to instructions given at weekly meetings held at the offices of the vice president of the republic.⁴¹¹ This claim finds support in a recent publication. A thorough and independent study by Venezuelan scholars concluded that from 2005 to 2013, the Supreme Tribunal did not rule against the government in one single case.⁴¹² The authors argue that the pattern did not change during 2014.⁴¹³

This is further confirmed by the fact that some prominent members of the judiciary openly reject the principle of separation of powers⁴¹⁴ taking a political stance in relation

Annual Report 2004. *Inter-American Commission of Human Rights*. [Online] Available from: <http://infovenezuela.org/democracy/attachments-spanish/T2%20ST02%20N2%20Fragmento%20informe%20CIDH%20jueces%20prov.pdf> [Accessed 25 October, 2015]

⁴¹⁰ INTERNATIONAL CRISIS GROUP. (2014) Venezuela: Tipping Point. p.14. ABA. (2013) Trial Observation Report: the Case of María Lourdes Afiuni. *American Bar Association Center for Human Rights*. [Online] December. Available from: http://www.americanbar.org/content/dam/aba/administrative/human_rights/aba_chr_trial_report_afiuni.authcheckdam.pdf [Accessed 25 October, 2015]; See also: IACHR. (2012) Annual Report 2012. *Inter-American Commission for Human Rights*. [Online] Available from: <http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp> [Accessed 25 October, 2015] Chapter IV

⁴¹¹ DE LA ROSA, A. (2012) Presentan carta confesión de Aponte sobre montaje del caso 11A. *El Universal*. [Online] 13 September. Available from: <http://www.eluniversal.com/nacional-y-politica/120913/presentan-carta-confesion-de-aponte-aponte-sobre-montaje-del-caso-11a> [Accessed 25 October, 2015]

⁴¹² GONZÁLEZ, A.C. et. al. (2015) El Tribunal Supremo de Justicia al Servicio de la Revolución; MEZA, A. (2014) El chavismo nunca pierde en el Supremo venezolano. *El País*. [Online] 12 December. Available from: http://internacional.elpais.com/internacional/2014/12/12/actualidad/1418373177_159073.html [Accessed 25 October, 2015]; LÓPEZ, E (2014) En nueve años el TSJ no ha dictado ni una sentencia contra el gobierno. *El Nacional*. [Online] 1 December. Available from: http://www.el-nacional.com/politica/anos-TSJ-dictado-sentencia-gobierno_0_529147208.html [Accessed 25 October, 2015]

⁴¹³ LÓPEZ, E (2014) En nueve años el TSJ no ha dictado ni una sentencia contra el gobierno

⁴¹⁴ Luisa Estella Morales, then head of the TSJ, argued in an interview with Venezolana de Televisión (December 2009) that the “separation of powers [...] weakens the state”. ALONSO, J.F. (2009) Morales: ‘La división de poderes debilita al Estado.’ *El Universal*, [Online] 5 December. Available from:

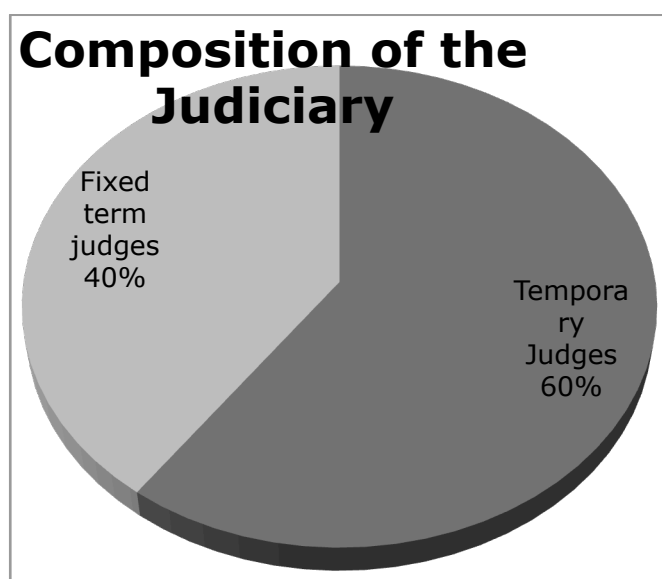
to their affiliations.

Current head of the Supreme Tribunal of Justice, the Constitutional Chamber and the Judicial Commission, Gladys Gutiérrez, previously run for Governor and member of the National Assembly of the Nueva Esparta state as a candidate of the Chavist MVR party.⁴¹⁵

In addition, the Presidency, not only has control over the Supreme Tribunal's decisions but also has a say in the dismissal of temporary judges which constitute more than three fifths of the country's federal judges.

As such the President has been able to directly order and control the implementation of laws and the rule of law throughout the Venezuelan territory both using the formal military system and the informal armed civilian militia under the direct command of the Presidency, as well as the Legislative, Judiciary and Citizen Power (especially, the General Prosecutor's Office) branches.

Figure 8: President's control over the judiciary



+ None of the judges were appointed by public competition

http://www.eluniversal.com/2009/12/05/pol_art_morales:-la-divisio_1683109 [Accessed 25 October, 2015]

⁴¹⁵ MATA, J.R. (2013) Lo que no sabías de la nueva presidenta del TSJ. *El Mundo*. [Online] 7 May. Available from: <http://www.elmundo.com.ve/noticias/actualidad/judicial/lo-que-no-sabias-de-la-nueva-presidenta-del-tsj.aspx> [Accessed 25 October, 2015]

(6) De facto control of the Presidency over the Pro Government Armed Paramilitaries

As described in the background section, Chávez previously promoted the creation of pro government armed paramilitaries supporting the Bolivarian Revolution itself defined by the GoV and the USPV.⁴¹⁶ The term *colectivo*, often used to refer to those groups, include “pro-government community organisations of various kinds, most non-violent, but it has come to be used for armed groups of the revolutionary left that have proliferated under chavista governments”.⁴¹⁷ They have also been described as "armed gangs who use violence with impunity" to harass political opponents of the Venezuelan government.⁴¹⁸

These groups which were created under the Chávez Presidency were further encouraged under the Maduro regime. Several sources confirm that these pro government armed paramilitaries have received training, money, weapons, vehicles and still regularly receive resources from the GoV.⁴¹⁹

Although, they are still not formally part of the GoV, several pro government armed paramilitaries which have had close ties, since their foundation, with the GoV as recognised by the IACHR,⁴²⁰ still enjoy this privileged relationship. Iris Varela, current Minister for of Prisons and Penological Services and a member of the National

⁴¹⁶ For a thorough narrative on the origins of the colectivos and their early relations with the Chávez government, see: INTERNATIONAL CRISIS GROUP. (2011) Latin America Report N°38: Violence and Politics in Venezuela. *International Crisis Group*. [Online] 17 August. Available from: [http://www.crisisgroup.org/~media/Files/latin-america/venezuela/38%20Violence%20and%20Politics%20in%20Venezuela.pdf](http://www.crisisgroup.org/~/media/Files/latin-america/venezuela/38%20Violence%20and%20Politics%20in%20Venezuela.pdf) [Accessed 25 October, 2015] Chapter IV

⁴¹⁷ INTERNATIONAL CRISIS GROUP. (2014) Venezuela: Dangerous Inertia

⁴¹⁸ REYNOLDS, G.T. (2014) Venezuela marcada por la violencia. *Voz de América*. [Online] 10 October. Available from: <http://www.voanoticias.com/content/hrw-venezuela-derechos-vivanco-violaciones-oposicion/2499273.html> [Accessed 25 October, 2015]

⁴¹⁹ See: EL PAIS. (2014) Así operan los 'colectivos', las fuerzas paramilitares chavistas de Venezuela. *El País* [Online] 23 February. Available from: <http://www.elpais.com.co/elpais/internacional/noticias/asi-operan-colectivos-fuerzas-paramilitares-chavistas-venezuela> [Accessed 25 October, 2015]; MADARIAGA, S. (2014) Comando Criminal Sincerniza Ataques de Colectivos: Diosdado Cabello-Freddy Bernal-Eliecer Otaiza. *Ahora Visión*. 29 March. Available from: <https://cloud-1394652165-cache.cdn-cachefront.net/comando-criminal-sincroniza-ataques-de-colectivos-diosdado-cabello-freddy-bernal-eliecer-otaiza/#.UzcB7GsZjzM.twitter> [Accessed 25 October, 2015]; STRATFOR. (2014) Venezuela's Pro-Government Activists Play a Role in Protest Violence. *Stratfor*. [Online] 19 February. Available from: <https://www.stratfor.com/sample/analysis/venezuelas-pro-government-activists-play-role-protest-violence> [Accessed 25 October, 2015]; GURNEY, K. (2014) Venezuela's Leftist Collectives: Criminals or Revolutionaries? *InSight Crime*. [Online] 24 November. Available from: <http://www.insightcrime.com/news-analysis/venezuela-leftist-collectives-criminals-or-revolutionaries> [Accessed 25 October, 2015]; MARKOVITS, M. and RUEDA, M. (2013) Venezuela Election is a High Stakes Affair for Local Vigilante Groups. *ABC News*. [Online] 27 March. Available from: http://abcnews.go.com/ABC_Univision/ABC_Univision/venezuela-election-high-stakes-affair-local-vigilante-groups/story?id=18822407&singlePage=true [Accessed 25 October, 2015]

⁴²⁰ IACHR. (2009) Democracy and Human Rights in Venezuela. p.205

Committee of the PSUV, has publicly referred to the *colectivos* as an entity forming part of the GoV, by using the collective pronoun “we” to include the *colectivos* when talking about the GoV.⁴²¹

In addition, several members and/or founders of the *colectivos* remain in high level positions in the GoV. As one of the many examples, Diosdado Cabello, the current President of the National Assembly and Vice-President of the USPV, had a crucial role in establishing the *colectivos*.⁴²²

The following sections will go on to show how during the 2014 protests, several pro government armed paramilitaries violently attacked the opposition protesters acting under the command and control of the GoV and pursuant to the policy established by the Presidency.⁴²³ It is alleged that the same conduct took place during the incidents of violence occurring in 2015.

In many instances, they have acted under protection of the State and Municipal Police as well as the security forces deployed such as the Bolivarian National Guard, and the National Bolivarian Police. During the 2014 protests, “security forces repeatedly allowed armed pro-government gangs to attack protesters, journalists, students, or people they believed to be opponents of the government (...).”⁴²⁴ During the protests, government security forces not only tolerated or protected the pro government armed paramilitaries while they attacked, but even engaged in direct collaboration by providing them with safe corridors to attack protestors in several municipalities across Venezuela.

Human Rights Watch reports that: “[i]n some instances, security forces were present when armed gangs attacked protesters, but did nothing to disarm the gangs or protect their victims. Rather, security forces stood by idly, or left an area shortly before pro-

⁴²¹ EL UNIVERSAL. (2014) Varela: Colectivos son el pilar para la defensa de la patria; EL NACIONAL. (2014) Varela: Colectivos somos pilar fundamental para la defensa de la patria

⁴²² STRATFOR. (2014) Venezuela’s Pro-Government Activists Play a Role in Protest Violence; MADARIAGA, S. (2014) Comando Criminal Sincerniza Ataques de Colectivos: Diosdado Cabello-Freddy Bernal-Eliecer Otaiza; STRATFOR. (2015) Analytic Guidance: Venezuela's Political Factions. *Stratfor*. [Online] 8 February. Available from: <https://www.stratfor.com/analysis/analytic-guidance-venezuelas-political-factions> [Accessed 25 October, 2015]

⁴²³ LA PATILLA. (2014) Colectivos de paz accionan armas de fuego en la Rómulo Gallegos ante mirada de la GNB. *La Patilla*. [Online] 19 February. Available from: <http://www.lapatilla.com/site/2014/02/19/colectivos-de-paz-accionan-armas-de-fuego-en-la-romulo-gallegos-ante-mirada-de-la-gnb/> [Accessed 25 October, 2015]; BAJAK, F. (2014) Venezuelan student protesters seek to woo poor. *Associate Press*. [Online] 19 March. Available from: <http://bigstory.ap.org/article/venezuelan-student-protesters-seek-woo-poor> [Accessed 25 October, 2015]; ASOCIACIÓN CIVIL CONTROL CIUDADANO. [Online] 25 March. Available from: <http://www.controlciudadano.org/noticias/detalle.php?¬id=12494> [Accessed 25 October, 2015]

⁴²⁴ HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System

government gangs attacked. In other incidents, we found compelling evidence of uniformed security forces and pro-government gangs attacking protesters side by side.”⁴²⁵ Similarly, International Crisis Group states that members of the SEBIN and armed members of the pro government armed paramilitaries worked together during the repression of the 2014 protests.⁴²⁶

This clear relationship between the government and the pro government armed paramilitaries is strengthened by the repeated public calls by senior governmental officials public for pro government armed paramilitaries to act against protesters.

President Maduro himself has on multiple occasions called on *colectivos* to take action against the protestors. For instance, in a speech on 5 March 2014 transmitted live as a mandatory broadcast (*cadena nacional*), Maduro requested the *colectivos* to “extinguish” the protests: “These groups of guarimberos, fascists and violent [people], and today now other sectors of the country’s population as well have gone out on the streets, I call on the UBCh, on the communal councils, on communities, on *colectivos*: flame that is lit, flame that is extinguished.”⁴²⁷

On March 12, a week after Maduro’s speech, Guillermo Sánchez died after being shot, reportedly by a pro-government armed group, in La Isabelica, Valencia. Guillermo Sánchez, who lived in the road where protests were taking place, had left home that day to go and paint his mother’s house. His wife, Ghina Rodríguez, told Amnesty International that eyewitnesses stated that a group of armed men shot and beat him. They then put him on a motorbike and flung him towards state police officers who were stationed near the protests, saying: “here’s another one for you, expect some more”.

Similarly, on 16 February 2014, the Governor of the state of Carabobo, Francisco Ameliach, a member of the PSUV, issued a tweet calling on a pro government armed paramilitary group the UBCh—a civilian group formed, according to the government, as a “tool of the people to defend its conquests, to continue fighting for the expansion of the Venezuelan Revolution” to launch a rapid counterattack against protesters. Ameliach said the order would come from Diosdado Cabello, the President of the National Assembly. The 16 February tweet, which was later deleted from his feed, said: “UBCH get ready for the swift counterattack. Diosdado will give the order. #GringosAndFascistsShowRespect.”⁴²⁸

⁴²⁵ HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System

⁴²⁶ INTERNATIONAL CRISIS GROUP. (2014) Venezuela: Tipping Point

⁴²⁷ Rechazan decisión de Maduro de mandar a colectivos a la calle (video included). El Diario de Caracas (Mar 5, 2014). Available at: <http://diariodecaracas.com/politica/rechazan-decision-maduro-mandar-colectivos-la-calle>

⁴²⁸ EL UNIVERSAL. (2014) Ameliach llamó a prepararse para el "Contraataque fulminante." *El Universal*. [Online] 17 February. Available from: <http://www.eluniversal.com/nacional-y->

Following Ameliach's order, the pro-government armed paramilitaries (in particular the UBCh and the Motorized Carabobo Forces) attacked the demonstrators in Valencia,⁴²⁹ using lethal weapons, as shown by many pictures.⁴³⁰ The Bolivarian National Guard was also repressing the protests and members of the force were present when the paramilitaries opened fire, but they did not intervene to stop them.⁴³¹ Available footage of the incidents clearly proves that pro-government armed paramilitaries dressed in civilian clothes used fire guns against unarmed demonstrators, some of who eventually grabbed rocks to defend themselves.⁴³²

Two days after Ameliach's tweet, on the 18 February 2014, in Valencia, Carabobo State, state administered by Ameliach), student Génesis Carmona was shot in the face allegedly by pro-government armed paramilitaries on motorbikes who were repressing the protest in which she was participating.⁴³³ Witnesses reported that these alleged members of the pro government armed paramilitary groups were dressed in red clothes (representing the colours of the Venezuelan flag) and operated in plain sight.⁴³⁴ Carmona died the next day from her injuries.⁴³⁵

[politica/140217/ameliach-llamo-a-prepararse-para-el-contraataque-fulminante](#) [Accessed 25 October, 2015]; VENEZUELA AL DIA. (2014) Ameliach advierte que Cabello dará orden para "contraataque fulminante." *Venezuela al Día*. [Online] 17 February. Available from: <http://www.venezuelaaldia.com/2014/02/ameliach-advierte-que-cabello-dara-orden-para-contraataque-fulminante/> [Accessed 25 October, 2015]

⁴²⁹ EL UNIVERSAL. (2014) El patrón de la muerte. *El Universal*. [Online] 2 March. Available from: http://www.el-nacional.com/siete_dias/patron-muerte_0_364763665.html [Accessed 25 October, 2015]

⁴³⁰ PERÚ INTERNACIONAL. (2014) Génesis Carmona: Estos serían los sujetos que dispararon durante marcha (Fotos). *Perú Internacional*. [Online] 19 February. Available from: <http://peru.com/actualidad/internacionales/genesis-carmona-estos-serian-sujetos-que-dispararon-durante-marcha-fotos-noticia-230666-742020> [Accessed 25 October, 2015]

⁴³¹ EL UNIVERSAL. (2014) El patrón de la muerte

⁴³² DIARIO EL CARABOBENO. (2014) Motorizados armados dispararon contra estudiantes en la Cedeño. *Youtube*. [Online] 18 February. Available from: <https://www.youtube.com/watch?v=6RN4HfQSHVQ> [Accessed 25 October, 2015]; CARCEL O INFIERNO REAL. (2014) Asesinos de Genesis Carmona "Av Cedeño." *Youtube*. [Online] 21 February. Available from: <https://www.youtube.com/watch?v=wSV6pNat76o> [Accessed 25 October, 2015]; LOAYZA, J. (2014) Asesinato Genesis Carmona 2/2 Lado de los Revoltosos con muchas motos - Av Cedeño Valencia Carabobo. *Youtube*. [Online] 21 February. Available from: <https://www.youtube.com/watch?v=KW9vaKupogk> [Accessed 25 October, 2015]; ANONYMOUS4488. (2014) Los asesinos y culpables de Genesis Carmona 18F. *Youtube*. [Online] 1 March. Available from: <https://www.youtube.com/watch?v=E0dDPTlryM> [Accessed 25 October, 2015]

⁴³³ EL NACIONAL. (2014) Ordenan pase a juicio a estudiante por caso Génesis Carmona

⁴³⁴ UNIVISION. (2014) Cómo fueron los últimos minutos de Génesis Carmona. *Univision*. [Online] 20 February. Available from: <http://noticias.univision.com/article/1858228/2014-02-20/america-latina/venezuela/los-cercanos-a-genesis-carmona-detallan-sus-ultimos-momentos> [Accessed 25 October, 2015]; PERÚ INTERNACIONAL. (2014) Génesis Carmona: ¿Por qué las milicias chavistas la atacaron a balazos en Venezuela? *Perú Internacional*. [Online] 19 February. Available from: <http://peru.com/actualidad/internacionales/genesis-carmona-que-milicias-chavistas-atacaron-balazos->

Besides Genésis Carmona, eight demonstrators were injured. After the incidents, Governor Ameliach repeated his call to counterattack the fascists.⁴³⁶ In addition, the UBCh pro-government armed paramilitary group, along with others such as the Revolutionary Carabobo committed to continue to collaborate with the National Guard in defending the territory.⁴³⁷

(7) De facto control of the Presidency over the People Defender and the General Comptroller

The Office of the People's Defender has the crucial role of furthering, defending and overseeing the rights and guarantees established under this Constitution and international treaties on human rights, in addition to defending the legitimate, collective and diffuse interest of the citizens⁴³⁸ while the Office of the General Comptroller has the role of auditing the public expenses and revenues as well as of monitoring irregularities.⁴³⁹

While, they are initially designed to be independent, the appointments of their current directors and authorities, the People Defender and the General Comptroller, respectively, has transcended all semblance of separation of powers and resulted in the Executive and in particular the Presidency having control over both organs. This is the case because, similarly to the General Prosecutor, the People Defender Tareck Wiliam Saab and the General Comptroller Manuel Galindo Ballesteros were appointed under the Maduro regime by simple majority, in violation of the Constitutional requirement of a two-third majority.⁴⁴⁰

[venezuela-noticia-230640](#) [Accessed 25 October, 2015]; see also AMNESTY INTERNATIONAL. (2015) *Venezuela: the Faces of Impunity*. p.17

⁴³⁵ AMNESTY INTERNATIONAL. (2015) *Venezuela: the Faces of Impunity*. p.17

⁴³⁶ CARABOBO REPORTA. (2014) Gobernador Francisco Ameliach. *Youtube*. [Online] 24 February. Available from: <https://www.youtube.com/watch?v=ZFLbh9hu3q8> [Accessed 25 October, 2015]; AURE, P. (2014) Dijo Pablo Aure ante constantes agresiones a carabobeños. *Pablo Aure Blogspot*.

[Online] 27 February. Available from: http://pabloaure.blogspot.com/2014_02_01_archive.html [Accessed 25 October, 2015]

⁴³⁷ LUGO-GALICIA, H. (2014) Desde Carabobo salieron las órdenes “contra ataque fulminante” y “firme contra violentos.” *El Nacional*. [Online] 19 February. Available from: http://www.el-nacional.com/politica/Carabobo-salieron-ordenes-fulminante-violentos_0_358764334.html [Accessed 25 October, 2015]

⁴³⁸ VENEZUELA. *Constitution of Venezuela*. Article 280

⁴³⁹ VENEZUELA. *Constitution of Venezuela*

⁴⁴⁰ Ender Marcano “Dissenters reject simple majority vote to elect heads of branches of gov't”, *El Universal*, (December 18, 2014). Available at: <http://www.eluniversal.com/nacional-y-politica/141218/dissenters-reject-simple-majority-vote-to-elect-heads-of-branches-of-g>; <http://www.infobae.com/2014/12/22/1616828-el-chavismo-diseño-los-poderes-publicos-la-mayoria-necesaria>; http://www.diariolasamericas.com/4848_venezuela/2854044_el-chavismo-burla-la-constitucion-y-elige-puestos-clave.html

Furthermore, People Defender Saab is a member of the ruling PSUV, a former elected member of the National Assembly and Governor of Anzoátegui in representation of the party.⁴⁴¹ Manuel Galindo, on the other hand, had served, before this appointment, as General Prosecutor of the country, position to which Chávez appointed him to with the approval of the National Assembly controlled by the PSUV.⁴⁴²

⁴⁴¹ <http://globovision.com/juramentan-a-los-nuevos-integrantes-del-poder-ciudadano/>, <http://elcomercio.pe/mundo/latinoamerica/policia-venezuela-detiene-que-toman-fotos-colas-noticia-1784339>

⁴⁴² http://www.diariolasamericas.com/4848_venezuela/2854044_el-chavismo-burla-la-constitucion-y-elige-puestos-clave.html, <http://www.noticias24.com/fotos/noticia/20111/infografia-n24-el-perfil-de-manuel-galindo-contralor-de-la-republica/>

B. Underling acts constituting crimes against humanity

The Authors submit that at least the following crimes have been committed:

- i) murder pursuant to Article 7(a);
- ii) imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law pursuant to Article 7(e);
- iii) torture pursuant to Article 7(f);
- iv) persecution against any identifiable group on political grounds pursuant to Article 7 (h); and
- v) other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health pursuant to Article 7 (h) of the Rome Statute were committed.

1. Murder as a crime against humanity

The actus reus of the crime of murder consists in the fact that a "perpetrator killed one or more persons".⁴⁴³ The ICTR Pre Trial Chamber further defined the elements of murder as follows: "1. The victim is dead; 2. The death resulted from an unlawful act or omission of the accused or a subordinate; 3. At the time of the killing the accused or a subordinate had the intention to kill or inflict grievous bodily harm on the deceased having known that such bodily harm is likely to cause the victim's death, and is reckless whether death ensues or not."⁴⁴⁴

The members of the National Police (under the command of Commandant Manuel Eduardo Pérez Urdaneta), the Bolivarian National Guard (under the direction of Gral. General Antonio José Benavides Torres), the SEBIN (under the direction of Gral. Manuel Gregorio Bernal Martínez from January 24 to February 17 and subsequently Gral. Gustavo Enrique González López), various state police agencies following direct orders from the Governors of the relevant state including the Governor of Carabobo, Colonel Francisco Ameliach; the Governor of Aragua, Tareck El Aissami; the Governor of Táchira, Captain José Gregorio Vielma Mora and the Governor of Merida Alexis Ramirez, along with pro government armed paramilitaries under the de facto control of the Executive and in particular of the President Maduro himself, openly fired live

⁴⁴³ Elements of Crimes, Article 7(1)(a)(1) [Where does this come from?]

⁴⁴⁴ ICC. *Prosecutor v Akayesu*. Judgment Trial Chamber. 2 September, 1998. para. 589

ammunition indiscriminately at the crowds and fired rubber bullets and teargas canisters deliberately, at point-blank range, at unarmed individuals causing between 33 to 36 deaths since February 2014 according to Amnesty international and Foro Penal respectively. ⁴⁴⁵ The killings in the context of the protests were allegedly caused by both security forces and by pro government armed paramilitaries around the country since February 2014. ⁴⁴⁶ According to Foro Penal, “the majority (19) were protesters killed by shooting either by police or by supposed armed civil collectives.” ⁴⁴⁷ Amnesty International concluded that “eight protesters were allegedly killed by armed civilians, 4 at the hands of the police as well as other incidents in the 14 barricades set up by protesters to block roads”. ⁴⁴⁸ Foro Penal further concluded that “seven deaths were the result of being crushed against road barricades; and three of the deaths were by alleged shootings when rubble was being removed from the street.”⁴⁴⁹

A few of the most notable cases of murders arising from use of lethal force, disproportionate and/or indiscriminate violence, in the course of the GoV’s response to the protests include:

(i) Bassil Da Costa

On 12 February 2014, the protests took place in many cities all over Venezuela, including Caracas, San Cristobal, Carabobo and Miranda. ⁴⁵⁰ To demand the release of students detained during earlier marches and meaningful reforms. ⁴⁵¹ The pro-government students also organized a demonstration in the west of downtown Caracas. ⁴⁵²

In Caracas, the protest demanding the release of detained students was pacific and culminated in front of the headquarters of the Office of Public Prosecutions, where the

⁴⁴⁵ AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas; LA PATILLA. (2014) Así marchó la oposición en Venezuela; FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

⁴⁴⁶ Please note that Amnesty figures have been adjusted to account only for civilian deaths. Amnesty International that was issued on March 24. See: AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas

⁴⁴⁷ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

⁴⁴⁸ AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas

⁴⁴⁹ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

⁴⁵⁰ LA PATILLA. (2014) Así marchó la oposición en Venezuela

⁴⁵¹ February 12 was specifically chosen because it was the 200 anniversary of the Battle of La Victoria, a battle where students played a prominent role in the Venezuelan city of La Victoria’s resistance against attacks by the Spanish army during Venezuela’s campaign for independence. February 12 is also designated as Venezuela’s Youth Day.

⁴⁵² ANDRADE, A. (2014) Estudiantes oficialistas marcharán el 12 de febrero por la pacificación nacional

students went to present a petition demanding the release of the detained students in Táchira.⁴⁵³

National security forces including the Bolivarian National Police, Bolivarian National Guard, the SEBIN and pro-government armed paramilitary groups were jointly deployed in an articulated plan to patrol and repress the protests.⁴⁵⁴ National security and armed forces members in official clothes arrived together with pro-government paramilitaries dressed as civilians in official vehicles.⁴⁵⁵ They approached the protesters with disproportionate violence, leading to clashes.

According to media reports⁴⁵⁶, a group of pro government armed paramilitaries members were allowed by the National Police to access the location of the demonstration by motorcycle. They then proceeded to fire guns at the unarmed crowd.⁴⁵⁷

Video footage clearly shows that pro-government armed militias and the SEBIN officers fired directly at the crowd, which was trying to escape from the repression, while

⁴⁵³ INFOBAR. (2014) Los estudiantes de Venezuela marcharon contra "el desastre" de Maduro. *Infobae América*. [Online] 12 February. Available from: <http://www.infobae.com/2014/02/12/1543180-los-estudiantes-venezuela-marcharon-contra-el-desastre-maduro> [Accessed 25 October, 2015];

VINOGRADOFF, L. (2014) Al menos tres muertos en las marchas en Venezuela. *Clarín*. [Online] 12 February. Available from: http://www.clarin.com/mundo/muertos-marchas-Venezuela_0_1084091620.html [Accessed 25 October, 2015].

⁴⁵⁴ BOON, L. (2015) La investigación que desarmó la historia oficial sobre el 12F. *Runrun*. [Online] 16 June. Available from: <http://runrun.es/rr-es-plus/investigacion/186376/la-investigacion-que-desarmo-la-historia-oficial-sobre-el-12f.html> [Accessed 25 October, 2015]

⁴⁵⁵ ULTIMAS NOTICIAS. (2014) Video | Uniformados y civiles dispararon en Candelaria el 12F. *Últimas Noticias*. [Online] 19 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/investigacion/video---uniformados-y-civiles-dispararon-en-candel.aspx> [Accessed 25 October, 2015]

⁴⁵⁶ One of them was made by Últimas Noticias Investigation Unit and worth García Márquez Awards in 2014, which is the most prestigious hispanoameric award for journalists, and the first one won by a Venezuelan journalist. The award is giving by “Fundación Gabriel García Márquez para el nuevo Periodismo Iberoamericano”. According to the judges “En una situación altamente volátil, el equipo de Últimas Noticias consiguió establecer la responsabilidad del gobierno en las dos primeras muertes de las protestas que estallaron en Caracas el 12 de febrero de 2014. Lo hicieron utilizando herramientas novedosas: recopilaron gran cantidad de fotos y videos tomados por ciudadanos y los analizaron para armar el rompecabezas de un episodio confuso que la mayoría de los involucrados y el gobierno nacional preferían mantener en las sombras. Así consiguieron identificar a los asesinos, funcionarios de las fuerzas especiales del Estado. See: ULTIMAS NOTICIAS. (2014) Video | Uniformados y civiles dispararon en Candelaria el 12F

Ante el intento de censura de la dirección del periódico, que pretendió callar los resultados de la investigación, la mayoría de la redacción se plantó y obligó a publicarlos.

El trabajo de César Batiz y su equipo es el ejemplo de una cobertura valiente e innovadora, y de la determinación de un grupo de periodistas que no aceptaron los límites que el poder intentó imponerles.” See: BÁTIZ, C. (2015) Sucesos del 12F. *FNPI*. [Online] Available from: <http://www.fnpi.org/premioggm/ganadores-2014/cesar-batiz/> [Accessed 25 October, 2015]

⁴⁵⁷ EL UNIVERSAL. (2014) Fue una encerrona. *El Universal*. [Online] 23 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140223/fue-una-encerrona> [Accessed 25 October, 2015]

members of the PNB remained still inside their vehicles.⁴⁵⁸ The screenshot of the video below shows the police vehicles parked on the left of the picture to give way to the members of the pro government paramilitary groups on motorcycles who confront crowds by shooting at them indiscriminately until the streets are cleared.



The clashes resulted in dozens of detentions and injuries.

In La Candelaria, Caracas, Bassil Da Costa was among the crowd when a bullet allegedly fired by José Ramón Perdomo Camacho, a member of the SEBIN, reached his head and killed him.⁴⁵⁹ The SEBIN officers deployed by SEBIN director himself, Manuel Gregorio Bernal Martínez, and under the de jure control of the President opened fire against the protestors and shot 23-year-old student Bassil Da Costa in the

⁴⁵⁸ BALLADARES, R. (2014) Policías ciegan vida de Basil da costa. *Youtube*. [Online] 12 February. https://www.youtube.com/watch?v=6Nb8_kHIDxE [Accessed 25 October, 2015]

⁴⁵⁹ MOLINA, T. (2014) Mismo Sebin mató a Dacosta y Montoya; ULTIMAS NOTICIAS. (2014) Preso otro agente del Sebin por dos muertes del 12-F; BOON, L. (2015) La investigación que desarmó la historia oficial sobre el 12F

face using live ammunition before abandoning him and failing to provide him with emergency care.⁴⁶⁰ He passed away on the pavement in the hands of fellow protestors.



As people from the crowd came to assist Da Costa, the pro-government armed militias and the SEBIN officers continued to shoot, as shown by the videos.⁴⁶¹

The huge amount of graphic and visual evidence portraying the events demonstrates the existence of a coordinate operation between the SEBIN, the National Police, the National Guard and pro-government armed paramilitaries to repress the protest by surrounding and ambushing the demonstrators, fire at them as well as cleaning the scene of the crime by picking up the bullets after demonstrations.⁴⁶²

The news of the murder of Basil da Costa spread quickly through social networks such as Twitter, causing a profound indignation and leading to a set of riots all across the country.⁴⁶³ In Caracas, many people began to protest before different GoV facilities,

⁴⁶⁰ MOLINA, T. (2014) Mismo Sebin mató a Dacosta y Montoya; ULTIMAS NOTICIAS. (2014) Preso otro agente del Sebin por dos muertes del 12-F; BOON, L. (2015) La investigación que desarmó la historia oficial sobre el 12F

⁴⁶¹ CNN. (2014) Basil Da Costa - Momento de la muerte del estudiante venezolano. *CMN*. [Online] 14 February. Available from: <http://ireport.cnn.com/docs/DOC-1085130> [Accessed 25 October, 2015]

⁴⁶² BOON, L. (2015) La investigación que desarmó la historia oficial sobre el 12F; TARRE, M. (2014) El asesinato de Bassil Alejandro Dacosta; INFOBAE. (2014) Video: así mataron al estudiante Bassil Da Costa en Venezuela (videos)

⁴⁶³ ELJOROPO. (2014) Resumen de protestas estudiantiles del 12-02-2014 en varios Estados de Venezuela; ULTIMAS NOTICIAS. (2014) Liberan a 47 detenidos tras protestas en Barquisimeto; ULTIMAS NOTICIAS. (2014) Valencia amaneció amodorrada tras los disturbios nocturnos; ULTIMAS NOTICIAS. (2014) Manifestaciones en Barquisimeto dejan al menos 21 heridos

which generated a clash between them and the police and ended in the burning of some cars and damages to the GoV's buildings.⁴⁶⁴

(ii) Robert Redman

Still on 12 February 2014, a few hours after Da Costa's death, certain riots took place in Caracas. Student Robert Redman was killed by a shot in the face by two persons alleged to be members of the pro government armed paramilitaries acting under the de facto control of the President who were dressed as civilians and were riding a motorcycle while patrolling the protests in Chacao.⁴⁶⁵ He died immediately from his wounds, on Arturo Uslar Pietri Boulevard, San Ignacio Ave., Chacao, Caracas, Miranda State.



Redman was participating in the same protest as Da Costa when he was shot. After Da Costa's death, Redman went to his house to upload pictures of the protest. His father last saw him taking his camera and going to protest around 7 pm.⁴⁶⁶

⁴⁶⁴ ULTIMAS NOTICIAS. (2014) Destrozos en la Fiscalía tras muerte de estudiante en la marcha opositora; ULTIMAS NOTICIAS. (2014) 3 muertos y 28 heridos tras hechos violentos del 12-F; AVN. (2014) Grupos violentos asedian sede de Venezolana de Televisión

⁴⁶⁵ PARDO, D. (2014) ¿Quiénes son las víctimas de las protestas en Venezuela? *BBC*. [Online] 14 February. Available from: http://www.bbc.com/mundo/noticias/2014/02/140214_venezuela_violencia_victimas_12f_dp [Accessed 25 October, 2015]; EL NACIONAL. (2014) Opinion Roberto José Redman Orozco. *El Nacional*. [Online] Available from: http://www.el-nacional.com/opinion/asesinato-Robert-Redman_0_385161551.html [Accessed 25 October, 2015]; EL COMERCIAL. (2014) Venezuela: Joven que ayudó a herido fue asesinado en la noche. *El Comercio*. [Online] 13 February. Available from: <http://elcomercio.pe/mundo/latinoamerica/venezuela-joven-que-ayudo-herido-fue-asesinado-noche-noticia-1709388> [Accessed 25 October, 2015]

⁴⁶⁶ EL UNIVERSAL. (2014) El patrón de la muerte

Redman had joined a group of people that had congregated to protest in Francisco de Miranda Ave., in Chacao, towards Government Buildings, and were repressed by the National Guard.⁴⁶⁷

Before his death Robert tweeted from his Twitter account: “*Today I was hit by a stone on my back, hit by a helmet on my nose; I swallowed tear gas, load up the boy who died, and what did you do*”. At 7.21 pm, he wrote: “Chacao is on fire,” and half-hour later: “*At the moment, hurt in my right forearm by a pellet gun.*” Few minutes before he died, at 8.21 pm, he wrote, “I’m in Chacao”.⁴⁶⁸

Many witnesses declared that they saw a caravan comprising of a National Guard tank, National Guard motorcycles and two individuals dressed as civilians acting together with the National Guard driving through the Boulevard. According to the witnesses, the perpetrators used a model of motorcycle typically used by government military corps and they opened fire at the crowd injuring people and killing Redman.⁴⁶⁹

According to the CICPC official report, on the scene of the crime, at least 13 bullets shells of the 9mm calibre were found together with Robert’s phone and hat. His camera was never found.⁴⁷⁰

According to the GoV and Maduro himself, who released a statement on the matter Robert Redman was killed by a hired assassin.⁴⁷¹ Following the 12 February events, Diosdado Cabello, the President of the National Assembly also publicly blamed opposition leaders María Corina Machado and Leopoldo López for orchestrating the violent events of that day.⁴⁷²

(iii) Génesis Carmona

⁴⁶⁷ NT. (2014) Un muerto y un herido en protestas en Chacao (Fotos). *Noticias En Tweet*. [Online] 12 February. Available from: <http://notitweet-politica.blogspot.com/2014/02/un-muerto-y-un-herido-en-protestas-en.html> [Accessed 25 October, 2015]; NT. (2014) Quemán entrada de la sede del TSJ en Chacao. *Noticias En Tweet*. [Online] 12 February. Available from: <http://notitweet-politica.blogspot.com/2014/02/queman-entrada-de-la-sede-la.html> [Accessed 25 October, 2015]

⁴⁶⁸ NACIONAL. (2014) Opinión Roberto José Redman Orozco; EL UNIVERSAL. (2014) El patrón de la muerte

⁴⁶⁹ EL UNIVERSAL. (2014) El patrón de la muerte

⁴⁷⁰ EL UNIVERSAL. (2014) El patrón de la muerte

⁴⁷¹ NOTICIERO DIGITAL. (2014) Maduro sugiere que a Robert Redman lo mató la ultraderecha por encargo. *Noticiero Digital*. [Online] 21 February. Available from: <http://www.noticierodigital.com/2014/02/maduro-sugiere-que-a-robert-redman-lo-mataron-por-encargo/> [Accessed 25 October, 2015]; NACIONAL. (2014) Opinión Roberto José Redman Orozco

⁴⁷² CORREO DEL ORINOCO. (2014) Cabello condena asesinato de un militante de la revolución del 23 de Enero y llama a la paz. *Correo del Orinoco*. [Online] 12 February. Available from: <http://www.correodelorinoco.gob.ve/caracas/cabello-condena-asesinato-un-militante-revolucion-23-enero-y-llama-a-paz/> [Accessed 25 October, 2015]

After the events of 12 February 2014, the protests diversified in many cities across the country into pacific marches and gatherings (concentrations), riots or even barricades (“guarimbas”) for a period of eight months, in which they took place almost daily. These protests were repressed by the use of force and resulted in disproportionate violence often used indiscriminately against the unarmed civilians.

High level members of the GoV also publicly asked for the intervention of the pro-government paramilitary groups in the repression. For instance, on 16 February 2014, PSUV Governor of the State of Carabobo, Francisco Ameliach, called on pro-government armed paramilitary group Unidades de Batalla Bolívar-Chávez (UBCh) to launch a rapid counterattack against protesters via Twitter. Ameliach said the order would come directly from Diosdado Cabello, the President of the National Assembly. The tweet stated: “UBCH get ready for the swift counterattack. Diosdado will give the order. #GringosAndFascistsShowRespect.”⁴⁷³

Following Ameliach’s order, the pro-government armed paramilitaries (in particular the UBCh and the Motorized Carabobo Forces) attacked the demonstrators in Valencia,⁴⁷⁴ using lethal weapons, as shown by many pictures.⁴⁷⁵ The Bolivarian National Guard was also repressing the protests and members of the force were present when the paramilitaries opened fire, but they did not intervene to stop them.⁴⁷⁶

⁴⁷³ EL UNIVERSAL. (2014) Ameliach llamó a prepararse para el "Contraataque fulminante"; VENEZUELA AL DIA. (2014) Ameliach advierte que Cabello dará orden para “contraataque fulminante.”

⁴⁷⁴ EL UNIVERSAL. (2014) El patrón de la muerte

⁴⁷⁵ PERÚ INTERNACIONAL. (2014) Génesis Carmona: Estos serían los sujetos que dispararon durante marcha (Fotos)

⁴⁷⁶ EL UNIVERSAL. (2014) El patrón de la muerte



Available footage of the incidents clearly proves that pro-government armed paramilitaries dressed in civilian clothes used fire guns against unarmed demonstrators, some of who eventually grabbed rocks to defend themselves.⁴⁷⁷

Two days after Ameliach's tweet, on the 18 February 2014, in Valencia, Carabobo State, state administered by Ameliach), student Génesis Carmona was shot in the face allegedly by pro-government armed paramilitaries on motorbikes who were repressing the protest in which she was participating.⁴⁷⁸ Witnesses reported that these alleged members of the pro government armed paramilitary groups were dressed in red clothes (representing the colours of the Venezuelan flag) and operated in plain sight.⁴⁷⁹ Carmona died the next day from her injuries.⁴⁸⁰

⁴⁷⁷ DIARIO EL CARABOBEÑO. (2014) Motorizados armados dispararon contra estudiantes en la Cedeño; CARCEL O INFIERNO REAL. (2014) Asesinos de Genesis Carmona "Av Cedeño." LOAYZA, J. (2014) Asesinato Genesis Carmona 2/2 Lado de los Revoltosos con muchas motos - Av Cedeño Valencia Carabobo, <https://www.youtube.com/watch?v=zX9Bx7iYzy> ANONYMOUS4488. (2014) Los asesinos y culpables de Genesis Carmona 18F

⁴⁷⁸ EL NACIONAL. (2014) Ordenan pase a juicio a estudiante por caso Génesis Carmona

⁴⁷⁹ UNIVISION. (2014) Cómo fueron los últimos minutos de Génesis Carmona; PERÚ

INTERNACIONAL. (2014) Génesis Carmona: ¿Por qué las milicias chavistas la atacaron a balazos en Venezuela?; See also: AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.17

⁴⁸⁰ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.17



Besides Genésis Carmona, eight demonstrators were injured.

After the incidents, Governor Ameliach repeated his call to counterattack the fascists.⁴⁸¹

In addition, the UBCh pro-government armed paramilitary group, along with others such as the Revolutionary Carabobo committed to continue to collaborate with the National Guard in defending the territory.⁴⁸²

(iv) Geraldine Moreno

On 19 February, the same date in which Genésis Carmona died, and also in Valencia, in Ameliach's governed Carabobo state, Geraldine Moreno was killed. Members of the National Guard shot her in the face at close range on her doorstep using an iron pellet gun.⁴⁸³ She died a few hours after from the injuries.⁴⁸⁴

⁴⁸¹ CARABOBO REPORTA. (2014) Gobernador Francisco Ameliach; AURE, P. (2014) Dijo Pablo Aure ante constantes agresiones a carabobeños

⁴⁸² LUGO-GALICIA, H. (2014) Desde Carabobo salieron las órdenes “contra ataque fulminante” y “firme contra violentos.”

⁴⁸³ WALLIS, D. (2014) Venezuela deaths rise as unrest claims student and biker

⁴⁸⁴ RODRÍGUEZ, M. (2014) Cuando se cayó Geraldine le dispararon en la cara otra vez



Moreno was with four friends watching a barricade set up near her home in the city of Valencia, North Central Carabobo state, when members of the National Guard rode up on motorcycles to repress the protest and opened fire at the crowd to disperse the demonstration.⁴⁸⁵ When the shooting started all the protesters ran.

As Moreno was about to enter her house, she looked back and took a shotgun blast at her face from a member of the National Guard to the face. She fell and, when she was trying to get up, Moreno was shot once again in her face at a close range.⁴⁸⁶ As her cousin Liseth Madía recalls: "A National Guard officer in uniform from a group of six who arrived on motorcycles shot her. A lady who was present at the scene strongly rebuked the soldier for shooting Geraldine, but she grew intimidated at the military, who threatened her with the same weapon Geraldine was shot with. 'You shut up because you have nothing to do with this. Get in your house!' the man said." Madía recalls that Moreno's parents collected metal pellets from the scene as evidence.⁴⁸⁷

Moreno's family members said to Amnesty International: "The guards wounded people, they fired their guns, and (...) then they regrouped and rode off. The guards were not bothered about getting the wounded to the hospital. They just rode off together."⁴⁸⁸

⁴⁸⁵ EL UNIVERSAL. (2014) Murió la estudiante Geraldine Moreno. *El Universal*. [Online] 22 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140222/murio-la-estudiante-geraldine-moreno> [Accessed 25 October, 2015]; Maduradas. (2014) ¡LAMENTABLE! Confirman que falleció Geraldine Moreno estudiante agredida en manifestación. *Maduradas*. [Online] 22 February. Available from: <http://www.maduradas.com/lamentable-confirman-que-fallecio-geraldine-moreno-estudiante-agredida-en-manifestacion/> [Accessed 25 October, 2015]; MADURADAS. (2014) ¡IMPERDONABLE! GNB dispara en la cara a estudiante en Naguanagua (Fotos). *Maduradas*. [Online] 20 February. Available from: <http://www.maduradas.com/imperdonable-gnb-dispara-en-la-cara-a-estudiante-en-naguanagua-fotos/> [Accessed 25 October, 2015]

⁴⁸⁶ WALLIS, D. (2014) Venezuela deaths rise as unrest claims student and biker; RODRÍGUEZ, M. (2014) Cuando se cayó Geraldine le dispararon en la cara otra vez

⁴⁸⁷ EL UNIVERSAL. (2015) Whose victim am I? *El Universal*. [Online] 21 February. Available from: <http://www.eluniversal.com/nacional-y-politica/150221/whose-victim-am-i> [Accessed 25 October, 2015]; Also see: RODRÍGUEZ, M. (2014) Cuando se cayó Geraldine le dispararon en la cara otra vez

⁴⁸⁸ AMNESTY INTERNATIONAL. (2014) Venezuela: Human Rights at Risk Amid Protests. *Amnesty International*. [Online] March. Available from:

Overall, following Carabobo Governor Ameliach order to “counterattack protesters”, two girls died in the state on 19 February.

vi) **José Alejandro Márquez**

On 19 February, in Caracas, 45-year old engineer José Alejandro Márquez was killed in the context a protest. Márquez was approached by National Guard officers after he was caught filming the National Guard’s repression of a protest in La Candelaria, Caracas. The officers beat him severely and he died a few hours later.⁴⁸⁹

The moment in which Márquez was captured was recorded. The video shows how Márquez fell down when he was running away from the National Guard.⁴⁹⁰ Around one hour later, the officers left him in a hospital, severely hurt with a fracture on the back of the skull.⁴⁹¹ Interviewed by CNN, a doctor explained that Márquez could not have died because of the fall.⁴⁹²

Moreover, according to hospital workers, the National Guard officers who left Márquez on the hospital said that Márquez had fallen down because he had run into an old lady,⁴⁹³ which was shown to be false by the video footage. The workers added that Márquez continued to be hit in the hospital by National Guard officers.⁴⁹⁴

Diosdado Cabello on his TV show “Con el Mazo Dando” accused Mr. Márquez of being “a paramilitary who was training to kill Maduro” and stated that he was killed by his alleged paramilitary partners. Cabello showed pictures of Márquez wearing military gear and firing guns. Eventually it was proved that the pictures were taken from

<https://www.amnesty.org/download/Documents/4000/amr530092014en.pdf> [Accessed 25 October, 2015]

⁴⁸⁹ MATAMOROS, N. (2014) Falleció José Alejandro Márquez tras varios días en coma; MADURADAS. (2014) INDIGNANTE! Muere José Alejandro Márquez por brutal golpiza de la GNB en La Candelaria; INFOBAE. (2014) Venezuela: lo mataron por grabar la represión de militares

⁴⁹⁰ VIVAS, V. (2014) Muerte de José Alejandro Márquez en Venezuela

⁴⁹¹ BARRIOS, D. (2014) Confirman muerte cerebral de manifestante herido en Candelaria. *Ultimas Noticias*. [Online] 21 February. Available from:

<http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/confirman-muerte-cerebral-de-manifestante-herido-e.aspx> [Accessed 25 October, 2015]; LA PATILLA. (2014) GNB destrozó cráneo de Alejandro Márquez, pero Jaua dice que fue un “resbalón.” *La Patilla*. [Online] 26 February. Available from: <http://www.lapatilla.com/site/2014/02/26/gnb-destrozo-cranco-de-alejandro-marquez-pero-jaua-dice-que-fue-un-resbalon/> [Accessed 25 October, 2015]

⁴⁹² DAZA, P.A. (2014) En Conclusiones investigan la muerte de José Alejandro Márquez en Venezuela. *CNN Español*. [Online] 28 February. Available from:

<http://cnnespanol.cnn.com/2014/02/28/conclusiones-investiga-la-muerte-de-jose-alejandro-marquez-en-venezuela/> [Accessed 25 October, 2015]

⁴⁹³ EL UNIVERSAL. (2014) El patrón de la muerte

⁴⁹⁴ EL UNIVERSAL. (2014) El patrón de la muerte

Márquez Facebook page and that he was participating in an Airsoft game in those pictures.⁴⁹⁵

The intensity and violence of the repression was maintained throughout the February-June 2014 period.

vii) **Guillermo Sánchez**

On March 5, following Ameliach's public call, President Nicolás Maduro explicitly called on pro-government paramilitary groups to repress the protests. In a speech which was transmitted live as a mandatory broadcast (*cadena nacional*), Maduro said: "These groups of guarimberos, fascists and violent [people], and today now other sectors of the country's population as well have gone out on the streets, I call on the UBCh, on the communal councils, on communities, on pro government armed paramilitaries: flame that is lit, flame that is extinguished".

On March 12, a week after Maduro's speech, Guillermo Sánchez died after being shot, reportedly by a pro-government armed group, in La Isabelica, Valencia. Guillermo Sánchez, who lived in the road where protests were taking place, had left home that day to go and paint his mother's house. His wife, Ghina Rodríguez, told Amnesty International that eyewitnesses stated that a group of armed men shot and beat him. They then put him on a motorbike and flung him towards state police officers who were stationed near the protests, saying: "here's another one for you, expect some more".⁴⁹⁶

While, as reported by local and international NGOs and media, most of the protests were peaceful, there have been allegations by the GoV that some of the protests were violent. In those cases on which violence aroused during the protests, the GoV security forces, acting together with pro government armed paramilitaries, were reported to have triggered the violence by indiscriminately attacking entire demonstrations, and in some cases bystanders.⁴⁹⁷

In addition, even though the acts of violence were isolated to small groups of protestors, many sources confirm that the protestors were unarmed across the country and that they responded in the worse cases by throwing rocks and bottles at the national security forces, which used indiscriminate force including live ammunition in retaliation.⁴⁹⁸

⁴⁹⁵ AMNESTY INTERNATIONAL. (2014) Venezuela: Human Rights at Risk Amid Protests. p.10; Also See: VIVAS, V. (2014) Muerte de José Alejandro Márquez en Venezuela; EL UNIVERSAL. (2014) El patrón de la muerte

⁴⁹⁶ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.18

⁴⁹⁷ HRW (2014). Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System; OVCS (2014). Conflictividad social en Venezuela en 2014

⁴⁹⁸ HRW (2014). Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System

Furthermore, even the presence of individuals who are taking part in hostilities within a crowd does not affect the status of the civilians nor justify the indiscriminate targeting of civilians on the basis of military necessity or other purposes.⁴⁹⁹

viii) **Other cases of murder in 2014**

The indiscriminate nature of the attacks can be gathered not only from video footages of the incidents but also from the number of casualties, the profile of the victims and their testimonies as to what they were doing when they were attacked. A murder instance that is illustrative of this fact is the case of Daniel Tinoco, who died after being shot in the chest by pro-government armed groups on motorbikes at 10:30pm, while he was peacefully gathering with other students on 10 March 2014 in San Cristóbal, Táchira.⁵⁰⁰ Two demonstrators who were with Tinoco were also shot and wounded.⁵⁰¹

Moreover, in Valencia, Isabelica sector, on 12 March 2014, certain members of pro government armed paramilitaries on motorbikes fired against demonstrators and killed Jesús Enrique Acosta, who was shot in the head, and Guillermo Alfonso Sánchez Velásquez.⁵⁰² They also injured at least eight other persons.⁵⁰³

On 22 March 2014, at least three more persons were killed in different parts of the country, further proving the existence of a coordinated repression plan executed by the

⁴⁹⁹ ICC. *Prosecutor v Fofana and Kondewa*. Appeal Judgment. 28 May, 2008. para. 247.

⁵⁰⁰ ARRÁIZ, L.E. (2014) Muere estudiante en Táchira tras recibir disparo en el pecho. *El Universal*. [Online] 10 March. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140310/muere-estudiante-en-tachira-tras-recibir-disparo-en-el-pecho> [Accessed 25 October, 2015]; AMNESTY INTERNATIONAL. (2014) Venezuela: Human Rights at Risk Amid Protests

⁵⁰¹ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos

⁵⁰² RODRÍGUEZ, G. (2014) Asesinado un universitario durante protesta en La Isabelica. *Ultimas Noticias*. [Online] 12 March. Available from:

<http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/asesinado-un-universitario-durante-protesta-en-la-.aspx> [Accessed 25 October, 2015]; EL UNIVERSAL. (2015) En Valencia reportan tres fallecidos por arma de fuego. *El Universal*. [Online] 12 March. Available from:

<http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140312/en-valencia-reportan-tres-fallecidos-por-arma-de-fuego> [Accessed 25 October, 2015]; CIFRAS ONLINE COMVE. (2014) Última Hora: Asesinado Estudia Jesús Enrique Acosta (24) de un Trio en la Cabeza en Valencia. *Cifras Online Comve*. [Online] 12 March. Available from:

<https://cifrasonlinecomve.wordpress.com/2014/03/12/ultima-hora-asesinado-estudiante-jesus-enrique-acosta-24-de-un-tiro-en-la-cabeza-en-valencia/> [Accessed 25 October, 2015]; RODRÍGUEZ, G. (2014) Con balas de cazar animales mataron a Guillermo Sánchez. *Ultimas Noticias*. [Online] 13 March. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/con-balas-de-cazar-animales-mataron-a-guillermo-sa.aspx> [Accessed 25 October, 2015]

⁵⁰³ REPORTE CONFIDENTIAL. (2014) Estudiante, Adulto y niña (6) asesinados en La Isabelica en manifestaciones; NOTITARDE. (2014) Tres muertos y quince heridos en disturbios en La Isabelica y Mañongo. *Notitarde*. [Online] 12 March. Available from: <http://www.notitarde.com/Valencia/Aumenta-a-seis-los-heridos-de-bala-durante-tiroteco-en-La-Isabelica/2014/03/12/313471> [Accessed 25 October, 2015]

government armed and security forces, the intelligence services and the pro-government armed paramilitaries.⁵⁰⁴

Jesús Orlando Labrador was killed by a gun shot in PSUV-governed Mérida, when officers of the GNB, along with officers of the local police and hooded civilians (most probably paramilitaries) jointly decided to open fire against local residents.⁵⁰⁵

Argenis Hernández was killed in a protest in San Diego by a GNB officer who shot a pellet gun at his face.⁵⁰⁶

Bus driver Wilfredo Rey was killed in Táchira by unidentified civilians (most probably pro-government paramilitaries) who openly fired at people in the context of a joint-operation by the GNB and pro government armed paramilitaries which involved shooting pellet guns and launching tear gas at civilians to deter people from leaving their houses.⁵⁰⁷

Starting in June, the protests started to decrease gradually, both in number and intensity, until the end of the year.⁵⁰⁸

ix) Other cases of murder since January 2015

In January 2015, the protests resumed and so did the violent repression against protestors. Although it was initially designed to last for 6 months, the Homeland Security Plan has now been in force across the Venezuelan territory for over 2 years. The plan has allowed the Executive to use the National Armed Forces, the National Security Forces, the National Intelligence Services and the different state-level security forces to repress protests since February 2014. These forces have continuously acted jointly with different pro-government armed paramilitaries.

As presented above the new policy of the GoV implemented since 27 January 2015 which allows the use of lethal force along with firearms in public demonstrations⁵⁰⁹ only

⁵⁰⁴ BBC. (2014) 'Two killed' in latest Venezuela protests; RODRÍGUEZ, M. (2014) Muere joven herido durante protestas en San Diego; AP. (2014) 3 more deaths in Venezuela as both sides march; ORE, D. and ELLSWORTH, B. (2014) Venezuela death toll rises to 34 as troops and protesters clash; ULTIMA HORA. (2014) Se reporta otra muerte en medio de las protestas en Venezuela

⁵⁰⁵ MARTI NOTICIAS. (2014) Un muerto en Mérida tras arremetida de GNB y colectivos. *Marti Noticias*. [Online] 23 March. Available from: <http://www.martinoticias.com/content/un-muerto-en-merida-tras-arremetida-de-gnb-y-colectivos/33281.html> [Accessed 25 October, 2015]

⁵⁰⁶ RODRÍGUEZ, M. (2014) Muere joven herido durante protestas en San Diego

⁵⁰⁷ EL UNIVERSAL. (2014) Muere trabajador del volante en Táchira tras recibir disparo en la cabeza. *El Universal*. [Online] 22 March. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140322/muere-trabajador-del-volante-en-tachira-tras-recibir-disparo-en-la-cab> [Accessed 25 October, 2015]

worsened the situation. Bearing in mind the Supreme Tribunal of Justice's precedent which made all spontaneous peaceful protest illegal in April 2014,⁵¹⁰ this resolution made things even worse. One month later, in February 2015, to contain the protests celebrating the anniversary of the start of the protest, the GoV deployed the same units previously accused of committing crimes against the protestors with this new direction authorizing the lethal use of force.

On 24 February 2015 the National Police severely repressed a protest in San Cristóbal, Táchira. A 14 years-old boy scout, Kluiverth Roa, died after a National Police officer shot him in the face while he was returning home from school.⁵¹¹



Roa came close to a demonstration and tried to help a girl who had been hurt. He tried to hide under a car when a PNB motorcycle approached, but the Police officers stopped

⁵⁰⁹ GACETA OFICIAL. (2015) Contiene la Resolución No. 008610 del Ministerio de la Defensa

⁵¹⁰ ALONSO, J.F. (2014) El TSJ ilegalizó la protesta pacífica espontánea. *El Universal*. [Online] 25 April. Available from: <http://www.eluniversal.com/nacional-y-politica/140425/el-tsj-ilegalizo-la-protesta-pacifica-espontanea> [Accessed 25 October, 2015]; PANAM POST. (2014) Venezuela: El Tribunal Supremo de Justicia ilegalizó las protestas espontáneas. *Panam Post*. [Online] 25 April. Available from: <http://es.panampost.com/panam-staff/2014/04/25/venezuela-el-tribunal-supremo-de-justicia-ilegalizo-las-protestas-espontaneas/> [Accessed 25 October, 2015]; ALONSO, J.F. (2014) 24A TSJ proscribe las manifestaciones pacíficas espontáneas. [Online] 24 April. Available from: <http://www.venezuelaawareness.com/2014/04/24a-tsj-proscribe-las-manifestaciones-pacificas-espontaneas/> [Accessed 25 October, 2015]

⁵¹¹ NOTICIA AL DIA. (2015) Video del asesinato de Kluiverth Roa en Táchira; EL NACIONAL. (2015) Daniel Prado compañero de Kluiverth Roa revela datos sobre la muerte en una entrevista

the motorcycle, took him out and punched him, only before one official⁵¹² shot him in the face⁵¹³ leaving him bleeding on the pavement.⁵¹⁴

The GoV denied responsibility for the event with Maduro himself stating that the National Police arrived to the place by coincidence and that they were ambushed and attacked by the demonstrators. Maduro claimed that the death of Kluiverth Roa was a result of a National Police officer shooting his rubber bullet shotgun in self-defense.⁵¹⁵

In response to Roa's death, many protests took place along the country starting the same day of his death. The protestors demanded proper investigations and justice.⁵¹⁶

In the context of the February protests, at least five students who were participating in different protests across the country went missing. Five bodies of missing students appeared near the protests in which each one of them was participating, and all of them showed signs of torture.⁵¹⁷ Certain reports argue that at least some of them were kidnapped by pro-government armed paramilitaries.⁵¹⁸ 20-year-old Daniel Frías Pinto and 22-year-old Alejandro García were found in Zulia on 17 February, with their hands still tied to their back, suggesting that they had been arrested before their death.⁵¹⁹ Jhon Barreto, who was 21 years old, was found in Táchira two days later after he had been missing for nearly two weeks.⁵²⁰ Yasmir Tovar aged 23 and Luis Aranyi García aged 21 were found in Catia, Caracas, on 21 February. All of them were killed in the same way: by being shot in the face.⁵²¹

⁵¹² ARRÁIZ, L.E. (2015) Aseguran que PNB que mató al estudiante se disculpó. *El Universal*. [Online] 26 February. Available from: <http://www.eluniversal.com/nacional-y-politica/150226/aseguran-que-pnb-que-mato-al-estudiante-se-disculpo> [Accessed 25 October, 2015]

⁵¹³ EL NACIONAL. (2015) Daniel Prado compañero de Kluiverth Roa revela datos sobre la muerte en una entrevista; NOTICIA AL DIA. (2015) Video del asesinato de Kluivierth Roa en Táchira

⁵¹⁴ NOTICIA AL DIA. (2015) Video del asesinato de Kluivierth Roa en Táchira

⁵¹⁵ YAJURE, J.A. (2015) Las 10 perlas que soltó Maduro tras el asesinato de Kluiberth Roa. *Runrun*. [Online] 25 February. Available from: <http://runrun.es/uncategorized/189495/las-10-perlas-que-solto-maduro-tras-el-asesinato-de-kluiverth-roa.html> [Accessed 25 October, 2015]

⁵¹⁶ EL NACIONAL. (2015) Universitarios corianos protestan por muerte de Kluivert Roa; MIAMI DIARIO. (2015) Estudiantes venezolanos salen a las calles nuevamente por la muerte de Kluivert Roa; DIARIO REPUBLICA. (2015) Jóvenes protestaron también en la ciudad de Coro por la muerte de Kluivert Roa; CONFIRMADO. (2015) Táchira, el más indignado. Continúan protestas contra el gobierno de Nicolás Maduro

⁵¹⁷ RUNRUN. (2015) 10 semejanzas en los 6 asesinatos a jóvenes; SANCHEZ, N. (2015) Uno de los asesinados en Santa Bárbara del Zulia era alumno de la ULA; LEE, B. (2015) Venezuela Shooting Of 14-Year-Old Adds To A String Of Recent Student Deaths; LA PATILLA. (2015) La ola de ajusticiamientos a jóvenes que alarma a Venezuela

⁵¹⁸ RUNRUN. (2015) 10 semejanzas en los 6 asesinatos a jóvenes.

⁵¹⁹ BOON, L. (2015) El método "pasticho": Cómo un escándalo tapa a otro en Venezuela. *Runrún*. [Online] 6 March. Available from: <http://runrun.es/rr-es-plus/191451/el-metodo-pasticho-como-un-escandalo-tapa-otro-en-venezuela.html> [Accessed 25 October, 2015]

⁵²⁰ LEE, B. (2015) Venezuela Shooting Of 14-Year-Old Adds To A String Of Recent Student Deaths

⁵²¹ LA PATILLA. (2015) La ola de ajusticiamientos a jóvenes que alarma a Venezuela

Both Yasmir Tovar and Luis Fabián Aranyi were part of the Resistance Movement -a protest group formed after Leopoldo López's detention-⁵²² and used to regularly participate in opposition demonstrations, mainly in Altamira square.⁵²³ As they lived in the "23 de Enero" slum, a place ruled by pro government armed paraimilitaries, they had received many threats to their lives before being killed.⁵²⁴



Tovar and Aranyi disappeared on the 20th February 2015, after participating in a demonstration in Caracas.⁵²⁵ On the next day, Yasmir Tovar's family visited SEBIN detention centre in Helicoide, and they were informed that Tovar was there but that it was impossible to visit him. When they came back to visit Tovar the next day, they were informed that Yasmir wasn't there. Hours later, the family found him in the morgue, tortured and dead.⁵²⁶

The Vice Minister of Criminal Investigations Raúl Utrera visited the morgue with a journalist team to interview Aranyi's mother and Tovar's brothers, and it was subsequently published in the official GoV media that "they [family] discard that they [Yasir and Luis] were killed because of they used to participate in 'guarimbas'".⁵²⁷

To this date the murders committed as a result of the GoV's policy by the members of the national security forces and pro government armed paramilitaries answering to the

⁵²² EL NACIONAL VENEZUELA. (2015) Los rostros de la Resistencia

⁵²³ LUGO, A. (2015) ¿Quiénes eran Yamir Tovar y Luis Fabián?; RÍSQUEZ, R. (2015) El último día de Yamir Tovar en 4 estaciones

⁵²⁴ Rísquez, R. (2015) Estudiante de 'Resistencia' hallado muerto en Catia había sido amenazado por colectivos del 23 de Enero; RÍSQUEZ, R. (2015) El último día de Yamir Tovar en 4 estaciones

⁵²⁵ RÍSQUEZ, R. (2015) El último día de Yamir Tovar en 4 estaciones; REPORTERO24. (2015) Represión Yamir Tovar y Luis Fabian Elecutados por Colectivos. *Reportero24*. [Online] 1 March. Available from: <http://www.reportero24.com/2015/03/represion-yamir-tovar-y-luis-fabian-ejecutados-por-colectivos/> [Accessed 25 October, 2015]

⁵²⁶ REPORTERO24. (2015) Represión Yamir Tovar y Luis Fabian Elecutados por Colectivos

⁵²⁷ <http://cpnb.gob.ve/index.php/noticias/externas/935-familiares-de-jovenes-fallecidos-en-catia-desmienten-que-fuesen-asesinados-por-participar-en-guarimbas>

Presidency are a regular occurrence. All those who express their disagreement with the GoV's policies fear for their lives as do those who report the crimes committed.

2. Imprisonment as a crime against humanity

Imprisonment involves “the deprivation of liberty of the individual without due process of law, as part of a widespread or systematic attack directed against a civilian population.”⁵²⁸

As previously mentioned, it was in early 2014 that the Venezuelans, concerned by the high rate of crime in the country, one of the highest in the world⁵²⁹ and by some crimes that shocked the population,⁵³⁰ including crimes targeting students⁵³¹ took to the streets in protest.

Between 3,351 and 3,758 people were arrested in the protests since February 2014 according to Amnesty International and Foro Penal respectively.⁵³² According to Amnesty international: “1,402 [people were arrested] about allegations of crimes committed during the protests. Of the 25 people who according to the prosecution still are being detained pending trial, Amnesty International has been able to investigate a 5 and found that they were arbitrarily detained. Three of these five remain prison: one of the opposition leaders, Leopoldo Lopez; the mayor of San Cristobal, Daniel Ceballos;

⁵²⁸ ICTY. *Prosecutor v Kordic and Cerkez*. Judgment Trial Chamber. 26 February, 2001. para 30

⁵²⁹ BBC. (2014) Los cinco países con más y menos homicidios en el mundo. *BBC*. [Online] 10 April. Available from: http://www.bbc.com/mundo/noticias/2014/04/140408_onu_informe_homicidios_mundo_jgc [Accessed 25 October, 2015]

⁵³⁰ Like the murdered of the former actress Monica Spear and her husband and the student Héctor Moreno. See: CURTIS, H.P. and PALACIO, R. (2014) Mónica Spear: UCF grad, former Miss Venezuela killed by armed robbers in Venezuela. *Orlando Sentinel*. [Online] 7 January. Available from: http://articles.orlandosentinel.com/2014-01-07/news/os-monica-spear-miss-venezuela-killed-20140107_1_miss-venezuela-armed-robbers-late-monday [Accessed 25 October, 2015]; SANCHEZ, N. (2014) Estudiantes de la ULA manifiestan para exigir justicia. *EL Universal*. [Online] 14 January. Available from: <http://www.eluniversal.com/nacional-y-politica/140114/estudiantes-de-la-ula-manifiestan-para-exigir-justicia> [Accessed 25 October, 2015]

⁵³¹ PRODAVINCI. (2014) 5 claves para entender las protestas estudiantiles en Venezuela; Also see: EL DIARIO. (2014) Detuvieron a delincuentes intentando robar a estudiantes de la Santa María. *El Diario*. [Online] 23 January. Available from: <http://diariodecaracas.com/que-sucede/detuvieron-delincuentes-intentando-robar-estudiantes-la-santa-maria> [Accessed 25 October, 2015]; NOTICIERO VENVISION. (2014) Aprehendidos antisociales que pretendían robar a estudiantes de Universidad Santa María. *Noticiero Venvision*. [Online] 23 January. Available from: <http://www.noticierovenision.net/nacionales/2014/enero/23/87428=aprehendidos-antisociales-que-pretendian-robar-a-estudiantes-de-universidad-santa-maria> [Accessed 25 October, 2015]

⁵³² Please note that while the AI figures relate to the period February 2014 to March 2015, the Foro Penal figures cover the period February 2014 to May 2015; AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas; FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

and LGBTI activist, Rosmit Mantilla. The other two, Marcelo and Christian Holdack Crovato have been released pending trial.”⁵³³

Foro Penal has registered that of the detainees “370 were minors or teenagers. Within this group of total detainees 296 were detained on court order, meaning that they were or are imprisoned. The others were detained for between one and four days and then freed by court order. (...) there are still 2,048 people who participated in protests who are subject to either restricted freedom or precautionary measures. This means that they have been subjected to criminal procedures and measures that condition their freedom, such as presenting themselves at court, prohibitions on leaving the country, being released on bail, bans on making statements to the media, etc. Seven hundred and sixty seven (767) people who were detained have been granted full freedom, and at least 638 people were freed without even going to court, which constitutes an arbitrary arrest.”

As of May 31, 2015, there were still 31 people in jail as a consequence of the protests. In addition, another 46 people have been detained for political motives. In total there are 77 people [still] incarcerated for political motives, of which 12 are students and six are women.”⁵³⁴

On 4 February 2014, a student protest began spontaneously right after the attempted rape of a female student on a university campus in the city of San Cristóbal, Táchira State.⁵³⁵ This initially peaceful protest was repressed with disproportionate violence by the local police, and ended with a number of students and police officers wounded. Moreover, two students were arrested for taking pictures and filming the repression with their mobile phones. These arrested students were severely injured by the police agents.⁵³⁶ President Maduro and the local Governor Vielma Mora referred to these students as “right wing fascists”.⁵³⁷

The arbitrary arrest of these two students,⁵³⁸ triggered a series of protests in several cities across the country, including San Cristóbal, Mérida and Maracaibo.⁵³⁹ On February 6

⁵³³ AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas

⁵³⁴ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

⁵³⁵ PRODAVINCI. (2014) 5 claves para entender las protestas estudiantiles en Venezuela; PRODAVINCI. (2014) 5 claves para entender las protestas estudiantiles en Venezuela

⁵³⁶ EL NACIONAL. (2014) Liberaron a estudiantes detenidos por protestas en ULA Táchira.

⁵³⁷ CNN. (2014) Manifestantes en Táchira: ¿Estudiantes o “fascistas”?; Also see: CAMPOS, G. (2014) Maria Gabriela Varela en Conclusiones CNN; Also see: ROJAS, L. (2014) El enfrentamiento entre Fernando del Rincón y la secretaria de Gobierno del Táchira

⁵³⁸ These students were conditionally released on February 5. OJO, R. (2014) ¿Qué ocurrió en la Universidad de Los Andes de Táchira?

⁵³⁹ OJO, R. (2014) ¿Qué ocurrió en la Universidad de Los Andes de Táchira?; Also see: EL NACIONAL. (2014) Liberaron a estudiantes detenidos por protestas en ULA Táchira

and 7, the protests in San Cristóbal resulted in a crackdown by the GoV and at least five student were imprisoned: the Manrique brothers (Reinaldo and Leonardo), Gerad Rosales and Jesús Gómez, charged with participating in violent acts, including burning down the residence of the Táchira State Governor.⁵⁴⁰

The arrests of at least some of these students considered to be arbitrary and thus immediately criticised by several Venezuelan NGOs, including Fundeci, Fundepro, Foro Penal Venezolano and Una Ventana a La Libertad. These NGOs emphasized that these arrests had no legal basis. For instance, several complains aroused because when the incidents for which he was arrested took place, Reinaldo Manrique was at a meeting with the Governor's wife negotiating the ending of the protests.⁵⁴¹

These five students were kept incommunicado and sent to a prison in another city.⁵⁴² They have now been conditionally released, but one of them spent 33 days in prison.⁵⁴³

Throughout the 2014 and 2015 protests, many of the demonstrators were arrested by the police force (with or without charge), detained (with or without charge) and released or even abducted for a few days by pro-government armed paramilitaries. Moreover, many of them were subject to prosecution or threats of prosecution on the basis of false, malicious and abusive charges pursuant to President Maduro's personal commitment to put all the so-called fascists in jail.

This clearly demonstrates the existence of a policy at the highest-level of the Executive to detain everyone identified as fascist irrespective of whether they have in fact committed any crime.

Several civilians, political protestors, civil society members and journalists have been arrested, detained incommunicado for up to 48 hours, and subsequently imprisoned pursuant to such false, abusive and malicious charges. Most of them were refused basic rights to due process. They were not granted access to counsel despite their requests, they were not allowed to communicate with their families during the incommunicado detention of 48 hours, relatives of detainees were routinely denied access to information

⁵⁴⁰ ARRÁIZ, L.E. (2014) Ascienden a cinco el número de estudiantes detenidos en Táchira; CNN. (2014) Denuncian detenciones arbitrarias de estudiantes en Venezuela

⁵⁴¹ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos. pp.14-15

⁵⁴² PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos. pp.14-15

⁵⁴³ EL NACIONAL. (2014) Hermanos Manrique se encontraron con sus padres; DELGADO, E. (2014) Rodríguez Torres confirma liberación de líder de JAVU; DELGADO, E. (2014) Universitarios del Táchira rechazaron declaraciones de ministro Rodríguez Torres

regarding whether family members had been detained and when they knew detentions had taken place, where they were being held.⁵⁴⁴

The Executive including the Presidency has used its de facto control of the General Prosecutor's office (under the direction of General Prosecutor Luisa Ortega Díaz) and the judiciary to persecute those perceived to be fascists with arrests, detention, prosecutions and threats thereof on the basis of false malicious and abusive charges.

Several NGOs, including Foro Penal have systematically denounced the manipulation of evidence in the cases against protestors by the National Police.⁵⁴⁵ Members of the police have been reported to have visited hospitals to demand the doctors to hand them the bullets that they extracted from the wounded demonstrators.⁵⁴⁶ Another reputed local NGO "Centro de Derechos Humanos de la UCAB" denounced that most of the students detained on the 12 February 2014 were detained incommunicado and were denied access to legal assistance.⁵⁴⁷

Given the overall GoV's policy to target dissent, it is alleged that the individuals currently being prosecuted are being targeted through false, malicious and abusive charges as will be detailed below.

Human Rights Centre of the Catholic University Andrés Bello thoroughly examined the judicial files of 399 people imprisoned in Caracas during the 2014 protests. It concluded that people were massively detained during the protests, without attributing specific crimes to individual persons, thus violating the right to a due process. Furthermore, most of these 399 detainees were not informed about the reasons of their detention. The judicial files do not present the reasons why most people were arrested. Despite this fact, they remained detained for 8 to 30 days on average. Eventually, 80% of the cases were dropped without any serious evidence being shown.⁵⁴⁸

⁵⁴⁴ See: HRW (2014). Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System. See also: AMNESTY INTERNATIONAL. (2014) Venezuela: Human Rights at Risk Amid Protests

⁵⁴⁵ PEÑALOZA, P.P. and ALONSO, F. (2014) Afirman que policía manipuló pruebas para no ser incriminada

⁵⁴⁶ NTN24. (2014) Policía venezolana acude a hospitales para pedir balas extraídas a heridos, según abogado defensor de DD.HH

⁵⁴⁷ Universidad Católica Andrés Bello (UCAB), Centro de Derechos Humanos, "Que no quede ni rastro", especially section 2. Available at: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/Que%20no%20quede%20rastros%20Informe.pdf

⁵⁴⁸ See Universidad Católica Andrés Bello – Centro de Derechos Humanos, Hasta que se demuestre lo contrario: violaciones del debido proceso a personas enjuiciadas por manifestar (Caracas: UCAB, 2015). Available at: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/Hasta%20que%20se%20demuestre%20lo%20contrario%20FIN.pdf

In several instances, authorities deliberately misled families and lawyers regarding the whereabouts of detainees even the case of minors detention—a practice referred to as “taxi driving” (ruleteo)—without informing detainees, their families, or lawyers including in cases of minors being detained.⁵⁴⁹

Crucially, in most cases the lawyers and accused were only informed of the charges at the first appearance before the magistrate with no time to review relevant documents. Most of the charges were based almost exclusively on the police reports, despite allegations of violations and abuse of process and in some cases, individuals detained separately, at different times or in different locations—and who in many cases did not even know each other, were charged in a single hearing with the same crimes, the using the same piece of evidence for all of the accused.

Last but not least, the Executive’s collusion with the judiciary has also lead to extensive violation of due process and the absence of impartiality has resulted in biased outcomes in the judicial process.

Indications that the judiciary, under the direction of Gladys Gutiérrez, President of the Supreme Tribunal of Justice -head of the Judiciary branch-, has participated in the cover up of the abuse of process is that none of the charges were dismissed despite the blatant and grave abuses committed by the Police and the General Prosecutor’s office.⁵⁵⁰ Some charges were allowed to stand despite being brought based almost exclusively on police reports and, in several instances, on what was plausibly denounced by detainees as planted evidence.

The judges allowed cases to proceed and to be determined applying unjustifiably low thresholds of standard of proof to the Prosecution’s evidence due to bias towards the GoV and relying exclusively on police reports despite allegations of abuse of process. Convictions and judicial decisions were based on minimalistic evidence such as a piece of barbed wire in some cases. Evidence in particular email correspondences presented by the Prosecutor’s office that was challenged in relation to its authenticity was admitted without granting proper weight to the lack of reliability of the material.

Furthermore the judiciary itself contributed to the abuse of process by conducting court

⁵⁴⁹ See: HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System. p.20; See also: Universidad Católica Andrés Bello – Centro de Derechos Humanos, Documentación de casos de violaciones de derechos humanos en Venezuela durante el mes de febrero de 2014, at 9. Available at: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/Informe%20preliminar%20CDH%20UCAB.pdf

⁵⁵⁰ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.9; HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System. p.4 (illustrative cases at 40-59)

hearings routinely and inexplicably in the middle of the night, a practice that was not common before, and with inexplicable delays forcing counsels and family members to wait for hours in courts, in military facilities, or in other where places hearings were held. The proceedings were conducted without affording an equal footing to the parties to defend themselves. In some cases the Defence was only allowed to call a disproportionately low number of witnesses in a court where the bias is a little less than a fact publicly acknowledged.

Just like under the Chávez regime, several judges have public shown the support for the Executive as illustrated above. Furthermore, in light of the de facto control of the Executive over the provisionally appointed judges and the Supreme Tribunal which in turn through its Judicial Commission, presided by Gladys Gutiérrez, has the power to appoint and remove judges without public competition, which inevitably results in judges which have been handpicked to promote the interests of the Executive.

It therefore comes without surprise that most of the findings are in favour of the GoV, the convictions are unsubstantiated and challenges that go against the interest of the state are overlooked. Even in cases where the charges are not pursued by the General Prosecutor, the judges have imposed abusive conditions for conditional release (medidas cautelares) preventing the accused from exercising their fundamental rights to freedom of assembly and expression, such as prohibiting them from participating in demonstrations or talking to the media, confiscation of passports for indefinite period of time.

In many cases, the attempts at challenging the actions and the impartiality of the judges in these cases have in most instances been either dismissed before being considered or upon adjudication.

A few of the most notable cases of imprisonment arising from violations of due process of law, in the course of the GoV's policy to prevent, restrict, monitor and punish political dissent include the following.

i) Detention of students in February 2014

On 5 February 2014, Salvatore Lucchese, the director of the San Diego Police, was arrested for allegedly failing to abide a ruling of the TSJ that forbid certain protests.⁵⁵¹ Amnesty International was quoted at the time stating that his detention could be the

⁵⁵¹ LA PATILLA. (2014) Diez meses de prisión dicta TSJ al alcalde y al director de policía de San Diego Enzo Scarano y Salvatore Lucchese

first step in a witch-hunt across the country.⁵⁵²

During the protests of the 6 and 7 February 2014 in San Cristobal, which was strongly condemned by several NGOs, student Reinaldo Manrique was among the arrested.⁵⁵³ He was then (and continues to be) a student leader and a member of the Student Body at Catholic University from Táchira. Following his public denunciation of the disproportionate repression on which the National Guard and the Security Forces were engaging, he was arrested by the SEBIN along with his brother, Leonardo Manrique. They were accused of vandalising the Governor's house.⁵⁵⁴ However, when the incidents allegedly took place, Reinaldo was at a meeting with the Governor's wife, negotiating the ending of the protests.⁵⁵⁵ The detention of the Manrique brothers was immediately criticised by several Venezuelan NGOs, including Fundeci, Fundepro, Foro Penal Venezolano and Una Ventana a La Libertad.⁵⁵⁶ The court hearing of the Manrique brothers was made in a military base, despite them being civilians.⁵⁵⁷ They were kept incommunicado and sent to a prison in another city.⁵⁵⁸

ii) Christian Holdack

A few days later, on 12 February 2014, student Christian Holdack was arrested by the national investigative police (Cuerpo de Investigaciones Científicas, Penales y Criminalísticas, CICPC) while filming an anti-government demonstration in Caracas.⁵⁵⁹

⁵⁵² AMNESTY INTERNATIONAL. (2014) Venezuela: El arresto del alcalde Ceballos podría ser el inicio de una "caza de brujas."

⁵⁵³ ARRÁIZ, L.E. (2014) Ascienden a cinco el número de estudiantes detenidos en Táchira

⁵⁵⁴ CNN. (2014) Denuncian detenciones arbitrarias de estudiantes en Venezuela. *CNN Español*. [Online] 10 February

⁵⁵⁵ NTN24. (2014) Padre de Reinaldo Manrique asegura que su hijo no hizo parte de la manifestaciones en Táchira, Venezuela. *Nuestras Tele Noticias*. [Online] 1 July. Available from: <http://www.ntn24web.com/video/padre-de-reinaldo-manrique-asegura-que-su-hijo-no-hizo-parte-de-la-manifestaciones-en-tachira-3327> [Accessed 25 October, 2015]; LA PATILLA. (2014) Padre de los estudiantes detenidos: Mis hijos están secuestrados... esposa de Vielma Mora sabe que son inocentes. *La Patilla*. [Online] 10 February. Available from: <http://www.lapatilla.com/site/2014/02/10/padre-de-los-estudiantes-detenido-mis-hijos-están-secuestrados-esposa-de-vielma-mora-sabe-que-son-inocentes> [Accessed 25 October, 2015]

⁵⁵⁶ SEGOVIA, S. (2014) Defensores de DD HH condenan arresto de estudiantes de Táchira

⁵⁵⁷ LUCA, N. (2014) Una ola de protestas, represión y detenciones sacuden a Venezuela. *Perfil.com*. [Online] 11 February. Available from: <http://www.perfil.com/internacional/Una-ola-de-protestas-represion-y-detenciones-sacuden-a-Venezuela-20140211-0032.html> [Accessed 25 October, 2015];

DELGADO, E. (2014) Rodríguez Torres confirma liberación de líder de JAVU; PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos. p.15

⁵⁵⁸ LUCA, N. (2014) Una ola de protestas, represión y detenciones sacuden a Venezuela; EL NACIONAL. (2014) Hermanos Manrique se encontraron con sus padres; NTV. (2014) Denuncian Detenciones Arbitratias de Estudiantes en Venezuela. *NTV*. [Online] 12 February. Available from: <http://www.ntv.com.gt/denuncian-detenciones-arbitrarias-de-estudiantes-en-venezuela/> [Accessed 25 October, 2015]; RODRÍGUEZ, K.P. (2014) Incomunicados estudiantes de Táchira. *El Impulso*. [Online] 11 February. Available from: <http://elimpulso.com/articulo/incomunicados-estudiantes-de-tachira> [Accessed 25 October, 2015]

⁵⁵⁹ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. pp.37-38

Holdack has been accused of incitement to commit a crime, arson, damage to property and conspiracy to commit a crime, charges which carry a maximum sentence of eight years' imprisonment.⁵⁶⁰ Amnesty International studied the Office of Public Prosecution's indictment and concluded that it contained "no credible evidence to support the charges against him".⁵⁶¹ According to a psychological assessment carried out by the Office of Public Prosecution's forensic doctor on 2 April 2014 Christian Holdack "exhibited symptoms of post-traumatic stress disorder as a result of his experiences". In August 2014, another official medical examination found that he was suffering from a mixture of anxiety and depression and recommended that Christian Holdack be removed from his stressful environment.⁵⁶² Holdack was sentenced jointly Leopoldo López, Angel Gonzalez and Demian Martin on September 10, 2015. The punishment is for 10 years.

On the basis of these reports, the People's Defender's Office wrote to the courts on 17 September 2014 asking that they reconsider the decision to impose pre-trial detention because "as a citizen deprived of his liberty, Christian Holdack is unable to access or complete the course of treatment prescribed for him (psychotherapy). This is having a serious effect on his mental health and could compromise his physical health and integrity." Despite this, he was only released on a preliminary basis on 17 March 2015 pending trial.⁵⁶³

iii) Leopoldo Lopez

As the protests against the GoV continued to grow, also on 12 February 2014, Venezuelan prosecutors issued an arrest warrant against opposition leader Leopoldo López on charges including conspiracy, terrorism and murder, related to incidents that had arguably occurred in a protest called by his party in Caracas.⁵⁶⁴ Leopoldo López is the leader of the opposition party Voluntad Popular and of the MUD, an alliance of opposition parties, as well as former Mayor of Chacao, Caracas. López, along with the

⁵⁶⁰ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. pp.37-38

⁵⁶¹ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity pp.37-38

⁵⁶² AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. pp.37-38

⁵⁶³ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. pp.37-38

⁵⁶⁴ CNN. (2014) Ordenan la captura del opositor venezolano Leopoldo López. *CNN Español*. [Online] 13 February. Available from: <http://cnnespanol.cnn.com/2014/02/13/ordenan-la-captura-de-leopoldo-Lopez-segun-reporte/> [Accessed 25 October, 2015]; UNIVISION. (2014) Dictan orden de arresto contra el líder opositor Leopoldo López. *Univision*. [Online] 13 February. Available from: <http://miami.univision.com/noticias/miami/article/2014-02-13/dictan-orden-de-arresto-contra-el-lider-opositor-leopoldo-Lopez> [Accessed 25 October, 2015]; LA NACION. (2014) Venezuela: ¿De qué se acusa a Leopoldo López? *La Nación*. [Online] 19 February. Available from: <http://www.lanacion.com.ar/1665479-venezuela-de-que-se-acusa-a-leopoldo-Lopez> [Accessed 25 October, 2015]

parties' members and the students, convened protests during February 2014⁵⁶⁵ He has constantly called for non-violent demonstrations.⁵⁶⁶ President Maduro claimed that the protests were part of “a planned coup d'état.”⁵⁶⁷

Over a year before the issuance of López's arrest warrant, President Maduro had publicly announced: “Leopoldo López has already polished ... [his] ... cell. It is just a matter of time. That fascist has done a lot of damage to this country. Justice will come sooner or later.”⁵⁶⁸ On 18 February, López turned himself in to the Guardia Nacional (National Guard).^{569 570}

Following his surrender, the President of the National Assembly himself, Diosdado

⁵⁶⁵ THE ECONOMIST. (2014) A tale of two prisoners. *The Economist*. [Online] 22 February. Available from: <http://www.economist.com/news/americas/21596945-after-opposition-leader-arrested-violence-continues-unabated-tale-two-prisoners> [Accessed 25 October, 2015]; EL PAIS. (2014) ¿Quién es Leopoldo López, el hombre que enfrenta a Maduro? *El País*. [Online] 18 February. Available from: <http://www.elpais.com.uy/mundo/leopoldo-Lopez-maduro-oposicion-venezuela.html> [Accessed 25 October, 2015]

⁵⁶⁶ THE ECONOMIST. (2014) A tale of two prisoners; INFOBAE. (2014) Leopoldo López llamó a marchar y denunció persecución a su partido. *Infobae América*. [Online] 22 February. Available from: <http://www.infobae.com/2014/02/22/1545461-leopoldo-Lopez-llamo-marchar-y-denuncio-persecucion-su-partido> [Accessed 25 October, 2015]; LA CRUZ, V. (2014) Leopoldo López: La lucha es pacífica pero en la calle. *El Universal*. [Online] 18 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140218/leopoldo-Lopez-la-lucha-es-pacifica-pero-en-la-calle> [Accessed 25 October, 2015]; US NEWS. (2014) Venezuelan Protests Lead to Arrest. *US News*. [Online] 19 February. Available from: <http://www.usnews.com/news/newsgam/articles/2014/02/19/venezuelan-protests-lead-to-opposition-leaders-arrest> [Accessed 25 October, 2015]

⁵⁶⁷ NEUMAN, W. (2014) Prominent Opposition Leader in Venezuela Is Blamed for Unrest. *New York Times*. [Online] 13 February. Available from: http://www.nytimes.com/2014/02/14/world/americas/prominent-opposition-leader-in-venezuela-is-blamed-for-unrest.html?_r=0 [Accessed 25 October, 2015]; EL UNIVERSAL. (2014) Maduro: López y sus “cómplices deben responder por este Golpe de Estado.” *El Universal*. [Online] 19 February. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140219/maduro-Lopez-y-sus-complices-deben-responder-por-este-golpe-de-estado> [Accessed 25 October, 2015]

⁵⁶⁸ EL TIEMPO. (2013) Maduro dice que a opositor López le espera una 'celda pulidita'. *El Tiempo*. [Online] 18 October. Available from: <http://www.eltiempo.com/archivo/documento/CMS-13131415> [Accessed 25 October, 2015]; LA REPUBLICA. (2013) Maduro dice que al opositor Leopoldo López le espera una "celda pulidita." *La Republica*. [Online] 17 October. Available from: <http://www.larepublica.pe/17-10-2013/maduro-dice-que-al-opositor-leopoldo-Lopez-le-espera-una-celda-pulidita> [Accessed 25 October, 2015]; See also: VOLUNTAD POPULAR. (2014) Sea Ud. el Juez Parte I. *Youtube*. [Online] 30 April. Available from: <https://www.youtube.com/watch?v=bK2S5YkWR4> [Accessed 25 October, 2015]

⁵⁶⁹ EL UNIVERSAL. (2014) Leopoldo López se entrega a funcionarios de la GNB. *El Universal*. [Online] 18 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140218/leopoldo-Lopez-se-entrega-a-funcionarios-de-la-gnb> [Accessed 25 October, 2015]; ARENAS, V. (2014) Fotos y Video | Leopoldo López se entregó a la Guardia Nacional. *Ultimas Noticias*. [Online] 18 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/fotos-y-video--leopoldo-Lopez-se-entrego-a-la-guar.aspx> [Accessed 25 October, 2015]

⁵⁷⁰ EL UNIVERSAL. (2014) Leopoldo López se entrega a funcionarios de la GG; ULTIMAS NOTICIAS. (2014) Entrega de Leopoldo López; EL PAIS. (2014) Hallado muerto Rodolfo González, prisionero político venezolano

Cabello, personally drove López to prison,⁵⁷¹ a function that does not have any connection with his official duties as legislator.

On 18 February 2014, López appeared before a court. The Prosecutor, Narda Sanabria, dropped the most serious crimes listed in the detention order, such as terrorism, homicide and causing serious injury. The Prosecutor was forced to do so, after the Venezuelan newspaper *Últimas Noticias* published evidence that suggests that uniformed officers together with armed men in plainclothes were responsible for one of the deaths on 12 February of which he was accused.⁵⁷² However, the prosecutor formally charged him with other charges, such as arson, damage to property and conspiracy to commit a crime.⁵⁷³ These crimes carry a penalty of at least 13 years' imprisonment. The judge, Ralenis Tovar Guillén, a temporary appointee,⁵⁷⁴ stated that there was enough evidence to support this charges and ordered López to remain in pre-trial detention.⁵⁷⁵

On 26 February 2014, the regional news station NTN24 disclosed text messages given to them by Gabriela Mata, a friend of Judge Tovar. In a conversation using the smartphone application WhatsApp and confirmed by the media as having been traced to her telephone number, Judge Tovar illustrated her lack of judicial independence,

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- ⁵⁷¹ NOTICIAS24. (2014) Cabello lleva a Leopoldo López a una cárcel fuera de Caracas: estamos "cuidando su vida", dice Maduro. *Noticias24*. [Online] 18 February. Available from: <http://www.noticias24.com/venezuela/noticia/222954/maduro-revela-que-diosdado-cabello-lleva-a-leopoldo-lopez-a-una-carcel-del-interior-del-pais/> [Accessed 25 October, 2015]; DIARIO16. (2014) ¡INSÓLITO! Presidente del congreso venezolano condujo auto que llevó a López a la Cárcel. *Diario*. [Online] 19 February. Available from: <http://diario16.pe/noticia/44841-insolito-presidente-congreso-venezolano-condujo-auto-que-llevo-lopez-carcel> [Accessed 25 October, 2015]
- ⁵⁷² HRW (2014). Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System. p.28; VIVANCO, J.M. (2014) La persecución penal de Leopoldo López. *El País*. [Online] 12 March. Available from: http://elpais.com/elpais/2014/03/11/opinion/1394552584_665141.html [Accessed 25 October, 2015]; CASTILL, M. and PAYNE, E. Murder Charges Against Venezuela Opposition Leader Droppe. *CNN*. [Online] 20 February. Available from: <http://www.cnn.com/2014/02/20/world/americas/venezuela-protests/> [Accessed 25 October, 2015]
- ⁵⁷³ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.38; LA CRUZ, V. (2014) Fiscalía acusa a Leopoldo López de cuatro delitos. *El Universal*. [Online] 4 April. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140404/fiscalia-acusa-a-leopoldo-lopez-de-cuatro-delitos> [Accessed 25 October, 2015]
- ⁵⁷⁴ BARRIOS, D. (2014) Leopoldo López entró al Palacio de Justicia con su esposa, padre y abogado. *Últimas Noticias*. [Online] 19 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/leopoldo-lopez-entro-al-palacio-de-justicia-con-su.aspx> [Accessed 25 October, 2015]; NOTI ACTUAL. (2015) Así Fue La Llegada De Leopoldo López Al Palacio De Justicia Junto A Diosdado Cabello (Video). *Noto Actual*. [Online] Available from: <http://www.notiactual.com/asi-fue-la-llegada-de-leopoldo-lopez-al-palacio-de-justicia-junto-a-diosdado-cabello-video/> [Accessed 25 October, 2015]
- ⁵⁷⁵ HRW. (2014) Venezuela: Violence Against Protesters, Journalists. *Human Rights Watch*. [Online] 21 February. Available from: <http://www.hrw.org/news/2014/02/21/venezuela-violence-against-protesters-journalists> [Accessed 25 October, 2015]; AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.39

writing to Mata, “My friend, I had to choose between keeping my job or waking up fired”.⁵⁷⁶ Being a temporary appointee, Tovar could easily be dismissed by the Superior Tribunal of Justice, presided by Gladys Gutiérrez, and, ultimately, by President Maduro. In May 2014, Judge Tovar was replaced.⁵⁷⁷

Four months later, on 4 July 2014, judge Adriana López Orellana found the results of the investigation by the General Prosecutor’s Office admissible and determined that there was sufficient evidence to bring Leopoldo López to trial. In addition, he refused to grant bail pending trial.⁵⁷⁸ López has now spent more than one year in Ramo Verde, a military prison near Caracas.

The trial of Leopoldo López opened on 23 July 2014, with Judge Susana Barreiros of the Trial 28 Court of the Metropolitan Area of Caracas. Judge Barreiros, like Judge López during the intermediate phase of the criminal proceedings, denied almost every single request by the defense: for example, she rejected all claims presented by defense lawyers requesting remedy for human rights abuses during López’s detention.⁵⁷⁹ Human Rights Watch reports that the judge has not allowed López’s lawyers “to present evidence on behalf of his defence”⁵⁸⁰ and that “the prosecutors have failed to present credible evidence to substantiate their accusations”.⁵⁸¹

On 26 August 2014, the UN Working Group on Arbitrary Detention stated that the detention of Leopoldo López was arbitrary and suggested that it was politically

⁵⁷⁶ TRUJILLO, M. (2014) Amiga de jueza habla de presiones en el caso Leopoldo López. *El Universal*. [Online] 26 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140226/amiga-de-jueza-habla-de-presiones-en-el-caso-leopoldo-López> [Accessed 25 October, 2015]; See also: NTN24. (2014) Ciudadana venezolana denuncia en NTN24 que jueza del caso Leopoldo López recibió presión. *Youtube*. [Online] 26 February. Available from: <https://www.youtube.com/watch?v=Qj8LsVLW-b0#> [Accessed 25 October, 2015]

⁵⁷⁷ ALONSO, J.F. (2014) Para sus abogados defensores Leopoldo López es un "preso político." *El Universal*. [Online] 30 April. Available from: <http://www.eluniversal.com/nacional-y-politica/protestas-en-venezuela/140430/para-sus-abogados-defensores-leopoldo-Lopez-es-un-pres-o-politico> [Accessed 25 October, 2015]

⁵⁷⁸ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p39. Acción por la Libertad, Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia (Jan. 26, 2015), at 10. Available at: ACCION LIBERTAD. (2015) Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia. *Acción Libertad*. [Online] 26 January. Available from: <https://accionporlalibertad.files.wordpress.com/2015/02/derechos-humanos-venezuela-efectos-de-la-criminalizacic3b3n-de-la-protesta-y-la-disidencia.pdf> [Accessed 25 October, 2015]

⁵⁷⁹ ALONSO, J.F. (2015) López feels that democracy is prosecuted in his case. *El Universal*. [Online] 24 July. Available from: <http://www.eluniversal.com/nacional-y-politica/140724/Lopez-feels-that-democracy-is-prosecuted-in-his-case> [Accessed 25 October, 2015]

⁵⁸⁰ HRW. (2015) Informe Mundial 2015: Venezuela. *Human Rights Watch*. [Online] Available from: <http://www.hrw.org/es/world-report/2015/country-chapters/132077> [Accessed 25 October, 2015]

⁵⁸¹ HRW. (2015) UNASUR: Condemn Abuses in Venezuela. *Human Rights Watch*. [Online] 26 February. Available from: <http://www.hrw.org/news/2015/02/26/unasur-condemn-abuses-venezuela> [Accessed 25 October, 2015]

motivated.⁵⁸² It concluded that: “[t]he arrest of Mr. López on 18 February 2014, having been executed without order from a judicial authority; having been extended for a period of more than six months; having exposed Mr. López to isolation; not having granted Mr. López provisional freedom subject to bail if necessary; and having imposed obstacles to the defense lawyers, including the censorship of their communications with the detainee, affects the right to a fair and impartial trial, the presumption of innocence, and due process.”⁵⁸³

Following the UN Working Group’s report, the UN High Commissioner for Human Rights, Zeid Ra’ad Al Hussein called for the “immediately release [of] Mr López and Mr Ceballos” (referencing Daniel Ceballos, former Mayor of San Cristobal, Táchira, also victim of an arbitrary imprisonment).⁵⁸⁴

Furthermore, Amnesty International reported that López’s detention “appears to be politically motivated” and called for his immediate release.⁵⁸⁵ Similarly, Human Rights Watch has constantly called for his release since as early as 19 February 2014.⁵⁸⁶ Several NGOs, political leaders and governments have called for López’s release, upon considering his detention either arbitrary or based on political motivations.⁵⁸⁷ Most

⁵⁸² Opinion adopted by the UN Working Group on Arbitrary Detention in its seventieth session, Opinion No. 26/2014 (A/HRC/WGAD/2014/26)

⁵⁸³ Opinion adopted by the UN Working Group on Arbitrary Detention in its seventieth session, Opinion No. 26/2014 (A/HRC/WGAD/2014/26), para. 59.

⁵⁸⁴ UN. (2014) UN Human Rights Chief urges Venezuela to release arbitrarily detained protestors and politicians. *United Nations*. [Online] 20 October. Available from: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15187&LangID=E> [Accessed 25 October, 2015]

⁵⁸⁵ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.39

⁵⁸⁶ EL UNIVERSAL. (2014) Human Rights Watch exige a Maduro la inmediata liberación de López. *El Universal*. [Online] 19 February. Available from: <http://www.eluniversal.com/nacional-y-politica/140219/human-rights-watch-exige-a-maduro-la-inmediata-liberacion-de-Lopez> [Accessed 25 October, 2015]; EMOL. (2014) HRW: Detención de opositor en Venezuela es una "violación atroz" del debido proceso. *EMOL*. [Online] 19 February. Available from: <http://www.emol.com/noticias/internacional/2014/02/19/645593/human-rights-watch-exige-a-maduro-la-inmediata-liberacion-del-opositor-Lopez.html> [Accessed 25 October, 2015]; ABC. (2014) Human Rights Watch exige a Maduro liberación del opositor López. *ABC*. [Online] 19 February. Available from: <http://www.abc.com.py/internacionales/human-rights-watch-exige-a-maduro-liberacion-del-opositor-Lopez-1216586.html> [Accessed 25 October, 2015]

⁵⁸⁷ LONDOÑO, E. (2015) Colombia Calls for Release of Venezuelan Political Prisoner. *New York Times*. [Online] 28 January. Available from: <http://takingnote.blogs.nytimes.com/2015/01/28/colombia-calls-for-release-of-venezuelan-political-prisoner/> [Accessed 25 October, 2015]; <http://rfkcenter.org/robert-f-kennedy-human-rights-condemns-arbitrary-detention-in-venezuela-demands-release-of-all-political-prisoners>; PANAM POST. (2014) Obama Calls for Release of Leopoldo López from Political Imprisonment. *Panama Post*. [Online] 24 September. Available from: <http://panamapost.com/panam-staff/2014/09/24/obama-calls-for-release-of-leopoldo-Lopez-from-political-imprisonment/> [Accessed 25 October, 2015]; BBC. (2015) El expresidente Bill Clinton pide la liberación inmediata de Leopoldo López. *BBC*. [Online] 20 February. Available from: http://www.bbc.co.uk/mundo/ultimas_noticias/2015/02/150220_ulnnot_tuit_bill_clinton_sobre_venezuela_bd [Accessed 25 October, 2015]; EL UNIVERSAL. (2015) Congreso de España pide liberación de Ledezma y López. *El Universal*. [Online] 14 April. Available from:

recently, the Inter-American Commission on Human Rights called for the liberation of Leopoldo López.⁵⁸⁸

Lopez was sentenced in September 2015 to 13 years, 9 months, 7 days and 12 hours of imprisonment after a lengthy trial flawed by violations of due process.

All the prosecutors involved in the López judiciary proceedings have been temporary appointees: Franklin Nieves Capace, Nardin Sanabria Bernatte, Juan Canelón Marín, Guendy Duque Carvajal and José Foti González⁵⁸⁹ and were therefore under the direct control of the General Prosecutor Luisa Ortega Díaz, and, ultimately, of Nicolás Maduro. In October 2015, one of the two lead prosecutors on the case who had been appearing in the case for more than a year, prosecutor Franklin Nieves López, defected leaving the Venezuela to seek asylum in the US with his wife and two daughters.⁵⁹⁰ There he admitted in several interviews that “Leopoldo López is innocent” and that the charges were politically motivated and the “trial was a farce based on false evidence and unjustly violated his rights.”⁵⁹¹ “From my heart, I want to ask for forgiveness from Venezuela, Leopoldo López’s, López’s wife, the López family, and especially from their children,” he said. He confirmed that: “This was a totally political trial which should be nullified. All of Leopoldo López’s human rights were violated because he was not able to present any witnesses or evidence,” Mr. Nieves said in the interview.⁵⁹²

He provided information on the control of the Presidency over the Office of the General Prosecutor and the judiciary stating that: “Prosecutors and judges fear that if anyone dissents from carrying out an order, he will be detained, or a criminal case will be invented against him and he will be jailed.”⁵⁹³ He said dozens of Venezuelan security officials milled around outside the courtroom doors during every one of Mr. López’s trial sessions, serving to intimidate judicial personnel into not defying orders. Nieves said

<http://www.eluniversal.com/nacional-y-politica/150414/congreso-de-espana-pide-liberacion-de-ledezma-y-López> [Accessed 25 October, 2015]

⁵⁸⁸ IACHR. (2015) Resolution 12/2015. *Inter-American Commission of Human Rights*. [Online] 20 April. Available from: <https://www.oas.org/es/cidh/decisiones/pdf/2015/MC335-14-ES.pdf> [Accessed 25 October, 2015]

⁵⁸⁹ <http://perseus-strategies.com/wp-content/uploads/2014/12/Caso-de-Leopoldo-Lopez-11.25.2014-Espa%C3%B1ol.pdf>

⁵⁹⁰ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

⁵⁹¹ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

⁵⁹² WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

⁵⁹³ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

that judges and prosecutors were pressured to convict political opponents of the regime by their superiors, who would give them their orders verbally in frequent meetings.

Human rights groups and people in attendance at Mr. López's trial said his defense was barred from presenting nearly all of the evidence in its favor, while the prosecution—including Nieves—had free range to argue how the opposition leader incited violence by sending subliminal messages through social media platforms like Twitter.

“This [defection of Nieves] is very important because it shows that Leopoldo Lopez is a political prisoner and that the regime is jailing its political opponents,” said Eric Farnsworth, vice president of the Washington-based Council of the Americas.⁵⁹⁴

In the wake of the revelations, Mr. Lopez's family members and opposition leaders have demanded freedom for the 44-year-old leader of the Popular Will party, who is currently serving his sentence in a military prison.

In Caracas, Ortega Diaz personally defended the trial⁵⁹⁵ and denied that Mr. Nieves was pressured and said the prosecutor was fired in recent days “because he abandoned his position.” “He ceded to the pressures of foreign factors and sectors of the country, not the General Prosecutor's Office,” she said. “The prosecutor's office doesn't pressure anyone.”⁵⁹⁶

In addition, it is worth noting that there were at least two separate incidents of persecution against the family member of Leopoldo Lopez, which illustrate the shocking extent of intimidation tactics of the GoV. Leopoldo's father, Leopoldo López Gil, is now the subject of an arrest warrant which was issued on 29 September 2015 by the Control Court of Caracas Metropolitan Area.⁵⁹⁷ The warrant follows a previous lawsuit that ruled that Leopoldo López Gil and 21 other newspaper managers were guilty of defamation because of articles which they published and which were perceived as being

⁵⁹⁴ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

⁵⁹⁵ MUNDO24. [2014] Luisa Ortega Díaz asegura que “no hay retardo procesal en caso de Leopoldo López.” *MUNDO24*. [Online] 6 November. Available from: <http://www.mundo24.net/luisa-ortega-diaz-asegura-que-hay-retardo-procesal-en-caso-de-leopoldo-lopez/> [Accessed 25 October, 2015]; ULTIMAS NOTICIAS. (2015) Ortega Díaz se reunió con cancilleres de Unasur. *Ultimas Noticias*. [Online] 6 March. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/ortega-diaz-se-reunio-con-cancilleres-de-unasur.aspx> [Accessed 25 October, 2015]

⁵⁹⁶ WALL STREET JOURNAL. [2015] [Online] 26 October 2015. Available from: <http://www.wsj.com/articles/venezuela-prosecutor-franklin-nieves-says-opposition-leaders-trial-was-a-sham-1445895707>. [Accessed on 4 November 2015]

⁵⁹⁷ LA INFORMACION. (2015) Ordenan forzar a directivos de medios demandados a comparecer ante justicia venezolana. *La Información*. [Online] 8 October. Available from: http://noticias.lainformacion.com/policia-y-justicia/magistratura/ordenan-forzar-a-directivos-de-medios-demandados-a-comparecer-ante-justicia-venezolana_SQil87iUwaLGY6TpKZUhu1/

contrary to the GoV's policy.

An even more troubling incident targeted Leopoldo's sister, Diana López, who was the subject of an attempted kidnapping on 15 October 2015, when three armed men approached her personal assistant, Jorge Leones, and demanded he drives them to Diana.⁵⁹⁸ When he refused, the men took Leones to an isolated location where they interrogated and brutally beat him during twelve hours. The assailants then tried to force Leones to leave incriminating information in Diana's home. The next morning, Leones escaped his captors and contacted his family.

iv) **Luis Augusto Matheus Chirinos**

On 21 February 2014, in Valencia (Carabobo State), Luis Augusto Matheus Chirinos was approached and arrested by approximately 10 members of the National Guard at the entrance of a housing complex (urbanización).⁵⁹⁹ He was standing peacefully, waiting for a friend he had gone to pick up, while an anti-government demonstration was taking place nearby.⁶⁰⁰ Nevertheless, he was arrested and taken to a military complex of the National Guard.⁶⁰¹

In this complex, Matheus Chirinos was beaten, threatened, and told to repeat that Nicolás Maduro was the President of Venezuela. He was held incommunicado for two days and subsequently charged with several crimes.⁶⁰² Eventually, Chirinos' lawyer presented a video to the authorities, which proved that he was not armed at the moment of the arrest and he was released.⁶⁰³

Nevertheless, the judge ruled that the evidence outlined in the police report and the investigation carried out by prosecutors provided sufficient evidence to charge Matheus with interfering with public roads (obstaculización de la vía pública), incitement to commit crimes (instigación pública), resistance to authority (resistencia a la autoridad), and association to commit crimes (asociación para delinquir) and ordered his pretrial

⁵⁹⁸ EL PAIS. (2015) La hermana de Leopoldo denuncia un intento de secuestro. *El País*. [Online] 17 October. Available from: http://internacional.elpais.com/internacional/2015/10/17/america/1445103091_054308.html

⁶⁰¹ PARDO, D. (2014) Los excesos de la justicia venezolana en las protestas. *BBC*. [Online] 19 March. Available from: http://www.bbc.com/mundo/noticias/2014/03/140317_venezuela_justicia_protestas_dp [Accessed 25 October, 2015]

⁶⁰² HRW (2014). Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System. p.98

⁶⁰³ PARDO, D. (2014) Los excesos de la justicia venezolana en las protestas

detention.⁶⁰⁴ On March 22, Matheus was granted conditional liberty.⁶⁰⁵ “If it wasn’t for the video, he would have been sentenced to years in prison”, concluded Chirinos’ lawyer.⁶⁰⁶

v) **Daniel Ceballos**

On 19 March 2014, other Mayors Daniel Ceballos and Enzo Scarano were arrested. Ceballos was Mayor of San Cristóbal (Táchira State) and a member of the opposition Voluntad Popular party. He was arrested by members of the SEBIN and transferred to the Ramo Verde prison. He has been imprisoned ever since.⁶⁰⁷

Daniel Ceballos was initially the subject of two legal proceedings. On 12 March 2014, the Constitutional Chamber of the Supreme Tribunal of Justice, presided by Gladys Gutiérrez (besides being the President of the Supreme Tribunal of Justice, she is also the President of the Constitutional Chamber), issued a ruling ordering a number of mayors belonging to the opposition to guarantee security and other rights, such as the right to freedom of movement, in their municipalities during the protests that began in February 2014. This ruling was extended to include Daniel Ceballos only on 17 March 2014. Yet, on 25 March 2014, the same Constitutional Chamber sentenced him to 12 months’ imprisonment and removal from the post of Mayor for contempt of court for failing to comply with the previous.⁶⁰⁸

By doing this, the Chamber violated Ceballos’ right to a due process in several ways. The Chamber does not have competence on criminal matters. He was not accused by a General Prosecutor. Ceballos was neither granted reasonable time to prepare for his defense and was not allowed to exercise his right to appeal the sentence.⁶⁰⁹ Justice

⁶⁰⁴ HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System. p.94

⁶⁰⁵ HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System. p.94

⁶⁰⁶ PARDO, D. (2014) Los excesos de la justicia venezolana en las protestas

⁶⁰⁷ EL UNIVERSAL. (2014) Detenido en Caracas alcalde de San Cristóbal Daniel Ceballos. *El Universal*. [Online] 20 March. Available from: <http://www.eluniversal.com/nacional-y-politica/140320/detenido-en-caracas-alcalde-de-san-cristobal-daniel-ceballos> [Accessed 25 October, 2015]; SCHARFENBERG, E. (2014) La designación de magistrados adapta la Justicia a la medida del chavismo

⁶⁰⁸ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.40; ACCION LIBERTAD. (2015) Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia

⁶⁰⁹ ACCION LIBERTAD. (2015) Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia; EL NACIONAL. (2014) Asociación de Alcaldes por Venezuela condenó sentencia a Daniel Ceballos. *El Nacional*. [Online] 25 March. Available from: http://www.el-nacional.com/politica/Asociacion-Alcaldes-Venezuela-Daniel-Ceballos_0_379162359.html [Accessed 25 October, 2015]

Gladys Gutiérrez herself read the sentence on a press conference.⁶¹⁰

Furthermore, Ceballos is currently on trial charged with civil rebellion and conspiracy to commit a crime. The charges relate to his alleged involvement in the anti-government protests that shook the country between February and July 2014. If convicted, he could face at least eight more years in prison.⁶¹¹

On 28 August 2014, the UN Working Group on Arbitrary Detention stated that it considered Daniel Ceballos to have been arbitrarily detained and called on the government to release him immediately. The UN Working Group argued that Ceballos' right to a due process had been violated in all of these proceedings and stated that: "Mr Ceballos was arbitrarily detained because the Venezuelan Bolivarian Republic had failed to abide by international standards of judicial impartiality." It concluded that: "the detention of Mayor Daniel Omar Ceballos was arbitrary and motivated by a desire to prevent him exercising his right to freedom of opinion and expression and his right to political participation in his capacity as an opposition Mayor".⁶¹²

As previously mentioned, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, has called for the immediately release of Daniel Ceballos, quoting the decision of the UN Working Group.⁶¹³ The Inter-American Commission on Human Rights has also called for his liberation.⁶¹⁴

vi) **Enzo Scarano**

The Mayor of San Diego Enzo Scarano was sentenced to 10 months and 15 days of prison on 19 March 2014, for allegedly failing to abide the order to impede barricades in his jurisdiction. However, as with Mayor Ceballos, he was sentenced by the Constitutional Chamber of the Supreme Tribunal of Justice, which, as previously mentioned, does not have criminal competences.

The attack against opposition mayors by the GoV eventually turned into a pattern.

⁶¹⁰ NOTICIAS VENEZUELA. (2014) Presidenta del TSJ lee sentencia sobre Ceballos. *Youtube*. [Online] 25 March. Available from: <https://www.youtube.com/watch?v=sCoq2sQhASY> [Accessed 25 October, 2015]

⁶¹¹ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.40; SCHARFENBERG, E. (2014) La designación de magistrados adapta la Justicia a la medida del chavismo; NOTICIAS VENEZUELA. (2014) Presidenta del TSJ lee sentencia sobre Ceballos

⁶¹² Opinion adopted by the UN Working Group on Arbitrary Detention in its seventieth session, Opinion No. 26/2014 (A/HRC/WGAD/2014/26), paras. 51-59

⁶¹³ UN. (2014) UN Human Rights Chief urges Venezuela to release arbitrarily detained protestors and politicians. *United Nations*. [Online] 20 October. Available from: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15187&LangID=E#sthash.bYrhiLd> [Accessed 25 October, 2015]

⁶¹⁴ <http://www.oas.org/es/cidh/prensa/comunicados/2015/015>

Nicolás Maduro himself publicly threatened with prison the mayor of Chacao Ramón Muchacho⁶¹⁵ and the successor of Scarano as San Diego mayor following his arrest.⁶¹⁶ Adán Chávez, Governor of Barinas, member of the PSUV and brother of former President Chávez, threatened the mayors José Luis Machín and Ronald Aguilar by stating that they could end like Scarano and Ceballos.⁶¹⁷ On 27 March 2014, Tareck El Aissami, Governor of Aragua and member of the PSUV, accused Delson Guárate,, mayor of Irarorri, of perpetrating the crimes of instigation of violence and committing terrorism, conspiracy and murders.⁶¹⁸ In April 2014, the Venezuelan Mayors' Association denounced that 23 of the 76 opposition majors had been subject to judicial persecution.⁶¹⁹

vii) Arrest of 30 Air Force officers in 2014

On 25 March 2014, Maduro announced the arrest of three members of the Air Force. Maduro argued that they were “related to certain oppositions sectors” which were allegedly planning a coup d’etat, though no evidence has been produced.⁶²⁰ By 29 April, Maduro had arrested 30 members of the Air Force on the same grounds.⁶²¹ Rocío San Miguel, renowned human rights defender and specialist in military issues, claimed that with this accusation the GoV sought to control the Air Force, by intimidating and deterring political dissent.⁶²²

viii) Marcelo Crovato

⁶¹⁵ MADURADAS. (2014) ¡DICTADOR SUELTO! Maduro amenaza con cárcel al alcalde Ramón Muchacho + Video. *Maduradas*. [Online] 20 March. Available from: <http://www.maduradas.com/dictador-suelto-maduro-amenaza-con-carcel-al-alcalde-ramon-muchacho-video> [Accessed 25 October, 2015]

⁶¹⁶ MADURADAS. (2014) DICTADOR SUELTO! Maduro al próximo alcalde de San Diego: El primer paso en falso va preso; MADURADAS. (2014) ¡DICTADOR SUELTO! Maduro al próximo alcalde de San Diego: El primer paso en falso va preso. *Maduradas*. [Online] 23 April. Available from: <http://www.maduradas.com/dictador-suelto-maduro-al-proximo-alcalde-de-san-diego-el-primer-paso-en-falso-va-preso/> [Accessed 25 October, 2015]

⁶¹⁷ LA PATILLA. (2014) Adán Chávez se suma a las amenazas de encarcelamiento a alcaldes opositores; LA PATILLA. (2014) Adán Chávez se suma a las amenazas de encarcelamiento a alcaldes opositores

⁶¹⁸ NOTICIAS24. Denuncia ante el MP a Delson Guárate por “actos terroristas”: “Lo espera una celda fría”; NOTICIAS24. (2014) Denuncia ante el MP a Delson Guárate por “actos terroristas”: “Lo espera una celda fría.” *Noticias24*. [Online] 27 March. Available from: <http://www.noticias24.com/venezuela/noticia/230797/gobernador-tareck-el-aissami-denunciara-a-alcalde-nelson-guarres/> [Accessed 26 October, 2015]

⁶¹⁹ NOTICIAS24. (2014) Asociación de Alcaldes por Venezuela solicitó una “audiencia privada con la Unasur”

⁶²⁰ NOTICIAS24. (2014) Capturan a tres generales de la Aviación que “pretendían alzar a la Fuerza Aérea contra el Gobierno.”

⁶²¹ EL COMERCIO. (2014) Venezuela: 30 oficiales arrestados por conspirar contra Maduro; EL NUEVO HERALD. (2014) Detenidos al menos 30 oficiales en Venezuela

⁶²² MADURADAS. (2014) INCREÍBLE! Con militares detenidos buscan sembrar temor al desacato de órdenes ilegales

Human Rights lawyers have also been subject of the crime of imprisonment. This is the case of Marcelo Crovato. He worked as a lawyer with the Venezuelan NGO Foro Penal until he was detained on April 22, 2014. When he arrived to a police raid at his clients' home in Chacao, Caracas, to represent them as his attorney, the police detained him.⁶²³ The police did not have an arrest warrant against him nor caught him committing any crime, the only two legal grounds to arrest under Venezuelan law.⁶²⁴ The police was looking for evidence linked to the support and financing of the anti-government protests that had been taking place since the beginning of February 2014.⁶²⁵

The General Prosecutor's Office has subsequently accused Marcelo Crovato of endangering safety on a public road, incitement to break the law, public intimidation and conspiracy to commit a crime.⁶²⁶ These offences carry sentences of at least 15 years' imprisonment.

Venezuelan NGO Provea states that the only evidence against Crovato is that he legally assisted as a lawyer people whose house was object of a police raid.⁶²⁷ Amnesty International analysed the indictment issued by the General Prosecutor's Office and stated that "[t]he main basis for the charges is the testimony of an unidentified police officer who has accused Marcelo Crovato of taking part in a meeting on 10 April 2014 at which people allegedly responsible for organizing and building barricades and blocking the roads in Chacao were also present." Amnesty International concluded "the authorities have not produced any credible evidence to support the charges against him or implicating him in criminal acts". Therefore, the international NGO publicly called on the authorities to immediately release him.⁶²⁸

Crovato spent over 9 months in Yare III prison on pre-trial detention. During this time, not even the preliminary hearing of the trial took place.⁶²⁹ Following massive claims for

⁶²³ VÁSQUEZ, E. (2014) Abogado defensor de familia investigada también quedó preso. *El Universal*. [Online] 27 April. Available from: <http://www.eluniversal.com/caracas/140427/abogado-defensor-de-familia-investigada-tambien-queda-presos> [Accessed 26 October, 2015]; EL MUNDO. (2014) Detenido abogado del Foro Penal en Chacao. *El Mundo*. [Online] 22 April. Available from: <http://www.elmundo.com.ve/noticias/actualidad/noticias/detenido-abogado-del-foro-penal-en-chacao.aspx> [Accessed 26 October, 2015]

⁶²⁴ ACCION LIBERTAD. (2015) Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia

⁶²⁵ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.36

⁶²⁶ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.36

⁶²⁷ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos. pp. 62-63

⁶²⁸ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.36

⁶²⁹ ACCION LIBERTAD. (2015) Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia; GLOBOVISION. (2015) Diferida audiencia del abogado Marcelo Crovato. *Globovision*. [Online] 9 April. Available from: <http://globovision.com/diferida-audiencia-del-abogado-marcelo-crovato/> [Accessed 26 October, 2015]

his liberation,⁶³⁰ Crovato's hunger strike,⁶³¹ and, taking into account that he had skin cancer, the judge granted Crovato a house arrest until his trial.⁶³²

ix) **Rosmit Mantilla**

As has been argued, Human Rights activists have been persistently targeted and attacked by the GoV. For instance, Rosmit Mantilla an lesbian, gay, bisexual transgender and intersex (LGBTI) rights activist and member of the opposition party Popular Will (Voluntad Popular was arrested at his home in Caracas on May 2, 2014. He was arrested by SEBIN officers, under an arrest warrant based on "a statement by an unidentified individual alleging that Rosmit Mantilla had received funds from a group of businessmen in order to finance the anti-government protests taking place in Caracas at the time".⁶³³

SEBIN officials claim that, during the search of Mantilla's home that day, they found leaflets urging people to join the anti-government protests and envelopes containing money. Mantilla and his family claim that the SEBIN officials planted this evidence.⁶³⁴

⁶³⁰ MUNDO24. (2014) Foro Penal pide liberación de Crovato por delicado estado de salud. *Mundo24*. [Online] 22 December. Available from: <http://www.mundo24.net/foro-penal-pide-liberacion-de-crovato-por-delicado-estado-de-salud/> [Accessed 26 October, 2015]; MORALES, M. Amnistía Internacional pide libertad para Crovato. *El Nacional*. [Online] 22 December. Available from: http://www.el-nacional.com/politica/Amnistia-Internacional-pide-libertad-Crovato_0_541745922.html [Accessed 26 October, 2015]

⁶³¹ DE LA ROSA, A. (2015) El abogado Marcelo Crovato inició huelga de hambre en Yare III. *El Universal*. [Online] 23 February. Available from: <http://www.eluniversal.com/nacional-y-politica/150223/el-abogado-marcelo-crovato-inicio-huelga-de-hambre-en-yare-iii> [Accessed 26 October, 2015]; LA PATILLA. (2015) Abogado Marcelo Crovato inició huelga de hambre en Yare III. *La Patilla*. [Online] 23 February. Available from: <http://www.lapatilla.com/site/2015/02/23/abogado-marcelo-crovato-inicio-huelga-de-hambre-en-yare-iii/> [Accessed 26 October, 2015]

⁶³² EL UNIVERSAL. (2015) Crovato está en su residencia tras medida de arresto domiciliario. *El Universal*. [Online] 26 February. Available from: <http://www.eluniversal.com/nacional-y-politica/150226/crovato-esta-en-su-residencia-tras-medida-de-arresto-domiciliario> [Accessed 26 October, 2015]; EL IMPULSO. (2015) Casa por cárcel para Marcelo Crovato. *El Impulso*. [Online] 26 February. Available from: <http://elimpulso.com/articulo/casa-por-carcel-para-marcelo-crovato> [Accessed 26 October, 2015]

⁶³³ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.38; Venezuelan NGO Acción por la Libertad claims that this unidentified individual is a supporter of the GoV. See: ACCION LIBERTAD. (2015) Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia

⁶³⁴ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.38; <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/detuvieron-al-dirigente-juvenil-de-vp-rosmi-mantilla.aspx>. HYPERLINK "http://www.contrapunto.com/index.php?option=com_k2&view=item&id=14698:claves-del-caso-de-rosmi-mantilla&Itemid=264" http://www.contrapunto.com/index.php?option=com_k2&view=item&id=14698:claves-del-caso-de-rosmi-mantilla&Itemid

He has been detained in the SEBIN headquarters since, with his trial pending.⁶³⁵

Mantilla has been charged of public incitement and intimidation, obstructing a public highway, arson involving public and private buildings, violent damage and conspiracy to commit a crime.⁶³⁶ These offences carry a penalty of at least 18 years' imprisonment.

Amnesty International examined the charges brought by the General Prosecutor's Office. The international NGO reports that: "[t]he main basis for the charges is the testimony of an unidentified individual and the evidence that SEBIN officers claim to have discovered in Rosmit Mantilla's home". Amnesty International concludes that: "the General Prosecutor's Office has failed to present credible evidence linking Rosmit Mantilla to the crimes of which he is accused. For example, according to the General Prosecutor's Office's report, the authorities have based the charges of incitement, arson involving public and private buildings and violent damage on the fact that Rosmit Mantilla, according SEBIN's version of events, was in possession of leaflets calling for anti-government student protests". Moreover, the case's preliminary hearing has been postponed eleven times, extending its pre-trial detention, which constitutes a violation of the due process of law.⁶³⁷

x) **Antonio Ledezma**

In 2015, a new Mayor was arbitrarily arrested. On 19 February, SEBIN's officers broke into Mayor Antonio Ledezma's office and detained him without showing an arrest warrant.⁶³⁸ Antonio Ledezma was Mayor of Caracas and is a member of the opposition party Alianza Bravo Pueblo and, as Leopoldo López, a member of the MUD.⁶³⁹

"Ledezma will be held accountable for all his crimes," Maduro said in a speech that TV and radio stations across the country were required to deliver.⁶⁴⁰ Ledezma was translated to Ramo Verde, the same military prison in which López is imprisoned.

⁶³⁵ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.38; ACCION LIBERTAD. (2015) Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia

⁶³⁶ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.38; ACCION LIBERTAD. (2015) Derechos Humanos-Venezuela: Efectos de la criminalización de la protesta y la disidencia

⁶³⁷ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.38

⁶³⁸ BBC. (2009) Fue legal la detención del líder opositor venezolano Antonio Ledezma?; HRW. (2015) UNASUR: Condemn Abuses in Venezuela. *Human Rights Watch*. [Online] 26 February. Available from: <https://www.hrw.org/news/2015/02/26/unasur-condemn-abuses-venezuela> [Accessed 26 October, 2015]

⁶³⁹ BBC. (2015) Quién es Antonio Ledezma, el alcalde opositor arrestado por el gobierno de Venezuela

⁶⁴⁰ LA NACION. (2015) Nicolás Maduro: "Ledezma debe responder a la Justicia por los delitos cometidos contra la paz del país."

On 20 February, the General Prosecutor's Office charged Ledezma for his alleged participation in "a conspiracy to organize and execute violent acts against the democratically elected government."⁶⁴¹ The evidence against him includes a coerced statement from a former military officer accusing him of participating in an attempted coup.⁶⁴² If convicted, Ledezma could be sentenced to up to 26 years in prison.

Following Ledezma's detention, Amnesty International stated that "we cannot assume anything but that the authorities do not care about protecting human rights, rather they only care about silencing criticism".⁶⁴³ Amnesty called the arrest "worrisome" and "unacceptable". Several other NGOs and international leaders called for Ledezma's liberation.⁶⁴⁴ Human Rights Watch called Ledezma's detention "arbitrary" and stated that there wasn't any evidence that the Mayor had committed a crime. Therefore, it called for its immediate liberation.⁶⁴⁵ The international NGO noted that the GoV had "pursued criminal charges against at least five other opposition politicians; three have been jailed, including two sentenced in trials that violated basic due process rights".⁶⁴⁶

After undergoing surgery, Ledezma was temporarily transferred to house arrest on May 1, 2015.⁶⁴⁷

⁶⁴¹ HRW. (2015) UNASUR: Condemn Abuses in Venezuela

⁶⁴² EL PAIS. (2015) Alcalde de Caracas fue inculpatado por militar torturado, según abogado. *El País*. [Online] 22 February. Available from: <http://www.elpais.com.uy/mundo/alcalde-caracas-incriminado-militar-torturado.html> [Accessed 26 October, 2015]; HRW. (2015) UNASUR: Condemn Abuses in Venezuela

⁶⁴³ AMNESTY INTERNATIONAL. (2015) Venezuela: ¿Continúa la Cacería de Brujas? *Amnesty International*. [Online] 20 February. Available from: <http://www.amnistia.me/profiles/blogs/ledezma-20f> [Accessed 26 October, 2015]

⁶⁴⁴ FREEDOM HOUSE. (2015) Venezuela Should Release Ledezma, Other Opposition Leaders. *Freedom House*. [Online] 20 February. Available from: <https://freedomhouse.org/article/venezuela-should-release-ledezma-other-opposition-leaders#.VUCd1Wb4E7A> [Accessed 26 October, 2015]; EL VENEZOLANO. (2015) Foro Penal rechaza arresto de Ledezma y el uso de los poderes para perseguir. *El Venezolano*. [Online] 21 February. Available from: <http://elvenezolanonews.com/foro-penal-rechaza-arresto-de-ledezma-y-el-uso-de-los-poderes-para-perseguir/> [Accessed 26 October, 2015]; VA. (2015) Repudio mundial por detención de Ledezma. *Voz de América*. [Online] 20 February. Available from: <http://www.voanoticias.com/content/departamento-estado-veneucla-ledezma/2651386.html> [Accessed 26 October, 2015]; EL UNIVERSAL. (2015) Congreso de España pide liberación de Ledezma y López

⁶⁴⁵ EL UNIVERSAL. (2015) HRW deems "arbitrary" detention of Mayor Ledezma. *El Universal*. [Online] 20 February. Available from: <http://www.eluniversal.com/nacional-y-politica/150220/hrw-deems-arbitrary-detention-of-mayor-ledezma> [Accessed 26 October, 2015]; INFOBAE. (2015) Human Rights Watch condenó la detención 'arbitraria' de Ledezma y pidió su inmediata liberación. *Infobae América*. [Online] 20 February. Available from: <http://www.infobae.com/2015/02/20/1628016-human-rights-watch-condeno-la-detencion-arbitraria-ledezma-y-pidio-su-inmediata-liberacion> [Accessed 26 October, 2015]

⁶⁴⁶ HRW. (2015) UNASUR: Condemn Abuses in Venezuela

⁶⁴⁷ EL TIEMPO. (2015) Antonio Ledezma, en arresto domiciliario tras ser sometido a cirugía. *El Tiempo*. [Online] 27 October. Available from: <http://www.eltiempo.com/mundo/latinoamerica/arresto-domiciliario-para-ledezma/15666196> [Accessed 26 October, 2015]; ABC. (2015) Alcalde Ledezma en arresto domiciliario tras cirugía. *ABC*. [Online] 1 May. Available from:

On 13 October 2015, the UN Working Group on Arbitrary Detentions issued an opinion in favor of the Mayor Antonio Ledezma.⁶⁴⁸ In this decision, the Working Group concluded that the detention of Mayor Antonio Ledezma is arbitrary and that the mayor must be released immediately and should receive a just, comprehensive, and adequate compensation. It also concluded that there is a systematic pattern of arbitrary detentions in Venezuela that should be stopped and the GoV should take all the necessary measures to guarantee the right of all Venezuelans and those living within its jurisdiction not to be arbitrarily deprived of freedom.

It is further submitted, should the OTP conclude that the crimes above do not meet the required threshold for constituting the crime against humanity of imprisonment, it is alleged in the alternative the incidents presented above amount to the crime against humanity of persecution.

3. Torture as a crime against humanity

The elements to establish torture are: “(i) the infliction, by act or omission, of severe pain or suffering, whether physical or mental; (ii) the act or omission must be intentional; (iii) the act or omission must aim at obtaining information or a confession or at punishing, intimidating or coercing the victim or a third person, or at discriminating on any ground against the victim or a third person.”⁶⁴⁹

Members of the National Guard under the direction of General Antonio José Benavides Torres; the SEBIN under the direction of Manuel Gregorio Bernal Martínez from January 24 to February 17, and Gustavo Enrique González López from then on, Carlos Calderón, chief of investigations of SEBIN, and the Army –mainly through its control of the Military Prison of Ramo Verde- under the direction of Gerardo Izquierdo Torres and the Director of the Military Prison of Ramo Verde, Colonel Vilorio, have inflicted acts of torture on detainees.

The UN Committee against Torture expressed concern about reports that 437 attacks by pro-government armed groups of demonstrators were gathered during the protests⁶⁵⁰

<http://www.abc.com.py/internacionales/alcalde-ledezma-en-arresto-domiciliario-tras-cirugia-1362212.html> [Accessed 26 October, 2015]

⁶⁴⁸ RUNRUN. (2015) Consignan ante la OEA documento en el que piden liberación de Antonio Ledezma. *Runrun*. [Online] 19 October 2015. Available from: <http://runrun.es/nacional/venezuela-2/230698/consignan-ante-la-oea-documento-en-el-que-piden-liberacion-de-antonio-ledezma.html>

⁶⁴⁹ ICTY Prosecutor v Kunarac et al, Judgment February 22, 2001 The Trial Chamber para 497

⁶⁵⁰ AMNESTY INTERNATIONAL. (2015) Venezuela: Balance de derechos humanos tras un año de las protestas

and Foro Penal has formally registered 138 cases of torture or cruel and inhuman treatment in the context of detentions.⁶⁵¹ It is alleged that due to the fear of persecution and the absence of adequate legal recourse to victims, the actual number of victims is significantly higher and many of the victims have not reported incidents of victimization.

The People Defender Gabriela Ramírez (in office 2007-2014), who had the institutional duty to role of furthering, defending and overseeing the rights and guarantees established under the Constitution of Venezuela and international human rights treaties, played an important role in the cover-up and justification of the tortures committed against protesters and dissidents.⁶⁵² In fact, she publicly stated that torture could serve a purpose and could be justified under certain circumstances. In this sense, serving as People Defender, Ramírez said, “[f]or this reason, we should be very cautious while using certain terms. Torture consists of inflicting physical suffering on a person to obtain a confession, and we must differentiate torture from excessive treatment or disproportionate use of force.”⁶⁵³

The following are cases which illustrate the scope and nature of the acts of torture inflicted.

i) Juan Manuel Carrasco

One of the first cases that arose is that of Juan Manuel Carrasco, a 21-year-old carpenter. He was detained along with two friends during the night of 13th February 2014 by the National Guard in Valencia, Carabobo State nearby a protest zone.⁶⁵⁴ According to Carrasco members of the National Guard beat him up and sexually attacked him while he was at the National Guard’s Urban Security Detachment (Destacamento de Seguridad Urbana). “They got me on my knees and started hitting me with batons. They called me a son of a bitch, and said ‘We’re going to kill you’” he said, showing bruises on his torso and describing the actions of what he says were thirty (30) soldiers who then forced him and eleven (11) others to strip on February 13, 2014,”

⁶⁵¹ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

⁶⁵² LEPW76. (2014) Gabriela Ramirez expounds upon Torture in Venezuela (English Subtitles). *Youtube*. [Online] 8 March. Available from: <https://www.youtube.com/watch?v=YdJ7NbfzSw4> [Accessed 26 October, 2015]

⁶⁵³ ALONSO, J.F. (2014) For the UN, torture is not only aimed at obtaining a confession. *El Universal*. [Online] 10 March. Available from: <http://www.eluniversal.com/nacional-y-politica/140310/for-the-un-torture-is-not-only-aimed-at-obtaining-a-confession> [Accessed 26 October, 2015]

⁶⁵⁴ AMNESTY INTERNATIONAL. (2014) Venezuela: Human Rights at Risk Amid Protests. “They put us in a fetal position, on our knees and hit us, they just hit us. A guard went out and said that God would not save us even if we prayed and that this was our last day. They pulled my underpants down and stuck something up my behind. And they continued to hit us, hitting us until they were tired out.”

then “they shoved a rifle up my bottom.”⁶⁵⁵

Carrasco’s mother, Rebecca González de Carrasco, publicly called the General Prosecutor, the People’s Defender, and the President of the Supreme Tribunal of Justice to come to Valencia, Carabobo State to personally check the condition of her son and to investigate the circumstances under which her son was tortured, humiliated and raped by the Bolivarian National Guard while in custody.⁶⁵⁶ Juan Manuel Carrasco was visited during his detention by staff of the General Prosecutor’s Office, but he did not tell them anything for fear of reprisals, as the visit took place in the presence of members of the National Guard.⁶⁵⁷

Calling Carrasco’s claims unfounded, Venezuela’s General Prosecutor, Luisa Ortega Diaz, mocked Carrasco during a televised press conference, holding up a photo of a rifle and asking rhetorically: “Do you think that a person who has been violated, who had a rifle inserted in his anus, could sit down to make a declaration at his hearing?” According to Ortega Diaz,, medical reports did not corroborate Carrasco’s story.⁶⁵⁸ Juan Manuel Carrasco denied Luisa Ortega Diaz’s statement answering her with details about the tortures that he received and inviting to review the forensic reports of his case.⁶⁵⁹

Carrasco reported this to the same court where he was presented after his detention along with 10 other young people who had been beaten in different ways, including Jorge Luis León who had his skull fractured.⁶⁶⁰ To date there have been no charges filed or detainees, despite the fact that the National Guards who were involved in said acts have been identified in the respective police reports. In the case of Juan Manuel Carrasco, state officials have denied his assault despite there being medical examinations

⁶⁵⁵ GUPTA, G. (2014) Venezuela government faces brutality accusations over unrest. *Reuters*. [Online] 26 February. Available from: <http://www.reuters.com/article/2014/02/26/us-venezuela-protests-allegations-idUSBREA1P1AF20140226> [Accessed 26 October, 2015]

⁶⁵⁶ BEECH, M. (2014) A Mother Whose Son is Tortured in Venezuela Pleads for Justice. *Youtube*. [Online] 22 February. Available from: <https://www.youtube.com/watch?v=ttTX12M4Qys> [Accessed 26 October, 2015]

⁶⁵⁷ AMNESTY INTERNATIONAL. (2014) Venezuela: Human Rights at Risk Amid Protests. p.10

⁶⁵⁸ MORENO, J.T. (2014) Luisa Ortega Díaz: En Venezuela no hubo ninguna manifestación ni protesta pacífica; Also see: HENDERSON, V.L. (2014) Human Rights Watch Alert: All-Star Cast Doing Dirty Work for Venezuelan Regime?

⁶⁵⁹ CARABOBO REPORTA. (2014) Juan Manuel Carrasco responds to Luisa Ortega Diaz. *Youtube*. [Online] 25 February. Available from: <https://www.youtube.com/watch?v=FMK7RL087dw> [Accessed 26 October, 2015] In the video is possible to listen Carrasco responding to the General Prosecutor and stating that the CICPC has forensic reports signed by at least two Physicians showing aggressions against

⁶⁶⁰ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

to certify that he suffered from a “rectal haemorrhage.”⁶⁶¹

ii) Gengis Pinto

On 19 February 2014, a national guardsman fired at Gengis Pinto, a 36 years old, in his face at point blank range with rubber bullets, despite the fact that he had already been detained and was offering no resistance.

Pinto had been participating in an anti-government rally in San Antonio de los Altos, where hundreds of protesters had blocked off part of a highway. Pinto raised his arm to block the shot, which struck his hand, badly mangling several of his fingers, and embedded several pellets in his forearm. Despite serious pain, loss of blood, and several requests, guardsmen refused to take Pinto to a doctor. Instead, they beat him, threatened to kill him, and took him to a military base for questioning. Approximately six hours after being shot, guardsmen took Pinto to an emergency clinic, where they refused to let the doctor examine him privately. Though the doctor told guardsmen that Pinto needed immediate specialty care that the clinic could not provide, guardsmen ignored his advice and took Pinto back to the military base. There, he was handcuffed to another detainee and made to sit in the sun for roughly 10 more hours before being taken to a private clinic where he was operated on.⁶⁶²

iii) Daniel Quintero

On 21 February, 21-year-old student Daniel Quintero participated in an anti-government protest in Maracaibo (Zulia State). He was stopped in his way home by officials of the National Guard. They put him in an armed vehicle where officers took turns at beating him up. Daniel said that afterwards: “One of officers switched on the video on his mobile phone, handed it to a colleague, then got on top of me and made obscene sexual movements, they brushed my legs with their rifles and said to me ‘hey, he shaves his legs, they are going to rape you in Marite, and if they rape you, they will kill you as well’”.⁶⁶³

Quintero was then taken to the National Guard’s Regional Base No. 3 (Comando Regional 3) in Maracaibo, where the commanding officer “told me they were going to burn me. And at his side he had a can of petrol, wires and matches [...] and he said they were going to burn me and that nobody would ask about me [...] The whole army

⁶⁶¹ HENDERSON, V.L. (2014) Human Rights Watch Alert: All-Star Cast Doing Dirty Work for Venezuelan Regime?; Also see: FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

⁶⁶² HRW (2014). Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System. pp.16-17

⁶⁶³ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.28

unit, about 150 soldiers, surrounded me while he hit me nine times with his baton while talking to me and while I was still handcuffed.”⁶⁶⁴

Daniel was then taken to the offices of the National Guard’s Anti-Extortion and Kidnapping Squad (Grupo Antiextorsión y Secuestro, GAES), also in Maracaibo. Daniel told Amnesty International, "they put [me] in a cell and ordered me to strip down to my underwear. In the cell, they handcuffed my left hand to a bar attached the wall at about foot height. They said I had to obey two rules: I must not fall asleep, because guards do not sleep and they wanted me to feel like they did, and that I had to keep my feet together, with my right hand touching my ankles, and my navel practically touching my thighs. I had to stay in this doubled-up position all night, otherwise they would come and start hitting me.”⁶⁶⁵

iv) Marvinia Jiménez

A few days after, on 24 February 2014, in Carabobo, Marvinia Jiménez was detained and brutally attacked in Valencia by National Guard officers, who caused her severe injuries. Her contusions were caused by a female officer, who repeatedly hit her in her head with a helmet. The attack was recorded in photographs and video.⁶⁶⁶ Despite the Prosecutor’s indictment and a court-issued arrest warrant for the perpetrator, the officer has not been apprehended.⁶⁶⁷

v) Wuaddy Moreno

On 27 February 2014, Wuaddy Moreno had gone out with two friends to go to a birthday party. On the way back home, his motorcycle ran out of petrol in La Grita, Táchira State. Fifteen National Guard officers spotted them and pulled up beside them. The officers accused them of participating in the anti-government protests that had taken place. They took Moreno and his two friends to the public square in front of the army headquarters La Grita. The military officers then tortured them to try to get them to admit that they had participated in the protests and used firearms, and to implicate

⁶⁶⁴ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. pp.28-29

⁶⁶⁵ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. pp.28-29

⁶⁶⁶ MADURADAS. (2014) ;LA FOTO QUE RECORRIÓ EL MUNDO! Así quedó Marvinia luego de golpiza de la “Guardia del Pueblo.” *Maduradas*. [Online] 26 February. Available from:

<http://www.maduradas.com/la-foto-que-recorrio-el-mundo-asi-queda-marvinia-luego-de-golpiza-de-la-guardia-del-pueblo/> [Accessed 26 October, 2015]; TuKarmaTV. (2014) -video estabilizado- La brutal golpiza a Marvinia Jimenez por 'guardia del pueblo.'

⁶⁶⁷ NTN24. (2015) Marvinia Jiménez denuncia en NTN24 la impunidad que hay en Venezuela para los agresores de los ciudadanos disidentes. *NTN24*. [Online] 6 January. Available from:

<http://ntn24.com/video/agresora-de-marvina-jimenez-continua-en-libertad-habla-marvina-jimenez-36416> [Accessed 26 October, 2015]; LA VERDAD. (2014) La “justicia” se burla de Marvinia Jiménez. *La Verdad*. [Online] 18 August. Available from: <http://www.laverdad.com/politica/58431-la-justicia-se-burla-de-marvinia-jimenez.html> [Accessed 26 October, 2015]

the Mayor of La Grita in the financing of the protests. In Moreno's words: "That was when they burned all my papers [...] all those I had. They [...] took a screwdriver out the bag where I kept the tools for my motorcycle [...] they started to heat the screwdriver and to burn me with it. They said that I had been on the demonstrations. We told them that I hadn't. And they burned me. They beat up the friends that were with me, but I was the only one they burned." They were kept in the square for two hours, where Wuaddy Moreno was beaten with batons. He was then taken to the National Guard headquarters and held there until the following morning, when he was released without charge.⁶⁶⁸

Moreno lodged a formal complaint with the General Prosecutor's Office. However, he and his family have been the targets of intimidation on two occasions by members of the National Guard, including the officer alleged to have carried out the torture; he remains on active service. Officers have approached the family demanding that they withdraw the complaint.⁶⁶⁹

vi) Moisés Guanchez

On 3 March 2014, Moisés Guanchez was beaten and wounded by rubber bullets when detained by the GNB, as he left his workplace at the La Cascada Shopping Centre.⁶⁷⁰

vii) Rafael Angel Cardozo

On 17 March 2014, Rafael Angel Cardozo was arrested by members of the Bolivarian National Police in Táchira State. He was kept in detention for five days and spent at least one day in isolation.⁶⁷¹

According to his lawyer, the military repeatedly denied that it was holding Rafael Angel and refused access to him. From the moment he was arrested, Cardozo was punched and beaten in the face with helmets, deprived of sleep and threatened of being killed. He was forced to wear a crown made of rope and nails (known as "miguelitos") on his head. As consequence of this, he suffered lesions to the skin on his scalp of approximately 2cm.⁶⁷²

Prosecutors charged Cardozo with several offences including incitement and conspiracy

⁶⁶⁸ AMNESTY INTERNATIONAL, (2015) Venezuela submission the United Nations Human Rights Committee

⁶⁶⁹ AMNESTY INTERNATIONAL, (2015) Venezuela submission the United Nations Human Rights Committee

⁶⁷⁰ UZCATEGUI, R. (2014) La orfandad de llamarse Moisés Guánchez

⁶⁷¹ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.34

⁶⁷² AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.34

to commit a crime. The charges against him were eventually dismissed following a medical report that confirmed that Angel suffered from mental impairment and a cognitive disability that should be evident to any person with a sufficient level of education, given that people suffering from this condition have severe difficulties in understanding.”⁶⁷³

To date, there are no news of the progress of the investigations for torture and other abuses to which Cardozo was subjected during his detention.⁶⁷⁴

viii) Gloria Tobon

Two days later, on 19 March 2014, 47-year old unemployed Gloria Tobon was on her way from her hometown Rubio to San Cristobal, the capital city of Táchira State, in order to buy food. She was traveling with her daughter when they were stopped by officers of the National Guard, who grabbed Tobon by the neck and dragged her along the road for several meters before forcing her into a van.

While she was being taken to a detention center, they beat her up and threatened her with electric shocks to force her to say who were the leaders and financial backers of the protests. While she was detained, she was kept blindfolded, she was doused with water and then electric shocks were applied to her arms, breasts and genitals. She was threatened and told that she would be killed and buried in pieces.⁶⁷⁵

In an interview that she gave to the Venezuelan writer Leonardo Padron, Tobon said: “There they poured water on me. Time after time. Then they put electric shocks on my nails and feet. Very strong electrical shocks. They also did it on my breasts.”⁶⁷⁶

⁶⁷³ AMNESTY INTERNATIONAL. (2014) Briefing to the UN Committee Against Torture, 53 Session, November 2014. *Amnesty International* [Online] 3 November. Available from:

<https://www.amnesty.org/en/documents/amr53/020/2014/en/> [Accessed 26 October, 2015] p.15

⁶⁷⁴ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.34

⁶⁷⁵ AMNESTY INTERNATIONAL. (2014) Briefing to the UN Committee Against Torture, 53 Session, November 2014. pp.16-17

⁶⁷⁶ PADRON, L. (2014) I was a Liver. *Info Venezuela*. [Online] 25 May. Available from:

<http://infovznla.com/2014/06/04/i-was-a-liver/> [Accessed 26 October, 2015]. Gloria also said in her interview to Leonardo Padron that “Then came a woman who scolded the soldiers. She took me to my daughter. They had us handcuffed. And they were taking us from one room to another one by one. They were taking pictures of us. I did not know why. Each time they brought a student as a detainee it was horrible, the screams, what they did to them. My daughter was forced to watch how they were beating a guy, a nurse. Katheriin knew him. They made him kneel and kicked him in the face. They broke his nose and almost half of the teeth. He was bleeding so much that my daughter almost fainted. They mocked her. They said, ‘damned, we’ll take you to a pit, we’ll chop you into pieces’. My daughter was told that she would be transferred to the jail in Santa Ana so a prisoner could rape her. I was crying, I was too scared. I was blindfolded for twelve hours, imagine that. Every few minutes they came by and beat us. One stood on my daughter’s bare, just for amusement. They took our phones and wrote horrible things. When someone called me they said I was already

Furthermore, according to a report by Amnesty International, the General Prosecutor's Office informed that it has requested that the case be dismissed. This would result in the investigation into the Gloria Tobon's complaint of torture and other ill-treatment being closed without any of those responsible being brought to justice."⁶⁷⁷

ix) Jaime Yéspica

On 22 March 2014 in San Jacinto, Maracay, State of Aragua, the police operated with pro-government armed paramilitaries to arrest and injure many civilians, including Jaime Yéspica.⁶⁷⁸ Yéspica was captured by pro government armed paramilitary members and local police officers acting together.⁶⁷⁹ Once they held him and brutally attacked him. The attack was recorded and the video shows more than ten people hitting Yéspica.⁶⁸⁰ One local police officer hit Yéspica with a concrete block on his head, kicked him in his face and hit him with a wood stick.⁶⁸¹

x) Omar Briceño

On 23 April, 2014, 20 year-old student Omar Briceño was outside the Rafael Urdaneta University, near a pizza restaurant, in Zulia State, when there were protests in the area. Military officials came towards him and pushed him to the ground where they started to kick him and shout insults. Afterwards one of the officers, who Briceño identified by the surname Yáñez, shot him on his leg at close range with a shotgun with rubber bullets causing a serious injury.⁶⁸²

The National Security and Armed Forces as well as the pro-government armed paramilitaries who have been repressing the protests have adopted the practice of systematically shooting weapons with rubber bullets at close range (placing the barrel

⁶⁷⁷ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.32

⁶⁷⁸ In this video you can see how the colectivos hurts Jaime with the acquiescence of the local police ELSELVATICO. (2014) Brutal golpiza a estudiante Jaime Yespica en Aragua 19-03-2014. *Youtube*. [Online] 19 March. Available from: <https://www.youtube.com/watch?v=T9Ni7yrSkIA> [Accessed 26 October, 2015]; and testimony ELSELVATICO. (2014) Testimonio de Jaime Yespica (Estudiante de la UCV agredido en San Jacinto, Maracay). *Youtube*. [Online] 22 March. Available from: https://www.youtube.com/watch?v=w_ZWGJtmYrk [Accessed 22 October, 2015]

⁶⁷⁹ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

⁶⁸⁰ In this video you can see how the colectivos hurts Jaime with the acquiescence of the local police ELSELVATICO. (2014) Brutal golpiza a estudiante Jaime Yespica en Aragua 19-03-2014. and testimony ELSELVATICO. (2014) Testimonio de Jaime Yespica (Estudiante de la UCV agredido en San Jacinto, Maracay)

⁶⁸¹ DE LA ROSA, A. (2014) Casos de maltrato y tortura tras protestas están impunes. *El Universal*. [Online] 24 March. Available from: <http://www.eluniversal.com/nacional-y-politica/140324/casos-de-maltrato-y-tortura-tras-protestas-estan-impunes> [Accessed 26 October, 2015]

⁶⁸² FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

of the gun next to or very close to the body). Besides Briceño's case, this practice has caused deaths, as in the previously described cases of Geraldine Moreno and Kluiwerth Roa.⁶⁸³

xi) Gerardo Carrero

On 8 May 2014, 26 year-old student Gerardo Carrero was arrested along with other 213 people who were protesting in front of the United Nations Mission in Caracas headquarters, where the students had created a so-called "resistance camp".⁶⁸⁴ He was imprisoned along with other protesters at the SEBIN headquarters, located in El Helicoide, Caracas. In the afternoon of August 21, 2014, while the judicial proceedings and investigations continued, Gerardo Carrero, who had been jailed for 103 days, released an open letter directed to President Nicolás Maduro announcing his decision to start a hunger strike on the same day.⁶⁸⁵

According to Carrero, on August 21, 2014, the same day that the letter was made public, at approximately 8pm SEBIN agents forcibly removed him from his cell. They handcuffed him to a tube on the ceiling where he hung for 12 hours without a break (from 9am to 9pm). They wrapped his wrists in newspaper and adhesive tape to leave as few marks as possible. During this time, they shouted at him and insulted him, they threatened him and his family and they beat him up. Whilst beating him with wooden boards, they injured him on the back of his legs. He was hit so hard that three of the boards broke against his body. Despite the fact that they had also been wrapped up, some marks remained on the back of Gerardo's knees.⁶⁸⁶

On 23 January 2015, María Jose Carrero, Gerardo's sister, filed a complaint of torture, cruel, inhuman and degrading treatment before the General Prosecutor's Office, in relation to her brother's conditions of detention. He was moved from "The Tomb" - formed of a group of cells that are located in the basement number five 5 at the Sebin Plaza Venezuela, with cells painted all in white, they see no other colours other than that, prisoners uniforms are khaki and there are limitation of all kinds. The detainees are not allowed to exercise and they do not know when it is day or night, the physical

⁶⁸³ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

⁶⁸⁴ UN. (2014) Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes

⁶⁸⁵ SOUSA, D. (2014) Sebin torturó a estudiante en huelga de hambre. *Runrun*. [Online] 26 August. Available from: <http://runrun.es/nacional/crisis-en-venezuela/149645/sebin-torturo-estudiante-en-huelga-de-hambre.html> [Accessed 26 October, 2015]; LA PATILLA. (2014) Estudiante detenido en el Sebin en huelga de hambre, recibió una brutal golpiza. *La Patilla*. [Online] 25 August. Available from: <http://www.lapatilla.com/site/2014/08/25/estudiante-detenido-en-el-sebin-en-huelga-de-hambre-recibio-una-brutal-golpiza/> [Accessed 26 October, 2015]

⁶⁸⁶ FORO PENAL VENEZOLANO. (2015) Politically motivated detentions, torture, other cruel, inhuman or degrading treatment, and killings (2014-2015)

condition of all those detained there has changed dramatically.⁶⁸⁷ The detainees baptized the cells as the tomb because it is a remote place, cold, isolated, where the walls are white cement and furniture.⁶⁸⁸ He was then relocated to the SEBIN Headquarters.
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Similarly, Carrero's sister stated, "I do not understand how the authorities allow my brother to be in such a terrible and inhumane place. He has not been allowed access to his lawyers, not even once during the five months that he has been held there; he only sees them when he is taken to the court. He has lost track of time because they do not let him wear a watch. He has told me that he has hallucinations. The low temperatures he is subjected to throughout the day have caused significant skin abrasion. He does not breathe pure air, only recycled air from the air-conditioning. Sometimes his vision becomes blurred and he has significantly lost weight."⁶⁹⁰

Human rights NGOs in Venezuela have persistently denounced the use of cells in the SEBIN headquarters (known as "the tomb") for confining students and dissidents. They argue that the conditions of detention constitute mental or psychological torture.⁶⁹¹

On March 2 2015, the IACHR decided to request the adoption of precautionary measures in favor of Gerardo Carrero and other detainee named Lorent Saleh. This resolution demanded the Bolivarian Republic of Venezuela to adopt the measures necessary to preserve the life and physical integrity of these young students. The IACHR requested the GoV to "provide adequate medical care, according to the conditions of their diseases".

In April 2014, a dialogue process was initiated between the GoV and MUD, which

⁶⁸⁷ EL NACIONAL. (2015) Defensores de DDHH denuncian torturas en la sede del Sebin de Plaza Venezuela. *El Nacional*. [Online] http://www.el-nacional.com/politica/Defensores-DDHH-Sebin-Plaza-Venezuela_0_556744388.html [Accessed 26 October, 2015]

⁶⁸⁸ NTN24. (2015) "The Tomb" white torture center at SEBIN. *NTN24*. [Online] 27 January. Available from: <http://ntn24web.com/noticia/la-tumba-el-centro-de-tortura-blanca-del-sebin-38484> [Accessed 26 October, 2015]; LA NACION. (2015) Gerardo Carrero's cell is called The Tomb. *La Nación*. 20 January. Available from: <http://www.lanacion.com.ve/infogeneral/a-la-celda-de-gerardo-carrero-le-dicen-la-tumba/> [Accessed 26 October, 2015]

⁶⁸⁹ EL UNIVERSAL. (2015) Carrero: fresh out of The Tomb. *El Universal*. [Online] 18 April. Available from <http://www.eluniversal.com/nacional-y-politica/150418/carrero-fresh-out-of-the-tomb> [Accessed 26 October, 2015]

⁶⁹⁰ EL UNIVERSAL. (2015) Carrero: fresh out of The Tomb. *El Universal*. [Online] 18 April. Available from: <http://www.eluniversal.com/nacional-y-politica/150418/carrero-fresh-out-of-the-tomb> [Accessed 26 October, 2015]

⁶⁹¹ NTN24. (2014) Foro Penal Venezolano denounced torture against Gerardo Carrero. *Youtube*. [Online] 9 December. Available from: <https://www.youtube.com/watch?v=FsmJ9pdyjFs> [Accessed 26 October, 2015]; See also: CANTON, S.A. (2015) Venezuela, brujas y demonios. *El País*. [Online] 30 April. http://internacional.elpais.com/internacional/2015/04/30/actualidad/1430401529_990860.html [Accessed 26 October, 2015]

ended without any result.⁶⁹² Paramilitary group Movimiento Revolucionario Tupamaro's leader José Pinto was among the GoV designated spokesmen.⁶⁹³

xii) Xavier Beckles

In the meanwhile, the protests and demonstrations all around the country continued to take place and so did the violent and disproportionate repression. On 30 April, a civilian with Asperger syndrome, Xavier Beckles, was arrested and beaten.⁶⁹⁴

xiii) Rodolfo González

In this context, Maduro announced on TV that several individuals had been arrested charged with participating in a major conspiracy against the GoV. Rodolfo González, nicknamed "El Aviador" ("The Aviator") was described by Maduro as being "one of the brains behind the armed insurrection in Venezuela".⁶⁹⁵

Maduro stated that González had weapons and money, and that he had hired snipers and planned several barricades around the country, especially in Altamira. Then Minister of Interior, Justice and Peace Miguel Rodríguez Torrez elaborated on the details of the plan on TV and accused González of being a "logistic operator" of the barricades and protests. Rodríguez Torres stated that González was working with several other individuals, including then mayor of Caracas Antonio Ledezma, Floirán Barrios, Darío Ramón, Pablo Medina, Mirta Fernández, Rosmith Mantilla, Ana Karina García, Iván Carratú Molina (former Deputy Admiral of the Navy), Iván Ballesteros (a journalist, later summarily fired from his radio program following an order of CONATEL), Victor Ruiz, Lilian Tintori (Leopoldo López's wife) and several students leaders, including Juan Requesens and Gaby Arellano, among others.

The GoV could never present strong evidence against González. González was a 64-year-old private pilot who, along with his wife, supported the students that protested in

⁶⁹² MADURADAS. (2014) ¡HASTA AHORA MONÓLOGO! Inicia "diálogo" nacional con largo y aburrido discurso de Maduro

⁶⁹³ MADURADAS. (2014) ¡ASÍ DE ABSURDO! Líder Tupamaro propuso "Premio Nobel de la Paz" a Nicolás Maduro

⁶⁹⁴ FV. (2014) Comunicado Oficial sobre agresiones a Xavier Beckles. *Fundación Asperger de Venezuela*. [Online] Available from: <http://www.fundasperven.org.ve/2014/05/comunicado-oficial-sobre-agresiones.html> [Accessed 26 October, 2015]; CARDONA, L. (2014) Denuncian que estudiante autista fue torturado. *El Nacional*. [Online] 7 May. Available from: http://www.el-nacional.com/sociedad/Denuncian-estudiante-autista-torturado_0_404359750.html [Accessed 26 October, 2015]; EL COMERCIAL. (2014) Venezuela: Liberan a joven con Asperger detenido en protestas. *El Comercial*. [Online] 7 May. Available from: <http://elcomercio.pe/mundo/actualidad/venezuela-liberan-joven-asperger-detenido-protestas-noticia-1727892> [Accessed 26 October, 2015]

⁶⁹⁵ GLOBOVISION. (2014) Capturan a El Aviador, presunto "cerebro de las guarimbas."; EL PROPRIO. (2014) Capturan a "el aviador" supuesto cerebro de las guaridas venezolanas

Altamira, giving them food and water.⁶⁹⁶ Nevertheless, González was charged with conspiracy, possession of explosives and arms trafficking.⁶⁹⁷ Mr. González was put on pretrial detention in a SEBIN facility. Having spent almost one year in prison, he was informed by the authorities that he was going to be transferred to a dangerous prison. He hanged himself on 12 March, 2015, before being transferred. His lawyer argued that he was subjected to psychological torture.⁶⁹⁸

The IACHR expressed particular concern over González's death. It stated that the death took place under conditions that had been repeatedly denounced by specialized UN agencies and other organizations. The Commission noted that the SEBIN facilities had been persistently denounced for the alleged torture and ill-treatment of prisoners.⁶⁹⁹

xiv) Leopoldo López and Daniel Ceballos

The case of former mayors Leopoldo López and Daniel Ceballos deserves a special mention. Both of them, leaders of the political party Voluntad Popular, have been subjected to torture since the beginning of their detentions in February and March 2014, respectively, at the military prison of Ramo Verde, Miranda State directed by Colonel Violoria of the Venezuelan Army.

López and Ceballos have been detained in isolation during all their time in the prison. In the case of López, he is allowed one hour of solitary work out per day, but he remains in his cell in solitary isolation for twenty-three hours a day.

These imprisonment conditions which have existed since February 2014, constitute an "extended isolation" term.⁷⁰⁰ The isolation of López has the three elements that characterize the solitary confinement. In this regard, the terms of absolute isolation have been imposed in different occasions as punishment: for writing letters, for the presence of journalists in the prison, for a phone call and for the protest called "*el barrotazo*," during which López and Ceballos demonstrated their discontent by hitting

⁶⁹⁶ REPORTERO24. (2015) REPRESIÓN: Muere en prisión Rodolfo González "El Aviador."; MEZA, A. (2015) Hallado muerto Rodolfo González, prisionero político venezolano; VENEZUELA AL DÍA. (2015) Provea denunciará ante la CIDH tortura psicológica contra Rodolfo González

⁶⁹⁷ VYAS, K. and FORERO, J. (2015) Maduro Critic Rodolfo González Kills Self in Venezuela Detention. *Wall Street Journal*. [Online] 13 March. Available from: <http://www.wsj.com/articles/maduro-critic-rodolfo-gonzalez-kills-self-in-venezuela-detention-1426290748> [Accessed 26 October, 2015]

⁶⁹⁸ VYAS, K. and FORERO, J. (2015) Maduro Critic Rodolfo González Kills Self in Venezuela Detention

⁶⁹⁹ IACHR Expresses Deep Concern over the Situation regarding the Rule of Law in Venezuela

⁷⁰⁰ GENSER, J. and MAES, J.A. (2014) White Paper on the Case of Leopoldo López Mendoza Citizen of the Bolivarian Republic of Venezuela v. Government of the Bolivarian Republic of Venezuela. *Perseus Strategy*. [Online] 21 July. Available from: <http://perseus-strategies.com/wp-content/uploads/2014/09/Lopez-White-Paper-4.16.2015-English.pdf> [Accessed 26 October, 2015] pp.30-33

the bars inside their respective cells due to the lack of response of the judiciary to the opinion of the UN Working Group on Arbitrary Detention, which urged the government to free them immediately. The UN Special Rapporteur on Torture, Juan Méndez, has stated that: “[...] considering the severe mental damage or the suffering that isolation may cause, this practice is comparable to torture or to cruel, inhuman or degrading treatments, if used as punishment during the preventive detention or indefinitely.”⁷⁰¹

As a result of the protests of Leopoldo López, Daniel Ceballos and other political prisoners in the military prison of Ramo Verde, on the 24 October 2014, the Director of the prison, Colonel Homero Miranda ordered the detainees to do their physiological needs in plastic bags. The bags full of excrements were then tied with ropes to the ceiling and let off on Leopoldo López and Daniel Ceballos. They immediately interrupted the light and water services for twelve hours so they could not clean themselves.

Lilian Tintori and Patricia Ceballos, wives of Leopoldo López and Daniel Ceballos, respectively declared at a news conference: “(...) that the guardians threw human faeces to López and Ceballos in their cells, after they announced that they would do a night protest hitting the bars.”⁷⁰² This practice clearly violates the international obligations of the GoV against torture.

Further, should the OTP conclude that the crimes above do not meet the required threshold for constituting the crime against humanity of torture it is alleged in the alternative that that the crimes presented above amount to the crime against humanity of persecution and/or other inhumane acts.

xv) Marco Aurelio Coello

18-year-old Marco Aurelio Coello, who was arrested on 12 February 2014 reported being hit with blunt objects during his detention and being given electric shocks, after which he was detained for more than five months.

According to his mother, Marco was in a bathroom and handcuffed when a CICPC (Scientific Police) officer put a gun on his head and said: “We are going to kill you. We

⁷⁰¹ UN. (2011) Special Rapporteur on Torture of the UN Call to prohibit the Solitary Confinement. *United Nations*. [Online] 18 October. Available from: <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11506&> [Accessed 26 October, 2015]

⁷⁰² EL COMERCIAL. (2014) Custodian threw faeces to Leopoldo López. *El Comercio*. [Online] 30 October. Available from: <http://elcomercio.pe/mundo/latinoamerica/venezuela-policia-le-lanzo-excrementos-leopoldo-Lopez-noticia-1767909> [Accessed 26 October, 2015]

are going to plant evidence to say that you burn those police patrols”. He was wrapped up with tape and a foam rubber mat. Five officers punched him, kicked him and threatened him, stating: “Sign here. Say that you started the arson of the Office of the General Prosecutor building”. With two cables they applied electric discharges that made him pass out, until someone showed up and said “Do not kill him here! Not here where we can be seen”.⁷⁰³

In July 2014, a medical examination determined that Coello was suffering from post-traumatic stress, therefore, the court granted him with precautionary measures for the duration of the trial. Since then, Coello complied with reporting to the court periodically, however, he did not show up for his last hearing on 3 September 2015. He fled to the United States, claiming that if he were remained in Venezuela, he would be convicted without the right to defense in the middle of a judicial system that branded as "flawed".

On 15 September 2015, during an interview with Fernando Del Rincón that was broadcasted by CNN Spanish, Coello stated that he was tortured by policemen, who wanted to force him to sign a declaration to incriminate Leopoldo Lopez and himself as responsible of committing arson, murders.⁷⁰⁴

4. Other inhumane acts as a crime against humanity

The crime of other inhumane acts is “a residual category which includes acts not specifically enumerated.”⁷⁰⁵ The acts must be similar in gravity to the ones provided for⁷⁰⁶ and must be as serious as the other classes of crimes.⁷⁰⁷ They “must in fact cause injury to a human being in terms of physical or mental integrity, health or human dignity.”⁷⁰⁸ Acts such as mutilation and other types of severe bodily harm, beatings and other acts of violence and serious physical and mental injury have been found to constitute inhuman acts.⁷⁰⁹ The Appeals Chamber at the ICTY considered that “[i]nhumane acts as a crime against humanity is comprised of acts which fulfil the following conditions: the victim must have suffered serious bodily or mental harm; the degree of severity must be assessed on a case-by-case basis with due regard for the

⁷⁰³ MATA, R. (2014) February Testimonies. *Acción por la Libertad*. [Online] February 2014. Available from: <http://accionlibertad.org/wp-content/uploads/2015/10/february-testimonies-ROBERTO-MATA.pdf>

⁷⁰⁴ CNNESPANOL (2015) Marco Coello: "Me pusieron una pistola en la cabeza para que firmara una declaración". *Cnnspanol*. [Online] 15 September 2015. Available from: <http://cnnspanol.cnn.com/2015/09/15/marco-coello-me-pusieron-una-pistola-en-la-cabeza-para-que-firma-una-declaracion/>

⁷⁰⁵ ICC. *Prosecutor v Kordic and Cerkez*. Judgment Trial Chamber. 26 February, 2001. para. 269

⁷⁰⁶ ICC. *Prosecutor v Tadic*. Judgment Trial Chamber. 7 May, 1997. para. 729

⁷⁰⁷ ICC. *Prosecutor v Kupresic et al*. Judgment Trial Chamber. 14 January, 2000. para. 566

⁷⁰⁸ ICC. *Prosecutor v Tadic*. Judgment Trial Chamber. 7 May. 1997 para. 729

⁷⁰⁹ ICC. *Prosecutor v Tadic*. Judgment Trial Chamber. 7 May. 1997. para. 730

individual circumstances; the suffering must be the result of an act or omission of the accused or his subordinate and when the offence was committed, the accused or his subordinate must have been motivated by the intent to inflict serious bodily or mental harm upon the victim.”⁷¹⁰

The ICTR also recognised that a third party witnessing crimes committed against others particularly if those others are family or friends could suffer mental harm.⁷¹¹

It has been reported that the repression of the protests has resulted in around at least 878 injured civilians since February 2014⁷¹² of which at least 138 were wounded by gunshot, 330 by pellets, 72 people by being beaten up, 34 people were injured by blunt objects and the remaining 280 wounded suffered injuries of various kinds.⁷¹³

The analysis of different stages of protests’ repression by the GoV demonstrates that the security and armed forces, as well as the pro-government armed paramilitary forces under control of the GoV, have constantly attacked and injured peaceful and unarmed civilians including by way of live ammunition fired at demonstrators and homes in residential areas.⁷¹⁴

Amnesty International had access to statements from victims, eyewitnesses and journalists reporting on the protests, as well as medical personnel who treated the injured and photographic, video evidence and analysis of riot equipment and non-regulation equipment used and concluded that law enforcement officials used excessive force on many occasions against protesters, passers-by and residents in areas where protests took place between February and July 2014.⁷¹⁵

Similarly, the Committee against Torture expressed concern about the unlawful use of firearms and riot equipment against protesters in residential areas during the 2014 protests.⁷¹⁶

The next paragraphs will present a few examples of the wide variety of inhumane acts that took place which may not constitute specific acts provided in the RS but are of a

⁷¹⁰ ICC. *Prosecutor v Kordic and Cerkez*. Judgment Appeals Chamber. 17 December, 2004. para. 117

⁷¹¹ ICC. *Prosecutor v Fofana and Kondewa*. Trial Judgment. 2 August, 2007. para. 153

⁷¹² AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.7

⁷¹³ PROVEA. (2014) Venezuela 2014: Protestas y Derechos Humanos

⁷¹⁴ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.19

⁷¹⁵ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.7

⁷¹⁶ COMMITTEE AGAINST TORTURE. (2014). Observaciones finales sobre los informes periódicos tercero y cuarto combinados de la República Bolivariana de Venezuela (CAT/C/VEN/CO/3- 4). *United Nations*. [Online] 12 December. Available from: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/VEN/CO/3-4&Lang=sp [Accessed 26 October, 2015] para. 12

similar character and have caused great suffering and health injuries to the Venezuelan civilian populations including to particularly vulnerable civilians such as children and the elderly.

i) Yanueliz Vaca

On 26 February 2014, 20-year-old student nurse Yanueliz Vaca was shot and wounded by members of the security forces near her family home in La Fría municipality, Táchira State. According to Vaca, the security forces started to throw tear-gas grenades and fire rubber bullets at some demonstrators to disperse them. Although she was suffering from the effects of tear gas, she tried to take cover behind a parked car to protect herself from the bullets. While she was crouched there, she was shot in the shoulder. The wound resulted in a haemothorax (the rupture caused blood to flow into the space between the thorax and the lung) and two broken ribs. She was hospitalized for two weeks and almost a year later she was still in pain. The bullet wound still causes Yaneuliz pain. It has not been possible to remove the bullet, which remains lodged near her spine causing her intense back pain.⁷¹⁷

ii) Rodrigo Pérez

On March 7, 21 year-old Rodrigo Pérez was hit several times in his back and head with rubber pellets as he was running away from state police officials who had opened fire with rubber bullets at demonstrators in Puerto La Cruz (Anzoategui State). Pérez continued to be hit as he ran into a nearby mall's parking lot. Once he was able to hid in a store, he saw several security forces agents enter the mall's food court and fired at unarmed, fleeing civilians.⁷¹⁸

iii) Anthony Gregorio Carrero

On 19 March 2014, Anthony Gregorio Carrero was wounded on his way home from work. He was struck on the left-hand side of his chest by a bullet fired at close range, reportedly by an officer of the National Guard, as officers dispersed a protest by local residents in San Cristóbal, Táchira State.

According to the medical report, Carrero required surgery for a gunshot wound; a bullet had pierced the left-hand side of his diaphragm. Anthony Carrero told Amnesty International that he was discharged prematurely, just five days after the operation, because medical personnel feared that he would be detained if he remained in hospital.

⁷¹⁷ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.24

⁷¹⁸ HRW (2014). Punished for Protesting: Rights Violations in Venezuela's Streets, Detention Centers, and Justice System. p.8

Several months later he had to be readmitted to hospital for emergency treatment to drain his lung.⁷¹⁹

iv) John Michael Ortiz Fernández

On 21 April 2014, 16-year-old John Michael Ortiz Fernández was hit in the left eye by a rubber bullet, when he went out onto the balcony of his home in San Cristóbal (Táchira State). The bullet burned the retina and doctors have stated that he will not retain more than 30% of his sight in his left eye. Ortiz Fernández told Amnesty International that on that day protests broke out in the area where he lives. A member of the National Police reportedly fired tear-gas grenades and rubber pullets to break up the protest. John Michael went out onto the balcony when he heard shots. He described the circumstances in which the shot was fired: “I went out and as soon as the police officer saw me on the balcony, he raised his gun and fired immediately”. According to his family, despite the seriousness of the injuries, when they arrived at the medical centre, staff initially refused to treat him until representatives of the General Prosecutor’s Office arrived. John Michael and his family lodged a formal complaint with the General Prosecutor’s Office. However, at the time of writing they had not been informed of any significant progress in the case and no one had been charged in connection with the incident.⁷²⁰

Further, should the OTP conclude that the crimes above do not meet the required threshold for constituting the crime against humanity of other inhuman acts, it is alleged in the alternative the incidents presented above amount to the crime against humanity of persecution.

5. Persecution as crime against humanity

Persecution is a crime which requires an act intended to cause and result in an infringement on an individuals enjoyment other basic fundamental right.⁷²¹ The Appeals Chamber at the ICTY held that “the acts underlying the crime of persecution, whether considered in isolation or in conjunction with other acts, must constitute a crime of persecution of gravity equal to the [other] crimes. (...)”⁷²²

The ICTY jurisprudence also indicates that the crime of persecution must be committed on discriminatory grounds, specifically race religion or politics.⁷²³

⁷¹⁹ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.24

⁷²⁰ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.25

⁷²¹ KHAN, K.A.A., DIXON, R. and FULFORD, A. (2009) Archbold: International Criminal Courts Practice, Procedure and Evidence. *Sweet & Maxwell*.

⁷²² ICC. *Prosecutor v Korojelic*. Appeal Judgment. 17 September, 2003. para [...]

⁷²³ ICC. *Prosecutor v Tadic*. Judgment Appeal Chamber. 15 July, 1999. para 281-305

As presented at the beginning of this section, the GoV has adopted a policy of attacking and severely depriving of fundamental rights those individuals perceived as political dissidents and identified as “fascists” by the highest spheres of government. This policy is part of the bigger GoV’s objective of retaining power by all means and aims at deterring and punishing political dissent, as well as covering up the crimes committed.

Since February 2014, a significant number of civilians perceived to be fascists, including political leaders, political activists, businessmen, media owners, employees, journalists and media employees as well as human rights and NGO leaders and lawyers, have been victims of serious and repeated threats and attempts to their lives and liberties on the basis of their political beliefs. Although the exact numbers of cases are unconfirmed due to the fear of reporting victimization and the absence of adequate judicial remedies, the numerous incidents of exiled individuals and the consistency of the reports illustrate the existing policy of the GoV.

This section will describe several instances in which the GoV has intentionally and severely deprived individuals of fundamental rights on the basis of their perceived political affiliation. This section will illustrate how the GoV has persecuted political leaders, political activists, businessmen, media owners, employees and journalists, as well as Human Rights and NGOs activists and lawyers perceived as political dissidents. These persecutions have taken place since February 2014, in the context of the commission of acts of murder, imprisonment, torture and other inhumane acts described above.

i) Persecution against political leaders

The amount of leaders and activists of the Popular Will (Voluntad Popular) who were arrested from February to August 2014 totals 199 people.⁷²⁴ The state television accused them of being “terrorists”. Carlos Vecchio, National Political Coordinator of Popular Will stated that “hundreds of activists have been persecuted and detained by the state.”⁷²⁵ In addition, Vecchio indicated that some people who were arrested in the protests had indicated that they had been subjected to “torture”.

⁷²⁴ EL NUEVO HERALD. (2014) La oposición venezolana mantiene el optimismo a pesar de las dificultades. *El Nuevo Herald*. [Online] 14 August 2014. Available from: <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article2038425.html#storylink=cpy>

⁷²⁵ VEONOTICIA. (2014) Carlos Vecchio denunció en la ONU la violación de los Derechos Humanos. *Veonoticia*. [Online] 6 June 2014. Available from: <http://veonoticia.com/carlos-vecchio-denuncio-en-la-onu-la-violacion-de-los-derechos-humanos/>

According to an analyst from IHS Global Insight/IHS Jane's,⁷²⁶ the SEBIN had issued “a considerable number of citations to appear against activists and leaders of Popular Will. Human Rights Watch stated that the proceedings against the Voluntad Popular politicians and other members of the opposition illustrate “one of the largest weaknesses of democracy in Venezuela of our time: the lack of independence of the judicial system,” adding that the government “controls the Supreme Court and intimidates the judges”.⁷²⁷

On May 28, 2014 the Political High Command of the Bolivarian Revolution represented in that opportunity by Vice President Jorge Arreaza, first lady Cilia Flores, Minister of Energy Rafael Ramirez, Mayor of Libertador Municipality Jorge Rodriguez and Governor of Aragua state Tareck El Aissami appeared on the TV show of the President of the National Assembly of Venezuela Diosdado Cabello -called “Con el Mazo Dando” (“Striking with the Hammer”).

They presented a series of e-mails allegedly belonging to María Corina Machado, the political opposition leader and former member of the National Assembly who had recently been stripped of her seat by the PSUV majority.⁷²⁸ The members of the High Command argued on the show that these e-mails involved senior Venezuelan politicians including Gustavo Tarre Briceño, Diego Arria, Henrique Salas Romer, Eligio Cedeno, Pedro Mario Burelli and Ricardo Koesling as well as the US Ambassador to Colombia Kevin Whitaker in a plan to undermine the stability of the Republic of Venezuela and assassinate Nicolás Maduro, Diosdado Cabello and Tareck El Aissami.⁷²⁹

Jorge Rodriguez, the mayor of Libertador, stated that there was “a complot aimed at ending the peace linked to the assassination attempt. They raised funds to commit the murder of Nicolás Maduro, along with a continued military coup, which fortunately was disabled timely.”⁷³⁰ He also explained that all the evidence presented was part of a

⁷²⁶ REFWORLD. (2014) Venezuela: The political party Voluntad Popular, its structure, as well as its main positions and officials; the conditions to become a party member, including a description of the membership card; the treatment reserved for members of this political party by the authorities (2013-September 2014). *Refworld*. [Online] 24 September 2014. Available from: <http://www.refworld.org/docid/556816ccd.html>

⁷²⁷ VOLUNTAD POPULAR. (2014) Human Rights Watch condena abusos, persecución política y censura en Venezuela. *Voluntad Popular*. [Online] March 2014. Available from: <http://www.voluntadpopular.com/index.php/ver-noticia/8-noticias/1191-human-rights-watch-condena-abusos-persecucion-politica-y-censura-en-venezuela>

⁷²⁸ BBC. (2014) Venezuela opposition congresswoman's mandate revoked. *BBC*. [Online] 25 March. Available from: <http://www.bbc.com/news/world-latin-america-26726282> [Accessed 26 October, 2015]

⁷²⁹ VTV. (2014) Parece que la página no existe. *Venezolana de Television*. [Online] 28 May. Available from: <http://www.vtv.gob.ve/articulos/2014/05/28/el-aisami-estan-en-marcha-planes-magnicidas-de-ultraderecha-y-funcionarios-de-eeuu-para-amenazar-la-paz-y-el-futuro-de-familias-venezolanas-55> [Accessed 26 October, 2015]

⁷³⁰ PERÚ21. (2014) Venezuela: Chavismo denuncia complot e implica a un embajador de EEUU. *Perú21*. [Online] 28 May. Available from: <http://peru21.pe/mundo/venezuela-chavismo-denuncia-complot->

criminal investigation: “We have gathered some evidence that the administration of justice through the General Prosecutor’s Office carried.”⁷³¹ Rodriguez added that also are involved in the plan, led by Maria Corina Machado, are the former banker Eligio Cedeño, who would be one of the major financiers of “La Salida” (“The Exit”), together with Diego Arria and other fugitive bankers.

In addition, Governor of Aragua state and leader of the Political High Command of the Bolivarian Revolution El Aissami added that “we first alerted all Chavista forces and social movements of Venezuela and the world, because there is a new plan of assassination, directed and planned by the Venezuelan extreme right with participation of officials from the US State Department.” El Aissami argued that these e-mails showed how sectors led by Machado already knew that the House of Representatives of the US Congress would approve the “sanctions” against senior GoV officials. “We announced it was a *fait accompli*, which confirms the direct links of these right-wing sector with senior officials of the US government, in fact that they having announced a decision before that it happens means that there is a strong participation” said El Aissami.⁷³²

In May 2014 senior spokespersons of the government, including Diosdado Cabello, publicly denounced the existence of an alleged plot of “conspiracy and hostility of the United States toward Venezuela.”⁷³³ In this context, then Minister of Interior and Justice and Peace, Miguel Rodríguez Torres, at a press conference claimed to have information about “alleged national and international plots of insurrection against the Government of Nicolás Maduro” and presented a list of the persons who were supposedly involved, which included student and opposition leaders such as Leopoldo López (who had already been imprisoned) and his wife Lilian Tintori, David Smolansky (Mayor of the Municipality of El Hatillo), Diego Arria (former presidential primary candidate for the MUD), Antonio Ledezma (then Mayor of the Metropolitan District of Caracas), Gabriela Arellano (student leader), María Corina Machado and Humberto Prado, among others.⁷³⁴

On June 12, 2014, Diosdado Cabello presented additional alleged evidence related to

[implica-embajador-ecuu-2185287](#) [Accessed 26 October, 2015]; INFOBAE. (2014) El chavismo denuncia supuesto plan de golpe de Estado y magnicidio contra Maduro. *Infobae América*. [Online] 28 May. Available from: <http://www.infobae.com/2014/05/28/1568351-el-chavismo-denuncia-supuesto-plan-golpe-estado-y-magnicidio-contra-maduro> [Accessed 26 October, 2015]

⁷³¹ LA CRUZ, V. (2014) Gobierno implica a Machado en presunto "plan magnicida y golpe de Estado." *El Universal*. [Online] 28 May. Available from: <http://www.eluniversal.com/nacional-y-politica/140528/gobierno-implica-a-machado-en-presunto-plan-magnicida-y-golpe-de-estad> [Accessed 26 October, 2015]

⁷³² VTV. (2014) Parece que la página no existe

⁷³³ IACHR. (2015) Annual Report 2014

⁷³⁴ IACHR. (2015) Annual Report 2014

the so-called plan to assassinate President Maduro and perpetrate a coup in Venezuela. Cabello appeared on his TV show with several members of the High Command as guests, including Mayor of the Libertador Municipality, Jorge Rodríguez.

Rodríguez unveiled a recording comprising several conversations involving Pedro Mario Burelli (former board member of Petroleos de Venezuela and Venezuelan businessman living in the United States) talking with an unidentified member of the Venezuelan military about the alleged conspiracy.⁷³⁵ Jorge Rodríguez also showed alleged emails sent by María Corina Machado to several politicians that according to Rodríguez were member of the extreme right, including constitutional lawyer Gustavo Tarre Briceño, former governor and presidential candidate Henrique Salas Römer, and former presidential candidate and Venezuelan Ambassador to the United Nations Diego Arria.⁷³⁶

On the same day, the General Prosecutor Luisa Ortega Díaz called nine people to appear before her office in order to give testimony on their alleged involvement in the plot to assassinate President Maduro. Ortega Díaz stated that given the certainty that three of them would not attend she had decided to issue an arrest warrant against them: former governor of the Federal District Diego Arria; External former Director of PDVSA Pedro Mario Burelli and lawyer Ricardo Koesling.

The General Prosecutor also ordered that student leader and member of Popular Will Gabriela Arellano must appear as a witness before her office and before the SEBIN on June 17, 2014.⁷³⁷

On June 30, 2014, a cyber security forensics expert stated that the emails used by the GoV to accuse political opponents and U.S. diplomats of conspiring to assassinate President Nicolás Maduro last month were fake. The expert was hired by Pedro Mario Burelli in an effort to clear his name.⁷³⁸

Gabriela Arellano was eventually accused of “conspiracy” on January 16, 2015, by the

⁷³⁵ TELESUR. (2014) Revelan nuevas pruebas sobre plan magnicida en Venezuela. *Telesur*. [Online] 12 June. Available from: <http://www.telesurtv.net/news/Revelan-nuevas-pruebas-sobre-plan-magnicida-en-Venezuela-20140613-0094.html> [Accessed 26 October, 2015]

⁷³⁶ TELESUR. (2014) Al descubierto plan de magnicidio en Venezuela. *Telesur*. [Online] 28 May. Available from: <http://www.telesurtv.net/news/Al-descubierto-plan-de-magnicidio-en-Venezuela-20140528-0015.html> [Accessed 26 October, 2015]

⁷³⁷ EL TIEMPO. (2014) Fiscalía dictó orden de captura contra Arria, Burelli y Koesling. *El Tiempo*. [Online] 12 June. Available from: <http://eltiempo.com.ve/venezuela/politica/fiscalia-dicto-orden-de-captura-contra-arria-burelli-y-koesling/142446> [Accessed 26 October, 2015]

⁷³⁸ DE CÓRDOBA, J. (2014) Expert Says Emails Used to Accuse Maduro Opponents of Assassination Plot Are Fake

National Prosecutor Katherine Harrington.⁷³⁹

Carlos Vecchio was also among the political leaders victims of persecution. Vecchio is a lawyer and political coordinator of Voluntad Popular. On February 27, 2014, the Office of the General Prosecutor issued an arrest warrant against him. He was accused of planning violent acts that occurred after the demonstration that raised on February 12, 2014. The Office of the General Prosecutor charged him with the crime of arson, public incitement, damage and association to commit crimes, though no evidence was ever produced linking him to these crimes.⁷⁴⁰ The warrant was issued less than a week after Voluntad Popular National Coordinator Leopoldo López surrendered to the authorities.⁷⁴¹ “It has all the elements of a political persecution”, argued Ramón Guillermo Aveledo, Executive Secretary of the MUD.⁷⁴²

After spending three months in hiding, Carlos Vecchio, who has persistently denounced the violation of Human Rights in Venezuela, fled the country and has been since living in the exile.⁷⁴³ Socialist International has demanded “the guarantee of fundamental rights and the return of the exiled opposition leaders, rejecting the political disqualifications” explicitly mentioning the case of Carlos Vecchio.⁷⁴⁴

On November 28, 2014 the General Prosecutor’s Office cited María Corina Machado as defendant, formally accusing her of being involved in a plan to murder President Nicolás Maduro. The General Prosecutor Luisa Ortega Diaz announced that Machado would be investigated by National Prosecutor Katherine Harrington. For the same events Prosecutor Harrington has also been investigating Henrique Salas Romer, Diego Arria Salicetti, Ricardo Emilio Koesling, Gustavo Tarre Briceno, Pedro Mario Burelli and Robert Alonso.

⁷³⁹ NOTICIAS24. (2015) Gaby Arellano fue imputada por el delito de conspiración (+fotos). *Noticias24*. [Online] 16 January. Available from: <http://www.noticias24.com/venezuela/noticia/270663/gaby-arellano-asistira-hoy-a-la-fiscalia-tras-ser-citada-en-calidad-de-imputada/> [Accessed 26 October, 2015]

⁷⁴⁰ PRIMICIA. (2014) Carlos Vecchio acusado de incendio internacional, instigación pública y daños. *Primicia*. [Online] 27 February. Available from: <http://www.primicia.com.ve/politica/carlos-vecchio-acusado-de-incendio-intencional-instigacion-publica-y-danos.html> [Accessed 26 October, 2015]

⁷⁴¹ EL PAIS. (2014) Hallado muerto Rodolfo González, prisionero político venezolano

⁷⁴² EL PAIS. (2014) Hallado muerto Rodolfo González, prisionero político venezolano

⁷⁴³ CEPAZ. (2014) Sistematización de patrones de persecución a la disidencia política venezolana. *Centro de Justicia y Paz*. [Online] December. Available from: <http://www.derechos.org/vp/wp-content/uploads/Informe-final-Persecución-pol%C3%ADtica-en-Venezuela.pdf> [Accessed 26 October, 2015]. See also: LA PRENSA. (2014) Carlos Vecchio huye para denunciar situación venezolana. *La Prensa*. [Online] 6 June. Available from: http://www.prensa.com/mundo/Carlos-Vecchio-denunciar-situacion-venezolana_0_3952104797.html [Accessed 26 October, 2015]

⁷⁴⁴ UN. (2015) Meeting of the Council of the Socialist International. *United Nations*. [Online] 7 June. Available from: [http://www.socialistinternational.org/images/dynamicImages/files/FINAL%20Venezuela-Eng\(1\).pdf](http://www.socialistinternational.org/images/dynamicImages/files/FINAL%20Venezuela-Eng(1).pdf) [Accessed 26 October, 2015]

Until now, the only evidence that has been produced against Machado are the e-mails alleged to have been sent by her.⁷⁴⁵ Nevertheless, President Maduro has personally labelled Machado as an “assassin,” while Cabello, the National Assembly President, has accused her of deleting the emails.⁷⁴⁶ The General Prosecutor’s Office has also obtained an order to forbid Machado from leaving the country.⁷⁴⁷

Furthermore, as previously mentioned, on February 19 2015, dozens of members of the SEBIN forcefully entered Mayor Antonio Ledezma’s Caracas office and detained him without showing an arrest warrant. That same day, President Maduro said on national TV that Ledezma would be prosecuted for the crimes he committed “against the peace of the country, security, and the Constitution.”⁷⁴⁸

On February 20, the Office of General Prosecutor charged Ledezma for his alleged participation in “a conspiracy to organize and execute violent acts against the democratically elected government.” The evidence against him includes a coerced statement from a former military officer accusing him of participating in an attempted coup, his lawyer told the news media.⁷⁴⁹

⁷⁴⁵ MARTIZ, V.L. (2014) Los dudosos pilares de la acusación contra María Corina Machado. *El Tiempo*. [Online] 9 December. Available from: <http://www.eltiempo.com/mundo/latinoamerica/los-pilares-de-la-acusacion-contraria-maria-corina-machado/14941379> [Accessed 26 October, 2015]; ANALÍTICA.

(2014) ¿Por qué María Corina? *Análitica*. [Online] 28 November. Available from: <http://www.analitica.com/opinion/por-que-maria-corina/> [Accessed 26 October, 2015]

⁷⁴⁶ ABC. (2014) Maduro llama «asesina» a la dirigente opositora María Corina Machado. *ABC International*. [Online] 5 June. Available from: <http://www.abc.es/internacional/20140604/abci-maduro-llama-asesina-maria-201406041740.html> [Accessed 26 October, 2015]; INFOBAE. (2014) Maduro llamó "asesina" a Machado y adelantó que pedirá explicaciones oficiales a EEUU. *Ifobae América*. [Online] 4 June. Available from: <http://www.infobae.com/2014/06/04/1569991-maduro-llamo-asesina-machado-y-adelanto-que-pedira-explicaciones-oficiales-eeuu> [Accessed 26 October, 2015]; NOTICIERO

DIGITAL. (2014) Diosdado Cabello: María Corina Machado contrató un hacker para borrar la evidencia. *Noticiero Digital*. [Online] 9 June. Available from: <http://www.noticierodigital.com/2014/06/diosdado-cabello-maria-corina-machado-contrato-un-hacker-para-borrar-la-evidencia/> [Accessed 26 October, 2015]; ULTIMAS NOTICIAS. (2014) Cabello reitera: Oposición contrató hacker para "un trabajito." *Últimas Noticias*. [Online] 10 June. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/cabello-reitera-oposicion-contrato-hacker-para-un-.aspx> [Accessed 26 October, 2015]

⁷⁴⁷ ALONSO, J.F. (2014) Tribunal dicta prohibición de salida del país a María Corina Machado. *El Universal*. [Online] 18 June. Available from: <http://www.eluniversal.com/nacional-y-politica/140618/tribunal-dicta-prohibicion-de-salida-del-pais-a-maria-corina-machado> [Accessed 26 October, 2015]; LA TERCERA. (2014) Venezuela: prohíben salida de país a ex congresista María Corina Machado. *La Tercera*. [Online] 21 June. Available from:

<http://www.latercera.com/noticia/mundo/2014/06/678-583463-9-venezuela-prohiben-salida-de-pais-a-ex-congresista-maria-corina-machado.shtml> [Accessed 26 October, 2015]

⁷⁴⁸ HRW. (2015) UNASUR: Condemn Abuses in Venezuela; PANAM POST. (2015) Caracas Mayor’s Arrest Met with Regional Condemnation. *Panama Post*. [Online] 20 February. Available from: <http://panamapost.com/sabrina-martin/2015/02/20/caracas-mayors-arrest-met-with-regional-condemnation/> [Accessed 26 October, 2015]

⁷⁴⁹ TAL CUAL. (2015) El testigo torturado. *Tal Cual*. [Online] 23 February. Available from: <http://www.talcualdigital.com/Nota/113577/El-Testigo-Torturado> [Accessed 26 October, 2015]; AROCHA, J.P. (2015) Un militar torturado “vendió” a Ledezma. *La Verdad*. [Online] 22 February.

Amnesty International called Ledezma's arrest as "politically motivated" and highlighted that, according to the Venezuelan Mayors' Association, at the end of February 2015, 33 of the 73 mayors belonging to opposition parties were facing legal proceedings.⁷⁵⁰

ii) **Persecution against political activists**

Following opposition leader Leopoldo López's detention, a protest group was formed. This group, named "Resistance Movement" ("Movimiento Resistencia") organized several protests in Caracas, demanding policy changes and the liberation of the political prisoners.⁷⁵¹ The GoV has constantly persecuted this group and committed several crimes in order to abolish it and therefore the public protests they organised.

As the murder section of this document describes, two members of the Resistance Movement were found dead in Catia, Caracas, on 21 February 2015 with a shot in their faces: Yasmin Tovar and Luis Aranyi García. Before being killed, they had been threatened several times by pro-government armed paramilitaries, which told them that they should not protest against the GoV.⁷⁵²

Furthermore, several members of the Movement were imprisoned. Most importantly, on 20 and 21 March 2015, Resistance Movement members Félix Ortuño, Jeison Guarate, Léwis Pérez, Eucaris Espinoza, Geraldine Molina, Ángel Sucre and William Portillo were followed and arrested in different parts of the city by National Police officers dressed as civilians.⁷⁵³ They were all accused by the Office of Public Prosecutions of several crimes, including illegal possession of drugs, weapon, and participation in an attack against a military officer in Chacao, Caracas⁷⁵⁴ which they are now being planted by the police.

Before their detention, the members of the group had been receiving death threats. They were told that if they continued protesting they would end up like Yasmin

Available from: <http://www.laverdad.com/politica/70024-un-militar-torturado-vendio-a-ledezma.html>
[Accessed 26 October, 2015]

⁷⁵⁰ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.9

⁷⁵¹ EL NACIONAL VENEZUELA. (2015) Los rostros de la Resistencia

⁷⁵² RÍSQUEZ, R. (2015) Estudiante de 'Resistencia' hallado muerto en Catia había sido amenazado por colectivos del 23 de Enero; RÍSQUEZ, R. (2015) El último día de Yamir Tovar en 4 estaciones

⁷⁵³ LUGO, A. (2015) Policías y colectivos persiguen a miembros del Movimiento Resistencia; EL RAZON. (2015) El fin de semana siete estudiantes fueron arrestados

⁷⁵⁴ LUGO, A. (2015) Policías y colectivos persiguen a miembros del Movimiento Resistencia.

Tovar.⁷⁵⁵

The GoV has also persecuted civilians for expressing their political opinions on Twitter. Many have not only been arrested, but also publicly threatened and accused of committing several crimes by senior GoV officials, including Diosdado Cabello and Nicolás Maduro.

In its 2014 Annual Report, the IACHR expressed its concern on the matter: “Between August 22 and October 15, at least seven people were arrested after expressing their opinions on Twitter and taken to the offices of the Bolivarian National Intelligence Service (Sebin). Inés Margarita González received a summons from the Office of the General Prosecutor after posting a tweet about the death of the governing party deputy Robert Serra. In her presentation, the 13th Court prosecutor charged her with the offenses of public incitement, violent affront, and insulting a government official, for which she has been in detention since October 8. Six other individuals were arrested after the Speaker of the National Assembly, Diosdado Cabello, accused them on his show *Con El Mazo Dando* of sending ‘threatening and mocking messages in connection with the murders of Robert Serra and María Herrera.’ The criminal authorities said that the Twitter users were being detained for alleged messages of ‘public incitement.’ According to reports, Ginette Hernández, a humanities student was arrested and charged with computer fraud and spreading public panic and fear for allegedly posting a tweet in which she predicted the death of deputy Serra. Lessy Marcano, Hernández’s putative uncle, is accused of the same crimes and using the same account. Leonel Sánchez Camero is under investigation for allegedly hacking the Twitter accounts of Jacqueline Faría, Minister of Communications; Gabriela del Mar Ramírez, the then People Defender; and deputy Eduardo Lima. Víctor Ugas was detained for circulating images of deputy Serra’s corpse. Abrahan [sic] David Muñoz, an engineering student, was detained for making comments about the death of deputy Serra. Muñoz has since been released. Daniely Benítez, a humanities student, was arrested for alleged association with the account in which the death of deputy Serra was predicted; however, she has been released because of no proof of any connection to the account.”⁷⁵⁶

Inés González was arrested in Zulia, on October 8, 2014, under the charges of outrage of a public officer, violent outrage and public instigate to commit a crime, because of

⁷⁵⁵ LUGO, A. (2015) Policías y colectivos persiguen a miembros del Movimiento Resistencia; and LUGO, A. Miembros del Movimiento Resistencia han sido intimidados; EL NACIONAL VENEZUELA. (2015) Los rostros de la Resistencia

⁷⁵⁶ EL PROPRIO. (2014) Liberaron a Daniely Benítez al descubrir que no era @Hiipolita. *El Proprio*. [Online] 19 October. Available from: http://www.elpropio.com/actualidad/Liberaron-Daniely-Benitez-descubrir-Hiipolita_0_611938849.html [Accessed 26 October, 2015]; LEANEZ, J. (2014) Ellos son los jóvenes detenidos por la cuenta en Twitter de @Hiipolita. *La Radio del Sur*. [Online] 19 October. Available from: <https://laradiodelsur.com.ve/2014/10/19/ellos-son-los-jovenes-detenidos-por-la-cuenta-en-twitter-de-hiipolita/> [Accessed 26 October, 2015]

her comments on twitter about Robert Serra⁷⁵⁷, a young deputy related with the “colectivos”⁷⁵⁸ who was stabbed to death on October 1, 2014.⁷⁵⁹

On November 20, the court ordered her release from the SEBIN facility in which she was detained, but the SEBIN refused to release her.⁷⁶⁰ Six days later, the same court ordered a deprivation of liberty measure,⁷⁶¹ which was considered by the family, lawyers and NGO as disproportionate measure in light of the crime⁷⁶² and the violations to the due process.⁷⁶³ She was ridiculed by Diosdado Cabello on his TV show “Con el Mazo Dando.”⁷⁶⁴

iii) **Persecution against businessmen**

The persecution against businessmen began during Hugo Chávez’s government and it

⁷⁵⁷ GLOBALVOICES. (2014) Venezuela: Usuarios de Twitter detenidos tras asesinato de diputado socialista; EL VENEZOLANO. (2014) ¿Quién mató al Diputado Robert Serra? El hombre fuerte de los colectivos chavistas

⁷⁵⁸ EL NUEVO HERALD. (2014) Serra era el hombre fuerte de los colectivos chavistas. *El Nuevo Herald*. [Online] 2 October. Available from: <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article2488378.html> [Accessed 26 October, 2015]

⁷⁵⁹ NEDERR, S. (2015) Opinar por Twitter se convirtió en delito. *El Nacional*. [Online] 15 Febrero. Available from: http://www.el-nacional.com/politica/Opinar-Twitter-convirtio-delito_0_574742635.html [Accessed 26 October, 2015]

⁷⁶⁰ VENEZUELA AWARENESS. (2014) 25N Sebin no ha acatado orden de liberación inmediata de twittera Inesita Terrible. *Venezuela Awareness*. [Online] 25 November. Available from: <http://www.venezuelaawareness.com/2014/11/sebin-no-ha-acatado-orden-de-liberacion-inmediata-de-twittera-inesita-terrible/> [Accessed 26 October, 2015]

⁷⁶¹ MADARIAGA, S. (2014) Tribunal que había otorgado libertad a tuitera contra Maduro, ahora le dicta orden de captura. *Ahora Vision*. [Online] 28 November. Available from: <https://ahoravision.com/tribunal-que-habia-otorgado-libertad-tuitera-contramaduro-ahora-le-dicta-orden-de-captura/> [Accessed 26 October, 2015]; LA VERDAD. (2014) Publican orden de libertad a tuitera zuliana. *La Verdad*. [Online] 23 November. Available from: <http://www.laverdad.com/politica/64587-publican-orden-de-libertad-a-tuitera-zuliana.html> [Accessed 26 October, 2015]

⁷⁶² Alfredo Romero (Foro Penal) claim that the Prosecutor Office imputed her from other crimes unsuitable to the case, just to arise the punishment and left her in prison. YOYO PRESS. (2014) El caso de “Inesita Terrible” sigue activo: La tuitera se habría arrepentido de lo que escribió (+Detalles). *Yoyo Press*. [Online] 11 October. Available from: <http://yoyopress.com/2014/10/11/el-caso-de-inesita-terrible-sigue-activo-la-tuitera-se-habria-arrepentido-de-lo-que-escribio-detalles/> [Accessed 26 October, 2015]

⁷⁶³ MADURADAS. (2014) ¡LA PERSECUCIÓN DEL RÉGIMEN! Familiares de “Inesita Terrible” explican irregularidades del caso. *Maduradas*. [Online] 24 October. Available from: <http://www.maduradas.com/la-persecucion-del-regimen-familiares-de-inesita-terrible-explican-irregularidades-del-caso/> [Accessed 26 October, 2015]

⁷⁶⁴ VENEZUELA AWARENESS. (2014) Privativa de libertad para dos nuevos usuarios de twitter 17 October. *Venezuela Awareness*. [Online] 18 October. Available from: <http://www.venezuelaawareness.com/tag/ginette-hernandez/> [Accessed 26 October, 2015]; MADURADAS. (2014) ¡EL DEMONIO GOZANDO! Cabello goza por detención de tuiteros que escribieron contra el régimen. *Maduradas*. [Online] 17 October. Available from: <http://www.maduradas.com/el-demonio-gozando-cabello-goza-por-detencion-de-tuiteros-que-escribieron-contraelregimen/> [Accessed 26 October, 2015]

has increased under Maduro's regime

As described in the background section, Venezuela's economic situation has been worsening during the last years. As of 2015, the country is facing huge scarcities caused mainly by the decrease in the oil prices which reduces the public and private sector's ability to import foreign goods.⁷⁶⁵

Faced with this situation, senior officials of the GoV pursuant to the state policy accused certain private entrepreneurs accused of being as right-wing capitalists, neoliberals, oligarchs and bourgeois⁷⁶⁶ and of starting an "economic war" to "reduce or limit the offer of essential massive products" to generate scarcity and harm the GoV in alliance with the political opposition.⁷⁶⁷ The need to fight this "economic war" has been emphasized in several GoV's communications media.⁷⁶⁸

On January 27 2015, President Maduro created the "Joint Chiefs of Economic Battle" led by Ernesto Villegas, a civilian and Fabio Zabarce Pavón, a military officer. The new institution was staffed in all the Venezuelan states in order to "lead the battle for the prosperity, the supplying, and the economic upturn for all the Venezuelan."⁷⁶⁹ The "Joint Chiefs" –Maduro explained- would work in collaboration with the Ministers, in special with Carlos Osorio and Elías Jaua, Ministers of Communes and Social Movements respectively.

⁷⁶⁵ THE ECONOMIST. (2015) Empty shelves and rhetoric. *The Economist*. [Online] 22 January. Available from: <http://www.economist.com/news/americas/21640395-government-offers-no-solutions-mounting-economic-crisis-empty-shelves-and-rhetoric> [Accessed 26 October, 2015]; FLANNERY, N.P. (2015) How Bad Is Venezuela's Economic Chaos? *Forbes*. [Online] 18 February. Available from: <http://www.forbes.com/sites/nathanielparishflannery/2015/02/18/how-venezuelas-economic-crisis-hurts-u-s-companies/> [Accessed 26 October, 2015]; FEDECAMARAS. (2014) Las erradas políticas económicas son las verdaderas causas de la escasez y de la inflación. *Fedecamaras*. [Online] Available from: <http://www.fedecamaras.org.ve/detalle.php?id=1849> [Accessed 26 October, 2015]

⁷⁶⁶ NOTICIAS BARQUISIMETO. (2015) Maduro: "La Guerra Económica atenta contra la vida de los venezolanos." *Noticias Barquisimeto*. [Online] 24 July. Available from: <http://www.noticiasbarquisimeto.com/2015/07/136244/maduro-la-guerra-economica-atenta-contra-la-vida-de-los-venezolanos/> [Accessed 26 October, 2015]

⁷⁶⁷ The shortages are deliberately caused primarily by opposition sectors and private enterprises in order to cause destabilization. TELESUR. (2015) The Truth Behind Shortages in Venezuela; and VTV. (2014) Claves para entender la "guerra económica" en Venezuela; EL UNIVERSAL. (2015) Maduro: La inversión social es la forma de combatir la guerra económica. *El Universal*. [Online] 30 May. Available from: <http://www.eluniversal.com/nacional-y-politica/150530/maduro-la-inversion-social-es-la-forma-de-combatir-la-guerra-economica> [Accessed 27 October, 2015]

⁷⁶⁸ MV. (2015) Guerra Económica; TELESUR. (2015) Claves: Quiénes están detrás del acaparamiento en Venezuela?

⁷⁶⁹ AVN. (2015) Ernesto Villegas es designado Jefe del Estado Mayor de la Batalla Económica en Caracas. *Agencia Venezolana de Noticias*. [Online] 27 January. Available from: <http://www.avn.info.ve/contenido/ernesto-villegas-es-designado-jefe-del-estado-mayor-batalla-econ%C3%B3mica-caracas> [Accessed 27 October, 2015]

Maduro invited them to meet to “review how to address the joint work and develop a communication mechanism” and to immediately establish a “system of secure supply” which would include fingerprints machines to control how much every person is buying as well as secure supply identification carts. Maduro instructed the intelligence corps to free every municipality from the “professional buyers.”⁷⁷⁰

Likewise, Ernesto Villegas declared that the UBCH, Popular Fight Circles, communal councils, communes, and others organizations will contribute (...) to identify those who are behind the economic war⁷⁷¹

On April 13, 2015, Maduro called for a national union to defend the Bolivarian Revolution against “the Empire”, which was using the economic war as one of its weapons to destabilize Venezuela. “It’s them or us”, he said.⁷⁷² Maduro has constantly highlighted the need to “battle the economic war”⁷⁷³.

On May 1, 2015, labour day holiday in Venezuela, Maduro declared “We have not full awareness of the damage that the oligarchy is producing to the people’s economy (...) sometimes we don’t see the face of the monster who seeks to destroy the economy and disrupt the people to put an end to socialism and the Bolivarian Revolution of Venezuela.”⁷⁷⁴

To fight this “economic war” against the right-wing capitalists, the GoV has arrested, investigated and harassed several businessmen and businesses’ employees.

At least 20 of them have been charged with boycott,⁷⁷⁵ a criminal offence created under the “Fair Prices Law”, a law sanctioned by Maduro himself under the enabling law approved by the National Assembly under the PSUV majority. The next paragraphs

⁷⁷⁰ DESCIFRADO. (2015) Instalan Estado Mayor para la batalla económica. *Descifrado*. [Online] 28 January. Available from: <http://www.descifrado.com/2015/01/economia/instalan-estado-mayor-para-la-batalla-economica/> [Accessed 27 October, 2015]

⁷⁷¹ GDC. (2015) Jefe Civil del Estado Mayor de la Batalla Económica en Caracas invitó a trabajar en conjunto a todas las organizaciones. *Gobierno Distrito Capital*. [Online] 1 February. Available from: http://www.gdc.gob.ve/content/site/module/news/op/displaystory/story_id/3722/format/html/ [Accessed 27 October, 2015]

⁷⁷² RODRÍGUEZ, M.L. (2015) “Ellos o nosotros” *Misión Verdad*. [Online] 18 April. Available from: <http://misionverdad.com/columnistas/ellos-o-nosotros> [Accessed 27 October, 2015]

⁷⁷³ TELESUR. (2014) Maduro pide al pueblo luchar contra la guerra económica. *Telesur*. [Online] 26 August. Available from: <http://www.telesurtv.net/news/Maduro-pide-al-pueblo-luchar-contr-la-guerra-economica-20140826-0057.html> [Accessed 27 October, 2015]

⁷⁷⁴ VTV. (2015) Maduro pide tomar conciencia de la Guerra Económica oligárquica que busca destruir la Revolución (+Video). *Venezolana de Televisión*. [Online] 1 May. Available from: <http://www.vtv.gob.ve/articulos/2015/05/01/maduro-pide-tomar-conciencia-de-la-guerra-economica-oligarquica-que-busca-destruir-la-revolucion-video-8057.html> [Accessed 27 October, 2015]

⁷⁷⁵ EL MUNDO. (2015) Más de 20 empresarios han sido acusados por boicot; and <http://www.2001.com.ve/en-la-agenda/89720/empresarios--desfilan--por-el-sebin-.html>

will describe a few examples of the many instances of persecution against businessmen and businesses' employees in 2015.

On January 31, Pedro Luis Angarita and Agustín Antonio Álvarez, President and Vice president of pharmacy chain Farmatodo respectively, were arrested. The arrests were made after the GoV had carried out more than 60 inspections in Farmatodo stores only in January.⁷⁷⁶ Five days after their arrest, they were accused by the prosecutors Carolina Morgado, Israel Paredes and Facberm Useche, under the charges of boycott and causing instability to the national economy, which are crimes categorized in the “Fair Prices Law”, for allegedly promoting long queues in their stores.⁷⁷⁷ They were released 44 days after, with the order to appear every 15 days before the court and with the prohibition to leave the country without the authorization of the court.⁷⁷⁸

Maduro himself confirmed that the detention of Angarita and Álvarez were made pursuant to the GoV's overall policy. “I have some conspirators, owners of stores, imprisoned in SEBIN facilities (...). I asked the Prosecutors to accelerate the proceedings to get them in jail, for sabotaging the Venezuelan people. [T]his store chain is the spear point of a conspiracy [by the] coward and parasitic oligarchy.”⁷⁷⁹ Maduro argued that Farmatodo opened just a few cash registers in order to promote the queues in what he alleged was a “guerrilla tactic.”⁷⁸⁰ He then called on the majors, governors, and military and police officers to act with celerity should they find an irregularity of this kind.⁷⁸¹

⁷⁷⁶ CONTRERAS, R. (2015) Conozca los directivos detenidos por caso Farmatodo. *2001.com.ve*. [Online] 2 February. Available from: <http://www.2001.com.ve/con-la-gente/89590/conozca-los-directivos-detenido-por-caso-farmatodo.html> [Accessed 27 October, 2015]; PANORAMA.COM.VE. (2015) Cadena Farmatodo envía comunicado tras detención de sus trabajadores. *Panorama.com.ve*. [Online] Available from: http://www.panorama.com.ve/contenidos/2015/02/02/noticia_0061.html [Accessed 27 October, 2015]

⁷⁷⁷ EL NACIONAL. (2015) Privan de libertad a presidente y vicepresidente de Farmatodo. *El Nacional*. [Online] 4 February. Available from: http://www.el-nacional.com/politica/Privan-libertad-presidente-vicepresidente-Farmatodo_0_568743330.html [Accessed 27 October, 2015]; EL UNIVERSAL. (2015) Directivos de Farmatodo fueron privados de libertad. *El Universal*. [Online] 5 January. Available from: <http://www.eluniversal.com/economia/150205/directivos-de-farmatodo-fueron-privados-de-libertad> [Accessed 27 October, 2015]

⁷⁷⁸ PRESS REPORT. (2015) Liberaron a directivos de Farmatodo. *Press Report*. [Online] 21 March. <http://www.press-report.co.ve/nombres-de-los-duenos-de-farmatodo-detenido> [Accessed 27 October, 2015]

⁷⁷⁹ MADURADAS. (2015) ¡INCREÍBLE! Maduro confirma detención de directiva de Farmatodo por colas: “Que vayan bien presos.” *Maduradas*. [Online] 1 February. Available from: <http://www.maduradas.com/increible-maduro-confirma-detencion-de-directiva-de-farmatodo-por-colas-que-vayan-bien-presos/> [Accessed 27 October, 2015]; PANORAMA.COM.VE. (2015) Cadena Farmatodo envía comunicado tras detención de sus trabajadores

⁷⁸⁰ MADURADAS. (2015) ¡INCREÍBLE! Maduro confirma detención de directiva de Farmatodo por colas: “Que vayan bien presos.”

⁷⁸¹ MADURADAS. (2015) ¡INCREÍBLE! Maduro confirma detención de directiva de Farmatodo por colas: “Que vayan bien presos.”

On February 2, 2015, the CEO of Día a Día Practimercados⁷⁸² Manuel Andrés Morales was arrested by SEBIN when leaving GoV's Miraflores Palace where he had met with Carlos Osorio, Vice President of Security and Sovereignty of Foods.⁷⁸³ He was arrested along with Luis Rodríguez, President of National Association of Supermarkets and Self-services (ANSA) who spent one night in prison.⁷⁸⁴ Morales' arrest followed a GoV inspection the previous day, in which stocks of goods were allegedly found.⁷⁸⁵

Four days later, Morales was charged by the National Prosecutor Israel Paredes with boycott and causing instability to the national economy.⁷⁸⁶ The court kept him on pre-trial detention.

On February 3, 2015, Diosdado Cabello announced the "temporary occupation" of Día a Día's "storage, production and sales, in order to protect the Venezuelan". Days later, Maduro himself stated that PDVAL (GoV's chain of food) would take control of the business.⁷⁸⁷ "Día a Día" argued that they hadn't committed any crimes, that they had only one deposit to supply all their stores and therefore the products founds did not constitute any kind of accumulation of goods aimed at boycotting the GoV or destabilizing the economy.⁷⁸⁸

⁷⁸² "Día a Día Practimercados" is a supermarke food chain who has 35 stores in lower class zones. See: <http://www.diadia.com.ve/index.php>

⁷⁸³ NOTICIAS24. (2015) Sebin detuvo a un directivo de la cadena Día a Día y al Presidente de Ansa. *Noticias24*. [Online] 2 February. Available from: <http://www.noticias24.com/venezuela/noticia/272736/sebin-detuvo-a-un-directivo-de-la-cadena-dia-a-dia-y-al-presidente-de-ansa/> [Accessed 27 October, 2015]; MORENO, J.T. (2015) Presidente de Día a Día: Lo que nos interesa es que se siga llevando el alimento a los sectores populares. *El Nacional*. [Online] 7 February. Available from: http://www.el-nacional.com/economia/Jose-Vicente-Aguerrevere-sectores-populares_0_570543041.html [Accessed 27 October, 2015]

⁷⁸⁴ NOTICIAS24. (2015) Sebin detuvo a un directivo de la cadena Día a Día y al Presidente de Ansa

⁷⁸⁵ ULTIMAS NOTICIAS. (2015) Privan de libertad a director de supermercado Día Día por boicot. *Ultimas Noticias*. [Online] 6 February. Available from:

<http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/privan-de-libertad-a-director-de-supermercado-dia-.aspx> [Accessed 27 October, 2015]; EL UNIVERSAL. (2015) Cabello anuncia ocupación temporal de la cadena Día a Día. *El Universal*. [Online] 3 February. Available from: <http://www.eluniversal.com/economia/150203/cabello-anuncia-ocupacion-temporal-de-la-cadena-dia-a-dia> [Accessed 27 October, 2015]

⁷⁸⁶ ULTIMAS NOTICIAS. (2015) Privan de libertad a director de supermercado Día Día por boicot

⁷⁸⁷ NOTICIERO POPULAR. (2015) Maduro: Pdval asumirá cadena de supermercados Día a Día. *Noticiero Popular*. [Online] 19 February. Available from: <http://noticieropopular.com/maduro-pdval-asumira-cadena-de-supermercados-dia-dia/> [Accessed 27 October, 2015] The measure was published in Official Journal 40.603 of February 19, 2015; See: ULTIMAS NOTICIAS. (2015) Pdval administrará temporalmente supermercados Día Día. *Ultimas Noticias*. [Online] 19 February. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/economia/pdval-administrara-temporalmente-supermercados-dia.aspx> [Accessed 27 October, 2015]

⁷⁸⁸ PANORAMA.COM.VE. (2015) Comunicado de cadena de supermercados Día a Día: No hemos incurrido en boicot. *Panorama.com.ve*. [Online] 9 February. Available from: http://www.panorama.com.ve/contenidos/2015/02/07/noticia_0030.html [Accessed 27 October, 2015]

Furthermore, on February 8, Día a Día's external lawyer Tadeo Arrieche was arrested under the same charges.⁷⁸⁹ Arrieche was found to be responsible for boycott with the aggravating circumstance of economic destabilization, despite the fact that he had no authority to make any kind of administrative, operational or logistic decision whatsoever.⁷⁹⁰

Similarly, on May 3, Día a Día's General Manager for Caracas West Zone Jorge Fernández was arrested under the charge of boycott following a direct order of the of the Vice President of Security and Sovereignty of Foods Carlos Osorio himself, following instructions of Nicolás Maduro.⁷⁹¹ Once again, they argued that their were incentivizing the queues in the store in order to boycott the GoV. Maduro's words addressing the Venezuelan population: "This is a sabotage of undercover groups, of corrupt persons, of bureaucrats who do not care about the people [...]. I need your help in every corner, on the street to solve these problems. This is sabotage"⁷⁹²

While Maduro alleged that Día a Día was boycotting the national economy, presenting as main evidence of this crime the fact that long queues could be seen in their supermarkets, and ignoring the fact that the queues in the GoV's supermarkets were much longer due to scarcity.⁷⁹³ In the meantime, the Vice President of the Republic Jorge Arreaza asked for "zero tolerance" against the queues.⁷⁹⁴

⁷⁸⁹ ALONSO, J.F. (2015) 36 juristas tachan de atentado contra la abogacía el caso de Tadeo Arrieche. *El Universal*. [Online] 5 March. Available from: <http://www.eluniversal.com/nacional-y-politica/150305/36-juristas-tachan-de-atentado-contra-la-abogacia-el-caso-de-tadeo-arr> [Accessed 27 October, 2015]

⁷⁹⁰ ALONSO, J.F. (2015) 36 juristas tachan de atentado contra la abogacía el caso de Tadeo Arrieche

⁷⁹¹ NOTICIERO DIGITAL. (2015) Maduro ordena "ponerle los ganchos" a gerente de Pdval que administra un Día a Día. *Noticiero Digital*. [Online] 1 May. Available from: <http://www.noticierodigital.com/2015/05/maduro-ordena-ponerle-los-ganchos-a-gerente-de-pdval-que-administra-un-dia-a-dia/> [Accessed 27 October, 2015]; RUNRUN. (2015) Gerente de Día a Día será presentado el miércoles por cierre de tribunales. *Runrún*. [Online] 4 May. Available from: <http://runrun.es/nacional/200619/preso-otro-gerente-de-dia-a-dia-por-orden-del-general-osorio.html> [Accessed 27 October, 2015]; EFECTO CUCUYO. (2015) Otro gerente de "Día Día" preso porque persisten las colas. *Efecto Cocuyo*. [Online] 4 May. Available from: <http://www.efectococuyo.com/efecto-cocuyo/otro-gerente-de-dia-dia-preso-porque-persisten-las-colas/> [Accessed 27 October, 2015]; DIADIA. (2015) Otro trabajador de Supermercados DíaDía sorpresivamente detenido. *DiaDia*. [Online] 5 May. Available from: http://www.diadia.com.ve/files/Nota_de_prensa_JFernandez_def.pdf [Accessed 27 October, 2015]

⁷⁹² NOTICIERO DIGITAL. (2015) Maduro ordena "ponerle los ganchos" a gerente de Pdval que administra un Día a Día

⁷⁹³ EL IMPULSO. (2015) ¿Castigarán las colas en Pdval, Mercal y Bicentenario? *El Impulso*. [Online] 3 February. Available from: <http://elimpulso.com/articulo/castigaran-las-colas-en-pdval-mercal-y-bicentenario> [Accessed 27 October, 2015]; ACN. (2015) ¡Prueba en mano! Denuncian colas ocultas en Mercal y Bicentenario. *Agencia Carabobeña de Noticias*. [Online] 3 February. Available from: <http://www.acn.com.ve/prueba-en-mano-denuncian-colas-ocultas-en-mercal-y-bicentenario/> [Accessed 27 October, 2015]

⁷⁹⁴ MADURADAS. (2015) Arreaza pidió "cero tolerancia" a comercios que permitan colas ¿INCLUYE BICENTENARIO Y MERCAL? *Maduradas*. [Online] 5 February. Available from:

On July 24, 2015, intelligence agents detained Fray Roa Contreras, the general director of the Venezuelan Federation of Liquor Sellers, a day after he said on CNN that the federation had requested a “dialogue” with President Maduro to address the “crisis” the industry was facing. The federation had previously criticized official policies, including rules that limit imports of raw materials that local producers need to make alcoholic beverages in Venezuela.⁷⁹⁵

On July 28, the media reported that Contreras had been charged with disseminating false information that “causes panic in the people or maintains them in a state of anxiety,” which carries a penalty of up to five years in prison.⁷⁹⁶

A day later, Cabello, the National Assembly president, said on TV, based on information provided by a “patriotic informant,” that Contreras’ statements were part of a “plan to make the Venezuelan people lose its patience” prior to the legislative elections in December. The media reports said Contreras remains detained at the intelligence agency’s headquarters in Caracas.⁷⁹⁷

A few months before, on February 6, Carlos Rosales, President of the Venezuelan Hospitals and Clinics Association, had faced a similar situation, albeit much less severe. He was arrested in his house in Valencia by the SEBIN two days after he stated in TV that there was medical goods were scarce. He was released hours later.⁷⁹⁸

iv) **Persecution against media owners, employees, journalists and media employees.**

In contrast to the relatively recent persecution against businesses’ owners and employees, GoV has been targeted media owners, employees and journalists since at least as early as April 2002. The IACHR has been denouncing multiple cases of threats,

<http://www.maduradas.com/arreaza-pidio-cero-tolerancia-a-comercios-que-permitan-colas-incluye-bicentenario-y-mercal/> [Accessed 27 October, 2015]

⁷⁹⁵ HRW. (2015) Venezuela: Critics Under Threat. *Human Rights Watch*. [Online] 6 August. Available from: <https://www.hrw.org/news/2015/08/06/venezuela-critics-under-threat> [Accessed 27 October, 2015]

⁷⁹⁶ HRW. (2015) Venezuela: Critics Under Threat

⁷⁹⁷ HRW. (2015) Venezuela: Critics Under Threat

⁷⁹⁸ ULTIMAS NOTICIAS. (2015) Liberan a Carlos Rosales tras tres horas de interrogatorio. *Ultimas Noticias*. [Online] 6 February. Available from:

<http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/liberan-a-carlos-rosales-tras-tres-horas-de-interr.aspx> [Accessed 27 October, 2015]

NOTICIERO POPULAR. (2015) El Gobierno estrecha el cerco sobre las empresas privadas. [Online] 10 February. Available from:

<http://noticieropopular.com/el-gobierno-estrecha-el-cerco-sobre-las-empresas-privadas/> [Accessed 27 October, 2015]; GLOBOVISION. (2015) Liberan a doctor Carlos Rosales tras rendir declaraciones ante el Sebin. *Globovision*. [Online] 7 February. Available from: <http://globovision.com/el-doctor-carlos-rosales-fue-arrestado-por-el-sebin-en-valencia/> [Accessed 27 October, 2015]

physical attacks, judicial persecution and imprisonment against media-related individuals (including journalists, cameramen, administrative employees, etc.).

For instance, in 2009, 32 radio stations were forced to end their operations because by the GoV.⁷⁹⁹ Moreover, National Commission of Telecommunications ordered the closure of many TV and radio programs, besides the suspension of RCTV and NTN24 from a private cable signal.⁸⁰⁰

In addition, also before 2014, several media owners and journalists were subject to judicial prosecution for alleged conspiracy plans against the GoV. This was the case of media owners Rafael Poleo, Nelson Mezerhane, Marcel Granier, journalists Gustavo Azocar and Leocenis García and even a TV-guest, Oswaldo Álvarez Paz.⁸⁰¹

Since 2014, the GoV has strengthened its attacks against the media, which constitutes persecution.

On July 2014 El Universal, the oldest newspaper in Venezuela was bought by an economic group close to and possibly incentivized and sponsored by the GoV. The newspaper soon changed the editorial line and fired around 30 journalists who had criticised the GoV. Many other ones have been persistently censored and others have decided to quit.⁸⁰²

On May, 2015, Diosdado Cabello sued El Nacional, La Patilla and Tal Cual newspapers, for defamation by reproducing information obtained from foreign media

⁷⁹⁹ CNN. (2009) Venezuelan minister: More radio closures coming. *CNN*. [Online] 6 September. Available from:

<http://edition.cnn.com/2009/WORLD/americas/09/06/venezuela.media/index.html?iref=newssearch> [Accessed 27 October, 2015]

⁸⁰⁰ INFOBAE. (2014) NTN24: "También bloquearon las plataformas móviles." *Infobae América*. [Online] 17 September. Available from: <http://www.infobae.com/2014/09/17/1595619-ntn24-tambien-bloquearon-las-plataformas-moviles> [Accessed 27 October, 2015]

⁸⁰¹ PEÑALVER, T. (2015) El genocidio político venezolano. *El Mundo*. [Online] 5 March. Available from: <http://www.elmundo.es/internacional/2015/03/05/54f86559e2704e88218b456d.html> [Accessed 27 October, 2015]; CIP. (2011) Venezuela. *Sociedad Interamericana de Prensa*. [Online] Available from: <http://www.sipiapa.org/asamblea/venezuela-89/>

⁸⁰² EL MUNDO. (2014) Una empresa española adquiere el diario venezolano 'El Universal.' *El Mundo*. [Online] 5 July. Available from: <http://www.elmundo.es/television/2014/07/05/53b775cdca4741985e8b456b.html> [Accessed 27 October, 2015]; INFOBAE. (2015) Indignación en Venezuela por el despido de 26 periodistas críticos en el diario El Universal. *Infobae América*. [Online] 5 August. Available from: <http://www.infobae.com/2014/08/05/1585511-indignacion-venezuela-el-despido-26-periodistas-criticos-el-diario-el-universal> [Accessed 27 October, 2015]; ABC. (2014) Despidos masivos en El Universal tras comprarlo una empresa española. *ABC Internacional*. [Online] 5 August. Available from: <http://www.abc.es/internacional/20140804/abci-despidos-universal-corresponsal-201408040023.html> [Accessed 27 October, 2015]

which linked Diosdado Cabello with drug trafficking. Following Cabello's complaint, a local criminal court issued an order that prohibited 22 media directors to leave the country and ordered them to present before the court.⁸⁰³

The Inter American Press Association (IAPA) condemned the court order.⁸⁰⁴ IAPA President Gustavo Mohme, editor of the Lima, Peru, newspaper *La República*, declared that the order to the media executives to not leave the country “demonstrates once more how the Venezuelan judicial system is being used as an instrument of political power. There is no compliance with the guarantees of due process, which imply that the judge should have first interrogated the accused individually to determine whether or not to issue the restriction order in each case.”⁸⁰⁵

The chairman of the IAPA's Committee on Freedom of the Press and Information, Claudio Paolillo, editor of the Montevideo, Uruguay, weekly *Búsqueda*, said that the court's action occurs within an overall framework of serious restrictions and attacks on critical and independent media, which “unmasks the climate of authoritarianism that the Nicolás Maduro regime favors.”⁸⁰⁶

Regarding examples of individual journalist cases, Víctor Ugas was detained on October 13, 2014, in Carúpano, Sucre, for publishing pictures of Robert Serra's body on Twitter.⁸⁰⁷ Diosdado Cabello celebrated his detention on his TV show.⁸⁰⁸ After his

⁸⁰³ ABC. (2015) Prohíben salir de Venezuela a 22 directivos de medios por publicar información de ABC. *ABC Internacional*. [Online] 16 May. Available from: <http://www.abc.es/internacional/20150513/abci-director-periodico-retenido-venezuela-201505130628.html> [Accessed 27 October, 2015]; MEZA, A. (2015) Un tribunal venezolano prohíbe salir del país a 22 directivos de prensa. *El País*. [Online] 13 May. Available from: http://internacional.elpais.com/internacional/2015/05/13/actualidad/1431528605_073677.html [Accessed 27 October, 2015]; EL CAMBUR. (2015) Prohíben salir del país a 22 directivos de medios de comunicación. *El Cambur*. [Online] 13 May. Available from: <http://www.elcambur.com.ve/poder/prohiben-salir-del-pais-a-22-directivos-de-medios-de-comunicacion> [Accessed 27 October, 2015]

⁸⁰⁴ SIP. (2015) La SIP condena proceso irregular contra periodistas venezolanos. *Sociedad Interamericana de Prensa*. [Online] 13 May. Available from: <http://www.sipiapa.org/la-sip-condena-proceso-irregular-contra-periodistas-venezolanos/> [Accessed 27 October, 2015]

⁸⁰⁵ IFEX. (2015) Venezuelan judge stops media owners from leaving country. *Ifex*. [Online] 14 May. Available from: http://www.ifex.org/venezuela/2015/05/14/travel_restriction_abc/ [Accessed 27 October, 2015]

⁸⁰⁶ IFEX. (2015) Venezuelan judge stops media owners from leaving country

⁸⁰⁷ INFOBAE. (2015) Tras ocho meses detenido en el Sebin, liberan al tuitero venezolano Víctor Ugas. *Infobae América*. [Online] 10 July. Available from: <http://www.infobae.com/2015/07/10/1740843-tras-ocho-meses-detenido-el-sebin-liberan-al-tuitero-venezolano-victor-ugas> [Accessed 27 October, 2015]; EL NACIONAL. (2015) Denuncian que Víctor Ugas sigue retenido en sede del Sebin. *El Nacional*. [Online] 12 July. Available from: http://www.el-nacional.com/presos_politicos/Denuncian-Victor-Ugas-retenido-Sebin_0_663533742.html [Accessed 27 October, 2015]; YAJURE, J.A. (2015) Liberan al tuitero Víctor Ugas, acusado por publicar foto del cadáver del diputado Robert Serra. *Runrun*. [Online] 9 July. Available from: <http://runrun.es/nacional/211951/liberan-al-tuitero-victor-ugas-acusado-por-publicar-foto-del-cadaver-del-diputado-robert-serra.html> [Accessed 27 October, 2015]

arrest, he was transferred to Caracas and charged by Prosecutors María Maffia and Luís Cadiz with inappropriately revealing personal information and computer espionage.⁸⁰⁹

On October 6, 2014 Últimas Noticias group dismissed cartoonist Roberto Weil, a contributor to Dominical, Últimas Noticias' Sunday supplement, because one of his cartoons had allegedly annoyed members of the governing party. The cartoon was originally published but later withdrawn from the publication and pictured the funeral of a rat, which was interpreted by GoV officials as alluding to the murder of Robert Serra.⁸¹⁰ Before his dismissal, Weil had been verbally attacked on social media by government officials and other individuals, including the governor of Aragua, state Tareck El Aissami, who called him “trash” and “fascist”, among many other insults.⁸¹¹

On 17 September 2014, the cartoonist Rayma Suprani was dismissed by the newspaper *El Universal* for allegedly publishing a cartoon illustrating the state of the country's health sector. Suprani, who worked at the newspaper for 19 years, announced the news via her Twitter account.⁸¹² The newspaper's journalists reportedly issued a communication in which they stated their decision to defend “the avenues for keeping the country informed, despite the growing restrictions and censorship.” On 3 August 2014, the cartoonist had complained that she had been a victim of censorship by the newspaper *El Universal* after the cartoon that she had drawn for that day's edition was not published. In its 2014 annual report, the Office of the Special Rapporteur of the ICHR recorded reports of death threats, insults, and denigrating remarks leveled at Suprani. It also took note of an announced lawsuit against the cartoonist by a government official.⁸¹³

⁸⁰⁸ ULTIMAS NOTICIAS. (2014) Video | Cabello confirmó las detenciones de Víctor Ugas y la "negra Hipólita." *Ultimas Noticias*. [Online] 17 October. Available from: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/video---cabello-confirmo-las-detenciones-de-victor.aspx> [Accessed 27 October, 2015]

⁸⁰⁹ INFO VZLA. (2015) Ejuiarán a Victor Ugas por los cargos de revelación indebida de data y espionaje informático. *Info Vzla*. [Online] 19 March. Available from: <http://infovzla.net/nacionales/enjuiciaran-a-victor-ugas-por-los-cargos-de-revelacion-indebida-de-data-y-espionaje-informatico/> [Accessed 27 October, 2015]; ANTOLINEZ, H. (2015) Liberan a Víctor Ugas, tuitero que publicó fotos del cadáver de Robert Serra. *Contrapunto*. [Online] 9 July. Available from: <http://contrapunto.com/noticia/liberan-a-victor-ugas-tuitero-que-publico-fotos-del-cuerpo-de-robert-serra/> [Accessed 27 October, 2015]

⁸¹⁰ LA PATILLA. (2014) Despiden a Weil del Grupo Ultimas Noticias tras confusión con caricatura. *La Patilla*. [Online] 6 October. Available from: <http://www.lapatilla.com/site/2014/10/06/despiden-a-weil-del-grupo-ultimas-noticias-tras-confusion-con-caricatura/> [Accessed 27 October, 2015];

ANALÍTICA. (2014) Despedido caricaturista Weil de Últimas Noticias. *Analítica*. [Online] 6 October. Available from: <http://www.analitica.com/actualidad/actualidad-nacional/despedido-caricaturista-weil-de-ultimas-noticias/> [Accessed 27 October, 2015]

⁸¹¹ EL PROPRIO. (2014) Tareck el Assami llamó “miserable hijo de P...” al caricaturista Weil. *El Proprio*. [Online] 5 October. Available from: http://www.elpropio.com/actualidad/Tareck-Aissami-miserable-caricaturista-Weil_0_604739545.html [Accessed 27 October, 2015]

⁸¹² Twitter account @raymacaricatura September 17, 2014 – 5:04 p.m. “Hoy se me notifica mi despido de el Universal por esta caricatura y por mi postura incómoda ante la denuncia gráfica”.

⁸¹³ IACHR. (2014) Office of the Special Rapporteur for Freedom of Expression. *IACHR*. [Online] 22 September. Available from: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=961&IID=1>

v) **Persecution of human rights and NGOs activists and lawyers**

The GoV has persistently targeted and persecuted lawyers who represent students and demonstrators charged in the context of the demonstrations. President Nicolás Maduro and other high-ranking officials have on several occasions made declarations on Venezuelan national television targeting human rights organizations such as Provea, a human rights network formerly run by Marino Alvarado. More specifically on 21 August 2015, President Maduro specifically accused Provea of being a right-wing organization funded by the USA and pointed the finger at Alvarado, referring to him as an “informant”.⁸¹⁴

On 1 October 2015, Alvarado and his 9-year-old son were victims of an armed attack in a raid on their home in Caracas. Marino Alvarado was attacked in his doorway as he arrived home with his son when three unknown attackers forced their way into the building brandishing 9mm caliber firearms and hitting Marino Alvarado on the head. During the 40 minutes ordeal, they bound him and his son, raiding the apartment from which they took two laptops, a tablet, two phones, a camera and cash.⁸¹⁵

This is the case of José Vicente Haro and Pierina Camposeo, who represent several students and demonstrators prisoners, including Resistance Movement members, Rodolfo González (“the aviator”) and his wife, and students imprisoned in “The Tomb” (the SEBIN headquarters).⁸¹⁶ They have been threatened many times, through several means, including by phone, Twitter and personally.⁸¹⁷

For instance, on March 15, 2015, Haro and Camposeo were ambushed and pointed with a gun from behind, on the same day, at approximately the same time, but in different places.⁸¹⁸ On March 27, 2015, and during the following days, Mr. Haro

⁸¹⁴ AMNESTY INTERNATIONAL. (2015) Armed assault against human rights defender must be investigated. *Amnesty International*. [Online] 2 October 2015. Available from: <http://www.amnesty.org.au/news/comments/38160/>

⁸¹⁵ PROVEA. (2015) Secuestran, roban y golpean a activista de DDHH Marino Alvarado e hijo en su vivienda. *Provea*. [Online] 1 October 2015. Available from: <http://www.derechos.org/ve/2015/10/01/secuestran-roban-y-golpean-a-activista-de-ddhh-marino-alvarado-e-hijo-en-su-vivienda/>

⁸¹⁶ VENEZUELA AWARENESS. (2015) 27Mz Continúan amenazas contra equipo del abogado José Vicente Haro. *Venezuela Awareness*. [Online] 27 March. Available from: <http://www.venezuelaawareness.com/2015/03/27mz-continuan-amenazas-contra-equipo-del-abogado-jose-vicente-haro/> [Accessed 27 October, 2015]; ALONSO, J.F. (2015) CIDH ordena a Venezuela proteger a dos abogados que han recibido amenazas. *El Universal*. [Online] 10 September. Available from: <http://www.eluniversal.com/nacional-y-politica/150910/cidh-ordena-a-venezuela-proteger-a-dos-abogados-que-han-recibido-amenaza> [Accessed 27 October, 2015]

⁸¹⁷ NOTICIERO GIGITAL. (2015) La Verdad: Amenazan de muerte a José Vicente Haro

⁸¹⁸ HARO, J.V. (2015) Sobre las amenazas de muerte en mi contra por defender presos políticos. *Buscando el Norte*. [Online] 17 April. Available from: <http://josevicenteharogarcia.blogspot.com/2015/04/sobre-las-amenazas-de-muerte-en-mi.html> [Accessed 27 October, 2015]

received several death-threats by twitter. Many of the messages included pictures of dead bodies.⁸¹⁹

Foro Penal lawyer Marcelo Crovato has also been persecuted for defending demonstrators. Crovato was arrested without a warrant when he arrived to a police raid at his clients' home in Chacao, Caracas, to represent them as his attorney.⁸²⁰ He spent 10 months in jail without having had a preliminary hearing. In jail, he suffered serious physical harms and psychological problems, to the extent that he eventually tried to commit suicide on December 20, 2014.⁸²¹ Crovato's case is developed in the imprisonment section.

On March 20, 2015, the IACHR expressed alarm regarding a persecution policy against those NGOs members and activist who exercised their right to complain before the institution. The IACHR stated that those individuals were "being singled out, intimidated, and discredited as a result of having exercised their right".⁸²²

The IACHR stated that "the President of the National Assembly, Diosdado Cabello—speaking on the television program 'Con el Mazo Dando' on the State-run channel VTV, which ran on February 11, 2015—mentioned the individuals who were going to participate in the Commission's hearing in March.

On that TV program's website, this information is published under the title 'Extreme Right NGO in Alliance with IACHR Commissioner to Sanction the Program 'Con el Mazo Dando.' The same site posted photographs of six human rights defenders, a logo of the Inter-American Court of Human Rights and, superimposed on the photo of the President of the National Assembly, the image of a telescopic sight similar to the kind used to shoot at a target. The articles refer to the participation in Commission hearings of Marco Antonio Ponce, of the Observatorio Venezolano de Conflictividad Social (OVC); Rafael Uzcátegui, of the Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA); Ligia Bolívar, of the Centro de Derechos Humanos de la Universidad Católica Andrés Bello (UCAB); Carlos Nietos, of Una Ventana para la Libertad; Rocío San Miguel, of Control Ciudadano; Carlos Correa, of Espacio Público;

⁸¹⁹ 6TO PORDER. (2015) José Haro denuncia supuestas amenazas de muerte (+audio); NOTICIAS DE VENEZUELA. (2015) 27Mz Continúan amenazas contra equipo del abogado José Vicente Haro

⁸²⁰ AMNESTY INTERNATIONAL. (2015) Venezuela: the Faces of Impunity. p.36; MEDINA, O. (2015) Crovato: prisoner at risk. *El Universal*. [Online] 3 January. Available from: <http://www.eluniversal.com/nacional-y-politica/150103/crovato-prisoner-at-risk> [Accessed 27 October, 2015]

⁸²¹ CFR. (2015) Communication Foro Penal Venezolano. *CFR*. [Online] January. Available from: <http://foropenal.com> [Accessed 27 October, 2015]

⁸²² IACHR. (2015) IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System. *Inter-American Commission of Human Rights*. [Online] 20 March. Available from: http://www.oas.org/en/iachr/media_center/PReleases/2015/032.asp [Accessed 27 October, 2015]

Liliana Ortega, of COFAVIC, a committee of relatives of victims of the events that took place from February 27 to early March, 1989.”⁸²³

The IACHR added that: “the websites of Radio Sur TV and the program ‘Con el Mazo Dando’ published the date and time of arrival to the Caracas airport of several individuals who participated in hearings and other events during the IACHR’s 154 session.

The individuals mentioned in February were once again singled out, including Marco Ponce, Rafael Uzcátegui, Carlos Correa, and Liliana Ortega, as well as Humberto Prado, of the Observatorio Venezolano de Prisiones (OVP); Aurelio Fernández Cochenzo, of Transparencia Venezuela; and Feliciano Reyna, of CODEVIDA. The title of the piece was ‘Marco Antonio Ponce (OVC) Heads List of NGOs Traveling to Washington DC and Miami to Conspire against the Government of Venezuela.’ The article states that these individuals ‘headed off to the Empire,” and includes a photograph of someone in line at the airport.”⁸²⁴

The IACHR concluded by urging “public officials to refrain from making statements that stigmatize human rights defenders or suggest that human rights organizations are acting improperly or illegally, merely for engaging in their work to promote and defend human rights”.⁸²⁵The IACHR expressed its concern on this matter once again on their 2014 Annual Report.⁸²⁶

Next, the section will present a few examples of the persecution individual NGO activists have suffered.

Humberto Prado of the Venezuelan Prisons Observatory has been repeatedly intimidated and threatened. In February 2014, in the context of the demonstrations that began that month, the Minister of the Interior accused Humberto Prado of being involved in violence during the protests and of conspiring to destabilize the government and the prisons. In October 2014, Diosdado Cabello read out on his weekly television programme information allegedly sent by a member of the public about Humberto Prado’s visit to Panama at the end of September, stating that he had met “strange people” there. In fact, Humberto had participated in a Regional Forum on the Optional Protocol to the Convention against Torture organized by Association for the Prevention

⁸²³ IACHR. (2015) IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System

⁸²⁴ IACHR. (2015) IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System

⁸²⁵ IACHR. (2015) IACHR Expresses Alarm over Intimidation in Venezuela directed against People Who Come before the Inter-American Human Rights System

⁸²⁶ IACHR. (2015) Annual Report 2014

of Torture. In the same programme, viewers were asked to “remember that he has close links with prison mafias and was always behind public order and prison disturbances”.⁸²⁷

Rocío San Miguel, director of Citizens Control for Security, Defense and the National Armed Forces (Control Ciudadano para la Seguridad, la Defensa y la Fuerza Armada Nacional), an NGO that monitors political rights, transparency, and military affairs, has been severely deprived of fundamental rights since at least 2004. In 2004, she was fired from the CNF, a government agency attached to the office of the vice-president having been offered no reasons for her termination. Her supervisor later explained to her in a telephone conversation that she was a political appointee and that she was being dismissed for “showing disloyalty” by signing the petition for the recall referendum against Chávez.⁸²⁸ Since 2011, she and her family have been constantly threatened for her public criticism of the GoV, including an article she published in *Tal Cual* newspaper.⁸²⁹

On March 25, 2014 Maduro publicly accused her of being part of a group of people who was planning to perpetrate a coup d'état. Maduro said “Rocío San Miguel is the link to the radical sector of the opposition, to the Voluntad Popular (Popular Will) party. She is the link. She is fully involved in this attempted coup. [S]he is paid by these international organizations who have conspired against Venezuela for a long time.”⁸³⁰ A few days before, she was threatened by a person who approached her and said “we are going to break you”⁸³¹

Omar Ernesto Silva Martínez, a private defence lawyer who has worked with Penal Forum, made a formal complaint on 14 October 2014 after he received several threatening calls and being followed by people who, judging by the cars they were using and the weapons they had, he believes were members of the intelligence services. This surveillance reportedly started after Omar Silva represented a Venezuelan citizen extradited from Colombia and charged with rebellion in Venezuela.⁸³²

Tamara Suju, member of Foro Penal Venezolano, occasional writer of opinion articles

⁸²⁷ AMNESTY INTERNATIONAL. (2015) *Venezuela: the Faces of Impunity*. p. 41-42

⁸²⁸ HRW. (2008) *A decade under Chávez*. p.53

⁸²⁹ SN. (2015) Amenazaron a activista Rocío San Miguel. *Somos News*. [Online] 7 May. Available from: <http://www.somosnews.com/amenazaron-a-activista-rocio-san-miguel/> [Accessed 27 October, 2015]

⁸³⁰ NOTICIAS24. (2014) Maduro dice que Rocío San Miguel está “involucrada en el golpe de Estado” (+video). *Noticias24*. [Online] 25 March. Available from: <http://www.noticias24.com/venezuela/noticia/230516/maduro-dice-que-rocio-san-miguel-esta-involucrada-en-el-golpe-de-estado/> [Accessed 27 October, 2015]

⁸³¹ <http://www.alertavenezuela.net/venezuela-difamacion-y-amenazas-en-contra-de-la-defensora-de-derechos-humanos-la-sra-rocio-san-miguel/?lang=en>

⁸³² AMNESTY INTERNATIONAL. (2015) *Venezuela: the Faces of Impunity*. p.43

in Venezuelan media and founder of Venezuela's Ladies in White (Damas de Blanco) group that brings together the wives, mothers and daughters of Venezuelan political prisoners and spreads information about their cases was charged with treason and attempt to destabilize the country. She left the country and received political asylum in the Czech Republic.⁸³³ In June 2014 she was called as a witness by the SEBIN in the “Un Mundo sin Mordaza” case. She considered this as a threat.⁸³⁴

Carlos Luzberti, former president of Amnesty International Venezuela (2007-2013) and current member of the board was shot two times in little more than a year: the first time on January 14, 2014⁸³⁵ and the second one in April 28, 2015 in Plaza Venezuela square, Caracas. Amnesty International expressed serious concern that this second attack could be related with the ascending pattern of threats that human rights activists had been receiving at the beginning of 2015.⁸³⁶

There have also been reports of other crimes being committed such as sexual violence based ones, but these crimes (possibly due to a lack of reporting) do not currently meet the threshold for constituting the commission of crimes against humanity. For example, following a protest in Valencia, Carabobo, on February 13 Juan Manuel Carrasco was tortured and raped using a gun,⁸³⁷ and Gloria Tobon, was beaten and threatened with electric shocks applied to her arms, breasts and genitals by National Guard officers after her arrest on 19 March.

IV. Legal threshold for opening a preliminary examination

The ICC Office of the Prosecutor (OTP) issued a policy paper on preliminary examinations defining it as a filtering process to review the information available on a given situation and to assess whether the preconditions to the exercise of jurisdiction under Article 12 and each of the factors set out in Article 53(1)(a)-(c) of the Rome Statute – jurisdiction, admissibility and interest of justice, are met.

This process, as the name suggests, is a preliminary assessment and does not guarantee

⁸³³ EL UNIVERSAL. (2014) Tamara Suju recibe asilo político en la República Checa. *El Universal*. [Online] 25 November. Available from: <http://www.eluniversal.com/nacional-y-politica/141125/tamara-suju-recibe-asilo-politico-en-la-republica-checa> [Accessed 27 October, 2015]

⁸³⁴ MATUTE, M.A. (2014) Sebin interroga a Tamara Sujú por investigación contra ong. *El Impulso*. [Online] 13 June. Available from: <http://elimpulso.com/articulo/sebin-interroga-a-tamara-suju-por-investigacion-contra-ong> [Accessed 27 October, 2015]

⁸³⁵ MOLINA, T. (2014) Gracias a Dios que solo fue un susto y no nos mataron. *El Universal*. [Online] 14 January. Available from: <http://www.eluniversal.com/sucesos/140114/gracias-a-dios-que-solo-fue-un-susto-y-no-nos-mataron> [Accessed 27 October, 2015]

⁸³⁶ AMNESTY INTERNATIONAL. (2015) Carlos Lusverti herido en Caracas

⁸³⁷ See page: EL UNIVERSAL. (2014) Estudiante ratificó denuncia de violación con fusil; Later The National Prosecute Office said that he wasn't rape. ALBA CIODAD. (2014) Fiscalía determinó que Juan Manuel Carrasco no fue víctima de violación en Carabobo. *Alba Ciudad*. [Online] 24 February. Available from: <http://albaciedad.org/wp/index.php/2014/02/fiscalia-determino-que-no-hubo-caso-de-violacion-en-carabobo/> [Accessed 27 October, 2015]

that an investigation will be open. The preliminary examination is intended to review plausible hypothesis, collect information and to assess at the end of such analysis if the “reasonable basis” standard prescribed by the Statute for the opening of an investigation is reached.⁸³⁸

The practice of the OTP and the Policy paper on Preliminary examinations clarify that this filtering process of the preliminary examination is carried out in a phased approach⁸³⁹ during which the OTP will conduct a “critical analysis and independent evaluation”⁸⁴⁰ of the information which is subject to review by the Court.⁸⁴¹

It appears that part of this phased approach is an internal review of the information that is not publicized – so called Phase 1, and that the rest of the process – Phases 2, 3 and 4 are publicly conducted with the “formal commencement” of a preliminary examination situation being started at the end of the Phase 1 for the situations that constitute a plausible hypothesis. It is only “the [A]rticle 15 communications not rejected in Phase 1”⁸⁴² that will proceed to the Phase 2-analysis stage.

The Policy paper on Preliminary examinations stipulates that the purpose of the Phase 1 is to “analyse and verify the seriousness of information received, filter out information on crimes that are outside the jurisdiction of the Court and identify those that appear to fall within the jurisdiction of the Court.”⁸⁴³

Other than excluding situations already being considered by the OTP in an existing preliminary examination in more advanced phases or in an ongoing investigation, the OTP seeks to use the process to distinguish between those communications which are “manifestly outside the jurisdiction of the Court” which will be rejected and those which constitute plausible hypothesis will proceed to Phase 2.

It is therefore clear that the standard of review applied by the OTP at this stage of the process which is relevant to this particular communication is whether the information

⁸³⁸ Article 15 (3) of the Rome Statute.

⁸³⁹ OTP. (2013) Policy paper on Preliminary examination. *Office of the Prosecutor (ICC)*. [Online] November. Available from: http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/Documents/OTP%20Preliminary%20Examinations/OTP%20-%20Policy%20Paper%20Preliminary%20Examinations%20%202013.pdf [Accessed 27 October, 2015] p.17

⁸⁴⁰ OTP. (2013) Policy paper on Preliminary examination. p.18, para. 76.

⁸⁴¹ OTP. (2015) ICC-01/13-34 (“Situation on Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia, Decision on the request of the Union of the Comoros to review the Prosecutor's decision not to initiate an investigation”). *Office of the Prosecutor (ICC)*. [Online] 16 July. Available from: <http://www.icc-cpi.int/iccdocs/doc/doc2015869.pdf> [Accessed 27 October, 2015]

⁸⁴² OTP. (2015) ICC-01/13-34. p.19, para. 80

⁸⁴³ OTP. (2015) ICC-01/13-34. p.18, para. 78

presented shows that the situation is manifestly outside the jurisdiction of the Court.

While the criteria which set out the jurisdiction of the Court are defined by the Statute, the term “manifestly” set out in the policy paper of the OTP was defined as a matter of internal policy of the OTP pursuant to the *proprio motu* powers of the Prosecutor under Article 15 to screen situations before the opening of an investigation⁸⁴⁴ and is not present in the Statute, Elements of Crimes, Rules of Procedure and Evidence.⁸⁴⁵ Furthermore, as the process of a preliminary examination is unique to the ICC, there are neither “applicable treaties, established principles and rules of international law”, nor national laws that are relevant to the interpretation of the term.⁸⁴⁶

However, the ordinary meaning of the word according to the Oxford dictionary points to the adverb “manifestly” being defined as “clear or obvious.”⁸⁴⁷ In this case, it is apparent that if a communication is not clearly outside the jurisdiction of the Court, meaning constitute a plausible hypothesis a preliminary examination should formally be started.

Excluding the decision’s timing, the policy provides no discretionary margin to the OTP at this phase. If a situation is not manifestly outside of the Court’s jurisdiction, the OTP has no discretion to ignore it.

Therefore, it is submitted that rather than demonstrating that a communication is clearly within the jurisdiction of the Court, a party submitting an Article 15 communication merely has to provide a plausible hypothesis supported by serious information pointing to the fact that the alleged crimes are not clearly outside the jurisdiction of the Court.

Any information relating to potential investigations of the crimes by the GoV would only be relevant for the admissibility assessment in Phase 3 of the process.

In relation to the assessment of the information provided, the OTP should make an “independent and objective”⁸⁴⁸ “analysis of information (...) to weigh and to evaluate the content and reliability of the information available to it.”⁸⁴⁹

⁸⁴⁴ OTP. (2015) ICC-01/13-34 p.2, para. 2

⁸⁴⁵ ICC. *Rome Statute*. Article 21(1)(a)

⁸⁴⁶ ICC. *Rome Statute*. 21(1)(b) and (c)

⁸⁴⁷ OXFORD DICTIONARIES ONLINE. (2015) Word adjective. “manifest.” *Oxford Dictionaries Online*. [Online] 27 October. Available at: <http://www.oxforddictionaries.com/definition/english/manifest> [Accessed 27 October, 2015]

⁸⁴⁸ OTP. (2013) Policy paper on Preliminary examination. p.15, para. 23.

⁸⁴⁹ OTP. (2015) ICC-01/13-14-Red (“Situation on Registered Vessels of the Union of the Comoros, the Hellenic Republic and the Kingdom of Cambodia, Public Redacted Version of Prosecution Response to the Application for Review of its Determination under article 53(1)(b) of the Rome Statute”). *Office of the*

In light of the Prosecution's submission made on a review of information in the same preliminary examination process in the situation in Cote d'Ivoire it is apparent that:

“the evaluation of sources [follows a] consistent methodology based on criteria such as relevance (usefulness of the information to determine the elements of a possible future case), reliability (refers to the trustworthiness of the provider of the information as such), credibility (refers to the quality of the information in itself, to be evaluated by criteria of immediacy internal consistency and external verification), and completeness (the extent of the source's knowledge or coverage vis-à-vis the whole scope of relevant facts).”⁸⁵⁰

“[A] preliminary examination is an analysis of information made available by multiple reliable sources, and not an investigation in which active measures are undertaken to obtain primary evidence to determine the truth.”⁸⁵¹ As set out in the Policy paper on Preliminary examinations: “[s]uch communications shall be analysed in combination with open source information such as reports from the United Nations, nongovernmental organisations and other reliable sources for corroboration purposes”⁸⁵² and should be considered “in context and not in isolation.”⁸⁵³

It is submitted, in light of the information submitted above, that the situation is not manifestly outside the jurisdiction of the Court and that the OTP should formally commence a preliminary examination in the situation involving crimes committed since February 2014.

Prosecutor (ICC). [Online] 30 March. Available from: <http://www.icc-cpi.int/iccdocs/doc/doc1954260.pdf> [Accessed 27 October, 2015] p.13, para.18.

⁸⁵⁰ OTP. (2011) ICC-02/11 (Situation in the Republic of Cote d'Ivoire, Request for authorisation of an investigation pursuant to article 15). *Office of the Prosecutor (ICC)*. [Online] 23 June. Available from: <http://www.icc-cpi.int/iccdocs/doc/doc1341467.pdf> [Accessed 27 October, 2015] p.10, para.24

⁸⁵¹ OTP. (2015) ICC-01/13-14-Red. p.12, para.18

⁸⁵² OTP. (2013) Policy paper on Preliminary examination. p.19, para.79

⁸⁵³ OTP. (2015) ICC-01/13-34. p.9, para.20