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Venezuela, in the 26th session of the United Nations Human Rights
Council"**

**Restrictions on access to basic products, goods or
services, health, freedom, security and personal integrity
and due process in Zulia State**

(2014-2016)



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Report prepared by:

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- **Aula Abierta Venezuela (AAV) created in 2016, in order to promote and defense human rights and to support initiatives of university professors and students.**
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Executive Summary: This report is issued by the Commission on Human Rights of the Faculty of Law and Political Sciences of the University of Zulia, Aula Abierta, and Acción Zuliana por la Vida. The report focuses on the restrictions on access to basic products, goods or services quality, health, freedom, security and personal integrity and due process in Zulia State during the period 2014 and the first quarter of 2016. It is divided into two parts: (I) Restrictions on the right to access essential goods, health and goods and services and (II) Restrictions on equality, freedom, security and personal integrity and due process in Zulia state.

I. Restrictions on the right to access essential goods, health and quality goods and services

A. Legal and institutional framework

1. **The Constitution of the Bolivarian Republic of Venezuela**, from its preamble and throughout his first articles (articles 1,2,3,5,7, etc.), and especially from Title III (Articles 19 to 135 Constitution) establishes a statute of comprehensive and integral protection of human rights, based on respect for human dignity and on the principles of progressiveness, non-discrimination, inalienability, indivisibility, interdependence, framing them as an unobjectionable duty of the state authorities (of mandatory and unavoidable compliance as the Constitution itself, and as the international treaties and laws that develop them) ¹
2. Constitutionally, the Venezuelan state has the obligation to ensure food security² of the population, and also the right of everyone to have quality goods and services for which the legislature is called upon to develop the necessary mechanisms for it.³

¹ In this context it is worth noting the content of the following constitutional provisions: Article 2: Venezuela constitutes itself as a Democratic and Social State of Law and Justice, which holds as superior values of its legal order and actions those of life, liberty, justice, equality, solidarity, democracy, social responsibility and, in general, the preeminence of human rights, ethics and political pluralism. Article 19: The State shall guarantee to every individual, in accordance with the progressive principle and without discrimination of any kind, no renounceable, indivisible and interdependent enjoyment and exercise of human rights. Respect for and the guaranteeing of these rights is obligatory for the organs of Public Power, in accordance with the Constitution, the human rights treaties signed and ratified by the Republic and any laws developing the same.

² **Constitution of the Bolivarian Republic of Venezuela. Article 305:** *“The State shall promote sustainable agriculture as the strategic basis for overall rural development, and consequently shall guarantee the population a secure food supply”*. According to the FAO, food security can be defined "when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food that meet their dietary needs and food preferences for an active and healthy life". FAO, *The State of Food Insecurity in the World 2001*. Rome, Italy. Available at <http://www.fao.org/docrep/003/y1500s/y1500s00.HTM>

³ **Constitution of the Bolivarian Republic of Venezuela. Article 117** *“All persons shall have the right of access to goods and services of good quality, as well as to adequate and non-misleading information concerning the contents and*

3. The Organic Law on Food, Security and Sovereignty⁴, according to its first article, aims to ensure the food sovereignty and security⁵ and the "right of the nation to define their food policies", emphasizing guaranteeing the "sufficient access of food for the entire population."⁶ Food security is the effective capacity of the State to ensure population availability, access, sharing and equitable distribution of food.⁷
4. The State has an obligation, a responsibility with the food producers, to ensure that every Venezuelan citizen has the ability to access food in a sustainable and permanent way, through the formulation and implementation of food distribution policies, to facilitate Venezuelans their right to food.
5. Also, the Venezuelan Constitution recognizes health as a fundamental right and the State's obligation to guarantee it by law, in accordance with treaties and international agreements binding for Venezuela.⁸

B. Restrictions on the right to food and access to goods and services of quality in the context of widespread shortages of essential goods.

characteristics of the products and services they consume, to freedom of choice and to fair and dignified treatment. The mechanisms necessary to guarantee these rights, the standards of quality and quantity for goods and services, consumer protection procedures, compensation for damages caused and appropriate penalties for the violation of these rights shall be established by law”

⁴ This is the current regulatory body for food in Venezuela, published in Official Gazette No. 5,891 dated July 2008. Text of the Organic Law on Food Security and Sovereignty (Spanish version), at: http://www.fao.org /pgrfa-gpa-archive/ven/ley_soberania.pdf

⁵ **Organic Law on Food Security and Sovereignty Article 1.** “*This Decree with Rank, Value and Force of Organic Law is meant to ensure security and food sovereignty in accordance with the guidelines, principles and constitutional and legal purposes security and integral defense of the Nation, without prejudice contained in the law governing land and agricultural development.*

⁶ **Organic Law on Food Security and Sovereignty Article 4.** “*Food sovereignty is the inalienable right of a nation to define and develop agricultural and food policies appropriate to their specific circumstances, from national and local production, respecting the conservation of productive and cultural diversity, as well as the ability to prioritized self-supply ensuring timely and sufficient access to food for the entire population.*

⁷ **Organic Law on Food Security and Sovereignty Article 5.** “*Agricultural food safety is the effective capacity of the State, with the national food industry, to ensure the entire population, availability, access, sharing and equitable distribution of food in a stable manner, to ensure the physical and emotional conditions suitable for integral and sustainable human development, considering the exchange, complementarity and economic integration among peoples and nations as an essential element guaranteeing the right to food.*

⁸ **Constitution of the Bolivarian Republic of Venezuela. Article 83:** Health is a fundamental social right and the responsibility of the State, which shall guarantee it as part of the right to life. The State shall promote and develop policies oriented toward improving the quality of life, common welfare and access to services. All persons have the right to protection of health, as well as the duty to participate actively in the furtherance and protection of the same, and to comply with such health and hygiene measures as may be established by law, and in accordance with international conventions and treaties signed and ratified by the Republic. **Article 25 of the Universal Declaration of Human Rights** Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social service. The Organic Law of Health, Defines health as Article 2, "not only the absence of disease but a state of complete physical, mental, social and environmental" Text of the Organic Law of Health at: <http://www.fundaribas.gob.ve / WebPage / pdf / salud.pdf>

6. Venezuelan citizens face an economic crisis exacerbated by reason of continuous inflation rigging an index of cost of living with a percentage of 270.7% higher⁹, which is unprecedented in the economic history of the Venezuelan State¹⁰. The Government argues that it is due to low oil prices and the "economic war".¹¹
7. Under the inability of citizens to purchase necessities at the price set by the market, the government decided to regulate prices, a measure that exacerbated the shortages and inflation.¹²
8. The average citizen remains several hours outside markets waiting to be attended to acquire basic necessities, many of which are not available. Commodities such as coffee, detergent and sanitary napkins have an average of 91% shortage in some states like Lara, Falcon, Yaracuy and Zulia. Cow meat reaches 82% of deficiency in the markets. Deodorants, for example, are almost completely disappeared. The referred phenomenon, combined with inflation, explains the growing exasperation of Venezuelans. It is observed that in Venezuela, at least 9.7 minimum wage are needed to purchase the minimum items requiring a family of five.
9. Citizens wait for hours in long lines at the edge of the streets, and have developed serious issues: basic physiological needs cannot be met in the absence of sanitary facilities in the streets, outbreaks of violence between citizens psychologically affected by the hours waiting, violence generated by episodes of robbery^{13 14}, health conditions,

⁹ The official figure reported by the Central Bank of Venezuela (BCV) for 2015 is 180.9%; in the case of food and nonalcoholic beverages the increase is equal to 315%.

¹⁰ See: Diary Clarín Digital Edition http://www.clarin.com/mundo/inflacion-Venezuela-llega-agudiza-desabastecimiento_0_1507649639.html, 20/01/16.

¹¹ See: Telesur. Digital Edition <http://www.telesurtv.net/news/Venezuela-contrarresta-la-guerra-economica-con-Plan-de-Emergencia-20160115-0031.html>

Ver: BBC Diary. Digital Edition http://www.bbc.com/mundo/video_fotos/2015/07/150702_video_venezuela_inflacion_dp

¹² **The Center for Documentation and Social Analysis of the Venezuelan Federation of Teachers (Cendas-FVM)** published in 2015 a report indicating that the basic family basket registered an increase of 361.5% from December 2014 to the same month in 2015. Diario La Verdad. digital version. See full article at the following link: <http://www.laverdad.com/economia/90643-canasta-basica-aumento-361-5-en-2015-segun-cendas.html>. January 25, 2016 - 04:00 pm. **"Basic basket increased 361.5% in 2015, according Cendas"**.

¹³Read the following: 1) Venezuelan Observatory of Violence. Annual Report 2014. Available at: <http://observatoriodeviolencia.org.ve/ws/ovv-informe-2014-venezuela-termina-el-ano-2014-como-el-segundo-pais-con-mas-homicidios-en-el-mundo>. 2) Diario La Verdad. Digital edition. He was doing queue while waiting for a cab and got killed. 19 January 2015. Available at: <http://www.laverdad.com/sucesos/67929-salio-a-hacer-una-cola-y-lo-asesinaron.htm>.

¹⁴ Noticiero Digital. *Squabbles in lines to buy "regulated" food left two injured in Maracaibo*. 9 January 2015. Available at: <http://www.noticierodigital.com/2015/01/panorama-trifulcas-en-colas-para-comprar-regulados-dejo-dos-heridos-en-maracaibo/>. See: NoticiaAldía *A problematic situation generated conflict on bicentenary supermarket of the C-2*. April 14, 2015. Available at: <http://noticiaaldia.com/2015/04/una-cola-problematica-genero-revoltosa-situacion-en-bicentenario-de-la-c-2/>

extreme tiredness or sunburns when exposed to the sun¹⁵ for several hours, among others.

10. Access to food and basic necessities is restricted according to the "Digital Supply System Security" applied by a biometric fingerprint record aimed at regulating the amount of commodities that users can purchase weekly. One of the problems arising from the use of fingerprint measurement is related to the database used for the same, which is the National Electoral Council. Because of this, some citizens are marginalized from the system because they are not registered on the electoral data base, including children, adolescents and foreigners. People with problems to record fingerprint are also part of the vulnerable group. Another vulnerable group is that of those who do not own debit cards, because purchases are restricted to cash transactions.¹⁶
11. The presence of military personnel in supermarkets is constant, in and outside of public and private establishments¹⁷. Militarization has resulted in repeated irregular situations related to restrictions on freedom of expression of citizens and media that want to report the critical situation.¹⁸
12. A practice has been repeated, especially in border states such as Zulia or Tachira, regarding the mere possession of some products can cause the imputation of "economic crimes" under the Criminal Code or other special laws in Venezuela, such as Law to Fair Prices¹⁹, Law Against Organized Crime and Terrorism Financing²⁰, which may vary according to the circumstances of the particular case. The most common imputations are based on extraction smuggling, hoarding, speculation, money laundering and usury²¹.

¹⁵In Zulia state temperatures can rise up to 44 ° C ° F and 55% humidity. See: Daily News Digital Edition Heat intensifies in Maracaibo: 44 ° C. Wind and humidity 55%. May 4, 2015. Available at: <http://noticialdia.com/2015/05/sensacion-termica-enmaracaibo-to-this-time-is-32oC-and-humidity-is-located-in-60/>

¹⁶ There are reports of people who must wait up to three months to get an appointment to open bank accounts and wait for the plastic electronic cards.

¹⁷ See: Diario Panorama. digital edition. Marking, cuffs and "spot seller" take the tails of Maracaibo. 4 February 2015. Available at: http://www.panorama.com.ve/contenidos/2015/.01/22/noticia_0067.html.

¹⁸ Newspaper El Universal. Digital Edition. *Espacio Público* denounces violation of free speech in food lines. May 4, 2015. Available at: <http://www.eluniversal.com/nacional-ypolitica/150504/space-public-complaint-that-in-the-queue-se-violate-the-freedom-of-expr>

¹⁹ Published in Official Gazette No. 6,202, November 8th, 2015

²⁰ Published in Official Gazette No. 39,912, April 30th, 2012

²¹ There are some cases in which one of the alleged crimes was the "smuggling of extraction" by the mere possession of up to 2 or 3 products "price regulated". Due to the wide discretion of the authorities it has led to the arrest by the security forces, the subsequent prosecution by the Public Prosecutor, and even the decree of injunction judicial preventive imprisonment by the criminal courts. Article 57 of the Organic Law of Fair Prices criminalizes smuggling extraction. Responsible shall be punished with imprisonment of fourteen (14) to eighteen (18) years. Who through acts or omissions, divert goods, products or goods from the original destination authorized by the competent body or body and who remove or attempt to remove the national territory goods for the domestic supply of any kind, without complying with the regulations and documentation relevant export. (...) Similarly, it shall be punished equivalent to twice the value of goods or merchandise (...) The offense referred in this article shall be punished in its highest limit and the fine taken twice when the extracted goods or tried to extract are subsidized by the public sector or acquired currency granted by the State (...) In

13. Regarding to access to water, in Zulia State it is limited. Maracaibo, capital of the State, presents a plan for rationing water which has worsened over time: In 2010 there was one day without water for 6 with water, while from February 2016, it is 36 hours per 144. It means a day and half with water versus six and a half days without water per week, so, only one day per week the citizens have access to water, but remaining six days of the week, they may not have the vital liquid.²²
14. In relation to electricity rationing in Zulia State, during 2009 disruptions in the provision of electrical service were about two hours per week in different areas of the municipalities, while from January 2016²³ it has arrived up to 4 hours per week.²⁴

A. Restrictions to the right to health due shortages

15. The situation of shortages and scarcity covers a wide range of products, including medical supplies and pharmaceutical drugs, whose high cost has reached up to 95% of them, which has led to the announcement of closure from suppliers and importers.²⁵
16. The problem is aggravated by the lack of medicines in pharmacies across the country. Under the unavailability of them in hospitals, patients are in the need to travel pharmaceutical establishments located throughout the city to get some medicine, if it is not fully exhausted.²⁶ This makes that health and quality of life to

any case, after checking the crime, it will proceed to the immediate suspension of permits and guidelines for the transport and marketing of goods, as well as the confiscation of the goods. (...) When goods smuggled extraction have been acquired through the use of currency issued by the foreign exchange administration, whether from the supply system of the State or its extraction directly affecting public property, they will be subject to confiscation when any court decision and falls directly or indirectly to the detriment of public assets.

²² After an investigation regarding the water reservoir "Tres Rios", which has an original storage capacity of 180 million cubic meters, currently it has only 28 million cubic meters; Tule Reservoir, with 267 million cubic meters of capacity, now it has 30 million cubic meters and the reservoir Manuelote, which currently has only 5.4 million cubic meters of 214 million cubic meters. The Center of Engineers of Zulia State (CIDEZ) prepared a technical report about deterioration in Tulé, Manuelote and Burro Negro reservoirs. Previously they have been denouncing the water crisis. Source: Version Final Journal: <http://versionfinal.com.ve/ciudad/crisis-del-agua-problema-existente-del-zulia/>

²³ See: <http://www.ciea.org.ve/wp/noticias/anunciaron-plan-de-rationamiento-electrico-para-varios-estados-del-pais/>

²⁴ The Guri dam, the country's largest hydroelectric plant, which generates electricity to be distributed to the whole nation has been immersed in crisis due to lack of maintenance and lack of projects to implement a new system that will generate alternative energy. The reservoir level has continued to lose. On January 11th, 2016 it reached 255.27 meters above sea level elevation. If it does not start immediately rationing and declining behaves similarly to 2010, it was reached in April, the 240 m level intakes that feed the upper 8 turbines Hydroelectric Simon Bolivar. This would require 8 turbines stop to avoid damage, which would reduce the flow downstream and would lower the generation of Caruachi and Macagua I, II and III, giving off an energy crisis at the national level. See: Integral Association of Public Policies: www.aipop.org

²⁵ In effect, according to the president of the Federation in medicine of Venezuela, Douglas León, the absence of medicines has spread to the whole network of public health, reaching the alarming number of 95 % of shortage. Read the following: Diary The Time. Digital edition. Shortage of medicines in hospitals reaches 95 %. On May 4, 2015. Available in: <http://eltiempo.com.ve/locales/zonanorte/situacion/escasez-de-medicinas-en-hospitales-alcanza-el-95/180453>.

²⁶ Nowadays in Venezuela, according to the Federation of Venezuelan pharmaceuticals (Fefarven), the shortage of medicines overcomes 60 %. The Association distributors of medical equipment in Venezuela, dental supplies, Laboratories and Related (Avedem) assures the reports of "absolute absence" up to 85 % of the products in health supplies. More than 900 amputations of low members are done in the Venezuelan hospitals because of the lack of

diminish, so that the competent bodies should enable policies necessary to address the situation which every day becomes more critical.²⁷

17. The shortage of medicines and supplies for health also affects those citizens infected with HIV (Human Immunodeficiency Virus); the supply of hospital stretchers; and it has favored the increase in cases of malaria (Malaria)²⁸. Women are especially affected by the absence of contraceptives in the country.²⁹
18. In this context of shortage of products in Venezuela, patients and students of the Faculty of Medicine including Dentistry at the University of Zulia are affected while doing internships at major hospitals in the State of Zulia.³⁰
19. In the setup of shortage for medical supplies, the particular concern about the situation of the increasing insecurity in hospitals in Zulia State merges to it. Doctors and students doing their internship in the hospital emergency are terrified due to the situation of insecurity, theft or robbery of their vehicles and goods in general even

peripheral stents (pipes that are placed in the arteries of the peripheral traffic, to support the arteries opened in the treatment of estenosis) according to Avedem's report sent to the National Assembly in 2014. Read the following: Daily Panorama. Digital edition: The shortage of medicines in Venezuela and the risk of buying them in Internet 4 of October, 2015. Available in: <http://www.panorama.com.ve/opinion/La-escasez-de-medicinas-en-Venezuela-y-el-riesgo-de-comprarlas-en-internet-20150126-0084.html>

²⁷ Carlos Rosales, president of the Venezuelan Association of Hospitals and Clinics insisted on the gravity of the situation establishing that suppliers and importers announced the closing of his doors in reason of the absence of inputs to doing business. Read the following: Al Día Notifies. Association of clinics and hospitals repeats denunciations for shortage of inputs and materials. On December 17, 2014. Available in: <http://noticiaaldia.com/2014/12/asociacion-de-clinicas-y-hospitales-reitera-denuncias-por-escasez-de-insumos-y-materiales/>

²⁸ The cases of malaria (Paludism), have increased due to the scarcity of supplies and medicines, these medical needs obligates the same patients to go to different diaries of the state in the search of solutions for the crisis and improving his health. Read the following: Daily Sucre. Digital edition: Shortage of medicines in the country reaches 80 %. On November 23, 2015. Available in: <http://sucredigital.net.ve/site/escasez-de-medicinas-en-el-pais-alcanza-el-80/>.

²⁹ In press release it appreciates: " 164 thousand patients are in crisis and they are afraid to be stigmatized and discriminated for having HIV (...) they are more than two thousand sick people with HIV left to dead because of the absence in management by Francisco Armada, The Secretary for the Popular Power of the Health ". (There is absent the information of the origin of the press release).

²⁹The shortage of supplies generates concerns about the hospitable stretchers, item where 95.000 stretchers are needed in the whole country, registering a deficit of 79 %, whereas only in the state of Zulia there are needed 13.200, region that presents a deficit of shortage of supplies of stretchers of 84 %. Read the following: Diary The Universal one. Digital edition. They assure that 13200 beds are needed for hospitals of the Zulia. On October 9, 2014. Available in: <http://www.eluniversal.com/nacional-y-politica/141009/aseguran-que-se-necesitan-13200-camas-para-hospitales-del-zulia>.

³⁰ Read the following: 1) The Health: between corruption and ruins, Diary Final Version, of March 2, 2016, p. 7. 2) For two weeks medicines do not come to Farmapatria, Diary The Truth, February 27, 2016, p. 6. 3) " Depressed delinquents who were supporting situation of hostages in the HUM ". Digital version of the Panorama. Available in: <http://www.panorama.com.ve/sucesos/Abatidos-dos-delinquentes-que-mantengan-una-situacion-de-rehenes-en-el-HUM-20160204-0067.html>. Published: 04/02/2016 4) "Suspension of the unit of dialysis in the SAHUM ". Digital version of the Panorama. Available in <http://www.laverdad.com/zulia/92605-suspenden-dialisis-por-falta-de-agua-en-el-hum.html> Publicado: 28/02/2016

threats to their personal integrity or life by relatives of patients in shock because of the health system collapse.³¹

20. In specific situations where the violation of the right to health occurs with patients in various health centers and hospitals is mainly caused by the lack of medical supplies and the effectiveness in teams, medical personnel in higher ranks is forces doctors in lower ranks to take responsibility of treatments respectively, not allowing other authorities to realize the scarceness of medicines and supplies in general.
21. According to official data, at the end of 2015 over 7.527 cases of HIV where registered in the State of Zulia and 245 where only kids. From the new registered cases on 2014 up to 90% where diagnosed on a late phase. The highest morbidity was present in Maracaibo city, San Francisco, La Guajira and Cabimas.³²
22. NGOs that work with HIV have found that patients with this disease haven't done any tests like lymphocyte subpopulation and viral load since October of 2015, which allows to quantify the failure or success in treatments antiretroviral therapy and the immune system response.³³
23. In the context of militarization in the municipality of La Guajira, one of the common practices implemented by the military forces stationed on the bridge over the Rio Limon is the intimate inspection to Wayuu women through vaginal rummage; undermining physical, mental and moral integrity and the right to health. The practice is usually performed by military women officers who usually wear the same glove on several inspections, increasing the risk of reproducing sexually transmitted diseases. Also, there have been reports of similar mandatory requisitions at checkpoints located on public roads or strategic routes connecting cities or villages in Zulia State.³⁴

³¹ Between these: University Hospital of Maracaibo, General Hospital of the South, Central Hospital Dr. Urquinaona, Hospital Chiquinquirá, Cabimas's Hospital, Hospital of Pediatric Specialties, Hospital Adolfo Pons, Hospital Coromoto, Maternity Castle Plaza, ambulatory and Centers of Integral Attention - CDI-. In relation to practices of pediatrics, gineco-obstetrics, surgery, orthopedic surgery, between others are hampered due to the limitations in the hospitals and centers of attention for health so much for the lack of inputs, problems of infrastructure, between others, by which they are developed in classrooms and exposed like theoretical classes. This situation commits an outrage not only against the right against the quality of education for the students, but it also affects the right to the health of the patients, who stop having the assistance of the university students in some phases before the treatment of his current disease. In relation to the doctors or odonatologists who deal studies of post-degree (residents I, the II, III and IVth) in different specialties, the situation is practically similar, aggravated for the shortage of supplies in relation to medical inputs in general (gloves, alcohol, material of suture, surgical material, intravenous solutions, medicines in general, between others), which impedes and in some cases it disables the practical formation of the student of post-degree and the ideal attention to the patient.

³² *Data provided by the Regional Program on HIV / AIDS-STI Zulia state, under the Ministry of Popular Power for Health.*

³³ These tests are only performed at the Southern General Hospital Pedro Iturbe, and directly affects patients of Zulia, Falcon, Trujillo and Lara states, orientated to west region of Venezuela.

³⁴ Received complaints about requisitions carried out between December 2015 and March 2016 in Punta Alcabala Stone in the checkpoint bridge over Lake Maracaibo, in the checkpoint Curve San Carlos, at the entrance to Santa Barbara Zulia state (Municipio Colón), among others.

Recommendations

24. *The State should formulate legislation and public policies according to the constitutional notion of "Social Rule of Law and Justice", respecting private initiative, encouraging the revival of domestic production and providing incentives to invest in Venezuela, in order to guarantee the right to access to food, health of citizens and other related human rights, in the context of promoting the development of an economic stabilization plan that allows satisfactory performance of key macroeconomic variables such as price level, production, employment and exchange rate.*
25. *In specific terms it is necessary to replace the current Law for Fair Prices by a Consumer Protection Act to develop Article 117 of the Constitution.* ³⁵
26. *In the context of fulfilling the commitment taken in the first cycle of the UPR to consider the right to development as an inalienable human right³⁶, the State must produce a short term public policy to overcome the problem of food and medical supplies shortages. It must also cease any discriminatory practice tending to undermine the right to life, health, food, an adequate standard of living.* ³⁷

II. Restrictions to the right to equality, personal liberty, humane treatment and due process.

A. Violations within the framework of arbitrary detentions and/or deprivations of personal liberty

27. Concerning to the violation of the right to personal liberty, due process, and physical, psychic and moral integrity, within the framework of arbitrary detentions and/or deprivations of personal liberty occurred in Zulia state during 2014, the study

³⁵ Article 117. Every person shall have the right to have quality goods and services, as well as to adequate and non-misleading information on the content and characteristics of the products and services they consume, freedom of choice and fair and decent treatment. The law will establish the necessary mechanisms to guarantee those rights, standards of quality control and quantity of goods and services, procedures for defense of consumers, compensation for damages and penalties for the violation of these rights.

³⁶ See Commitment taken on first UPR (Cycle 2012 N. 2): The Bolivarian Republic of Venezuela considers that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in economic development, social, cultural, civil and political allowing them the full enjoyment of all human rights and fundamental freedoms. Therefore, the Government of Venezuela is committed to the implementation and development of social programs designed by the Government under way and known as "social missions" , which seek to recognize and enforce the rights of the population in the fields of health, employment, education, food, welfare , scientific and technological development and public safety.

³⁷ See Commitment taken on first UPR (Cycle 2012 N. 2): The Bolivarian Republic of Venezuela considers that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in economic development, social, cultural, civil and political allowing them the full enjoyment of all human rights and fundamental freedoms. Therefore, the Government of Venezuela is committed to the implementation and development of social programs designed by the Government under way and known as "social missions" , which seek to recognize and enforce the rights of the population in the fields of health, employment, education, food, welfare , scientific and technological development and public safety.

of cases published in reports of 2014 and 2015³⁸ showed a similarity in the pattern of conduct developed by the officials of various State security organs involved in the events, especially regarding allegations of torture, cruel, inhuman and degrading treatment.

28. In Zulia state, more than 420 people were arrested for the exercise of the right to protest³⁹, mostly young people between 18 and 25 years old. From 150 cases studied by the Inter-institutional Commission on Human Rights of Zulia State in its report of 2014, 25 were women and 125 men. Most of the arrests were arbitrary and in violation of the basic guarantees of due process, physical, mental and moral integrity, among other rights.⁴⁰

29. In Venezuela, crimes committed *in flagranti* must be processed according to the summary procedure⁴¹, which was not observed in several cases⁴². In most cases of

³⁸ See: Preliminary Report about Human Rights Situation within the protests: February 12 – April 12, 2014. Maracaibo, Zulia state, At: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/INFORME%20FINAL%20CDDHH%20ZULIA.pdf and www.fcjp.luz.edu.ve

³⁹ Preliminary Report about Human Rights Situation within the protests: February 12 – April 12, 2014. Maracaibo, Zulia state, At: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/INFORME%20FINAL%20CDDHH%20ZULIA.pdf y www.fcjp.luz.edu.ve

⁴⁰ In many cases, at the moment of these practices, the officials did not identify themselves or covered their looks. Some people were arrested by pro-government armed civilian that acted under the acquiescence of the Bolivarian National Guard (GNB) and under the consent of Zulia Regional Police. Likewise, they violated the duty of notifying the reasons of the detention and the duty of allowing communication with their families and lawyers. In many cases, the information of the detention and confinement place was denied to their families and lawyers during the first 8 to 14 hours after the apprehension occurred.

In the reports of 2014 presented by this commission, it was determined that 4 of the interviewed women were told “We know where you live”; 9 victims claim that even when they had not had communication with their families nor their lawyers, they were told “if we want, we can make you disappear”, to the 6 young people arrested, they told “you are not going to get out of this alive”, “we are going to kill you”, or even if they did not tell directly to the victim, the officials discussed between them how they would make the bodies disappear or how they would kill them; in regards to the pattern denominated “position of submission during the deprivation of liberty”, it makes reference to the posture the victims had to remain during the time of arrestment, or through long moments. 4 of the victims were forced to stand handcuffed to a pipe, another 5 were forced to sleep handcuffed to each other, and in case one of them needed to move, they all had to move along.

⁴¹ Article 373 of the Organic Code of Criminal Procedure (COPP) regulates the referred summary procedure. According to the doctrine of the Constitutional Chamber of the Supreme Court of Justice (TSJ), the period of 48 hours that states article 44.1 of the Constitution, has as its purpose the presentation of the apprehended to a Court, for this to decide is the capture was according to the law, this means, if all the assumptions of flagrancy that are established in the Article 234 of the COPP were accomplished. In that same period, the presentation of the accused has to be made to the competent jurisdictional body, in the case the apprehension is made based on a previous judicial order; that, for the application of the international treaties and article 232 of the COPP.

⁴² In 5 of the 150 cases studied by Inter-institutional Commission on Human Rights of Zulia, in their brief of 2014, the lapse of 48 hours for the presentation was violated, it became apparent a continuous dilation of the process or the acts. In regards to the production of proofs, the lawyers inform that in 56 of the papers of imputation, out of the 150 studied cases, it is mentioned evidence without a reasonable foundation. In one particular case, the pictures presented by the National Guard were digitally modified against the victims in relation to the place of the event. Other reiterated irregularities in the criminal process were the inconsistencies between the police records and the imputation that were made. The lawyers of the victims report that in at least 24 of the 150 studied cases, there were discrepancies in the records, and in 3 of them, the date and time of the facts were modified. Another irregular element on the records is the omission of leaving record of the

arrests for protests brought before different Courts alternative measures to imprisonment were issued.

30. Regarding to torture and / or cruel, inhuman and degrading treatment, situations linking the Bolivarian National Guard (GNB) and the Regional Police of Zulia state were documented, both at the time of the arrest as well as during the transfer to the detention center and the stay in it⁴³. It was also reported that no record was left during the hearings about the injuries and mistreatment denounced by the detainees. International human rights organizations expressed their concerns about violations incurred by the police and military authorities in Venezuela.⁴⁴
31. Regarding the violation of the physical integrity, of the 150 cases observed in previous reports, 58 people were beaten by government troops at the time of the arrest, 29 were hit during the transfer to the detention center, and 26 were injured during their stay in the detention center, in 104 cases there were insults with political overtones, and in 116 cases insults were more personal, especially at the time of arrest, 16 victims said they have received threats against his family and 87 say they have received death threats.

physical state of the apprehended, 44 cases of light and serious injuries were omitted. In 108 cases, the victims informed they did not have communication with their families, instead, 40 of them confirmed they did not have communication with their lawyers.

⁴³ In relation to the testimony of Daniel Quintero, 21 years “(...), the copilot beat me very strongly with his rifle in the temple, the same way, another of the officers turned his video on, he put himself on top of me and gave his phone to another office with the objective of continuing recording and he started making sexual and obscene moves. Later I was sprayed with oil and vinegar so they could accuse me of burning tires and using “Molotov” bombs (...) After of many beatings (...) I got many threats from the officers who put their rifle between my legs and said I was going to be raped at “el Marite”, and they threw at me cardboard of toilet paper and told me “This is how they have it at “El Marite””, referring to the genitals of the men that are in that jail. During all the journey I was beaten, assaulted, vexed (...) after this, they took me to the CORE 3, where I was received by the commander of the place. This lieutenant commander (...) had next to him a bucket full of gasoline, wire and matcher, talking to me with threads, saying “here is where we are going to burn you and nobody is going to ask for you” (...), I was forced to take my clothes off and leave only the underwear, these officers put me 2 rules; first they told me I could not sleep, since they did not sleep I had to feel like they felt; and second, I had to stay all night with my feet together. My left hand was handcuffed to a pipe that reached my ankle, and my right hand touching my feet with my belly button touching my thighs, looking down (...) I had to spend the night in this position, 9 hours approximately, if I moved, they beat me, that is what they told me (...), this same way I got threats that with the same stick they would beat me I was going to be raped and that I could not look at them, if I did, they told me “Don’t look this way, darn, we will kill you”. Daniel Quintero. His detention occurred on February 21st, 2014, approximately at 10 p.m., see Video No. 3:

<https://drive.google.com/file/d/0B8r6TL2ePMjnaGpOclhROU1SOTg/edit?usp=sharing>
⁴⁴ 1) **Source:** El Universal. **Format:** Digital Edition. **Date:** July 13th, 2014, by Olgalinda Pimentel. **Available at:** <http://www.eluniversal.com/nacional-y-politica/140713/foro-penal-hay-que-resarcir-el-danoa-detenidos-inocentes> “HRW denounced before the UNO the violation of Human Rights in Venezuela”.-

Officers of the Police forces applied the illegitimate force against protesters and bystanders, it was warned that the mistreating of the arrested people clearly constituted acts of torture. 2. **Source:** El Nacional. **Format:** Digital. **Date:** June 24th, 2014, by ANNA CAROLINA MAIER.

32. Similarly retention and theft of belongings in violation of the right to property of the victims was a common practice⁴⁵

B. Violations of personal liberty and security, physical, mental and moral integrity under the control of demonstrations and attacks on residences

33. In 2014 in Zulia State, the use of force to control the manifestations was excessive, without there being evidence of neither the exhaustion of the negotiations required by the handbook, and the national and international rules, that regulates the use of force by the police, nor the consideration of the various levels of the scale of the social conflict, violating not only the right to protest, but also the constitutional rights to physical, mental and moral integrity, the inviolability of the home, and even the right to property.

34. Likewise, the violation of the right to housing was found⁴⁶, with the repeated attacks by security forces in at least twelve homes or residential areas of Maracaibo.⁴⁷

35. Actions in residential areas by law enforcement authorities were accompanied by the participation of armed civilian groups acting jointly with them or under their acquiescence.⁴⁸

C. Restrictions on equality and violation of the prohibition of discrimination based on political motives.

⁴⁵ Of the sample of 150 cases documented by Inter-institutional Commission on Human Rights of Zulia, 88 detainees were confiscated their cell phones and the lawyers comment that they only know one case to which this belonging was returned. 66 of the cell phones were emptied of their contents. Besides, in 18 cases there was stealing of other personal effects, like money, books, and even 2 cars, these last were returned to their owners after the releasing procedure.

⁴⁶ Article 47 of the Constitution states: "A person's home and any private premise are inviolable. They may not be forcibly entered except by court order, to prevent the commission of a crime or carry out the decisions handed down by the courts in accordance with law, respecting human dignity in all cases. Any health inspections carried out in accordance with law shall be performed only after notice from the officials ordering or carrying it out."

⁴⁷ The irruptions to residences came together with the violation to the personal, physical, mental and moral integrity in situations like: Case of Conjunto Residencial Palaima, Case of Torres de El Saladillo, Case of Conjunto Residencial El Cují, Case of Conjunto Residencial El Pinar, Case of El Naranjal, among others. See <http://www.laverdad.com/politica/49186-ataque-criminal-contra-palaima.html>, <http://panorama.com.ve/portal/app/push/noticia106049.php>, <http://panorama.com.ve/portal/app/push/noticia106075.php>, <http://www.laverdad.com/politica/49186-ataque-criminal-contra-palaima.html>, <http://panorama.com.ve/portal/app/push/noticia106110.php>, <http://www.laverdad.com/politica/49186-ataque-criminal-contra-palaima.html>, <http://panorama.com.ve/portal/app/push/noticia106049.php> / <http://panorama.com.ve/portal/app/push/noticia106075.php>

⁴⁸ Article 324 of the Constitution states: Only the State shall be permitted to possess and use weapons of war; any such weapons which now exist or are manufactures in or imported into the country shall become the property of the Republic, without compensation or proceedings. The National Armed Forces shall be the institution of competence to regulate and control, in accordance with the pertinent legislation, the manufacture, importing, exporting, storage, transit, registration, control, inspection, marketing, possession and use or other weapons, munitions and explosives".

36. Currently, the climate of polarization and discrimination against citizens for political reasons and intolerance fostered by government authorities remains.⁴⁹ The using of the "Tascon list"⁵⁰ and other databases with sensitive information about political affinities with the national government, or programs favored by the government is still within the concerns of Venezuelans.⁵¹ Given the polarization for political reasons in Venezuela, the Commission is worried about the creation of possible new lists.⁵²
37. Public officials and employees of the oil industry in Venezuela, specifically in the offices located in Zulia state, and public institutions of the State, have continuously received proselytizing messages and, in some cases, harassment motivated for political reasons⁵³.

Recommendations

38. The state must adopt legislative, administrative and judicial measures and public policies for strengthening the ban on the practice of torture, cruel, inhuman or

⁴⁹ In Zulia state, and in general, in Venezuela, many cases of arbitrary detentions have been reported due to the use of free speech and protest, and in other labor fields due to the use of free political opinion or the freedom of conscience. In the previous reports made by the International Commission of Human Rights of Zulia state, many human rights violations were documented that occurred in the year 2014, in a context of high social dispute. According to the Venezuelan Observatory of Social Dispute, 9.826 protests were registered, and most of them rejected the Government. See brief of the situation of human rights in the State of Zulia at: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/INFORME%20FINAL%20CDDHH%20ZULIA.pdf and www.fcjp.luz.edu.ve

⁵⁰ The Tascon List was a data base that content the names of approximately 2.400.000 Venezuelans that collected signatures requesting the revoking referendum between the years 2003 and 2004.

⁵¹ In the third report presented in June of 2015 by this Commission and Codhez, an alert was made about the concern related to the hiring of people, and suppliers of the Oil State Company based only in the previous revision of the Tascon list and Maisanta list.

⁵² In the frame of the called "Anti Obama", after the Government of the United States of America declared the Government of Venezuela as a threat to its country on March 9th, 2015. Since then, there were disposed centers of signatures collection in the public offices, applying pressure against the employees to sign. See: Diario La Verdad. Edición Digital. *El chavismo busca firmas a juro*. 26 de marzo del 2015.

Available at: <http://www.laverdad.com/politica/72121-chavismo-busca-firmas-a-juro.html>. Diario El Nacional. Edición digital. *Órganos públicos obligan a firmar carta para Obama*. 27 de

marzo del 2015. Disponible en: <http://www.el-nacional.com/politica/organos-publicos-obligan-firmar->

[Obama_0_598740284.html](http://www.el-nacional.com/politica/organos-publicos-obligan-firmar-obama_0_598740284.html). Diario El Nacional. Edición digital. *Despidieron a trabajador de CVG por no firmar contra decreto de Obama*. 25 de marzo del 2015. Testimonio grabado disponible en: http://www.elnacional.com/sociedad/Despidieron-trabajador-CVG-decreto-Obama_3_611968826.html

⁵³ In the frame of some communicational strategies to assist gatherings of political character and to take specific actions in favor of the national Government implemented inside of PDVSA in Zulia state, it stands out the sending of recurrent messages (many times a week) to the workers through informative notes through the Intranet and/or the personal emails. This commission received similar complaints from public officers, who were members of the Judicial Power, according to which, the charges were assigned depending on the filiation and political confession.

degrading treatment, the due process in judicial and administrative proceedings, the right to demonstrate, and the exercise of all civil and political rights.

39. *The State must take measures to prevent discrimination for any reason, especially those caused by motivations of a political nature in public and / or private spaces.*