



**ALTERNATIVE REPORT TO THE FOURTH PERIOD REPORT BY THE  
BOLIVARIAN REPUBLIC OF VENEZUELA ON COMPLIANCE WITH THE  
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS OF  
THE UN'S HUMAN RIGHTS COMMITTEE**

Drafted by

The Coalition of Non-Governmental Organizations of Venezuela, academic institutions and organized civil society

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The Report's Coordination  
Office

**OMCT**  
SOS-Torture Network

**COFAVIC**  
organización no gubernamental para la protección  
y promoción de los derechos humanos

**Presentation**

This alternative report was drafted jointly by the Asociación Civil Fundación Justicia, Solidaridad y Paz (the Justice, Solidarity and Peace Foundation civil association or FUNPAZ), Asociación Civil Venezuela Diversa, Casa de la Mujer "Juana Ramírez La Avanzadora" Maracay (the Juana Ramírez La Avanzadora home for Women in Maracay), the Human Rights Faculty of the Centro Occidental Lisandro Alvarado University, the human rights center at Margarita University, Centro para la Paz y human rights "Padre Luis María Olaso" de la Universidad Central de Venezuela (the Father Luis María Olaso Center for Peace and Human Rights at the Central University of Venezuela), the human rights commission of justice and peace of Aragua state, the inter-institutional human rights commission of the faculty of legal and political sciences at the Universidad del Zulia, the law faculty of Rafael Urdaneta University, the human rights commission of the College of Attorneys of Zulia state, the Committee of Family Members of Victims of Events of February 27 to early March 1989 (COFAVIC), the committee of family members of victims of police and military abuse of Anzoátegui state (COFIVANZ), the committee of peace and life for human rights of Barinas state, the committee pro-defense of human rights of the family members of the victims of Falcón state (COPRODEH), the committee pro-defense of victims of human rights violations on public citizens (COPROVIDH), Nueva Esparta en Movimiento, the Venezuelan Women's Human Rights Observatory (OVDHM), Proyecto RedDes of Centro Occidental Lisandro Alvarado University, the Human Rights Office of the Archdiocese of Caracas, with support and cooperation from the World Organisation Against Torture (OMCT) and its objective is to offer additional information to the Human rights committee in regards to the Bolivarian Republic of Venezuela fulfilling the commitments derived from the International Covenant on Civil and Political Rights (hereinafter, the Pact) in the areas that directly concern the mandate of the organizations that have signed this report.

**Impunity in Venezuela is systematic and institutionalized:*****Statistical references on impunity***

Since 2009, the acting human rights entities have modified the presentation format for most of its reports (offering no specific data on the type of human rights violations or individualized cases), which has limited the public information available on the topic, and has exacerbated institutional opacity.

In Venezuela, there is a severe modality of generalized impunity on human rights violations in place. During the 2006-2010 period<sup>1</sup> thirty thousand (30,000) cases of alleged human rights violations were recorded, ninety-three percent (93%) of which ended in stays or acquittals<sup>2</sup>, overturned cases or dismissals<sup>3</sup> and the filing of cases with insufficient elements for conviction<sup>4</sup>.

Only seven percent (7%) ended in accusations<sup>5</sup> and of that seven percent (7%) only four percent (4%) ended in convictions, therefore breaching the right to a prompt and unbiased response by the competent authorities and the victim's right to be guaranteed fair and proper reparation or compensation.

According to the public prosecutor's 2014 annual report<sup>6</sup>, eight thousand forty-nine (8,049) cases of alleged human rights violations were filed at the department of protection of basic rights, but only one hundred and five (105) trials were conducted, representing 1.3% and evidencing that almost ninety-nine percent (99%) of the cases does not reach the trial phase. This same report also mentions that eleven thousand three hundred and seventeen (11,317) conclusive acts were issued, seven hundred eighty-nine (789) cases of which resulted in accusations.

### **Fair trials and judiciary independence (article 14)**

#### ***The general process to designate and remove judges in the Venezuelan judiciary branch of power.***

Since 1999, the Venezuelan State started a restructuring process of the judiciary branch of power based on a pressing and permanent state of emergency<sup>7</sup>, a pretext to implement a legal mechanism to arbitrarily designate and remove temporary or provisional judges<sup>8</sup>.

Public exam selection processes were established to be designated as judges of the republic only from 2000 to 2003, after which date there have been no further calls or new selection processes.<sup>9</sup>

As per information contained in the official web page of the Supreme Court of Justice (TSJ for its acronyms in Spanish)<sup>10</sup>, in the course of 2014 the judiciary commission of the TSJ continued to decide on the designation of all judges for all the nation's courts, almost all of which are in a provisional capacity or are designated on a temporary, itinerant and/or accidental basis, to learn about a specific case<sup>11</sup>. In particular, from January to August of that year, close to one thousand one hundred eleven (1,111) judges were transferred and/or named, only twenty-two (22) of which are now circuit judges.

Based on figures furnished by the representatives of the Venezuelan State at the Inter-American Human Rights Commission, sixty-six percent (66%) of all judges in the judiciary branch of power are temporary as of March 17, 2015.<sup>12</sup>

Following the jurisprudential line<sup>13</sup> of the political administrative court as well as the constitutional court of the Supreme Court of Justice, temporary judges have no job stability whatsoever, in accordance to the reorganization decree of the judiciary branch of power which states that temporary judges can be freely named and removed.<sup>14</sup>

#### **The designation of election power and citizen power representatives**

A sentence<sup>15</sup> issued on December 26, 2014 by the constitutional court of the Supreme Court of Justice resolved the designation of 3 principal members (including 2 female principals who were re-elected) and 6 alternate members for the election branch of power<sup>16</sup> by way of a request filed by the president of the National Assembly. In this regard, civil society organizations rejected the designation of said members issued by the constitutional court, based on denunciations on the bias of the male and female magistrates of the TSJ, and the fact

that two principals who had participated in prior election processes had been re-elected, thereby disrespecting legal constitutional procedures<sup>17</sup>.

As set forth in the Constitution, in order to elect representatives of citizen power entities a postulations committee must be erected and a public process needs to be called, to selected the postulates who shall be presented later at the National Assembly for re-election, by the vote of a qualified majority.<sup>18</sup>

When said procedure was to be verified, the vice-presidency of the National Assembly called all persons who wished to submit their postulation to do so within a timeframe established by the legislative palace<sup>19</sup>. Although this process was complied with and the constitutional timeframe for presentation at the assembly was still running, the president of that entity filed an appeal for the interpretation of article 279 at the constitutional court of the Supreme Court of Justice, alleging that he had been informed by the citizen power on the impossibility of creating the aforementioned committee which, in his opinion, implied that the supposed exception established in the Constitution should be verified. The decision gave powers for the National Assembly to hold the elections which took place on December 22nd, 2014 by means of a simple majority and not by a qualified majority, as set forth in the constitutional text.<sup>20</sup>

#### **The absence of reparation measures for the victims of human rights violations:**

In Venezuela, the tutelage of victims has been reduced by the amendments to the Code of Organic Criminal Procedures that limits human rights NGOs in their functions of support to victims of human rights violations as well as claims by the Venezuelan State on the American Convention on Human Rights.

On September 10, 2012 the national executive branch of power renounced the American Convention on Human Rights, and this was enacted as of September 10, 2013.<sup>21</sup>

#### **Impacts on the right to life and the absence of effective investigations on violations to this right (article 6):**

##### **A generalized state of violence and the upsurge of citizen insecurity**

Monitoring conducted by civil society entities has pointed to a progressive increase in violence. For example, the Observatorio Venezolano de Violencia (Venezuelan Observatory on Violence, or OVV) stated that the final estimate for 2013 was twenty-four thousand seven hundred sixty three (24,763) violent deaths nationwide, a rate of seventy-nine (79) deceased per hundred thousand (100,000) inhabitants<sup>22</sup>, figures which at the time were rejected by the Venezuelan authorities, indicating that the real figure was thirty-nine (39) per hundred thousand (100,000) inhabitants.<sup>23</sup>

The OVV estimated that in 2014 the final approximate figure was twenty-four thousand nine hundred and eighty (24,980) deceased persons, a rate of eighty-two (82) violent deaths per hundred thousand (100,000) inhabitants<sup>24</sup>.

The popular power ministry of internal affairs, justice and peace (hereinafter the "ministry of the interior" or the "ministry of internal affairs, justice and peace") informed that seventy-six

(76) of every hundred (100) homicides in Venezuela are due to confrontations among bands or confrontations among bands and security corps.<sup>25</sup>

### **Vulnerable groups affected by the generalized violence in Venezuela**

#### **Boys, girls and adolescents (NNA for its acronyms in Spanish):**

According to CECODAP's report based on the monitoring of the media and figures taken from the mortality rate yearbook of the popular power ministry of health, 2,813 cases of violence against boys, girls and adolescents were recorded nationwide during the first semester of 2014, 455 of which were homicides, a 16% increase compared to the same period in 2013.

#### **Principal citizen security policies**

From 1999 to date, the Venezuelan State has implemented over twenty (20) plans destined to enhance citizen security nationwide<sup>26</sup> and has spearheaded three (3) police reform processes, the result of which is the absolute inefficiency of said measures leading to the most serious security crisis in the history of Venezuela. The civil nature of citizen security forces has been systematically suppressed, contravening the national Constitution.

In this regard, the UN's Committee against Torture issued its report on Venezuela, in which it recommends that the State *"modify all legal and regulatory provisions, and all plans authorizing military participation in maintaining public order, save in extraordinary situations"* meriting this intervention, such as in states of emergency.<sup>27</sup>

#### **Resolution N° 008610 issued by the ministry of defense of the Bolivarian Republic of Venezuela.**

Resolution N° 008610 was issued and enacted by the ministry of defense on January 23, 2015 and regulates the operations by the National Bolivarian Armed Force (FANB) in controlling public demonstrations.<sup>28</sup>

Among other aspects, article 15, numerals 3<sup>29</sup> and 9<sup>30</sup> of the resolution in question contemplates that the FANB may use chemical agents as well as carry and use firearms to control public gatherings and demonstrations, completely contravening provisions 68 and 332 of the CRBV<sup>31</sup>.

The abovementioned resolution constitutes an exacerbation of the dangerous tendency towards militarization and the criminalization of public demonstrations.

In this same order of ideas, this resolution has other important technical imprecisions. For example, article 19 expresses that arbitrary detentions must be "avoided" instead of being strictly prohibited as per the international human rights provisions.

#### **Extra-judiciary executions, a growing phenomenon within the framework of citizen insecurity and impunity:**

In 2009, the Attorney general stated that crimes against human rights "are mostly attributed to police officers"<sup>32</sup>. From 2000 to 2008 the public prosecutor's office learned about eight thousand three hundred and fifty (8,350) cases of extra-judiciary executions, or an average of one thousand forty-four (1,044) cases per year.

Already, since 2001 the Ombudsman recognized three elements affecting the right to life in Venezuela and favoring the existence of impunity: i) the acceptance of the discourse of police confrontations, even from the citizens themselves; ii) the use of the media to spread these practices as "an effective tool to fight against high insecurity indices"; and iii) ignoring the rights and warranties due to society, as well as the means to uphold and defend them<sup>33</sup>.

From January to December 2013, COFAVIC documented eight hundred and two (802) cases of alleged extra-judiciary executions in 23 of the nation's states. Likewise, from January to December 2014, COFAVIC documented one thousand eighteen (1,018) cases of alleged extra-judiciary executions in twenty-four (24) of the nation's states. Coupled to this data, there has been an increase in political violence, noticeably manifested in the substantial increase in criminalizing public protests.<sup>34</sup>

The context of extra-judiciary executions in Venezuela has been recognized by the Inter-American Court of Human Rights.<sup>35</sup>

### **Violations to the right to one's personal integrity (article 7)**

#### **Torture and cruel, inhuman and degrading treatment as means to repress social protest:**

In Venezuela, a vast number of cases of torture and cruel, inhuman and degrading treatment have taken place in the context of repressing public demonstrations in the course of 2013 and 2014. The two days following the 2013 presidential elections were marked by protests in several cities all over the nation, leaving a balance of approximately seventy (70) alleged victims of torture and cruel, inhuman or degrading treatment in Lara, Carabobo and Barinas states<sup>36</sup>, mostly youngsters aged eighteen (18) to twenty-five (25). Afterwards, from February to June 2014, social protests broke out in several of the nation's cities – most of which were peaceful – where repressive actions by police and military corps and even by armed civilian groups which have allegedly acted under the acquiescence of state entities were witnessed and recorded<sup>37</sup>. During these events, COFAVIC managed to document ninety (90) cases of alleged torture and inhuman and degrading cruel treatment, as well as twenty (20) cases of alleged harassment against residential locations<sup>38</sup>.

In the course of these events, the authorities reacted by conducting massive detentions and employing excessive force, all of which runs counter to the nation's norms and the basic principles on the use of force and firearms by officials in the course of enforcing the law.

Information has also been disclosed with respect to some national security corps officials who may be members of so-called "armed civilian groups", which could

become a channel to grant power to these persons and eventually endow them with weapons.<sup>39</sup>

The organizations subscribing this report have received testimonials and reports and have documented claims of the undue and indiscriminate use of rubber pellets, teargas and pressurized water cannons pointblank and at close range on persons or in enclosed or residential spaces<sup>40</sup>, presumably with the objective of not only dispersing the demonstrations, avoiding the closing of roads or as punishment to barricades raised, but also for the purposes of causing bodily harm to the protesters without proceeding first to negotiating or dialoguing with them<sup>41</sup>.

**Torture and cruel, inhuman and degrading treatment in arbitrary detentions within the framework of social protests:**

In regards to claims of alleged arbitrary detentions and the indiscriminate use of force by state security corps in the post-election days in 2013 and social protests in 2014, multiple claims were filed by persons who declared that they were victims of unlawful detentions without legal arrest warrants that did not comply with the formal requirements of flagrancy while committing a crime<sup>42</sup>.

The victims of these events informed that these detentions were carried out in spaces nearby to the protests, and in some cases the detention was due to the illegal raid of homes, from where these persons were violently and arbitrarily abducted without complying with the formalities set forth in the law.<sup>43</sup>

The majority of detentions in the context of public demonstrations were practiced by National Guard officials<sup>44</sup> and regional police officials of the respective states.

The victims of arbitrary detentions denounced that after being apprehended they were taken from one place to another for several hours in civilian vehicles "and from then on afterwards, they were left in a military or police facility".<sup>45</sup> Another irregularity related to detentions consisted in omitting to inform about the reasons for the arrest, as well as denying the citizens the right to contact their family members, attorneys or trusted persons.<sup>46</sup>

In a vast majority of cases, the attorneys only had access to the persons arrested once they had been presented at the control courts at the start of the hearing procedures<sup>47</sup>. Coupled to this, given the characteristics of the control court facilities, the attorneys were unable to hold private conversations with their defendants prior to the initial hearing procedures<sup>48</sup>.

In the vast majority of cases, the public prosecutor's office filed charges in an absolutely generic manner without mentioning the defendant's individual accountabilities, thereby limiting their right to defend themselves and violating the existing domestic regulations.

As previously commented, attorneys and human rights advocates who have provided assistance to the victims have ratified that on numerous occasions they requested that the legal and tax authorities leave a record of the injuries and mistreatment suffered by the persons arrested. Nonetheless, the acting judges in

many cases refused to take these petitions into account.<sup>49</sup> It was also recurrent for the acting courts not to permit or grant access to the persons to medical checkups before being transferred to the jails<sup>50</sup>.

**Torture and inhuman and degrading cruel treatment against women during the detentions which took place in the first semester of 2014 and the April 2013 protests:**

During the repression of the social protests in 2013 in the post-election context of April of that year and the first semester of 2014, women were affected by alleged acts of violence with patterns that are totally differentiated from those inflicted on males, and in some cases specifically aimed at the female gender<sup>51</sup>.

In numerous cases as told by the women and compiled by the NGOs gathered in this report, the following were recurrently mentioned: threats of sexual violence and being forced to practice oral sex on the officials under whom they were in custody. In other cases, they reported that they were subjected by male and female officials to forcibly strip naked while the officials made lewd references to their physical characteristics or bodily frames<sup>52</sup>. In cases documented in Lara state, some victims described that alleged National Bolivarian Guard officials chopped their hair off randomly and violently, and then proceeded to polish their boots with the hair<sup>53</sup>.

Also in sundry cases, vaginal checks were conducted under the pretext of conducting bodily searches, in the course of which obscene expressions were used, violating their personal dignity<sup>54</sup>.

**Repressive actions by armed civilian groups with the acquiescence of the State during the student protests of 2013 and 2014:**

The participation of individuals dressed in plainclothes in repressive actions against protesters was also a pattern verified in several cities of the nation. Acts by these armed civilian groups were repetitive and these persons were always unidentified and moved around mostly on motorcycles or vans, under the presumed acquiescence of police officers and military officers who were onsite<sup>55</sup>.

**Impunity in the investigations on cases of torture and cruel, inhuman and degrading treatment:**

Within the context of social protests nationwide, impunity was also systematic. According to data furnished by the public prosecutor's office,<sup>56</sup> three thousand three hundred and fifty one (3,351) persons were arrested between February and June 2014, as a result of the demonstrations which took place during that period of time.

In regards to cases of torture and cruel, inhuman and degrading treatment presumably in the context of student protests which took place from February to June 2014, the public prosecutor's office indicated in a special report presented at a press conference on February 10, 2015 that two hundred thirty-eight (238) investigations on affected rights had been filed at the department for the protection of basic rights. Likewise, eight hundred seventy-eight (878) injured persons had been reported, six hundred (600) civilians and two hundred seventy-eight (278) public officials, as well as forty-three (43) deceased persons, thirty-three (33) civilians and ten (10) public officials<sup>57</sup>.



In regards to the investigation process, the report indicated that two hundred and sixteen (216) conclusive acts related to two hundred and thirty-eight (238) investigations initiated were reported. Of the conclusive acts presented, there are one hundred and eighty-four (184) stays or acquittals, nineteen (19) cases were set aside due to insufficient elements for conviction and thirteen (13) accusations were dismissed. The foregoing implies that in eighty-five percent (85%) of the cases the process did not continue.

According to the special report by the public prosecutor's office, accusations were filed against 30 officials: twenty-one (21) for cruel treatment, two (02) for murder in the first degree (manslaughter) and seven (07) for involuntary manslaughter, information which was also included in that entity's annual report.<sup>58</sup>

**Application of the Istanbul Protocol:**

Based on the public information available and declarations by the competent criminal investigation authorities, it can be stated that, so far, the authorities have not applied the Istanbul Protocol in any of the cases documented by the organizations that subscribe this report to document the alleged torture and cruel, inhuman and degrading treatment.

**Non-discrimination, the rights of the minorities and equal rights among men and women (articles 2, 3 and 26 of the International Covenant on Civil and Political Rights (PIDCP):**

**Violence against women:**

In regards to the derogation of regulations that violate women's human rights, the Civil Code's final amendment in 1985 keeps in force regulations that are eminently discriminatory and unconstitutional, including those relating to the use of patriarchal language.

In respect to the crime of sexual violence there are no formal regulations in Venezuela that regulate the specific protocol to follow when there are victims of this crime, and this has promoted a trend in the courts to request testimonial proof and to take bodily samples and samples of any other nature deemed pertinent to confirm the declaration given by the victim.

In its 2014 annual report, the public prosecutor's office<sup>59</sup> pointed out that there were a total of seventy thousand seven hundred and sixty three (70,763) cases filed, representing twelve point thirty-three percent (12.33%) of the general sample of entries at the public prosecutor's office. Of the gender violence cases filed, there were eleven thousand five hundred seventy-five (11,575) imputations and four hundred and eighty-two (482) trials, implying that in 2014 only zero point seven percent (0.7%) of the cases went to trial.

**Lesbians, Gays, Bisexuals, Trans- and Intersexuals (LGBTI)**

Lesbians, Gays, Bisexuals, Trans- and Intersexual persons continue to suffer varying forms of discrimination and inequitable and unequal treatment due to the actions or omissions by government entities, thus attempting against the right to life and personal security, the right to raise a family and the right to recognition as a legal entity. All of these tend to not be reflected in the official statistics raised by state institutions. The known data are not exact, due to the

recurrent lack of claims filed by the victims for fear of being re-victimized, and the lack of trust in the justice system.

**Crimes of hatred and acts of discrimination which attempt against the right to life and personal security of LGBTI persons.**

The Inter-American Human Rights Commission expressed that during its monitoring task through the Raconteur for the Rights of LGBTI Persons in a 15-month period (from January 1st, 2013 to March 31st, 2014), the death of 2 gay men and 19 gay women was recorded in Venezuela, presumably in connection to their real or perceived gender identity<sup>60</sup>. In the vast majority of cases, the bodies of trans-women were found in public spaces and presented injuries produced with firearms. Based on information collected by the CIDH, 73% of trans-women assassinated in Venezuela during this 15-month were less than 34 years old, which is cause for concern.<sup>61</sup>

The CIDH received information on a 55.56% increase of murders due to sexual orientation, gender identity and gender expression in the course of 2013 (from January to August 2013) compared to last year.

The organization that is called Venezuela Diversa Asociación Civil has registered from 2008 to 2014 fifty-two (52) assassinations of trans- and gay persons in Caracas and other cities nationwide, all under denigrating conditions and showing signs of torture. The victims were subjected to multiple knife wounds, blows with blunt objects to the head and bullet impacts in various parts of the body. Most of these cases go unpunished and there are serious flaws in the investigations and documentation, constituting a serious misconduct of obligations assumed by the states.<sup>62</sup>

**Breaching the rights of LGBTI groups to lawfully raise a family**

On January 31st, 2014 a draft law<sup>63</sup> was presented at the National Assembly by forty-seven (47) civil society organizations seeking the legal recognition of LGBTI couples to be married without discrimination on account of their sexual orientation, identity and gender expression, with the same effects and forms of dissolution as established in the Civil Code. This draft law has still not been discussed, even though it was endorsed by more than twenty thousand (20,000) signatures collected nationwide.

**The situation of human rights advocates and limitations on NGOs ((articles 19, 21 and 22 on freedom of opinion and expression, freedom of assembly and association)**

In the past few years, activities by male and female human rights advocates in Venezuela have faced many obstacles, aggressions and serious limitations. In this regard, sundry reports by the Inter-American Human Rights Commission as well as recognized international organizations have made reference to acts of harassment, threats and attacks against their personal integrity and life which have victimized these human rights advocates in Venezuela, as well as the raging impunity of the persons responsible for these events<sup>64</sup>.

From 2010 to March 2015 the Vicarage of Human Rights of the Archdioceses of Caracas has monitored two hundred and eight (208) cases of attacks on male and female human rights advocates, involving several violations to the rights of these persons. Seventy-one

(71) cases affected NGOs, male and female human rights advocates and members of victims committees; one hundred and seventeen (117) have affected labor rights advocates and twenty (20) defenders of the right to own or work the land. Between October 2014 and March 2015 alone, thirty-three (33) cases were recorded of violations affecting seventeen human rights activists and eighteen (18) human rights organizations.<sup>65</sup>

Of these violations, threats continue to be the most frequent of all, followed by slander campaigns, aggressions and assaults, illegal surveillance acts, the illegal interception of communications, legal actions initiated violating activists' domicile or offices, arbitrary detentions and, in the most extreme cases, extra-judiciary executions, among other violations. Among these cases, arbitrary financial and administrative controls imposed against NGOs and restrictions to accessing public information in the hands of the State have also been found.

Two new heckling modalities have been recorded, firstly, in the persecution of male and female human rights advocates returning to the country after having participated in hearings and events at international and regional human rights protection entities, under the complicity of the State authorities and secondly, surveillance abroad on male and female human rights advocates while conducting activities related to various human rights protection entities. These surveillance and harassment and heckling actions have been publicly acknowledged by high-ranking state officials such as the president of the National Assembly<sup>66</sup>. In this context, the participation of male and female Venezuelan human rights advocates in international events related to the protection of human rights has become an enormous risk.

Prestigious international organizations have shown concern over the situation of human rights advocates in Venezuela.<sup>67</sup>

At the time of issuing its final observations in regards to Venezuela, the UN's Committee against Torture expressed its deep concern over information giving accounts of public scorn against human rights advocates by top government leaders, including during the course of dialogues with the committee<sup>68</sup>. According to the committee, "*said scorn increases the risk of exposing advocates to intimidation from violent pro-government groups*"<sup>69</sup>.

#### **Principal legislative and administrative restrictions in force affecting the free and independent exercise of actions by human rights NGOs in Venezuela**

On July 22nd, 2010 the constitutional court of the Supreme Court of Justice issued a new restrictive sentence against NGOs, by means of which the reception of funds from international cooperation is qualified as the crime of "betrayal to the homeland" (sentence issued by the constitutional court No. 796, 07/22/2010).<sup>70</sup>

In the case of the right to free association, during the period encompassed in this report, there was an ongoing threat of approval of the draft law on International Cooperation, which was passed during its first discussion by the National Assembly in 2006<sup>71</sup>. Among other violations, this draft law foresees limiting aspects for accessing international cooperation funds and the

tasks of human rights and social development NGOs operating in Venezuela, which would have to adjust their spending patterns to the development priorities proposed by the executive branch of power. Also included in this law is the creation of a special fund that would concentrate the resources and which a state entity would be in charge of distributing, which in the opinion of the organizations could affect their independence. Another aspect of concern has to do with the organizations having to furnish confidential information which could jeopardize the beneficiaries of these organizations, as well as the male and female human rights advocates themselves.

As underscored by the organizations, the legalization of new NGOs in various of the nation's states has been hampered in the past few years, the most frequent practice used to justify this action are delays in the procedures to constitute and obtain the status of legal entity by civil organizations, the non-reception of articles of incorporation at public notary and registry offices and the - usually verbal - refusal to conduct these actions<sup>72</sup>.

### **Amendments introduced in June 2012 to the Code of Organic Criminal Procedures**

#### **limit the action of NGOs in pro of the victims:**

The 2012 amendment by way of a presidential decree<sup>73</sup> of the Venezuelan Code of Organic Criminal Procedures by the president of the republic severely restricted the faculty of human rights associations to file autonomous claims in which officials, civil servants or police agents participated as human rights infractors , leaving this possibility only in the hands of the Ombudsman, thereby breaching effective protection tutelage by advocates to the victims of crimes that is so complex in the Venezuelan criminal procedural system.<sup>74</sup> On the other hand, the possibility of the "offended person" to delegate the exercise of their rights whenever it is most convenient by means of a simple authorization in victims' aid associations<sup>75</sup>, has made it impossible for NGOs to access files and dockets and conduct requests on behalf of the victims.

### **Restrictions on funding NGOs for the defense of political rights, introduced as per the 2010 Law for the Defense of the Nation's Political Sovereignty and Self-determination, and as per the sentences issued by the Supreme Court of Justice in 2000:**

The so-called Law for the Defense of the Nation's Political Sovereignty and Self-determination was published in the official gazette on December 23, 2010<sup>76</sup> and this instrument contains 10 articles the purpose of which is to "protect the nation's political sovereignty and self-determination from foreign interference, through economic aids or financial contributions destined for organizations with political purposes, organizations for the defense of political rights or individuals conducting political activities".<sup>77</sup>

### **Recommendations:**

#### **In regards to the application of article 2 of the PIDCP:**

The Member State must comply with the recommendations proposed by the UN's Office of the High Commissioner for Human Rights, the entities in the treaty and special procedures, as

well as the voluntary commitments adopted within the framework of the Universal Periodic Review.

The Member State must guarantee full compliance in the national rule of law of the obligations imposed in the Pact. For that purpose, the Member State must create awareness in the judges, the judiciary officials and the population as to the rights enunciated in the Pact and the applicability thereof in domestic law. In its upcoming periodic report, the Member State must include detailed information on the application of the Pact by the nation's courts.

The Member State must promote the adoption of an indiscriminate integral reparation policy for victims of human rights violations that includes restitution, indemnification, rehabilitation and satisfaction measures and guarantees of non-repetition and that it count on the victims' participation in the design and enactment of this policy.

The Member State must develop public institutional statistics, for the disclosure of official figures on human rights violations.

The Member State must adopt a global strategy that integrates the prevention, control and appropriate sanctions on violence, ensuring the full exercise of all the persons' rights set forth in the Pact. Based on this perspective, the Member State must promote preventive measures, focusing its safety policies from the perspective of human rights de the victims and victimizers involved in criminal activities. Also, the Member State must repeal ministerial resolution 008610 because it is unconstitutional and contravenes indispensable standards for the protection and guarantee of human rights.

The Member State must guarantee that police entities and entities articulating citizen security are of a strictly civilian and professional nature at all hierarchic levels, clearly differentiated institutionally and conceptually in crime prevention, criminal investigations and homeland defense.

The Member State must conduct a comprehensive exam on current public order-keeping practices, including the training and deployment of the agents in charge of enforcing the law in crowd control operations and the rules on the use of force and firearms, to adjust them to plans that respect and uphold human rights, adopting measures geared towards controlling the actions of all the members of security corps so as to avoid abuses due to the excessive and undue use of force and firearms, and apply the corresponding disciplinary and criminal regime.

The Member State must design and implement effective State-borne disarmament and control strategies on any armed irregular group, as a necessary condition for social cohabitation and the fight against insecurity nationwide.

The Member State must start a transparent and independent investigation -as per international standards- on all claims of participation by members of police and security

forces in extra-judiciary executions, the excessive use of force, arbitrary detentions, missing persons, tortures and cruel treatment.

The Member State must remove all obstacles enabling impunity modalities, including hiding the identity of public order corps, the criminalization and banalization of the victims and the modification of police records.

The Member State must develop training courses on human rights and gender-based rights for all police officers and military staff.

**In regards to the application of articles 2, 6 and 7 of the PIDCP:** The Member State must modify the Law against Torture to fully comply with international standards, as pointed out by the Committee against Torture in its report on Venezuela.

The Member State must take the appropriate measures to end torture by means of the establishment an independent supervision entity that conducts independent inspections and investigations in all detention sites on alleged undue behavior by security force agents, among other measures.

The Member State must guarantee prompt, comprehensive and impartial investigations in all cases where victims have alleged being subjected to torture and/or cruel, inhuman or degrading treatment, leading to the identification, trial and sanction of the persons responsible. It must guarantee proper protection to the victims and proceed to suspend the agents involved, as per the domestic and international regulations.

The Member State must ensure that measures are adopted to guarantee in practice that proof obtained by means of any form of coercion or torture are not admissible in legal proceedings and that the burden of proof in torture cases does not fall on the alleged victims.

The Member State must include in the police task legislation and protocols the application of investigation mechanisms and guidelines in the cases of alleged torture and cruel, inhuman and degrading treatment and arbitrary extra-legal or summarily executions. The Member State must also ensure that all medical and psychological tests on alleged cases of ill treatment are carried out as per the Istanbul Protocol and that the standards set forth in the Minnesota Protocol are followed in investigations on extra-judiciary executions.

The Member State must ratify the Facultative Protocol to the UN's Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

**In regards to the application of articles 2, 3, 7 and 26 of the PIDCP:** The Member State must continue with its efforts to prevent sexual and gender-based violence and encourage the victims to file complaints and claims. It must also reinforce and institutionalize compulsory

training on gender perspectives for the entire legal staff, members of public forces and the staff in healthcare services, to ensure that they are prepared to respond effectively to all forms of violence against women. Specific care must be placed on collecting forensic proof, treating the victims, coordinating among the authorities in charge of the investigations, sanctioning the cases and protecting the victims. The Member State must also ensure that all victims of sexual and gender-based violence have access to care centers or shelters.

The Member State must conduct swift and efficient investigations and punish the authors of violent acts against women, and in particular guarantee efficient cooperation among the authorities and that the institutions created to work on cases of violence against women are endowed with the sufficient authority and human and financial resources to fulfill their mandate effectively.

The Member State must adopt any legislative, administrative and legal measures or of any other nature to reinforce the banning of torture practices based on gender, sexual identity, gender identity and expression in healthcare centers, public and private education facilities, jail facilities and public roads.

**In regards to the application of article 9 of the PIDCP:**

The Member State must investigate and sanction any public officials involved in the commission of arbitrary deprivation of freedom, and in particular the agents of public forces abusing the administrative preventive detention or arrest of citizens, guaranteeing in all instances included in the domestic rule of law the right to due process for all persons deprived of their freedom.

**In regards to the application of articles 2, 6, 7 and 26 of the PIDCP:**

The Member State must clearly and officially state that it does not tolerate any form of social stigmatization of homosexuality, bisexuality and trans-sexuality, nor harassment, discrimination or violence against persons due to their sexual identity or gender identity. The Member State must guarantee the investigation, prosecution and sanction of any discriminatory or violent act due to the sexual identity or gender identity of the victims.

The Member State must design a LGBT national public policy with the participation of NGOs working in that area, to procure legislative advances that guarantee their rights.

The Member State must establish statistical recording mechanisms on cases of violence against specific groups with public data itemized by age, gender, number of claims or complaints received, investigations conducted, protection mechanisms applied, alleged culprits and sanctions applied.

The Member State must publicly acknowledge the contributions made in pro of justice and democracy by human rights defendants. It must also take immediate measures to provide efficient protection to defendants whose lives and personal security are endangered or in peril

due to their professional activities, and back the immediate, effective and unbiased investigation of threats, attacks and assassinations of human rights advocates, and take to trial and sanction the perpetrators.

In regards to the application of articles 19, 21 and 22 of the PIDCP:

The Member State must effectively guarantee that human rights advocates and persons in general freely exercise the right to freedom of expression, as per the Pact.

The Member State must ensure that the registration process for these associations complies with the provisions in article 22, paragraph 2 of the Pact.

The Member State must modify the legislation in force that contains restrictions on the funding of NGOs for the defense of political rights, introduced in the 2010 Law for the Nation's Defense of Political Sovereignty and Self-determination.

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<sup>1</sup> Consult 2006 to 2010 annual reports by the public prosecutor's office. Online version at: <http://www.ministeriopublico.gob.ve/web/guest/informe-anual>

<sup>2</sup> **Stays or acquittals** are conclusive acts in the preparatory phase of the criminal process. It applies when the fact did not happen or cannot be attributed to the defendant, the fact is not typical or the criminal has been extinguished. Article 300 of the Organic Code on Criminal Procedures.

<sup>3</sup> **Dismissals** take place when the event is not of a criminal nature or the action has evidently prescribed or there is a legal obstacle for the case to proceed. Article 283 of the Organic Code on Criminal Procedures.

<sup>4</sup> **The filing of cases with insufficient elements for conviction** are conclusive acts in the preparatory phase of the criminal process. It applies when the result of the investigation is insufficient to accuse any party. Article 297 of the Organic Code on Criminal Procedures.

<sup>5</sup> **Accusations** are conclusive acts in the preparatory phase of the criminal process. It applies when the public prosecutor's office finds that the investigation has sufficient basis for a public trial of the defendant. Article 308 of the Organic Code on Criminal Procedures.

<sup>6</sup> Consult 2014 annual report by the public prosecutor's office. Online version at: [http://www.ministeriopublico.gob.ve/c/document\\_library/get\\_file?uuid=84bd8560-3906-455f-8b23-495b94b5c1bd&groupId=10136](http://www.ministeriopublico.gob.ve/c/document_library/get_file?uuid=84bd8560-3906-455f-8b23-495b94b5c1bd&groupId=10136)

<sup>7</sup> Consult Inter-American Human Rights Commission, 2013 Annual Report, Chapter IV on Venezuela, paragraph 638. "The Commission has followed up on the designation of provisional, temporary and accidental judges and has observed with great concern how the majority of said designations has been endorsed by the establishment of a permanent state of urgency". Online version at: <http://www.oas.org/es/cidh/docs/anual/2013/docs-es/InformeAnual-Cap4-Venezuela.pdf>

<sup>8</sup> Consult the reorganization decree of the judiciary branch of power and the penitentiary system, Constituent assembly August 12, 1999, published in official gazette No. 36.764 on August 13, 1999, article 2 of which created the Judiciary Emergency Commission which was supposed to be in force until its sanction by the Constitution, thereby suppressing the stability of all of the judges in the republic. Read online at: [http://www.oas.org/juridico/spanish/ven\\_res51.pdf](http://www.oas.org/juridico/spanish/ven_res51.pdf) Later, on December 20, 1999 the new constitution was proclaimed, and for the purposes of its "immediate application" (Public power transient regime) the national constituent assembly issued a decree for the public power transition regime on December 29, 1999, creating the so-called Commission for the Operation and Restructuring of the Judiciary System (CFRSJ) Online version at: [http://Consultsj.gob.ve/informacion\\_general.asp?id=029](http://Consultsj.gob.ve/informacion_general.asp?id=029)

<sup>9</sup> In detriment to the provisions in **article 255** of the Constitution of the Bolivarian Republic of Venezuela (CRBV) which sets forth that: *"Entry into the judiciary career and promotion of male and female judges shall be by way of public exam selection processes ensuring the ideal level of excellence in the participants who shall be selected by the jury of the judiciary circuits, in the manner and conditions established in the law. The designation and swearing in of male and female judges is in the hands of the Supreme court of justice. . The law shall guarantee citizen participation in the selection procedures and the designation of the male and female judges, who may only be removed or suspended from their posts by means of the procedures expressly set forth in the law..."*

<sup>10</sup> Consult Supreme Court of Justice. *List of judges designated.* Online version at: [http://www.tsj.gov.ve/designaciones/designaciones\\_lista.asp](http://www.tsj.gov.ve/designaciones/designaciones_lista.asp)

<sup>11</sup> Situation alerted by the CIDH in its 2013 Annual report. Read paragraphs 639-641. *Supra* note 17.

<sup>12</sup> Consult Public hearing on the general situation of human rights in Venezuela. 154<sup>th</sup>. Sessions period of the Inter-American Human Rights Commission. March 17, 2015; online: <http://www.oas.org/es/cidh/multimedia/sesiones/154/default.asp>

<sup>13</sup> Consult Inter-American Court of Human Rights, *Reverón Trujillo v. Venezuela*. June 30, 2009, page 29, paragraph 101. Online version at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_197\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_197_esp.pdf)

<sup>14</sup> Consult the political administrative court of the Supreme Court of Justice: Sentence No. 02221 of November 28, 2000, online version available at: <http://historico.tsj.gob.ve/decisiones/spa/noviembre/02221-281100-16499.HTM> Sentence No. 1798 of October 19, 2004.



<sup>16</sup> Consult Articles 292 and 294 of the Constitution of the Bolivarian Republic of Venezuela that sets forth the following:

*Article 294: The entities in the electoral power are regulated by the principles of organic independence, functional and budgetary autonomy, lack of political party affiliation of the election organisms, impartiality and citizen participation; decentralization of the electoral administration, transparency and celerity in the act of voting and in the counting of votes.*

*Article 292: The electoral power is exercised by the National Elections Council as the governing entity; and the entities subordinated to it are the National Electoral Board, the Civil and Electoral Registration Commission and the Commission for Political Participation and Funding, and shall be organized and function as per the provisions in the respective organic law.*

<sup>17</sup> Consult the 2014 Annual report of the Inter-American Human Rights Commission. Online version at: <http://www.oas.org/es/cidh/docs/anual/2014/docs-es/Anual2014-cap4Venezuela.pdf>

<sup>18</sup> Consult Article 279 of the Constitution of the Bolivarian Republic of Venezuela that sets forth that:

*"The Moral Republican Council shall call a Committee for the Evaluation of Postulations by the Citizen Power, comprising representatives of diverse sectors of society; it shall put forward a public process from which a slot per entity in the Citizen Power shall be obtained, which shall be submitted for the consideration of the National Assembly which, by means of the favorable vote of two thirds of its members, shall select in a term no longer than thirty continuous days the representative of the Citizen Power entity under consideration. If this time frame elapses and there is no agreement at the National Assembly, the electoral power shall submit the slot to popular consultation.*

*If the Committee for the Evaluation of Postulations is not called by the Citizen Power, the National Assembly shall proceed in the time frame set forth in the law, to designate the representative of the corresponding Citizen Power entity.*

*The members of the Citizen Power shall be removed from their posts by the National Assembly, after the pronouncement by the Supreme Court of Justice, as set forth in the law."*

<sup>19</sup> Consult Venezolana de Televisión. "Inicia proceso de postulaciones al Poder Moral hasta este miércoles". Online version: <http://www.vtv.gob.ve/articulos/2014/12/07/inicia-proceso-de-postulaciones-al-poder-moral-hasta-este-miercoles-video-345.html>

<sup>20</sup> Consult Official gazette N° 40567 of December 22, 2014. Online version at: [http://www.mp.gob.ve/c/document\\_library/get\\_file?p\\_l\\_id=3804323&folderId=6444814&name=DLEF-8309.pdf](http://www.mp.gob.ve/c/document_library/get_file?p_l_id=3804323&folderId=6444814&name=DLEF-8309.pdf).

<sup>21</sup> Consult "Denuncia y Salida de Venezuela de la Corte Interamericana de los Derechos Humanos" online version at: <http://www.minci.gob.ve/wp-content/uploads/downloads/2013/09/DISCURSO-CIDH-20-9-13-web.pdf> also on the official blog of Amnesty International "Convención Americana de Derechos Humanos: Venezuela, 1 año sin justicia" online version at: <http://www.amnistia.me/perfiles/blogs/convencion-americana-de-derechos-humanos-venezuela-1-a-o-sin?context=tag-derechos+humanos>.

<sup>22</sup> Consult Observatorio Venezolano de Violencia, 2013 annual report. Summary available online at: <http://observatoriodeviolencia.org.ve/ws/informe-del-ovv-diciembre-2013-2/>.

<sup>23</sup> Consult El Universal. "Rodríguez Torres: Tasa de homicidios es de 39 por cada 100mil habitantes", December 28, 2013. Online version at: <http://www.eluniversal.com/sucesos/131228/rodriguez-torres-tasa-de-homicidios-es-de-39-por-cada-100-mil-habitant>

<sup>24</sup> Consult Observatorio Venezolano de Violencia, 2014 annual report. Online version at: <http://observatoriodeviolencia.org.ve/ws/wp-content/uploads/2015/02/OVV-INFORME-DEL-2014.pdf>

<sup>25</sup> Ibid. *Supra* note 73. Read also: Diario El Universal. Minister of interior and justice: "No nos enorgullecen las cifras de homicidios, pero se han reducido". Online version available at <http://www.eluniversal.com/nacional-y-politica/140907/no-nos-enorgullecen-las-cifras-de-homicidios-pero-se-han-reducido>

<sup>26</sup> Consult Citizen security plans in Venezuela since 1999: The National Jail Disarmament Plan; the National Citizen Security Plan; the Bratton Plan; the Strategic Plan for Violence Prevention; the Trust Plan; The Pilot Security Plan; the National Weapons Control Plan; the Integral Security Mission Caracas Plan; the National Coalition of NGOs, academic institutions and organized civil society in Venezuela: 2015 Alternative report Strategic Citizen Cohabitation and Security Plan; the Caracas Safe Plan; the Safe Nights Plan; the Safe Highways Plan; the Rabbit Hole Operation; The Bicentennial Security Plan; the Safe Routes Plan; the Crab Operation; Madrugonazo al Hampa (an early morning blow to delinquent groups); the People's Guard; the Mission Security; the Grand Mission For All Lives in Venezuela; the Plan for a Safe Homela.

<sup>27</sup> Consult United Nations Committee against Torture. *Final remarks to the third and fourth periodic reports of the Bolivarian Republic of Venezuela*. Advanced, non-edited version. November 2014, page 5. Online version at: [http://acnudh.org/wp-content/uploads/2014/12/CAT\\_C\\_VEN\\_CO\\_3-4\\_18894\\_S.pdf](http://acnudh.org/wp-content/uploads/2014/12/CAT_C_VEN_CO_3-4_18894_S.pdf)

<sup>28</sup> Consult Resolution N° 008610 of January 23, 2015 published in official gazette of the Bolivarian Republic of Venezuela number 40.589. *Norms on acts by the National Bolivarian Armed Force while engaging in public order control, social peace and citizen cohabitation functions at public gatherings and demonstrations*. Online version at:

<sup>29</sup> Consult Article 15 #3 of resolution 008610: "Extreme precautions taken for the use of chemical agents in a strictly localized manner, to avoid dispersion and extension in the vicinity or near buildings with persons with the highest risk of suffering its consequences such

as hospitals, old people's homes and schools, colleges and lyceums as well as in confined spaces or enclosed sites and shall abstain from using them directly against persons, thereby avoiding lethal consequences or injuries."

<sup>30</sup> Consult Article 15 #9 of resolution 008610: "They shall not bear or use firearms to control public gatherings and public demonstrations, unless, due to necessity and proportionality of the means employed to counteract them, their holding and use is necessary."

<sup>31</sup> Consult Articles 68 and 332 of the Constitution of the Bolivarian Republic of Venezuela that sets forth that: **Article 68:** Male and female citizens have a right to manifest peacefully without arms, without any further requirement than that set forth in the law. The use of firearms and toxic substances to control peaceful demonstrations is prohibited by law. The law shall regulate the actions by police and security corps in controlling the public order. Art. 332: The national executive branch of power, in order to maintain and re-establish public order shall organize: 1. A national uniformed police corps. Citizen security entities are of a civil nature and shall respect the citizens' dignity and human rights, without any discrimination whatsoever."

<sup>32</sup> Consult Public prosecutor's office magazine year II, No. III, *The fight against impunity as a guarantee for Justice and Peace for the people of Iberoamerica*. Article "Criminalistic units shall investigate officials who breach human rights", page 31. Available in electronic format at: [http://www.ministeriopublico.gob.ve/revista/revista\\_II/Default.html](http://www.ministeriopublico.gob.ve/revista/revista_II/Default.html)

<sup>33</sup> Consult The Ombudsman 2001 annual yearbook, chapter 7, section 7.1.3. Available in digital format at: <http://www.defensoria.gob.ve/dp/index.php/publicaciones/informes-anales/1397-informe-anual-2001>

<sup>34</sup> Consult Observatorio Venezolano de Conflictividad Social (OVCS). In the first semester of 2014 the OVCS recorded at least 6,369 protests, an average of 35 protests per day throughout the nation. Online version available at: <http://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-el-primer-semester-de-2014>.

<sup>35</sup> Consult September 3, 2012 Sentence by the Inter-American Court of Human Rights. *Uzcategui et al v. Venezuela*. Online version at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec\\_249\\_esp.pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_249_esp.pdf)

<sup>36</sup> Consult Cofavic report: "Situación de Derechos Humanos en Venezuela en el contexto post electoral de Abril de 2013" online [http://issuu.com/ddhhcofavic/docs/informe\\_sobre\\_situación\\_ddhh\\_en\\_vz](http://issuu.com/ddhhcofavic/docs/informe_sobre_situación_ddhh_en_vz)

<sup>37</sup> Consult International Crisis Group bulletin 38 on Latin America: Violence and Politics in Venezuela, August 17, 2011. "Despite fundamental differences in respect to its origins, approaches, structures and force, they have all benefitted from the government's attitude which is, at best, ambiguous. Although the government maintains a certain distance, through this attitude it recognizes its political usefulness. No real effort has been made to combat or disarm these groups, which have acted as promoters of the "Bolivarian Revolution", and have fostered violence nation-wide, directly and indirectly".

<sup>38</sup> Consult "Sentences on Silence" Cofavic 2014 report. Online version en: <http://www.cofavic.org/wp-content/uploads/2014/11/COFAVIC-Sentences-de-Silencio-Final-.pdf>

<sup>39</sup> Consult "A Juancho Montoya lo mataron funcionarios". Article in Últimas Noticias newspaper on February 16, 2014. Online version at: <http://www.ultimasnoticias.com.ve/noticias/actualidad/investigacion/a-juancho-montoya-lo-mataron-funcionarios.aspx>

<sup>40</sup> Consult Amnesty International. "Venezuela: Human rights in danger in the midst of protests", pages 6-7. <http://www.derechos.org/ve/pw/wp-content/uploads/amr530092014es.pdf> Read also: COFAVIC: Venezuela: *Sentences on Silence*. Informe situación de Derechos Humanos en Venezuela en el contexto de protestas estudiantiles de febrero 2014. <http://www.cofavic.org/wp-content/uploads/2014/11/COFAVIC-Sentences-de-Silencio-Final-.pdf>

<sup>41</sup> Consult Inter-Institutional Human Rights Commission of the Faculty of Legal and Political Sciences at Universidad del Zulia, the law faculty at Universidad Rafael Urdaneta and the human rights commission of the College of Attorneys of Zulia state. Preliminary report on the human rights situation in the framework of the February 12–April 12, 2014 protests. Maracaibo, Zulia state (Venezuela). Page 51. Available in digital format at: <https://docs.google.com/folderview?id=0B8r6TL2ePMjnMmZybnhNZlBQNTg&usp=gmail>

<sup>42</sup> Ibid. *Supra* note 143.

<sup>43</sup> Ibid. *Supra* note 144.

<sup>44</sup> As per article 328 of the Constitution of the Bolivarian Republic of Venezuela, the National Guard jointly with the army, the navy and the air force comprise the National Armed Forces.

<sup>45</sup> Ibid. *Supra* note 143

<sup>46</sup> Ibid. Page 20.

<sup>47</sup> Ibid. Page 22.

<sup>48</sup> Ibid. *Supra* note 160.

<sup>49</sup> Ibid. *Supra* note 143

<sup>50</sup> Ibid. *Supra* note 160. Page 10. See also *Supra* note 147.

<sup>51</sup> Ibid. *Supra* note 147.

<sup>52</sup> Ibid. *Supra* note 164.

<sup>53</sup> Ibid. *Supra* note 154.

<sup>54</sup> Ibid. *Supra* note 144

<sup>55</sup> Ibid. *Supra* note 155

<sup>56</sup> Consult Public prosecutor's office. "Informe Hechos de Violencia 2014" February 2015. Read Online: [http://www.mp.gob.ve/c/document\\_library/get\\_file?uuid=dc00e6d5-7484-4261-bd3d-345cec8999be&groupId=10136](http://www.mp.gob.ve/c/document_library/get_file?uuid=dc00e6d5-7484-4261-bd3d-345cec8999be&groupId=10136) Read also press conference of February 10, 2015, online version: <https://www.youtube.com/watch?v=k4w5FNiNoUk>.

<sup>57</sup> *Ibid. Supra* note 194. Also see February 10, 2015 press note by that institution at: [http://www.mp.gob.ve/web/guest/informe-anual.jsessionid=52F859498FA080EE8652D24EAAA87AEE?p\\_p\\_id=62\\_INSTANCE\\_NORp&p\\_p\\_lifecycle=0&p\\_p\\_state=maximized&p\\_p\\_mode=view&\\_62\\_INSTANCE\\_NORp\\_struts\\_action=%2Fjournal\\_articles%2Fview&\\_62\\_INSTANCE\\_NORp\\_groupId=10136&\\_62\\_INSTANCE\\_NORp\\_articleId=7064317&\\_62\\_INSTANCE\\_NORp\\_version=1.0](http://www.mp.gob.ve/web/guest/informe-anual.jsessionid=52F859498FA080EE8652D24EAAA87AEE?p_p_id=62_INSTANCE_NORp&p_p_lifecycle=0&p_p_state=maximized&p_p_mode=view&_62_INSTANCE_NORp_struts_action=%2Fjournal_articles%2Fview&_62_INSTANCE_NORp_groupId=10136&_62_INSTANCE_NORp_articleId=7064317&_62_INSTANCE_NORp_version=1.0)

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid. Supra* note 16

<sup>60</sup> Consult CIDH. "CIDH expresses concern over the generalized violence against LGBTI persons and the lack of data compiled by OAS member states" December 17, 2014. Online version at: <http://www.oas.org/es/cidh/prensa/comunicados/2014/153.asp>

<sup>61</sup> *Ibid. Supra* note 48

<sup>62</sup> See Attachment-press communiqué 153/14. "A view on violence against LGBTI persons" online version: <http://www.oas.org/es/cidh/igtbi/docs/Anexo-Registro-Violencia-LGBTI.pdf>.

<sup>63</sup> Consult Agencia Venezolana de Noticias. National assembly to evaluate legalization of civil matrimony among couples of the same sex. Read online version at: <http://www.avn.info.ve/contenido/asamblea-nacional-evaluar%3%A1-legalizaci%C3%B3n-matrimonio-civil-entre-parejas-del-mismo-sexo>

<sup>64</sup> Consult CIDH. Country report "Democracy and Human Rights in Venezuela", December 30, 2009, parrs. 588 and next. Online version available at: <http://www.cidh.org/countryrep/Venezuela2009sp/VE09CAPVSP.htm#V.B> See also CIDH 2011 Annual report, Chap. IV. Venezuela, parrs. 494-503. Read online version at: <http://www.oas.org/es/cidh/docs/anual/2011/indice.asp>

<sup>65</sup> Consult Information furnished by the Vicarage of Human Rights at the 154th Sessions period of the CIDH. Available at: <https://www.youtube.com/watch?v=icET84dt0U0>

<sup>66</sup> Consult Con el mazo dando. "Marco Antonio Ponce (OVC) encabeza listado de las ONG que viajan a Washington DC y Miami para conspirar contra el Gobierno de Venezuela". March 18, 2015. Online version at: <http://www.conelmazodando.com.ve/marco-antonio-ponce-ovc-encabeza-listado-de-las-ong-que-viajan-a-washington-dc-y-miami-para-conspirar-contra-el-gobierno-de-venezuela/>

<sup>67</sup> Consult Amnesty International. 2014/15 Annual report "Situation of Human Rights Worldwide", February 24, 2015, page 462. Online version at: <https://www.amnesty.org/es/annual-report-201415/>

<sup>68</sup> Consult United Nations Committee Against Torture. Final Observations on Venezuela, CAT/C/VEN/CO3-4, paragraph 14, available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fVEN%2fCO%2f3-4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fVEN%2fCO%2f3-4&Lang=en)

<sup>69</sup> *Ibidem.*

<sup>70</sup> Consult Sentence N° 796 of the constitutional court of the Supreme Court of Justice, July 22, 2010. Read online at: <http://historico.tsj.gob.ve/decisiones/scon/julio/796-22710-2010-09-0555.HTML> It can also be verified at "Síntesis de acciones de monitoreo realizadas (Diciembre de 2009-Agosto de 2011) PRINCIPALES AMENAZAS A LAS GARANTÍAS DE TRABAJO DE LAS DEFENSORAS Y DEFENSORES DE DERECHOS HUMANOS EN VENEZUELA", online version at: <http://www.venescopio.org.ve/web/wp-content/uploads/Informe-20113.pdf>

<sup>71</sup> Consult "Ley de Cooperación Internacional busca fortalecer la soberanía Nacional." See online at: <http://www.avn.info.ve/contenido/ley-cooperaci%C3%B3n-internacional-busca-reforzar-soberan%C3%ADa-nacional>

<sup>72</sup> Consult Cofavic. "Venezuela: Los defensores y defensoras de derechos humanos bajo la línea de fuego." 2009 publication. Online version available at: [http://issuu.com/ddhhcofavic/docs/informe\\_defensores\\_cofavic\\_2009/1](http://issuu.com/ddhhcofavic/docs/informe_defensores_cofavic_2009/1)

<sup>73</sup> Passed by the President of the Republic at ministers' council on June 15, 2012 as per decree N° 9042 with rank, value and force of law, by means of the enabling law granted by the national assembly on December 17, 2010, to tackle the effects of heavy rainfall that affected the nation in November 2010 which ceased to be effective on June 17, 2012. The Supreme Court of Justice gave it an organic and constitutional status on June 15, 2012. Published in special official gazette No. 6078 of June 15, 2012.

<sup>74</sup> Consult **Article 121 of the repealed Organic Code on Criminal Procedures**: The Ombudsman and any individual or human rights defense associations may file lawsuits against male and female officials, male and female civil servants, or police force agents, who violated human rights in the exercise of their duties or as a result thereof.

**Article 123 of the Organic Code on Criminal Procedures in force**: The Ombudsman and any individual may file lawsuits against male and female officials, male and female civil servants, or police force agents, who violated human rights in the exercise of their duties or as a result thereof.

<sup>75</sup> Consult **Article 122 of the repealed Organic Code on Criminal Procedures**: The person directly offended by the crime may delegate in a victims protection or aid association, the exercise of their rights when deemed more convenient for the defense of their rights. In this case, no special proxy is necessary and the delegation of rights in a document signed by the victim and the legal representative shall suffice.

**Article 124 of the Organic Code on Criminal Procedures in force**: The person directly offended by the crime may delegate in the Ombudsman the exercise of their rights when deemed more convenient for the defense of their rights.

In this case, no special proxy is necessary and the delegation of rights in a document signed by the victim and the legal representative of the Ombudsman shall suffice.

<sup>76</sup> Consult the Law for the Defense of the Nation's Political Sovereignty and Self-determination published in special official gazette number 6013 of December 23, 2010. Online version available at: <http://www.pgr.gob.ve/dmdocuments/2010/6013.pdf>

<sup>77</sup> Consult Article 1 of the Law for the Defense of the Nation's Political Sovereignty and Self-determination that sets forth that: *"The purpose of this law is to protect the exercise of political sovereignty and national self-determination from foreign interference, which through economic aid or financial contributions to organizations for political purposes, organizations for the defense of political rights, individuals engaging in political activities and male and female foreign citizens, under this sponsorship may attempt against the stability and operation of the Republic's institutions."* Online version at: [http://www.asambleanacional.gob.ve/uploads/leves/2010-12-21/doc\\_44c85c40c328bafdbbb9079fbf0383abc41b4c9a.pdf](http://www.asambleanacional.gob.ve/uploads/leves/2010-12-21/doc_44c85c40c328bafdbbb9079fbf0383abc41b4c9a.pdf).