

Venezuela

I. introduction

439. Having evaluated the human rights situation in Venezuela, the IACHR decided to include Venezuela in this Chapter because it considers that it falls under Article 59(6)(a)(i) of the IACHR's Rules of Procedure that came into force on August 1, 2013, which establishes as a criterion for the inclusion of a member state in this chapter the existence of "a. a serious breach of the core requirements and institutions of representative democracy mentioned in the Inter-American Democratic Charter, which are essential means of achieving human rights, including: i. there is discriminatory access to or abusive exercise of power that undermines or denies the rule of law, such as systematic infringement of the independence of the judiciary or lack of subordination of State institutions to the legally constituted civilian authority..."

440. On November 22, 2013, the IACHR transmitted to the State a copy of the preliminary draft of this section of its 2013 Annual Report, pursuant to Article 59.10 of its Rules, and asked that it presented its observations within a month. On December 20, 2013, the Commission received the observations and comments of the State which were incorporated, where pertinente, in the instant report.

441. The Commission has identified structural situations, such as changes in the law that create legal and administrative restrictions that affect the exercise and enjoyment of human rights in Venezuela. In its previous reports on Venezuela, the Commission has repeatedly pointed to structural issues such as the practice of appointing provisional, temporary or interim judges and prosecutors, which weakens the judicial branch and strips it of its Independence and impartiality, thereby adversely affecting the right of access to justice. It has also pointed to the abuse of the criminal law system; the obstacles that human rights defenders encounter in performing their work; the infringement of freedom of expression, and other issues of particular concern to the Commission. The Commission has identified difficulties like the citizen insecurity and prison violence that continued to be serious problems in 2013 and affected the Venezuelan people's basic human rights, among them the right to life and the right to humane treatment.

442. In its Observations regarding the Draft Report of the IACHR for the year 2013, the State indicated that "Venezuela does not qualify under any of the criteria applied by the Inter-American Commission on Human Rights to give this special attention". As to the fifth criterion, it indicated that Venezuela was not going through conjunctural or structural situations that seriously affect the enjoyment of fundamental rights. In that respect, it pointed out that

[in] Venezuela the actions of the Public Powers are ruled by the Constitution and the law; each of these Powers enjoys independence and autonomy, and its acts do not violate the American Convention. Moreover, our Constitution is more advanced in human rights than the Convention.⁵⁰²

⁵⁰² Observations by the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela for 2013 (AGEV/000374), December 20, 2013, p. 51.

443. The IACHR's analysis is based on what it has observed of the general human rights situation over the course of the year, through the information it obtained during its hearings and the information available from other public sources, its petition and case system, and its precautionary measures. The Commission also drew upon information supplied by the State of Venezuela in response to requests concerning the general human rights situation. These requests were made by the IACHR in exercise of its authority under Article 41 of the American Convention on Human Rights (hereinafter "the American Convention") and Article 18 of the Statute of the Commission.

444. The last Commission's visit to Venezuela took place in May 2002, following the institutional breakdown in April of that year. After that visit, the Commission published the *Report on the Situation of Human Rights in Venezuela* in December 2003, in which it made a number of recommendations. Since then, the Commission has been monitoring the status of implementation of those recommendations and compiling firsthand information on the current human rights situation in Venezuela. Accordingly, it has made a number of overtures to request the State's permission to conduct an observation visit. Thus far, the State has refused to allow the Commission to visit Venezuela, which not only affects the functions assigned to the Commission as one of the OAS' principal organs for the promotion and protection of human rights, but also seriously weakens the system of protection that the member States of the Organization themselves created.

445. On December 30, 2009, the Commission approved the report titled *Democracy and Human Rights in Venezuela*, in which it examined developments in the area of human rights in the State. Following up on that report, the Commission continued to examine the human rights situation in Venezuela in Chapter IV of its 2010, 2011 and 2012 Annual Reports. In this section of its 2013 Annual Report, the Commission carries on its analysis of the general human rights situation in Venezuela.

446. It is of deepest concern to the IACHR that on September 10, 2013 the denunciation of the American Convention on Human Rights by Venezuela has entered into effect. As the Commission has indicated and will be referred below, this decision represents a backwards step in the path towards the protection of human rights and the inhabitants of Venezuela, who have been stripped of a mechanism to protect their human rights, and have fewer resources to defend themselves. The Commission reiterates that Venezuela continues to be subject to its jurisdiction and the obligations established by the OAS Charter and the American Declaration of the Rights and Duties of the Man (hereinafter "the Declaration").

447. The Commission also wishes to point out again that it is ever ready to engage in dialogue with the government, to discuss this Report's content and recommendations and to work with it to advance the cause of protecting the human rights of the people of Venezuela.

II. Analysis of the situation regarding civil and political rights

A. Government actions to guarantee the right to life and personal integrity and democratic citizen security

448. The Commission has indicated on multiple occasions that States must take steps not only to protect their citizens from human rights violations committed by State agents, but also when the State is aware of acts of violence among private citizens, has the obligation to take reasonable steps to prevent and punish such acts. The Commission has also spoken about States' obligations in connection

with the actions of non-state agents involved in organized crime, corruption, drug trafficking, etc. Since a lack of security directly affects the full enjoyment of people's basic rights, the IACHR has underscored the importance of addressing citizen security and respect for human rights, and of taking effective steps to prevent, control and reduce crime and violence.⁵⁰³

449. As the Commission indicated in its December 2009 Report on Citizen Security, citizen security requires a strong police force to protect citizens; the strengthening of the administration of justice, with the elimination of corruption and impunity; and a prison system aimed at the genuine rehabilitation and social reintegration of prisoners.⁵⁰⁴ In this regard, the Venezuelan situation has been of particular interest to the IACHR and during 2013 the Commission continued to receive information on citizen insecurity as well as specific actions against the population by police forces.

450. In the observations received on December 20, 2013, the Venezuelan State recognized that there was an increase in homicides and other indicators of violence, but it clarified that this is part of a global trend and, especially in Latin American countries. On the other hand, it described internal reforms to the Police, at the national, state and municipal level, and indicated that in February of 2009 the Experimental Security University (UNES) was created, and that it has trained and qualified more than 21,000 police staff in each of the regional levels⁵⁰⁵.

451. The IACHR has received and obtained information from the institutional standpoint on actions and the implementation of plans related to citizen security tasks in Venezuela in 2013. On April 21, Army Division General and Director of the Bolivarian Security Service (SEBIN) Miguel Rodríguez Torres was designated Minister of Internal Affairs, Justice and Peace.⁵⁰⁶ In addition, on May 13, 2013, the President of the Republic announced the creation of the "Plan Patria Segura" ("Safe Fatherland Plan"), which provides for the intervention of the Bolivarian National Armed Forces (FANB) in citizen security tasks in different parts of the country, and the establishment of 500 points for attending to citizens.⁵⁰⁷

452. The implementation of the "Plan Patria Segura" began in the Capital District and the states of Miranda⁵⁰⁸, Lara, Carabobo, and Zulia⁵⁰⁹; it is to be implemented gradually in the other states. To that end, 12,000 public servants would join security tasks, including officers of the Bolivarian National

⁵⁰³ IACHR. *Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter 6, para.672; IACHR. Press Release N°16/07. *IACHR calls upon States to reflect on the importance of public security*. March 15, 2007 and IACHR. *Annual Report 2008*. Chapter I: Introduction.

⁵⁰⁴ IACHR. *Report on Citizen Security and Human Rights*, December 31, 2009, Chapter I, para.2.

⁵⁰⁵ Observations by the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela for 2013 (AGEV/000374), December 20, 2013, p. 75.

⁵⁰⁶ El Nacional, [Miguel Rodríguez Torres nuevo ministro de interior y justicia](#), April 21, 2013.

⁵⁰⁷ Correo del Orinoco, [Presidente Nicolás Maduro lanza el Plan Patria Segura](#), May 13, 2013.

⁵⁰⁸ VTV, [Gobierno Bolivariano impulsa Plan Patria Segura](#), May 13, 2013. As of August 2013, the Minister of Interior and Justice, Major General (Army) Miguel Eduardo Rodríguez Torres, reported that 300 more army troops would be incorporated in certain towns of the state of Miranda. See: Ministry of People's Power for Internal Affairs, Justice and Peace, [Incorporan 300 efectivos más de la FANB en eje Guarenas Guatire y Valles del Tuy](#), August 5, 2013.

⁵⁰⁹ Ministry of People's Power for Communication and Information, [Plan Patria Segura se activa este lunes en Zulia, Lara y Carabobo](#), May 20, 2013.

Police and other citizen security bodies.⁵¹⁰ According to figures offered by the Strategic Operational Command of the Bolivarian Armed Forces, in May a total of 26,425 security officers were said to be deployed.⁵¹¹ As of mid-July 2013, the Plan was implemented in the states of Nueva Esparta, Portuguesa, Amazonas, and Apure.⁵¹² By late July, approximately 35,000 members of the security forces were deployed in 95% of the national territory.⁵¹³

453. According to figures offered by the Minister of People's Power for Internal Affairs, Justice and Peace, July saw a reduction in crime of approximately 15% nationally.⁵¹⁴ In early August 2013 the Minister reported that "in all the main lines of 'Plan Patria Segura' there [was] a reduction of 33%...."⁵¹⁵ Nonetheless, civil society organizations have expressed concern over the process of "militarization of citizen security," warning that including military personnel in citizen security work would be at odds with Article 332 of the Constitution, which establishes that "the citizen security organs are civilian in nature."⁵¹⁶

454. It should be noted that the implementation of "Plan Patria Segura" is part of a comprehensive public security policy called "Great Mission to All Life Venezuela" ("Gran Misión A toda vida Venezuela") designed in Venezuela in mid-2012.⁵¹⁷ That policy was proposed to be national in

⁵¹⁰ For example, according to figures offered by the Major General of the Bolivarian National Guard and regional coordinator of the security apparatus, Luis Alfonso Bohórquez Soto, in the state of Lara the Plan incorporated 6,400 persons, 2,400 of whom are part of the Bolivarian National Armed Forces, and 4,300 police officers (3,500 state police, 450 with the Bolivarian National Police, and 350 with the Municipal Police of Iribarren). See: Ministry of People's Power for Communication and Information, [4.300 efectivos policiales incorporados al Plan Patria Segura en Lara](#), May 21, 2013. In Greater Caracas, the Strategic Operational Command of the FANB reported that in May a total of 6,837 members of security forces were deployed, 5,194 of whom are with the FANB and 1,643 with the Bolivarian National Police, the Scientific, Criminal, and Criminalistic Investigations Corps (CICPC), and the Bolivarian National Intelligence Service (SEBIN). See: Ministry of People's Power for Communication and Information, [26.425 funcionarios de seguridad están activos en Dispositivo Patria Segura](#), May 24, 2013.

⁵¹¹ Ministry of People's Power for Communication and Information, [26.425 funcionarios de seguridad están activos en Dispositivo Patria Segura](#), May 24, 2013.

⁵¹² Correo del Orinoco, [Plan Patria Segura arranca en Nueva Esparta, Portuguesa, Amazonas y Apures](#), July 15, 2013.

⁵¹³ Figures offered by the Minister of People's Power for Internal Affairs, Justice and Peace. According to the assessment of implementation of the Plan as of July 20, 2013, in the Capital District there was a 58% reduction in homicides, 29.4% in the burglary of vehicles, and 51.5% in car thefts. See: Correo del Orinoco, [Funcionarios del Plan Patria Segura resguardan el 95% del país](#), July 20, 2013.

⁵¹⁴ Statements offered by Major General (Army) Miguel Rodríguez Torres. See: Agencia Venezolana de Noticias, [En 35% disminuye índice de delitos en parroquias abordadas por Patria Segura](#), July 31, 2013.

⁵¹⁵ Reference is made to the information in an article by the Ministry of People's Power for Internal Affairs, Justice and Peace. At the date of approval of this report, there was no breakdown of statistics in relation to the figure indicated, on the results obtained by Plan Patria Segura at the national level. In addition, the figure was offered by Minister Miguel Rodríguez Torres (Maj. Gen./Army) in response to a publication by the daily newspaper El Nacional on the number of corpses that had entered the Bello Monte Morgue in Caracas in the month of July (See: El Nacional, [Julio fue el segundo mes con más ingresos en la morgue](#), August 3, 2013). In this respect, the Minister indicated that "... they have a harsh view of the Safe Homeland Plan, because their families are in the United States ... it is a corporation that thinks in terms of money and not about its ethical duty as journalistic servants of the people...." See: Ministry of People's Power for Internal Affairs, Justice and Peace, [33% de reducción en todos los ejes del Plan Patria Segura](#), August 5, 2013.

⁵¹⁶ See: Foro por la vida, [Patria Segura, Derechos Humanos en riesgo](#), May 18, 2013.

⁵¹⁷ On July 10, 2012, the decree creating the Great Mission to All Life Venezuela "in the nature of a mission of the State." Decree No. 9086. ([Decree No. 9086. Published en Gaceta Oficial no. 39,961](#)). That program "includes six strategic
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scope, involving all “parts of the State” and aimed at “ensuring the right to life, humane treatment, and protection by the State.”⁵¹⁸ In pursuing this aim, the program’s main objective is “to lower crime rates in the country.”⁵¹⁹ Coordinating that policy is entrusted to the Minister of People’s Power for Internal Affairs, Justice and Peace, in cooperation with high-level governmental authorities under the direction of the President of the Republic.⁵²⁰

455. Since the creation of the program “A toda vida Venezuela” the authorities associated with its implementation have offered information about the actions taken, mainly in relation to: (i) disarmament programs; (ii) the training of public servants; (iii) crime prevention activities; (iv) the human and financial resources needed to implement it; (v) coordination between the national and local authorities on security issues; and (vi) the beginning of a national consultation on “living together in safety”⁵²¹, among others. According to the information available, from the first stages of implementing “A Toda Vida Venezuela” it included participation by members of the Bolivarian National Guard.⁵²² In addition, in September 2012 the National Government approved an “Exceptional plan for the procurement of Goods, Services Delivery, and Performance of Works of the Great Mission To All Life Venezuela, to guarantee greater security in the country.”⁵²³

456. In March 2013 the Ministry of Interior, Justice and Peace released a report on 2012. According to the figures in that report there were 16,072 homicides in all, compared to the 14,092 on record for 2011, which would mean “a substantial change in the national rate, from 48 to 54 homicides per 100,000 population.”⁵²⁴ In March the Scientific, Criminal, and Criminalistics Investigations Corps (CICPC: Cuerpo de Investigaciones Científicas, Penales y Criminalísticas) released its figures on the

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vertices: Prevention and community, Law governing the Justice System, Creation of a system of absences, Strengthening the criminal justice system, Resolution of community conflicts – mediation, and the Creation and socialization of knowledge for living together and citizen security” See: AVN, [Aprobado decreto de creación de A Toda Vida Venezuela como misión de Estado](#), July 10, 2013; AVN, [A toda vida Venezuela garantizará atención integral y oportuna a víctimas de la violencia](#), June 22, 2013.

⁵¹⁸ Ministry of People’s Power for Communication and Information, [Oficializada creación de la Gran Misión a toda vida Venezuela](#), July 11, 2012.

⁵¹⁹ Ministry of People’s Power for Communication and Information, [A toda vida Venezuela es política integral de seguridad que involucra a todas las instancias del Estado](#), July 10, 2012.

⁵²⁰ Article 5. Decree No. 9086. [Published in Gaceta Oficial No. 39,961](#), July 10, 2012.

⁵²¹ That consultation contemplated the participation of “organized communities, workers, peasants, businesspersons, drivers, youth, students, children, adolescents, sexual diversity community, persons deprived of liberty, victims of crime, media workers, and indigenous persons....” See: Ministry of People’s Power for Communication and Information, [Misión A Toda Vida Venezuela inició consulta nacional por una convivencia segura](#), September 12, 2012. As of the date of this memorandum there was no official information on the results of that consultation.

⁵²² See: Ministry of People’s Power for Communication and Information, [22.000 guardias nacionales reforzarán Misión A Toda Vida Venezuela](#), September 11, 2012; Ministry of People’s Power for Communication and Information, [Dispositivo de seguridad es desplegado en Caracas con tres mil funcionarias y funcionarios](#), October 19, 2012.

⁵²³ That Plan implied an investment or more than one billion nineteen million bolivars (Bs. 1,019,957,535) by the National Executive. See: Decree No. 9,175. [Published in Gaceta Oficial No. 40,006](#), September 12, 2012.

⁵²⁴ Statements by former Minister Nestor Reverol during the presentation of the report on memory and account of the Ministry of Interior and Justice for 2012. See: El Nacional, [EFE: Gobierno admite que los homicidios aumentaron en 14% en 2012](#), March 24, 2013. These figures were also picked up by the IACHR in its 2012 Annual Report. See: Chapter IV on Venezuela. 2012 Annual Report, para. 378.

homicide rate for January and February 2013. During the first two months of the year 2,576 homicides were reported, for a 1% reduction compared to the 2,601 homicides during the same period in 2012.⁵²⁵

457. In early April, the then Minister of Interior and Justice, Nestor Reverol, indicated that there were approximately 3,400 homicides from January to March 2013.⁵²⁶ In late April updated figures were published said to have been provided through unofficial channels by the CICPC, according to which as of April 25, 2013 that agency had counted 6,675 killings nationwide, which would represent an increase in the homicide rate with respect to 2012, from 52 to 58 violent deaths per day.⁵²⁷

458. It should be noted that as of the date of approval of this report, the Ministry of Interior Justice and Peace had not published official and updated figures on citizen security on the rest of 2013. The current minister, Miguel Rodríguez Torres, in an interview in early July, indicated that he had put to the President of the Republic the need to provide official figures on crimes such as homicides and kidnappings, and that these were “favorable,” indicating that “homicides have fallen 5%.” He also stated:

Being sincere when it comes to figures should be reciprocal. When the media sit down with me and tell me they are going to be sincere, that we are all going to work together for security, we will be able to speak clearly. No doubt we want to improve the perception of security in the country, but an in-depth effort is required, awareness needs to be raised among the media owners, the journalists, the citizens, the security bodies. That may happen at any time.⁵²⁸

459. According to the statistics of the Observatorio Venezolano de Violencia, for 2013 there was an approximate figure of 25,000 homicides nationwide, which means an increase of 10% of all violent deaths compared to 2012⁵²⁹. This Organization has indicated that even though the authorities indicated that there had been a drop in the homicide rate in 2012, it was not until March 2013 that the report and count of the Ministry of Interior and Justice was given, and it was learned that there had been an increase in the rate for those kinds of crimes. The organization has also noted that the figures provided by the Government do not include various categories in the total figure, including deaths due to confrontations.⁵³⁰

460. During its 149th Period of Sessions, the IACHR received information on the figures of alleged violations of the right to life in 2013. Specifically, civil society organizations indicated that from January to September 2013, 609 cases were detected in 22 states of Venezuela, which represented an increase in relation to the same period the previous year. The Commission also received information on the figures of violations of the right to life and the right to humane treatment of police officers, with a report of at least 186 officers belonging to state security bodies injured or killed in the period from

⁵²⁵ The information was published in an article in El Universal. See: El Universal, [2.576 homicidios en dos meses en el país](#), March 4, 2013.

⁵²⁶ Diario La Voz, [Venezuela registra 3400 homicidios en primer trimestre de 2013](#), April 2, 2013.

⁵²⁷ El Universal, [6.675 asesinatos se han reportado durante cuatro meses en el país](#), April 28, 2013.

⁵²⁸ El Nacional, [Miguel Rodríguez Torres: “No soy del PSUV, soy revolucionario”](#), July 1, 2013.

⁵²⁹ See: Observatorio Venezolano de Violencia, [Calculan que en el cierre del año habrá 23% más muertes violentas que en 2012](#), 7 de octubre de 2013

⁵³⁰ El Nacional, [Calculan 25.000 homicidios en 2013 a pesar de Patria Segura](#), August 4, 2013.

January to September 2013. According to the information provided, in September 2013 alone, 44 deaths of security officers were recorded⁵³¹.

461. Also, it should be noted that another action taken in the area of security, and as part of the Mission to All Life Venezuela (Misión a Toda Vida Venezuela), on June 15, 2013, the President of the Republic promulgated the “Law for the disarmament and control of weapons and munitions,” adopted by the National Assembly on June 11, 2013.⁵³² That law establishes restrictions on the sale of firearms and munitions to private persons, and establishes penalties ranging from 7 to 20 years in prison for the crime of illicit possession.⁵³³

462. Given the panorama of citizen security in Venezuela, the Commission is of the view that the measures taken by the State have been insufficient, as it indicated in the 2009 Report on *Democracy and Human Rights in Venezuela* and in its 2010, 2011 and 2012 Annual Report. This adversely affects Venezuelan citizens’ enjoyment and exercise of their human rights.

Alleged violence by members of Government Forces

463. In the course of 2013 information has been received about different incidents of violence in Venezuela related to the right to life, which in some cases appear to reflect an alleged excessive use of force by government forces. For example, it was reported that on May 31 and June 1, 2013 the inhabitants of the town of Cabruta, in the state of Guárico, had set fire to a command post of the Bolivarian National Guard (GNB) in that locality to protest the death of a young man who had been detained by military officers and who is said to have died while in their custody due to severe beatings in alleged acts of torture.⁵³⁴

464. Another incident with national repercussions occurred on July 8 in the state of Falcón. A woman, 44 years of age, was travelling in her vehicle with her three minor daughters when she was reportedly intercepted by approximately 20 officers of the Bolivarian National Guard, who shot at her more than 50 times. According to the officers’ version, they were engaged in an operation to capture a criminal band and apparently mistook the vehicle for one being used by the criminal band.⁵³⁵ One of the girls in the vehicle, 13 years of age, was said to have been seriously wounded⁵³⁶ and the mother and another daughter lost their lives. According to what was reported by the Attorney General, arrest warrants had been issued for 10 officers implicated in the facts.⁵³⁷

⁵³¹ Information received during the hearing on the general human rights situation in Venezuela held during the 149th Period of Sessions.

⁵³² See: Telesur, [Presidente Nicolás Maduro promulga Ley para el Desarme y Control de Armas](#), June 15, 2013.

⁵³³ The text of the Law is available at: <http://www.minci.gob.ve/wp-content/uploads/2013/07/Ley-para-el-Desarme-y-Control-de-Armas-y-Municiones.pdf>

⁵³⁴ Reportero 24.com, [Guárico: queman Comando de la GN en Cabruta](#), June 1, 2013.

⁵³⁵ In this respect, the Commander of the National Guard, General Juan Francisco Romero, indicated that the officials involved, attached to the Urban Security Detachment of Coro (Falcón), were pursuing a group of persons who had escaped the prison in the region, and fired. He indicated that “unfortunately such situations happen” but that it was an “isolated incident.” See: El Impulso.com, [Asesinato de madre e hija en Falcón fue un “hecho aislado”, asegura comandante de la GN](#), July 6, 2013.

⁵³⁶ See: La Verdad.com, [Consternación por masacre de la GNB en Falcón](#), July 6, 2013.

⁵³⁷ Public Ministry, [Privan de libertad a 10 efectivos de la GNB por muerte de una mujer y su hija en Falcón](#), July 7, 2013.

465. On July 9, 11, and 12, 2013, the inhabitants of the town of Orope, in the state of Táchira, blocked the main road in the area to protest the assassination of a 24-year-old young man, Renny Suárez, said to have occurred during a search by military officers on July 9.⁵³⁸ His next-of-kin reported that the members of the military had forced him to ingest gasoline and that he suffered third-degree burns.⁵³⁹ It was reported that 15 members of the 251st Army Mechanized Infantry Battalion were being investigated for these facts. The investigation is said to be in the hands of a military tribunal and the office of the prosecutor specialized in fundamental rights.⁵⁴⁰ It was also reported that 11 others were detained, including four minors, during the search.⁵⁴¹

466. On July 15, 2013, a young man died as the result of a bullet allegedly fired by an officer of the “People’s Guard” (“Guardia del Pueblo”) in Petare, state of Miranda. The officer was said to have fired after the young man ignored the call to stop⁵⁴² and was said to have been brought before the 24th Court of the Metropolitan Area of Caracas.⁵⁴³

467. On July 17, 2013 the coalition of organizations “Foro por la Vida” (“Forum for Life”) condemned the events in the states of Falcón, Guárico, Táchira, and Petare on indicating that “in less than four months serious violations have occurred in Venezuela of the right to life, the right to integrity, the right to personal liberty, that involve members of the [FANB].” They reported that from May to July, the FANB was involved “in the violation of the right to life of at least five persons” and condemned official explanations offered in some cases that the incidents resulted from escape attempts or ignoring a call to stop as justification for “shooting to kill.”⁵⁴⁴

468. On July 24, 2013, the corpse of a National Guard officer, Diosny Manuel Guinand Yéndez, 24 years of age, was found at the military facilities of the Group of Commando Actions, in the Parish of Macarao, Caracas. The cause of death was said to be mechanical asphyxiation, and his body showed signs of torture. His family reported his disappearance on July 12, after receiving an anonymous message that he had been seen “handcuffed and beaten.”⁵⁴⁵ The Military Counter-intelligence Directorate (Dirección de Contrainteligencia Militar) and the Office of the Inspector General of the Bolivarian National Guard, with the intervention of the office of the special prosecutor for fundamental rights, investigated. It is said that two officers and one sergeant of the GNB were detained and that it was ordered that they be held. The officers remained in detention at the headquarters of the General

⁵³⁸ Globovisión, [Habitantes de Orope, Táchira, denuncian violación de derechos humanos por parte del ejército](#), July 12, 2013.

⁵³⁹ La Nación, [Fue un mal procedimiento de los militares y exigimos se aclare la muerte de mi sobrino](#), July 11, 2013.

⁵⁴⁰ La Nación, [Investigará un tribunal militar a los 15 efectivos acusados de la muerte del gasolinero en Orope](#), July 14, 2013.

⁵⁴¹ La Nación, [Investigará un tribunal militar a los 15 efectivos acusados de la muerte del gasolinero en Orope](#), July 14, 2013.

⁵⁴² See: PROVEA, [ONG’s venezolanas condenan violaciones de DDHH cometidas por efectivos de la FANB](#), July 17, 2013.

⁵⁴³ El Universal, [A tribunales Guardia del Pueblo implicado en muerte de joven en La Bombilla](#), July 15, 2013.

⁵⁴⁴ Published in: PROVEA, [ONG’s venezolanas condenan violaciones de DDHH cometidas por efectivos de la FANB](#), July 17, 2013.

⁵⁴⁵ El Nacional, [Oficiales mataron a golpes y enterraron a un cabo en Comando de la GN](#), July 26, 2013.

Directorate for Military Counter-intelligence and one at a detachment of the Bolivarian National Police (PNB).⁵⁴⁶

469. There is also information that in July 2013 at least 11 persons had died in operations involving drugs and weapons seizures carried out by the Scientific, Criminal, and Criminalistics Investigations Corps (CICPC). The events occurred in the Capital District, and in the states of Guárico and Anzoátegui. According to the official version, the deaths occurred due to confrontations with the officers of the CICPC.⁵⁴⁷

470. In addition, the IACHR was informed of an alleged increase in extrajudicial executions, as at least 482 cases were reported in 2013, with 72% of the persons affected being persons under 25 years of age, and 65% of the cases were said to have involved members of the criminal investigation corps, state police, and members of the military. In relation to 2012, it was reported that the Armed Forces were involved in 13% of the cases recorded as extrajudicial executions, yet in 2013 there was said to be an increase to 20% of such cases. In that regard, civil society organizations stated their concern over the impact of incorporating the military forces into citizen security tasks⁵⁴⁸.

471. Lastly, a case in point that the IACHR has been following closely involves the Barrios family. Between 1998 and 2010, six members of the Barrios family were killed: the two brothers Néstor Caudi, Rigoberto, aged 15, and Wilmer José Flores; their cousin Oscar, aged 22; and their uncles Benito, Narciso and Luis. Benito and Narciso Barrios were extrajudicially executed by the police of Aragua, and in processing this case the IACHR determined that there would be sufficient evidence to conclude that the same thing happened to Luis, Rigoberto and Oscar Barrios.

472. The Commission submitted the case of the Barrios family to the Inter-American Court of Human Rights in the first half of 2010. In January 2011, Néstor Caudi Barrios, an eye witness to the extrajudicial execution of Narciso Barrios, suffered an attack on his life, which was condemned by the Commission.⁵⁴⁹ Subsequently, on May 28, 2011 Juan José Barrios, aged 28, was murdered by two persons dressed in black who shot him several times. Juan José Barrios was the beneficiary of provisional measures issued by the Inter-American Court of Human Rights. In 2013, the Commission was informed about the murder of the tenth member of that family, the teenager Roniel David Barrios Alzul, occurred on May 15, 2013. Roniel David Barrios Alzul was the beneficiary of provisional measures and his body was found on May 16, 2013 with several injuries caused by knives. The Commission condemned the murder and pointed out that

The Inter-American Commission and Court have followed this situation through all applicable means, including requests for information, precautionary measures, provisional measures, admissibility and merits reports by the Commission, and the submission of the case to the Inter-American Court. However, the State of Venezuela has not adopted the measures necessary to protect the lives of the members of this family, which continues to fall victim to murders, arrests,

⁵⁴⁶ El Universal, [Privan de libertad a implicados en muerte de guardia nacional en Macarao](#), July 28, 2013.

⁵⁴⁷ El Universal, [En operativos del CICPC mueren once personas](#), July 31, 2013.

⁵⁴⁸ Information received during the hearing on the general human rights situation in Venezuela held during the 149th Period of Sessions.

⁵⁴⁹ IACHR, Press release No. 1/11 IACHR condemns attempt against the life of another member of the Barrios family in Venezuela, Washington, D.C., January 14, 2011.

searches, threats, and harassment. Nor has the State ordered effective investigations into these crimes, which remain unpunished.

The Barrios family is being exterminated in the face of inaction by the State, which has ignored the entreaties, decisions, recommendations, and orders of the two bodies that comprise the inter-American human rights system⁵⁵⁰.

473. The IACHR also expresses its concern over the complaints received on the cases of alleged extrajudicial executions in a context in which, as mentioned above, the State is furthering security policies that include involving members of the Armed Forces in citizen security tasks.⁵⁵¹ As it has indicated since its report on citizen security in 2009, given that the armed forces lack adequate training for control of citizen security, the task of fighting insecurity, crime, and violence domestically should be in the hands of a civilian police force that is efficient and respectful of human rights.⁵⁵²

474. Finally, in 2013 the Commission has continued to monitor information on the Bolivarian National Militia (Milicia Nacional Bolivariana).⁵⁵³ According to statements by President Nicolás Maduro: “Now the Bolivarian Armed Force has a special body, organized by the Venezuelan State to give form to the principle of co-responsibility in the security and defense of the nation.”⁵⁵⁴ In addition, in May 2013, President Maduro announced the creation of a Bolivarian Worker Militia (Milicia Obrera Bolivariana) to “strengthen the alliance between the organized working class, ever more organized, as a class, in the face of fascism and the bourgeoisie ... to strengthen the worker-military alliance, of the Bolivarian National Armed Force, with all the workers of the Homeland.” In that context, the President also said: “The working class will be ever more respected. It will be even more respected if the work militias have 300,000, 500,000, or one or two million workers in uniform, armed, prepared for the defense of the fatherland.”⁵⁵⁵ In November 2013, the President announced the “incorporation of the Bolivarian

⁵⁵⁰ IACHR, Press release No. 38/13 IACHR deplores murder of tenth member of the Barrios family in Venezuela, Washington, D.C., May 29, 2013. On November 24, 2011, the Court delivered its judgment in the case in which it found that the Venezuelan State’s international responsibility had been engaged by the facts alleged and proven. See I/A Court H.R., *Case of the Barrios Family v. Venezuela*. Merits, Reparations and Costs. Judgment of November 24, 2011. Series C No. 237, available [in Spanish] at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_237_esp.pdf.

⁵⁵¹ On this point, Venezuela indicated that “the delimitation of the participation by the Armed Forces occurs in Venezuela when the capacity of Police Forces is surpassed, as happens in all countries of the world. Besides, the Venezuelan Armed Forces are trained in human rights.” Observations by the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela for 2013 (AGEV/000374), December 20, 2013, p. 76.

⁵⁵² IACHR, Report on Citizen Security and Human Rights, December 31, 2009, para. 100.

⁵⁵³ According to information that is public knowledge, in January 2013, President Nicolás Maduro “affixed epaulettes of promotion on the militia members who were part of the first class, named in honor of Supreme Commander Hugo Chávez Frías” during a ceremony celebrating the anniversary of the Bolivarian National Militia. See: El Nacional, [Maduro asciende a integrantes de la milicia bolivariana](#), April 13, 2013.

⁵⁵⁴ Ministry of People’s Power for Communication and Information, [Presidente Maduro encabeza actos por aniversario de la Milicia Nacional Bolivariana](#), April 13, 2013. For his part, the “Director of Training and Doctrine of the Bolivarian National Militia,” Vice-Admiral Rafael Da Silva Duarte, has noted that “It is not a military defense *per se* of the military estate but rather it involves the whole State and the population in the defense of the interests, sovereignty, and the integrity of the national territory.... The idea is that everyone should have a single ideology and a new military doctrine.” See: Ministry of People’s Power for Communication and Information, [Nueva doctrina militar incluye corresponsabilidad entre Estado y pueblo](#), June 18, 2013.

⁵⁵⁵ VTV, [Presidente Maduro ordena la creación de la Milicia Obrera Bolivariana](#), May 22, 2013.

National Militia to the economic offensive, to support the measures carried out by the National Government to continue ensuring [economic] security.”⁵⁵⁶

475. In light of the available information, the IACHR is extremely concerned that citizens receive military training through the Bolivarian National Militia and then reenter civilian life to cooperate in maintaining domestic order. Once again, the IACHR emphatically points out that military training is not appropriate for controlling domestic security, so that fighting violence domestically must be the exclusive task of a properly trained police force that acts in strict compliance with human rights. In the Commission’s view, citizens who receive military training must not be used for internal defense, and neither should the role of society vis-à-vis national security be distorted.

B. Democracy, respect and guarantee of political rights

476. The Commission has stated that political rights, understood as being those that recognize and protect the right and the duty of every citizen to participate in his or her country’s political life, are by nature rights that serve to strengthen democracy and political pluralism.⁵⁵⁷ The Inter-American Court, for its part, has written that effective exercise of political rights constitutes an end in itself and also a fundamental means that democratic societies possess to guarantee the other human rights established in the Convention.⁵⁵⁸

477. The Commission has monitored events in the context in Venezuela in the wake of the announcement of the death of President Hugo Chávez and the elections held several weeks later. Next, the IACHR presents a summary of the main events and aspects of concern related to that situation.

1. Background and election day supervened

478. Presidential elections were held on October 7, 2012, in which then-President Hugo Chávez was re-elected for the 2013-2019 term. On December 8, 2012, President Chávez announced on national media, on a broadcast all radio and TV were required to carry live, that he would be going to Cuba for another round of surgery due to the cancer he was suffering. On that occasion, he announced that if he were unable to perform his duties, his successor should be Nicolás Maduro, who at the time was Vice President.⁵⁵⁹

479. According to Article 231 of the Venezuelan Constitution, the inauguration of President Hugo Chávez for the new presidential term should have taken place on January 10, 2013 before the National Assembly.⁵⁶⁰ On December 21, 2012, given the President’s absence due to his health, an action

⁵⁵⁶ Ministry of People’s Power for Communication and Information, [Gobierno incorpora la Milicia Bolivariana a la ofensiva económica](#), November 11, 2013.

⁵⁵⁷ IACHR. *Report on Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter II, para. 18.

⁵⁵⁸ I/A Court H.R. *Case of Castañeda Gutman v. Mexico*. Judgment of August 6, 2008. Series C No. 184, para. 143.

⁵⁵⁹ El Nacional. [Chávez anuncia un nuevo viaje a Cuba y designa como sucesor a Nicolás Maduro](#). December 8, 2012.

⁵⁶⁰ That article establishes: “... The candidate elected shall be inaugurated as President of the Republic the tenth of January of the first year of his or her constitutional term by oath before the National Assembly. If for any supervening reason the President of the Republic is unable to take office before the National Assembly, he or she shall do so before the Supreme Court of Justice.” [Constitution of the Bolivarian Republic of Venezuela](#).

was filed with the Constitutional Chamber of the Supreme Court seeking a constitutional interpretation of the content and scope of Article 231.⁵⁶¹

480. The motion was resolved by decision of January 9, 2013 of the Constitutional Chamber in which it was determined that (i) a new inauguration was not necessary, because it involved a re-elected president, and therefore there was no interruption in his discharging the duties of the position; (ii) Article 231 established a term for swearing in before the National Assembly, yet not so in the event of a “supervening motive”; and (iii) the Executive branch should continue performing its functions, based on the “principle of administrative continuity” of the governmental authorities, and that of “preserving the will of the people.”⁵⁶²

481. On March 5, 2013, Vice President Nicolás Maduro announced the death of Hugo Chávez on national media (required broadcast).⁵⁶³ That same day the Minister of Foreign Affairs, Elías Jaua, announced that Executive Vice President Nicolás Maduro would temporarily assume the presidency of the republic.⁵⁶⁴

482. On March 6, 2013, a request for interpretation of Article 233 of the National Constitution was filed with the Constitutional Chamber of the Supreme Court, on the absolute absences (*faltas absolutas*) of the President of the Republic.⁵⁶⁵ The motion was resolved by decision of March 8, 2013, in which it was determined that as established in the judgment of January 9, cited *supra*, the presidential term had begun on January 10, 2013, for while the President did not take the oath “he continued to discharge his duties” (“*continuaba en funciones*”).⁵⁶⁶ In this regard, the Chamber considered that the provision of Article 233 of the Constitution was applicable, insofar as an absolute absence of the President occurred “during the first four years of the constitutional period,”⁵⁶⁷ accordingly the Executive Vice President would assume the temporary Presidency. The Chamber also ruled on the content of Article 229 of the Constitution, which establishes the prohibition on being elected President for “one who is serving in the position of Executive Vice President....”⁵⁶⁸ In this respect, the Chamber indicated that with the declaration of the absolute absence of the sitting President, and with the Executive Vice President assuming the position, the prohibition contained in Article 229 did not apply to citizen Nicolás Maduro, and therefore he should not have ceased to serve as President in charge. Finally, the Chamber ruled that an election would be convened with universal, direct, and secret balloting.⁵⁶⁹

⁵⁶¹ See Supreme Court. Constitutional Chamber, [Judgment No. 02, Case No. 12-1358](#), January 9, 2013.

⁵⁶² See Supreme Court. Constitutional Chamber, [Judgment No. 02, Case No. 12-1358](#), January 9, 2013.

⁵⁶³ VTV. [Falleció el Presidente Chávez](#). March 5, 2013.

⁵⁶⁴ El Universal, [Jaua: Maduro asumirá la presidencia temporal](#), March 5, 2013.

⁵⁶⁵ See Supreme Court. Constitutional Chamber, [Judgment No. 141](#), Case No. 13-0196, March 8, 2013.

⁵⁶⁶ See Supreme Court. Constitutional Chamber, [Judgment No. 141](#), Case No. 13-0196, March 8 2013.

⁵⁶⁷ Article 233. [Constitution of the Bolivarian Republic of Venezuela](#).

⁵⁶⁸ Article 229. [Constitution of the Bolivarian Republic of Venezuela](#).

⁵⁶⁹ See Supreme Court. Constitutional Chamber, [Judgment No. 141](#), Case No. 13-0196, March 8, 2013, operative part.

483. The presidential elections were called by the National Electoral Council (CNE: Consejo Nacional Electoral) for April 14, 2013.⁵⁷⁰ After the election on that date, the CNE released the first official bulletin “with the irreversible results,” reporting that candidate Nicolás Maduro had obtained 50.66% of the votes, and opposition candidate Henrique Capriles, 49.071%.⁵⁷¹ On April 5, 2013, Nicolás Maduro was proclaimed President-Elect by the CNE.⁵⁷² On April 19, 2013, Nicolás Maduro took office before the National Assembly.⁵⁷³

2. Post-electoral violence situation

484. In the days following the presidential elections a series of protests took place in various cities across the country. According to the information available, the election result led to a tense situation between sectors of the Venezuelan opposition and followers of President Nicolás Maduro, after the announcement by the opposition candidate, Henrique Capriles that he would not recognize the results until a recount of all the votes had taken place.⁵⁷⁴

485. Several civil society organizations stated their views on the election outcome, indicating that “given the close margin between the two leading candidates and the report of more than 3,000 incidents by the political actors, a reasonable doubt arises as to the consistency of the results that makes it possible to justify activating the mechanisms provided for in the domestic legislation for a detailed review of them....”⁵⁷⁵ In subsequent days the Forum for Life (Foro por la Vida) publicly alleged that the acts of violence and the activity of the state bodies constituted “a *de facto* suspension of constitutional guarantees.”⁵⁷⁶ For their part, a group of some “40 activists and persons associated with human rights in Venezuela” rejected the pronouncement of the Forum for Life, considering that it would favor “in a biased manner those [who convened] the violent protest, repudiating the decisions of legitimate constitutional organs,” and which moreover contributed to “rendering invisible the origin of the violence and its tragic cost.”⁵⁷⁷

486. The IACHR monitored the situation and received with concern information on serious acts of violence reported to have taken place around the election. According to information made known to the Commission by different civil society organizations, nearly 60 persons were wounded, at least 135 were detained, and several persons died in the context of the demonstrations.

⁵⁷⁰ National Electoral Council, [CNE convoca Elección Presidencial para el 14 de abril](#), March 9, 2013.

⁵⁷¹ National Electoral Council, [CNE emitió primer boletín oficial con 99.12% de transmisión de las actas escrutadas](#), April 15, 2013.

⁵⁷² National Electoral Council, [CNE proclama al Presidente Electo para el período 2013-2019](#), April 15, 2013.

⁵⁷³ Ministry of People’s Power for Communication and Information, [Nicolás Maduro llega a la Asamblea Nacional para tomar juramento como presidente constitucional](#), April 19, 2013.

⁵⁷⁴ El Universal, [Capriles: El derrotado aquí es Maduro y su Gobierno](#), April 15, 2013.

⁵⁷⁵ Pronouncement of the coalition Foro por la Vida. In: PROVEA, [Pronunciamiento del Foro por la vida ante los acontecimientos luego de la elección presidencial el 14 de abril](#), April 16, 2013.

⁵⁷⁶ El Nacional, [Foro por la Vida denuncia suspensión de garantías de facto](#), April 19, 2013.

⁵⁷⁷ See: Ministry of People’s Power for Communication and Information, [Activistas de derechos humanos cuestionan posiciones del Foro por la Vida](#), April 22, 2013.

487. In particular, the IACHR received information about alleged detentions of minors and university students in Carabobo and Barquisimeto by members of the National Guard and reports that some of the persons detained at police facilities in Carabobo were held in incommunicado detention⁵⁷⁸. The Commission also received information on alleged assaults on journalists while they were covering the protests, destruction of their work material, the detention of two journalists on April 15, and threats against different media outlets. In addition, the Commission received information according to which, in the week after the presidential election representatives of the Government were said to have called public sector employees to meetings in several regions of the country to inform them of the supposed decision to fire anyone adverse to the elected government, without prejudice to domestic laws.⁵⁷⁹

488. On April 24, 2013, the IACHR requested information from the State based on the powers set forth in Article 41 of the American Convention. The State's response was received on May 8, 2013. The State indicated that according to figures from the Office of the Attorney General, in the events after the presidential elections nine persons were killed and 78 wounded, and, citing the Attorney General, it indicated that "the victims were partisans of *chavismo* who were attacked by groups supportive of the opposition." The State also presented information on "allegations that the Comprehensive Diagnostic Centers (CDI) were besieged" and reported on the formation of a mixed commission of the National Assembly to investigate the violent events of April 15 and 16.

489. The assessment offered by civil society organizations indicates that 13 persons were killed. In addition, they submitted information to the IACHR on deaths and injuries said to have resulted from the excessive and disproportionate use of force by the National Guard, as well as allegedly arbitrary detentions of members of the opposition.⁵⁸⁰

490. On May 10, 2013, the Commission issued a press release in which it stated its profound concern over the information about the violent events in the wake of the April elections, and called on the State to initiate investigation into all the deaths and violent acts reported, and to take all steps to guarantee that the investigations underway are conducted with diligence and impartiality.⁵⁸¹

⁵⁷⁸ During the 149th Period of Sessions, the Commission also received information on cases of people who were arrested and allegedly forced to undress, received death threats by member of security forces, and in some cases of women who where arrested, they reported having been threatened with being raped or burning their private parts. It was also reported that during the time these people remained in detention, they received beatings by state agents, were forced to spend long hours crouched, and in some cases they were allegedly forced to chant slogans in favor of President Nicolas Maduro and stripped of any personal object which identified their political orientation. Information received during the hearing on the general human rights situation in Venezuela held during the 149th Period of Sessions.

⁵⁷⁹ Some of these pronouncements were recorded and made available to public opinion in the days after the election, though the IACHR was unable to determine the exact date they were made. In particular, the Commission was informed of the statements said to have been made by the Minister of People's Power for Housing and Habitat, Ricardo Molina, and the Director of the Sports Institute of the Government of the state of Zulia, Leonet Cabezas, on the supposed order to dismiss those persons who had not voted for Nicolás Maduro or who did not support the Government. The recordings disseminated are available at: El Nacional, [El ministro de Vivienda amenazó con despedir a empleados opositores](#), April 22, 2013; and El Universal, [Denuncian amenazas de despido en la Gobernación del Zulia](#), April 18, 2013.

⁵⁸⁰ The State made no reference to these events in its response to the IACHR's request for information.

⁵⁸¹ IACHR, *IACHR Urges the State of Venezuela to Guarantee the Rights of all Persons under its Jurisdiction*, Washington, D.C. May 10, 2013.

3. Election challenge

491. The Commission also learned of the pronouncements regarding the challenge to the elections. In this regard, on April 18, 2013, the president of the CNE announced that she had received a request from candidate Henrique Capriles to “culminate the citizen verification audit ... of the boxes safeguarding the ballots.” The CNE clarified it had not received any “request for a recount of the votes” and that “a new automated count [could be requested] only by challenging the election before the Supreme Court.” On the occasion of that request, the CNE agreed “within the framework of what is allowed by the electoral laws, to expand citizen verification ... so that the audit covers over 46% of the boxes that were not audited on election day.”⁵⁸²

492. On June 11, 2013, the CNE announced that it had culminated the process of citizen verification with 100% of the polling places audited, without any discrepancy whatsoever between the ballots and the vote vouchers audited in 99.98% of the cases.⁵⁸³

493. On May 2, 2013, a motion was filed with the Electoral Chamber of the Supreme Court within its contentious electoral jurisdiction seeking the “total annulment of the electoral process for the presidential election” of April 14, 2013.⁵⁸⁴ By decision of June 20, 2013, the Constitutional Chamber of the Supreme Court decided to hear the actions challenging the April presidential elections.⁵⁸⁵

494. By decision of August 7, 2013, the Constitutional Chamber dismissed the contentious electoral appeal. The decision set forth a number of considerations on the alleged lack of impartiality of several governmental organs, which was argued as the basis of the action. In this framework, the Constitutional Chamber determined that

... In keeping with Article 133(5) of the Organic Law of the Supreme Court of Justice, the contentious electoral action that is the subject of the instant matter should be found inadmissible, for it contains concepts offensive to and disrespectful of this Chamber and other organs of governmental authority.

For this very reason, ... the Chamber imposes on citizen **HENRIQUE CAPRILES RADONSKY**, [...the payment of a] fine ... accordingly the Chamber considers the offensive pronouncements contained in the libelous brief to be of the utmost gravity ... and in view of the gravity of the offenses and disrespectful terms put forth by the plaintiff in his brief, this Constitutional Chamber considers it necessary to forward to the Public Ministry, as the prosecutorial authority,

⁵⁸² CNE, *Pronunciamento del Poder Electoral*, April 18, 2013. According to statements offered to the media, the political organizations backing Henrique Capriles rejected the terms put forth by the CNE to perform the audit, and announced that they would not be part of it. See: El Universal, *Comando Simón Bolívar reitera rechazo a participar en auditoría*, April 30, 2013.

⁵⁸³ On the methodology used for the verification process, the CNE indicated: “Article 162 of the Organic Law on Electoral Processes establishes that this verification shall be done by reviewing the ballot vouchers in relation to the data contained exclusively in the document from the act of voting. In other words, it is a question of comparing the total number of ballot vouchers with the data reflected in the **Vote Count Document (Acta de Escrutinio)** printed by the machine. The procedure for this comparison is clearly established in the Regulation of the Law.” [Emphasis in the original] CNE, *Auditadas 100% de las mesas electorales del 14 de abril*, June 11, 2013.

⁵⁸⁴ Text of the motion available at: http://www.unidadvenezuela.org/wp-content/uploads/2013/05/RecursoContenciosoElectoral_02-051.pdf

⁵⁸⁵ See Supreme Court, Constitutional Chamber, *Judgment No. 795*, Case No. 13-0538, June 20, 2013.

a certified copy of this judgment and of the brief filed by the plaintiff, so that it might make a detailed analysis of those documents and begin the investigations it considers necessary to determine the criminal liability to which it may give rise⁵⁸⁶

495. In addition, the Constitutional Chamber of the Supreme Court found nine contentious-electoral appeals, filed by different political organizations and private individuals related to the April elections, inadmissible.⁵⁸⁷

496. On the other hand, it should be underscored that on December 8, 2013, regional elections took place in Venezuela for authorities in 335 municipalities, two metropolitan mayoralties and 986 parishes⁵⁸⁸.

497. Prior to these elections, the IACHR issued a press release in which it expressed concern for the murder of one of the candidates for Council Member for the coalition known as the *Mesa de la Unidad Democrática* in Zulia state, and for the alleged arbitrary and illegal detention of an opposition leader. The Commission pointed out that these events allegedly took place in the framework of the electoral campaign, as well as other actions allegedly undertaken by Venezuelan authorities, which would have a chilling effect on critical or dissenting opinions of persons considered by the authorities as political opponents. In that context, the Commission called on the Venezuelan State to urgently adopt all measures necessary to guarantee the rights to life and physical integrity, as well as political rights, the right of assembly and the rights to freedom of association and freedom of expression⁵⁸⁹.

498. As to the alleged arbitrary and illegal detention of opposition leader Alejandro Silva, the Commission sent a request for information to the State on November 29, 2013, pursuant to Article 18 of its Statute. On December 2, 2013, the State requested an extension to present its response, which was granted for a period of 8 days. To the date of approval of this report, the response of the State had not been received.

4. Other events related to political rights and the right to participate in public life

499. In its 2009 report *Democracy and Human Rights in Venezuela*, the Commission expressed concern over information it had received suggesting a troubling tendency towards retaliatory measures against persons who made public their disagreement with government policies. This

⁵⁸⁶ Supreme Court, Constitutional Chamber, [Judgment No. 1117](#), Case No. 13-0567, August 7, 2013.

⁵⁸⁷ Supreme Court, Constitutional Chamber, [Judgment No. 1111](#), Case No. 13-0561, August 7, 2013; Supreme Court, Constitutional Chamber, Judgment No. 1112, [Case No. 13-0562](#), August 7, 2013; Supreme Court, Constitutional Chamber, [Judgment No. 11113](#), Case No. 13-0563, August 7, 2013; Supreme Court, Constitutional Chamber, [Judgment No. 11114](#), Case No. 13-0564, August 7, 2013; Supreme Court, Constitutional Chamber, August 7, 2013; Supreme Court, Constitutional Chamber, [Judgment No. 11118](#), Case No. 13-0568, August 7, 2013; Supreme Court, Constitutional Chamber, [Judgment No. 11119](#), Case No. 13-0569, August 7, 2013; Supreme Court, Constitutional Chamber, [Judgment No. 1120](#), Case No. 13-0570, August 7, 2013.

⁵⁸⁸ According to the Official Bulletin issued by the National Electoral Council regarding the total results, “the PSUV and its alliances won 242 mayoralties (72.24%) of 335, with 5 million 277 thousand 491 votes. The MUD and its alliances won 75 mayoralties (22.39%) with 4 million 423 thousand 897 votes”. CNE, [Adjudicados todos los cargos electos el 8D](#), December 13, 2013.

⁵⁸⁹ IACHR, [IACHR Concerned over Killing of a City Council Candidate and tfer Incidents of Alleged Political Persecution in Venezuela](#), November 30, 2013.

tendency, the Commission observed, affected both the opposition authorities and the citizens who exercised their right to express their disagreement with the policies put forth by the government.⁵⁹⁰

500. In this respect, the IACHR observes that in 2013 this worrisome trend appeared to continue, and peaked in the context of the health situation and death of President Chávez, the election overtaken by events, and then the appointment of Nicolás Maduro as President of the Republic.

501. In that framework, the Commission observes among the worrisome events the substantial increase in stigmatizing and intimidating declarations by high-level spokespersons of the Government against different groups of civil society identified as being with the opposition, and which in the view of the Commission worsen the delicate climate of polarization, said to be furthered by reprisals against political dissent. Since its 2009 report on Venezuela, the IACHR has reiterated its concerns on how the expressions of political intolerance by the public authorities have sometimes been echoed among civil groups, some of which take them to the extreme and act at the margin of the law as violent groups to intimidate those who are considered enemies of the government's political program.⁵⁹¹

502. In light of the foregoing, the Commission learned of a series of pronouncements in the course of the news reports related to the health and death of then-President Hugo Chávez. For example, in January 2013, President Nicolás Maduro, who at the time was Vice President, made a series of accusations on nationwide broadcasts (required) in which he referred to "ultra-rightwing" sectors who "have an absolutely wretched soul, absolutely wretched, and answer to anti-patriotic plans.... There is a very venomous minority of that ultra-right that does not cease in its attack against President Chávez ... they answer to plans from elsewhere; they are not plans to help, nor are they accompanied by any wishes for the health and life of Commander Chávez, or the wish that there be tranquility among Venezuelans..."⁵⁹² The Minister of Communication and Information, Ernesto Villegas, spoke in similar terms on a national radio and television broadcast (required) in an official communiqué that warned the Venezuelan people "about the psychological war that the translational media network has unleashed around the health of the Head of State the ultimate purpose being to destabilize the Bolivarian Republic of Venezuela ... to bring an end to the Bolivarian Revolution led by Chávez [,] purposes at odds with the iron unity of the Bolivarian Government and the people organized, and the Bolivarian National Armed Force around the leadership and political thought of Commander Hugo Chávez."⁵⁹³ In subsequent statements Minister Villegas reiterated that various sectors not supportive of the national government were maintaining "a psychological operation deployed to bring about intranquility in the Venezuelan people."⁵⁹⁴

⁵⁹⁰ IACHR. *Report on Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter II, para. 95; IACHR, 2010 Annual Report, Chapter IV on Venezuela, para. 678.

⁵⁹¹ IACHR. *Report on Democracy and Human Rights in Venezuela*, December 30, 2009, para. 112.

⁵⁹² Etcétera. January 4, 2013. [Con "alma miserable", los periodistas de ultraderecha, dice vicepresidente de Venezuela](#); Diario El Carabobeño. January 4, 2013. [CNP Caracas rechazó descalificaciones de Nicolás Maduro](#); YouTube/Panamericanavideos. January 3, 2013. [Nicolás Maduro: periodistas de ultraderecha tienen un alma miserable](#).

⁵⁹³ VTV, January 3, 2013. [Gobierno informa sobre insuficiencia respiratoria de Chávez y denuncia guerra psicológica en torno a su salud](#); Partido Socialista Unido de Venezuela. January 3 2013. [Gobierno denuncia guerra psicológica trasnacional sobre salud de Chávez para desestabilizar al país](#); Bolivarian Communication and Information System. March 1, 2013. [Maduro llama a derrotar campaña de rumores que pretende desestabilizar al país](#);

⁵⁹⁴ Bolivarian Communication and Information System. March 1, 2013. [Ministro Villegas pide respeto para familia del presidente Chávez](#).

503. The President of the National Assembly, Diosdado Cabello, was reported to have made statements to a group of students who in early March 2013 had chained themselves in a sign of protest near the Office of the Executive Director of the Judiciary, warning: “Don’t even think of coming to the Military Hospital because we are not going to allow absolutely any activity of that.” On that occasion he was also reported to have said that the private media are “the enemies of the homeland, of the people, of the Revolution, of the Constitution” and that they should not be “... encouraging activities of this type because it might backfire... and in the face of these media who are going with the ruin of the peace in this country, with the destruction of the peace of this country, I’m going to tell them: the day that something happens here, the people know what they are going to grab on to – and I’m almost certain that the rightwing media are not going to go without visits from the people. And this is not threats, I am just trying to interpret the reality of a people that is tired, that is sick and tired of being harassed every day, that every day is subjected to a thousand pressures by the rightwing media with their lies....”⁵⁹⁵

504. The IACHR also observes with concern the pronouncements made in the post-election context against various sectors including human rights organizations, media outlets, and political leaders, among others.

505. The IACHR highlights the accusations made by high-level authorities of the Government against the organization PROVEA. As mentioned above and according to the available information, during the protests in Venezuela in the days following the election various authorities alleged that different Comprehensive Diagnostic Centers (CDIs: Centros de Diagnóstico Integral)⁵⁹⁶ were said to have been subjected to violence by the demonstrators identified with the opposition sectors.⁵⁹⁷ According to the official information, by April 17, 2013, at least eight CDIs had been set ablaze and others had been pillaged and vandalized.⁵⁹⁸

506. On April 18, 2013, PROVEA issued a press release in which it reported “after an exhaustive search in digital media and state bulletins ... it did not obtain any evidence concerning the Comprehensive Diagnostic Centers (CDIs) that had allegedly been set on fire by opposition partisans....”⁵⁹⁹ On April 19, PROVEA reported through its website that Minister of Communication and Information Ernesto Villegas had asked the organization about the information it had published.⁶⁰⁰ That same day, PROVEA issued another communiqué in which it reported that on the afternoon of April 19, Minister Villegas had disseminated “through his Twitter account several messages discrediting and

⁵⁹⁵ Noticiero Digital. March 2, 2013. [Cabello a medios privados: El día que ocurra aquí algo, el pueblo sabe para dónde va a agarrar](#); Globovisión. March 2, 2013. [Diosdado Cabello hizo advertencias a estudiantes y medios privados de comunicación](#).

⁵⁹⁶ The CDIs are care centers that are part of the social program “Barrio Adentro” Mission aimed at offering health services to the population.

⁵⁹⁷ See: Correo del Orinoco, [Twitter de Nelsón Bocaranda desata violencia contra CDI y médicos cubanos](#), April 16, 2013; Agencia Venezolana de Noticias, [Grupos Antichavistas intentaron quemar CDI en Delta Amacuro](#), April 19, 2013; Correo del Orinoco, [Venezuela seguirá denunciando ante el mundo campaña fascista contra Cuba y Colombia](#), April 27, 2013.

⁵⁹⁸ See: Press Release by the Embassy of the Bolivarian Republic of Venezuela in the United States, [17 de abril – Actualización Post-Electoral](#), April 2013.

⁵⁹⁹ PROVEA, [Provea corrobora falsedad en la denuncia de CDIs quemados en el país](#), April 18, 2013.

⁶⁰⁰ PROVEA, [Ministro de comunicación llama a PROVEA acerca de información sobre CDIs](#), April 19, 2013.

inciting hatred” against the organization.⁶⁰¹ PROVEA denounced that such messages criminalized the organization’s work on behalf of human rights and instigated “public hatred,” which is particularly serious in the context of polarization and “crisis marked by anomical expressions of violence, fanaticism, and intolerance.”⁶⁰²

507. On April 25, 2013, the organization received a communication from the Minister of Communication and Information, which it published at its website at the request of the Minister in response to a right to reply requested by PROVEA, in which he indicated:

... You supported, with your weak Report, the fascists who attacked the CDIs, the houses of Mercal, housing of the Great Mission Housing Venezuela ... and the poor people who are the protagonists of this Revolution. One who attacks places that guarantee social rights ... and assassinates persons who peacefully defend their social rights is no more than a fascist. And those who do not condemn those deaths, but who attempt (with a very poor Report) to downplay such acts, are accomplices of that fascism. The action of Provea helps render invisible the crimes committed by violent elements of their same political colors, thereby favoring impunity for those crimes and constituting a form of symbolic violence against the direct victims and their family members....⁶⁰³

508. The IACHR also observes with concern the pronouncements made after the announcement of the electoral results of April 14 and the incriminating statements by President Nicolás Maduro and other State authorities. For example, on April 16, 2013, President Maduro announced publicly that “the time for definitions [had come] in Venezuela,” in particular encouraging the media to define their political affiliation and decide “who they are with ... with the homeland, with peace, with the people, or are they going to be on the side of fascism once again...?”⁶⁰⁴ In subsequent months, the President of the Republic had made similar pronouncements on several occasions, asserting for example that the media “are sadists of journalism and communication,” that “they celebrate the feast of death,”⁶⁰⁵ and that “one of the challenges of the resolution is to denounce these economic groups that

⁶⁰¹ It is indicated that one of the messages published through the account [@VillegasPoljakE](#) was: “It’s a shame that Provea acts like the rearguard for fascism, certifying that ‘there is no evidence’ of the excesses by the bands that attacked the people.”

⁶⁰² PROVEA, [Provea responsabiliza a Ministro de Comunicación e Información, Ernesto Villegas, de cualquier violación a la vida e integridad de nuestro equipo de trabajo](#), April 19, 2013. According to the information available at PROVEA’s website, on April 22, 2013, the organization sent a communication to the Office of the Minister requesting the right to reply in view of the statements he had made on a program broadcast by Venezolana de Televisión (VTV), rejecting the press release on the CDIs. See: PROVEA, [Comunicación enviada al Ministro de Comunicación e Información, Ernesto Villegas, sobre derecho a réplica a Provea](#), April 22, 2013.

⁶⁰³ On that occasion the organization indicated that “the response sent by Minister Villegas does not respond to what was requested...” See: PROVEA, [Ministro Ernesto Villegas responde a exigencias de Provea para cumplir con el derecho a réplica](#), April 25, 2013.

⁶⁰⁴ Notitarde. April 16, 2013. [Maduro a Venevisión y Televen: “Definanse con quien están”](#); Espacio Público. April 16, 2013. [Maduro insta a los medios a definir su tendencia política](#); El Mundo/EFE. April 19, 2013. [Maduro convoca una ‘gran movilización’ para su investidura este viernes](#). Ministerio del Poder Popular para la Comunicación y la Información. April 18, 2013. [Maduro: Le cabe responsabilidad a Televen por encadenarse con llamados a violencia](#); YouTube/Sucreranda. April 19, 2013. [Nicolás Maduro. Juramentación. Unasur. Globovisión fascista, Televen qolpista. S-300 desfile](#).

⁶⁰⁵ Globovisión. May 17, 2013. [Maduro califica a medios de comunicación como “sádicos del periodismo”](#); El Universal. May 18, 2013. [Maduro: “Las televisoras de este país tienen que cambiar”](#); Noticiero Digital. May 17, 2013. [Maduro fustiga a los “sádicos del periodismo y las comunicaciones”](#).

exercise a dictatorship complacent and complicit with corruption and with the mismanagement of the regional governments.”⁶⁰⁶ The National Assembly President Diosdado Cabello has made various statements in which he refers to certain opposition leaders as “fascists” and alleges they answer to the interests of other governments.⁶⁰⁷ In October and November 2013, insinuations continued to be made against three of the leading spokespersons of the opposition, who are depicted as a “trilogy of evil ... who are heading up the fascist script against Venezuela, inside and outside the country.”⁶⁰⁸

509. Similarly, the Commission has learned of the alleged refusal by opposition legislators to exercise their right to speak in the debates in the National Assembly. Specifically, it is reported that the President of the National Assembly had not given the floor to the opposition legislators who did not recognize Nicolás Maduro as president in a voice vote, as well as suspending their salaries.⁶⁰⁹ These events were said to have encouraged a delicate situation of tension that led to violent attacks on April 30, 2013, at the National Assembly, in which several persons were reported injured.⁶¹⁰ On May 10, 2013, the IACHR issued a press release making reference to these events.⁶¹¹

510. Information available indicates that in the course of 2013 at least three members of the National Assembly, identified with the opposition, were the subjects of criminal investigations. Specifically, the Office of the Attorney General (Fiscalía General de la República: “FGR”) had come before the Supreme Court of Justice to request the a finding of probable cause so as to bring criminal charges against legislators Richard Mardo⁶¹²,

⁶⁰⁶ Agencia Venezolana de Noticias (AVN). September 19, 2013. [Maduro llama a candidatos socialistas a construir lazos de comunicación con el pueblo](#); El Nacional. September 19, 2013. [Nicolás Maduro pide “desenmascarar a los jefes de la dictadura mediática”](#).

⁶⁰⁷ El Nacional, [Cabello: el asesino fascista de Capriles fue a EEUU a rendirle cuenta a sus amos](#), September 16, 2013; SIBCI, [Diosdado Cabello asegura que Capriles actúa como un cobarde por no ir a la marcha que convocó](#), October 29, 2013.

⁶⁰⁸ ANTV, [“Trilogía del mal” López-Machado-Capriles es la cara del fascismo en Venezuela](#), November 4, 2013; PSUV, [El rostro del fascismo en Venezuela es la Trilogía del Mal: Machado, Capriles y López](#), November 4, 2013. These statements were made at the same time as posters appeared in various zones of the city of Caracas showing “the trilogy of evil,” with the photographs of Henrique Capriles, Leopoldo López, and National Assembly legislator María Corina Machado, in which they are accused of “taking away electricity, food, and peace.” See: El Nacional, [Afiches de la Trilogía del Mal cubren las paredes de la ciudad capital](#), November 2013.

⁶⁰⁹ Notitarde, [Cabello: Diputados no cobrarán hasta que reconozcan a Maduro](#), April 26, 2013; Últimas Noticias, [Diputados no cobrarán hasta que reconozcan a Maduro](#), April 26, 2013.

⁶¹⁰ El Universal, [Suspenden sesión de la AN tras agresiones a diputados opositores](#), April 30, 2013; VTV, [Diputadas Socialistas denunciaron ante Fiscalía agresiones de opositores en la AN](#), May 2, 2013; El Nacional, [Cabello: agresiones son un montaje preparado por Borques y García](#), May 1, 2013.

⁶¹¹ IACHR, IACHR Urges the State of Venezuela to Guarantee the Rights of all Persons under its Jurisdiction, Washington, D.C., May 10, 2013.

⁶¹² In March 2013, the FGR filed the request with the Supreme Court arising from the complaint lodged February 6, 2013, by the President of the Committee on Comptrollership of the National Assembly, Pedro Carreño (a legislator for the Partido Socialista Unido de Venezuela- PSUV), for the crimes of tax fraud and asset laundering. See: Supreme Court, [Fiscal General solicitó en el TSJ antejuicio de merito contra diputado Richard Mardo](#), March 12, 2013; Agencia Venezolana de Noticias, [Fiscal General ratifica solicitud de antejuicio de mérito contra Richard Mardo](#), June 26, 2013. With respect to this process, the information available indicates that legislator Richard Mardo filed an *amparo* action against the FGR for alleged violations of due process, effective judicial protection, and the right to defense. The Plenary Chamber of the Supreme Court declined to take cognizance of the case, deferring to the Constitutional Chamber of the same Court, which by decision of July 3, 2013, found the motion inadmissible, considering that the allegations would be the subject of a pronouncement by the Plenary Chamber, which has taken cognizance of the probable cause hearing in the matter. See: Supreme Court, [Inadmisibile acción de amparo interpuesta por diputado Richard Mardo contra la Fiscalía General de la República](#), July 3, 2013.

Juan Carlos Caldera⁶¹³, and María Aranguren.⁶¹⁴ To the date of approval of the instant report, the requests with respect to legislators Mardo and Aranguren had been decided upon by the Criminal Chamber of the Supreme Court.⁶¹⁵ In addition, the National Assembly approved stripping both legislators of legislative immunity.⁶¹⁶

511. In light of the foregoing, the Commission reiterates the concerns it expressed in its 2009 report on Venezuela, and in the annual reports of 2010, 2011, and 2012, as regards the various factors constituting restrictions on the exercise of political rights, without discrimination, in Venezuela. In this sense, the Commission urges the State to create the appropriate conditions and mechanisms so that political rights can be effectively exercised in observance of the principle of equality and nondiscrimination.⁶¹⁷

512. Moreover, in Chapter IV of its Annual 2010 and 2011 Report, the IACHR has been monitoring the enforcement of the bill passed by the National Assembly in December, 2010, called Law on Defense of the Nation's Political Sovereignty and Self-Determination⁶¹⁸. In this regard, the Commission has expressed with deep concern about the possibility that natural or juridical persons at public or private law, organized to conduct activities for political purposes or activities to defend human rights, may be criminalized for receiving economic assistance or financial contributions from natural or juridical persons or foreign persons from outside the national territory. In its 2011 Report, the Commission noted that the law does not indicate which agency of government is competent to supervise compliance with the law or to impose the penalties provided, or the applicable procedure.⁶¹⁹

513. In that context, the IACHR is aware that in early October 2013, the National Assembly designated a "special commission to investigate the financing of offices, political groups, or organizations that operate for the purposes of destabilizing and causing social commotion and coup

⁶¹³ In May 2013, the FGR filed the request with the Supreme Court for alleged commission of crimes set forth in the Law against Corruption and the Organic Law against Asset Laundering and Financing of Terrorism. See: Supreme Court, [Fiscal General solicitó en el TSJ antejuicio de mérito contra diputado Juan Carlos Caldera](#), May 20, 2013. As of the date of this writing, the request was under consideration by the Plenary Chamber of the Supreme Court. See: Supreme Court, [Diferida la audiencia pública del diputado Juan Carlos Caldera](#), November 5, 2013.

⁶¹⁴ In October 2013, the FGR filed a request with the Supreme Court for the alleged commission of the crimes of embezzlement (*peculado doloso propio*), asset laundering, and conspiracy to engage in criminal conduct. See: Public Ministry, [Fiscal General solicitó declarar mérito para investigar a diputada María Mercedes Aranguren](#), October 31, 2013.

⁶¹⁵ Supreme Court, [TSJ declaró la existencia de mérito para el enjuiciamiento del diputado Richard Mardo](#), July 16, 2013; Supreme Court, [TSJ declaró que hay mérito para el enjuiciamiento de la diputada María Aranguren](#), November 6, 2013.

⁶¹⁶ In the case of legislator Richard Mardo, on July 30, 2013, the National Assembly agreed to lift his legislative immunity, as a result of which the Public Ministry is said to be pursuing a criminal investigation into his conduct. See: SIBCI, [AN aprueba allanamiento a la inmunidad parlamentaria de Richard Mardo](#), July 30, 2013; and Agencia Venezolana de Noticias, [Ministerio Público continúa investigación de caso Mardo](#), August 11, 2013. With respect to legislator María Aranguren, on November 12, 2013, the National Assembly agreed to lift her legislative immunity. See: ANTV, [Allanada inmunidad parlamentaria de Aranguren tras polémico debate](#), November 12, 2013; ANTV, [AN aprobó allanamiento de la inmunidad parlamentaria a la diputada María Aranguren](#), November 12, 2013.

⁶¹⁷ IACHR, 2010 Annual Report. Chapter IV on Venezuela, para. 684.

⁶¹⁸ Published in the Gaceta Oficial Extraordinaria No. 6,013 of December 23, 2013. IACHR, 2010 Annual Report. Chapter IV on Venezuela, para. 826; IACHR, 2011 Annual Report. Chapter IV on Venezuela, paras. 414-417.

⁶¹⁹ IACHR, 2011 Annual Report. Chapter IV on Venezuela, para. 416.

d'états in the country.”⁶²⁰ On October 9, 2013, that special committee was installed, chaired by a legislator from the PSUV, the Chairperson of the Standing Committee on Security and Defense of the National Assembly and two other legislators from the PSUV and the Partido Comunista de Venezuela (PCV), respectively.⁶²¹ During the Committee’s installation, the Chairperson said that

“... an investigation will be undertaken into the relationship and financing of supposed social organizations and political groups that are active in [Venezuela], with the Department of the United States of America ... he noted that one of the first investigations will target ... foundations that the Government of the United States has used to provide economic and strategic political assistance to the parties Primero Justicia and Un Nuevo Tiempo, in recent years in Venezuela.... He also explained that another point on the agenda would be to review the list of non-governmental organizations (NGOs) active in the country, and that have ties to the US State Department, which under the cover of defending human rights are immersed in political activities to destabilize and alter the political peace one finds in Venezuela.”⁶²²

514. The information available indicates that in mid-October 2013, the special commission was carrying out an investigation into the president of a private Venezuelan university for alleged “indoctrination” of the students.⁶²³

515. Furthermore, since 2010 the Commission has followed up on the adoption of the so-called Enacting Laws (Leyes Habilitantes), which authorize the President of the Republic to issue decrees with the rank, value, and force of statute on those matters that are so delegated.⁶²⁴ In that regard, the IACHR has considered the Enacting Law as an example of the structural situations it has identified in Venezuela in the way of changes in legal provisions that entail statutory and administrative restrictions that impact on the use and enjoyment of human rights in Venezuela.⁶²⁵ Specifically, the IACHR has held the following with respect to the Enacting Laws:

[T]he principle of legality, which must be respected when imposing restrictions on human rights, is jeopardized by permitting the delegation of legislative authority in terms that are overly broad and that could extend to criminal matters. The frequent concentration of executive and legislative functions in a single branch of government, in the absence of appropriate controls and

⁶²⁰ VTV, [AN designó comisión para investigar financiamiento a grupos desestabilizadores](#), October 2, 2013.

⁶²¹ PSUV, [Instalada Comisión que investigará financiamiento para desestabilizar el país](#), October 10, 2013. According to the information available, the creation of this special commission is included in the draft agreement approved by the National Assembly “in support of the President of the Republic ... who announced [in early October 2013] the expulsion of three U.S. diplomats for sabotage against the country.” See: VTV, [AN designó comisión para investigar financiamiento a grupos desestabilizadores](#), October 2, 2013; AVN, [AN aprueba acuerdo en respaldo a expulsión de diplomáticos estadounidenses por sabotaje](#), October 1, 2013.

⁶²² PSUV, [Instalada Comisión que investigará financiamiento para desestabilizar el país](#), October 10, 2013.

⁶²³ El Nacional, [Scharifker: con gusto daremos a la AN toda la información](#), October 22, 2013; Últimas Noticias, [Interpelarán al rector de la Universidad Metropolitana](#), October 22, 2013.

⁶²⁴ IACHR, 2012 Annual Report. Chapter IV on Venezuela, para. 388; IACHR, 2011 Annual Report. Chapter IV on Venezuela, para. 396; and IACHR, 2010 Annual Report. Chapter IV on Venezuela, para. 816.

⁶²⁵ IACHR, 2012 Annual Report. Chapter IV on Venezuela, para. 388; and IACHR, 2011 Annual Report. Chapter IV on Venezuela, para. 396.

constraints set by the Constitution and the Enabling Law, allows interference in the realm of rights and freedoms.⁶²⁶

516. In this respect, according to publicly available information, in October 2013, President Nicolás Maduro made a request to the National Assembly for an enacting law so that he might be granted special powers to legislate for 12 months mainly on economic issues, that would enable him “to struggle against corruption and to carry out the productive economic revolution.”⁶²⁷ During the presentation, two opposition legislators were said to have tried to interrupt the President’s remarks to the legislative body when he was referring to alleged reports of corruption associated with their political party. As a result, those legislators had their right to speak suspended by the president of the National Assembly.⁶²⁸

517. On November 19, 2013, the National Assembly aprobé the “Law authorizing the President of the Republic to Issue Decrees with the Level, Strength and Validity of Laws on delegated matters”, for a period of twelve months counted from its publication in the Official Gazette⁶²⁹. The delegated matters include: i) “issuing and/or reforming norms to deepen and strengthening mechanisms for punishment in criminal, administrative, civil and disciplinary areas, to avoid damage to or inadequate management of the public patrimony, and to prevent acts of corruption”; ii) “[...] issue norms that punish attacks on the Security and Defense of the Nation, the institutions of the State, Public Powers, and the provision of public services indispensable to the development and the quality of life of the people”; iii) “strengthen the fight against hoarding and speculation that affect the national economy; iv) “combat the illegal financing of political parties”, among others⁶³⁰.

518. When the Enacting Law was approved in 2013, the coalition of organizations “Forum for Life” issued a statement whereby they expressed their concern, among other aspects, the law would grant “powers to the president to legislate on sanctions and crimes that are legally reserved to Congress”⁶³¹

⁶²⁶ IACHR. Press release 122/10, December 15, 2010, IACHR concerned about law initiatives in venezuela that could undermine the effective exercise of human rights, available at <http://www.cidh.org/Comunicados/English/2010/122-10eng.htm>.

⁶²⁷ Correo del Orinoco, [Presidente Maduro consignó solicitud de Ley Habilitante contra la corrupción ante la Asamblea Nacional](#), October 8, 2013. According to what the President of the Republic announced publicly, if the Enacting Law is approved, plans would be in place to implement reforms regarding the penalties for certain offenses such as usury and speculation. In this respect, the President has said: “At present, the penalties are fines. Yet those persons should be arrested, be prosecuted ... we will impose the maximum penalty possible for the crimes of usury and speculation by the bourgeoisie.” See: El Nacional, [Maduro espera habilitante para limitar márgenes de ganancia](#), November 10, 2013.

⁶²⁸ El Nacional, [Cabello suspendió el derecho de palabra de los diputados Borges y Bracho](#), October 15, 2013; Correo del Orinoco, [Suspenden derecho de palabra al diputado Borges por violar reglamento de interior y debate](#), October 11, 2013.

⁶²⁹ Correo del Orinoco, [Asamblea Nacional aprueba Ley Habilitante para la lucha contra la corrupción y especulación](#), November 19, 2013. Published in Extraordinary Official Gazette [No. 6.112](#) of November 19, 2013.

⁶³⁰ Law authorizing the President of the Republic to Issue Decrees with the Level, Strength and Validity of Laws on delegated matters. Articles 1 and 2. Published in Extraordinary Official Gazette [No. 6.112](#) of November 19, 2013.

⁶³¹ They also expressed concern for the fact that “the enacting law supports part of its content on the National Security doctrine [...and] allows Decrees to be issued [...] with the excuse of punishing those ‘actions that attack the security and defense of the nation’”. Foro por la Vida, [Organizaciones del Foro por la Vida ante aprobación de la Ley habilitante](#), November 22, 2013.

C. State observance and guarantee of the exercise of freedom of expression⁶³²

1. Detentions and destruction of material

519. On February 20, photojournalist Jaime Manrique, with newspaper *La Voz*, was attacked and detained in a military vehicle while covering a demonstration of individuals protesting a lack of housing. Individuals presumed to be soldiers took his camera and broke the memory card.⁶³³

520. On February 21, individuals presumed to be members of the National Bolivarian Militia detained and interrogated photographer Cristian Hernández and journalist Eliscartt Ramos, with local newspaper *2001*, and erased the photos they had in their possession while the reporters were investigating a supposed food shortage.⁶³⁴

521. On February 25, reporter Serge Boire, South American correspondent for *La Presse de Montreal*, was interrogated and detained by individuals presumed to be security officials while filming outside the Miraflores Presidential Palace. Minutes later, he was approached by two civilians who identified themselves as intelligence officials. They asked him about the images he had on his camera. Then, two individuals presumed to be officers with the National Bolivarian Police arrived and forced Boire to empty his pockets. They checked his cell phone and his documentation. When the journalist returned to the hotel where he was staying, he was approached in the reception area by individuals presumed to be intelligence officials, who interrogated him regarding the reasons for his visit to Venezuela and the images he had captured with his camera.⁶³⁵

522. On March 1, the journalist Víctor Manuel García Hidalgo was detained. He is the editor and director of news website *Informe Cifras*, and as of the close of this report, he was being held prisoner in Yare III, a penitentiary for common criminals. According to the information received, the Office of the Attorney General of the Republic has charged him with the crime of "civil rebellion," after he expressed his opinion in the media following the April 2002 coup d'état. The charge was also based on the existence of photographs showing him in the facilities of the Army General Command. His defense team has stated that García Hidalgo was there together with other communicators reporting on what was happening.⁶³⁶

523. On March 6, in Caracas, reporters Jesús Alberto Yajure, with *Últimas Noticias*, and Andrew Rosati, a correspondent with the *Miami Herald*, were detained and interrogated while performing their duties in the chapel of the Militar Hospital following the death of Hugo Chávez. The

⁶³² The Inter-American Commission tasked the Office of the Special Rapporteur for Freedom of Expression with preparation of this section of the report.

⁶³³ IFEX/Instituto Prensa y Sociedad (IPYS). February 28, 2013. [Militares venezolanos detuvieron a reportero gráfico.](#)

⁶³⁴ Instituto Prensa y Sociedad (IPYS). February 21, 2013. [Milicia Bolivariana ordenó a reportero gráfico borrar registro fotográfico.](#)

⁶³⁵ Instituto Prensa y Sociedad (IPYS). February 27, 2013. [Corresponsal extranjero fue retenido e interrogado por agentes de inteligencia militar.](#)

⁶³⁶ Inter American Press Association (IAPA). September 24, 2013. [La SIP exige al gobierno de Venezuela la liberación de Víctor Manuel García Hidalgo](#); Víctor Manuel García Hidalgo/WordPress. [Libertad para el periodista Víctor Manuel García](#); Venezuela Awareness Foundation. August 25, 2013. [Caso Victor Hidalgo: "Si Chávez viviera, mi esposo no estaría preso"](#).

officials accuse the *Miami Herald* reporter of being “a spy,” interrogated him, and searched his telephone and camera. As for the *Últimas Noticias* reporter, they erased a number of photographs that he had taken in recent days.⁶³⁷

524. On April 14, the day of the presidential elections in Venezuela, reporter Ana María Paz, with the community radio station of Zulia *Azul FM*, was detained for more than an hour after denouncing alleged irregularities during the voting in a municipal electoral center called La Cañada de Urdaneta, in the state of Zulia.⁶³⁸

525. On April 15, a team of journalists with the newspaper *La Verdad* was detained by individuals assumed to be officials with the San Francisco Police while they were covering the protests that took place following the April 14 presidential elections. Reporters Juan José Faría and Eduardo Méndez and driver Yolman Bejarano were held for 12 hours, and their telephones and equipment were taken.⁶³⁹

526. On April 24, American film director Timothy Hallet Tracy was detained in the Maiquetía International Airport⁶⁴⁰ for his alleged connection with the acts of violence that took place following the presidential elections in Venezuela, held on April 14, 2013.⁶⁴¹ He was later charged with “conspiracy, materially aiding, criminal conspiracy and the use of a false public document,” crimes established by and punished under the Penal Code and the Organic Law against Organized Crime and the Financing of Terrorism. He was ordered placed in preventative detention.⁶⁴² Finally, on June 5, Tracy was freed and deported to Miami. The documentary filmmaker’s attorney told the press that Tracy had been freed due to lack of evidence.⁶⁴³

527. On April 27, 2013, Antonio Rivero, a former general with the Venezuelan armed forces, was arrested, allegedly over public statements that, according to some officials, connect him to the events that took place following the April 14 election.⁶⁴⁴ On April 29, Rivero was charged with the crimes

⁶³⁷ Instituto Prensa y Sociedad (IPYS). March 6, 2013. [Funcionarios de contrainteligencia militar detuvieron e interrogaron a periodistas que cubrían la noticia del fallecimiento de Hugo Chávez.](#)

⁶³⁸ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Zulia: Detuvieron a periodista al denunciar voto asistido](#); Espacio Público. April 16, 2013. [Libertad de expresión en las elecciones presidenciales Venezuela 2013.](#)

⁶³⁹ El Mundo. April 16, 2013. [Varios periodistas detenidos y heridos en las últimas horas en Venezuela](#); La Verdad. April 16, 2013. [Liberan al equipo periodístico de La Verdad](#); Reporters Without Borders. April 16, 2013. [Safety of journalists at risk in post-election clashes](#); La Prensa Gráfica. April 20, 2013. [SIP pide respeto a la libertad de expresión.](#)

⁶⁴⁰ BBC. April 25, 2013. [US 'spy' Timothy Hallet Tracy detained in Venezuela](#); Opera Mundi. April 26, 2013. [Venezuela prende norte-americano acusado de incitar violencia pós-eleitoral](#); Venezolana de Televisión (VTV)/YouTube. April 25, 2013. [Gobierno Nacional captura a un estadounidense vinculado con violencia fascista en el país.](#)

⁶⁴¹ Venezolana de Televisión (VTV)/YouTube. April 25, 2013. [Gobierno Nacional captura a un estadounidense vinculado con violencia fascista en el país.](#)

⁶⁴² Venezolana de Televisión (VTV)/ Sistema Bolivariano de Comunicación e Información. [Fiscalía imputó a estadounidense detenido por conspiración y asociación para delinquir](#); El Nuevo Herald/AFP. April 29, 2013. [Estadounidense arrestado en Venezuela es un documentalista.](#)

⁶⁴³ Tele Sur TV. June 5, 2013. [Expulsan de Venezuela a cineasta de EE.UU. acusado de espionaje](#); Committee to Protect Journalists (CPJ). June 5, 2013. [Venezuela releases jailed US filmmaker, departs him.](#)

⁶⁴⁴ Sistema Bolivariano de Información y Comunicación. April 27, 2013. [Sebin detiene a Antonio Rivero y será presentado en tribunales](#); Notitarde. April 27, 2013. [Sebin detiene a dirigente de Voluntad Popular Antonio Rivero.](#)

of instigation of hate and criminal conspiracy.⁶⁴⁵ On May 17, Rivero was ordered released, but he is not allowed to leave the country and must appear before the court periodically.⁶⁴⁶ On June 12, the Office of the Special Rapporteur sent the State of Venezuela a letter asking for information on the detention of retired General Antonio Rivero, among other issues.

528. On May 18, a Social Communication student with the Universidad de los Andes was detained by individuals presumed to be officials with the National Bolivarian Intelligence Service (SEBIN) in La Fría, García de Hevia municipality, Táchira. Leonardo Sánchez Cárdenas was taking photographs in front of the headquarters of the intelligence agency for a news report on the arrest of a number of individuals when the presumed SEBIN officials detained him and forced him to erase the photographs he had taken.⁶⁴⁷

529. On July 18, individuals presumed to be members of the Bolivarian National Guard prevented journalists with *Últimas Noticias* from accessing the shelter where families who had lost their homes to the rains were staying. The officials also took their camera and erased the images.⁶⁴⁸

530. On November 7, Venezuelan authorities detained *Miami Herald* journalist Jim Wyss while he was gathering information on the upcoming municipal elections and on supposed shortages of certain basic products in Venezuela. The journalist, who is the Miami Herald's bureau chief for the Andean region, was detained by the National Guard in the city of San Cristóbal and then transferred to the custody of Venezuelan military intelligence.⁶⁴⁹ On November 9 the journalist was released.⁶⁵⁰

2. Attacks and threats

531. On January 10, journalist Eleonora Delgado, a correspondent in the state of Táchira with newspaper *El Nacional*, was physically and verbally assaulted by individuals presumed to be members of the Bolivarian National Guard (GNB) while covering a demonstration by students from a number of different universities in the city of San Cristóbal.⁶⁵¹

⁶⁴⁵ El Nacional. April 30, 2013. [Ratifican privativa de libertad a Rivero y le exoneran delito de conspiración](#); La Nación. April 30, 2013. [Privan de libertad al general \(r\) Rivero por el delito de instigación a delinquir](#).

⁶⁴⁶ Noticias 24. May 17, 2013. [Antonio Rivero fue liberado sujeto a una medida cautelar: ahora a "luchar y seguir trabajando"](#); El Universal. May 18, 2013. [Antonio Rivero en libertad pero sujeto a medida cautelar](#); Martín Noticias. May 18, 2013. [Liberan en Venezuela al general en retiro Antonio Rivero](#).

⁶⁴⁷ Instituto Prensa y Sociedad (IPYS). May 18, 2013. [Táchira: Detuvieron a estudiante de periodismo por tomar fotografías](#); El Universal. May 20, 2013. [Una cacerola llevó a Carlos Parra del balcón a comisaría](#).

⁶⁴⁸ Instituto Prensa y Sociedad (IPYS). July 15, 2013. [Miranda: Militares impidieron a equipo reporteril cubrir situación de damnificados](#); Espacio público. July 19, 2013. [Guardia Nacional agrede a periodistas de Últimas Noticias](#).

⁶⁴⁹ Miami Herald. November 9, 2013. [Miami Herald reporter detained in Venezuela expected to be released soon](#); Inter American Press Association (IAPA). November 9, 2013. [La SIP exige a Venezuela inmediata liberación de corresponsal extranjero](#).

⁶⁵⁰ El Nuevo Herald. November 9, de 2013. [Liberan a corresponsal del Miami Herald detenido en Venezuela](#).

⁶⁵¹ El Nacional. January 11, 2013. [Estudiantes rechazaron la visita de presidentes](#); Instituto Prensa y Sociedad (IPYS). January 10, 2013. [Militares agredieron a reportera cuando cubría una protesta en Táchira](#).

532. On January 23, a team of journalists with State broadcaster *Venezolana de Televisión* (VTV) was physically assaulted during an event of the Mesa de la Unidad Democrática (MUD).⁶⁵²

533. On February 7, journalist Carlos Páez and photo journalist Eduardo Molina, with the newspaper *Frontera*, were intimidated by individuals assumed to be Mérida state police officers after recording video of an officer riding a motorcycle with three passengers on board. The presumed police officer went to the newspaper's office and demanded that the recorded material be erased. When his demands were denied, he returned accompanied by a group of other officers. Reports indicate that the Mérida state police have launched an administrative investigation into the officers involved in the incident.⁶⁵³

534. On February 20, individuals assumed to be members of the National Bolivarian Militia assaulted journalists Gabriela Salcedo and Felipe Lugo, with *Globovisión*, while they were in the Miguel Pérez Carreño Hospital, in Caracas, covering a demonstration by workers there. The militia members also prevented reporter Félix Pirela and cameraman Rogelio Coronado, with *Televen*, from entering the hospital.⁶⁵⁴

535. On November 24, Rocío San Miguel, the president of human rights NGO Control Ciudadano, received death threats in an anonymous phone call, as well as intimidating and insulting messages through social networking site Twitter. San Miguel indicated that starting in September 2011, she has been the victim of acts of intimidation and aggression through social networks and has received death threats against her and her family. On January 18, 2012, the Inter-American Commission on Human Rights granted the activist precautionary measures and ordered the Venezuelan State to take the necessary measures to protect the life and safety of San Miguel and her daughter.⁶⁵⁵

536. The Inter-American Commission learned of a number of situations of violence faced by journalists in the exercise of their profession covering events linked to the health and death of Venezuelan President Hugo Chávez. On February 5, a *Televen* news team was intimidated and threatened by individuals presumed to be supporters of the current administration while it was covering the announcement of Hugo Chávez' death at the Carlos Arvelo Military Hospital.⁶⁵⁶ On February 7, individuals identified as supporters of the current administration intimidated and threatened

⁶⁵² Sistema Bolivariano de Información y Comunicación. January 23, 2013. [Camarógrafo de VTV con politraumatismos tras fuerte agresión en evento de la MUD](#); Agencia Venezolana de Noticias (AVN). January 23, 2013. [Villegas lamentó agresión a periodistas de VTV y llamó a la reflexión a dirigentes de oposición](#); Instituto Prensa y Sociedad (IPYS). January 23, 2013. [Agredieron a equipo reporterial de VTV en actividad de partidos políticos de oposición](#); Colegio Nacional de Periodistas. January 25, 2013. [Comunicado: El CNP Caracas se pronuncia por agresiones a equipo de VTV](#).

⁶⁵³ El Universal. February 8, 2013. [Diario Frontera de Mérida fue "visitado" por la policía](#); Instituto Prensa y Sociedad (IPYS). February 7, 2013. [Policías amedrentaron a periodista y reportero gráfico en Mérida](#); El Nacional. February 8, 2013. [Allanada sede del diario Frontera](#).

⁶⁵⁴ Globovisión. February 20, 2013. [Milicianos arremeten contra manifestantes y equipo de Globovisión en el Hospital Pérez Carreño](#); Diario La Voz. February 20, 2013. [Trabajadores se amotinaron en el Hospital Pérez Carreño](#).

⁶⁵⁵ Instituto Prensa y Sociedad (IPYS). February 24, 2013. [Amenazan de muerte a activista de DDHH](#); IACHR. 2012 Annual Report. Chapter III (The Petition and Case System). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. para. 43. Available for consultation at: <http://www.oas.org/en/iachr/docs/annual/2012/TOC.asp>

⁶⁵⁶ Instituto Prensa y Sociedad (IPYS). March 5, 2013. [Intimidaron a equipo reporterial cuando cubría el fallecimiento del Presidente](#).

cameraman Alberto Porras and journalist Luis Alfonso Fernández, with *América Noticias*, a TV channel based in Miami, United States. The incident took place in Caracas nearby the Military Academy where the funeral of former president of the Republic Hugo Chávez took place. According to the information received, Fernández was recording a news brief when individuals presumed to be supporters of the current administration surrounded him and prevented him from doing his work, all the while insulting them.⁶⁵⁷ On February 14, individuals presumed to be members of the Bolivarian National Guard assaulted *Televen* reporter Olivier Fernández and photographers Esaúd Olivares, with *El Universal*, and Juan Camacho, with international agency *News Report*, preventing them from doing their work while they were covering a demonstration by students from a number of universities throughout the country at the Cuban Embassy in Venezuela, in Caracas. The demonstration was to demand information on the health of then-President Hugo Chavez. In addition, *Globovisión* reporter Daniel Guillermo Colina was ordered to leave that place.⁶⁵⁸ On March 5, Colombian journalist Carmen Andrea Rengifo, a correspondent with *RCN Noticias* in Venezuela, and cameraman Samuel Sotomayor were attacked by a group of people outside the Military Hospital as they were covering the death of president Hugo Chávez. According to the information received, the demonstrators struck the journalist and insulted her and the cameraman.⁶⁵⁹ That same day, reporter David De Matteis and cameraman César Fuentes, who work in Caracas for the Spanish-language US news network *Univisión*, were physically assaulted in the Bolívar Plaza in Caracas by individuals identified as supporters of the current administration. Fuentes had his camera and equipment taken away. The incident took place while the journalists were covering citizen gatherings following the announcement of President Chávez' death.⁶⁶⁰ Also on March 5, individuals identified as "chavistas" surrounded the headquarters of *Globovisión*, in Caracas, and used firearms to threaten a team of journalists that was arriving there. The incident took place a half hour before Nicolás Maduro, then the vice president of the Republic, announced the death of Hugo Chavez. During the demonstration, one of the participants told *Globovisión* reporters that the purpose of the action was to peacefully reject the campaign of "harassment and demonization" in reports on the health of President Chávez.⁶⁶¹ On March 6, in Caracas, alleged supporters of the current administration assaulted journalist Francho Barón, a correspondent with *Canal Sur* in Spain and *Televisión Nacional de Uruguay* (TNU). The incident took place when the journalist began recording images of crowds of citizens attending the funeral of President of the Republic Hugo Chávez.⁶⁶²

⁶⁵⁷ Instituto Prensa y Sociedad (IPYS). March 7, 2013. [Intimidaron a equipo de televisora extranjera durante funeral del Presidente](#); Miami Diario. March 7, 2013. [Agreden a otro corresponsal en Venezuela](#); La Nación. March 8, 2013. [Agredieron en Venezuela a periodistas que informaban sobre la muerte de Chávez](#).

⁶⁵⁸ Agencia Caribeña de Noticias. February 14, 2013. [CNP condena represión y agresión a periodistas durante protesta frente a embajada de Cuba](#); Instituto Prensa y Sociedad (IPYS). February 14, 2013. [Militares agredieron a reporteros cuando cubrían una protesta estudiantil](#).

⁶⁵⁹ NTN24. March 5, 2013. [Corresponsal de RCN narra detalles de agresión que recibió frente a Hospital Militar en Caracas](#); Espacio Público. March 6, 2013. [Agredida periodista corresponsal de RCN y su camarógrafo frente al hospital militar](#); Perfil. March 8, 2013. [Chavistas agredieron a periodistas no alineados al Gobierno](#).

⁶⁶⁰ Espacio Público. March 6, 2013. [Atacan, agreden y despojan de sus equipos a periodistas en la Plaza Bolívar de Caracas](#); Instituto Prensa y Sociedad (IPYS). March 5, 2013. [Simpatizantes del oficialismo agredieron a equipo reporteril de canal extranjero](#); Perfil. March 8, 2013. [Chavistas agredieron a periodistas no alineados al Gobierno](#).

⁶⁶¹ Instituto Prensa y Sociedad (IPYS). March 5, 2013. [Simpatizantes oficialistas amenazaron con armas de fuego a equipo de televisora](#); Globovisión. March 8, 2013. [Motorizados vestidos de rojo se presentaron en Globovisión](#).

⁶⁶² Instituto Prensa y Sociedad (IPYS). March 6, 2013. [Simpatizantes oficialistas atacaron a corresponsal de TV española durante funeral del Presidente](#); Last night dozens of Chavez supporters attacked me and my driver. We are miraculously unharmed, but the car has been badly damaged. Original text: "Anoche decenas d chavistas nos agredieron a mi y Continues..."

537. Also on March 5, broadcasters *Radio Fe y Alegría* 103.1 and *Pentagrama* 107.3 were victims of a robbery perpetrated by six armed individuals. They damaged the facilities and took part of the stations' cable, leaving the broadcasters temporarily off the air. The host of the program "Public and Confidential," which began broadcasting the previous day, stated that the vandalism may have been intended to take him off the air due to his criticism.⁶⁶³

538. The Inter-American Commission was informed that cartoonists, journalists, writers and artists have been subjected to death threats, insults and denigrating comments through phone calls, text messages to their mobile telephones, and through social network Twitter. The assaults began on March 15 and are linked to criticisms the communicators have voiced with regard to the country's political situation. According to the information received, the victims of the assaults include cartoonist Rayma Suprani, writer Leonardo Padrón, humorist Laureano Márquez, television host Mariela Celis and journalists Francisco Bautista, Ibeyise Pacheco, Ana Beatriz (Nitu) Pérez Osuna, Mary Montes, Milagros Socorro, Berenice Gómez and Alfredo Federico Ravell.⁶⁶⁴ Likewise, starting on March 20, blogger Guillermo Baena began receiving threatening phone calls. The communicator has been critical on his blog of the country's political situation.⁶⁶⁵

539. On April 2, in the context of a campaign event, a group presumed to be supporters of the Partido Socialista Unido de Venezuela (PSUV) attacked photographer David Puertas, with local newspaper *El Informador*, and cameraman Ángel López and reporter Rafael Riera, both with television station *Promar TV*, in Barquisimeto, Lara state.⁶⁶⁶

540. On April 3, a news team with *Agencia Venezolana de Noticias* (AVN) was attacked by individuals assumed to be security guards with the Simón Bolívar opposition campaign headquarters during a presidential campaign event in Caracas.⁶⁶⁷

541. On April 8, a number of students with an organization called Operación Soberanía were attacked with rocks, bottles, blows and gunfire in La Castellana Plaza, where starting on April 5 and for a

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a mi chofer. Milagrosamente estamos ilesos, pero el coche ha quedado mal parado". Twitter Account of Francho Barón @FranchoBaron. [March 7, 2013- 5: 21.](#)

⁶⁶³ Instituto Prensa y Sociedad (IPYS). March 5, 2013. [Robo dejó fuera del aire a dos emisoras en Guayana.](#)

⁶⁶⁴ Instituto Prensa y Sociedad (IPYS). March 22, 2013. [Venezuela: Caricaturistas, periodistas y escritores venezolanos reciben amenazas anónimas](#); El Universal. March 22, 2013. [Rayma denuncia en Fiscalía ser víctima de amenazas por sus caricaturas](#); Noticias 24. March 19, 2013. [Artistas y periodistas venezolanos denuncian en Twitter que reciben amenazas vía telefónica.](#)

⁶⁶⁵ Venezuela en Caída Libre. April 12, 2013. [Por escribir este blog y decir la verdad, me he convertido en blanco de instigación](#); Espacio Público. May 7, 2013. [Bloquero recibe amenazas telefónicas](#); Leonor Torres/YouTube. July 19, 2013. [Llamada de Amenaza persecucion política.](#)

⁶⁶⁶ Instituto Prensa y Sociedad (IPYS). April 2, 2013. [Lara: Grupo oficialista agredió a reporteros que cubrían marcha en campaña electoral.](#)

⁶⁶⁷ Noticias24. April 9, 2013. [VTV repudia "el veto aplicado por el comando antichavista a los periodistas" del Snmp](#); Instituto Prensa y Sociedad (IPYS). April 3, 2013. [Agredieron a equipo reporteril de medio estatal en acto de campaña electoral.](#)

number of days afterward they went on a hunger strike to demand answers from the National Electoral Council to petitions that they submitted demanding "just, democratic and free elections."⁶⁶⁸

542. On April 9, the headquarters of newspaper *Ciudad Valencia* and radio broadcaster *Ciudad Valencia 89.9 FM* in Carabobo state were attacked with rocks. The incident led to injuries for two of the radio station's employees.⁶⁶⁹

543. On April 10, journalist José Gerardo Lozada Rojas, director of newspaper *La Opinión*, was physically assaulted by an individual presumed to be an official with Plan República while he was covering the installation of voting machines in a voting center in the city of San Carlos.⁶⁷⁰

544. On April 12, unidentified individuals burned the vehicle of journalist Lilia Giménez, a correspondent with the newspaper *El Anaquense* in the Aragua de Barcelona municipality, Anzoátegui state. According to reports, the newspaper is critical of governmental authorities.⁶⁷¹

545. The Commission was also informed that in the context of the April 14 election, and especially over in the days following it, polarization in Venezuela intensified, accompanied by a substantial increase in violence against journalists. The Inter-American Commission received information on a number of incidents that limited the freedom of expression and exercise of journalism during the days following the election, including the detention of reporters by police, destruction of material, bans on covering certain information, and threats and physical attacks on journalists and the headquarters of media outlets by demonstrators belonging to a variety of political movements, among other incidents.

546. On April 14, Emir Fernández, a cameraman with community television network *Barrio TV* in El Valle and an employee of community radio station *Alí Primera*, in Caracas, was shot in the chest and the arm while interviewing members of a communal council during the election.⁶⁷² Also, Raúl Galindo, a photographer with newspaper *Notitarde*, in Valencia, Carabobo state, was threatened by an individual assumed to be a member of the Bolivarian National Guard (GNB), a State security agency. The individual also confiscated his camera, press credential provided by the National Electoral Council (CNE),

⁶⁶⁸ Confirmado. April 8, 2013. [Reportan que Oficialistas agreden a Jóvenes de Operación Soberanía en la Castellana](#); Espacio Público. April 9, 2013. [Atacados estudiantes que protestaban haciendo una huelga de hambre](#); El Mundo. April 8, 2013. [Agredidos estudiantes de la Operación Soberanía por presuntos activistas del chavismo](#); El Nacional. April 8, 2013. [A tiros y con botellas atacaron a jóvenes de la Operación Soberanía](#); El Nacional. April 9, 2013. [Atacaron a jóvenes de Operación Soberanía](#); Noticias 24. April 8, 2013. [En fotos: siete heridos tras hechos violentos contra protestantes de "Operación Soberanía" en Chacao](#).

⁶⁶⁹ Venezolana de Televisión (VTV)/Sistema Bolivariano de Comunicación e Información. April 9, 2013. [Agreden sede de diario Ciudad Valencia](#); Espacio Público. April 10, 2013. [Atacan la sede del diario Ciudad Valencia](#); El Carabobeño. April 9, 2013. [Heridos dos trabajadores de Ciudad Valencia tras ataques a su sede](#); Noticias24. April 9, 2013. [Atacan sede del diario Ciudad Valencia en "ola de violencia promovida por la oposición"- en Carabobo](#); Ciudad Caracas. April 10, 2013. [Opositores atacaron sede del diario Ciudad Valencia](#).

⁶⁷⁰ Globovisión. April 11, 2013. [CNP rechaza agresión a periodista en Cojedes y exige al Plan República garantizar la seguridad el 14A](#); Instituto Prensa y Sociedad (IPYS). April 10, 2013. [Funcionario del Plan República agredió a periodista en Cojedes](#).

⁶⁷¹ El Universal. April 26, 2013. [Exigen investigar explosión de vehículo de periodista](#); La Patilla. April 25, 2013. [Explota camioneta en atentado contra periodista de Anzoátegui](#).

⁶⁷² Telesur. April 16, 2013. [Violencia opositora en Venezuela deja siete muertos y 61 heridos](#).

and his identification card issued by the media organization for which he works.⁶⁷³ A news team with radio broadcaster *Fe y Alegría* and a reporter with *Globovisión* were robbed of their belongings and equipment in Maracaibo, Zulia state.⁶⁷⁴ Additionally, journalist Daniel Cáceres, a host with radio station *La Mega* 102.1 FM, in San Cristóbal, Táchira state, was chased down and intimidated by a group of individuals riding motorcycles, identified as supporters of the candidate of the party in power, Nicolás Maduro.⁶⁷⁵

547. On April 15, Joel Páez, a producer with *Globovisión* in Barinas, accused an individual assumed to be a member of the National Guard (GNB) of preventing him from doing his work while he was covering a post-electoral protest.⁶⁷⁶ Alejandro Ledo, a cameraman with *Globovisión*, was struck by a vehicle while covering a demonstration near the headquarters of the National Electoral Council in Aragua. Ledo was using his camera to capture images of demonstrators when he was struck by the vehicle.⁶⁷⁷

548. Likewise, two photojournalists were assaulted on April 15: Carlos Barrios, with newspaper *El Periódico* in Mongas, who was struck in the back with a rock; and Alberto González, of *Diario El Sol*, in Maturín, Monagas state.⁶⁷⁸ Also on April 15, Rosana Villa, a journalist with newspaper *Los Andes de Mérida*, was attacked by a group of individuals identified as belonging to the Movimiento Revolucionario Tupamaro as she was photographing a group of citizens in front of the National Electoral Council.⁶⁷⁹ Also that day, a number of reporters were injured while covering a citizen demonstration at the headquarters of the regional directorate of the National Electoral Council (CNE) in Barquisimeto, Lara state. The attack was perpetrated by individuals presumed to be members of the National Bolivarian Guard (GNB). Photojournalists Ricardo Marapacuto and Juan Carlos Leal, with local newspaper *El Impulso*; independent journalist Héctor Andrés Segura, and Héctor Azuaje, with *Diario de Lara*, were injured. Also, Richard Lameda, a reporter with *El Impulso*, and Marla Prato, a Lara state correspondent for newspaper *El Universal*, accused individuals presumed to be members of the National Bolivarian Guard (GNB) of firing at them. None of the reporters were struck by the bullets. Lameda accused one guardsman of firing at him even though he identified himself as a journalist.⁶⁸⁰ The

⁶⁷³ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Carabobo: Militar le arrebató la cámara a reportero gráfico](#); Espacio Público. April 16, 2013. [Libertad de expresión en las elecciones presidenciales Venezuela 2013](#); Transparencia Venezuela. [Alerta Electoral. Elecciones Venezuela 2012](#). P. 5.

⁶⁷⁴ La Verdad. April 15, 2013. [Atracan a equipos de prensa](#); Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Zulia: Roban y restringen trabajo a periodistas de distintos medios durante cobertura electoral](#); Transparencia Venezuela. [Alerta Electoral. Elecciones Venezuela 2012](#). P. 6.

⁶⁷⁵ El Impulso. April 15, 2013. [Amedrentamiento oficialista se sintió en redes sociales](#); Infobae. April 14, 2013. [Las redes sociales, colmadas de denuncias](#); Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Táchira: Grupo de motorizados agredieron a locutor en cobertura electoral](#).

⁶⁷⁶ Instituto Prensa y Sociedad (IPYS). April 15, 2013. [Barinas: Efectivo militar impide a productor de Globovisión realizar trabajo informativo](#).

⁶⁷⁷ Instituto Prensa y Sociedad (IPYS). April 15, 2013. [Aragua: Vehículo golpea a camarógrafo cuando realizaba trabajo informativo](#).

⁶⁷⁸ Instituto Prensa y Sociedad (IPYS). April 15, 2013. [Agredieron a reporteros gráficos en ente electoral de Monagas](#).

⁶⁷⁹ Instituto Prensa y Sociedad (IPYS). April 15, 2013. [Reportera fue amedrentada en Mérida](#).

⁶⁸⁰ El Impulso. April 24, 2013. [Periodistas de Lara denunciaron agresiones en el MP](#); Provea. May 13, 2013. [Testimonio de reportero gráfico herido por funcionarios de la Guardia Nacional en el estado Lara](#); Telecentro. [Gremio de periodistas](#)

following individuals were also assaulted while covering a demonstration in front of the headquarters of the National Electoral Council (CNE) in Mérida: reporters Saíd Rivas, Johana Briceño and Ramón Fajardo with broadcaster *YVKE Mundial los Andes*, journalist Adalberto González, with *Agencia Venezolana de Noticias* (AVN), and Annel Mejías, journalist with *Correo del Orinoco*.⁶⁸¹

549. On April 15, there were protests at the headquarters of *Venezolana de Televisión* (VTV) and *Telesur* by persons beating on pans and carrying signs and insignias showing support for the opposition candidate.⁶⁸² That same day, individuals riding motorcycles and carrying signs for the opposition candidate appeared at the headquarters of the National Telecommunications Commission (Conatel) shouting intimidating slogans. One of the demonstrators threw a blunt object at agency's headquarters.⁶⁸³

550. On April 15, eight radio broadcasters and one community television channel were attacked by groups presumed to be armed and opposed to the current administration. The attacks took place in the municipalities of Maracaibo, San Francisco and La Cañada de Urdaneta, in Zulia state.⁶⁸⁴ Attacks on community media outlets were also reported in the states of Amazonas, Táchira, Yaracuy and Lara.⁶⁸⁵

551. On April 16, two photojournalists with newspaper *El Carabobeño*, in Valencia, were threatened by an individual presumed to be a police officer while covering the unrest that took place following a gathering of the opposition outside the National Electoral Council to demand that the electoral body conduct an audit of all the votes from the April 14 presidential elections.⁶⁸⁶ Likewise, individuals presumed to be members of the Bolivarian National Guard (GNB) tried to block journalist Ana Isabel Rodríguez, with newspaper *Sol de Monagas* and a correspondent for IPYS Venezuela in Monagas, from doing her work by covering a citizen demonstration at the regional headquarters of the National Electoral Council (CNE).⁶⁸⁷ Individuals presumed to be members of the Bolivarian National

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[consignó denuncias de agresiones ante el ministerio público](#); Instituto Prensa y Sociedad (IPYS). April 15, 2013. [Heridos reporteros gráficos durante manifestación en el CNE en Lara](#).

⁶⁸¹ Radio Mundial. April 16, 2013. [Simpatizantes de Capriles agreden a periodistas del Sibci en Mérida](#); Colegio Nacional de Periodistas (CNP) de Zulia. April 17, 2013. [Comunicado del CNP ante crisis política actual de Venezuela](#); Aporrea/YVKE Mundial Los Andes. April 15, 2013. [Mérida: Simpatizantes de Capriles agreden a periodistas del SIBCI](#).

⁶⁸² Telesur. April 15, 2013. [Antichavistas rodearon sede de teleSUR y amenazaron a sus trabajadores](#); Espacio Público. April 16, 2013. [Motorizados rodearon sede de VTV, TeleSur y Conatel](#).

⁶⁸³ Telesur. April 15, 2013. [Antichavistas rodearon sede de teleSUR y amenazaron a sus trabajadores](#); Instituto Prensa y Sociedad (IPYS). April 15, 2013. [Simpatizantes opositores protestaron en la sede de organismo de telecomunicaciones y canales oficialistas](#).

⁶⁸⁴ Instituto Prensa y Sociedad (IPYS). April 15, 2013. [Zulia: Emisoras comunitarias denunciaron ataques de grupos armados posterior a las elecciones presidenciales](#); Espacio Público. April 17, 2013. [Medios de comunicación oficialistas denuncian ataques](#).

⁶⁸⁵ Venezolana de Televisión (VTV)/Sistema Bolivariano de Comunicación e Información. [Grupos violentos mantienen ataques contra medios comunitarios](#).

⁶⁸⁶ Instituto Prensa y Sociedad (IPYS). April 16, 2013. [Carabobo: Amenazados dos reporteros gráficos en Valencia](#).

⁶⁸⁷ Instituto Prensa y Sociedad (IPYS). April 16, 2013. [Monagas: Militares intentaron impedir trabajo a reportera en manifestación en el ente electoral](#).

Guard (GNB) also fired at the journalist Eduard Martínez, with newspaper *La Prensa* in Lara, while he was covering the protests.⁶⁸⁸

552. On April 16, a mobile unit transporting a reporting team with TV channel *Telecentro*, in Barquisimeto, was damaged during a confrontation between individuals presumed to be members of the Bolivarian National Guard (GNB) and groups in opposition to the elected administration of President Nicolás Maduro.⁶⁸⁹

553. On April 16, reporter Mariha Morales and cameraman Moisés Vargas, with community television station *LaraTvec*, in Barquisimeto, Lara state, were attacked by a group of individuals identified as supporters of the opposition presidential candidate who were participating in a protest.⁶⁹⁰

554. Also on April 16, a group of individuals riding motorcycles, presumed to be supporters of the government, used Molotov cocktails to attack the headquarters of newspaper *La Región*, in Los Teques, and threatened to burn down the offices. The journalists who were in the building were evacuated by the police.⁶⁹¹ There was also an attack on the headquarters of newspaper *El Avance*, in which attackers fired at the building, and threw rocks and bottles of gasoline.⁶⁹²

555. On April 17, a group of cameramen and reporters in the state of Aragua, belonging to *Venevisión*, *Globovisión* and *Dat TV* news teams, were subjected to verbal and physical assault by individuals presumed to be members of a Communal Brigade.⁶⁹³

556. Starting on April 17, journalist and parliamentary assistant Richard Sayago was the victim of surveillance and threats perpetrated by unknown individuals.⁶⁹⁴

557. On April 20, Idania Chirinos, Venezuelan journalist and director of *NTN24*, a news channel in Colombia, accused individuals presumed to be officials with the Scientific, Criminal, and Forensic Investigation Corps (CICPC) of spying on her while she was boarding a plane in the Maiquetía International Airport. The journalist returned to Bogotá after having spent two weeks in Caracas working

⁶⁸⁸ La Prensa. April 16, 2013. [Herido reportero gráfico de La Prensa](#); Instituto Prensa y Sociedad (IPYS). April 16, 2013. [Lara: Militar disparó a quemarropa a reportero gráfico](#).

⁶⁸⁹ Instituto Prensa y Sociedad (IPYS). April 16, 2013. [Lara: Atacaron a unidad móvil de televisora regional en protesta postelectoral](#).

⁶⁹⁰ Instituto Prensa y Sociedad (IPYS). April 16, 2013. [Lara: Equipo reporteril de televisora comunitaria fueron agredidos en protesta postelectoral](#); El Mundo. April 16, 2013. [Denuncian ataques a medios en Los Teques](#).

⁶⁹¹ Globovisión. April 16, 2013. [Periodistas del diario La Región en Los Teques fueron desalojados](#); El Universal. April 16, 2013. [Chavistas arman barricadas y atacan a sedes periodísticas de Los Teques](#); El Nacional. April 16, 2013. [Oficialistas atacan diarios en Los Teques](#); El Mundo. April 16, 2013. [Denuncian ataques a medios en Los Teques](#).

⁶⁹² Globovisión. April 16, 2013. [Periodistas del diario La Región en Los Teques fueron desalojados](#); El Universal. April 16, 2013. [Chavistas arman barricadas y atacan a sedes periodísticas de Los Teques](#); El Nacional. April 16, 2013. [Oficialistas atacan diarios en Los Teques](#); El Mundo. April 16, 2013. [Denuncian ataques a medios en Los Teques](#).

⁶⁹³ Notitarde. April 17, 2013. [Grupo de reporteros y camarógrafos agredidos en el Hospital Central de Maracay](#); El Aragueño. April 17, 2013. [Grupo de reporteros y camarógrafos agredidos en el Hospital Central de Maracay](#); Starlitephi/YouTube. April 18, 2013. [Agreden a equipo de Globovisión en Hospital Central de Maracay en Venezuela](#).

⁶⁹⁴ IFEX/Instituto Prensa y Sociedad (IPYS). May 16, 2013. [Venezuelan parliamentary journalist reports being followed](#); Colegio Nacional de Periodistas. May 9, 2013. [Periodista parlamentario denuncia ser víctima de seguimiento](#).

and broadcasting her program 'The Afternoon,' distributed by *NTN24*, in which she addressed the sociopolitical situation in Venezuela during the election and the days following it.⁶⁹⁵

558. On April 29, group of individuals identified as supporters of the current administration threw bottles and intimidated a group of journalists who were in the Palace of Justice in Caracas covering the arraignment hearing of Antonio Rivero, a retired general of the Armed Forces and leader of opposition party *Voluntad Popular*. He was arrested on April 27 and charged by the Office of the Public Prosecutor with the crimes of criminal conspiracy and instigation of hate.⁶⁹⁶

559. On May 1, journalist María Gabriela Rondón, a correspondent for *Venevisión*, was verbally assaulted while covering a Labor Day march in the city of Barcelona, Anzoátegui state.⁶⁹⁷

560. On May 15, unidentified individuals threw a homemade explosive at a *Ciudad TV* vehicle. The channel operates out of Ojeda City, Zulia.⁶⁹⁸

561. On May 22, Isayen Herrera, a reporter with newspaper *2001*, was struck in the face by an unidentified individual during a march of university students and professors in the city of Caracas.⁶⁹⁹

562. On May 27, unidentified individuals threw an explosive from a moving vehicle at the offices of newspaper *Panorama*, in the city of Maracaibo, Zulia state. According to a report from the media outlet, the explosive was thrown together with leaflets from a group calling itself the *Fuerzas Bolivarianas de Liberación (FBL) Bolívar Vive (Bolivarian Liberation Forces, Bolívar Lives)*.⁷⁰⁰

563. Journalist Lisbeth de Cambra, general secretary of the Caracas branch of the *Colegio Nacional de Periodistas (CNP)*, alleged that individuals presumed to be members of the intelligence police force were following her during June and July of 2013. The journalist suspected that the surveillance was in response to statements she often makes on behalf of the *CNP* regarding the problems facing communicators in the country.⁷⁰¹

⁶⁹⁵ NTN24. April 21, 2013. [Autoridades solicitaron información de la Directora de Contenidos de NTN24 Idania Chirinos](#); Venezuela al día. April 21, 2013. [Idania Chirinos ya se encuentra en Bogotá](#).

⁶⁹⁶ IFEX/Instituto Prensa y Sociedad (IPYS). May 2, 2013. [Lazaron botellas contra reporteros en Palacio de Justicia en Venezuela](#).

⁶⁹⁷ Espacio Público. May 3, 2013. [Agredida periodista de Venevisión en Anzoátegui](#); ElTiempo.com. May 2, 2013. [CNP-Anzoátegui rechaza agresión contra periodista de Venevisión](#); Noticias de aquí. May 1, 2013. [Periodista María Gabriela Rondón fue agredida mientras cubría marcha en Barcelona](#).

⁶⁹⁸ El Nacional. May 16, 2013. [Incendiaron carro de prensa de Ciudad TV](#); Instituto Prensa y Sociedad (IPYS). May 15, 2013. [Zulia: Incendiaron vehículo de canal de televisión](#); Espacio Público. May 15, 2013. [Incendian vehículo de Ciudad TV](#).

⁶⁹⁹ Instituto Prensa y Sociedad (IPYS). May 22, 2013. [Agredieron a reportera en manifestación de gremios universitarios](#).

⁷⁰⁰ Panorama. May 27, 2013. [Lanzan explosivo contra sede de PANORAMA](#); Espacio Público. May 28, 2013. [Atacan con bomba la sede del diario Panorama](#); La Patilla. May 27, 2013. [Lanzan explosivo contra sede del diario Panorama](#); Instituto Prensa y Sociedad (IPYS). May 27, 2013. [Zulia: Lanzaron artefacto sonoro contra la sede de un periódico](#).

⁷⁰¹ Instituto Prensa y Sociedad (IPYS). July 30, 2013. [Caracas: Periodista denunció posible seguimiento policial](#); El Horizonte. June 11, 2013. [Lisbeth de Cambra: Claro y Raspado](#).

564. On July 16, journalist Eduardo Galindo, a correspondent with *Globovisión* and *El Nacional* and secretary of the regional branch of the Colegio Nacional de Periodistas (CNP), filed a complaint with the Office of the Superior Public Prosecutor of San Fernando de Apure indicating that he was being accused in a video circulating via social networks of being a "destabilizer" and "psychological operator of the Empire," something that could endanger his physical integrity and that of his family.⁷⁰² Later, on July 30, individuals presumed to be members of the police force assaulted the journalist while he was covering a refugee protest in the city of San Fernando de Apure, Apure state.⁷⁰³

565. On July 27, 28 and 29, unidentified individuals attacked the servers of news website *Correo del Caroní*. The attack saturated the website with visits, blocking the server.⁷⁰⁴ The server was changed and service reestablished on September 2, but the cyber attacks continued, according to the media organization's president. During the second week of September, there were 95 attempts to take the site down again.⁷⁰⁵

566. On August 23, journalist Gonzalo Albano, reporter with broadcaster Class 98.7 FM, in San Carlos, Cojedes state, received a death threat from unknown individuals. An individual forced him into a car, where they pointed a gun at his head and warned him to "stop talking shit [*pendejadas*] on the radio." They told him that the threat extended to the radio station's editorial chief, Germán Lozano. "This is a warning, the next time you'll pay with your life," said the attacker, who was accompanied by two other individuals. According to the reporter, the threat followed the broadcasting of information on allegations of corruption in the regional government.⁷⁰⁶

567. On August 28, reporters with the website *Aporrea* and community television channel *Barrio TV* were threatened by Casa Militar officers in charge of security for the Presidency of the Republic and by the National Police while they were in the Miraflores Presidential Palace, in Caracas, covering a protest by public-sector employees.⁷⁰⁷

568. On October 29, journalist Karolina Olivo and cameramen Rodolfo Urbina, with *HCTV*, were assaulted by individuals presumed to be supporters of the current administration while they were

⁷⁰² Senderos de Apure. July 16, 2013. [Denunciado caso contra Periodista Eduardo Galindo en Fiscalía Superior de San Fernando](#); Instituto Prensa y Sociedad (IPYS). July 15, 2013. [Apure: Periodista es intimidado en las redes sociales por personas desconocidas](#).

⁷⁰³ Instituto Prensa y Sociedad (IPYS). July 30, 2013. [Apure: Agredieron a reportero en protesta de damnificados](#). Senderos de Apure. July 30, 2013. [Eduardo Galindo Peña denunció en Fiscalía Superior agresión por Policía Regional en cobertura periodística de protesta](#).

⁷⁰⁴ Instituto Prensa y Sociedad (IPYS). July 27, 2013. [Bolívar: Desconocidos intervinieron portal de medio local](#).

⁷⁰⁵ Instituto Prensa y Sociedad (IPYS). September 18, 2013. [Bolívar: continúan ciberagresiones al portal del diario Correo del Caroní](#).

⁷⁰⁶ IFEX/Instituto Prensa y Sociedad (IPYS). August 29, 2013. [Radio journalist pushed into car, threatened at gunpoint in Venezuela](#); Espacio Público. August 26, 2013. [Secuestran y amenazan de muerte a periodista Gonzalo Albano](#).

⁷⁰⁷ Aporrea. August 28, 2013. [Trabajadores de PDVAL protestan en Miraflores por reivindicaciones salariales y hostigamiento laboral](#); Instituto Prensa y Sociedad (IPYS). August 28, 2013. [Caracas: Militares amenazaron a reporteros de medios comunitarios](#).

covering a campaign event for the opposition party mayoral candidate in the municipality of Páez, in Alto Apure.⁷⁰⁸

569. On November 1, Eliscart Ramos, Jorge Leonardo Santos, and Diana Escalona, journalists with the newspaper *2001*, were beaten and detained by individuals presumed to be soldiers while they were covering a Christmas Fair in Los Próceres, Caracas.⁷⁰⁹

570. On January 14, the organizations Espacio Público, Colegio Nacional de Periodistas (CNP) and Sindicato Nacional de Trabajadores de la Prensa (SNTP) of Venezuela presented a writ of abstention before the Contentious Administrative Court against the Office of the Public Prosecutor for "lack of timely and adequate response to the request for information on investigations in cases of attacks against journalists," filed in July of 2012.⁷¹⁰

571. As of the closing of this report, there was no information on any progress in the investigations into the assaults, detentions and threats against journalists.

572. Principle 9 of the IACHR's Declaration of Principles on Freedom of Expression, approved in 2000, establishes that "[t]he murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation."

3. Mandatory presidential broadcasts and government interference in informative spaces

573. In 2013, the government of Venezuela has continued to use obligatory national radio and television broadcasts to transmit government messages. According to information received by the Inter-American Commission, the use of obligatory national broadcasts intensified during the campaign and in the days following the April 14 presidential elections, on a number of occasions interrupting speeches or press conferences given by leaders of groups in opposition to the government. According to various organizations that monitor the issuance of obligatory national broadcasts in the country, during 2013 the Venezuelan government reportedly ordered dozens of obligatory national broadcasts.⁷¹¹

⁷⁰⁸ Espacio Público. October 30, 2013. [Agredido camarógrafo y periodista en Alto Apure](#); Instituto Prensa y Sociedad (IPYS). November 6, 2013. [Apure: Agreden a equipo reportero durante actividad de campaña electoral](#).

⁷⁰⁹ Espacio Público. November 1, 2013. [Agredidos y detenidos por efectivos militares periodistas del diario 2001](#); Noticiero Digital. November 1, 2013. [Periodistas de Diario 2001 fueron detenidos mientras cubrían Feria Navideña en Los Próceres](#).

⁷¹⁰ Espacio Público. January 15, 2013. [Espacio Público, CNP y SNTP demandan al Ministerio Público](#); Notitarde. January 15, 2013. [Demandan a la Fiscalía por no dar información oportuna](#); Knight Center for Journalism in the Americas. January 17, 2013. [Venezuelan journalists organizations file lawsuit against prosecutor's office for failure to respond to information requests](#).

⁷¹¹ According Cadenómetro a project of the nongovernmental organization (NGO) Monitoreo Ciudadano, which keeps track of the number of obligatory national broadcasts ordered by the Venezuelan government, from March 5 through October 31, 137 national radio and television broadcasts were ordered. Monitoreo ciudadano. [Contador de horas de Nicolás Maduro en Cadena Nacional de Radio y Televisión](#). Furthermore, according to the count kept by NGO Espacio Público (Public Space), from January 1 though October 31, 2013, the Venezuelan government ordered 192 obligatory broadcasts, for a total of 137

Additionally, according to Cadenómetro, a project of the nongovernmental organization (NGO) Monitoreo Ciudadano, from June 3, 2013 to September 19, 2013, Maduro appeared on the state channel VTV for 182 hours over 114 broadcasts, an average of 1 hour and 40 minutes each day.⁷¹²

574. For example, on January 3, then-Vice President Nicolas Maduro gave an official address during an obligatory national broadcast criticizing the way the media and journalists were covering Hugo Chavez's health.⁷¹³ Also on January 3, Ernesto Villegas, Minister of communication and information, read an official press release during an obligatory national radio and television broadcast warning the Venezuelan people about "the psychological war" supposedly being waged by the media regarding Chavez's health.⁷¹⁴ On April 16, after the presidential elections, the government ordered three obligatory national radio and television broadcasts showing government authorities at official events. One of them interrupted the broadcast of a press conference by opposition candidate Henrique Capriles.⁷¹⁵ On April 18, president Nicolás Maduro appeared on an obligatory national radio and television broadcast, accusing *Televen* of having "responsibility" for the incidents of violence that took place following the presidential election because it had broadcast a press conference of the opposition candidate. He also accused *Globovisión* of being a "fascist" television channel.⁷¹⁶ On April 24, an obligatory national radio and television broadcast interrupted a speech by the opposition candidate in which he was calling for a recount of the votes from the presidential election.⁷¹⁷ On May 2, another obligatory national radio and television broadcast interrupted a press conference by the opposition candidate in which he was explaining the reasons for which he was challenging the results of the presidential election.⁷¹⁸

575. On January 3, the National Telecommunication Commission (Conatel) launched three administrative proceedings against television channel *La Tele* and radio broadcasters *Candela Pura* 91.9

...continuation

broadcast hours. Espacio Público. *Horas en cadena obligatoria por año*. Available in: Archives of the Office of the Special Rapporteur for Freedom of Expression.

⁷¹² Monitoreo ciudadano. [Contador de horas de Nicolás Maduro en Cadena Nacional de Radio y Televisión](#). Accessed on October 31, 2013.

⁷¹³ Sucreranda Hugo Chávez Venezuela/YouTube. January 4, 2013. [Nicolás Maduro: ABC, escoria española franquista](#); ABC. January 4, 2013. [Maduro: «El diario ABC falta al respeto a Chávez y sus hijas todos los días»](#).

⁷¹⁴ Sistema Bolivariano de Comunicación e Información. January 3, 2013. [Gobierno informa sobre insuficiencia respiratoria de Chávez y denuncia guerra psicológica en torno a su salud](#); Partido Socialista Unido de Venezuela (PSUV). January 3, 2013. [Gobierno denuncia guerra psicológica transnacional sobre salud de Chávez para desestabilizar al país](#); Correo del Orinoco. January 3, 2013. [Gobierno Nacional advierte sobre guerra psicológica impulsada por la derecha venezolana](#).

⁷¹⁵ El Aragueño. April 16, 2013. [La cadena de Maduro corta transmisión de conferencia de Capriles](#); CNN. April 16, 2013. [Maduro amenaza con "radicalizar" la revolución en Venezuela](#); El Mundo. April 16, 2013. [Maduro denuncia un 'golpe de estado' y llama Hitler a Capriles](#).

⁷¹⁶ Ministerio de Comunicación e Información. April 18, 2013. [Maduro: Le cabe responsabilidad a Televen por encadenarse con llamados a violencia](#); Sucreranda Hugo Chávez Venezuela/YouTube. April 19, 2013. [Nicolás Maduro. Juramentación. Unasur. Globovisión fascista, Televen golpista. S-300 desfile](#).

⁷¹⁷ Clarín. April 24, 2013. [Interrumpen con una cadena nacional un discurso en el que Capriles denunciaba fraude](#); El Mundo. April 24, 2013. [Cadena interrumpe declaraciones de Capriles R. sobre auditoría](#); TN. May 2, 2013. [Maduro volvió a interrumpir a Capriles con una cadena](#).

⁷¹⁸ TN. May 2, 2013. [Maduro volvió a interrumpir a Capriles con una cadena](#); CNN. May 2, 2013. [Henrique Capriles impugna toda la elección presidencial de Venezuela](#); NTN24. May 3, 2013. [Maduro interrumpe rueda de prensa de Capriles en la que anunciaba impugnación de las elecciones](#).

FM and Es 96.9 FM for having failed to broadcast or having delayed the broadcast of a statement from Ernesto Villegas, Minister of Communication and Information, regarding the health of former president Hugo Chavez. Article 10 of the Law on Social Responsibility in Radio Television and Electronic Media makes it obligatory for public- and private-sector audiovisual media outlets to broadcast official statements.⁷¹⁹ On April 1, the National Telecommunications Commission (Conatel) reported that an administrative sanction procedure had begun against Globovisión for "alleged interference with a statement" during an official radio and television broadcast by Nicholas Maduro on April 1. According to Conatel, the obligatory radio and television broadcast had no audio for more than 6 minutes.⁷²⁰ *Globovisión's* legal counsel stated that there was an "involuntary" technical problem with the audio during Maduro's obligatory national broadcast and explained that minutes prior to the start of his statements, a communication had been sent to Conatel informing it of the technical problems that had been detected in the original transmission of the Venezolana de Televisión (VTV, a State audio-visual media outlet) signal. According to available information, this would be the tenth administrative procedure Conatel has launched against *Globovisión* in recent years.⁷²¹

576. On September 10, President Nicolas Maduro announced that as part of a new communication strategy, he was going to create *Noticiero de la Verdad*, which would be transmitted in an obligatory national broadcast, in order to provide information on the activities of his administration, as he believes that private media outlets do not report on official acts and conceal his administration's achievements.⁷²²

577. On May 13, the creation of the "Joint Chiefs of Communications" was announced in the state of Mérida. The body was to be made up of university professors, social communicators and writers in order to "counteract" the "twisted" information distributed by private-sector media outlets.⁷²³ Mérida's governor indicated that the agency emerged from concern over the way private-sector media were handling information, stating that they are used "as weapons against the people, fomenting lies and aiding economic groups." He added that the agency would seek measures allowing for "the incorporation of and articulation with alternative media in order to confront the media outlets that twist the truth." The Colegio Nacional de Periodistas of Mérida rejected the creation of the agency, calling it an "anti-democratic review that violates constitutional principles" and that "corrupts the free exercise of journalism and the right to work."⁷²⁴ Likewise, on May 23, the "Joint Chiefs of Communications" was set

⁷¹⁹ Venezolana de Televisión (VTV)/Sistema Bolivariano de Comunicación e Información. January 4, 2013. [Conatel anuncia procedimiento administrativo a tres emisoras por no transmitir cadena](#); Aporrea/Prensa Conatel. January 5, 2013. [Conatel abrió procedimiento administrativo a medios por violación del artículo 10 de la Ley Resorte](#); Instituto Prensa y Sociedad (IPYS). January 3, 2013. [Comisión Nacional de Telecomunicaciones investiga a 3 medios audiovisuales por no transmitir alocución oficial](#); Espacio Público. January 14, 2013. [Conatel abre investigación contra tres medios por no difundir una cadena](#).

⁷²⁰ República Bolivariana de Venezuela/Scribd. Published by Pedro Pérez. April 1, 2013. [Providencia Administrativa](#).

⁷²¹ El Universal. April 2, 2013. [Conatel abre décimo procedimiento contra Globovisión](#); Globovisión. April 2, 2013. [Conatel abre décimo procedimiento administrativo a Globovisión](#).

⁷²² Instituto Prensa y Sociedad (IPYS). September 13, 2013. [Venezuela: imposición de espacios informáticos afectan la libertad informativa](#); El Mundo. October 9, 2013. [El "Noticiero de la verdad" el nuevo informativo obligatorio del gobierno venezolano](#); Informe 21. September 10, 2013. [Maduro: Crearemos el Noticiero de la verdad para las cadenas](#).

⁷²³ Agencia Venezolana de Noticias (AVN). May 13, 2013. [Conforman Estado Mayor Comunicacional en Mérida](#); Correo del Orinoco. May 14, 2013. [Crearon estado mayor comunicacional en Mérida para rebatir la canalla mediática](#).

⁷²⁴ El Universal. May 16, 2013. [Rechazan creación del "Estado Mayor de la Comunicación"](#); Instituto Prensa y Sociedad (IPYS). May 13, 2013. [Mérida: Constituyen "Estado Mayor Comunicacional" para controlar a los medios y a sus periodistas](#).

up in the state of Yaracuy, made up of 350 of the state's community media outlets. According to reports, the agency's objective is to respond to "the media attacks of destabilizing groups against the Government" and keep "the people informed of everything that the Bolivarian Revolution is doing for the well-being of everyone."⁷²⁵

578. The Inter-American Commission has recognized the authority of the President of the Republic and high-ranking government officials to use the media for purposes of informing the public of prevailing matters of public interest; nevertheless, the exercise of this power is not absolute. The information that governments convey to the public through the presidential broadcasts must be strictly necessary to meet the urgent need for information on issues that are clearly and genuinely in the public interest, and for the length of time strictly necessary for the conveyance of that information. In this respect, both the IACHR and its Office of the Special Rapporteur,⁷²⁶ as well as some national bodies of States party to the American Convention, applying international standards, have indicated that "not just any information justifies the interruption by the President of the Republic of regularly scheduled programming. Rather, it must be information that could be of interest to the masses by informing them of facts that could be of public significance and that are truly necessary for real citizen participation in public life."⁷²⁷ Additionally, the fifth principle of the IACHR's Declaration of Principles states that: "[p]rior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression."

579. Public servants must also bear in mind that they have a position as guarantors of the fundamental rights of individuals; as such, their statements cannot deny those rights.⁷²⁸ This special duty of care is heightened particularly in situations involving social conflict, breaches of the peace, or social or political polarization precisely because of the risks such situations might pose for specific individuals or groups at a given time.⁷²⁹ The Inter-American Court has also held that situations of risk can be exacerbated if they are "[the subject of government speeches] that may [provoke], suggest actions, or be interpreted by public officials or sectors of the society as instructions, instigations, or any form of

⁷²⁵ Bolívar TV. May 24, 2013. [Activan el Estado Mayor Comunicacional](#); Correo del Orinoco. May 23, 2013. [Activado Estado Mayor Comunicacional en Yaracuy](#); La Hojilla en TV. May 24, 2013. [Activado Estado Mayor Comunicacional en Yaracuy](#).

⁷²⁶ IACHR. [Report on the Situation of Human Rights in Venezuela](#). OEA/Ser.L/V/II.118. Doc. 4 rev. 1. 2 December 29, 2003. Para. 487.

⁷²⁷ IACHR. [Annual Report 2012. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para.232; IACHR. [Annual Report 2011. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 69. December 30, 2011. Para. 199; IACHR. [Annual Report 2010. Office of the Special Rapporteur for Freedom of Expression](#). Chapter II: 2010 Special Report on Freedom of Expression in Mexico. OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para.226.

⁷²⁸ I/A Court H.R. *Case of Apitz-Barbera et al. ("First Court of Administrative Disputes") v. Venezuela. Preliminary Objection, Merits, Reparations and Costs*. Judgment of August 5, 2008. Series C No. 182. Para. 131.

⁷²⁹ I/A Court H.R. *Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of January 28, 2009. Series C No. 195 Para. 151.

authorization or support for the commission of acts that may put at risk or violate the life, personal safety, or other rights of people who exercise [...] freedom of expression.”⁷³⁰

4. Access to public officials and public places

580. In its articles 56 and 66, the Rules of Procedure for the Floor and Debates of the National Assembly of Venezuela prohibits journalists who are not with ANTV (the National Assembly’s TV channel) or *Venezolana de Televisión* (VTV) from entering the sessions. On March 26, the Constitutional Chamber of the Supreme Tribunal of Justice (TSJ) admitted a suit of nullity filed by members of the organizations Espacio Público, the Sindicato Nacional de Trabajadores de la Prensa (SNTP), and the Colegio Nacional de Periodistas (CNP) alleging that the aforementioned articles were unconstitutional. In addition, the requested a precautionary injunction suspending the rules restricting the entrance of all media outlets to National Assembly sessions. The remedy was declared “inadmissible” by the court, as it did not demonstrate “*prima facie*, the violation of the rights alleged to have been violated.”⁷³¹ In addition, on May 28, the president of the National Assembly, Diosdado Cabello, rejected a request from opposition deputies to include a discussion on the daily agenda regarding the amendment of articles 56 and 66 of the rules of procedure and parliamentary debate to allow the media access to the National Assembly. The opposition deputies had requested amendment of the aforementioned articles, but Cabello argued that the request must be presented in writing before the leadership of the National Assembly in order for the body to be able to consider it.⁷³²

581. In addition to the ban on independent media covering the sessions of the National Assembly, assembly officials blocked the media from entering the administrative headquarters to cover other public events.⁷³³

⁷³⁰ I/A Court H.R. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of January 28, 2009. Series C No. 194 Para. 143.

⁷³¹ Nota de prensa del Tribunal Supremo de Justicia. April 8, 2013. [Sala Constitucional admite demanda de nulidad contra dos artículos del Reglamento de Interior y Debates de la AN](#); Tribunal Supremo de Justicia. [Sentencia de la Sala Constitucional del Tribunal Supremo de Justicia No. 159 de 26 de marzo de 2013](#); Espacio Público. April 10, 2013. [Admitida solicitud de nulidad del Reglamento de la Asamblea Nacional](#); Monitoreo Ciudadano/YouTube. July 18, de 2013. [Periodista Maru Morales relata como limitan acceso a la Asamblea](#). [9:20].

⁷³² Sistema Bolivariano de Comunicación e Información. May 22, 2013. [Subcomisión de medios de AN venezolana recibe al Colegio Nacional de Periodistas](#); Instituto Prensa y Sociedad (IPYS). May 28, 2013. [Caracas: Neqaron solicitud de reforma de reglamento parlamentario para levantar restricciones a la cobertura periodística](#).

⁷³³ On February 5, security personnel of the National Assembly prevented a number of journalists from covering an event in Venezuela’s legislative chamber. Colegio Nacional de Periodistas (CNP). February 5, 2013. [Impiden a los diarios Últimas Noticias y Tal Cual cubrir pauta en la AN](#); Globovisión. February 5, 2013. [Periodistas protestaron por limitación de cobertura en la Asamblea Nacional](#); Tal Cual. February 5. [¿Libertad de prensa?](#). On May 14, individuals presumed to be security personnel with the National Assembly’s administrative building denied access to journalist Jeanelie Briceño, with *Globovisión*, who was there to cover a press conference by an opposition deputy. Instituto Prensa y Sociedad (IPYS). May 14, 2013. [Caracas: Prohibieron acceso de periodistas a sede administrativa del parlamento](#); Reporters Without Borders. June 13, 2013. [Venezuela. Dos Meses después de las elecciones, perdura la tensión mediáticas](#); Cuba Net. June 11, 2013. [Reporters without Borders. Report on Venezuela](#). On May 21, press officials of the National Assembly refused to grant journalist María Eugenia Morales, a reporter with *El Nacional*, access to Assembly headquarters. Instituto Prensa y Sociedad (IPYS). May 21, 2013. [Caracas: Vetaron a reportera en el parlamento](#); *El Universal*. June 1, 2013. [Solicitan a TSJ que proteja derechos de una periodista](#).

582. The Inter-American Commission has also received information indicating that the journalists of private sector media outlets are systematically prevented from covering or accessing public events, press conferences and official acts.⁷³⁴

583. Journalists from a number of media outlets reported that they faced restrictions at a number of electoral centers while covering the April 14 vote. Some obstructions were put in place by officials with the Plan República, the military organization in charge of security during the presidential elections. It prevented journalists from accessing voting centers or made access more difficult.⁷³⁵ Also, the journalists covering the elections had difficulty in getting statements from the officials working in the voting centers. They had supposedly been ordered not to comment to the press.⁷³⁶ Reporter Keren Torres, with newspaper *El Impulso*, had a difficult time doing her job because in only one of the five voting centers she visited was her photographer allowed to take pictures inside.⁷³⁷ Natalia Urdaneta, a reporter with *Diario Primicia*, was removed from a voting center in Puerto Ordaz, Bolívar state, supposedly on the orders of officials with Plan República.⁷³⁸ Likewise, reporter Eunice Gamero, with newspaper *Correo del Caroní*, was verbally assaulted and prevented from doing her work by an

⁷³⁴ On January 7, a *Globovisión* news team was not informed of an official event of the vice president of the Republic at the time, Nicolás Maduro. When the news team went to cover the event, a press official informed them that credentials had already been assigned. *Globovisión* representatives have alleged on a number of occasions that they have not received press invitations to government events. Instituto Prensa y Sociedad (IPYS). January 7, 2013. [Impidieron cobertura de equipo reporteril de canal privado en actividad dirigida por el Vicepresidente de la República](#); On January 15, the Legislative Committee of the state of Miranda prevented journalists and media outlets from covering the swearing-in of Enrique Capriles as the re-elected governor of the state of Miranda. Only the press team of the Miranda government had access. Instituto Prensa y Sociedad (IPYS). January 15, 2013. [Impidieron a la prensa cubrir juramentación del Gobernador del estado Miranda](#). On April 1, reporters from state broadcasters *Radio Nacional de Venezuela* (RNV) and *Venezolana de Televisión* (VTV) were prevented from attending a press event on the beginning of the campaign of opposition presidential candidate Henrique Capriles. *Venezolana de Televisión* (VTV)/Sistema Bolivariano de Comunicación e Información. [Impiden acceso a periodistas de VTV y RNV a rueda de prensa de Capriles](#). DailyMotion. April 1, 2013. [Impiden acceso a periodistas de VTV y RNV a rueda de prensa de Capriles](#); On January 21, a number of media outlets were prevented from attending the State of the Judiciary of the Supreme Tribunal of Justice, where a report was to be presented on the judicial body's performance during 2012. Instituto Prensa y Sociedad (IPYS). January 21, 2013. [Poder judicial impide a los equipos reporteriles presenciar la rendición de cuentas de su gestión pública](#). On May 24, the press director of the Ministry of the Interior and Justice prevented journalist Danielle Guillermo Colina, with *Globovisión*, from covering an event to honor posthumously five National Police officers in Caracas. Instituto Prensa y Sociedad (IPYS). May 24, 2013. [Caracas: Ministro negó acceso a medios privados en acto oficial](#); *Globovisión*. May 24, 2013. [Rindieron honores a oficiales de la PNB fallecidos en helicóptero siniestrado](#). On June 3, officials with State company *Corporación Eléctrica de Venezuela* (Corpoelec) prevented journalists from newspaper *La Verdad* from attending a press conference called by the Environment Ministry. Instituto Prensa y Sociedad (IPYS). July 1, 2013. [Zulia: "Corpoelec limitó el acceso de equipo periódico privado"](#). Reporters Without Borders. June 16, 2013. [Venezuela | Dos meses después de las elecciones, perdura tensión mediática](#). On June 25, officials with the Supreme Tribunal of Justice denied the press access to a public oral hearing of a deputy of the National Assembly over allegations of corruption. Instituto Prensa y Sociedad (IPYS). June 25, 2013. [Caracas: Negaron acceso a la prensa en audiencia oral y pública](#). Notitarde. June 25, 2013. [Termina audiencia de antejuicio de mérito contra Richard Mardo](#).

⁷³⁵ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Lara: Obstaculizaron labor de la prensa en centros electorales](#); Espacio Público. April 30, 2013. [Ataques a la Libertad de Expresión entre el 14 y el 26 de abril. Presidenciales 2013](#).

⁷³⁶ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Portuguesa: Coordinadora de centro electoral negó información a la prensa](#); Espacio Público. April 30, 2013. [Ataques a la Libertad de Expresión entre el 14 y el 26 de abril. Presidenciales 2013](#).

⁷³⁷ Knight Center for Journalism in the Americas. April 17, 2013. [Journalists denounce restrictions on election coverage in Venezuela](#); Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Lara: Obstaculizaron labor de la prensa en centros electorales](#).

⁷³⁸ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Bolívar: Plan República desalojó a periodista de centro de votación](#).

individual presumed to be an official with the National Elections Council (CNE).⁷³⁹ Gladyscar Guzmán, a reporter with newspaper *Nuevo Día*, alleged that officials presumed to be members of Plan República denied her access to the voting center located in the Diego León Zuniaga school in Coro.⁷⁴⁰ Journalists Cintia González and Elier Galicia, also with *Nuevo Día*, were prevented from entering and taking photographs in a number of voting centers.⁷⁴¹ José Barrios Díaz, a photographer with *El Tiempo*, was assaulted by an individual presumed to be a soldier while he was covering allegations of irregularities in a voting center in the city of Puerto La Cruz, Anzoátegui state.⁷⁴² Individuals presumed to be officials with the National Electoral Council (CNE) and Plan República blocked journalists with the newspaper *La Verdad* - Ana Carolina Mendoza and Sheyla Urdaneta - access to voting centers in the city of Maracaibo.⁷⁴³ Members of Plan República prevented or slowed the work of new teams from the newspaper *El Siglo* and radio broadcaster *Universitaria* 104.5 FM, in Maracay, Aragua state.⁷⁴⁴ Members of Plan República also prevented reporters with the newspaper *Las Noticias* from entering voting centers in Cojedes state.⁷⁴⁵

584. Principle 4 of the IACHR's Declaration of Principles of Freedom of Expression provides that "[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies."

5. Subsequent liability

585. Over the last decade, Venezuela has been going through a process of structural reforms to the legal and public policy application framework that has weakened guarantees of the right to freedom of expression in the country, as the IACHR has maintained in previous reports.⁷⁴⁶ The IACHR has repeatedly pointed to the need to revise the legal framework in which Venezuelan media operate. Specifically, the IACHR has called the authorities' attention to the existence of ambiguous or disproportionate sanctioning rules that allow for discretionary opening of judicial and administrative

⁷³⁹ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Bolívar: Funcionario del poder electoral ordenó a reportera a abandonar el centro electoral.](#)

⁷⁴⁰ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Falcón: Prevalcieron limitaciones a acceso a la prensa en centros electorales.](#)

⁷⁴¹ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Falcón: Prevalcieron limitaciones a acceso a la prensa en centros electorales.](#)

⁷⁴² Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Anzoátegui: Militar agredió e intentó arrebatar equipo a reportero gráfico.](#)

⁷⁴³ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Zulia: Impiden acceso a centros de votación a periodistas del diario La Verdad.](#)

⁷⁴⁴ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Aragua: Militares obstaculizan trabajo a periodista durante elecciones presidenciales](#); Espacio Público. April 30, 2013. [Ataques a la Libertad de Expresión entre el 14 y el 26 de abril. Presidenciales 2013.](#)

⁷⁴⁵ Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Cojedes: Impidieron acceso a la prensa en dos centros de votación.](#)

⁷⁴⁶ IACHR. [Annual Report 2010. Annual Report of the Office of the Special Rapporteur for Freedom of Expression.](#) Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 412 to 524.

processes and that do not offer sufficient guarantees for ensuring the full exercise of freedom of expression without fear of retaliation.⁷⁴⁷ The Inter-American Commission has received information indicating that the government of Venezuela continues to apply the provisions of the Law on Social Responsibility in Radio, Television and Electronic Media [*Ley de Responsabilidad Social en Radio, Televisión y Medios Electrónicos*] (Resorte Law) regarding incitement of hate, intolerance, and calls to violence to initiate legal or administrative proceedings against media outlets and journalists who distribute information that runs contrary to the government's interests.⁷⁴⁸

586. As the Inter-American Commission has indicated on previous occasions, law including the Penal Code of Venezuela, the Organic Code of Military Justice, and the Law on Social Responsibility in Radio, Television and Electronic Media (Resorte Law) all have sections that are not compatible with Inter-American standards on freedom of expression. In previous reports, the IACHR and its Office of the Special Rapporteur for Freedom of Expression have expressed concern at the existence of these laws and urged the government of Venezuela to change them to meet international standards on the subject.⁷⁴⁹

587. In December of 2012 and January 2013, television channel *Globovisión* broadcast four messages transcribing the text of Article 231⁷⁵⁰ and the articles of the Constitution of Bolivarian Republic of Venezuela related to the inauguration of the president. On January 9, National Assembly president Diosdado Cabello and Energy and Petroleum Minister Rafael Ramírez asked the National Telecommunications Commission (Conatel) to launch an investigation into *Globovisión*, a private-sector news channel, on allegations of manipulation of information. Cabello stated that *Globovisión* explains only the part of Article 231 of the Constitution "that suits them because they are irresponsible and manipulative. I hope Conatel follows the appropriate procedure and applies sanctions for the manipulation of the truth, for being manipulative, for trying to sow unease in the population, just because they are full of hate - a sick hatred, too - for a human being, Hugo Chávez, and toward [...] the people of Venezuela." The statements were backed by Ramírez, who during an event with the workers of state company *Petróleos de Venezuela (PDVSA)* stated: "[w]e agree with the president of the National Assembly; Conatel has to act to sanction [*Globovisión*]." ⁷⁵¹ That same day, the National Telecommunications Commission of Venezuela (Conatel) launched an administrative sanction proceeding against *Corpomedios GV Inversiones, C.A. (Globovisión)* for the alleged violation of Article 27

⁷⁴⁷ IACHR. [Annual Report 2010. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 412 to 524. Espacio Público. October 25, 2013. [Modificaron decreto que crea el Cesppa](#).

⁷⁴⁸ IACHR. [Annual Report 2012. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para. 510-514.

⁷⁴⁹ IACHR. [Annual Report 2010. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 412 to 524.

⁷⁵⁰ Consejo Nacional Electoral (CNE). [Constitución de la República Bolivariana de Venezuela](#). "Article 231. The candidate-elect will take up the position of President of the Republic on January 10 of the first year of his or her constitutional term by being sworn in before the National Assembly. If for some unforeseen reason, the President of the Republic cannot take possession before the National Assembly, he or she shall do so before the Supreme Tribunal of Justice."

⁷⁵¹ *Globovisión*. January 9, 2013. [Diosdado Cabello y ministro Ramírez piden a Conatel investigar a Globovisión por difundir artículo 231](#); Instituto Prensa y Sociedad (IPYS). January 9, 2013. [Presidente del parlamento solicitó sanción contra planta televisiva por interpretaciones a la Constitución Nacional](#).

of the Law on Social Responsibility in Radio, Television and Electronic Media (Resorte Law)⁷⁵² through the broadcasting of the messages. According to the measure, “the messages [...] could incite or promote hatred or intolerance for political reasons, defending or inciting subversion of the public order, fomenting unease in the citizenry or disrupting public order or failing to recognize legitimate authorities, which, should it be proven in this administrative proceeding, would lead to the imposition of administrative sanctions established in the [Resorte] Law.”⁷⁵³ Through the measure, the General Director of the National Telecommunications Commission of Venezuela (Conatel) issued an injunction ordering *Globovisión* to abstain from broadcasting the four messages identified, as well as any other message with similar content. On January 16, *Globovisión* went to Conatel to file a “brief to challenge” the administrative proceeding, alleging that “the injunction clearly represents prior censorship, blocks the free debate of ideas and opinions on a matter of constitutional relevance, and therefore unjustly, disproportionately and illegitimately restricts freedom of expression and limits the effective development of the democratic process.” In the document, the media outlet states that Conatel’s administrative action “does not explain how short informational segments could incite what it is suggesting, nor does it provide any serious indication that there has been in Venezuela any demonstration of hate, intolerance, disruption of the public order or failure to recognize authorities as a result of the broadcasting of the short informational segments. The act is based on a simple individual assumption by the official, purely subjective, that is not based on any evidence that the stated effects could be or have been observed in Venezuela.” *Globovisión* representatives demanded that the regulator revoke “the injunction, restore the right to disseminate and receive information and opinions on the interpretation of Article 231 of the Constitution, and permit the free circulation of information, ideas and opinions regarding this matter.”⁷⁵⁴ On January 11, the Office of the Special Rapporteur sent a letter to the government of Venezuela, pursuant to Article 41 of the American Convention on Human Rights, requesting information regarding the administrative sanction procedure launched against *Globovisión* and recalling the standards on the subject.

588. According to information received by the Inter-American Commission, the Scientific, Criminal and Forensic Investigation Corps (CICPC) of the state of Zulia, called and interrogated Juan José Faría [or Farías], a journalist with the newspaper *La Verdad* and correspondent with the organization IPYS Venezuela because of his articles about the murder of a criminal leader in a prison in the city of Maracaibo. On January 28, the reporter received a summons from the CICPC, and when he appeared on

⁷⁵² Ley Resorte/Sistema Bolivariano de Comunicación e Información. [Ley de Responsabilidad Social en Radio, Televisión y Medios Electrónicos](#). Gaceta Oficial No 39.610. February 7, 2011. “Article 27: Distribution through radio, television and electronic media is not permitted of messages that: 1. Incite or promote hatred and intolerance for reasons of religion, politics, gender difference, racism or xenophobia. 2. Incite or promote and/or defend crime. 3. Constitute war propaganda. 4. Foment unease in the citizenry or upset public order. 5. Do not recognize legitimate authorities. 6. Encourage murder. 7. Incite or promote a failure to comply with in-force legislation (...).”

⁷⁵³ Comisión Nacional de Telecomunicaciones de Venezuela (Conatel). January 9, 2013. [Providencia Administrativa](#); Comisión Nacional de Telecomunicaciones de Venezuela (Conatel). January 9, 2013. [CONATEL notificó a Globovisión el inicio de procedimiento administrativo sancionatorio](#); *Globovisión*. January 9, 2013. [Conatel inicia nuevo procedimiento contra Globovisión por difundir artículos de la Constitución](#); Committee to Protect Journalists (CPJ). January 9, 2013. [Globovisión probed over Chávez inauguration reports](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. January 11, 2013. Letter to the State of Venezuela. Request for information regarding the disciplinary administrative proceedings initiated against *Globovisión*.

⁷⁵⁴ *Globovisión*. January 16, 2013. [Globovisión presenta ante Conatel su oposición a la medida que prohibió difusión de micros](#); Instituto Prensa y Sociedad (IPYS). January 16, 2013. [Globovisión presentó sus alegatos y rechazó el procedimiento sancionatorio iniciado por Conatel](#).

January 30, he was interrogated for more than four hours without counsel. The officials tried to get information from him about his sources and mentioned the possibility of charging him with the crimes of instigation and criminal conspiracy. Later, they summoned the heads of the newsroom at *La Verdad* over their alleged responsibility for the authorization of the publication of the articles by Faría.⁷⁵⁵ Later, on April 2, the former director of the El Marite prison threatened Faría with filing a criminal complaint against him with the justice system after the journalist published articles on controversies and accusations of corruption in that prison.⁷⁵⁶ On July 17, the reporter filed a complaint with the Office of the Superior Public Prosecutor of Maracaibo, Zulia state, over the repeated threats he had received from State security agents and individuals presumed to be members of criminal gangs in the region.⁷⁵⁷

589. On January 30, the general secretary of the government of Carabobo filed a criminal complaint against journalists Francisco Pérez, a columnist with the newspaper *El Carabobeño*, accusing him of defamation and aggravated defamation [*difamación* and *injuria agravada*],⁷⁵⁸ after Pérez published a column on January 14 accusing members of the PSUV of being responsible for a January 1 fire in a garbage dump.⁷⁵⁹

590. On February 7, representatives of the permanent security and defense committee of the national assembly announced that they would ask the National Telecommunications Commission (Conatel) to launch an investigation into media outlets that distributed the results of the report "Government Defense Anti-Corruption Index," prepared by NGO Transparency International. The legislators accused the organization of carrying out a "media campaign" to hurt the image of the National Bolivarian Armed Forces [*Fuerza Armada Nacional Bolivariana*] (FANB) and destabilize the country politically.⁷⁶⁰ The accusations arose after Transparency International presented the results of its report on corruption, in which 82 countries were evaluated. In its conclusions, the report indicates that Venezuela has "a very high risk of corruption," and demonstrates "a serious lack of transparency and poor application of existing laws, leading to poor results in all risk categories."⁷⁶¹

⁷⁵⁵ Consejo Nacional de Periodistas de Zulia. February 3, 2013. [CNP Zulia sobre caso La Verdad: "El secreto de la fuente es un derecho constitucional"](#); Tal Cual. February 4, 2013. [Periodista en la mira](#); La Verdad. February 3, 2013. [CNP Zulia defiende a La Verdad y su derecho a proteger la fuente](#); Instituto Prensa y Sociedad (IPYS). January 30, 2013. [Cuerpo policial acusa a corresponsal de IPYS Venezuela por supuestamente instigar al delito](#).

⁷⁵⁶ IFEX/Instituto Prensa y Sociedad (IPYS). April 4, 2013. [Ex director policial amenazó con demandar a periodista en Venezuela](#); Espacio Público. April 8, 2013. [Exdirector del retén El Marite Amenaza a periodista de sucesos](#); La Verdad. April 3, 2013. [Exdirector de El Marite amenaza a periodista de La Verdad](#).

⁷⁵⁷ Instituto Prensa y Sociedad (IPYS). July 17, 2013. [Zulia: Reportero denunció en Fiscalía amenazas que ha recibido por su labor periodística](#). Últimas Noticias. July 22, 2013. [Periodistas de UN denunció amenazas por su labor periodística](#).

⁷⁵⁸ Notitarde. February 4, 2013. [El periodista "Pancho" Pérez es demandado por difamación e injuria](#); Noticias24. April 30, 2013. [Admitida acusación en contra del periodista Francisco "Pancho" Pérez por difamación agravada e injuria agravada](#).

⁷⁵⁹ Noticias24. April 30, 2013. [Admitida acusación en contra del periodista Francisco "Pancho" Pérez por difamación agravada e injuria agravada](#); Instituto Prensa y Sociedad (IPYS). February 4, 2013. [Funcionario regional solicitó una investigación penal contra periodista por presunta difamación](#).

⁷⁶⁰ Sistema Bolivariano de Comunicación e Información. [AN investigará guerra sucia de ONG Transparencia Internacional contra la FANB](#).

⁷⁶¹ Transparencia Venezuela. [70 por ciento de los gobiernos no establecen controles anti-corrupción en materia de Defensa](#); Notitarde. February 9, 2013. [Venezuela entre países con "alto riesgo" de corrupción en Defensa](#).

591. On April 10, the minister of Energy and Petroleum and president of the state-owned company Petróleos de Venezuela (PDVSA), Rafael Ramírez, announced a legal action against Rayma Suprani, cartoonist of the *El Universal* newspaper, and Nelson Bocaranda, radio host with the radio station *Éxitos FM* and director of the *Runrun.es* portal, for supposedly damaging the reputation of the State company. The warning was issued after the cartoonist and journalist expressed opinions about a supposed link of PDVSA officials in the case of a scandal that took place on March 30, 2012.⁷⁶²

592. The Attorney General of Venezuela, Luisa Ortega, announced on April 24 that her office was investigating messages published on the Twitter Social network to determine if they contained hidden calls to generate violence in the days following the elections of April 14. “There are direct and subliminal calls. Review the Twitter networks to see the calls made there, that is what we are investigating,” said the Attorney General.⁷⁶³

593. According to information received, on Wednesday, April 24, a Commission was set up in the General Assembly to investigate possible responsibility for the violence that took place after the presidential elections of April 14.⁷⁶⁴ The people to be investigated by the Commission included journalist Nelson Bocaranda, a columnist for the *El Universal* daily newspaper, host of the program ‘La cola feliz’ at the *Éxitos 99.9 FM* radio station and director of the *Runrun.es* news site, for alleged responsibility for attacks, according to the government, on the facilities of certain Integrated Diagnostic Centers [*Centros de Diagnóstico Integral*] (CDI).⁷⁶⁵ The allegations were based on the journalist’s publication of a message on his Twitter social network account alleging the presence of boxes with votes from the presidential elections at an Integrated Diagnostic Center (CDI) in Gallo Verde, Maracaibo.⁷⁶⁶ Based on this publication, the National Assembly representative for the United Socialist Party of Venezuela (PSUV), Pedro Carreño, on April 16 published the following in his Twitter account: “@NelsonBocaranda is responsible for damage to the CDIs. Today in the National Assembly we urge the Public Prosecutor to hold him criminally responsible”⁷⁶⁷. Regarding this matter, on June 12, the Special Rapporteur sent the State a letter requesting information about the investigation of journalist Nelson Bocaranda.

⁷⁶² Últimas Noticias. April 10, 2013. [Pdvsá ejercerá acciones legales en caso Los Juanes](#); Espacio Público. May 6, 2013. [Caricaturista Rayma Suprani denuncia querrela en su contra](#).

⁷⁶³ Noticias24. April 24, 2013. [Fiscalía General de la República investiga mensajes en Twitter emitidos tras elecciones](#); Últimas Noticias. April 24, 2013. [Fiscalía investiga mensajes en Twitter emitidos tras elecciones](#).

⁷⁶⁴ Agencia Venezolana de Noticias (AVN). April 29, 2013. [Solicitarán a Fiscalía y TSJ evacuación de pruebas de daños causados el 15 y 16 de abril](#); NTN24. April 24, 2013. [Asamblea Nacional instalará comisión para investigar hechos violentos luego de comicios en Venezuela](#); CNN. April 24, 2013. [Venezuela crea una comisión para investigar agresiones poselectorales](#).

⁷⁶⁵ Agencia Venezolana de Noticias (AVN). May 15, 2013. [Comisión de la AN se trasladará al Táchira y La Limonera para investigar violencia antichavista](#); Notitarde. April 18, 2013. [Asamblea Nacional investigará a Nelson Bocaranda por ataques contra CDI](#); Sistema Bolivariano de Comunicación e Información. [Salud y alimentación del pueblo fueron el blanco de la ultraderecha](#).

⁷⁶⁶ “Reports are that in the CDI of La Paz in Gallo Verde, Maracaibo, ballot boxes are hidden away and the Cubans are not letting them get out.” Original text: “Informan que en el CDI de La Paz en Gallo Verde, Maracaibo, hay urnas electorales escondidas y los cubanos de allí no las dejan sacar.” Twitter account of Nelson Bocaranda @NelsonBocaranda. [April 15, 2013- 12:24 PM](#); Instituto Prensa y Sociedad (IPYS). April 16, 2013. [Diputado amenaza a periodista con acciones penales por mensaje publicado en Twitter](#).

⁷⁶⁷ Cuenta de Twitter del diputado Pedro Carreño @PedroCarreno_e. [April 16, 2013 - 7:10 AM](#); 6toPoderNoticias/YouTube. April 24, 2013. [Carreño sobre Nelson Bocaranda](#).

594. On July 4, the Public Prosecutor subpoenaed Bocaranda as a witness in the context of investigations carried out by that agency into the violent events that took place after the presidential elections of April 14.⁷⁶⁸ On July 11, Bocaranda testified in response to a second subpoena from the Public Prosecutor. Upon leaving, a group of people supposedly identified as government supporters shouted insults at the journalist.⁷⁶⁹ On September 26, the president of Venezuela, Nicolás Maduro, accused Bocaranda of working for the United States Central Intelligence Agency (CIA) and warned him that his “treason” would face “justice”. The president stated that his Government would present “evidence to show that Bocaranda worked for the CIA and the US State Department”.⁷⁷⁰

595. On May 24, Héctor Horacio Contreras, a journalist and announcer at *Studio 102.7 FM*, received a copy of a lawsuit filed against him by the governor of Mérida state, for supposedly inciting violence during events that took place in the days following the presidential elections of April 14.⁷⁷¹ On May 13 and 15, the governor of Mérida state announced in press conferences that he would sue the journalist for allegedly inciting violence. On April 15, groups of armed individuals used firearms and blunt objects to attack medical personnel, patients and people at the Health Center at the Universidad de Los Andes (Camiula). As a result, Contreras issued a call to the state governor, reminding him of his duty to guarantee the security of the citizenry. Contreras received two death threats on his cellular phone.⁷⁷² Additionally, on May 15, the governor announced that he would also file suit against journalist Leonardo León, of *ULA 107.7 FM*, the radio station of the Universidad de Los Andes and correspondent for *El Nacional*.⁷⁷³

596. On the second week of July, the First Court for Mediation, Prosecution, Enforcement and Transitory Rules of Procedure of the Judicial Circuit for the Protection of Boys, Girls and Adolescents of the Judiciary the State of Falcón prohibited the daily newspaper *La Mañana* from publishing photographs of “events” until a lawsuit against the newspaper is resolved by the Ombudsman’s Office, stemming from the publishing of photographs in 2012 that, according to that agency, endangered the integrity of children and adolescents.⁷⁷⁴ On July 17, a parliamentary hearing was held in the case, in which it was decided to begin a trial against the newspaper after the parties were unable to reach an agreement.⁷⁷⁵

⁷⁶⁸ Ministerio Público. July 4, 2013. [MP citó a Nelson Bocaranda por hechos de violencia ocurridos luego de la reciente elección presidencial. Deberá presentarse el próximo martes 9 de julio de 2013.](#) Últimas Noticias. July 4, 2013. [Nelson Bocaranda es citado a la Fiscalía.](#)

⁷⁶⁹ Ministerio Público. July 9, 2013. [MP citara por segunda vez a Nelson Bocaranda por hechos de violencia postelectoral.](#)

⁷⁷⁰ Sistema Bolivariano de Comunicación e Información. Correo del Orinoco. September 26, 2013. [Maduro: Anótalo Nelson Bucaranda tu y tus traiciones se van a ver con la justicia;](#) Noticias24. September 26, 2013. [Maduro sobre Bocaranda: da vergüenza como un periodista se arrastra ante EEUU \(+video\)](#)

⁷⁷¹ Instituto Prensa y Sociedad (IPYS). May 24, 2013. [Mérida: Gobernador demandó a periodista por difamación.](#)

⁷⁷² Instituto Prensa y Sociedad (IPYS). May 13, 2013. [Mérida: Amenazan con demandar a periodista y atentar contra su integridad física.](#)

⁷⁷³ El Popularla. May 15, 2013. [Gobernador de Mérida insiste en denunciar en la fiscalía a 2 comunicadores sociales;](#) Instituto Prensa y Sociedad (IPYS). May 15, 2013. [Mérida: Gobernador anunció que demandaría a periodista.](#)

⁷⁷⁴ Instituto Prensa y Sociedad (IPYS). June 25, 2013. [Falcón: Defensoría del Pueblo demandó a periódico local.](#) Espacio Público. June 28, 2013. [Defensoría del Pueblo demanda a diario La Mañana.](#)

⁷⁷⁵ Instituto Prensa y Sociedad (IPYS). July 17, 2013. [Falcón: Tribunal emitió orden de censura e imputó a periódico regional;](#) 25 Segundos. July 12, 2013. [Prohíben a diario de Falcón publicar imágenes de sucesos.](#)

597. Representatives of the Ombudsman’s Office filed a lawsuit against the daily newspaper *La Mañana*, stemming from the publication of photographs in 2012 that, according to that agency, endangered the integrity of children and adolescents. On June 20, the directors of that medium received a subpoena for the preliminary hearing.⁷⁷⁶

598. On June 22, the Minister of Penitentiary Services requested the Public Prosecutor to investigate the journalistic team at the ‘Sucesos’ section of the daily newspaper *La Verdad*, for holding conversations with prison inmates, after the medium published an article on the profile of three prisoners, presumably “leaders” at a penitentiary center in Maracaibo, and an interview with an inmate.⁷⁷⁷

599. On July 23, supposed agents of the Scientific, Criminal and Criminalistics Investigations Corps (CICPC) raided the home of an official from the Ministry of Housing and Habitat, and confiscated his personal computer and mobile phone. Presumably, the official had been detained under suspicion of having committed computer crimes by placing a video on the *YouTube* platform showing the minister of Housing and Habitat threatening to fire workers who are government opponents. The official was transferred to the Computer Crimes Division, where he was detained throughout the day. He was finally freed without being charged.⁷⁷⁸

600. On July 23, the First Trial Court of the State of Bolivar partially admitted a criminal lawsuit filed on July 15 by an entrepreneur against the president of the daily newspaper *Correo del Caroní*, David Natera, for the alleged crimes of defamation [*difamación* and *injuria*].⁷⁷⁹ The Court also ordered precautionary measures, prohibiting the newspaper from reporting on investigations against the entrepreneur, charged by the Public Prosecutor for his alleged links to episodes of corruption at a State company.⁷⁸⁰ According to what was reported, on July 24, *Correo del Caroní* received notification from the Court ordering it “to abstain from publishing or permitting the publication of subjective or prejudicial information issued directly or indirectly, simulated or presumed relating to citizen Yamal Mustafá, as well as referring to any other criminal proceeding that could be brought against him, that could be interpreted as damaging to his constitutional rights, such as due process, presumption of innocence, the right to honor and reputation and the right to integrity of people and families, and to objectively publish information in accordance with journalistic ethics.” On July 18, he was charged by the Public Prosecutor as “immediate cooperator in the crime of embezzlement [*peculado doloso propio*],

⁷⁷⁶ Instituto Prensa y Sociedad (IPYS). June 25, 2013. [Falcón: Defensoría del Pueblo demandó a periódico local](#). Espacio Público. June 28, 2013. [Defensoría del Pueblo demanda a diario La Mañana](#).

⁷⁷⁷ Instituto Prensa y Sociedad (IPYS). June 22, 2013. [Zulia: Ministra pidió investigar a periodista de diario local](#).

⁷⁷⁸ El País. July 25, 2013. [La policía de Venezuela detiene a un joven al publicar el video de un ministro](#); El Universal. July 23, 2013. [Detienen a internacionalista acusado de difundir video de Ministro Molina](#); Globovisión. July 23, 2013. [Detienen a joven que difundió video del ministro Molina amenazando a trabajadores que apoyan a Capriles](#).

⁷⁷⁹ Primicia. July 23, 2013. [Tribunales admitieron querrela penal contra David Natera](#).

⁷⁸⁰ Instituto Prensa y Sociedad (IPYS). July 23, 2013. [Bolívar: Tribunal ordenó a periódico local censurar informaciones de procesos judiciales por supuesta corrupción](#); Noticiero Digital. July 25, 2013. [Correo del Caroní: Juez ordena no informar de manera “subjetiva o prejuiciosa” sobre Yamal Mustafá](#).

collusion of a government official with a contractor [*concertación de funcionario público con contratista*] and criminal conspiracy [*asociación para delinquir*].”⁷⁸¹

601. On August 8, the 3rd Trial Court of the Caracas Metropolitan Area fined daily newspapers *El Nacional* and *Tal Cual* in the amount of 1% of their gross revenues of 2009, due to the publication of a photograph on August 13, 2010 on the front page of *El Nacional*, and which was reproduced on August 16, 2010, in the daily newspaper *Tal Cual*, which showed images of cadavers at a morgue in Caracas.⁷⁸² The Court also ordered both media to abstain from publishing images “of violent content, weapons, physical assault and bloody and nude cadavers.” Both media announced that they will appeal the decision.⁷⁸³

602. On September 28, President Nicolás Maduro accused the private communications media of having published “war propaganda” with its coverage of shortages of certain basic products in Venezuela. Maduro had ordered the Attorney General of the Republic and the Judicial Branch to take action against private media that report on the subject: “I want to publicly request the Attorney General to evaluate special measures [...] along with the Judicial Branch so that we may punish the psychological war being carried out by the written press, television and radio against the people’s food security and the economic life of the nation,” stated Maduro.⁷⁸⁴

603. On September 30, the National Telecommunications Council (Conatel) began a new administrative procedure against *Globovisión*, this time for having disseminated a report on supposed shortages of basic goods in Venezuela. The President of Conatel, Pedro Maldonado, reported in statements to media outlets that the agency had begun an administrative sanction proceeding against the private news channel for allegedly having disseminated content fomenting unrest among the citizenry.⁷⁸⁵

604. On October 10, officials presumed to be with from the Scientific, Criminal and Criminalistics Investigations Body [*Cuerpo de Investigaciones Científicas, Penales y Criminalísticas*] (CICPC) detained journalist Víctor Hugo Donaire, host and director at radio station *Morros 89.7 FM*, in San Juan de Los Morros, Guárico state, for the alleged crime of “insulting officials.” As reported, the journalist was broadcasting his radio program ‘De frente,’ when individuals presumed to be security officials detained him, without a court order, and moved him to the agency headquarters. According to the journalist’s attorney, when Donaire was detained, he was denouncing the supposed use of luxury

⁷⁸¹ Ministerio Público. July 21, 2013. [Privan de libertad a empresario y tres exdirectivos de la CVG Ferrominera Orinoco por hechos de corrupción.](#)

⁷⁸² Ministerio Público. August 8, 2013. [Ministerio Público logró multas para El Nacional y Tal Cual por publicar imágenes violentas](#); Tal Cual. August 9, 2013. [Multado otra vez](#); El Nacional. August 8, 2013. [Multan y censuran a El Nacional.](#)

⁷⁸³ Instituto Prensa y Sociedad (IPYS). August 8, 2013. [Caracas: Tribunal ratificó medida de censura y multa contra dos periódicos.](#)

⁷⁸⁴ Instituto Prensa y Sociedad (IPYS). September 28, 2013. [Presidente de Venezuela pide a Fiscalía investigar a medios privados por difundir noticias sobre desabastecimiento de alimentos](#); Reporters Without Borders. October 2, 2013. [Government likens media coverage of shortages to “war propaganda”](#); Ministerio del Poder Popular para la Información y la Comunicación. September 30, 2013. [Guerra económica: fórmula para atacar revoluciones](#); La Prensa/AFP. September 28, 2013. [Maduro pide a fiscal “castigar” a medios que promuevan “guerra psicológica”.](#)

⁷⁸⁵ Agencia Venezolana de Noticias (AVN). September 30, 2013. [Conatel abre proceso administrativo sancionatorio contra Globovisión.](#)

automobiles by officials from the CICPC.⁷⁸⁶ The journalist was freed 48 hours after being detained and reported that he had been threatened with a criminal lawsuit in addition to being pressured about his journalistic activity.⁷⁸⁷

605. On October 10, the daily newspaper *2001* published an article on supposed fuel shortages in Caracas.⁷⁸⁸ That day, Attorney General Luisa Ortega, announced the launch of an investigation against the newspaper.⁷⁸⁹ According to the Attorney General, the information reported was “false” and sought to create “chaos, worry and anxiety in the collectivity.”⁷⁹⁰ Similarly, president Nicolás Maduro affirmed that the report in *2001* constituted a “crime,” whose objective was to “sabotage the country’s system for distribution of gasoline and hydrocarbons.” Maduro referred to the owners of the media outlet as “unpatriotic and parasitic bourgeoisie against national interests,” and affirmed that “if when applying the law it becomes necessary to resort to more severe punishment, whatever that punishment may signify, let it be so. But this cannot be permitted. Society must be defended against these bandits, these criminals [...]”⁷⁹¹

606. Principle 10 of the IACHR’s Declaration of Principles on Freedom of Expression, approved in 2000, establishes that “[p]rivacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a person’s reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.” Also, Principle 11 of the Declaration that, “[p]ublic officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as ‘desacato laws,’ restrict freedom of expression and the right to information.”

6. Stigmatizing statements

607. The Inter-American Commission received information about the persistent use of stigmatizing declarations by public officials to discredit journalists, communicators and members of the opposition who express ideas, opinions or disseminate information contrary to the interests of the

⁷⁸⁶ NTN24. October 11, 2013. [Hijo de Víctor Hugo Donaire expresa que detención de su padre respondería a motivos políticos](#); Últimas Noticias. October 11, 2013. [Detienen a periodista durante programa de radio](#); Globovisión. October 10, 2013. [Cicpc-Guárico detiene a director de emisora local durante su programa de radio en vivo](#).

⁷⁸⁷ Instituto Prensa y Sociedad (IPYS). October 16, 2013 [Guárico: Funcionarios policiales amenazaron con acciones penales a director de emisora y luego lo dejaron en libertad plena](#).

⁷⁸⁸ *2001*. October 10, 2013. [La gasolina la echan con gotero](#).

⁷⁸⁹ Ministerio Público. October 17, 2013. [Ministerio Público libró citaciones para directivos del Diario 2001](#); Radio Uno. October 17, 2013. [Fiscal libra cuatro citaciones para el diario 2001 por reportaje](#).

⁷⁹⁰ Noticias24/YouTube. October 10, 2013. [Luisa Ortega ordena el inicio de una investigación al Diario 2001](#); CNP Zulia. October 11, 2013. [Fiscal Ortega Díaz ordenó investigar al diario 2001](#); Noticias24. October 10, 2013. [Luisa Ortega ordena el inicio de una investigación al Diario 2001: “Tendremos que actuar con severidad”](#).

⁷⁹¹ Noticias Venezuela/YouTube. October 10, 2013. [Maduro sobre Diario 2001](#).

Venezuelan Government. Detailed information on stigmatizing statements by Venezuelan Government officials are addressed in the chapter *Democracy, respect and guarantee of political rights*.

608. The Inter-American Commission was informed that on March 6 employees of the *Globovisión* Channel filed a complaint with the Public Prosecutor regarding supposed threats by representatives of the Executive Branch against the communications media. “Statements by senior officials constitute an official discourse that incites physical and verbal attacks on the employees of *Globovisión*, and guarantees impunity for the aggressors”, expressed the employees in their complaint.⁷⁹²

609. On March 2, Maduro accused the daily newspapers *El Universal* and *El Nacional* of carrying out a “media terrorism” strategy and a “psychological war,” after one of the above-mentioned media re-published information on the supposed transfer of then president Hugo Chávez to the presidential residence on the island of La Orchila, due to a relapse in his health.⁷⁹³

610. The Inter-American Commission took note of the declaration by the Minister of Popular Power for Penitentiary Services [*Poder Popular para los Servicios Penitenciarios*], Iris Varela, on January 25, according to which the acts of violence that took place in the Penitentiary Center of the Central Western Region of Urbana were the result of reports transmitted by *Globovisión* and by the webpage of newspaper *El Impulso* about a search of the center planned by the authorities for that same day. In a press release, the minister stated: “[W]e were surprised at the announcement of the search by the privately held *Globovisión* network, the social networks and the webpage of newspaper *El Impulso*, which undoubtedly constituted a detonator for the violence, as shown by the beginning of a mutiny within the Penitentiary Center hours later, during which the gang leaders attacked members of the National Guard, resulting in an unfortunate number of casualties.”⁷⁹⁴ As reported, the search had previously been announced by officials from the Ministry of Popular Power for Penitentiary Services. The accusation against the communications media was reiterated by the minister at a press conference on January 26, where she announced the clearing out of the Penitentiary Center of the Central Western Region.⁷⁹⁵

611. On May 27, the president of Venezuela, Nicolás Maduro, affirmed during a broadcast by Venezolana de Televisión (VTV) that *CNN en Español*, based in Atlanta, United States, was promoting “a *coup d'état* in Venezuela.” Maduro accused the media of being a channel “at the service of

⁷⁹² IFEX/Instituto Prensa y Sociedad (IPYS). March 20, 2013. [Venezuela's executive tells private station to change its reporting.](#)

⁷⁹³ Instituto Prensa y Sociedad (IPYS). March 2, 2013. [Vicepresidente de la República acusó a periódicos de promover el terrorismo mediático](#); Sucrecranda Hugo Chávez Venezuela/YouTube. March 3, 2013. [Vicepresidente Nicolás Maduro critica a los periódicos privados fascistas, El Universal y El Nacional de Venezuela, por publicar las mentiras del diario franquista ABC del régimen de España.](#)

⁷⁹⁴ Venezolana de Televisión/Sistema Bolivariano de Comunicación e información. January 25, 2013. [Ministra Varela informa sobre situación de violencia en penitenciaría de Urbana en Lara.](#)

⁷⁹⁵ Sucrecranda Hugo Chávez Venezuela/YouTube. January 26, 2013. [Ministra Iris Varela: Gobierno ordena desalojo total del Centro Penitenciario de Urbana](#); IFEX/Instituto Prensa y Sociedad (IPYS). February 7, 2013. [Ministra responsabiliza a dos medios por violencia en un cárcel venezolano](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. April 10, 2013. Letter to the Bolivarian Republic of Venezuela: Request for information about the procedure for administrative investigation [*averiguación administrativa*] against Ciudadanía Activa.

destabilization,” that calls “openly for a *coup d’état* in Venezuela.” According to Maduro, *CNN en Español* had become “the spearhead for promoting intervention against our homeland.”⁷⁹⁶ After the president’s statements, *CNN en Español* issued a press release rejecting the accusations.⁷⁹⁷

612. On September 25, Nicolás Maduro stated, with regard to journalists from the *El Nacional* daily newspaper: “Or they are ignorant or misinformed or perverse, manipulators, or all three things, ignorant, perverse and manipulators”. He also referred to the newspaper as “*El Nazi – onal*” and affirmed: “Buying *El Nacional* is like buying muriatic acid and breakfasting on muriatic acid every day. That’s right, it’s poison! I don’t buy it, I don’t recommend that anyone buy it either, really; not even the people of the opposition because if they do they will make a bad impression.”⁷⁹⁸

613. The Inter-American Commission reiterates the importance of “creating a climate of respect and tolerance for all ideas and opinions.” The Inter-American Commission recalls that “diversity, pluralism, and respect for the dissemination of all ideas and opinions are essential conditions for the proper functioning of any democratic society. Accordingly, the authorities must contribute decisively to the building of a climate of tolerance and respect in which all people can express their thoughts and opinions without fear of being attacked, punished, or stigmatized for doing so. In addition, the State’s duty to create the conditions for all ideas and opinions to be freely disseminated includes the obligation to properly investigate and punish those who use violence to silence journalists or the media.”⁷⁹⁹ The Inter-American Commission additionally recalls that freedom of expression must be guaranteed not only with respect to the dissemination of ideas and information that are received favorably or considered inoffensive or indifferent but also in cases of speech that is offensive, shocking, unsettling, unpleasant, or disturbing to the State or to any segment of the population.⁸⁰⁰

614. The Inter-American Commission additionally recalls that public servants have the duty to ensure that their statements do not infringe upon the rights of those who contribute to the public discourse through the expression and dissemination of their thoughts, such as journalists, media outlets, and human rights organizations. They must bear in mind the context in which they express themselves,

⁷⁹⁶ El Universal. May 27, 2013. [Maduro afirma que CNN en Español conspira contra el país](#); CNN en Español. May 27, 2013. [CNN responde a las acusaciones del presidente de Venezuela Nicolás Maduro](#).

⁷⁹⁷ CNN en Español. May 27, 2013. [CNN responde a las acusaciones del presidente de Venezuela Nicolás Maduro](#).

⁷⁹⁸ Sucredanda Hugo Chávez Venezuela/YouTube. September 25, 2013. [Nicolás Maduro sobre basura El Nazional, manipulación y desinformación de oposición a Venezuela](#); Agencia Venezolana de Noticias (AVN). September 26, 2013. [Venezuela concretó alianza con China para desarrollarse como potencia latinoamericana](#); Instituto Prensa y Sociedad (IPYS). September 17, 2013. [Se intensifica campaña en contra de medios de comunicación del país](#).

⁷⁹⁹ IACHR. [Annual Report 2012. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. March 5, 2013. Para.214; IACHR. [Annual Report 2011. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 69. December 30, 2011. Para. 156 and 206; IACHR. [Annual Report 2010. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II. Doc. 5. March 7, 2011. Para. 206-207.

⁸⁰⁰ IACHR. [Annual Report 2012. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. 5 March 2013. Para.214; IACHR. [Annual Report 2009. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter III (Inter-American Legal Framework of the Right to Freedom of Expression). OEA/Ser.L/V/II. Doc. 51. December 30, 2009. Para. 32.

in order to ensure that their expressions are not, in the words of the Court, “forms of direct or indirect interference or harmful pressure on the rights of those who seek to contribute [to] public deliberation through the expression and [dissemination] of their thoughts.”⁸⁰¹

7. Access to public information

615. Venezuela does not have a law on access to public information, and judicial and administrative appeals that could serve the purpose of gaining access to such information have proven ineffective. In a hearing on the Situation of the Right to Freedom of Expression and Access to Information in Venezuela, held on October 31 in the framework of the 149th period of Sessions of the IACHR, the petitioning organizations pointed to difficulties that exist in the country for gaining access to public information. PROVEA reported that government agencies do not disseminate information that they have the legal obligation to publish. For example, the organization monitored all of the web pages of the country’s ministries and found that only three have published their reports and account information which by law must be published.

616. Similarly, to prepare its annual report, Provea submitted 21 requests for information to state agencies, only three of which were answered. The Espacio Público organization submitted 84 requests for information from the State, and obtained only three answers, all of them denials. The organizations emphasized the difficulties that limited access to public information represents for monitoring government administration and compliance with human rights in the country.⁸⁰²

617. On October 7, through Decree 458, the Government of Venezuela created the Strategic Center of Security and Protection of the Homeland [*Centro Estratégico de Seguridad y Protección de la Patria*] (CESPPA),⁸⁰³ a body with the functions of requesting, organizing, compiling and evaluating “information in the interest of the strategic level of the Nation, in connection with internal and external enemy activities, provided by all security and intelligence bodies of the State, and by other public and private institutions, in accordance with the requirements of the Political-Military Direction of the Bolivarian Revolution.” In a subsequent modification, published in Official Gazette 40,279 on October 24, the expression “in connection with internal and external enemy activities” was eliminated, and the words “Political-Military Direction of the Bolivarian Republic” were replaced by “President of the Republic.”⁸⁰⁴ The Decree establishes that the CESPPA “will be the guiding and articulating body of the working policies of the institutions responsible for Security, Defense, Intelligence, Internal Order, External Relations and any other bodies with an impact on the Security of the Nation, in order to provide timely and quality information to facilitate the making of strategic decisions by the President of the

⁸⁰¹ I/A Court H.R. *Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of January 28, 2009. Series C No. 194. Para. 139; I/A Court H.R. *Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of January 28, 2009. Series C No. 195. Para. 151.

⁸⁰² IACHR. 149 Period of Sessions. Hearing on the Right to Freedom of Expression and Access to Information in Venezuela. October 31, 2013. Available for consultation at: <http://www.oas.org/es/cidh/multimedia/sesiones/149/3jueves31b.asp>

⁸⁰³ Gaceta Oficial de la República Bolivariana de Venezuela Nº 40.266. October 7, 2013. [Decreto Nº 458 que crea el Centro Estratégico de Seguridad y Protección de la Patria \(Cesppa\)](#).

⁸⁰⁴ Gaceta Oficial de la República Bolivariana de Venezuela Nº 40.279. October 24, 2013. [Decreto Nº 458 que crea el Centro Estratégico de Seguridad y Protección de la Patria \(Cesppa\)](#).

Republic and to neutralize potential threats to national interests [...].”⁸⁰⁵ The Center will be “a decentralized body of the Ministry of Popular Power of the Office of the Presidency and Oversight on the Governmental Administration [*Ministerio del Poder Popular del Despacho de la Presidencia y Seguimiento de la Gestión de Gobierno*]”, and will be under the Head of State. In the amendments published on October 24, the obligation of private institutions to provide information at the request of the CESPPA was removed from articles 8 and 10.⁸⁰⁶ Civil organizations have rejected the creation of the CESPPA due to the negative effects that it could have in terms of access to public information,⁸⁰⁷ particularly, Article 9 of the Decree,⁸⁰⁸ which grants the director of the CESPPA the authority to declare “any fact or circumstance being processed [by CESPPA] to be ‘secret’, ‘classified’ or ‘partially redacted’”.⁸⁰⁹

618. Principle 4 of the IACHR’s Declaration of Principles of Freedom of Expression provides that “[a]ccess to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.” Furthermore, Principle 5 establishes that “[p]rior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.”

8. Impact on the media and confiscation of equipment

619. The Inter-American Commission was informed that on May 13, private TV channel *Globovisión* was sold. On March 11, in a letter to the employees of the channel, the executive vice-president of that media and one of its main shareholders, Guillermo Zuloaga, explained that the decision of selling it was partly due to the fact that “the political situation and the polarization had led the attacks to *Globovisión* to be increasingly stronger.”⁸¹⁰ The businessman explained that *Globovisión* had converted itself into an “unfeasible” outlet, in financial, political and legal terms. “We are economically unfeasible, because our income no longer covers our cash needs. We are not even capable of sufficiently raising the salaries in order to compensate for inflation, and even less to compensate for depreciation. We are politically unfeasible, because we are in a completely polarized country and stand

⁸⁰⁵ Gaceta Oficial de la República Bolivariana de Venezuela N° 40.279. October 24, 2013. [Decreto N° 458 que crea el Centro Estratégico de Seguridad y Protección de la Patria \(Cesppa\)](#).

⁸⁰⁶ Gaceta Oficial de la República Bolivariana de Venezuela N° 40.279. October 24, 2013. [Decreto N° 458 que crea el Centro Estratégico de Seguridad y Protección de la Patria \(Cesppa\)](#).

⁸⁰⁷ Espacio Público. October 25, 2013. [Modificaron decreto que crea el Cesppa](#); Reporters Without Borders. October 11, 2013. [Access to information threatened by decree creating new intelligence agency](#); Colegio Nacional de Periodistas (CNP). October 14, 2013. [CNP Caracas denuncia y rechaza contundentemente la creación del Cesppa](#); Instituto Prensa y Sociedad (IPYS). October 7, 2013. [Venezuela: Ejecutivo constituye mecanismos de restricción a la información pública](#).

⁸⁰⁸ Gaceta Oficial de la República Bolivariana de Venezuela N° 40.279. October 24, 2013. [Decreto N° 458 que crea el Centro Estratégico de Seguridad y Protección de la Patria \(Cesppa\)](#).

⁸⁰⁹ Espacio Público. October 25, 2013. [Modificaron decreto que crea el Cesppa](#).

⁸¹⁰ *Globovisión*. March 11, 2013. [Carta de Guillermo Zuloaga a los trabajadores de Globovisión: "Son mi mayor preocupación"](#).

on the opposite side of an all-powerful government that wishes to see us fail. And we are legally unfeasible because we have a license that is about to expire, and no indication it will be renewed,” the former director of the channel said in the letter.⁸¹¹ Previously, on February 20, *Globovisión* issued a press release accusing the government of sentencing the channel “to death” by presumably excluding it from the new system of Open Digital Television [*Televisión Digital Abierta*] (TDA).⁸¹² The TDA project means that the television channels must change their broadcasts from analog to digital technology. According to *Globovisión*, on not being a part of the project and left out of the technological transition, the channel would end up compelled “to end its free to air broadcast transmissions whenever the government should declare the extinction of the analog signal. *Globovisión* is not capable of digital broadcasting, as it was discriminated against and excluded from the official process.”⁸¹³ According to the available information, *Globovisión* was involved in at least eleven administrative proceedings that had been filed against it.⁸¹⁴

620. A consequence of the sale of the television station *Globovisión* was the termination of opinion shows and the departure of journalists who were independent of the government, and who directed or hosted shows critical of the government such as journalist Ana Beatriz (Nitu) Pérez Osuna.⁸¹⁵ Before she had to leave the TV station, journalist Pérez Osuna had urged the TV station continue to do investigations into corruption of persons close to the government and the new owners of the TV station.⁸¹⁶ Regarding these facts, the attorney who represents Corpomedios GV inversiones, C.A. (*Globovisión*) presented a communication to the Office of the Special Rapporteurship in which he expressed the “profound, absolute and categorical rejection of the false accusations” made by the journalist Pérez Osuna. Further, he indicated that the media outlet “continues being an independent channel committed to the correct exercise of freedom of expression.”⁸¹⁷

621. In May, the cable signal of channel ATEL Televisión de Venezuela was suspended for some TV services. According to the information received, the suspension of the signal was linked to

⁸¹¹ *Globovisión*. May 13, 2013. [Carlos Zuloaga: La venta de Globovisión ya se cerró](#); Infobae. May 13, 2013. [Se concretó la venta de Globovisión en Venezuela](#); IFEX/Instituto Prensa y Sociedad (IPYS). March 18, 2013. [Owner of private TV station in Venezuela says it will be sold](#).

⁸¹² Telesur. February 20, 2013. [Venezuela pone en marcha la Televisión Digital Abierta](#); IFEX/Reporters Without Borders. February 22, 2013. [Digital TV system excludes station critical of Venezuelan government](#); *Globovisión*. February 20, 2013. [Comunicado: Gobierno de Venezuela sentencia la muerte de Globovisión](#).

⁸¹³ *Globovisión*. February 20, 2013. [Comunicado: Gobierno de Venezuela sentencia la muerte de Globovisión](#).

⁸¹⁴ *Globovisión*. April 2, 2013. [Conatel abre décimo procedimiento administrativo a Globovisión](#); Agencia Venezolana de Noticias (AVN). September 30, 2013. [Conatel abre proceso administrativo sancionatorio contra Globovisión](#). See also, IACHR. [Annual Report 2012. Annual Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter II (Evaluation of the State of Freedom of Expression in the Hemisphere). OEA/Ser.L/V/II.147. Doc. 1. 5 March 2013.

⁸¹⁵ El Universal. June 13, 2013. [Globovisión prescinde de Nitu Pérez Osuna](#); El Nacional. June 13, 2013. [Nitu Pérez Osuna fue despedida de Globovisión](#); Correo del Orinoco. June 13, 2013. [Periodista Nitu Pérez Osuna fue despedida de Globovisión](#); Miami Diario. November 19, 2013. [Periodista Nitu Pérez Osuna denuncia el caso Globovisión ante la CIDH](#); El País. August 17, 2013. [Rebelión en la granja de Globovisión](#); El Nuevo Herald. June 18, 2013. [Globovisión se consolida como arma de propaganda chavista en Venezuela](#).

⁸¹⁶ Information presented by journalist Ana Beatriz Pérez Osuna to the Office of the Special Rapporteur.

⁸¹⁷ Communication presented to the Office of the Special Rapporteur for Freedom of Expression, from Erick Boscán Arrieta, accredited attorney of Corpomedios GV inversiones, C.A. (*Globovisión*). December 27, 2013. Available in: Archives of the Office of the Special Rapporteur.

pressure allegedly exerted by employees of the National Commission of Telecommunications (CONATEL). These pressures are said to be related to ATEL TV negotiations with Grupo Sexto Poder, which was interested in buying shares in the channel.⁸¹⁸ At the root of this situation, on June 6, the president and editor of Grupo Sexto Poder, Leocenis García, began a hunger strike in front of the CONATEL office as a protest against the suspension of the signal. Presumably, officials of the Bolivarian National Guard detained him and transferred him to a detention center.⁸¹⁹ On June 7, the journalist was allowed conditioned release and restarted the hunger strike, which lasted for several days, at the office of the Organization of American States in Caracas.⁸²⁰ On June 12, the Special Rapporteur's Office sent a letter to the State of Venezuela requesting information on the suspension of the signal of the channel *ATEL Televisión de Venezuela* for some cable TV services, and on the detention of journalist Leocenis García.

622. Since early August, the newspapers of Venezuela, particularly local newspapers, have faced difficulties obtaining newsprint in order to print their papers, and the situation affected their circulation. The scarcity was due to the fact that for many months newsprint suppliers had not received the "non-national production" certification issued by the Ministry of Light Industry and Trade [*Ministerio de Industrias Ligeras y Comercio*] (Milco), which ended up preventing them from importing paper.⁸²¹

623. According to the accounts of the press media, the periodicals *El Sol* from Maturín (state of Monagas) and *Antorcha* from El Tigre (state of Anzoátegui) were among the daily newspapers that had to pause their circulation due to the lack of newsprint.⁸²² The newspaper *Versión Final*, from Zulia state, was not published from July 27 to August 11, due to difficulties in purchasing newsprint.⁸²³ According to Rogelio Díaz, spokesman of the Regional Press Block of Venezuela, by late August, five other newspapers were out of print due to the lack of paper: *El Caribazo*, *La Hora* and *El Caribe* from Nueva Esparta, and *Los Llanos* and *El Espacio* from Barinas.⁸²⁴ On September 4, at least 12 employees of the newspaper *El Sol* from Maturín were fired after the newspaper had to make cuts in its staff because it stopped circulating in printed form.⁸²⁵ On September 8, the newspaper *La Nación*, based on San Cristóbal, state of Táchira, reported the difficulties it was facing to obtain newsprint from its suppliers,

⁸¹⁸ Colegio Nacional de Periodistas de Zulia. May 24, 2013. [Asociación Internacional de Radiodifusión denuncia procedimientos arbitrarios contra ATEL TV](#); El Mundo. May 22, 2013. [Grupo 6to Poder denuncia que Conatel quiere frenar compra de Atel Televisión](#); Inter American Press Association (IAPA). May 23, 2013. [Acto de coacción contra canal y empresas cable operadoras venezolanas](#).

⁸¹⁹ La Verdad. June 6, 2013. [Detienen a Leocenis García al intentar hacer huelga de hambre](#); El Nacional. June 6, 2013. [Funcionarios de la Guardia Nacional detienen a Leocenis García](#).

⁸²⁰ El Universal. June 10, 2013. [Denunciarán a efectivos que detuvieron al presidente de 6to Poder](#); El Nacional. June 9, 2013. [Leocenis García mantendrá huelga de hambre hasta que Atel TV sea restituida](#).

⁸²¹ El Nacional. August 24, 2013. [Cinco diarios están fuera de circulación por falta de papel](#); Inter American Press Association (IAPA). October 1, 2013. [La SIP denuncia "doble moral" del gobierno de Venezuela](#); Instituto Prensa y Sociedad (IPYS). August 29, 2013. [Barinas: Medios locales presentan inconvenientes para la adquisición del papel periódico](#).

⁸²² Instituto Prensa y Sociedad (IPYS). August 31, 2013. [Anzoátegui: Diario regional cerró operaciones por falta de insumos](#); Instituto Prensa y Sociedad (IPYS). August 24, 2013. [Monagas: Medios locales enfrentan dificultades con el suministro de papel periódico](#); El País. September 3, 2013. [La falta de papel obliga al cierre de periódicos en Venezuela](#)

⁸²³ Instituto Prensa y Sociedad (IPYS). August 11, 2013. [Zulia: Periódico local dejó de circular durante dos semanas](#).

⁸²⁴ El Nacional. August 24, 2013. [Cinco diarios están fuera de circulación por falta de papel](#).

⁸²⁵ Instituto Prensa y Sociedad (IPYS). September 4, 2013. [Monagas: Por falta de insumos despidieron a reporteros en diario local](#).

and said that it was about to make cuts in its printed edition. The *Diario Católico* also reported difficulties to obtain paper and other materials for its production.⁸²⁶ The *Diario de Sucre*, based on Cumaná, state of Sucre, also faced difficulties to obtaining newsprint and other materials, and did not go on to print on September 11 and 12.⁸²⁷ On September 29, the newspaper *El Impulso* published an editorial informing its readers that starting on October 1, the format of its publication would change due to the difficulties obtaining paper. It explained in its editorial: “[i]t has been very difficult to meet the Ministry of Industry requirements to activate the currency exchange request in CADIVI. One of the steps, which are still pending, consists in obtaining a certification that the newsprint is not produced domestically. Although this is obvious, the process is taking months – wasted, costly months. The deadlines run out and commitments persist, but there is no response from the government.”⁸²⁸ On October 27, the newspaper *El Nacional* announced that it would stop printing the Sunday supplement *Papel Literario*, which could henceforth be accessed through the web, due to the lack of hard currency to purchase paper.⁸²⁹ On October 28, the private newspaper *De Frente*, based on the state of Barinas, stopped circulating due to the lack of newsprint.⁸³⁰

624. In September, four radio stations of the state of Amazonas were taken off the air by the National Commission of Telecommunications (CONATEL). On September 12, the station *La Voz del Orinoco 98.5 FM* was closed.⁸³¹ The Minister of Tourism of Venezuela is reported to have stated in a public event that the station was “openly calling for a rebellion,” and that it was “an illegal radio station without any type of permission, without a license, without the right to use the radio spectrum and even less to call for confrontations among the Venezuelans.”⁸³² Likewise, on September 13, the stations *Chamanika 101.1 FM* and *Deportiva del Sur 99.9 FM* were closed, allegedly due to the lack of permission to operate during the day. On September 21, the equipment of radio station *Impacto 97.5 FM* was confiscated.⁸³³ Employees of the stations alleged that the operations were due to the station’s editorial stance, and to the coverage they had made of conflicts in the region. In particular, the closings took place when the stations were covering a conflict between the national Government and the state Government regarding the management of Gran Hotel Amazonas.⁸³⁴

625. Principle 13 of the Declaration of Principles stipulates: “[t]he exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory

⁸²⁶ Instituto Prensa y Sociedad (IPYS). September 8, 2013. [Táchira: Periódicos locales presentan inconvenientes con materiales para imprimir.](#)

⁸²⁷ Instituto Prensa y Sociedad (IPYS). September 12, 2013. [Sucre: Dejó de circular diario local temporalmente.](#)

⁸²⁸ El Impulso. September 29, 2013. [Editorial: A prueba de despotismos.](#)

⁸²⁹ Espacio Público. October 28, 2013. [Diario El Nacional afectado por escasez de papel prensa](#); El Nacional. October 27, 2013. [El Papel Literario pasa a formato digital.](#)

⁸³⁰ Instituto Prensa y Sociedad (IPYS). October 30, 2013. [Barinas: Por falta de papel dejó de circular diario local.](#)

⁸³¹ Instituto Prensa y Sociedad (IPYS). September 13, 2013. [Conatel incauta equipos y saca del aire a tres emisoras en el estado Amazonas.](#)

⁸³² Reportero 24. September 14, 2013. [AMAZONAS: Gobierno la cierra emisora de radio por llamar “a la rebelión”](#); La Patilla/EFE. September 13, 2013. [Gobierno cierra emisora Voz del Orinoco por “llamar a la rebelión”.](#)

⁸³³ Instituto Prensa y Sociedad (IPYS). September 13, 2013. [Conatel incauta equipos y saca del aire a tres emisoras en el estado Amazonas](#); Espacio Público. September 30, 2013. [Cierran y confiscan equipos de tres emisoras en el estado Amazonas.](#)

⁸³⁴ Espacio Público. September 30, 2013. [Cierran y confiscan equipos de tres emisoras en el estado Amazonas](#); La Patilla/EFE. September 13, 2013. [Gobierno cierra emisora Voz del Orinoco por “llamar a la rebelión”.](#)

placement of official advertising and government loans, the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.”

9. Internet and freedom of expression

626. The online newspaper *Diario de Cuba* informed on its website that since January 14, the users of CANTV, a State telecommunications company of Venezuela, were having difficulties accessing it. Customers of other private Internet providers also warned the publication about problems of accessing it.⁸³⁵

627. Starting on March 10, the web portal *Radionexx*, an internet radio station based in Miami, USA, lost access to the Venezuelan users of the CANTV Internet service, the State phone company and main provider of internet services of the country.⁸³⁶

628. On April 14, there was a nationwide momentary interruption of Broadband Internet Access (BIA), which is provided by the State telecommunications company CANTV, the main provider of the country. Furthermore, starting on that date, access from abroad was blocked to the webpage of the National Electoral Council (CNE), the country’s main electoral body. The Vice-President of the Republic and Minister of Science and Technology, Jorge Arreaza, explained that the measures were taken to protect the webpage of the National Electoral Council immediately after receiving threats of hackers from abroad: “A group of hackers from abroad announces a possible hack of the CNE webpage. The coordination with the CNE is immediately taking place, and to protect the webpage, it is decided to prevent the access from abroad; while national access remains. Any Venezuelan may have access to the CNE webpage after the issuance of the bulletin, and will have access to the electoral results.”⁸³⁷

10. Other relevant situations

629. On January 6, employees presumed to be part of the National Bolivarian Intelligence Service [*Servicio Nacional de Inteligencia Bolivariano*] (Sebin) burst into a house and confiscated the computers of a citizen accused of publishing information on the health of the President on Twitter.⁸³⁸

⁸³⁵ Espacio Público. January 22, 2013. [Imposibilitado acceso a página web del Diario de Cuba](#); Inter American Press Association (IAPA). January 25, 2013. [La SIP considera como acto censura bloqueo a periódico digital en Venezuela](#).

⁸³⁶ Instituto Prensa y Sociedad (IPYS). March 10, 2013. [Venezuela: Bloquearon acceso a portal de estación de radio por Internet](#).

⁸³⁷ Luigino Bracci Roa/YouTube. April 14, 2013. [Jorge Arreaza: suspensión momentánea de Internet se hizo para proteger de hackers a web del CNE](#); Instituto Prensa y Sociedad (IPYS). April 14, 2013. [Gobierno nacional interrumpió temporalmente servicio de internet y bloqueó acceso desde el exterior a página web del Consejo Nacional Electoral](#); La Verdad. April 14, 2013. [Gobierno tumba internet ante ataques de hackers](#).

⁸³⁸ Clases de Periodismo. January 9, 2013. [Allanan casa de tuitero que difundió rumor sobre la salud de Chávez](#); Inteldig. January 9, 2013. [En Venezuela allanan casa de usuario que difunde rumores vía Twitter sobre salud de Chávez](#); Noticias 24. January 9, 2013. [Entrevistan a tuitero al que le allanaron la casa: “Estoy en el proceso de solicitar asilo político en los EE UU”](#).

630. The Inter-American Commission became aware of the decision of the National Electoral Council of April 5, 2013, to file an administrative inquiry procedure on electoral propaganda against the organization A.C. Ciudadanía Activa.⁸³⁹ The inquiry was about the dissemination, on April 4, of a message entitled “Vote as You Please” [*Vota Como Quieras*], promoting voting during the presidential elections scheduled for April 14.⁸⁴⁰ The investigation aimed at determining “those potentially responsible for the unlawful administrative act pursuant to Article 75, item 6⁸⁴¹ of the Organic Act of Electoral Processes, and Article 204 item 6⁸⁴² of the General Regulation of the Organic Act of Electoral Processes, regarding the prohibition of electoral advertising contracted or undertaken by private individuals or juridical entities, other than the advertising authorized by the candidates [...]” Within the context of the administrative procedure, the National Electoral Council prescribed a preventive measure to suspend the dissemination of the message in the social media while the administrative inquiry was being solved. According to the letter of notification sent on April 5 to *Globovisión*, the preventive measure was prescribed pursuant to Article 90 of the Organic Act⁸⁴³ and to Article 227 of its Regulations,⁸⁴⁴ and orders “the express prohibition of its subsequent dissemination in any other media outlets, while the present Administrative Inquiry is being definitively resolved.”⁸⁴⁵ For its part, the organization Ciudadanía Activa indicated that the institutional messages comply with the Organic Act of

⁸³⁹ Consejo Nacional Electoral. April 5, 2013. [CNE aprobó averiguaciones administrativas por violación a normativa electoral](#); IACHR. Office of the Special Rapporteur for Freedom of Expression. April 10, 2013. Carta a la República Bolivariana de Venezuela: Solicitud de información acerca del procedimiento de averiguación administrativa contra Ciudadanía Activa.

⁸⁴⁰ Ciudadanía Activa. April 4, 2013. [Vota Como Quieras](#); Ciudadanía Activa. April 4, 2013. [Tu voto es tu Secreto. Vota como quieras](#).

⁸⁴¹ Consejo Nacional Electoral. [Ley Orgánica de Procesos Electorales](#) [“Organic Act of Electoral Processes”]. “Article 75. Electoral advertising will not be allowed that: [...] 6. Is contracted or undertaken by private individuals or legal entities other than those authorized by the candidates”

⁸⁴² Consejo Nacional Electoral. [Reglamento General de la Ley Orgánica de Procesos Electorales](#) [“General Regulation of the Organic Act of Electoral Processes”]. “Article 204. Electoral propaganda is not allowed that: [...] 6. Is contract or undertaken by private individuals or legal entities other than those authorized in conformity with the present Regulation.”

⁸⁴³ Consejo Nacional Electoral. [Ley Orgánica de Procesos Electorales](#) [“Organic Act of Electoral Processes”]. “Article 90: The National Electoral Council, in the course of the administrative procedure, including its initial act, in the fulfillment of its functions or at the request of a party, may prescribe the following preventive measure: Order the media outlet, in accordance with the case, to suspend or immediately withdraw electoral advertising that violates the obligations established by this Act.

Once the preventive measure is agreed on, the alleged violator and other parties involved in the procedure that may be directly affected by the measures, may oppose them orally or in writing within five working days after the date of its notification. In the case of an appeal, a period of five working days will be granted for bringing any elements they consider pertinent for their defense, along with a period of five working days for presenting the proofs. After this period, the decision will be reached through a well founded decision within the next five working days.”

⁸⁴⁴ Consejo Nacional Electoral. [Reglamento General de la Ley Orgánica de Procesos Electorales](#) [“General Regulation of the Organic Act of Electoral Processes”]. “Article 227. The National Electoral Council, in the course of an administrative procedure, including its initial act, in the fulfillment of its functions or under the request of a party, may agree, among other preventive measures, to suspend or withdraw electoral advertising from social media outlets that would presumably violate the obligations established by the Law.

The Commission of Political Participation and Funding may order the suspension or withdrawal of electoral advertising that presumably violates the obligations established by this Regulation, when they are regional social media outlets.”

⁸⁴⁵ Comunicación de Xavier Antonio Moreno Reyes, Secretario General del Poder Electoral, dirigida a María Fernanda Flores, Vicepresidenta de la Corporación GV Inversiones, C.A. (*Globovisión*). Oficio No. SG/64368/2013. April 5, 2013. [Globovisión. April 5, 2013. CNE notifica a Globovisión de averiguación administrativa](#).

Electoral Processes inasmuch as they “promote participation and reinforce in the citizens their right to the full exercise of voting without any fear that might encroach upon their free elections.” They do not call for voting on any particular candidate. The organization announced its intention to present an appeal of constitutional protection and an interim protective measure to the Supreme Court of Justice.⁸⁴⁶ On April 10, 2013, the Special Rapporteur’s Office sent a letter to the Government of Venezuela, in conformity with article 41 of the American Convention on Human Rights, requesting information on the procedure of administrative inquiry filed against the organization Ciudadanía Activa. On April 19, the Special Rapporteur’s Office accepted a request of deadline extension from the Government of Venezuela for answering its initial request.

631. In its observations on this Report, sent to the IACHR in a communication dated December 20, 2013, the State of Venezuela indicated that the Commission “engages in generalization” and “from 1998 to the present has not been able to demonstrate that there exists even a single case of violation of freedom of expression before the Inter-American Court of Human Rights”. According to the State, “the demonstration that there in fact exists full freedom of expression in Venezuela is that no newspaper has been closed or censored, not even during the days of the *coup* of April 11, 2002, and not one single journalist has been detained for having exercised his or her right. Such freedom of expression exists in Venezuela that the complaints that the Commission receives are all based on reports that have appeared in the Venezuelan press.”⁸⁴⁷

D. Guarantees for judicial independence, due process of law, and effective access to justice

632. The Commission has been monitoring the situation of independence and impartiality of the Judicial branch in Venezuela. Accordingly, since its 2009 report *Democracy and Human Rights in Venezuela* and in its subsequent Annual Reports, the IACHR has expressed concern over aspects that affect those guarantees, in particular the high percentages of provisional judges and prosecutors and the alleged breach of some of the statutory and constitutional procedures governing their designation and removal. In particular, in its 2012 Annual Report the IACHR noted that of a total of 2,002 2002 courts, with 2,950 judges, only 775 were tenured judges⁸⁴⁸ and the remaining judges were temporary, interim, or special alternates, and ; the largest number are provisional judges.⁸⁴⁹

633. Both the IACHR and the Inter-American Court have ruled in contentious cases on the effects of the lack of guarantees on the transition in the Judicial branch in Venezuela, that began with the adoption of the 1999 Constitution.⁸⁵⁰ The Court and the Commission have analyzed how the

⁸⁴⁶ Ciudadanía Activa. April 6, 2013. [Pronunciamiento de Ciudadanía Activa sobre Prohibición del Consejo Nacional Electoral del Micro Vota Como Quieras.](#)

⁸⁴⁷ Observations of the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to the year 2013 (AGEV/000374) of December 20, 2013, pages 76-77.

⁸⁴⁸ According to the information provided by the State, as of 2012 43% of Venezuelan judges had full appointments. Observations by the Venezuelan State on the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to 2012 (AGEV/000039) of February 22, 2013.

⁸⁴⁹ IACHR, 2012 Annual Report. Chapter IV on Venezuela, para. 476.

⁸⁵⁰ In the process of constitutional transition that led to the adoption of the 1999 Constitution, the National Constituent Assembly undertook a “reorganization of the Judicial Branch” in the context of which the “Decree Reorganizing all organs of Government Authority” was enacted, on August 12, 1999. The Constituent Assembly also declared the Judicial branch

transition process resulted in a large percentage of judges being provisional and subjected to procedures to remove them from their positions that were incompatible with the American Convention.⁸⁵¹ In the *Reverón Trujillo* case, the Inter-American Court found that Venezuelan provisional judges “... do not have stability in their position, they are appointed discretionally and may be removed without being subject to any previously established proceeding....”⁸⁵²

634. The Court has also held that the appointment of provisional judges should be exceptional and that “the extension of the term of the provisional nature of judges or the fact that a majority of the judges be in that situation, generates important obstacles to their judicial independence.” Moreover, according to the Court, “...Such vulnerable situation of the Judiciary is compounded if no removal-from-office procedures respectful of the international duties of the States are in place either.”⁸⁵³ Similarly, the IACHR has held that “the appointment of temporary judges without a term or condition for their appointment must in itself be considered inconsistent with a State’s international obligations in the area of judicial independence....”⁸⁵⁴

635. In that framework, the Court has found that the transitional regime of the Judicial branch in Venezuela has extended beyond the time initially provided for in the 1999 Constitution, which was from one year after the establishment of the National Assembly⁸⁵⁵, and “the application in ... practice of that regimen has proven ineffective to fulfill the proposed objective” [i.e. that the best judges make up the Judicial branch].⁸⁵⁶ The IACHR has held that in that transitional context, the Judicial Commission of the Supreme Court⁸⁵⁷ has been ordering the removal of hundreds of judges for over a

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to be “in a state of emergency and reorganization.” That Decree provided that “all judicial posts were to be filled through an open competitive selection process. It eliminated the tenure theretofore guaranteed by law to all sitting judges, and stipulated that judges could participate in the competitions held to fill their posts....” See: Application of the IACHR to the Inter-American Court of Human Rights, Case of Mercedes Chocrón Chocrón, November 25, 2009, paras. 31-32.

⁸⁵¹ Specifically, the Commission has filed applications against the Venezuelan State before the Inter-American Court of Human Rights, in three cases related to the removal of judicial officials whose status was provisional and/or temporary. See: Application of the IACHR before the Inter-American Court of Human Rights, Case of Ana María Ruggeri Cova, Perkins Rocha Contreras, and Juan Carlos Apitz (“First Court of Administrative Disputes”), November 29, 2006; Application of the IACHR before the Inter-American Court of Human Rights, Case of María Cristina Reverón Trujillo, November 9, 2007; and Application of the IACHR before the Inter-American Court of Human Rights, Case of Mercedes Chocrón Chocrón, November 25, 2009.

⁸⁵² I/A Court H.R., *Case of Reverón Trujillo v. Venezuela*, Preliminary Objections, Merits and Reparations, Judgment of June 30, 2009. Series C, No. 197, para. 106.

⁸⁵³ I/A Court H.R., *Case of Apitz Barbera et al.* (“First Court of Administrative Disputes”). Preliminary Objection, Merits, Reparations and Costs. Judgment of August 5, 2008. Series C No. 182, para. 43; see also I/A Court H.R., *Case of Reverón Trujillo v. Venezuela*, Preliminary Objection, Merits and Reparations, Judgment of June 30, 2009. Series C, No. 197, para. 118.

⁸⁵⁴ Application of the IACHR to the Inter-American Court of Human Rights, Case of Mercedes Chocrón Chocrón, November 25, 2009, para. 78.

⁸⁵⁵ According to the Fourth transitory provision, section 5, of the Constitution of the Bolivarian Republic of Venezuela. See: I/A Court H.R., *Case Apitz Barbera et al.* (“First Court of Administrative Disputes”). Preliminary Objection, Merits, Reparations and Costs. Judgment of August 5, 2008. Series C No. 182, para. 146; and I/A Court H.R., *Case of Reverón Trujillo v. Venezuela*, Preliminary Objection, Merits and Reparations, Judgment of June 30, 2009. Series C, No. 197, para. 99.

⁸⁵⁶ I/A Court H.R., *Case of Reverón Trujillo v. Venezuela*, Preliminary Objection, Merits and Reparations, Judgment of June 30, 2009. Series C, No. 197, para. 119.

⁸⁵⁷ The Supreme Court *en banc*, in the exercise of the powers conferred on it by Article 267 of the Venezuelan Constitution, issued the Regulation on the Direction, Governance, and Administration of the Judicial Branch (published in the official gazette Gaceta Oficial de la República Bolivariana de Venezuela No. 37,014 of August 15, 2000), which created both the

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decade, a power that it has exercised discretionally and without the minimum guarantees required by the Convention.⁸⁵⁸

636. The Office of the United Nations Special Rapporteur on the independence of judges and lawyers has reiterated its concern over the high number of judges and prosecutors who are provisional, considering that they are “subject to various mechanisms of political interference that affect their independence,” in particular bearing in mind that their removal is “absolutely discretionary: without cause, or procedure, or an effective judicial remedy.”⁸⁵⁹ In the context of the universal periodic review, the Working Group of the United Nations Human Rights Council on Venezuela recommended that the State adopt the measures necessary to ensure the independence of the judiciary, in particular as regards the establishment of clear and transparent procedures for the appointment of judges and prosecutors, and “bringing to an end the provisional nature of judicial appointments.”⁸⁶⁰ These recommendations were rejected by the Venezuelan State.⁸⁶¹

637. The Special Rapporteur for the independence of judges and lawyers has criticized the fact that one of the decisions of the Inter-American Court on this issue, and in which it was determined that provisional judges “should enjoy levels of stability,” has been declared unenforceable by Venezuela.⁸⁶² Similarly, the Commission has expressed concern over the decision of December 18, 2008⁸⁶³, of the Constitutional Chamber of the Supreme Court, by which it found “unenforceable the

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Office of Executive Director of the Judiciary and an auxiliary body, the Judicial Commission. The Judicial Commission of the Supreme Court is in charge of appointing judges designated on a provisional or temporary basis in order to cover the gaps that occur in the Judicial branch, and of removing them, when no disciplinary ground applies, without any procedure whatsoever or due process.

⁸⁵⁸ Final written observations of the IACHR before the Inter-American Court in the case of Mercedes Chocrón Chocrón v. Venezuela, March 24, 2011, para. 9.

⁸⁵⁹ OHCHR, [“Preocupante la situación de la justicia en Venezuela”, advierte experto de la ONU](#), July 30, 2009.

⁸⁶⁰ Recommendations 96.14-96.20. Report of the Working Group on the Universal Periodic Review, [Venezuela \(República Bolivariana de\)](#), December 7, 2011.

⁸⁶¹ The State indicated in this regard that “8. The non-acceptance of recommendations 96.13-96.14-96.15-96.16-96.17-96.18-96.19-96.20-96.21-96.22-96.24 is based on considerations that go to the meddling into our sovereignty, autonomy, independence, and national self-determination – irrenounceable rights of the Venezuelan State, but moreover, our Judicial Branch acts in many important judicial decisions that point to application of “just law” (“*derecho justo*”) in its notable and major advances....” Report of the Working Group on the Universal Periodic Review, Venezuela (Bolivarian Republic of), [Opiniones sobre las conclusiones y/o recomendaciones, compromisos voluntarios y respuestas presentadas por el Estado examinado](#), February 16, 2012.

⁸⁶² OHCHR, [“Preocupante la situación de la justicia en Venezuela”, advierte experto de la ONU](#), July 30, 2009.

⁸⁶³ Supreme Court, Constitutional Chamber, Judgment No. 1939 ([Sentencia No. 1939](#)), Case No. 08-1572, December 18, 2008. The decision establishes that the enforcement of the judgment of the I/A Court H.R. “would have a detrimental impact on principles and values essential to the constitutional order of the Bolivarian Republic of Venezuela and could lead to institutional chaos in the justice system, on seeking to modify the autonomy of the Judicial branch, provided for in the Constitution, and the disciplinary system established legislatively, as well as to call for the reinstatement of the two ex-judges of the First Court of Administrative Disputes for the alleged partiality of the Commission on the Operation and Reorganization of the Judicial Branch, when it has acted for several years in thousands of cases, seeking to vet the Judicial branch in the context of the judges’ disciplinary activity....”

judgment of the Inter-American Court of Human Rights in the case of Apitz Barbera et al. (“First Court of Administrative Disputes”) v. Venezuela,” of August 5, 2008.⁸⁶⁴

638. As indicated in the report *Democracy and Human Rights in Venezuela* of 2009⁸⁶⁵, and in its subsequent annual reports, the Commission has monitored the appointment of provisional, temporary, and accidental judges and has observed with special concern how most of those appointments are made under emergency provisions that have tended to become permanent.⁸⁶⁶

639. First, the IACHR continued to receive and gather information on appointments and removals of judges, prosecutors, and members of the Supreme Court during 2012 and 2013. In this respect, the information available indicates that in 2012 the Judicial Commission of the Supreme Court⁸⁶⁷ removed 133 judges, 50% of whom were temporary, and that during that same period 1,396 judges had been designated, 1,032 of whom were temporary.⁸⁶⁸ The information available indicates that for the period under study, the Judicial Commission of the Supreme Court had continued deciding on the removals, without a prior disciplinary proceeding, even though in 2011 the courts of the judicial disciplinary jurisdiction were established.⁸⁶⁹ According to the information published in the media, in March 2013, for example, the Judicial Commission had ordered the removal of seven criminal law judges in a single day.⁸⁷⁰

640. In addition, in 2013, the Commission has learned about designations that the Judicial Commission of the Supreme Court is said to continue to make, most of which have to do with appointments aimed at filling the vacancies that have arisen, for different reasons, in the various courts of Venezuela. The Commission has taken as a reference the information available at the website of the Supreme Court of Justice, and the periodical publications by the Office of the Executive Director of the Judiciary, regarding designations of federal judges.⁸⁷¹ Through a detailed analysis of that information the IACHR observes, for example, that in the period from December 2012 to March 2013, the Judicial

⁸⁶⁴ See: IACHR, Annual Report 2008, Chapter IV on Venezuela, paras. 323-324. In addition, in this decision the Constitutional Chamber asked the Executive to proceed to denounce the American Convention, “given the evident usurpation of functions by the Inter-American Court....” See: Supreme Court, Constitutional Chamber, Judgment No. 1939 ([Sentencia No. 1939](#)), Case No. 08-1572, December 18, 2008.

⁸⁶⁵ See IACHR. *Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter III, paras. 202-205.

⁸⁶⁶ IACHR, 2012 Annual Report, Chapter IV on Venezuela, para. 472.

⁸⁶⁷ Information received at the hearing on General Situation of Human Rights in Venezuela, requested by civil society organizations and held during the 147th Period of Sessions. Also, according to information available, in May 2013, the Plenary Chamber of the Supreme Court appointed the new members of the the Judicial Commission in charge of the president of the Supreme Court, Judge Gladys María Gutiérrez Alvarado. See: TSJ, [Sala Plena designa a los integrantes de las comisiones del TSJ](#), May 27, 2013.

⁸⁶⁸ According to the official information, in March 2012, the President of the Supreme Court swore in 89 new judges on a temporary and provisional basis who were first designated by the Judicial Commission of the Supreme Court. See: TSJ, [Presidenta del TSJ juramentó nuevos jueces y juezas](#), March 8, 2012.

⁸⁶⁹ See: Agencia Venezolana de Noticias, [Publicados en Gaceta Oficial horarios de atención de Jurisdicción Disciplinaria del TSJ](#), September 14, 2011. According to information that is a matter of public knowledge, from October 2011 to April 2012 the Judicial Commission of the Supreme Court removed 38 judges. See: Reportero 24, [JUDICIAL: TSJ ha destituido a 38 jueces al margen del Código de Ética](#), May 17, 2012 (original source: El Nacional).

⁸⁷⁰ See: El Universal, [El Tribunal Supremo removió a siete jueces penales en un solo día](#), March 2, 2013.

⁸⁷¹ Supreme Court. http://www.tsj.gov.ve/designaciones/designaciones_lista.asp

Commission had decided on the designations of approximately 614 judges, 74 of whom were designated provisional judges, for reasons of transfer, substitution, and/or the creation of new courts; 438 temporary judges, for reasons of substitution, mostly to cover as alternates for other judicial officials; 100 accidental judges, to hear specific cases; and two designations of itinerant judges.

641. In this reference sample, the IACHR notes that none of the appointments is to full judge. Nonetheless, in at least three of the cases reported the Judicial Commission was reported to have decided: (i) the designation of temporary judges to replace full judges who had been suspended “without salary”; (ii) the change in status from temporary judge to provisional judge and the designation of judges with that status in place of a full judge when a vacancy occurs due to death; and (iii) the change in status from temporary judge to provisional judge for the time one has held the position in that status and without “there being any impediment” to making him or her provisional. The information available indicates that for the rest of 2013, this trend in the designation of judges and their status did not change substantially.

642. As the Commission previously observed, the failure to follow the procedures prescribed in the Constitution and the law for judicial appointments and the vacuum in the law as regards the categories of judges exposes these officials to possible undue pressure in the exercise of the important function they perform and thus pose a serious threat to the independence of Venezuela’s judiciary.⁸⁷² The Commission has also identified another issue that undermines judicial independence: the mechanism whereby judges’ appointments can be revoked. A significant number of judges have been removed from the bench by that method, which means that the terms of the Constitution and the corresponding administrative proceedings have not been observed.⁸⁷³

643. Moreover, the available information indicates that as of December 2012 and in the first months of 2013, the installation of the municipal criminal courts was to have begun, with the entry into force of the reform of the Organic Code of Criminal Procedure⁸⁷⁴. According to the information provided at the time by the President of the Supreme Court, on January 1, 2013, 79 municipal criminal law judges would be appointed, and the civil servants to be designated would be graduates of the Universidad Bolivariana de Venezuela. Also, there was a group of approximately 400 attorneys who had been trained through the “Judicial Management program” (“*programa de Gestión Judicial*”) and they were considered to be “prepared to hold any position in the Judicial branch.” In this sense, the first appointments were

⁸⁷² IACHR, *Annual Report 2007*. Chapter IV. Venezuela, paragraph 281; *Annual Report 2008*. Chapter IV. Venezuela, para. 393.

⁸⁷³ IACHR, *Report on Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter III, para. 269.

⁸⁷⁴ See: Supreme Court, [TSJ participa en aniversario de la “Municipalización de la Justicia”](#), July 17, 2013. In this respect, the reform provides for the application of a “procedure for prosecuting the less serious offenses,” jurisdiction over which is given to the municipal judges. Articles 354-371. Law on the partial reform of the Organic Law on Criminal Procedure. [Decree No. 9042 Published in Extraordinary Official Gazette \(Gaceta Oficial Extraordinaria\) No. 6078](#), of June 15, 2012. On the effective enforcement of this Law, approved via Enabling Law, on its 2012 Annual Report, the Commission reiterated that , both the constitutional provision and the delegating law have failed to set the limits necessary to serve as a real check on the executive branch’s legislative authority and there is no mechanism to enable a genuine system of checks and balances to operate among the three branches of government and thereby ensure that human rights are respected and enforced . IACHR, 2012 Annual Report. Chapter IV. Venezuela, para. 508.

made during December, 2012, as provisional and “only after two years of holding their positions they [would have to] undergo a competitive hiring process.”⁸⁷⁵

644. In that context, the Commission notes that according to the rulings handed down by the Supreme Court of Justice in 2013, the Judicial Branch “has been redistributing judicial authority and cases with the aim of achieving a more expeditious justice system,” based on Articles 26 and 269 of the Constitution of the Bolivarian Republic of Venezuela⁸⁷⁶, and to carry out, among other things, the provisions of the Organic Code of Criminal Procedure.⁸⁷⁷ In that regard, the Commission has analyzed the information on the creation of new courts pursuant to the resolutions handed down by the Supreme Court of Justice throughout 2013, with the establishment of at least 21 new courts with different jurisdictions.⁸⁷⁸ According to the information cross-checked with the designations made by the Judicial Commission as indicated *supra*, these new courts have largely been entrusted to provisional judges.

645. As for the prosecutors with the Public Prosecutor’s Office, who are freely appointed and removed, the Commission has consistently pointed out that the provisional status of prosecutors and their resulting lack of job stability could translate into a lack of resolutions and a failure to follow-through and pursue certain lines of investigation in criminal inquiries and to meet deadlines in the investigative phase.⁸⁷⁹

⁸⁷⁵ The information was offered by the President of the Supreme Court in a press conference held in conjunction with the Minister of Interior and Justice in June 2012. See: El Universal, [TSJ: De la Bolivariana saldrán los jueces municipales](#), June 22, 2012. See also: El Nacional, [Nuevos jueces penales municipales son egresados de la Bolivariana](#), January 2, 2013. On the process of selecting municipal judges, the President of the Supreme Court has indicated that “it was done with great rigor and care, since judges are needed who have a clear vision of the Venezuelan reality in relation to the criminal law.” Supreme Court, [Inaugurado Tribunal de Primera Instancia Municipal en funciones de Control en el estado Yaracuy](#), February 22, 2013.

⁸⁷⁶ See for example: Resolution No. 2013-0006, February 20, 2013. Available at: <http://www.tsj.gov.ve/informacion/resoluciones/resoluciones.asp>

⁸⁷⁷ The Third Final Provision of that Code provides: “The creation, organization, and operation of the Municipal Courts of First Instance in Oversight Functions shall be established by resolution for that purpose that will be issued by the Plenary Chamber of the Supreme Court, within six months following the publication of this Code in the Gaceta Oficial of the Republic.”

⁸⁷⁸ Creation of the First Municipal Court of First Instance in Oversight Functions of the Criminal Judicial Circuit of the state of Yaracuy, as per Resolution No. 2013-0003, of January 30, 2013; creation of eight (8) Courts of First Instance for the Protection of Children and Adolescents with exclusive jurisdiction over Enforcement, as per Resolution No. 2013-0007, of February 20, 2013; creation of two (2) Courts of First Instance for the Protection of Children and Adolescents of the Judicial District of the state of Zulia, as per Resolution No. 2013-0008, February 20, 2013; creation of three (3) Courts of First Instance for Protection of Children and Adolescents of the Judicial District of the states of Bolívar, Sucre, and Zulia, as per Resolution No. 2013-0009, of February 20, 2013; creation of one (1) Superior Court for Civil, Commercial, Transit and Banking Matters with jurisdiction over that subject matter in the state of Amazonas, as per Resolution No. 2013-0013, May 22, 2013; creation of one (1) Superior Court for Civil, Commercial, Transit and Banking Matters, with jurisdiction over that subject matter in the state of Barinas, as per Resolution No. 2013-0014, May 22, 2013; creation of one (1) Superior State Court of the Contentious-Administrative Jurisdiction in the State of Mérida, as per Resolution No. 2013-0019, July 3, 2013; creation of the Twelfth and Thirteenth Municipal Courts of First Instance in Oversight Functions of the Criminal Judicial Circuit of the Metropolitan Area of Caracas, as per Resolution No. 2013-0020, July 3, 2013; creation of the First and Second Municipal Courts of First Instance in Oversight Functions of the Criminal Judicial Circuit of the state of Lara, as per Resolution No. 2013-0024 of November 6, 2013. All the resolutions are available at: <http://www.tsj.gov.ve/informacion/resoluciones/resoluciones.asp>

⁸⁷⁹ IACHR. *Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter III, para. 265.

646. According to the information available at the website of the Public Ministry of Venezuela⁸⁸⁰, the Commission has made an analysis of the total number of prosecutors and the positions they are said to hold in 2013.⁸⁸¹

647. In this respect, of a total of 77 prosecutorial offices with national jurisdiction, each one would be made up of at least one provisional prosecutor and one or more auxiliary prosecutors. Thus, of 219 prosecutors assigned to these offices, 85 are reportedly provisional. Each of the Offices of the Prosecutor before the Plenary Chamber, Chamber of Cassation, and Constitutional Chamber of the Supreme Court of Justice are said to be made up of five prosecutors, all provisional; the Offices of the Prosecutor before the Plenary Chamber and Constitutional, Political-Administrative, and Electoral Chambers of the Supreme Court of Justice are reportedly made up of two provisional prosecutors; and the Offices of the Prosecutors before the Contentious-Administrative Courts would be made up of two provisional prosecutors. In addition, the Commission observes that the Offices of the Municipal Prosecutors⁸⁸² would be assigned a total of 49 prosecutors, 15 provisional and the rest auxiliary. As regards the offices of state prosecutors⁸⁸³, of 1,803 prosecutors assigned, 656 are said to be provisional, and the rest auxiliary. As regards the Offices of Appellate Prosecutors⁸⁸⁴, of a total of 84 prosecutors assigned, one prosecutor would be provisional, 53 auxiliary, 23 would occupy the position of Appellate Prosecutor, and nine the position of auxiliary superior prosecutor for investigation. Finally, the Offices of the Prosecutors before the Chambers for Flagrant Acts are said to be made up of a total of 53 prosecutors, two provisional and the rest auxiliary.

648. In light of the above, the Commission reiterates that the provisional status of judges and prosecutors in Venezuela have negative consequences for victims' rights in criminal proceedings involving human rights violations.⁸⁸⁵ The Commission also reiterates that the stability of the officers of the court is one of the essential guarantees of due process of law protected under the Convention and the American Declaration. Thus, in accordance with the United Nations Basic Principles on the Independence of the Judiciary, all procedures for the adoption of disciplinary measures, suspension or removal shall be determined in accordance with established standards of judicial conduct.⁸⁸⁶

⁸⁸⁰ See: <http://act2.mp.gob.ve/>

⁸⁸¹ According to information received in the hearing on human rights in Venezuela held during the 147th period of sessions and requested by civil society organizations, in 2012 a total of 519 prosecutors were appointed, 517 of whom were temporary, with only two full judges named as a result of the "First Public Competitive Selection Process for Entry to the Prosecutorial Career Service."

⁸⁸² Corresponding to the Caracas Metropolitan Area and the states of Apure, Aragua, Bolívar, Carabobo, Falcón, Guárico, Lara, Miranda, Nueva Esparta, and Yaracuy.

⁸⁸³ Corresponding to the Caracas Metropolitan Area and the states of Amazonas, Anzoátegui, Apure, Barinas, Bolívar, Carabobo, Cojedes, Delta Amacuro, Falcón, Guárico, Lara, Mérida, Miranda, Monagas, Nueva Esparta, Portuguesa, Sucre, Táchira, Trujillo, Vargas, Yaracuy, and Zulia.

⁸⁸⁴ Corresponding to the Caracas Metropolitan Area and the states of Amazonas, Anzoátegui, Apure, Aragua, Barinas, Bolívar, Carabobo, Cojedes, Delta Amacuro, Falcón, Guárico, Lara, Mérida, Miranda, Monagas, Nueva Esparta, Portuguesa, Sucre, Táchira, Trujillo, Vargas, Yaracuy, and Zulia.

⁸⁸⁵ IACHR. *Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter III, para. 265, and IACHR. *2006 Annual Report*. Chapter IV: Human Rights Developments in the Region. Venezuela, para. 167.

⁸⁸⁶ Cf. Principles 18 and 19 of the United Nations Basic Principles on the Independence of the Judiciary, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan from August 26 to September 6, 1985, and endorsed by General Assembly resolutions 40/32 of November 29, 1985, and 40/146 of December 13, 1985.

Appointment of Judges to the Supreme Court of Justice

649. In its 2010 Annual Report the Commission followed up on the information regarding the designation of judges to the Supreme Court of Justice.⁸⁸⁷ In this respect, the Commission notes that according to Article 264 of the Venezuelan Constitution, the members of the Supreme Court are elected for “a single 12-year term.”⁸⁸⁸ Article 42 of the Organic Law of the Supreme Court – in force since 2010 – provides that judges must continue to perform their duties “until such time” as their replacement is in order.⁸⁸⁹ In addition, Article 47 of the same Law provides that in the case of “absolute absence” (*falta absoluta*), the National Assembly should proceed to designate, for a new 12-year term, and until such time as that proceeding has taken place, the absence should be filled “temporarily” by the corresponding alternate.⁸⁹⁰ According to the information available, on December 27, 2012, the terms of seven of the 32 members of the Supreme Court were lapsing.⁸⁹¹

650. By decision of December 6, 2012, the Constitutional Chamber of the Supreme Court ruled on a petition for it to issue a pronouncement on the “possible existence of antinomy between the content of Article 42 of the Organic Law of the Supreme Court of Justice and what is provided for in Article 47 *eiusdem*.”⁸⁹² In this respect, the Constitutional Chamber held that “the period contained in [Article 264 of the Constitution] may not be extended, and therefore once it has run, there is an absolute absence of the position of Judge,” accordingly one must apply Article 47 of the Organic Law of the Supreme Court. The Chamber also ruled, by means of its diffuse review function, that Article 10 of the 2004 Law on the Supreme Court does not apply to those judges designated under that Constitution to fill the absolute absences before the culmination of the 12-year period.⁸⁹³ In that regard, it indicated

⁸⁸⁷ IACHR, 2010 Annual Report, Chapter IV on Venezuela, paras. 633-635.

⁸⁸⁸ That article also establishes that nominations may be made to the Committee on Judicial Nominations, which shall make a pre-selection to be submitted to the Citizen Power, which makes a second pre-selection that is then submitted to the National Assembly, which makes the final selection. Article 264. [Constitution of the Bolivar Republic of Venezuela](#).

⁸⁸⁹ Published in [Gaceta Oficial No. 379,869](#), of October 1, 2010.

⁸⁹⁰ The *Alternates (Suplentes)* and the *Associate Judges (Conjueces)* are in charge of stepping in to cover the absolute, temporary, or accidental absences of judges. The Alternates are elected on the same occasion as the Members in the National Assembly, in like number, and must have the same qualifications. The Associate Judges are designated annually in each Chamber, within the first five (5) hearings following the election of the President of the Court and its First and Second Vice Presidents. Institutional information available at the website of the Supreme Court ([Tribunal Supremo de Justicia](#)).

⁸⁹¹ On December 27, 2000, seven members took office for the 2000-2012 period. See: Supreme Court, [Realizado acto de juramentación de los miembros del Tribunal Supremo de Justicia](#), December 27, 2000. The Plenary of the Supreme Court is constituted by six chambers (Constitutional, Political-Administrative, Electoral, Civil Cassation, Social Cassation, and Criminal Cassation). Each of them is made up of five members of the Court, with the exception of the Constitutional Chamber, which has seven members. Institutional information available at the website of the Supreme Court ([Tribunal Supremo de Justicia](#)).

⁸⁹² According to the petition submitted by Judge Carlos Alfredo Oberto Vélez, on October 26, 2012, he indicated that while he had been informed that he met the requirements for obtaining the benefit of retirement and that his term was about to expire, he considered he should remain in the position until such time as his replacement was designated by the National Assembly, and that his right to retirement should be effective as of that date, in keeping with the provisions of Article 42 of the Organic Law of the Supreme Court. See: Constitutional Chamber, Judgment 1701, Case No. 12-1259 ([Sentencia No. 1701, Expediente No. 12-1259](#)), December 6, 2012.

⁸⁹³ In this respect, the judgment of December 6, 2012, indicates: “... the Organic Law of the Supreme Court of Justice of 2004 provided, in relation to the constitutional term in case of an absolute absence, that the principal member designated would occupy ‘the position for the time remaining so as to complete the term of twelve (12) years’ when that absence is not the result of completing the period (death, resignation, removal, early retirement) (Article 10). This provision was clearly at

Continues...

that those judges had to continue performing their duties for the time established by Article 264 of the Constitution.⁸⁹⁴

651. In application of that judicial decision, on December 27, 2012, seven judges of the Supreme Court had been forced to abandon their positions and four of the six chambers that constitute the Supreme Court were incomplete, waiting to be filled by the alternate members.⁸⁹⁵ In May 2013, the Supreme Court *en banc* designated its new officers (*Directiva*).⁸⁹⁶ That same month, according to the information available, the National Assembly had not begun the process of selecting the new members.⁸⁹⁷

Liability regime for judges and prosecutors

652. The IACHR has issued statements in its annual reports for 2010, 2011, and 2012 highlighting the need, along with guarantees of stability, for the removal of officials to take place by means of a fair and adequate process. In that regard, the Commission has expressed concern over the provisions of the Code of Ethics for Venezuelan Judges (Código de Ética del Juez Venezolano y la Jueza Venezolana), approved in June 2009 and amended in August 2010, according to which during a disciplinary investigation, “if advisable for its purposes,” the Judicial Disciplinary Tribunal (Tribunal Disciplinario Judicial) hearing the matter “may decree, on a precautionary basis, the provisional suspension of the judge from the performance of his or her duties...”⁸⁹⁸ The IACHR has considered that this language could give rise to possible discretion and lead to a lack of juridical security in the proceedings before the disciplinary jurisdiction.⁸⁹⁹

653. In this regard, on May 7, 2013, the Constitutional Chamber of the Supreme Court ruled on a motion for annulment filed in 2009 against the Code of Ethics.⁹⁰⁰ By that decision the Chamber declared the action admissible, and denied the measures requested in the initial complaint to “suspend the application *in totum*” of the Code of Ethics.⁹⁰¹ Nonetheless, the Chamber made use of its “quasi-

...continuation

odds with Article 264 of the Constitution, which is the subject of this consultation.” Constitutional Chamber, Judgment No. 1701, Case No. 12-1259 ([Sentencia No. 1701, Expediente No. 12-1259](#)), December 6, 2012

⁸⁹⁴ Supreme Court. Constitutional Chamber, Judgment No. 1701, Case No. 12-1259 ([Sentencia No. 1701, Expediente No. 12-1259](#)), December 6, 2012.

⁸⁹⁵ The Criminal Chamber, Civil Chamber, Social Chamber, and Political-Administrative Chamber were all incomplete. See: El Nacional, [7 magistrados dejarán hoy sus despachos aunque no tienen a quién entregar sus cargos](#), December 27, 2012.

⁸⁹⁶ El Nacional, [Gutiérrez fue escogida presidenta del TSJ en una votación ajustada](#), May 8, 2013.

⁸⁹⁷ See: Últimas Noticias, [Selección de magistrados lleva cuatro meses de atraso](#), May 10, 2013.

⁸⁹⁸ Article 61, amended by the Law on Partial Reform of the Code of Ethics of Venezuelan Judges, published in [Gaceta Oficial No. 39,493](#), August 23, 2010.

⁸⁹⁹ IACHR. 2010 Annual Report. Chapter IV. Venezuela, para. 626.

⁹⁰⁰ The action was filed on September 16, 2009, together with a request for an unnamed precautionary measure, seeking the total annulment of the Code and, subsidiarily, the annulment of Articles 29, 34, 40, 51, 53, 54, 55, 57, 58, 60, 61, 62, 73, 75, 78, 81, and 85 of that Code, and of its transitory and derogatory provisions.

⁹⁰¹ Supreme Court. Constitutional Chamber, Judgment No. 516, Case No. 09-1038 ([Sentencia No. 516, Expediente No. 09-1038](#)), May 7, 2013. On suspension *in totum*, the Chamber considered that granting the “precautionary suspension” of the entire Code “would constitute an anticipated decision for the purpose of the annulment, which would go far beyond the precautionary purpose of such requests.”

official precautionary power”⁹⁰² and decreed a series of unnamed precautionary measures with respect to three aspects of the Code of Ethics.

654. The first of these was the precautionary suspension of the only section of Article 1 of the Code of Ethics (which establishes that the provisions of the Code shall be applicable to the members of the Supreme Court “insofar as they are not at odds with the provisions of the Constitution”). In this respect, the Chamber considered that the Code of Ethics provides a “residual condition” that “gives rise to a suspicion of contradiction” with the provisions of the Constitution on the basis of which it was ordered it be suspended.⁹⁰³

655. The second aspect refers to an omission allegedly by the legislator with respect to the definition of Inspector General of Courts⁹⁰⁴, within the “disciplinary judicial structure as well as the role that official should play in the disciplinary proceeding.”⁹⁰⁵ The Chamber considered that under the constitutional order, (i) “the function of inspection and oversight of the Courts of the Republic” should be channeled through the Inspector General of Courts, and (ii) “calling into question the suitability and excellence of the judges and giving impetus to punishment would fall within the exclusive purview of the Office of the Inspector General of Courts.” In that regard, it decreed that said authority, attributed to the Office of Substantiation and the Judicial Disciplinary Court, “shall be particular to” and exclusive of the Office of the Inspector General.⁹⁰⁶

656. The third aspect is “the extension of the legal regime” applicable according to the Code of Ethics “to the temporary, occasional, accidental, and provisional judges.”⁹⁰⁷ In this respect, the

⁹⁰² As per Article 130 of the Organic Law on the Supreme Court of Justice.

⁹⁰³ Article 265 of the Constitution establishes: “The members of the Supreme Court of Justice may be removed by the National Assembly by a supermajority of two-thirds of its members, after a hearing granted to the interested person, in the case of grave breaches already characterized by the Citizen Power [Poder Ciudadano, special branch of government] in the terms established by law.” Constitution of the Bolivarian Republic of Venezuela.

⁹⁰⁴ Article 267 of the Constitution establishes that “the Supreme Court of Justice is responsible for directing, governing, and administering the Judicial Branch, inspection and oversight of the courts of the Republic...” Article 81 of the Organic Law of the Supreme Court provides: “The Office of the Inspector General of Courts shall have as its special function inspection and oversight, by an organ of the court *en banc*, of the courts of the Republic and in keeping with the law.” The laws on organization and operation of the Office of the Inspector General for Courts were issued by the Supreme Court *en banc* by resolution No. 2008-0058 of November 12, 2008.

⁹⁰⁵ The Code only makes reference to the operation of an Office of Substantiation as the “investigative organ in the disciplinary procedure” entrusted with beginning the investigation (*sua sponte* or upon complaint), admitting the complaint, performing the investigative steps for clarifying the facts, other functions attributed to the Office of the Inspector General of Courts.

⁹⁰⁶ For this purpose, the Chamber established the terms of such functions, mainly regarding the start-up of the investigations, admission of the complaint, investigative steps, requests to the Disciplinary Tribunal for the provisional suspension of the subject of the complaint from his or her position, request to the Court to give impetus to the sanction of the judge, and filing the motion for appeal against the final judgment of the Disciplinary Tribunal, among others. The Chamber also decreed the suspension of the provisions on the competence of the Office of Substantiation “to conduct the preliminary investigation.” Accordingly, it ordered that the complaints – admitted or not – currently before the Office of Substantiation, or under the cognizance of the Disciplinary Tribunal without there having been any summons of the judge against whom the complaint is directed, should be forwarded to the Office of the Inspector General of Courts “for that organ to carry out the corresponding investigative steps to clear up the facts.”

⁹⁰⁷ Article 2 of that Code provides: “This Code shall apply to all the judges in the territory of the Bolivarian Republic of Venezuela. Judge shall be understood to refer to every citizen who has been vested in keeping with the law to act in the name of the Republic in exercise of the jurisdiction on a permanent, temporary, occasional, accidental, or provisional basis.”

Chamber considered that the Code of Ethics “establishes a tenure regime particular to the judicial career service” and that in relation to the “extension of this judicial disciplinary process to the temporary, occasional, accidental, and provisional judges to exclude them from the judicial function, even though formally they have not entered the judicial career service,” an issue of a clash with the Constitution could be raised, specifically Article 255. It indicated that the procedure provided for to remove or suspend judges “is a guarantee of tenure” particular to the judicial career service, whose status is obtained “if one wins out in the public competitive selection process.” Accordingly, the Chamber ordered the precautionary suspension of the provisions of the Code of Ethics that would make it possible to extend the disciplinary procedure to temporary, occasional, accidental, or provisional judges, indicating that jurisdiction “to punish them and exclude them from the judicial function” lies with the Judicial Commission. The Chamber also decreed the suspension of Article 16 of the Code, which provides that any incorporation or designation of a public servant should be a matter of consultation in the “Registry of Judicial Disciplinary Information,” considering that rule to “restrict said jurisdiction of the Judicial Commission.”

Removal and persecution of judges in retaliation for their judicial decisions

657. In its 2009 *Report on Democracy and Human Rights in Venezuela*, the Commission examined the situation of various judges who were removed from the bench after adopting decisions that affected the government’s interests. Available public information indicated political interference in the decision to remove them.⁹⁰⁸ In addition, the IACHR has given follow-up this situation in its annual reports.

658. During 2013, the situation of the 31st Judge of Control of the Metropolitan Area of Caracas, María Lourdes Afiuni, has been monitored⁹⁰⁹; she has been under house arrest since February 2011.⁹¹⁰ In this respect, in June 2013, the 17th Trial Court granted Judge Afiuni conditional release in response to a request from the Public Ministry for a less burdensome measure to be imposed on her.⁹¹¹ The Court is also said to have imposed a prohibition on publishing messages about the case through social networks such as Twitter and Facebook. That measure was ratified by the Court of Appeals of

⁹⁰⁸ IACHR. *Report on Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter III, para. 285–301.

⁹⁰⁹ Judge Afiuni was arrested on December 10, 2009, after making a decision to replace the measure depriving citizen Eligio Cedeño of liberty by a less burdensome precautionary measure. The decision was based on the Organic Code of Criminal Procedure, which establishes a maximum of two years for pre-trial detention; and on Opinion No. 10/2009 (Venezuela) issued by the Working Group on Arbitrary Detention of the Human Rights Council on September 1, 2009, which declared the detention of Mr. Cedeño as arbitrary, based on its length. The next day, in a broadcast that all radio and television were required to air, the then-President of the Republic Hugo Chávez characterized Judge Afiuni as a “bandit,” demanded she be dealt with “harshly,” and asked that she be given the maximum sentence of 30 years in prison. See: IACHR, Annual Report 2012, Chapter IV on Venezuela, paras. 485-486.

⁹¹⁰ On January 11, 2010, the IACHR granted precautionary measures on her behalf after receiving information on her situation while she was deprived of liberty at the facility known as the Instituto Nacional de Orientación Femenina (INOF). On November 30, 2010, the Commission asked the Inter-American Court to issue provisional measures on her behalf. Those measures were ordered by the President of the Court on December 10, 2010. On March 2, 2011, the I/A Court H.R. decided to lift the measures after receiving information on a judicial order that ordered Ms. Afiuni’s house arrest. See: IACHR, Annual Report 2012, Chapter IV on Venezuela, paras. 486-488.

⁹¹¹ El Universal, [Tribunal otorgó libertad condicional a la jueza Afiuni](#), June 14, 2013.

Caracas on July 31, 2013.⁹¹² As regards the criminal proceeding against Ms. Afiuni, the information available indicates that in 2013, some nine hearings have been held before the 17th Trial Court with the appearance of at least 20 witnesses; however, there is no final decision regarding her situation.⁹¹³

659. On June 15, 2013, Amnesty International issued a communiqué expressing concern over “The preventive measures attached to her release are worrying,” considering that these measures appear to be limiting her right to freedom of expression. Amnesty also indicated that the conditional release is “insufficient,” mindful of the duration of the judicial proceeding against her, without any “reliable evidence” against her, thus it reiterated that the charges should be withdrawn.⁹¹⁴

660. The Commission reiterates that the case of Judge Afiuni sends a strong signal to Venezuelan society and to the remaining judges that the judicial branch is not free to adopt decisions contrary to the interests of the government,⁹¹⁵ since by doing so they run the risk of being removed from their positions, prosecuted and being subjected to sanctions.

Right to private property

661. In the context of the 149th Period of Sessions, the IACHR received information on measures that the Venezuelan State is said to be adopting that would have a detrimental impact on the right to private property and its judicial protection, mainly by applying laws issued in recent years, through the national Legislative branch and the national Executive branch, and especially actions carried out by the Executive. According to the information provided, some of the modalities considered to violate the right to property is the frequency of expropriations or state measures adopted by the Venezuelan State invoking the general interest, which are said to have affected more than 1,000 companies in the last eight years. These measures have been handed down purportedly in violation of the Venezuelan Constitution and the Law on Expropriation for Public Utility or Interest, or have been based on other recently-issued laws, whose regulation is alleged to be at odds with the Constitution.

662. In this regard, the IACHR was informed that these violations were committed by the national Executive branch on formally decreeing expropriations without complying with judicial guarantees or agreeing on the payment of fair and timely compensation, as required by the Venezuelan legal order and the standards of the inter-American system. Accordingly, what is reported indicates that owners have had property taken by force without a judgment finding public utility or social interest, without an objective and fair appraisal of the price of the property affected by an independent and impartial judge, and without the owners being paid timely compensation.

663. The Commission was also informed of another purported violation of property rights based on alleged confiscations or dispossession of properties of a group of persons allegedly for engaging in criminal conduct, in cases prohibited by the Venezuelan Constitution, without there having been a firm criminal conviction.

⁹¹² El Universal, [Confirman medida de prohibición de escribir en Twitter a Afiuni](#), July 31, 2013.

⁹¹³ El Universal, [Juicio contra Afiuni paso a paso](#), June 14, 2013.

⁹¹⁴ Amnesty International, [Venezuela: Conditional freedom for Judge Afiuni not enough](#), June 15, 2013.

⁹¹⁵ IACHR. *Democracy and Human Rights in Venezuela*, December 30, 2009, Chapter III, para. 301.

III. Analysis of the situation of economic, social and cultural rights

664. The Commission has monitored the situation of economic, social and cultural rights in Venezuela, with special attention to the social programs carried out by the Government, called “Missions,” to address issues such as food crises, older adults, poverty and social security, unemployment, indigenous peoples, children and adolescents, education, and housing.⁹¹⁶ The IACHR has recognized and valued the gains made in this area through social policies and measures along these lines, and has recognized that the priority the State has accorded this area is fundamental for ensuring the population a dignified life, and is an important basis for maintaining democratic stability.

665. In its 2009 report *Democracy and Human Rights in Venezuela* the IACHR analyzed the legal framework for the protection of economic, social and cultural rights taking special account of indicators of poverty, education, and health, in light of the Convention, the Protocol of San Salvador, and the Inter-American Democratic Charter.⁹¹⁷ In its 2012 Annual Report the IACHR noted the information offered by the State to the United Nations on the humanistic alternative development model that has made Venezuela the least unequal country in Latin America, according to the Economic Commission on Latin America and the Caribbean (ECLAC).⁹¹⁸ With those antecedents, in 2013 the IACHR has monitored the situation of economic, social, and cultural rights in Venezuela through the information published in official media and other sources of information, mainly publications of civil society organizations and other media. In particular, issues have been identified on institutional measures and the situation of the right to food and the right to health, which should be referred to in relation to the situation this year.

666. On the right to food, the IACHR has received information which indicates that in June 2013, Venezuela received recognition from the Food and Agriculture Organization (FAO) of the United Nations for having met one of the Millennium Development Goals, reducing to one-half the number of malnourished persons.⁹¹⁹ According to the FAO, “from 1990 to 1992, 13.5% of the Venezuelan population went hungry, while from 2007 to 2012 this figure has been at just 5%.”⁹²⁰ Accordingly, Venezuela would be among the 15 leading countries “that have made exceptional progress towards eradicating hunger.”⁹²¹ In addition, the indicator for hunger in Venezuela was said to have dropped 86%⁹²², as a result of implementing food policies that provide for the distribution of food to various

⁹¹⁶ The Government has explained that “the strategy of financing social policy is aimed at settling the social debt and achieving social inclusion on a massive and accelerated basis by implementing Social Missions whose main objective is to meet the needs of the social groups living in poverty in the areas of health, food, education, housing, social security, work, social development and participation, culture and social communication, science and technology.” See: Government of Venezuela, Misiones. Available at: <http://www.gobiernoenlinea.gob.ve/home/misiones.dot>

⁹¹⁷ IACHR, *Democracy and Human Rights in Venezuela*, December 30, 2009, Ch. VII, paras. 953-956.

⁹¹⁸ IACHR, 2012 Annual Report. Chapter IV on Venezuela, para. 511.

⁹¹⁹ See: Correo del Orinoco, [Presidente Nicolás Maduro recibe reconocimiento de la FAO por logros en alimentación](#), June 16, 2013.

⁹²⁰ VTV, [FAO homenajeará a Venezuela por cumplimiento de meta en materia de alimentación](#), June 2013.

⁹²¹ VTV, [FAO reconoce a Venezuela por lograr meta de Hambre cero](#), July 2013.

⁹²² In 2003, the Food Mission (Misión Alimentación) was established “aimed at assuring the market and ongoing sales of food products and other basic necessities, wholesale and retail, preserving quality and offering the lowest possible prices in the market.” See: Bolivarian Government of Venezuela, [Misión Alimentación](#).

sectors of the population through some 22,000 establishments integrated into to the so-called “State food networks.”⁹²³

667. Nevertheless, the information available also indicates that in the course of 2013 there were difficulties accessing food and other basic necessities, and there were shortages – and in some cases it is alleged that there was undersupply – with a greater impact on certain parts of the country. In the state of Zulia the governor announced that an “automated system” would be established to “monitor” purchases of some 21 basic necessities and thereby prevent the “contraband in food.”⁹²⁴ In response to this situation, the President of the Republic announced that he would reject any measure aimed at rationing food.⁹²⁵

668. The Commission notes that the authorities have argued that the problem is one of distribution and is brought on, among other factors, by the “hoarding” (“*acaparamiento*”)⁹²⁶ of goods by private individuals and private distributorships.⁹²⁷ Accordingly, specific actions have been taken in some parts of the country⁹²⁸ where plans have been implemented such as the “Food Security Plan,” which is coordinated with the authorities in charge of the “Safe Homeland Plan” (“Plan Patria Segura”).⁹²⁹ In addition, since 2012 and continuing in 2013, measures have been taken – based on the 2011 Law on Costs and Fair Prices⁹³⁰ – by which “maximum” sales prices for certain foods and other goods are regulated.⁹³¹

⁹²³ VTV, [Gobierno Bolivariano disminuye 86% el indicador del hambre en Venezuela](#), June 2013.

⁹²⁴ VTV, [Arias Cárdenas: “no es racionamiento, son mecanismos para el contrabando de alimentos,”](#) June 2013.

⁹²⁵ El Universal, [Maduro rechazó el racionamiento de alimentos en Zulia](#), June 8, 2013.

⁹²⁶ The crime of hoarding (*acaparamiento*) is punished by imprisonment for two to six years plus a monetary fine for “one who restricts the supply, circulation, or distribution of foods or goods subject to price controls, withholds such articles, with or without concealment, to provoke scarcity and price increases....” Article 20. Special Law in defense of the people against hoarding, speculation, boycott, and any other conduct that has a negative impact on the consumption of goods or goods subject to price controls. Issued through [Decree No. 5,197](#) with rank, value, and force of a special law, by the President of the Republic, in the exercise of enabling authority. February 16, 2007.

⁹²⁷ See: VTV, [“Empresas Polar acapara alimentos en almacenes clandestinos”, denuncian sus trabajadores](#), May 2013; Correo del Orinoco, [Empresas Polar debe explicar por qué ha disminuido su producción de alimentos](#), May 11, 2013. Private companies, for their part, have alleged that all foods are controlled and authorized for distribution through the “Integrated Food Control System,” and that the production of certain foods is in the hands of state enterprises. In addition, they have stated that food production is affected by factors such as restrictions on foreign exchange, the availability of raw materials, and the failure to periodically review regulated prices, among others. See: El Nacional, [Alimentos Polar rechaza acusaciones de acaparamiento](#), May 7, 2013; El Carabobeño, [Gobierno garantizó a Polar solventar problemas en producción de alimentos](#), May 14, 2013.

⁹²⁸ For example, it was announced that the 2013 Food Security Plan would be implemented in the state of Zulia; it is to address a particular situation with food distribution, mainly due to its geographic location by a border making it more exposed to what are known as contraband activities. See: Office of the Governor of Zulia, [Arias: “Trabajamos y avanzamos firmemente en el Plan de Seguridad alimentaria Zulia 2013”](#).

⁹²⁹ See: VTV, [Plan Patria Segura propina fuerte golpe al acaparamiento y especulación](#), June 19, 2013.

⁹³⁰ That law was issued based on the enabling power conferred upon the President of the Republic. Decree No. 8,331 issuing the decree with rank, value and force of Law on Costs and Fair Prices. [Published in Gaceta Oficial No. 39,715](#), of July 18, 2011.

⁹³¹ Providence [No. 059](#), of March 29, 2012; [Joint resolution](#) of December 3, 2012; [Joint resolution](#) of May 14, 2013.

669. In this context, in May 2013, President Nicolás Maduro announced the strengthening of the “socialist economic zone” with the approval of a new investment in the Food Mission (Misión Alimentación) aimed at “multiplying the development of the whole system of supply, markets, and food services.”⁹³² In addition, President Nicolás Maduro announced that he would seek support from the FAO for “establishing a system for monitoring food supply and consumption in Venezuela ... that would make possible the permanent supply of food for Venezuelans.”⁹³³ In this respect, the President stated that “Venezuela today is suffering an economic war by sectors who seek to destabilize the country ... through the undersupply of food products.”⁹³⁴

670. On the right to health, the Commission has received information about complaints regarding the lack of the resources needed to address the population’s high demand for health services.⁹³⁵ In addition, in February 2013 the President of the Republic announced the intervention of the Hospital Periférico de Coche, one of the main health centers in the western part of the city of Caracas, recognizing that a “process for the positive transformation of the health sector” was necessary.⁹³⁶

671. Also, civil society organizations have reported that public health centers are facing a serious crisis that is said to have a negative impact on access to health for the poorest sectors of the population.⁹³⁷ In this respect, PROVEA has noted that in 2012, reports “on the problems the population is facing at the health centers were four times more numerous than in the previous period.”⁹³⁸ It asserts that in the case of the social programs promoted by the Government, such as the “Barrio Adentro” Mission,⁹³⁹ the policies to implement them are not adequately addressed, mainly in relation to the

⁹³² El Universal, [Maduro reitera que la Misión Alimentación se expandirá](#), May 28, 2013.

⁹³³ Aporrea.org, [Venezuela pide a la FAO apoyo para sistema de oferta de alimentos](#), June 16, 2013.

⁹³⁴ Aporrea.org, [Venezuela pide a la FAO apoyo para sistema de oferta de alimentos](#), June 16, 2013.

⁹³⁵ See: El Nacional, [En el Pérez Carreño no se dan abasto para atender la demanda de pacientes](#), August 7, 2013; Globovisión, [Pacientes y personal medico del Hospital de Coche protestaron por falta de insumos](#), July 1, 2013; Globovisión, [Trabajadores del Hospital Maqallanes de Catia protestan por falta de insumos: “La gente se nos está muriendo”](#), August 1, 2013; Últimas Noticias, [Pacientes y médicos del Vargas protestan por falta de insumos](#), July 27, 2013.

⁹³⁶ AVN, [Ejecutivo anuncia intervención de Hospital de Coche](#), February 16, 2013.

⁹³⁷ PROVEA has determined that the problems associated with the health system are mainly related to “the lack of basic inputs and drugs, insufficient medical personnel, and the poor state of the infrastructure.” In addition, during 2012 the organization recorded a “significant [increase] in reports related to the scarcity of medical-surgical inputs and the lack of medical equipment.” PROVEA, [Informe Anual 2012](#). Right to health, p. 171.

⁹³⁸ Provea’s annual report for 2012 indicates that “90% of these reports were from public assistance centers and 84% from hospitals....” PROVEA, [Informe Anual 2012](#). Right to health, p. 171.

⁹³⁹ The “Barrio Adentro” Mission was created in the framework of a cooperation agreement with Cuba, initially providing health care with Cuban professionals, and subsequently community comprehensive care physicians accredited by the Universidad Bolivariana de Venezuela came to participate. See: Correo del Orinoco, [En nueve años Barrio Adentro ha realizado más de 500 millones de consultas](#), April 16, 2012. According to official information, “Barrio Adentro” guarantees the Venezuelan people comprehensive and free health services, with warmth and particularly with humane treatment; covers four key stages: Barrio Adentro I (popular consulting rooms); Barrio Adentro II (Diagnostic centers, rehabilitation facilities and high technology centers); Barrio Adentro III (modernization and technological upgrading of hospitals) and Barrio Adentro IV (specialized hospitals). Its progress and development has allowed the Venezuelan people to receive specialized care, beyond the satisfaction of basic and primary needs of the population. It also emphasizes that today, after 10 years, the Mission have more than 6000 medical offices, 3000 dental chairs, 400 optical centers, 559 Integral Diagnostic Centers, over 500 rooms of comprehensive rehabilitation and 35 centers with high technology that are distributed throughout the national territory. See: “Misión Barrio Adentro: 10 años construyendo la Revolución Social en salud” Bolivarian Government of Venezuela, Ministry of Continues...

construction and endowment of hospitals⁹⁴⁰, the lack of infrastructure being one of the main public health problems⁹⁴¹, as lack of supplies and medicines, lack of operational equipment for radiotherapy, shortage of reagents for routine laboratory tests and special tests, among others⁹⁴². PROVEA has argued that while there is a government policy aimed at “giving impetus to and consolidating the new institutional framework of the National Public Health System,” there is also a “decline” in health care in the country⁹⁴³ that is being addressed with “stop-gap measures ... to address the most urgent needs of the hospitals, without having impacts on the structural problems in the sector.”⁹⁴⁴

672. The IACHR has learned that in August 2013 the Venezuelan Medical Federation (“Federación Médica Venezolana”) asked the Government to declare a health emergency in the country considering what they characterized as a “very serious” situation in the sector, given the shortages of supplies, equipment, and due to the low salaries paid physicians; it was noted that in 90% of the country’s hospitals the 2013 budget had already been spent.⁹⁴⁵

673. With respect to the situation of organ transplants in Venezuela, the IACHR has also gather information from which it appears that the Ministry of People’s Power for Health had assumed full responsibility for seeking organs in the country, which is tantamount to repudiating the 15 years of experience of the Organización Nacional de Trasplante de Venezuela (ONTV), an institution that has been engaged in seeking organs in the country. It is indicated that this change has meant a series of problems for patients awaiting transplants.⁹⁴⁶

674. In that context, in late August 2013, the Government announced the creation of the High Command for Health, defined as a high-level team of the Government to coordinate health policy.⁹⁴⁷

675. Finally, in early August 2013, President Nicolás Maduro announced the launch of the “National System of Missions,” which will make it possible to unify the records on the persons benefited

...continuation

Popular Power for Health, Available at:
http://www.mpps.gob.ve/index.php?option=com_content&view=article&id=3229&Itemid=18

⁹⁴⁰ PROVEA, *Provea investiga y difunde / Historias de hospitales: crisis y promesas incumplidas*, July 29, 2013. Provea notes, for example, that in 2012, “only 5 of the 13 hospitals planned for delivery in 2009 had made progress of 4% to 15%, according to the figures of the Ministry of Health, even though the budget allocated was fully executed.”

⁹⁴¹ PROVEA, *Provea ante la grave crisis que atraviesa el sistema de salud pública a nivel nacional*, June 10, 2013.

⁹⁴² Coalición de Organizaciones por el Derecho a la Salud, Codevida. Notitarde, *40 mil personas están en riesgo por Crisis en el Sistema Público de Salud*, November 4, 2013.

⁹⁴³ According to the information available, since 2009 “more than 50% of the primary care modules of the Barrio Adentro Mission were suspended.” See: PROVEA, *Informe Anual 2012*. Right to health, p. 177.

⁹⁴⁴ PROVEA, *Informe Anual 2012*. Right to health, p. 177.

⁹⁴⁵ El Universal, *Federación Médica exige al Gobierno declarar la emergencia en salud*, August 20, 2013; Ultimas Noticias, *Federación Médica pide declarar emergencia hospitalaria*, August 20, 2013.

⁹⁴⁶ Coalition of Organizations for the Right to Health, Codevida: “40 mil personas están en riesgo por Crisis en el Sistema Público de Salud.” Available at: <http://www.notitarde.com/Valencia/40-mil-personas-estan-en-riesgo-por-crisis-en-sistema-publico-de-salud/2013/11/04/278627>

⁹⁴⁷ Bolivarian Communication and Information System, *Estado Mayor de Salud agilizará la dotación de insumos*, August 29, 2013; Correo del Orinoco, *Gobierno Nacional crea Estado Mayor para la Salud*, August 27, 2013.

by the various social programs and to establish “a body of statistical indicators that makes it possible to gauge the impact of the National Government’s effort to bring about a situation of social well-being.”⁹⁴⁸

IV. Compliance with the decisions of the IACHR

676. On September 10, 2012, the Secretary General of the OAS received the formal notice of denunciation of the American Convention by the Bolivarian Republic of Venezuela.⁹⁴⁹ In a note dated September 6, 2012, from the Ministry of Foreign Affairs to the OAS Secretary General, the Venezuelan Foreign Ministry communicated to the Secretary General:

the sovereign decision of the Bolivarian Republic of Venezuela to denounce the American Convention on Human Rights. Therefore, in keeping with the provisions of Article 78 thereof, I would greatly appreciate it if you would consider this note a Notice of Denunciation, so that, at the conclusion of the term established in that article, its international effects and the competence of its organs--the Inter-American Commission on Human Rights as well as the Inter-American Court of Human Rights--shall cease insofar as our country is concerned.⁹⁵⁰

677. On September 12, 2012, the IACHR issued a press release in which it regretted Venezuela's decision and expressed concern about the effects of the decision on the country's inhabitants. The IACHR also said that, despite the denunciation, the Venezuelan state, as a member state of the OAS, will continue to be subject to the Commission’s jurisdiction and be bound by the obligations established in the OAS Charter and the American Declaration.⁹⁵¹

678. According to information that is a matter of public knowledge, on September 27, 2012, a group of non-governmental human rights organizations, activists, and attorneys filed an action for annulment with the Constitutional Chamber of the Supreme Court on grounds on unconstitutionality against the government action contained in the denunciation of the American Convention on Human Rights. As of the date of approval of this report, the Supreme Court had not issued any pronouncement on this matter.

679. In keeping with Article 78 of the American Convention, on September 10, 2013, Venezuela’s denunciation of the American Convention became effective.

680. The IACHR notes that several statements have been issued calling on Venezuela to revoke its decision to denounce the Convention. The UN High Commissioner for Human Rights, Navi Pillay, strongly urged Venezuela to reconsider its decision, warning that its withdrawal could mean a serious setback for human rights protection in Venezuela and the region as a whole. The High Commissioner noted that the decision runs directly counter to the resolutions adopted by the UN Human Rights Council—to which Venezuela became a party in 2012—aiming at enhancing cooperation and dialogue between international and regional human rights mechanism, so as to strengthen

⁹⁴⁸ Telesur, [Sistema de Misiones hará más efectiva la inversión social en Venezuela](#), August 7, 2013.

⁹⁴⁹ Organization of American States, News Center. Press release of September 10, 2012. Available at: http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-307/12

⁹⁵⁰ Ministry of Foreign Affairs, Note No. 980125 of September 6, 2012.

⁹⁵¹ IACHR, IACHR Regrets Decision of Venezuela to Denounce the American Convention on Human Rights. Washington, D.C., September 12, 2012.

protections for the people whose rights would be affected⁹⁵². Also, the [OAS Secretary General](#) urged the State of Venezuela to reconsider its decision. For its part, Amnesty International observed that Venezuela's decision to denounce the American Convention is an affront to the victims of human rights violations and to future generations of Venezuelans.⁹⁵³

681. The Commission also notes that during its recent consideration meeting on Venezuela, held in August 2013, the United Nations Committee on the Elimination of Racial Discrimination expressed its concern over the Venezuelan State's decision to denounce the American Convention, and urged the State to reconsider its decision and to continue to be a full member of the inter-American human rights system. In this respect, the delegation explained that the State was taking the measures necessary to ensure that human rights are respected and guaranteed domestically, and that the decisions of the inter-American human rights system are based more on political considerations than on a legal analysis based on international human rights law. The delegation reiterated the position that the Venezuelan State has assumed regarding the lack of impartiality of the organs of protection of the inter-American system; it considers that they pursue political aims and not respect for human rights.⁹⁵⁴ For its part, CERD said that while it is important for States to be able to demand that their sovereignty be respected, that cannot imply that they decide to withdraw from international systems for the protection of human rights, when they can contribute to reform and improvement from within and ensure broader protections for the people under its jurisdiction.⁹⁵⁵

682. The IACHR regrets that, despite repeated calls by the Commission and by other international bodies for Venezuela to reconsider its decision to denounce the Convention, the State of Venezuela has not reversed that decision.

683. As stated in its press release of September 10, 2013, the Commission deeply regrets the entry into force of Venezuela's denunciation of the American Convention on Human Rights, and reiterates its deep concern over the consequences of the denunciation's entry into force, namely that any human rights violations that take place in Venezuela after September 10, 2013, may not be analyzed by the Inter-American Court of Human Rights. This comes at the expense of the protection of rights of the people of Venezuela, who are stripped of a mechanism to protect their human rights. Again, the Inter-American Commission calls on Venezuela to reconsider this decision.⁹⁵⁶

684. Similarly, the Commission reiterates that human rights violations that took place in Venezuela during the time in which the country was a State Party to the American Convention are subject to the Court's jurisdiction, in accordance with the obligations established in the treaty. Venezuela ratified the American Convention on June 23, 1977, and its denunciation will enter into force

⁹⁵² UNOHCHR. Pillay urges Venezuela to reconsider withdrawal from the American Convention on Human Rights, September 11, 2012. At: <http://acnudh.org/en/2012/09/pillay-urges-venezuela-to-reconsider-withdrawal-from-american-convention-on-human-rights/>

⁹⁵³ Amnesty International. Public Declaration. [Venezuela's break with regional human rights court 'an affront to victims'](#), September 12, 2012.

⁹⁵⁴ See: UNOG, [Committee on Elimination of Racial Discrimination considers report of Venezuela](#), August 16, 2013.

⁹⁵⁵ See: UNOG, [Committee on Elimination of Racial Discrimination considers report of Venezuela](#), August 16, 2013.

⁹⁵⁶ IACHR, *IACHR Deeply Concerned over Result of Venezuela's Denunciation of the American Convention*. Washington D.C., September 10, 2013.

on September 10, 2013. Therefore, any petitions the Inter-American Commission may receive after September 10, 2013, that allege human rights violations that took place before that date will be processed based on the State's obligations under the American Convention and subject to consideration by the Inter-American Court. The IACHR also reaffirms that, despite the denunciation, the Venezuelan state, as a member state of the OAS, will continue to be subject to the Commission's jurisdiction and be bound by the obligations established in the OAS Charter and the American Declaration.⁹⁵⁷

V. Situation of groups or colectivities in situations of vulnerability

A. Indigenous Peoples

685. Venezuela is a country with great ethnic and cultural diversity. According to the last National Population and Housing Census, by the National Institute of Statistics in 2011, 725,141 persons self-identify as indigenous, as one of 51 different peoples. They account for 2.5% of the more than 28 million inhabitants of Venezuela.⁹⁵⁸ Each of the indigenous peoples of Venezuela has its own culture and history, social and political organization, cosmovision, spirituality, and ways of relating to the environment.

686. The IACHR observes that in general, Venezuela has a legal framework favorable to the protection of the rights of indigenous peoples that relies mainly on the 1999 Constitution of the Bolivarian Republic of Venezuela, which recognizes the multiethnic, multicultural, and multilingual nature of the country, and contains a chapter on the rights of indigenous peoples. In particular, the IACHR takes note that the Venezuelan Constitution recognizes and protects the right to collective property of indigenous peoples, recognizing it as inalienable, imprescriptible, unattachable, and non-transferable (Article 119); the right to maintain and develop their ethnic and cultural identity (Article 121); the right to comprehensive health care that considers their practices and cultures (Article 122); the right to maintain and promote their own economic practices (Article 123); and the right to political participation (Article 125), among others.⁹⁵⁹ The IACHR also values the legislative and institutional measures that address the rights of indigenous peoples in Venezuela based on constitutional mandates⁹⁶⁰; as well as the international instruments on the matter adopted by the Venezuelan State.⁹⁶¹ It is also pleased to note access to political participation at the national, state, and local levels.⁹⁶²

⁹⁵⁷ IACHR, 2012 Annual Report. Chapter IV on Venezuela, para. 524.

⁹⁵⁸ National Statistics Institute. *Primeros resultados Censo Nacional 2011: Población indígena de Venezuela*. Available at: <http://www.ine.gov.ve/documentos/Demografia/CensodePoblacionyVivienda/pdf/PrimerosResultadosIndigena.pdf>.

⁹⁵⁹ Chapter VIII, "On the Rights of the Indigenous Peoples," Constitution of the Bolivarian Republic of Venezuela of 1999.

⁹⁶⁰ Among the legislative and institutional measures, the IACHR observes the Organic Law on Indigenous Peoples and Communities, the Law on Indigenous Languages, the Law on Indigenous Artisans, the Law on Cultural Heritage of the Indigenous Peoples and Communities, the Organic Law against Racial Discrimination, as well as the creation in 2007 of the Ministry of People's Power for Indigenous Peoples.

⁹⁶¹ Venezuela ratified ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries on May 22, 2002, and voted in favor of the United Nations Declaration on the Rights of Indigenous Peoples, adopted September 13, 2007.

⁹⁶² International Work Group on Indigenous Affairs (IWGIA), *El Mundo Indígena 2013*. p. 118.

687. Despite this favorable legal and institutional framework, the information received by the Commission indicates that significant challenges remain for the effective implementation of the rights that indigenous peoples are recognized to have in Venezuela, mainly those related to land, territory, and natural resources.⁹⁶³ The information received in 2013 suggests that the indigenous peoples in Venezuela were affected by violence stemming from persistent land conflicts with third persons; the failure of the government to effectively demarcate and title their lands and ancestral territories; and exploration and exploitation – both legal and illegal – of natural resources in their territories.

688. As regards the failure to demarcate and title, in 2013 the IACHR continued to receive information that indicates that the processes of territorial demarcation have advanced slowly in certain parts of the country despite the national and international provisions on the subject. Accordingly, for example, as stated by a leader of the Organización Ye'kuana of the Upper Ventuari, in the state of Amazonas, "We are struggling for demarcation, our territory has not been demarcated. We have been struggling years to demarcate our lands and to date we have had no response from the National Commission on Demarcation, that's our concern."⁹⁶⁴ It is of concern to the IACHR that in some cases serious violent incidents have ensued as a result of the failure to demarcate and resolve land disputes with third persons.

689. In particular, the IACHR calls attention to the situation of the Yukpa people in the Sierra del Perijá, in southern Zulia state, who for several years have opposed the occupation of their territories by ranchers and smallholders, supported allegedly by state authorities⁹⁶⁵. According to the information available, that gave rise to a situation of violence in the area that resulted in the deaths of several members of the Yukpa people, including Silfrido Romero and Lorenzo Romero, in April 2012; as well as the brothers Alexander and José Luis Fernández and Leonel Romero in June 2012.⁹⁶⁶ In 2013, the IACHR was especially concerned upon receiving information on the assassination of Sabino Romero Izarra, a cacique of the Yukpa indigenous people, who for years had been leading the struggle to defend their ancestral territories and was continuously subject to harassment, threats, and criminalization. According to the information received, on March 3, 2013, at approximately 7:00 p.m., Sabino Romero and his wife, Lucía Martínez de Romero, were traveling along the Tokuko highway in the Sierra de Perijá when they were allegedly attacked by firearms by a group of paid killers. This was said to result in the death of Sabino Romero; his wife was critically injured. In 2010 and 2012 the IACHR had taken note of the

⁹⁶³ In addition, the IACHR notes that, as the UN Committee on the Elimination of Racial Discrimination recently noted, the institutions in charge of implementing the Organic Law against Racial Discrimination and the Law on Indigenous Languages has yet to be established, eight and five years, respectively, after they had been approved. United Nations. Committee on the Elimination of Racial Discrimination. Concluding observations on the combined nineteenth to twenty-first periodic reports of the Bolivarian Republic of Venezuela, adopted by the Committee at its eighty-third session (12-30 August 2013). CERD/C/VEN/CO/19-21. August 30, 2013. para. 11.

⁹⁶⁴ Adedukawa, Esteban Rodríguez, Organización Ye'kuana del Alto Ventuari – KUYUNU. Comunicado titled "Organizaciones Indígenas de Amazonas agrupadas en la COIAM se trasladan a Caracas para discutir con Instituciones Públicas la Nueva Política Minera del Gobierno." June 2013.

⁹⁶⁵ La información disponible indica que el 15 de diciembre de 2011 se otorgó un título de propiedad al pueblo Yukpa, el cual fue rechazado por las autoridades y líderes del pueblo por reconocer derechos adquiridos a terceros antes de la demarcación y por no corresponder al territorio históricamente ocupado. Otros motivos de rechazo serían la falta de conocimiento del título antes de su emisión, el desconocimiento de la superficie y linderos de las tierras tituladas, así como la falta de entrega de un mapa de la superficie titulada. See: IWGIA, *El Mundo Indígena 2013*. p. 121-122.

⁹⁶⁶ IWGIA, *El Mundo Indígena 2013*. p. 118.

persecution and threats suffered by Sabino Romero as a result of his defense of the ancestral territories of the Yukpa people⁹⁶⁷; according to the information available, the Yukpa people had asked the Government to intervene in the conflict brought about by the demarcation of lands in the Sierra de Perijá.⁹⁶⁸

690. According to public information, in August 2013 the Public Ministry brought criminal charges before the 14th Court of Control of the Caracas Metropolitan Area against the alleged direct perpetrator. In addition, it was learned that criminal charges were brought in October 2013 against five others allegedly responsible for the assassination of Sabino Romero and the physical injuries caused his wife.⁹⁶⁹ The information available suggests that the six persons facing criminal charges are being held at the request of the Public Ministry. The IACHR values the progress made in the investigation into the facts and calls on the Venezuelan State to conduct a criminal proceeding, respectful of due process guarantees, in which a determination is made as to who is liable as direct perpetrators and as the planners.

691. In addition, it urges the State to adopt effective measures to prevent similar incidents, including the demarcation and prompt and effective titling of the indigenous peoples and communities that do not yet have legal certainty over their lands and territories. The IACHR reiterates that “the protection of the right of indigenous peoples to their ancestral territory is an especially important matter, as its enjoyment involves not only protection of an economic unity but also protection of the human rights of a collectivity whose economic, social and cultural development is based on its relationship with the land.”⁹⁷⁰ The Inter-American Court, in turn, has underscored that the territorial rights of the indigenous peoples are related to “the collective right to survival as an organized people, with control over their habitat as a necessary condition for reproduction of their culture, for their own development and to carry out their life aspirations.”⁹⁷¹

692. The IACHR emphasizes that one must take into account, as the Court has indicated, that “the members of indigenous peoples who have unwillingly lost possession of their lands, when those lands have been lawfully transferred to innocent third parties, are entitled to restitution thereof or to obtain other lands of equal extension and quality.”⁹⁷² The preferential option for the recovery of

⁹⁶⁷ IACHR. 2010 Annual Report. Chapter IV. Venezuela, para. 659; IACHR. 2012 Annual Report. Chapter IV. Venezuela, para. 526-528.

⁹⁶⁸ “Pueblos Yukpa solicitan al presidente Chávez intervenir en conflicto sobre demarcación de tierras, November 10, 2012. Available at: <http://www.blosodi.com.ve/2012/11/10/pueblos-yukpa-solicitan-al-presidente-chavez-intervenir-en-conflicto-sobre-demarcacion-de-tierras/>.

⁹⁶⁹ PROVEA. [Ministerio Público a cinco hombres por muerte del cacique Sabino Romero en Zulía](#). October 12, 2013.

⁹⁷⁰ IACHR. Arguments before the Inter-American Court in the case of Yakye Axa v. Paraguay. Referred to in: I/A Court HR. *Case of the Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations, and Costs. Judgment of June 17, 2005. Series C No. 125, para. 120(c).

⁹⁷¹ I/A Court HR. *Case of the Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations, and Costs. Judgment of June 17, 2005. Series C No. 125, para. 146. I/A Court HR. *Case of Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations, and Costs. Judgment of June 17, 2005. Series C No. 125, paras. 146, 147. IACHR, Arguments before the Inter-American Court in the case of Yakye Axa v. Paraguay. Referred to in: I/A Court HR. *Case of the Yakye Axa Indigenous Community v. Paraguay*. Merits, Reparations, and Costs. Judgment of June 17, 2005. Series C No. 125, para. 120(g).

⁹⁷² I/A Court HR. *Case of Sawhoyamaya Indigenous Community v. Paraguay*. Merits, Reparations, and Costs. Judgment of March 29, 2006. Series C No. 146, para. 128.

ancestral lands and their titling to the corresponding indigenous or tribal people must be the starting point. It should be considered that indigenous and tribal peoples' property right to their territory is not, in principle, susceptible to being compromised or questioned by the property rights of third persons⁹⁷³; rather, they have the right to live freely in their ancestral territories, as has been explained by the Court.⁹⁷⁴

693. In addition, the IACHR received information according to which illegal mining is continuing to have a serious detrimental impact on the effective enjoyment of the territorial rights of indigenous peoples in Venezuela. While this activity was legally prohibited by Decree 8,413 of 2011, the information available suggests that it has not been enforced in practice. In this respect, according to a public letter from the Yanomami people: "There are many reports of illegal mining (*garimpo*) that our relatives bring us. The situation is very serious along the Brazil-Venezuela border, where illegal mining camps have been installed that produce violence, epidemics, destruction of our lands and contamination of the rivers."⁹⁷⁵ In addition, representatives of the Ye'kwana and Sanema peoples reported the persistence of illegal miners in the Caura river who according to them are supported by military agents based in indigenous territory.⁹⁷⁶

694. In view of this report, the IACHR urges the Venezuelan State to make greater efforts aimed at maintaining effective control and eradicating the presence of illegal miners in indigenous territories, mindful of the unique importance that inter-American human rights law accords to the territorial rights of indigenous peoples and the key role that the ancestral territories play in respecting and ensuring their rights. In addition, it calls on the Venezuelan State to refrain from acts that could lead agents of the State or third persons, acting without the consent or tolerance of the State, to carry out actions contrary to these rights.

695. In addition, representatives of indigenous peoples in Venezuela reported on plans and projects for the extraction of natural resources in indigenous territories that are being programmed or implemented without consultation and without prior, free, and informed consent, and which, if carried out, would have a grave impact on the rights of indigenous peoples. In particular, information was received on plans for mining announced by the National Government and which, according to the main indigenous organizations of Venezuela such as the Coordinadora de Organizaciones Indígenas de Amazonas (COIAM), had not been put to a consultation. Such concerns refer specifically to the so-called "Arco Minero del Orinoco," to the Agreement between the Bolivarian Republic of Venezuela and the People's Republic of China that includes, among other aspects, exploration and exploitation of minerals in the Guayana region, as well as an agreement between the Institute of Geology and Mines (INGEOMIN) and the Chinese transnational enterprise "CITIC GROUP" to "develop a mining map for the certification and quantification of mineral reserves ... by establishing camps for the exploration of mining

⁹⁷³ I/A Court HR. *Case of the Saramaka People v. Suriname*. Preliminary Objections, Merits, Reparations, and Costs. Judgment of November 28, 2007. Series C No. 172, para. 115.

⁹⁷⁴ *Case of the Mayagna (Sumo) Awajitjuna Community*. Judgment of August 31, 2001. Series C No. 79, para. 149. See also in: I/A Court HR, *Case of the Sawhoyamaya Indigenous Community*. Judgment of March 29, 2006. Series C No. 146, para. 222.

⁹⁷⁵ Public letter from the Yanomami of Venezuela and Brazil. Puerto Ayacucho, October 11, 2013, para. 3.

⁹⁷⁶ IWGIA. *El Mundo Indígena 2013*. p. 123; article "[Indígenas del Caura reavivan denuncias contra mineros y militares](#)," February 15, 2013; article "[Atropellos militares preocupan a comunidades indígenas del Caura](#)," September 16, 2013.

resources in the states of Bolívar and Amazonas....”⁹⁷⁷ They indicated that these projects had been scheduled to be implemented in ancestral territories that have not yet been titled, delimited, and demarcated to the name of the respective communities or peoples.

696. The IACHR takes note that in Venezuela the right to prior, free, and informed consent is set forth in Article 120 of the Constitution; in the Organic Law on Indigenous Peoples and Communities, whose Articles 11 and 19 refer to the procedure for carrying out the prior, informed, and good-faith consultation; and in the treaties for the protection of indigenous rights ratified by the States, such as ILO Convention 169. Accordingly, the IACHR calls on the Venezuelan State to implement the mechanisms that exist in the domestic order to ensure the effectiveness of the right to prior, free, informed, and good-faith consultation and consent, in keeping with international human rights standards. It also recalls that under international human rights instruments, investment and development plans and projects, or concessions for the extraction of natural resources in indigenous territories on a large scale that may have a profound impact on the way of life of the communities or peoples affected, not only need to be consulted on a prior, informed, culturally appropriate and good-faith basis, but also need the consent of the respective indigenous community.⁹⁷⁸

B. Persons deprived of liberty

697. The situation of persons deprived of liberty in Venezuela continues to be one of the most serious in the hemisphere, due to the violence generated by the activity of the criminal gangs that operate inside the prisons; arms trafficking, including weapons of war and explosives, in which the National Guard is involved; the impunity that covers most unlawful acts committed in prisons, particularly by the leaders of the criminal gangs (the so-called “*pranes*,” officially dubbed “negative leaders,” or “*líderes negativos*”); and in general due to the lack of effective control of the State within the prisons.

698. In this context, the IACHR deplored the violent deaths of at least 59 persons at the Urbana prison on January 25, 2013, after which that prison was emptied and intervened by the Army.⁹⁷⁹ In addition, on March 31 there was a confrontation among inmates over control of the prison known as Internado Judicial Los Teques, which left a total of three dead and five wounded. Also in March, the Observatorio Venezolano de Prisiones reported that 301 prisoners from the Urbana prison were transferred to the Coro prison and subjected to harsh beatings by National Guard agents, in response to which the IACHR sent a request for information to the State. In addition, on Sunday, July 7, the Commission was informed of an exchange of gunfire within the Vista Hermosa prison apparently motivated by the refusal of the prison authorities to transfer an inmate with serious health problems to

⁹⁷⁷ Communiqué titled “Organizaciones Indígenas de Amazonas agrupadas en la COIAM se trasladan a Caracas para discutir con Instituciones Públicas la Nueva Política Minera del Gobierno. Solicitan Moratoria de Proyectos Mineros en sus Territorios,” June 2013. In addition, in a public letter the Yanomami people state: “In addition to illegal mining, we are concerned by the attempt to establish camps for mining in an Agreement with the Chinese company CITIC in the Ocamo (upper Orinoco), Paragua, Caura, and Ventuari rivers, within the Yanomami lands and the lands of our Ye’kuana neighbors and brothers.” IWGIA. [Venezuela: Política minera del gobierno y derechos indígenas](#). March 22, 2013.

⁹⁷⁸ I/A Court HR. *Case of the Saramaka People v. Suriname*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 28, 2007. Series C No. 172, para. 134. I/A Court HR. *Case of the Saramaka People v. Suriname*. Interpretation of the Judgment on Preliminary Objections, Merits, Reparations and Costs. Judgment of August 12, 2008, Series C No. 185, para. 17.

⁹⁷⁹ IACHR, Press Release No. 8/13: *IACHR Deplores Violent Death of 59 Persons in Venezuelan Prison*, January 31, 2013.

the hospital. On September 13 and 14 a group of inmates at the prison known as Internado Judicial El Rodeo II held hostage several staff at that prison as a protest; according to press reports the situation was brought under control by the National Guard and there was an exchange of gunfire in which several prisoners were said to have been injured.⁹⁸⁰

699. Subsequently, on September 16 and 17 of this year, there were serious violent incidents at the National Prison of Maracaibo (“Sabaneta”) that left 16 inmates dead and five wounded, in confrontations between rival gangs that were operating at that prison, and in which high-caliber firearms and explosive artifacts were used. With these incidents, 69 prisoners have died at this prison in 2013 (during 2012, 45 died).⁹⁸¹ After these events the Sabaneta prison was emptied, and the prisoners were relocated to other prisons; in addition, a general search was performed of the facilities that led to the discovery of a large number of arms, munitions, and explosives that were in the inmates’ possession. This corroborates the many reports according to which it is the criminal organizations that exercise actual internal control in the prisons of Venezuela.

700. The Commission is concerned about what is done with the new prisoners from the jurisdiction of Maracaibo, where the Sabaneta prison is located, given that information has been received that the emptying of this prison is leading to the saturation of other prisons and new situations of tension. In this regard, it was reported that on October 13 there was a confrontation in pavilion 2 of the prison known as Centro Penitenciario de la Región Andina (CEPRA) in which one prisoner died and some visitors were injured. According to press reports, this conflict was unleashed by the transfer to that pavilion of two prisoners from the Sabaneta prison.⁹⁸²

701. According to the Observatorio Venezolano de Prisiones, 53 persons deprived of liberty died from January 1 to August 22, 2013, and 26 were wounded at the Sabaneta prison, in different acts of violence ranging from riots to quartering. In Venezuela, from 1999 to the first half of 2013, 5,956 prisoners died and 16,015 were wounded. This serious situation of violence persists and occurs on a sustained basis, despite the creation in 2011 of the Ministry of People’s Power for Prison Services.

702. In its observations to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela, the State affirmed that there had been advances in the release of inmates without a final conviction, and in the amplification of socio-educational measures, professional training, medical and dental treatment, and nutrition, throughout the prison system. Further, it indicated that the Ministry of Popular Power for Popular Service had announced the construction of eight new penitentiary establishments in the country.⁹⁸³

⁹⁸⁰ See in this respect: Últimas Noticias, [Presos secuestraron a un grupo de personas en Rodeo II](#), September 13, 2013; Últimas Noticias, [Liberan a 3 custodios secuestrados en el Rodeo II](#), September 14, 2013; El Universal, [Protesta en cárcel de El Rodeo II terminó en tiroteo](#), September 15, 2013; El Universal, [Ministra Varela neqó que hayan presos heridos en el Rodeo II](#), September 14, 2013.

⁹⁸¹ IACHR, Press Release No. 70/13: *IACHR Deplores Violent Death of 59 Persons in Venezuelan Prison*, September 20, 2013.

⁹⁸² El Nacional, *Muerto un recluso y 52 retenidos por riña en penal de Lagunillas*, 14.10.13, available at: http://www.el-nacional.com/sucesos/Fallece-recluso-riña-penal_0_281371988.html; Diario de Los Andes, *Un muerto dos heridos tras riña en Cepra*, 14.10.13, available at: <http://diariodelosandes.com/content/view/236055/106231/>

⁹⁸³ Observations of the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to the year 2013 (AGEV/000374) of December 20, 2013, page 78.

703. The Commission observes that at present there are eight prisons in respect of which there are provisional measures in place issued by the Inter-American Court of Human Rights: the Internado Judicial de Monagas “La Pica,” by Order of February 9, 2006; the Centro Penitenciario Región Capital Yare I and Yare II, by Order of March 30, 2006; the Internado Judicial Capital El Rodeo I and Rodeo II, by Order of February 8, 2008; the Centro Penitenciario de la Región Centro Occidental, Uribana Prison, by Order of February 2, 2007; the Centro Penitenciario de Aragua “Tocorón Prison,” by Order of November 14, 2010; the Internado Judicial de Ciudad Bolívar “Vista Hermosa,” by Order May 15, 2011; and the Centro Penitenciario de la Región Andina (CEPRA), by Order of September 6, 2012.

704. In this context, the Inter-American Commission considers it urgent for the Venezuelan State to adopt the measures necessary to tackle the causes of the high levels of violence in the prisons. In that regard, it reiterates emphatically that the State must investigate and punish those persons, including civilian and military authorities, who participate in the trafficking of arms in the prisons. It is also essential to implement all those measures aimed to prevent violence. In addition, it has been found that another of the reasons behind the continuing outbreaks of violence and tension in the Venezuelan prisons is the procedural backlog and the high levels of persons detained awaiting trial, with the consequences in terms of overcrowding, which is a reality which, despite some palliative measures attempted by the Government (e.g. the “Plan Cayapa”), has yet to be resolved substantially.

705. Similarly, the Venezuelan State should undertake immediate, exhaustive, and impartial investigations into the different violent incidents that have recently occurred in the country’s prisons, so as to identify the persons responsible and impose the corresponding sanctions on them, including administrative and disciplinary sanctions, as a preventive mechanism to impede the recurrence of new violent incidents.

C. Rights of lesbian, gay, trans, bisexual, and intersex persons (LGTBI)

706. In 2013, the IACHR continued receiving information about the high rates of violence and discrimination against LGBTBI persons in Venezuela, in particular in relation to gay men and trans women. According to a monitoring of the killings of trans persons worldwide, in the last 64 months (January 2008 to April 2013) there have been 64 assassinations of trans persons in Venezuela, making Venezuela the fourth leading country in such homicides in the Latin American and Caribbean region, after Brazil, Mexico, and Colombia.⁹⁸⁴

707. In 2013 the IACHR received information on the assassinations of 12 trans persons in January⁹⁸⁵, February,⁹⁸⁶ April,⁹⁸⁷ May,⁹⁸⁸ July,⁹⁸⁹ September,⁹⁹⁰ and October⁹⁹¹ in different states,

⁹⁸⁴ Transrespect versus Transphobia Worldwide, Transgender Europe: IDAHOT Article: May 17, 2013, http://www.transrespect-transphobia.org/es_ES/tvt-project/tmm-results/idahot-2013.htm.

⁹⁸⁵ Canal de Noticia, “[Dos travestis fueron asesinados en Zulia durante el fin de semana](#),” January 21, 2013 (Nataly and Chantal). More on the assassination of Nataly, Noticias Venezuela, “[Le decían Nataly y se lo llevaron de 5 de julio al travesti asesinado al oeste de Maracaibo](#),” January 20, 2013.

⁹⁸⁶ Yoyo Press, “[Hallan cuerpo de travesti brutalmente asesinado](#),” February 2, 2013 (unidentified trans person whose body was found February 1 in Macuto, state of Vargas); La Verdad, “[Hallan a travesti muerto en edificio de Maracaibo](#),” February 23, 2013 (“Gina”).

including Lara, Vargas, Zulia, Mérida, and Aragua, the vast majority by firearms. Moreover, on July 20, 2013, a young gay man, 18 years of age, artist and dancer, was assassinated in the city of Caracas.⁹⁹² Additionally, the local organization *Acción Ciudadana Contra el SIDA* (ACCSI) documented 99 cases of hate crimes against persons of “sexual diversity” between January 2009 and August 2013⁹⁹³.

708. In 2013, the IACHR continued to receive information on instances of police abuse, which, in 2012, constituted a recurring situation.⁹⁹⁴ In response to the situation of police abuse and violence perpetrated by State security agents, one organization that defends the rights of the LGBTI population signed agreements with the Police of Caracas and the Bolivarian National Guard on July 16, 2013, at the offices of the Office of the Human Rights Ombudsman Delegate for the Metropolitan Area.⁹⁹⁵ Nonetheless, it was reported that just one week later, on July 24, 2013, officers from the Police of Caracas, the Bolivarian National Guard, and members of the Military Police wounded a group of trans women in the capital with shot and gas.⁹⁹⁶

709. In addition, it was alleged that there was not a proper state response to the assassinations of and attacks directed against trans women that have occurred in Venezuela, in particular given the failure to investigate and the inactivity of the Public Ministry, in many cases in relation to acts of violence committed by state agents.⁹⁹⁷

710. The IACHR commends the statement made by the Ombudsman, Gabriela Ramírez, who affirmed on August 29, 2013, that the government would create a special division within the office of the Ombudsman, specifically focusing on sexual diversity, and proposed that the LGBTI community be the one presenting candidacies to this public entity⁹⁹⁸. Further, in its response to the Draft Report on

...continuation

⁹⁸⁷ The IACHR received information on four assassinations of trans persons in the state of Aragua in April 2013. Noticias 24, “[De varios disparos asesinaron a un travesti en el estado Lara](#),” April 17, 2013 (unidentified trans person who was said to have been murdered having suffered several gunshot wounds on Tuesday, April 16); El Impulso, “[Matan de un disparo a otro travesti en Barquisimeto](#),” April 13, 2013, (murder of “La Luisa” on Friday, April 13; and “La Paola” (Daimir) who was reportedly murdered on Saturday, April 6, also in Barquisimeto, state of Lara); El Siglo, “[A puñaladas y disparos asesinaron a un travesti](#),” April 15, 2013 (unidentified trans person whose body was found Sunday, April 14, in Maracay, state of Aragua).

⁹⁸⁸ El Merideño, “[Identificado travesti asesinado en el centro de Mérida](#),” May 13, 2013 (“La Huga,” 22 years of age).

⁹⁸⁹ El Siglo, “[Mataron de varios impactos de bala a travesti](#),” July 27, 2013 (Hernán Rafael Duno, state of Aragua), See also: El periodiquito, [Asesinaron a peluquero de múltiples disparos](#), July 27, 2013.

⁹⁹⁰ La Verdad.com, “[Asesinan a "Cherlys Hilton"](#),” September 17, 2013.

⁹⁹¹ NotiZulia.net, “[Asesinaron a travesti a martillazos en Machiques](#),” October 5, 2013.

⁹⁹² Venezuela Diversa, “[Asesinan a Joven Gay en la Libertador](#),” July 20, 2013.

⁹⁹³ ACCSI, “[ACCSI presentará informe sobre crímenes de odio por homofobia el 13 de noviembre en Caracas](#),” November 7, 2013.

⁹⁹⁴ IACHR, 2012 Annual Report, Chapter IV, paras. 171-173.

⁹⁹⁵ Venezuela Diversa A.C., “[Mujeres Trans protestan contra la impunidad y la inacción del Ministerio Público](#),” July 25, 2013.

⁹⁹⁶ Venezuela Diversa A.C., “[Mujeres Trans protestan contra la impunidad y la inacción del Ministerio Público](#),” July 25, 2013.

⁹⁹⁷ Noticias 24, “[Transexuales piden justicia al MP ante los ‘múltiples asesinatos por discriminación’](#),” July 25, 2013.

⁹⁹⁸ Últimas Noticias, “[Ramírez anuncia creación de Defensoría especial de diversidad sexual](#),” August 29, 2013.

the General Situation of Human Rights in the Bolivarian Republic of Venezuela, the State emphasized that “it recognizes the LGBTTI population as being in a situation of vulnerability” and indicated that the Ombudman’s Office carries out activities to promote and disseminate the human rights of the LGBTI population and that its personnel receive training in the area of the rights of LGBTI persons.⁹⁹⁹

711. In its 2012 Annual Report, the IACHR described an incident in which then-Foreign Minister Nicolás Maduro, speaking to the media, used expressions that LGBTI social organizations in Venezuela considered discriminatory and pejorative towards that sector of the population.¹⁰⁰⁰ On this occasion, the inconformity of the social organizations led the Foreign Minister to publicly retract his statement.¹⁰⁰¹ Similarly, in the context of the 2013 election campaign, the Commission received information on the issue of allegedly discriminatory language by the current President Nicolás Maduro in reference to the sexual orientation of the opposition candidate.¹⁰⁰² These allegations were denied by the President, who said that he would not have made comments on the sexual life of the opposition candidate and that if the candidate were homosexual he would accept that.¹⁰⁰³ Along these lines, on August 13, 2013, Pedro Carreño, a Member of the House of Representatives for the Partido Socialista Unido de Venezuela (Psuv), used homophobic slurs, while in parliamentary session, when he referred to Governor Henrique Capriles Radonski as “maricón” [Spanish equivalent to “faggot”] and a “homosexual”¹⁰⁰⁴.

712. In this vein, the IACHR reiterates that negative discourse and the use of insulting and pejorative epithets about LGBTI by public officials has a strong impact on the recognition of the rights of lesbians, gays, trans, bisexual and intersex persons.¹⁰⁰⁵ Expressions as those described above hinder democratic debate, legitimize harmful stereotypes and contribute to a climate of hostility towards LGBTI persons and towards those who defend their rights.

D. Women’s rights

713. The Commission has monitored the situation of women’s rights in Venezuela and in that regard highlights what was said by the Committee on the Elimination of Racial Discrimination on the important gains made, legislative and otherwise, such as the adoption of the Organic Law on the Right of

⁹⁹⁹ Observations of the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to the year 2013 (AGEV/000374) of December 20, 2013, page 82.

¹⁰⁰⁰ See IACHR, 2012 Annual Report, Chapter IV, Venezuela, para. 553. Among other organizations, Radio Reflejos de Venezuela and Venezuela Diversa stated their displeasure with the statements of the Venezuelan Foreign Minister. [“Homofobia en la Política incita el Odio hacia la Diversidad Sexual,”](#) April 15, 2012.

¹⁰⁰¹ Noticias 24, [“Maduro se disculpa con la comunidad gay del país por el adjetivo usado contra Capriles,”](#) April 17, 2012.

¹⁰⁰² The President, referring to the opposition candidate, said “I do have a wife, you hear me? I do like women,” and then went on to indicate that the opposition candidate was a “little princess” (*“una princesita”*). El Dinamo, [“Declaraciones de Maduro sobre sexualidad de Capriles encienden la carrera electoral,”](#) March 13, 2013; The Star, [“‘Macho’ Maduro’s perceived gay slur stirs Venezuela,”](#) March 14, 2013.

¹⁰⁰³ Huffington Post, [“Nicolas Maduro, Venezuelan Interim President, Responds to ‘Anti-Gay Allegations,’”](#) March 15, 2013.

¹⁰⁰⁴ El Mundo, [Pedro Carreño tilda de “homosexual” a Capriles Radonski,](#) August 13, 2013.

¹⁰⁰⁵ IACHR, Press Release No. 37/13, [“The IACHR calls Member States to Ensure Respect of the Rights of LGBTI Persons by Public Officials”](#).

Women to a Life Free from Violence, and the creation of government agencies such as the Coordinating Office for Afrodescendant Women and the Coordinating Office for Indigenous Women.¹⁰⁰⁶ Nonetheless, the Committee expressed its concern in respect of the many forms of discrimination and violence still faced by women who belong to indigenous, Afro-Venezuelan, migrant, and refugee communities, blocking the exercise of their social, political, economic, and cultural rights. The Committee specifically recommended to the State that it include a gender perspective in all the policies and strategies against racial discrimination to address the multiple forms of discrimination women face. The Committee also urged the State to continue adopting measures with a view to supporting women victims of racial discrimination and improving their access to justice.

714. The Observatorio Venezolano de los Derechos Humanos de las Mujeres¹⁰⁰⁷ also published a report in 2013¹⁰⁰⁸ analyzing specific areas in which the country faces specific challenges to meet the Millennium Goals. The organizations that make up the Observatorio highlighted the situation of insecurity affecting the country and the prevalence of different forms of violence against women, including domestic violence. They understand that the approval of the Organic Law on the Right of Women to a Life Free from Violence and its entry into force, is not sufficient to guarantee that women can fully exercise their rights. They also emphasized the lack of measures to promote the full implementation of that law, as well as the need for specific regulation and systematic training for staff of institutions who receive and process complaints in cases of violence against women.

715. The Observatorio Venezolano de los Derechos Humanos de las Mujeres also highlighted, in its report, barriers in access to official information on the activities, goals, and accomplishments of state institutions that should be devoted to guaranteeing women's rights and the absence of statistics that make it possible to learn of the different violations of their rights that women suffer. They also highlight a trend in towards women's work to be in the informal sector, the wage gap as between the sexes, and the high rates of maternal mortality in Venezuela, among other challenges.

716. Furthermore, the IACHR notes that according to information that is a matter of public knowledge, in 2013 there has been a significant increase in the number of homicides of women in the city of Caracas. In this respect, and according to extra-official figures from the Scientific, Criminal, and Criminalistics Investigations Corps (CICPC), during the first five months of 2013 there were 77 cases of women murdered in the Metropolitan Area of Caracas, which would represent an increase of 5% over the same period last year.¹⁰⁰⁹ According to figures published by the daily newspaper El Nacional in August 2013, as of that date there had been "on record 99 deaths of women due to gunshot wounds or wounds inflicted by a bladed or piercing weapon in the metropolitan area of Caracas". The information

¹⁰⁰⁶ United Nations, Concluding observations on the combined nineteenth to twenty-first periodic reports of the Bolivarian Republic of Venezuela, adopted by the Committee at its eighty-third session (12-30 August 2013), CERD/C/VEN/CO/19-21, September 23, 2013, paragraph 21.

¹⁰⁰⁷ The Observatorio Venezolano de los Derechos Humanos de las Mujeres is a network made up of 45 non-governmental organizations in Venezuela.

¹⁰⁰⁸ Observatorio Venezolano de los Derechos Humanos de las Mujeres, *Mujeres Más Allá del 2015: Venezuela no cumplirá las Metas del Milenio*, September 9, 2013.

¹⁰⁰⁹ The figures were offered anonymously, "due to lack of authorization," to the source of the newspaper El Universal. See: El Universal, [Han matado a 77 mujeres en Gran Caracas durante 2013](#), May 31, 2013.

was said to have been offered extra-officially by police authorities, who indicated that the number of cases on record means an increase of “132% in this type of homicide with respect to last year.”¹⁰¹⁰

717. The State indicated that there are currently 54 courts in Venezuela that specialize in dealing with gender violence, and that the Supreme Court had announced the creation of eighteen additional special courts.¹⁰¹¹

718. During the 149th period of sessions, the IACHR also received information that indicates that from January to October 2013, there would have been at least 171 cases of women assassinated, and in 54% of the cases more than half were injured by firearms. In addition, the information available indicates that they are mostly young women; in 67% of the cases on record the victims were 18 to 40 years of age.¹⁰¹²

719. Moreover, the Commission is aware that in May 21, 2013, the Office of the Attorney General submitted to the National Assembly a proposed modification of the “Organic Law on the right of women to a life free from violence”¹⁰¹³ to include the crime of femicide (*feminicidio*).¹⁰¹⁴ In addition, the Minister of People’s Power for Women and Gender Equality has noted that her office is pursuing a discussion to propose a possible comprehensive reform to the Organic Law.¹⁰¹⁵

720. In late May 2013 the proposed reform to the Organic Law to include the crime of femicide was approved in the first debate. According to the initiative, this crime will be punished by 15 to 30 years behind bars.¹⁰¹⁶ As of the date of approval of this report, the matter was under study in the legislature’s Standing Committee on Integral Social Development.¹⁰¹⁷

E. Situation of Afro-descendant persons

721. It should be noted that in 2005, the Presidential Commission for the Prevention and Elimination of all forms of racial discrimination and other distinctions in the Educational System was created.¹⁰¹⁸ According to information submitted by the State to the United Nations Committee on the Elimination of Racial Discrimination (“CERD”), since it was established the Commission has undertaken

¹⁰¹⁰ According to this source, 15 women were assassinated in 2012, and 50 in 2011. See: El Nacional, [Asesinaron a mujer en Terrazas del Club Hípico para robarla](#), August 8, 2013. It was indicated in an article in the newspaper El Universal that as of August 2013, 106 women had died in violent incidents in Greater Caracas, according to figures said to be from the CICPC. See: El Universal, [Han matado a 106 mujeres este año en la Gran Caracas](#), August 19, 2013.

¹⁰¹¹ Observations of the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to the year 2013 (AGEV/000374) of December 20, 2013, page 81.

¹⁰¹² Information received during the hearing on the general human rights situation in Venezuela held during the 149th Period of Sessions.

¹⁰¹³ Published in [Gaceta Oficial No. 38,770](#), September 17, 2007.

¹⁰¹⁴ See: Telesur, [Fiscalía de Venezuela solicitó incorporar el delito de “feminicidio” a la Ley](#), May 21, 2013.

¹⁰¹⁵ VTV, [En discusión reforma de la Ley Orgánica sobre el derecho de la mujer a una vida libre de violencia](#), July 2013.

¹⁰¹⁶ AVN, [Entre 15 y 30 años de prisión será la pena por femicidio propuesta en reforma de ley](#), June 20, 2013.

¹⁰¹⁷ See: ANTV, [Unanimidad del Parlamento venezolano aprobó reforma de ley a favor de la mujer](#), May 28, 2013.

¹⁰¹⁸ According to Decree No. 3,645, published in [Gaceta Oficial No. 30102](#) of May 9, 2005. The Commission is made up of several state institutions and members of Afro-Venezuelan organizations.

various activities to protect Afro-Venezuelan communities, including maintaining an office for receiving complaints of discrimination at the headquarters of the Ministry of People’s Power for Energy and Oil (MPPEE); undertaking the “review of the structure of the curriculum used in the Venezuelan educational system”; demanding of the Ministry of People’s Power for Internal Affairs and Justice “the preparation of an updated statistical record on the number of Afro-descendant prisoners in Venezuelan prisons”; and promoting activities to include the Afro-descendant population in “all spheres of society.”¹⁰¹⁹

722. In 2011, the 14th Population and Housing Census was conducted in Venezuela; it considered ethnicity, including a question that allows one to identify as Afro-descendant. According to the National Statistics Institute, and according to preliminary figures from the census, there are 181,157 persons in Venezuela who self-identify as Afro-descendants, accounting for 0.7% of those surveyed.¹⁰²⁰

723. The Organic Law against Racial Discrimination was promulgated in 2011.¹⁰²¹ That Law established a series of mechanisms for preventing and eradicating racial discrimination. Specifically, employers are required to put the necessary mechanisms in place, in coordination with the competent authorities, to ensure the education and greater awareness of the issue among workers (Article 19). It also provides that every “public or private established with public access” must show “in a visible manner a sign containing the text of Article 8 of the Law” (Article 20). In this respect, the Law also provides for sanctions that range from imposing monetary sanctions to temporarily shutting down the establishment (Article 21).

724. It was also provided that the National Institute against Racial Discrimination (Incodir: Instituto Nacional contra la Discriminación Racial) would be established as the agency in charge of “carrying out public policies aimed at preventing and eradicating racial discrimination in all spheres.”¹⁰²² Nonetheless, one notes the scant official, public, and updated information in actions implemented within the scope of the Law’s application, in particular of the activities carried out by Incodir since it was established, as well as its limited interaction with the Presidential Commission on Racial Discrimination. On the other hand, in its response to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela, the State reported on the creation of the Council for the Development of Afrodescendent Communities in 2012.¹⁰²³ However, it did not provide further information in this regard. According to publicly available information, this Council “will have the objective of advising, elaborating, formulating, coordinating, following up and evaluating public policies corresponding to the Afro-venezuelan communities.”¹⁰²⁴

¹⁰¹⁹ Information submitted by the Venezuelan State to the CERD in relation to periodic reports 19, 20, and 21, July 9, 2012, para. 350. The information corresponds to the policies adopted by the State to eliminate racial discrimination during the 2005-2010 period. The document is available at the following link: <http://www2.ohchr.org/english/bodies/cerd/cerds83.htm>

¹⁰²⁰ Of that record, the other 49.9% self-identify as “morena” or “moreno,” 42.2% as “white” (“blanca o blanco”); 2.8% as “black” (“negra o negro”), and 2.7% as indigenous. See: Correo del Orinoco, *Censo 2011: Venezuela tiene 28.946.101 habitantes*, August 9, 2012. The official results of the 2011 census have yet to be published. See official website: <http://www.ine.gob.ve/CENSO2011/index.htm>.

¹⁰²¹ Published in the Gaceta Oficial No. 39,823 of December 19, 2011.

¹⁰²² Articles 25 and 26 of the Organic Law.

¹⁰²³ Observations of the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to the year 2013 (AGEV/000374) of December 20, 2013, page 83.

¹⁰²⁴ Gaceta Oficial de la República Bolivariana de Venezuela, Presidency of the Republic, Decree No. 8.860 of March 24, 2013, article 3. See official page: <http://www.pgr.gob.ve/dmdocuments/2012/39893.pdf>

725. In August 2013, the United Nations Committee on the Elimination of Racial Discrimination will begin its evaluation of the issue with respect to Venezuela.¹⁰²⁵

726. In its preliminary comments on Venezuela the Committee recognized the efforts the State has made to prevent and eradicate racism in the country. Nonetheless, it offered certain considerations on the content of the information provided by the State.¹⁰²⁶ In that regard, the Committee highlighted the lack of information on judicial proceedings for acts of racial discrimination, the imposition of penalties based on what is established in the Criminal Code, and its harmonization with the specialized legislation on the topic, or the results obtained in implementing measures aimed at ensuring effective access to justice for persons who are subject to discrimination, in particular the indigenous communities and Afro-descendants. In particular, it was noted that there is a lack of official and statistical information on complaints and convictions in cases of racial discrimination. In addition, the country rapporteur for Venezuela expressed concern at the information available on the assassination of leaders of social organizations, and acts of violence against members of indigenous communities, allegedly with the participation of state agents.

727. The Committee also asked the State to submit information on the mechanisms implemented to address the use of hate speech in the media, and incitement to racial hatred. It also requested information on any measures taken by the State to fight racial discrimination against Afro-descendant and indigenous women, women who are deprived of liberty, and in general against persons seeking asylum and refugee status, and those who have such status in Venezuela.

F. Refugees and persons seeking refugee status

728. The Commission is aware that the dynamic of migrants, persons with refugee status or those who have applied for it in Venezuela is largely determined by the course of the Colombian armed conflict. It is shaped, in particular, by the presence of persons displaced due to that conflict in Venezuelan cities along the border with Colombia, and by the activities of irregular armed groups that have led to a worsening of the violence in those areas in recent years.¹⁰²⁷

729. According to the UNHCR, in 2012 there were 1,561 applications for refugee status¹⁰²⁸ and, as of December 2012, some 200,000 persons were in need of international protection.¹⁰²⁹ In addition, according to the management report, for the same period, of the National Commission for Refugees (CONARE: Comisión Nacional para los Refugiados), “in 2012 there were an estimated 1,300 new applications [for refugee status], 99% of which [were] filed by persons with Colombian citizenship....”¹⁰³⁰ In all, in 2012 the CONARE decided 4,267 cases under study, 1,182 persons benefited

¹⁰²⁵ See: Amnesty International, [Naciones Unidas evaluará discriminación racial en Venezuela](#), August 12, 2013.

¹⁰²⁶ See: UNOG, [Committee on Elimination of Racial Discrimination considers report of Venezuela](#), August 16, 2013. The information noted in this section refers to the preliminary observations published in that press release of the CERD. Nonetheless, its official report has not been issued.

¹⁰²⁷ PROVEA, 2012 Annual Report, [Chapter on the right to asylum and refugee status](#), p. 271.

¹⁰²⁸ PROVEA, 2012 Annual Report, [Chapter on the right to asylum and refugee status](#), p. 277.

¹⁰²⁹ See: PROVEA, 2012 Annual Report, [Chapter on the right to asylum and refugee status](#), p. 276.

¹⁰³⁰ Cited in: PROVEA, 2012 Annual Report, [Chapter on the right to asylum and refugee status](#), p. 277.

were identified, in 3,818 cases of persons seeking refugee status it was denied, and in 449 cases it was recognized.¹⁰³¹

730. In 2013 civil society organizations (Caritas, Radio Fe y Alegría, and the Jesuit Refugee Service) have publicly denounced that in the state of Zulia, a region that shares a border with Colombia, there is a humanitarian crisis due to the “massive affluence of Colombian refugees of peasant origin.” The situation was said to have worsened in June and July due to the mobilization stemming from the protests of peasant communities in the Catatumbo region, in the department of Norte de Santander.¹⁰³² In this respect, the president of CONARE has reported that during this period approximately 500 Colombian persons crossed the border into Venezuela.¹⁰³³ To address this situation the CONARE authorities publicly announced a coordination plan to provide humanitarian attention to the communities.¹⁰³⁴

G. Children and adolescents

a. Progress in attaining the Millennium Goals

731. Based on the information provided by the official figures published in 2010 by the National Government, in its second country report on progress in attaining the Millennium Development Goals (MDGs), and in keeping with the assessment made in the recent universal periodic review (2011), the IACHR observes with profound satisfaction that there is a positive trend towards meeting almost all the goals. Infant mortality in Venezuela has been reduced steadily, and the country is situated among the five countries of the region with the lowest child malnutrition rates in children under 5 years of age. In addition, according to UNICEF, “adolescent pregnancy accounted for 23.4% (138,713) of all births in 2009. Of these, 7,737 were in mothers under 15 years of age.”¹⁰³⁵ As regards the right to education, universal primary education has almost been achieved by the country, as it has reached a net enrollment rate of 92% (2008-2009). In addition, the Commission takes note of the information provided by UNICEF according to which 164 courts for the protection of children and adolescents have been set up nationally.¹⁰³⁶

732. In addition, the Government of Venezuela implemented what is called the *Solidarity Program (Programa Solidaridad)* which, according to the International Labor Organization (ILO), could remove 100,000 children from child labor by 2020 and 75,000 children by 2015¹⁰³⁷, which if effectively implemented, would imply a significant gain in relation to the current situation. In this regard, according to the same ILO, child labor is a habitual practice, particularly in farming, domestic service, and

¹⁰³¹ PROVEA2012 Annual Report, [Chapter on the right to asylum and refugee status](#), p. 279.

¹⁰³² Sic Semanal - Centro Gumilla, [Refugiados: nueva crisis humanitaria en el Zulia](#), July 26, 2013.

¹⁰³³ See: Radio Fe y Alegría, [Más de 500 colombianos han cruzado la frontera venezolana](#), July 23, 2013.

¹⁰³⁴ See: Sic Semanal - Centro Gumilla, [Informe desde la frontera: nuevos desplazados por el conflicto colombiano](#), July 24, 2013.

¹⁰³⁵ See information on the situation of the rights of the child in Venezuela. Available at http://www.unicef.org/venezuela/spanish/overview_4200.htm

¹⁰³⁶ See information on the situation of the rights of the child in Venezuela. Available at http://www.unicef.org/venezuela/spanish/overview_4200.htm

¹⁰³⁷ See 7 minutos, [“OIT prevé Programa Solidaridad retirará a niños del trabajo infantil,”](#) August 19, 2011.

streetvending. The ILO has also expressed its concern for the lack of statistics in this area that makes it possible to measure the scope and trends of child labor in the country.¹⁰³⁸

733. Venezuela cites as a very important accomplishment the development of the “Misión Identidad,” and within it the National Plan for Issuing ID Cards, which as of 2010 and prepared and processed more than four million new national ID cards, mostly for new Venezuelan citizens. “One of the greatest accomplishments has been both guaranteeing the right to identification in terms of a birth certificate and civil registration of the child immediately after birth, and having been able to detain and diminish the social gap that has built up for so many years. At present it has diminished by 50%, i.e. one of every two children is being given these means of identification.”¹⁰³⁹

b. Violence

734. According to figures from the non-governmental organization CECODAP violence against children and adolescents has increased sixfold since 1992. According to this organization, 20 years ago it produced its first annual report, which had figures of 20 violent deaths monthly of persons under 18 years of age. Today, that same cause accounts for just over 60 deaths monthly: “most of the deaths of adolescents 12 to 17 years of age were brought on by violent causes, including those related to the presence of firearms in the incident..., mixed in, moreover, with a situation of impunity in most of these deaths that may generate a circle of violence.”¹⁰⁴⁰

735. In the report on the impact of violence in children and adolescents published by the organization CECODAP, figures are cited from the Ministry of People’s Power for Health on deaths in the period from 1997 to 2009 that indicate that while child mortality in children ages 0 to 11 has diminished, violent deaths of children (mainly males) ages 12 to 14 years rose from 2.6 per 100,000 in 1997 to 5.3 per 100,000 in 2009. In addition, in the 15-to-17-year age group the number of deaths by homicide climbed from 15.7 per 100,000 in 1997 to 42.2 per 100,000 in 2009. According to the figures provided by CECODAP, in 2009 mortality in male children due to violent causes was 143.1 per 100,000 while for female children it was 11.2 per 100,000.

736. In addition, the Report indicates that 75% of violent deaths, in the case of the male children, occurred with the involvement of a firearm and that these are concentrated in urban areas. Thus, of a total of 1,763 violent deaths (including homicides and other violent events), 1,383 occurred with a firearm, and 317 without a firearm. In the case of female children, it indicates that they are more likely to die from violent causes not associated with firearms. It adds that in 2009, 74.59% of the violent deaths of persons under 18 years, in the entire year, were of adolescents ages 15 to 17 years, a figure with quite a large gap with respect to all other ages. The deaths of these adolescents accounted for 7.05% of all deaths nationwide due to these causes.

¹⁰³⁸ See 2011 observation on Convention C138 in relation to Venezuela. Available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:P13100_COMMENT_ID:2699937:NO

¹⁰³⁹ Third, Fourth, and Fifth consolidated report by the Bolivarian Republic of Venezuela pursuant to Article 44 of the Convention on the Rights of the Child presented to the Committee on the Rights of the Child, paras. 144 to 146.

¹⁰⁴⁰ See EL IMPACTO DE LA VIOLENCIA EN NIÑOS, NIÑAS Y ADOLESCENTES.CECODAP March 2013. Available at: http://www.cecodap.org.ve/descargables/derechosNNA/El_Impacto_de_la_Violencia_en_NNA.pdf See also: El Universal, *La violencia social es la que más impacta a niños y adolescentes*, July 11, 2012.

737. According to CECODAP's figures, from 2010 to 2012 homicides of minors in Caracas increased 41.8%, and for the period from January to August 2013 it reports 75 cases. Of the total homicides on record, the leading cause of death is by firearm, and the victims were said to be, on average, "males 15 to 17 years of age." In addition, it is indicated that "nationwide, the total is 415 minors, whereas in 2012 there were 892 cases of youths under 18 years of age who were victims of violence." According to figures from the Criminology Department at the Universidad de Los Andes, "the homicide rate for minors ages 15 to 17 years is more than 200 cases per 100,000 population."¹⁰⁴¹

738. While the figures to which the Commission has had access have some discrepancies, all the sources consulted evidence a progressive increase in violence of which children and adolescents are the victims, and of the levels of homicides in this population group.

c. Forced recruitment

739. The IACHR notes that in keeping with the international provisions, the Constitution of the Bolivarian Republic of Venezuela establishes that no one may be subjected to forced recruitment (Article 134). In addition, the Law on Military Conscription and Enlistment establishes as the age for military service 18 to 60 years, and expressly refers to not admitting persons under 18 years of age (Article 4). The Organic Law for the Integral Protection of Children and Adolescents (LOPPNA) contains several relevant prohibitions on the subject, for example it prohibits the sale, supply, and facilitation of arms, munitions, and explosives to children and adolescents, identifying this prohibition as a preventive activity (Article 92(d)); and it prohibits print or audiovisual material, books, publications, videos, illustrations, photographs, readings, and stories for children and adolescents from containing information and images that promote or incite violence, or the use of arms (Article 75). This same law establishes prohibitions criminalizing those acts and establishing the sanction of imprisonment for certain cases, to wit: it prohibits the supply of weapons, munitions, and explosives to children and adolescents (Article 261); the trafficking of children and adolescents within or outside the country's territory for the purpose of obtaining an illicit benefit (Article 266); the illegitimate deprivation of liberty (Article 268); the abduction and holding of children and adolescents (Article 272); hiring children or adolescents or profiting from their work (Article 257); and the forced labor of children or adolescents (Article 255). It also indicates other prohibitions, with respect to which it establishes the sanction of a fine: it prohibits the illegal transportation of children and adolescents within or outside the national territory (Article 231); hiring children or adolescents or profiting from their work; and hiring adolescents or profiting from their work without authorization (Article 239). According to information provided by the State, each year the Ministry of People's Power for Defense (MPPD) holds training campaigns for enlistment and conscription to attract to their ranks persons who are, strictly speaking, of age. In addition, the Law against Kidnapping and Extortion provides for forced enlistment as a crime distinct from kidnapping.¹⁰⁴²

740. Notwithstanding the advanced legislative protection, the Commission has received worrisome information about the recruitment of children and adolescents allegedly by illegal armed

¹⁰⁴¹ Information provided by Oscar Misle, Director of CECODAP, and Freddy Cresp, Criminologist with the Universidad de Los Andes. See: El Nacional, [Deterioro de instituciones del Estado dispara homicidios de menores](#), August 13, 2013.

¹⁰⁴² Baseline Report. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Submitted by the Venezuelan State. 2011.

groups, in particular in the areas along the border between Venezuela and Colombia¹⁰⁴³ and along the border with Brazil. This information coincides with the concerns that have already been expressed by the UNHCR¹⁰⁴⁴ and news that has appeared in the press.¹⁰⁴⁵

741. According to research cited in the alternative report submitted by the organization REDHNNNA to the Committee on the Rights of the Child, based on interviews with inhabitants of the states of Amazonas (municipalities of Atures, Autana, and Atabapo), Táchira (municipalities of García de Hevia, Panamericano, Ayacucho, Pedro María Ureña, Bolívar, Junín, and Córdoba), Apure (municipalities of Páez and Rómulo Gallegos), and Zulia (in the municipalities of Maracaibo, Guajira, Mara, Jesús Enrique Losada, Rosario de Perijá, Machiques de Perijá, and Jesús María Semprún), illegal armed groups recruit children ages 12 to 17 years of age. The organizations signing the REDHNNNA report indicate that they have presented a request to the Public Ministry to begin the respective investigations, and to protect the children and adolescents who are victims of the crime of recruitment, without, to date, having received an answer from this public entity.

742. The testimony of the persons interviewed brings to light the presence and operations of these groups in the zones, and in particular the ways in which children and adolescents are used and involved in different activities and actions of these groups, such as surveillance, collecting extortions, military actions, and for-hire killings. That report establishes that “the long-standing presence of illegal armed groups in the border areas and the interaction they establish with the inhabitants of those places promote the social legitimation [of such groups] as guarantors of order and a reference point for social and even family authority.... In the town of “El Nula” reference was made to the mediation of members of illegal armed groups to discipline adolescents who become disruptive in the family....”¹⁰⁴⁶ The study also indicates that another recruitment technique is to use “recruitment by peers ... the adolescent who becomes involved is cast as a model to demonstrate the advantages of belonging to an illegal armed group. They would begin wearing fashionable apparel, reaching school on a motorcycle, and having enough money to treat their friends when going out....”¹⁰⁴⁷

743. That report notes that poor families who live by the border far from state services, and refugee children in Venezuela as a result of the armed conflict by the border, are especially vulnerable groups.¹⁰⁴⁸

¹⁰⁴³

http://www.cecodap.org.ve/descargables/derechosNNA/Informe_Alternativo_OPAC_REDHNNNA_Venezuela_Octubre_2013.pdf

¹⁰⁴⁴ http://www.acnur.org/index.php?id_pag=6509

¹⁰⁴⁵ Diario Últimas Noticias: “Enrolan a menores para ‘guerra de resistencia.’” Available at: <http://www.ultimasnoticias.com.ve/noticias/actualidad/sucesos/enrolan-a-menores-para--guerra-de-resistencia-.aspx>. Visited April 24, 2012.

¹⁰⁴⁶ http://www.cecodap.org.ve/descargables/derechosNNA/Informe_Alternativo_OPAC_REDHNNNA_Venezuela_Octubre_2013.pdf, p. 11.

¹⁰⁴⁷ http://www.cecodap.org.ve/descargables/derechosNNA/Informe_Alternativo_OPAC_REDHNNNA_Venezuela_Octubre_2013.pdf, p. 12.

¹⁰⁴⁸ http://www.cecodap.org.ve/descargables/derechosNNA/Informe_Alternativo_OPAC_REDHNNNA_Venezuela_Octubre_2013.pdf, p. 15.

744. The Commission has also received information from the State that indicates that in the Bolivarian Republic of Venezuela there are no armed groups operating in Venezuelan territory, nor have there been any reports of Venezuelan children or adolescents having participated or participating in armed conflicts.¹⁰⁴⁹

VI. Situation of human rights defenders

745. During 2013, the Commission continued to receive information on the persistency of attacks, threats and harassment of human rights defenders. In particular this year, the Commission noted the use of certain laws that could have the impact of criminalization of the work of human rights defenders and the persistence of some disqualification speeches not allowing them to perform their work and increasing their risk.

746. In this context, in 2013, information has been received concerning threats and harassment directed against the Observatorio Venezolano de Prisiones (OVP), an organization that works actively on prison issues. The OVP reported that in 2012 and the first five months of 2013 they suffered 17 attacks due to their activism on behalf of persons deprived of liberty. These attacks were said to entail public expressions discrediting the organization by high-level officials, such as the Minister of Prison Affairs and the Minister of Foreign Relations; campaigns to discredit the OVP through the official media; direct threats against and intimidation of members of the organization and their family members; as well as alleged meddling in their email accounts.¹⁰⁵⁰

747. Specifically, the IACHR has continued to monitor the situation of Humberto Prado, director of the Observatorio Venezolano de Prisiones, who continued to be targeted by statements by government authorities, aimed at discrediting him, in several media outlets. The Commission was informed that on April 8, 2013, Minister of Prison Affairs Iris Valera had accused Prado, a human rights defender, of instigating violence in the country's prisons before the April 14 elections, which were approaching. In this connection, Minister Valera accused Humberto Prado of planning protest actions in all the prisons nationwide. She also accused Prado of being involved in unrelated incidents in which five women attempted to smuggle grenades into a prison, and in a thwarted escape attempt at the Centro Penitenciario Metropolitano Yare II, in Caracas.¹⁰⁵¹ The IACHR has also learned that on May 5, 2013, General Miguel Rodríguez Torres, Minister of Interior and Justice, appeared on a nationally broadcast television program and accused Prado Sifontes of being part of "a rightwing movement that proposes to destabilize the State."¹⁰⁵² General Rodríguez Torres accused Prado Sifontes of being involved in a

¹⁰⁴⁹ Baseline Report. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. Submitted by the Venezuelan State. 2011, para. 74.

¹⁰⁵⁰ Information provided by Humberto Prado, Director of the Observatorio Venezolano de Prisiones, to the Rapporteurship on Persons Deprived of Liberty in 2013.

¹⁰⁵¹ Front Line Defenders. [Venezuela: Funcionario público hace declaraciones difamatorias acerca del defensor de derechos humanos Dr. Humberto Prado Sifontes](#). April 9, 2013.

¹⁰⁵² Front Line Defenders. [Venezuela: Actualización: Funcionario público hace declaraciones difamatorias acerca del defensor de derechos humanos Dr. Humberto Prado Sifontes](#). May 8, 2013.

conspiracy, along with other non-governmental organizations, to radicalize the youth and finally carry out a coup d'état.¹⁰⁵³

748. In regard with the threats received by human rights defenders, the IACHR also received information regarding threats directed against Marianela Sánchez Ortiz and her family, who were said to be the target of many threats since May 2012 due to her work as a human rights defender, in her capacity as Legal Coordinator of the Observatorio Venezolano de Prisiones. The information received indicates that in April 2012 Sánchez Ortiz's husband was informed that the family "would pay" if his wife did not stop her activity of denouncing prison conditions in Venezuela.¹⁰⁵⁴ Similarly, it is indicated that on April 13, 2013, family members of Marianela Sánchez received an anonymous letter indicating that they were tracking the family closely and that they had photos of her whole family, describing some events at which they were watching the family.¹⁰⁵⁵

749. The Commission also received information on the situation of human rights defender Rocío San Miguel, who is a beneficiary of precautionary measures granted by the IACHR in 2012 (MC-349/11). In this respect, the IACHR was informed that on February 24, 2013, Rocío San Miguel received a death threat through an anonymous phone call, and that she had received intimidating and discrediting messages through the social network Twitter. San Miguel said that since September 2011 she had been the victim of intimidation and attacks through the social networks and that she received death threats against her and her family. At the same time, the IACHR received information that on July 22, 2013, General Miguel Rodríguez Torres, Minister of Interior, Justice and Peace, had accused Rocío San Miguel of being an United States intelligence operative, saying: "Persons like Rocío San Miguel who in these days I was listening to, talking about human rights and the Armed Forces. I can tell you that she is an operative of the CIA in Venezuela, I can prove it."¹⁰⁵⁶

750. The IACHR was also very concerned upon receiving information about the alleged torture of human rights defender Luis Rafael Escobar Ugas, who is said to have been detained since March 19 for participating in a protest with some residents of the city of Barcelona, state of Anzoátegui, who were calling for adequate housing. According to the information received, Escobar Ugas, who in recent years had been denouncing acts of torture and extortion by the local police, was said to have been suspended by his wrists and beaten by the police during his first night in custody. The information received also indicates that Escobar Ugas was ill and was not receiving the urgent medical care he needed.¹⁰⁵⁷

¹⁰⁵³ Front Line Defenders, [Venezuela: Actualización: Funcionario público hace declaraciones difamatorias acerca del defensor de derechos humanos Dr. Humberto Prado Sifontes](#), May 8, 2013.

¹⁰⁵⁴ Front Line Defenders, [Venezuela: Amenazas continúan contra la defensora de derechos humanos Marianela Sánchez Ortiz y su familia](#), April 15, 2013.

¹⁰⁵⁵ Front Line Defenders, [Venezuela: Amenazas continúan contra la defensora de derechos humanos Marianela Sánchez Ortiz y su familia](#), 15 de Abril de 2013.

¹⁰⁵⁶ PROVEA, [Comunicado de las ONG's de DDHH, ante las acusaciones del Ministro de Interior, Justicia y Paz, Miguel Rodríguez Torres, contra la defensora de DDHH y Presidenta de la ONG Control Ciudadano, Rocío San Miguel](#), July 22, 2013.

¹⁰⁵⁷ Amnistía Internacional, [Venezuela: Activist Tortured in police cell: Luis Rafael Escobar Ugas](#), September 13, 2013; CONFLICTOVE, [Acción Urgente por el activista Escobar Ugas, torturado en un calabozo policial en Anzoátegui](#), 16 de septiembre de 2013; Código Venezuela, [Acción Urgente para activista venezolano Escobar Ugas torturado en un calabozo policial](#), September 19, 2013.

751. Another obstacle on which the Commission received information in 2013 refers to the declarations aimed to bring disrepute on the work of human rights defenders. On this regard, the United Nations Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, expressed her “concern over the allegations received of stigmatization and intimidation of human rights defenders who work for the rights of persons detained and to improve the conditions of detention in the country.”¹⁰⁵⁸

752. Furthermore, the IACHR has received information concerning the alleged criminalization of social protest and other activities regarding the defense of human rights, purportedly as a mechanism for limiting the activities of human rights defenders. Such acts include the approval and implementation of criminal laws in ambiguous terms, arrests in connection with the implementation of these laws, use of military jurisdiction, as well as restrictions and controls on the right to freedom of association.

753. With regard on the use of laws that would criminalize the work of human rights defenders, the Commission was informed of the alleged use of the Organic Law against Organized Crime and Terrorist Financing in order to interfere in the development of social protest marches¹⁰⁵⁹. The information received indicates that due to the ambiguity of terms such as “terrorist act”¹⁰⁶⁰ and “organized crime”¹⁰⁶¹ several human rights defenders, particularly those involved in social protests, would be subject to criminal proceedings as a result of alleged offenses under such laws as a result of protest activities of certain rights claim¹⁰⁶². According to the information received, at least 18 youths have been accused of crimes set forth in the Law against Organized Crime and Financing of Terrorism.¹⁰⁶³ The information received indicates that depending on the interpretation of those laws, activities such as closing down streets or avenues, drawing graffiti on a public institution, or disrespecting a government official would be considered a terrorist act.¹⁰⁶⁴

¹⁰⁵⁸ United Nations. General Assembly. Human Rights Council. Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya. Addendum, Observations on communications transmitted to Governments and replies received. February 7, 2013. para. 466.

¹⁰⁵⁹ IACHR. *Hearing about the situation of the freedom of association in Venezuela*. 149th period of sessions, October 31, 2013.

¹⁰⁶⁰ The Organic Law against Organized Crime and Financing of Terrorism, published in the Gaceta Oficial of April 30, 2012, at Article 4(1), defines a terrorist act as: “such intentional act which due to its nature or its context may gravely prejudice a country or an international organization defined as a crime against the Venezuelan legal order, committed with the aim of gravely intimidating a population; improperly forcing governments or an international organization to perform an act or to refrain from doing so or to gravely destabilize or destroy the fundamental political structures or the constitutional, economic, or social structures of a country or of an international organization.”

¹⁰⁶¹ The Organic Law against Organized Crime and Financing of Terrorism, published in the Gaceta Oficial of April 30, 2012, defines organized crime, at Article 4(9), as: the act or omission of three or more persons associated for a certain time with the intent of committing the offenses established in this Law and to obtain, directly or indirectly, an economic or other benefit for themselves or for third persons. In addition, organized crime is also considered to be an activity performed by a single person acting as a juridical or associative person with the intent to commit the crimes provided for in this Law.

¹⁰⁶² IACHR. *Hearing about the situation of the freedom of association in Venezuela*. 149th period of sessions, October 31, 2013.

¹⁰⁶³ El Nacional, [En 15 días de abril denuncias de tortura superaron las de 2012](#), May 13, 2013.

¹⁰⁶⁴ IACHR. *Hearing about the situation of the freedom of association in Venezuela*. 149th period of sessions, October 31, 2013. El Nacional, [En 15 días de abril denuncias de tortura superaron las de 2012](#), May 13, 2013.

754. In this regard, the Commission reiterates that although it is up to the States to define which behaviors are typified as crimes of a terrorist nature, this power must be exercised in compliance with the principle of legality and according to the international consensus regarding certain elements of terrorism that make necessary a punitive response by the State¹⁰⁶⁵. In this sense, in relation to the principle of legality, the Commission recalls that the typification of acts of criminal nature should use strict and unequivocal terms that defines the punishable offense, giving full meaning to the principle of legality. This, as noted by the Court, means a clear definition of the criminalized conduct, establishing its elements and behaviors that distinguish it from illegal or punishable conducts that do require imprisonment, as the ambiguity in the formulation of criminal offenses raises questions and opens the field to the discretion of the authority¹⁰⁶⁶.

755. The Commission notes that in relation to this Act, the Special Rapporteur of the United Nations on the situation of human rights defenders, Margaret Sekaggya expressed this year its “concern over the information received on the implementation of the Organic Law against Organized Crime and Financing of Terrorism, which is said to seriously impair the free exercise of the right to association as well as the rights to freedom of expression and peaceful assembly.”¹⁰⁶⁷ In this regard, the IACHR shares the Rapporteur’s concern that this situation “could create a climate of fear and intimidation against human rights defenders and excessive and unnecessary control of any lawful financing or donation, limiting the capacity to act of organizations working to defend human rights.”¹⁰⁶⁸

756. Furthermore, in relation to the prosecution of human rights defenders in military courts, the Commission received information indicating that based on the Organic Law against Organized Crime and Terrorist Financing Act and the Organic Law on the Security of the Nation, there are criminal proceedings in the jurisdiction of military courts to human rights defenders involved in social protests based on alleged transgressions of areas that would be considered of “national security”¹⁰⁶⁹. In this regard, Rubén González, a trade union leader, Secretary General of the Workers of Ferrominera, was deprived of liberty for his participation in a strike in August 2009, accused of the crimes of instigating criminal conduct, restriction of work, conspiracy, and trespass of security zones.¹⁰⁷⁰

¹⁰⁶⁵ CIDH, Informe de Fondo 176/10, Casos 12.576, 12.611 Y 12.612 Segundo Aniceto Norin Catriman, Juan Patricio Marileo Saravia, Victor Ancalaf Llaupé Y Otros (Chile), 5 de noviembre de 2010, párr. 130.

¹⁰⁶⁶ I/A Court HR, Case of *Castillo Petruzzi et al. v. Perú*. Merits, Reparations and Costs. Judgment of May, 30, 1999. Serie C No. 52. paragraph. 121.

¹⁰⁶⁷ United Nations. General Assembly. Human Rights Council. *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya. Addendum, Observations on communications transmitted to Governments and replies received*. February 27, 2013. Para. 464.

¹⁰⁶⁸ United Nations. General Assembly. Human Rights Council. *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya. Addendum, Observations on communications transmitted to Governments and replies received*. February 27, 2013. Para. 464.

¹⁰⁶⁹ The Organic Law on Security of the Nation, published in the Gaceta Oficial of December 18, 2002, at Article 2, indicates that: the Security of the Nation is grounded in integral development, and it is the condition, state, or situation that guarantees the enjoyment and exercise of the rights and guarantees in the economic, social, political, cultural, geographic, environmental, and military spheres, of the constitutional principles and values, by the population, the institutions, each of the persons who constitute the State and society, taking account of future generations, within a democratic, participatory, and protagonistic system, free of threats to its survival, its sovereignty, and the integrity of its territory and other geographic spaces CONFLICTOVE, [Represión jurídica e intimidación militar se agudizan en protestas sociales](#). 30 de septiembre de 2013.

¹⁰⁷⁰ El Universal. [Convocan a nueva audiencia de juicio de Rubén González](#). November 9, 2013. According to the State, Mr. Rubén González would have been detained for “having promoted protests in declared Security zones and having had

At the same time, trade union leaders Hictler William Torres, Luis Arturo González, José Martín Mora, Wilander Pedro Oropeza, and Ramiro Parada were facing charges before military courts accused of violation of security zones in the context of protests and strikes.¹⁰⁷¹ In addition, the IACHR has learned of the regime of being brought before military courts imposed on Norberto Pinto, Joel Yépez, Julio González, Ramón Mujica, Alberto Moreno, and Alexis Romero, Pemon indigenous leaders who have reported that military troops had been accomplices in the illegal mining in the watersheds of the state of Bolívar.¹⁰⁷² The information available indicates that those Pemon leaders are being accused for the alleged detention of troops in the upper Paragua basin on October 27, 2011, because of the alleged mistreatment of the Pemon peoples by the military officers.¹⁰⁷³

757. The Commission reiterates that the rights protected by Article XVIII of the Declaration (right to a fair trial), as well as Article 8 of the American Convention, give every person subject to a judicial proceeding the right to a hearing by a competent judge or court, with due guarantees and within a reasonable time¹⁰⁷⁴. The Inter-American Court of Human Rights has stated that in a democratic State of law, the military jurisdiction shall have a restrictive and exceptional scope and be directed toward the protection of special juridical interest, related to the task characteristic of the military forces. Therefore, the Tribunal has previously stated that only active soldiers shall be prosecuted within the military jurisdiction for the commission of crimes or offenses that based on their own nature threaten the juridical rights of the military order itself.¹⁰⁷⁵

758. As for the restrictions and controls on the right to freedom of association, in 2013 the IACHR continued to monitor the approval and/or enforcement of laws in Venezuela that could pose obstacles to the exercise of the freedom of association for human rights defenders.. according to information provided by the petitioner organizations during the hearing held in the 149th period of sessions regarding the right of association in Venezuela, the Organic Law on People's Power, approved December 9, 2010, by the National Assembly, was said to have had an immediate chilling effect on the freedom of association to pursue legitimate ends, including the defense of human rights. This is because that provision could impose a compulsory affiliation of persons in the various institutions and mechanisms of people's power, with which the independent activity of civil society would be discredited, excluded, and criminalized, with serious consequences such as closing off spaces for engagement with the State.¹⁰⁷⁶ Additionally, the Commission noted in 2013 the continuity of the

...continuation

confrontations with members of the military, [as such charges] exist in all the countries of the world." Observations of the Venezuelan State to the Draft Report on the General Situation of Human Rights in the Bolivarian Republic of Venezuela corresponding to the year 2013 (AGEV/000374) of December 20, 2013, page 76.

¹⁰⁷¹ IACHR. *Hearing about the situation of the freedom of association in Venezuela*. 149th period of sessions, October 31, 2013.

¹⁰⁷² El Universal. [Tribunal Militar cita a seis capitanes indígenas de Bolívar](#). March 22, 2013. During the 149th period of sessions, the IACHR also received information on these complaints.

¹⁰⁷³ El Universal. [Tribunal Militar cita a seis capitanes indígenas de Bolívar](#). March 22, 2013.

¹⁰⁷⁴ IACHR, *Second Report on the Situation of Human Rights Defenders in the Americas*. December 31, 2011, paragraph. 109

¹⁰⁷⁵ I/A Court HR, *Case of Radilla Pacheco v.. United States of Mexico*, Preliminary Objections, Merits, Reparations and Costs. November, 28, 2009, PARA. 272.

¹⁰⁷⁶ IACHR. *Hearing on the situation of the freedom of association in Venezuela*. 149th Period of Sessions, October 31, 2013.

inforcement of Law on Defense of Political Sovereignty and National Self-Determination which obstructs the chances for human rights defenders of getting resources from organizations of international cooperation. About this Act the Commission refers to its observations supra para. 74.

VI. Recommendations

759. Based on the foregoing analysis and, in particular, the monitoring conducted by the IACHR of the human rights situation, the Commission makes the following recommendations to the State of Venezuela:

Citizen Security

- Take comprehensive measures to ensure citizen security, especially with regard to the homicide rate;
- Train the public servants entrusted with the task of maintaining public order on the topic of protection and respect for human rights;
- Define how the members of the armed forces are to be involved in public order operations, which are under the jurisdiction of the police and, when they are involved in exceptional circumstances, have them be subordinate to civilian authority.

Administration of Justice

- Effectively guarantee the separation and independence of the branches of government and, in particular, adopt urgent measures to ensure the independence of the judicial branch, by strengthening the procedures for appointing and removing judges and prosecutors, affirming their job stability and eliminating the provisional status in which the large majority of judges and prosecutors find themselves.
- Adopt the necessary measures to protect the life and personal integrity of all persons, and the specific measures needed to protect journalists, human rights defenders, members of organized labor, persons who participate in public demonstrations, persons deprived of their liberty, children and adolescents, indigenous peoples, afro descendants and the LGTBI community. Also, strengthen judicial institutions' capacity to combat impunity in cases of violence and to ensure that investigations into acts of violence are conducted effectively and with due diligence.

Political rights

- Guarantee the full exercise of political rights to all individuals, irrespective of their positions on government policies, and adopt the measures necessary to promote tolerance and pluralism in the exercise of political rights.
- Refrain from taking reprisals or using the punitive power of the State to intimidate or sanction individuals based on their political opinions, and guarantee the plurality of opportunities and arenas for democratic activity, including respect for gatherings and protests held in exercise of the right of assembly and peaceful protest.
- Promote a climate of tolerance that encourages and is conducive to the active participation of and an exchange of ideas among the various sectors of society, and design institutions that promote rather than inhibit or thwart public discourse.

- From the highest levels of government, continue to publicly condemn acts of violence against social communicators, communications media, human rights defenders, unionists, and political dissidents, with the aim of preventing actions that foment these crimes and of avoiding continued cultivation of a climate of stigmatization towards those who maintain a stance critical of government actions

Freedom of Expression

- Adopt adequate mechanisms to prevent violence against broadcasters, including public condemnation of any act of aggression, training public officials and, particularly, the police or security forces and, when necessary, issue codes of conduct or guidelines with regard to this right.
- Encourage democratic discussion by means of public statements, practices and policies that promote tolerance and respect for every person equally, regardless of their thinking or ideas.
- Foster effective and efficient implementation of the laws and regulations governing access to information, by adequately training officials and educating citizens with a view to eradicating the culture of secrecy and in order to provide citizens with the tools to engage in effective monitoring of the functioning of the State, public administration and control of corruption, all of which is essential in the democratic process.

Human Rights Defenders

- Ensure conditions so that human rights and labor rights defenders can freely do their job, and refrain from any action and from adopting any legislation that restricts or hampers their work.

Persons Deprived of Liberty

- Urgently adopt the measures necessary to correct the procedural delays and the high percentage of persons deprived of liberty without a final verdict, thereby avoiding the excessive, unnecessary and disproportionate reliance on preventive detention or detention pending trial. Also, take measures to reduce prison overcrowding and improve detention conditions so that they are in line with international standards in this area, while taking particular care to ensure safety inside prisons, effective control of weapons inside prisons, proper segregation of the inmate population to conform to the categories and criteria established in the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, and to prohibit prisons from holding more prisoners than they have space for.
- Immediately adopt the measures necessary to confront the causes of violence in the prisons, in particular by investigating and punishing those persons involved in arms trafficking in the prisons. In addition, implement all those measures aimed to prevent violence. And conduct immediate, exhaustive, and impartial investigations into the different acts of violence that have recently occurred in the country's prisons so as to determine the individuals responsible and to impose the corresponding sanctions on

them, including administrative and disciplinary sanctions, as a mechanism to prevent the recurrence of new acts of violence.

Indigenous Peoples

- Further efforts to protect the effective enjoyment of the right to territory of the indigenous peoples, as a first step to safeguarding their fundamental rights, by the prompt demarcation, delimitation, and titling of their ancestral territories.
- Protect the life and integrity of Venezuelan indigenous persons, pursuant to its obligations under the inter-American instruments; and in particular, prevent attacks and harassment against traditional authorities and indigenous leaders where it has knowledge of a real and immediate threat.
- Investigate the human rights violations of indigenous peoples and their members, punish the direct perpetrators and planners, and make individual and collective reparation to the victims.
- Take decisive measures for the effective control and eradication of illegal mining in indigenous territories, and refrain from performing acts that could give lead the agents of the State or third persons acting with the consent or tolerance of the State to take actions that benefit illegal mining.

Women

- Adopt the necessary measures to ensure that cases of gender-based violence are investigated with due diligence in a timely, comprehensive and impartial manner, that the persons responsible are duly punished and that the victims receive full reparation.
- Adopt a comprehensive, coordinated and adequately funded State policy to make sure that victims of violence have full access to adequate judicial protection, and that acts of violence are adequately prevented, investigated, punished and redressed.

Lesbians, Gays and Trans, Bisexual and Intersex Persons (LGTBI)

- Use due diligence to prevent, punish and investigate acts of violence and discrimination against LGBTBI persons.
- Adopt the necessary state measures, including of a legislative nature, to protect and ensure the rights of LGBTBI persons in Honduras, without any discrimination based on sexual orientation, gender identity or expression.

Afrodescendant

- Adopt the necessary mechanisms to promote the self-identification of the venezuelan afrodescendant population.
- Addopt the necessary measures to ensure effective acces to justice for the afrodescendant population, as a fundamental mechanism of protection of their human rights.

Economic, social and cultural rights

- Step up efforts so as to gradually give full effect to economic, social and cultural rights while ensuring that that this does not come at the cost of the people's other basic rights. Furthermore, adopt public policies that allow for long-term continuity of efforts to guarantee economic, social and cultural rights, thereby ensuring that full enjoyment of these rights will not depend on the resolve of any future administration.