

## CHAPTER IV.B VENEZUELA

### I. INTRODUCTION

1. In 2018, the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the IACHR”) has continued monitoring the general human rights situation in Venezuela and has observed the persistence of structural situations that have had a detrimental impact on the human rights of Venezuelans, resulting in a serious political, social, and economic crisis. The aggravation of this critical situation, as it reported in this Chapter, resulted in the absence of the rule of law.

2. In Venezuela there is a serious failure to observe the principle of the separation of powers, evidenced in the lack of judicial independence and the constant meddling of the Executive, the Superior Court of Justice, and the National Constituent Assembly in matters that pertain to the National Assembly, whose work has been significantly hampered as a result. In addition, the Executive continues to exercise extraordinary powers under the economic emergency with the extension of the State of Emergency, which was not approved by the National Assembly, as required by the Constitution. This is happening in a structural context of repression and persecution of dissidents through the militarization of public security, in the context of an economic and social crisis that provokes serious undersupply and the scarcity of basic goods.

3. In the presidential elections held in May 2018, in which President Maduro was reelected, there was serious meddling by the National Constituent Assembly in the National Electoral Council, the highest-ranking authority for electoral matters, which posed real obstacles to the effective participation of the opposition forces and had a negative impact on the pluralism necessary for considering the elections to be compatible with a democratic society.

4. The Commission has also observed the persistent deterioration of political rights and participation in public life, which is closely related to the negative impact on the freedom of expression. The following phenomena have continued: deaths in the context of social protests; arbitrary detentions and imprisonment of opposition figures and persons who publicly voice their dissent; repression and undue restrictions on protest; dismissals of and threats against public employees as punishment for their dissent; campaigns to stigmatize and harass journalists, political opposition figures, human rights defenders, and citizens in general; the use of the criminal law and other state controls to punish or inhibit the work of political opponents and critical press outlets; and the obstruction of the right of access to information. Particularly serious are the attacks on and persecution and imprisonment of members of the National Assembly. At the same time, the number of dissident political parties continues to shrink in the wake of decisions on electoral matters that impose new requirements for their participation in the elections.

5. The independence of the courts continues to be seriously affected by the fact that many hold their positions on a provisional basis or have been appointed without respecting the procedures set out by the laws and regulations of the State. Another especially worrisome situation has to do with the growing prosecution of civilians in the military criminal jurisdiction, using criminal statutes such as “treason” (“*traición a la patria*”) and “rebellion” (“*rebelión*”), in the context of demonstrations and dissident acts.

6. As a result of the militarization of citizen security there continue to be extrajudicial executions, security force operations characterized by the excessive use of force, as well as searches without judicial orders and attacks on private homes, provoking serious violations of the rights to life, humane treatment, property, and due process, which is especially serious in the context of protests against the State.

7. The Commission observes the persistence of a worsening situation when it comes to access to economic, social, and cultural rights (hereinafter “ESC rights”). The situation of undersupply and scarcity of food, drugs, water, and energy has generated a serious crisis, triggering outbreaks of diseases and other

negative health impacts. In this context, the response has been deficient and, in some situations, has entailed a lack of access to necessary medical care, which has had a severe impact on children, the sick, pregnant women, persons with disabilities, and older persons, among other groups. In this context, together with the political context, there were increased public protests, which in turn have been repressed by security agents through the use of force.

8. The humanitarian crisis that is impacting the country, the scarcity of food, medicines, and medical treatments, the rising indices of violence and insecurity, and persecution based on political opinion have all provoked the massive displacement of migrants and refugees from Venezuela. As of June 2018 it was estimated that 2.3 million Venezuelans have left their country.

9. In addition, in the face of this crisis scenario the Commission continues monitoring, with concern, the specific violations of the rights of persons, groups, and communities facing historic discrimination and exclusion, such as children and adolescents; persons deprived of liberty; and migrants, refugees, and persons with international protection, among others.

10. Based on its observation and evaluation of the human rights situation in Venezuela, the IACHR decided to include Venezuela in this Chapter, in keeping with Article 59(6)(a)(i), 6(b), 6(d)(i), and 6(d)(iii) of the Rules of Procedure of the IACHR, which establish, as a criterion for 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...

b. The free exercise of the rights guaranteed in the American Declaration or the American Convention has been unlawfully suspended, totally or partially, by virtue of the imposition of exceptional measures such as a declaration of a state of emergency, state of siege, suspension of constitutional guarantees, or exceptional security measures.

d. The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights recognized in the American Declaration, the American Convention or other applicable instruments. Factors to be considered shall include the following, among others:

i. serious institutional crises that infringe the enjoyment of human rights;  
iii. serious omissions in the adoption of the necessary measures to make fundamental rights effective, or in complying with the decisions of the Commission and the Inter-American Court...

11. On January 16<sup>th</sup>, 2019, in accordance with its Rules of Procedure, the IACHR transmitted to the State a copy of the preliminary draft and requested it to submit its observations. On February 16<sup>th</sup>, 2019<sup>1</sup>, the State presented its remarks, which were incorporated in the present final version approved by the Commission on March 14<sup>th</sup>, 2019.

12. In its observations on the draft of this report, the State pointed out that "this chapter presents a selective and highly biased view of the real human rights situation in the Bolivarian Republic of Venezuela,

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<sup>1</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, Note AGEV/2019-026. Project observations chapter IV.B, February 15th, 2019, para. 4.

which contradicts the principles that should govern the treatment of human rights issues". The State considered that "to a large extent, this distorted vision of Chapter IV.B is the result of substantial inadequacies in the methodology used to draw it up" and that "this project over-emphasizes sources lacking in objectivity and excludes almost all official information, despite all the documentation and elements provided by the State to the Commission during 2018, through the numerous available mechanisms".<sup>2</sup> In this regard, in the same sense as expressed in Venezuela's Country Report of December 31, 2017, the Commission regrets that a lack of access to official sources of information persists, which have constituted an obstacle for the elaboration of the IACHR's reports and for the visibility of the human rights situation in Venezuela. In spite of this, the articulation of different tools for monitoring, promoting, and defending human rights of the Commission allows it to count on recent, reliable, and convincing information obtained from the sources authorized by Article 59.5 of its Rules of Procedure.

13. The State also ratified its disposition to "sustain a constructive dialogue with the IACHR under the objective to continue advancing in regard of the compliance of its international obligations on the basis of strict respect for the principles that should govern the treatment of human rights issues, including the principles of universality, objectivity, impartiality and non-selectivity"<sup>3</sup>.

14. In its observations on the draft of this report, the State considered that "in accordance with Article 59 of the IACHR's Rules of Procedure, when the Commission prepares a country report on a particular State, it must follow up on compliance with the recommendations contained in that document, through Chapter V of its Annual Report"<sup>4</sup> and given that the IACHR published a Country Report on February 12<sup>nd</sup>, 2018 "what is legally appropriate is to follow up on this Country Report in Chapter V of the Annual Report and not to include it in Chapter IV.B"<sup>5</sup>. Likewise, the State considered that "the required conditions stipulated by the Inter-American normative for Venezuela to be included in the Chapter IV.B of the Annual Report are not preceded"<sup>6</sup> and "that the criteria expressly provided in the Regulations is not enough to ensure that the Chapter IV.B of the Annual Report would not constitute an illegitimate and unacceptable mechanism of pressure or punishment against certain States, for reasons unrelated to the fulfilment of their human rights obligations. The analysis of these criteria needs to be formulated with an approach based on the aforementioned principles of universality, objectivity, impartiality and non-selectivity".<sup>7</sup>

15. In this regard, the Commission considers that, in accordance with the provisions of Article 59.7, the decision on the specific countries to include in Chapter IV.B shall be adopted by the Commission each year, in accordance with the special quorum set forth in Article 18 of the present Rules of Procedure. As previously stated, based on the monitoring carried out and in light of the above criteria, the IACHR decided to incorporate Venezuela into Chapter IV.B, and in its observation the State did not extend an invitation to an on-site visit. In this sense, the Commission confirms his decision.

16. Similarly, in its comments on the draft of this report, the State stated that "the Bolivarian Republic of Venezuela is committed to a set of unilateral coercive measures imposed by the Government of the United States of America". It also recorded the negative impact of such measures on the enjoyment of human

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<sup>2</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 5.

Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 6.

<sup>4</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 7.

<sup>5</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 8.

<sup>6</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 9.

<sup>7</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 11.

rights by the population. In addition, it recovered general positions of United Nations bodies regarding the impact of coercive measures consisting of economic sanctions on human rights”.<sup>8</sup>

17. In its observations, the State also pointed out that there is no humanitarian crisis in Venezuela and referred to statements by the Executive Secretary of the Economic Commission for Latin America and the Caribbean (ECLAC) and the United Nations independent expert on the promotion of a democratic and equitable international order, Alfred-Maurice de Zayas<sup>9</sup>. In this regard, the Commission takes note that none of those allegations are from the 2018 year which this Report analyses. Furthermore, the IACHR reiterates its concern expressed at the end of the 170<sup>th</sup> Period of Sessions regarding the serious human rights situation in Venezuela, given that, among others, the constitutional order was altered, the principle of separation of powers is unknown, there is a lack of independence of institutions and a socio-economic crisis that has worsened alarmingly in recent years.<sup>10</sup>

18. The IACHR has based its analysis on monitoring the general human rights situation throughout 2018, drawing on information collected during its hearings – which included the active participation of the State – information from the mechanism of petitions, cases, and precautionary measures, information provided in the State’s responses to requests for information from the IACHR on various human rights issues under the power established in Article 18 of the Commission’s Statute, the information provided by civil society and other international organizations, and the information available from other public sources; all as per the methodology set out in Article 59 of the IACHR’s Rules of Procedure.

19. During this year the Commission has continued following up on the precautionary measures in force. The State has continued providing information in this respect. By a communication of June 15, 2018, the State reported that four persons who are beneficiaries of precautionary measures in force were benefitted by “alternatives to the deprivation of liberty,” which is said to have allowed the beneficiaries, Daniel Omar Ceballos, Raúl Emilio Baduel, Alexander Tirado, and Ángel Omar Vivas, to regain their liberty.<sup>11</sup>

20. This year the IACHR granted six new precautionary measures in which it asked the State of Venezuela to protect the following persons: the children who are nephrology patients at the Hospital José Manuel de los Ríos, due to the lack of adequate medical treatment due to undersupply; Juan Carlos Caguaripano, Luis Humberto de la Sotta Quiroga, and Pedro Patricio Jaimes Criollo, who were deprived of liberty without access to adequate medical care; Juan Carlos Requesens Martínez, also deprived of liberty and at risk of being subjected to violent acts; and C.L. and 42 other persons at risk due to the failure to deliver antiretroviral medicines for adequately treating the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS).<sup>12</sup> The Commission also issued a precautionary measure asking the State of Panama to refrain from deporting M.B.B.P., a Venezuelan citizen with HIV/AIDS, given the risk that would be entailed for her health in the context of the scarcities and lack of access to medical care in Venezuela.<sup>13</sup>

21. To date in 2018 the IACHR has issued seven press releases about Venezuela and three about Venezuelan migrants. The State replied one third out of six requests for information sent by the Commission based on Article 18 of the IACHR’s Statute. Furthermore, on December 5<sup>th</sup>, 2018, the IACHR examined the received information by the State of Venezuela regarding the alternative measure of freedom in favor of Kamel

<sup>8</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 25.

<sup>9</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 49 y 51.

<sup>10</sup> CIDH, Comunicado de Prensa “[CIDH culmina su 170 período de sesiones](#)”. 18 de diciembre de 2018.

<sup>11</sup> Note sent to the State by the IACHR dated June 15, 2018.

<sup>12</sup> IACHR, [Resolution 8/1 - PM 1039/17 - Child Patients in the Nephrology Area at José Manuel de los Ríos Hospital, Venezuela; Resolution 42/18 - PM 798/17 - Juan Carlos Caguaripano, Venezuela; Resolution 75/18 - PM 862/18 - Luis Humberto de la Sotta Quiroga, Venezuela; Resolution 78/18 - PM 688/18 - Pedro Patricio Jaimes Criollo, Venezuela; Resolution 79/18 - PM 1039/18 - Juan Carlos Requesens Martínez, Venezuela; Resolution 76/18 - PM 145/18 - C.L. and others, Venezuela;](#)

<sup>13</sup> IACHR, [Resolution 81/18 - PM 490/18 - M.B.B.P., Panama.](#)

Salame Ajami, beneficiary of precautionary measures granted by the IACHR to protect his life and integrity in view of his detention conditions and health situation<sup>14</sup>.

22. The Commission values that the State has attended the hearings that were convened this year and the response to the request for information sent by the IACHR. It also values certain human rights gains that have occurred in Venezuela this year. It is noted that pursuant to the recommendations of the National Commission for Truth, Justice, Attention to Victims and Peace, non-custodial measures were ordered for 192 persons, which are said to have left the detention centers where they were being held.<sup>15</sup>

23. The Commission also views in a positive light the gains made as regards recognition of the rights of the Afro-descendent population. The Decree of the International Decade for People of African Descent embraces promoting the human rights of persons of African descent<sup>16</sup>, in what represents a major step forward in legal recognition of the rights of this group. Along the same lines, the Commission celebrates the adoption of the Integral Prevention Plan called “The Route of the Drum” (“La Ruta del Tambor”), which seeks to eradicate patterns of discrimination and to promote Afro-Venezuelan traditions.

24. The Commission also recognizes and salutes the gains made by the State in adopting concrete measures to ensure electoral accessibility for persons with disabilities. Accordingly, the Commission recognizes the efforts to adapt the polling places, recognition by the Organic Electoral Law of the right of persons with disabilities to exercise their right to vote supported by the person of their choice, as well as the issuance by the National Electoral Council of the Directive for Attention and Support for Persons with any Disability in Elections.

25. This chapter of the Annual Report is divided into the following seven sections: (I) introduction; (II) the position of the State vis-à-vis the inter-American system; (III) the general human rights situation, which in turn includes: (A) democratic institutional framework; (B) the administration of justice and judicial independence; (C) the situation of political rights and participation in public life; and (D) violence and citizen security; (IV) poverty and economic, social, cultural, and environmental rights; (V) social protest and freedom of expression; (VI) groups in vulnerable situations, which in turn includes: (A) women; (B) human rights defenders; (C) persons deprived of liberty; (D) migrants, asylum-seekers, refugees, beneficiaries of supplemental protection, internally displaced persons, and victims of human trafficking; (E) lesbian, gay, trans, bisexual, and intersex persons; (F) indigenous peoples; (G) children and adolescents; (H) persons of African descent; (I) persons with disabilities; (J) older persons; (K) memory, truth, and justice; as well as (VII) the conclusions and (VIII) the recommendations that the Commission makes to the Venezuelan State.

## II. POSITION OF THE STATE VIS-À-VIS THE INTER-AMERICAN SYSTEM

26. The IACHR made its last visit to Venezuela in May 2002 and approved the country report in 2003.<sup>17</sup> Since that visit, the Commission has taken a series of steps to ask the State to consent to an onsite visit to the country. To date, the State has not agreed to such a visit.

27. Venezuela first appeared in Chapter IV of the Annual Report in 2002, where it has remained until 2017, with the exception of 2004, when it was included in Chapter V, on follow-up to the recommendations in the country report published the previous year. In 2009, the IACHR issued a country report without making a visit. In 2017, the Commission decided to issue a second country report without visiting, and to include Venezuela in Chapter IV.B of its Annual Report. The decision to prepare that report had to do with the serious deterioration in the observance of human rights and the serious political, economic, and social crisis Venezuela

<sup>14</sup> CIDH, Comunicado de Prensa “CIDH culmina su 170 período de sesiones”, 18 de diciembre de 2018.

<sup>15</sup> Note directed by the State to the IACHR, June 15, 2018.

<sup>16</sup> Radio Mundial, [Venezuela firma decreto de Decenio Internacional para los Pueblos Afrodescendientes](#), March 24, 2018.

<sup>17</sup> IACHR, [Report on the Situation of Human Rights in Venezuela, 2003](#).

is experiencing. The country report "Democratic Institutions, the Rule of Law and Human Rights in Venezuela" was published on February 12, 2018.<sup>18</sup>

28. The IACHR has already issued pronouncements on other occasions regarding the serious backsliding and weakening of international protection that Venezuela's denunciation of the American Convention on Human Rights represents; the denunciation of the American Convention came into force on September 10, 2013.<sup>19</sup> The Commission also remarked that as a member state of the OAS Venezuela continues to be subject to the jurisdiction of the Commission and to the obligations imposed on it by the OAS Charter and the American Declaration of the Rights and Duties of Man, both signed by the State in 1948. Venezuela submitted its denunciation of the OAS Charter on April 28, 2017. This decision without precedent in the inter-American system, which the IACHR has deplored, causes profound concern for its impact on Venezuelans' access to inter-American mechanisms for the protection of human rights, in the worrying context that the Commission has persistently reported. The effectiveness and validity of that denunciation is the subject of various discussions. The Commission further notes that Venezuela has not denounced several inter-American human rights instruments that grant mandates to the IACHR. The Commission will therefore assess in great detail all aspects of that denunciation and take a stand on its consequences concerning the IACHR's continued mandate for the promotion and protection of human rights in Venezuela. The IACHR stresses its call on the State to revoke its decision to withdraw from the OAS and asks Venezuela to sign and comply once again with its commitments under the American Convention and the contentious jurisdiction of the Inter-American Court.<sup>20</sup>

29. In addition, Venezuela has set a grave precedent by not substantially complying with the judgments issued by the I/A Court HR and its judicial bodies have even declared the non-enforceability of such judgments, considering them contrary to the Constitution. The Commission reiterates that the position adopted by Venezuela of not accepting or complying with the decisions and recommendations of international human rights bodies, and in particular the organs of the inter-American system, based on the argument that they are at odds with national sovereignty, seriously contradicts the applicable principles of international law.<sup>21</sup>

### III. GENERAL HUMAN RIGHTS SITUATION

#### A. Democratic institutions

30. In the "Report on the Situation of Human Rights in Venezuela," the IACHR noted a gradual deterioration in democratic institutions and the human rights situation in Venezuela that has deepened and intensified significantly as of 2015, continuing in 2018. The lack of separation of powers, which has its roots in the meddling of the Executive in the other branches of government, continues.<sup>22</sup>

31. As the Commission has indicated, the aggravation of the institutional crisis in Venezuela is closely related to a series of decisions made by the Supreme Court of Justice, which represented interference with the National Assembly and negatively affected the principle of separation of powers. This situation was aggravated in 2017 to the point of bringing about an alteration in the constitutional order, with Judgments Nos. 155 and 156 handed down by the Supreme Court on March 28 and 29, respectively, in which it lifted the legislative immunities of the members of the National Assembly, established that their acts constituted "treason," granted the Executive broad discretionary powers, and assumed competences of the Legislative

<sup>18</sup> IACHR, [Situation of Human Rights in Venezuela – "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018.

<sup>19</sup> IACHR, Press Release 117/12, [IACHR Regrets Decision of Venezuela to Denounce the American Convention on Human Rights.](#) Washington D.C., September 12, 2012; and Press Release 064/2013, [IACHR Deeply Concerned over Result of Venezuela's Denunciation of the American Convention.](#) Washington D.C., September 10, 2013.

<sup>20</sup> IACHR, [Situation of Human Rights in Venezuela – "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018, paras. 54 and 55.

<sup>21</sup> IACHR, [Situation of Human Rights in Venezuela – "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018, para. 56.

<sup>22</sup> IACHR, Annual Report, Chapter IV.B, "Venezuela," paras. 13 and 14.

branch.<sup>23</sup> As the IACHR indicated in due course, those measures constituted a usurpation of the functions of the Legislative branch by the Judicial and Executive branches, as well as a *de facto* annulment of the popular vote by which the legislators were elected.<sup>24</sup> Such acts continued in 2018. Civil society has calculated that to date the Supreme Court of Venezuela has adopted 74 decisions that impair rights of the members of the National Assembly or encroach on the competences of the legislature.<sup>25</sup> Among these, one notes that the Supreme Court lifted the legislative immunities of legislators Requesens, who was arrested, and Borges, in respect of whomever weighs the catch warrant, both were detained and are beneficiaries of precautionary measures issued by the Commission.

32. In the observations of the present report, the State appointed that the IACHR “continues ignoring that, from the beginning of 2016, in Venezuela exists a constitutional order conflict between Public Powers, originated by the decision of the National Assembly of disregard and fail to comply the verdicts of the Supreme Court of Justice and to repeatedly assault the Constitution of the Bolivarian Republic of Venezuela”<sup>26</sup>. In this regard, the Commission recalls that, as mentioned in the Country Report, results vital in a Rule of Law, that judicial decisions are complied, the disregard as utilized by the SCJ results incompatible with the democratic principles, since it is disproportionate and violates the principles of separation and independence of powers, as it prevents a branch of the National Public Power from legitimately exercising its functions<sup>27</sup>.

33. Nevertheless, the IACHR observes that during 2018 the already serious deficiencies as regards to the democratic institutional framework of the country were exacerbated. The lack of independence of the Judicial branch is an element with a determinant impact in the interference of the Executive branch in the Judicial branch, and of the Judicial branch in the Legislative branch. In that context President Nicolás Maduro convened a National Constituent Assembly (ANC: Asamblea Nacional Constituyente), criticized for its origins and its composition, as well as for the measures it adopted once installed, which exceeded its nature and violated the principle of separation of powers. In addition to authorizing the prosecution of legislators, during 2018 this legislative body has issued other decisions that are within the purview of the National Assembly, such as supporting the designation of the president of the Central Bank by the Executive, or approving the Constitutional Law on Productive Foreign Investment, which establishes a special tax income regime.<sup>28</sup> With respect to the activity of the National Assembly, the Commission noted that while some of those measures issued by the Supreme Court were subsequently revoked, to date serious interference in the Legislative branch continues and it faces obstacles to the exercise of its constitutional functions, such as continuing to consider the lawmakers to be in contempt (*desacato*); the continued characterization of the actions by the legislators in the National Assembly as “treason”; and maintaining the authority of the President of the Republic to form mixed enterprises without legislative authorization, and to amend laws.<sup>29</sup> At the same time, the freezing of the budget has been denounced, and likewise discretion in granting the financial resources of the National Assembly.<sup>30</sup> In addition, the Supreme Court sworn in by the National Assembly in July 2017, which operates from exile, has issued a series of judgments. Among these, it convicted President Maduro and sentenced him to 18 years and 3 months in prison for the crimes of corruption (*corrupción propia*) and asset laundering

<sup>23</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, paras. 103 and 104.

<sup>24</sup> IACHR, Press Release No. 041/17, [IACHR Condemns Supreme Court Rulings and the Alteration of the Constitutional and Democratic Order in Venezuela](#), March 31, 2017.

<sup>25</sup> Transparencia Venezuela, request for a hearing with the IACHR with a view to the 170th period of sessions, pages 1 and 38; the same information was presented by the same organization in the hearing “Arbitrary detention and situation of political rights in Venezuela,” held during the 170th period of sessions of the IACHR.

<sup>26</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 54.

<sup>27</sup> IACHR, [“Democratic institutions, rule of law and human rights in Venezuela”](#), 2018, para. 100.

<sup>28</sup> Official Gazette No. 41,422 of June 19, 2018; Official Gazette No. 41,456 of August 8, 2018; Official Gazette No. 41,310 of December 29, 2017. Transparencia Venezuela, request for a hearing with the IACHR with a view to the 170th period of sessions, p. 27.

<sup>29</sup> IACHR, [Annual Report, Chapter IV.B. “Venezuela.”](#) para. 16.

<sup>30</sup> Transparencia Venezuela, Request for hearing before the IACHR with a view to the 170th period of sessions, p. 25.

(*legitimación de capitales*).<sup>31</sup> Respectively, in its project observations of the present Report, the State objected to the Tribunal confirmation that considers arbitrary and contrary to the Constitution<sup>32</sup>.

34. The Commission indicated that the Venezuelan Constitution and the applicable legislation establish that the National Constituent Assembly is governed by certain limits set by values and principles of the republican history of Venezuela, and by compliance with the international treaties, agreements, and commitments validly signed by the Republic.<sup>33</sup> In view of this, and the fundamental principles enshrined in the Inter-American Democratic Charter, the Commission reiterates the call to undo the measures that are beyond the authority of a constituent body and that have a detrimental impact on the separation of powers and representative democracy; and to refrain from adopting decisions that reach beyond the scope of such authority.

35. The way in which the elections of May 20, 2018 unfolded deepened the institutional crisis. According to the information available, the electoral process was decreed by the National Constituent Assembly of Venezuela on the basis of powers that exceed the scope of authority of a constituent body, bringing forward the traditional time frames. The electoral calendar was clearly managed without impartiality or objectivity.<sup>34</sup>

36. On January 23, 2018, the ANC approved a Constitutional Decree “of Actions in Defense of Peace, Democracy, Sovereignty, and the Independence of the Bolivarian Republic of Venezuela,” in which elections were called for some time in the first four months of 2018. On February 7, 2018, the National Electoral Council (CNE: Consejo Nacional Electoral) convened those elections for April 22, 2018. Then, on March 1, 2018, the ANC agreed to convene, for May 2018, the elections for the state legislative councils, and to reschedule the presidential elections. The CNE abided by the decisions of the ANC and convened the elections, originally for the month of April; it later pushed them back to May 20, 2018. Accordingly, the schedule was managed unforeseeably; it was not arranged by consensus with the opposition forces.

37. The presidential elections saw evidence of obstacles to the free participation of political parties and candidates. In effect, the ANC ordered the non-validation of the political parties that had not participated in the “immediately previous elections” (“*elecciones inmediatamente anteriores*”)<sup>35</sup>, which had a negative impact on the democratic pluralism that should govern such processes. By mandate of the ANC, the CNE organized a new period for validation that stipulated only four days (28 hours) during which only one party – the Acción Democrática party – was able to validate its participation.<sup>36</sup>

38. Moreover, information was collected on disqualifications for holding public office affecting members of the opposition who are potential candidates for elective office, with the aim of permanently impeding their political participation.<sup>37</sup> These disqualifications have significantly reduced the participation of several candidates in these and other elections, while effectively limiting the possibility of the population having substantive options for the position of president, such as those that the opposition had announced.<sup>38</sup> In addition, according to the information available, the CNE ordered excessively short deadlines and requirements

<sup>31</sup> Europapress, [El TSI de Venezuela en el exilio condena a Maduro a 18 años y 3 meses de cárcel por corrupción](#), August 16, 2018.

<sup>32</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 80.

<sup>33</sup> IACHR, [Annual Report, Chapter IV. B. “Venezuela,”](#) para. 17.

<sup>34</sup> IACHR, Press Release 112/18 - [IACHR Warns about Lack of Adequate Conditions to Hold Free and Fair Elections in Venezuela](#). Washington, D.C., May 18, 2018.

<sup>35</sup> Constituent Decree for participation in electoral processes, [Official Gazette 41,308 of December 27, 2017](#); Information provided by civil society organizations in the context of the hearing “Electoral process and its impact on the general human rights situation in Venezuela,” held during the 168<sup>th</sup> period of sessions of the IACHR.

<sup>36</sup> Information provided by civil society organizations in the context of the hearing “Electoral process and its impact on the general human rights situation in Venezuela,” held during the 168<sup>th</sup> period of sessions of the IACHR.

<sup>37</sup> El Mundo, [Venezuela inhabilita para ejercer cargos públicos al opositor Henrique Capriles durante 15 años](#), April 8, 2017; El Nuevo Herald, [Capriles se despide de los cargos públicos pero no de la política venezolana](#), October 11, 2017.

<sup>38</sup> IACHR, Press Release 112/18 - [IACHR Warns about Lack of Adequate Conditions to Hold Free and Fair Elections in Venezuela](#). Washington, D.C., May 18, 2018.



that effectively kept potential candidates from exercising their right to register and participate in the election process.<sup>39</sup>

39. The rushed calling of elections and the handling of the electoral timeline referred to above had a serious negative impact on the guarantee of universal ballot and access to the vote by new voters and Venezuelans abroad. According to figures that were received by the Commission, more than 800,000 new voters were included in the voter rolls, yet at least 1,900,000 potential young voters did not register to vote given the short deadlines and lack of materials and public information. The electoral process apparently did not facilitate the timely registration of the large number of Venezuelans who have been forced to leave Venezuela as a result of human rights violations, violence and insecurity, persecution on grounds of political opinions, and the effects of the economic crisis.

40. Prior to the May elections the IACHR had issued pronouncements on the suspension of the referendum to recall the President of the Republic; the imposition of obstacles to the participation of opposition candidates and parties; the prolonged suspension of municipal and regional elections; and the rushed call for elections not in keeping with the timelines provided for by law; as well as the serious questioning and allegations of fraud in the July 30, 2017 elections for the ANC and the regional elections of October 15, 2017. It is a standard accepted by the international community that to ensure free elections there must be an electoral body with guarantees of autonomy, independence, and impartiality.<sup>40</sup>

41. The IACHR reiterated its concern over the lack of independence and impartiality of Venezuela's National Electoral Council, insofar as it continues to be made up mostly of persons who are trusted by the Government, and its decisions have evidenced its bias in favor of the party in power.<sup>41</sup> And this in addition to the lack of independence and its inappropriate exercise of the essential functions of constitutional oversight organs, such as the Attorney General's Office (Ministerio Público) and the Office of the Human Rights Ombudsperson (Defensoría del Pueblo).<sup>42</sup> The Commission considers it fundamental to adopt decisive actions to ensure that these bodies perform their work without undue political interference or influence, and that they properly carry out their constitutional mandate, which is crucial for ensuring the democratic rule of law in Venezuela.

42. The Commission considers that the elections convened for May 20 did not meet the minimal conditions necessary for holding free, fair, and reliable elections in Venezuela, with an independent electoral system and the guarantees of the principle of universality and electoral plurality, and it urged the State to adopt the measures necessary for holding another genuine electoral process, ensuring the effective exercise of the right to vote freely.<sup>43</sup>

43. President Maduro was proclaimed the winner by the National Electoral Council, with 67.7% of the votes, according to official figures.

44. At the same time, the IACHR notes that the validation procedures put in place by the CNE have significantly reduced the electoral offer. According to the information received, after the last process of validation the Venezuelan political system was made up of 21 national political parties.<sup>44</sup> The Commission notes that in all 67 political parties participated in the 2016 elections.

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<sup>39</sup> Information provided by civil society organizations in the context of the hearing "Electoral process and its impact on the general human rights situation in Venezuela," held during the 168<sup>th</sup> period of sessions of the IACHR.

<sup>40</sup> IACHR, Press Release 112/18 - [IACHR Warns about Lack of Adequate Conditions to Hold Free and Fair Elections in Venezuela](#). Washington, D.C., May 18, 2018.

<sup>41</sup> IACHR, Press Release 112/18 - [IACHR Warns about Lack of Adequate Conditions to Hold Free and Fair Elections in Venezuela](#). Washington, D.C., May 18, 2018.

<sup>42</sup> IACHR, [Annual Report Chapter IV. B. "Venezuela."](#) para. 18.

<sup>43</sup> IACHR, Press Release 112/18 - [IACHR Warns about Lack of Adequate Conditions to Hold Free and Fair Elections in Venezuela](#). Washington, D.C., May 18, 2018.

<sup>44</sup> Observatorio Global de Comunicación y Democracia, [El nuevo sistema de partidos políticos en Venezuela](#), September 2018, p.

45. The election has been characterized by the OAS as lacking legitimacy as it failed to include the participation of all of Venezuela's political actors and was not carried out with the guarantees necessary for a free, fair, transparent, and democratic.<sup>45</sup> The European Union also issued a press release noting that the guarantees needed for a democratic election were not in place and requesting that new elections be held in keeping with international standards and the Venezuelan constitutional order.<sup>46</sup> The UN High Commissioner for Human Rights also questioned the legitimacy of the elections<sup>47</sup>, as did several countries that are part of the G-20 and the Lima Group.<sup>48</sup>

46. Last September 11, Decree No. 3,610 was published in the Official Gazette.<sup>49</sup> In that decree President Nicolás Maduro extended for 60 days the economic emergency and state of emergency. The decree authorizes the Executive to continue exercising extraordinary powers to adopt urgent, effective, exceptional, and necessary measures to ensure, among other things, the internal order, and timely access to goods, services, food and medicines. The State of Emergency authorizes restrictions on guarantees when necessary for the better exercise of the rights enshrined in the Constitution.<sup>50</sup>

47. That extension was not approved by the National Assembly, as required by the Constitution<sup>51</sup>; nor does it clarify the nature and scope of the restrictions, or the specific measures that the Executive will adopt during the period covered. The Executive is empowered to authorize public credit operations, without any control by other branches of government. The Executive can also carry out special plans for public security<sup>52</sup> and decide to suspend temporarily and on an exceptional basis the enforcement of political sanctions against the maximum government authorities<sup>53</sup>, measures with respect to which the IACHR has also expressed concern.<sup>54</sup> It also authorizes the Executive to impose, in a generalized manner, the requirement of the ID cards known as "Carnet de la Patria."<sup>55</sup> Civil society groups warned about the possible use of this card as a new mechanism for controlling the population.<sup>56</sup> The State has not given notice of the adoption of the extraordinary regime to the states that are signatories to the International Covenant on Civil and Political Rights or to the OAS.<sup>57</sup> In this sense, within its observations on the draft of this report, the State indicated that Venezuela "ceased to be a State party to the American Convention on Human Rights, for which reason the obligation established in article 27 of that instrument is not applicable to it. Venezuela has no legal obligation to notify the OAS of the adoption of states of emergency."<sup>58</sup>

48. The Commission emphatically reiterates that the adoption of states of emergency should be reasonably in line with the needs of the situation to be addressed, without the measures going beyond what is strictly necessary, so as to avoid prolongations in time, disproportionality, and abuse of authority, for their arbitrary use might affect democracy and impose limits on the rights established in the American Declaration. The Commission recalls the importance of maintaining the rule of law and the constitutional provisions when invoking states of emergency. Similarly, it warns of the implications of using broad and ambiguous concepts in

<sup>45</sup> OAS, D-032/18, [Resolution on the situation in Venezuela](#), Washington D.C., June 5, 2018.

<sup>46</sup> European Council, [Venezuela: Council adopts conclusions](#), May 28, 2018.

<sup>47</sup> BBC mundo, [La oficina del Alto Comisionado de la ONU para los Derechos Humanos insiste en pedir investigar al gobierno de Venezuela por posibles "asesinatos extrajudiciales."](#) March 7, 2018.

<sup>48</sup> INFOBAE, [Desde el G20, seis países repudiaron las elecciones de Venezuela y exigieron sanciones](#), May 21, 2018; CNN, [Grupo de Lima desconoce elecciones en Venezuela y llama a consultas a sus embajadores](#), May 21, 2018.

<sup>49</sup> [Official Gazette 41.478, September 11, 2018.](#)

<sup>50</sup> Decree 3,610, Article 2.

<sup>51</sup> The requirement of approval by the National Assembly for extending the State of Exception and State of Emergency stems from Articles 337, 338, and 339 of the Constitution of the Bolivarian Republic of Venezuela.

<sup>52</sup> Decree 3,610, Article 2(3).

<sup>53</sup> Decree 3,610, Article 2(32).

<sup>54</sup> IACHR, [Situation of Human Rights in Venezuela - "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018, paras. 207-208.

<sup>55</sup> Decree 3,610, Article 2(19).

<sup>56</sup> Sinergia, [Los Derechos de Asociación y Participación en un contexto de adversidad: caso Venezuela](#), December 2018, p. 10.

<sup>57</sup> International Covenant on Civil and Political Rights, Article 4(3).

<sup>58</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026, Project observations chapter IV.B](#), February 15th, 2019, para. 85.

normative instruments, including in emergency decrees, as this may impose limitations on the exercise of human rights.<sup>59</sup>

49. Venezuela has a 2016-2019 National Plan for Human Rights that involves several organs of the State, whose implementation is entrusted to the National Human Rights Council. The programmatic actions include strengthening the capabilities of the Office of the Human Rights Ombudsperson (Defensoría del Pueblo de la Nación) so as to uphold human rights. At present, the Human Rights Ombudsperson holds the position on an interim basis. The IACHR continues receiving information about the lack of independence of said agency, which has a direct negative impact on its work.<sup>60</sup>

50. The Human Rights Committee of the United Nations already recommended that the State take the actions needed for ensuring that the Office of the Human Rights Ombudsperson can carry out its mandate independently, in keeping with the Paris Principles.<sup>61</sup> The Commission reiterates to the State its duty to adopt the measures necessary to ensure that the Office of the Human Rights Ombudsperson can do its work without undue political interference or influence and can carry out the task assigned to it by the Constitution, i.e. to effectively protect the human rights of the population. Among the measures that the State should adopt are those that make it possible to ensure independence and pluralism in the appointment and removal of the Human Rights Ombudsperson.<sup>62</sup>

51. Finally, the IACHR notes that the allegations of high levels of corruption in Venezuela further undermine the weak institutional structures of the State. As of February 2018, Venezuela ranks 169<sup>th</sup> of 180 countries on the Corruption Perceptions Index maintained by Transparency International, the lowest ranking in the region.<sup>63</sup> The IACHR reiterates that the states have the duty to adopt legislative, administrative, and any other measures to ensure the exercise of human rights in the face of the violations and restrictions brought about by the phenomenon of corruption.<sup>64</sup> The IACHR also recalls that impunity furthers and perpetuates acts of corruption, and that one must ensure that the acts denounced are investigated independently and impartially, without delay and without influences or discrimination based on belonging to certain political parties or based on the positions held by the persons investigated. It is also necessary to adopt preventive measures, which include governing based on the principles of publicity, transparency, and effective public accountability.<sup>65</sup>

## **B. Administration of Justice and Judicial Independence**

52. The IACHR has already drawn attention to the inadequate elections and lack of guarantees for the judges of the Supreme Court to remain in office, which constitutes a major factor in the lack of judicial independence, redounding to the detriment of the population's access to justice. In 2018, the Commission continued receiving information that indicates that many judges are still chosen without any public competitive hiring process, which makes them susceptible to undue pressures.<sup>66</sup>

<sup>59</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, para. 384.

<sup>60</sup> Information provided by civil society groups to the IACHR in the context of the hearing “Situation of persons deprived of liberty in the context of the political crisis in Venezuela,” held during the 169<sup>th</sup> period of sessions of the IACHR.

<sup>61</sup> Human Rights Committee, [Concluding observations on the fourth periodic report of the Bolivarian Republic of Venezuela](#), July 21, 2015, para. 6.

<sup>62</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, recommendation 14.

<sup>63</sup> Transparency International, [Corruption Perceptions Index 2017](#), February 21, 2018.

<sup>64</sup> IACHR, [Resolution Corruption and Human Rights](#), March 2018.

<sup>65</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, para. 17.

<sup>66</sup> Information provided by civil society groups in the context of the hearing on “Citizen Security and institutional framework in Venezuela,” held during the 167<sup>th</sup> period of sessions of the IACHR; and hearing “Reports of human rights violations by the military justice system of Venezuela,” held during the 168<sup>th</sup> period of sessions of the IACHR.

53. In this regard, it is relevant to mention the case of the judge María Lourdes Afouni, who was detained in 2009 due to an independence exercise of her position by releasing a businessman who was held three year on pre-trial detention.<sup>67</sup> In this opportunity, the Commission draws attention to the delays and postponements that stand in the way of securing a decision with regard to the accusations levelled against Judge María Lourdes Afouni. The Commission already held that it is an emblematic case of harassment and undue pressures suffered by judges, with the aim of limiting their judicial independence.<sup>68</sup> According to the information received, from the beginning of this year the judge in charge of the matter ordered that a hearing be held to receive testimony from more witnesses before handing down a judgment, as the prosecutor had requested. Nonetheless, the hearing has not happened, and, according to the available information, the court is at a virtual standstill.<sup>69</sup>

54. The Commission has already indicated that the provisional status of judges affects their independence<sup>70</sup>, and reiterates that it is necessary to adopt measures to avoid risks to judicial independence in the selection, appointment, and permanence of the members of the highest judicial body in Venezuela, and the need to ensure that the appointment processes include prior dissemination of the announcements, time periods, and procedures; the guarantee of equal and inclusive access of candidates; the broad participation of civil society; and scoring based on merit and professional capacities, and not political affinities.<sup>71</sup> The State should adopt urgent and decisive measures to significantly increase the number of full judges and to ensure that judges, even if provisional, are not removed other than by disciplinary proceeding or administrative act, strictly respectful of due process guarantees, especially the duty to be properly motivated and access to judicial review.<sup>72</sup>

55. Moreover, the Commission is especially concerned about the information received on civilians facing proceedings or being prosecuted in the military criminal jurisdiction in the wake of their detention in the context of demonstrations, dissident acts, or common crimes.<sup>73</sup> According to information from civil society groups, that situation intensified after the protests of April-June 2017<sup>74</sup>; since then, approximately 757 civilians have been brought before military courts.<sup>75</sup>

56. Information was also received concerning the violation of the legal procedures for appointing the members of the military courts. The IACHR also received information about the use of criminal statutes such as “treason” (“*traición a la patria*”), rebellion (“*rebelión*”), and “attack on the sentinel” (“*ataque al centinela*”) to prosecute civilians, including demonstrators, and even an opposition member of the National Assembly who was said to have been held without being brought before a judge for months, and other due process violations that could constitute a denial of justice. The State reported that the application of military justice answers to the nature of the act challenged, and not the person.<sup>76</sup>

<sup>67</sup> El Nacional, [Cronology Afouni Attorney Case](#), April 12, 2017.

<sup>68</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, paras. 91 and 92.

<sup>69</sup> Information presented by the International Bar Association’s Human Rights Institute to the Executive Secretariat of the IACHR on December 10, 2018. Venezuela Awareness, [Tribunal de la Juez Afouni lleva más de 6 meses cerrado por miedo a dictar sentencia](#), June 9, 2018.

<sup>70</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, para. 15.

<sup>71</sup> IACHR, [Annual Report, Chapter IV.B. “Venezuela.”](#) para. 14.

<sup>72</sup> IACHR, [Annual Report, Chapter IV.B. “Venezuela.”](#) para. 15.

<sup>73</sup> At the hearing “Citizen Security and institutional framework in Venezuela,” held during the 167<sup>th</sup> period of sessions of the IACHR, information was provided on the case of legislator Gilbert Caro, who was detained for 17 months accused of treason. See INFOBE, [El momento en que el diputado opositor Gilber Caro recuperó la libertad: “Me querían matar.”](#) June 3, 2018.

<sup>74</sup> Information provided by Acceso a la Justicia to the IACHR in its request for a hearing for the 167<sup>th</sup> period of sessions, p. 2.

<sup>75</sup> Information provided by civil society in the context of the hearing “Reports of human rights violations by the military justice system in Venezuela,” held during the 168<sup>th</sup> period of sessions of the IACHR. See also HRW, [Venezuelan Authorities Should Pay for their Crimes](#), January 23, 2018.

<sup>76</sup> Information provided by the State in the context of the hearing “Reports of human rights violations by the military justice system in Venezuela,” held during the 168<sup>th</sup> period of sessions of the IACHR.

57. At the same time, the Commission reiterates that the use of the military criminal jurisdiction for trying civilians under the criminal statutes detailed herein entails the violation of a series of rights, such as the right to a pre-existing court with jurisdiction, who is independent and impartial, and it violates the principle of legality. Priority should be assigned to taking the measures necessary, including legislative ones, so that civilians are not investigated or prosecuted by the military criminal jurisdiction and removing, as the case may be, ongoing proceedings to the regular jurisdiction.<sup>77</sup>

### C. Situation of political rights and participation in public life

58. In 2018 information continued to be received on serious acts of repression, persecution, and criminalization against political parties, opponents, activists and social leaders, human rights defenders, and demonstrators that have a serious negative impact on political rights and participation in public life.<sup>78</sup> The context of institutional weakness has been propitious for such acts.

59. The IACHR drew attention to the serious events of April-June 2017, when thousands of persons demonstrated in several cities of the country to voice their rejection of the administration of President Maduro and the decisions of the Supreme Court, and also to demand improved living conditions vis-à-vis the alarming scarcity of food, medicines, and other essential goods. The Commission identified serious restrictions and state acts that gravely impacted the exercise of the right to social protest and freedom of expression, as well as the excessive use of firearms against demonstrators and the indiscriminate use of tear-gas bombs.<sup>79</sup>

60. At that time that IACHR appealed to the State to cease obstructing the legitimate exercise of the right to protest and to halt the use of force against the demonstrators; to institute training in the use of force for those officers in charge of security tasks; to refrain from involving any security force other than the police in these activities; and to adopt measures to rule out the use of firearms in social protests. It should be noted that the events that unfolded in the context of the protests from April to June 2017 are being examined by the Office of the Prosecutor of the International Criminal Court for the purposes of determining whether there is a reasonable basis for considering them to constitute crimes within the jurisdiction of the ICC.<sup>80</sup>

61. During 2018, the IACHR continues receiving information about episodes of repression and criminalization, with fatal results, in the context of pressing social grievances.<sup>81</sup> As of November 2018, the Observatorio Venezolano de Conflictividad Social (OVCS) counted 10,773 protests, most of them aimed at demanding guarantees for economic and social rights in the health, university, electricity and telecommunications sectors; protests over the collapse of basic services such as drinking water, electricity, and domestic gas; demands for access to food and medicines; and protests over the payment of pensions or for

<sup>77</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, para. 261.

<sup>78</sup> Information provided by civil society groups in the context of the hearings “Citizen Security and institutional framework in Venezuela,” held in the 167<sup>th</sup> period of sessions of the IACHR, and “Arbitrary detention and situation of political rights in Venezuela,” held in the 170<sup>th</sup> period of sessions of the IACHR.

<sup>79</sup> IACHR, [Annual Report, Chapter IV.B “Venezuela.”](#) para. 22.

<sup>80</sup> Office of the Prosecutor, International Criminal Court, [2018 Annual Report on Preliminary Examination Activities](#), December 2018.

<sup>81</sup> Information provided to the IACHR by Red venezolana de Organizaciones de la Sociedad Civil, Sinergia, Acceso a la Justicia, Instituto Prensa y Sociedad (IPYS), Centro de Justicia y Paz (Cepaz), Programa Venezolano de Educación Acción (Provea), Movimiento Ciudadano Dale Letra, Prepara Familia, and Asociación Médicos Unidos de Venezuela, in the request for a hearing for the 170<sup>th</sup> period of sessions. They mentioned, among others, the following episodes: (a) on May 10, 2018, when armed civilians were said to have burst into the Hospital José María Vargas in Caracas where physicians and nurses were protesting over the crisis and undersupply suffered at that hospital. The same day a group of persons on motorcycles lashed out against the physicians who were protesting in the street and handing out pamphlets at the Concepción Palacios Maternity Hospital. (b) On May 14, members of the Bolivarian Police from the state of Zulia were said to have repressed a protest against the lack of medical supplies and critical hospital conditions, staged by family members and staff members of the health team at the Hospital Adolfo Pons in the city of Maracaibo. (c) On August 16 officers of state security forces impeded the advance of the march organized by health staff and patients, who had left the José Manuel de los Ríos Children’s Hospital, in Caracas, headed for the Miraflores Palace, the headquarters of the National Executive. That same day, members of the Bolivarian National Police halted the march of the health sector organized in Barquisimeto, state of Lara. The municipality indicated that the mobilization could not continue as the organizers did not have a permit.

better wages.<sup>82</sup> In the first nine months of the year, the Observatorio Venezolano de Conflictividad Social reported that 14 persons had died in the context of protests; the victims have included women and children. Most of the deaths have been caused by the use of firearms. In many cases it has been reported that members of the security forces were involved.<sup>83</sup> Such is the case of Evelio José Rodríguez, 12 years old, who is said to have died from a gunshot wound during a nighttime protest staged by residents of the San José de Chirica sector to demand drinking water and to protest the power outages. According to the information provided, four members of the police from the state of Bolívar have been detained for this incident.<sup>84</sup> The Commission reiterates its forceful appeal to the Venezuelan State to bring a halt to all acts of repression against peaceful demonstrations, to adopt immediately appropriate measures to protect the population, including women, children and adolescents, and older persons, from all forms of violence.<sup>85</sup>

62. The Commission reiterates that the use of force in public demonstrations should be very exceptional and should be limited to circumstances in which it is strictly necessary, in keeping with internationally recognized principles. The Commission has repeatedly indicated to the Venezuelan State that firearms should not be carried by the units involved in controlling social protests. Prohibiting those officers who may come into contact with demonstrators from carrying firearms and lead munitions has proven to be the best measure for preventing lethal violence and deaths in contexts of social protest. In addition, it is crucial that reports of the disproportionate use of force not remain in impunity and that urgent measures be taken to prevent this practice by security agents with the greatest rigor.<sup>86</sup>

63. The Commission emphasizes that the obligation of the states to avoid the excessive use of force by public agents in protest marches and demonstrations should be borne in mind especially in the case of children and adolescents. The IACHR recalls that the criminalization of legitimate mobilization and social protest through direct repression of demonstrators is incompatible with a democratic society, for the legitimate exercise of the right to peacefully express one's opinion is not a citizen security issue. The State should publicly recognize and protect the right to peaceful assembly and freedom of expression without discrimination on grounds of public opinion and should exclude the participation of members of the military and civilian groups from operations for handling public demonstrations, among other measures.<sup>87</sup>

64. The organization Foro Penal Venezolano (FPV) reported that from January 1 to October 31, 2018, the total number of citizens arbitrarily arrested in Venezuela came to 492, and that 183 persons were still being detained. According to the FPV, as of December 2018 there were 288 political prisoners.<sup>88</sup> It also reported that 35 citizens were being tried unconstitutionally in the military jurisdiction from January to October 2018.<sup>89</sup>

65. The IACHR has already spoken out about the existence of arrests without any judicial warrant, by the SEBIN, the prosecution of activists for military offenses, and the imposition of pretrial detention without

<sup>82</sup> Observatorio de Conflictividad Social, [Conflictividad social en Venezuela durante octubre de 2018](#), November 13, 2018

<sup>83</sup> Observatorio de Conflictividad Social, [Conflictividad social en Venezuela durante octubre de 2018](#), November 13, 2018. The same information has been provided by civil society organizations in the hearing "Humanitarian situation and mechanisms of social control in Venezuela," held during the 169<sup>th</sup> period of sessions of the IACHR. It also appears from the request for a hearing submitted by the Red venezolana de Organizaciones de la Sociedad Civil, Sinergia, Acceso a la Justicia, Instituto Prensa y Sociedad (IPYS), Centro de Justicia y Paz (Cepaz), Programa Venezolano de Educación Acción (Provea), Movimiento Ciudadano Dale Letra, Prepara Familia, and the Asociación Médicos Unidos de Venezuela, for the 170<sup>th</sup> period of sessions. The same information about deaths in the context of protest in 2018 is provided by Sinergia, [Los Derechos de Asociación y Participación en un contexto de adversidad: caso Venezuela](#), December 2018.

<sup>84</sup> Information available at the website of the [Observatorio Venezolano de Conflictividad Social](#).

<sup>85</sup> IACHR, [Situation of Human Rights in Venezuela – "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018, para. 229.

<sup>86</sup> IACHR, [Situation of Human Rights in Venezuela – "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018, paras. 224 and 228.

<sup>87</sup> IACHR, [Situation of Human Rights in Venezuela – "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018, paras. 216 and 222.

<sup>88</sup> Information provided by Foro Penal Venezolano in the context of the hearing "Arbitrary detention and situation of political rights in Venezuela," held during the 170<sup>th</sup> period of sessions of the IACHR.

<sup>89</sup> Foro Penal Venezolano, [Reporte sobre la represión en Venezuela. Septiembre/ Octubre 2018](#), November 2, 2018.

justification, among other measures.<sup>90</sup> The IACHR reiterates that a detention is arbitrary and illegal when it is carried out without the grounds and formalities established by law, when it is carried out without observing statutory requirements, and when there has been an abuse of the power to arrest, i.e. when it is carried out for purposes other than those provided for and required by law. In addition, an arrest for improper aims is, in itself, a form of punishment without trial, or of extralegal punishment, that violates the guarantee of a trial prior to any punishment and renders the term “arbitrary” synonymous with irregular, abusive, and illegal. Therefore, the Commission urges the State to refrain from engaging in mass, collective, or indiscriminate detentions, and to comply with all the requirements imposed by domestic laws and international standards in detentions effectuated by the security forces in contexts of social protest, particularly to ensure that the persons detained and their family members receive specific information on the reasons for the detention and where their family member is being held.<sup>91</sup>

66. As already noted, the “Constitutional Statute against hate, for peaceful coexistence and tolerance,” of November 8, 2017, approved by the ANC, provides for penalties of up to 20 years in prison, the shutdown of media outlets including broadcast media, and the blocking of websites. The IACHR continued receiving information about its possible application against persons engaged in peaceful protest (including through social networks), as well as against state workers who denounce the critical conditions of public services.<sup>92</sup> The IACHR recalls that criminalization by investigations and/or judicial proceedings based on an ambiguous offense is contrary to the principles of a democratic society, in which persons have the right to express their opinions peacefully, without fear of any reprisal.<sup>93</sup>

67. The IACHR reiterates that the State should guarantee the full exercise of political rights for all persons, independent of their positions regarding government policies, and cease all actions that impede the right of persons to freely choose their representatives and to monitor their performance.<sup>94</sup>

68. Particularly grave are the serious allegations of violations of the human rights of members of the National Assembly and opposition activists. On August 4, 2018, two drones with explosives blew up near President Maduro as he was giving a speech. The facts were characterized by the government as an attack on the head of state and senior members of his government.<sup>95</sup>

69. National Assembly legislator Juan Carlos Requesens, the leader of the opposition political party “Primero Justicia,” was arrested on August 7, 2018 for his alleged participation in these events. After his arrest a video was made public in which Requesens was shown in his underwear and in denigrating conditions. The IACHR recalled that states should adopt measures necessary to ensure that persons deprived of liberty enjoy conditions compatible with human dignity. Similarly, the IACHR noted that so as to not impair the right to the presumption to innocence, states should avoid presenting persons who are detained and who are being investigated in any informational medium that could become public.<sup>96</sup>

70. The IACHR granted precautionary measures for Requesens, asking Venezuela to adopt the measures necessary to protect his rights to health, life, and integrity, ensuring that he is not subjected to acts of violence. The IACHR took into account the seriousness of the allegations presented by the applicants, which

<sup>90</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, para. 236.

<sup>91</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, paras. 242 and 243.

<sup>92</sup> Information provided by civil society groups in the hearings “Citizen security and institutional framework in Venezuela,” held during the 167<sup>th</sup> period of sessions of the IACHR; “Reports of harassment of human rights defenders, journalists, and media outlets in Venezuela,” held during the 168<sup>th</sup> period of sessions of the IACHR, and “Arbitrary detention and the situation of political rights in Venezuela,” held during the 170<sup>th</sup> period of sessions of the IACHR.

<sup>93</sup> IACHR, [Annual Report, Chapter IV.B. “Venezuela.”](#) paras. 24 and 25.

<sup>94</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, recommendation 16.

<sup>95</sup> CNN, Venezuela: Nicolás Maduro sale ileso de “atentado” en Caracas, dicen autoridades, August 4, 2018.

<sup>96</sup> IACHR, [Press Release 193/18 IACHR Expresses Concern about the Situation of Congressmen of the National Assembly in Venezuela.](#) Washington D.C., August 29, 2018.

involved purported torture, the administration of drugs or toxic substances, and allegedly degrading treatment in the context of his deprivation of liberty.<sup>97</sup>

71. The Supreme Court also issued an arrest warrant for legislator Julio Borges on charges of continuous public instigation, treason, and attempted homicide (*homicidio intencional calificado en grado de frustración*) against President Nicolás Maduro.<sup>98</sup> Borges is a beneficiary of precautionary measures issued by the IACHR with the objective of preserving his life and integrity, and so that he can exercise his political rights as a member of the National Assembly without threats, harassment, or acts of violence.<sup>99</sup>

72. It was learned that on October 5, 2018, council member Fernando Albán – who was active in the political party Primero Justicia – was detained by the Bolivarian Intelligence Service (SEBIN) at the Maiquetía airport when returning to Venezuela from a visit to the United States. Some 20 hours after he was detained, his legal representative and family members were said to have been informed of his whereabouts and the charges against him: terrorism, treason, conspiracy to engage in criminal conduct, and attempted murder (*magnicidio en grado de frustración*), presumably in the wake of the events of August 4, 2018.

73. According to information that is a matter of public knowledge, former speaker of the National Assembly Julio Borges denounced that Fernando Albán was detained at the facilities of the SEBIN, where he was exposed to cruel and inhuman treatment; that report was filed one day after his detention. 48 hours later, the Government reported his suicide in the SEBIN waiting room, where Albán was awaiting his transfer to the courts. In the context of the 170<sup>th</sup> period of sessions, Fernando Albán's widow asked the Commission to urge the State to transfer her husband's corpse, so that she could bury him in the United States. She also asked that an independent and autonomous commission be constituted to investigate the human rights violations of which her husband was a victim.<sup>100</sup>

74. The IACHR asked the State for information on the current status of the investigation into the death of council member Fernando Albán, in particular with respect to the principal lines of investigation, types of expert evidence sought, witness statements obtained, and results of the autopsy performed after this death. In December 28, the State reported that a specialized human rights unit of the Attorney General's Office (Ministerio Público) was in charge of conducting the investigation and corresponding expert examinations, after which the hypothesis of suicide was confirmed. It also reported that two officials of the SEBIN had been tried for breach of the obligations to keep custody over a person under their charge. The State added that the National General Prosecutor released information to the press about the course of investigation and its results. Furthermore, it reported that relatives and lawyers of Fernando Albán had access to the files.<sup>101</sup>

75. The Commission appeals to the State to carry out the actions required for Mr. Fernando Albán's family members to have his remains; and to adopt all relevant measures to conduct an conclude an independent investigation of the circumstances of his death while in state custody.

76. The IACHR also granted precautionary measures, asking the State to preserve the health, life, and integrity of Pedro Patricio Jaimes Criollo<sup>102</sup> and Juan Carlos Caguaripano<sup>103</sup>, detained at SEBIN facilities, and Luis Humberto de la Sotta Quiroga, detained at the offices of the General Military Counterintelligence Bureau (DGCM: Dirección General de Contrainteligencia Militar), who is being tried on charges of committing

<sup>97</sup> [Resolution 79/18 - PM 1039/18 - Juan Carlos Requesens Martínez, Venezuela.](#)

<sup>98</sup> EFE, [El Supremo de Venezuela ordena detener al opositor Borges por el atentado a Maduro](#), August 8, 2018.

<sup>99</sup> IACHR, [Press Release 108/17, IACHR Grants Precautionary Measure for Three Deputies of Venezuela's National Assembly](#), Washington DC, July 28, 2017.

<sup>100</sup> Information provided by the State in the context of the hearing "Arbitrary detention and situation of political rights in Venezuela," held in the 170<sup>th</sup> period of sessions of the IACHR.

<sup>101</sup> Note directed by the State to the IACHR, December 28, 2018.

<sup>102</sup> [Resolution 78/18 - PM 688/18 - Pedro Patricio Jaimes Criollo, Venezuela.](#)

<sup>103</sup> [Resolution 42/18 - PM 798/17 - Juan Carlos Caguaripano, Venezuela.](#)



the crimes of “instigation to military rebellion” (*“instigación a la rebelión militar”*), rioting (*“motín”*), treason, and “acting against military decorum” (*“contra el decoro militar”*).<sup>104</sup>

77. As regards Jaimes Criollo, the applicants indicated that at the time of his detention at the offices of the General Military Counterintelligence Bureau:

“... they covered his head with bags, they asphyxiated him on the floor and turned with his arms up, they beat him with cushioned sticks and bats. He also suffered electrical discharges, ‘give him more volts’ the SEBIN agents said, and presumably trying to get him to tell them personal passwords.”<sup>105</sup>

78. The IACHR reiterates its appeal to the State to adopt the measures necessary for ensuring the political rights of mayors, governors, legislators, and any other authority, as well as political leaders, so that they can perform their functions without being subjected to harassment, threats, and violence.<sup>106</sup>

79. On May 16, more than 300 persons detained at the prison known as “El Helicoide,” of the Bolivarian National Intelligence Services (SEBIN), rioted to protest alleged violations of their human rights, such as torture and mistreatment; the detention of adolescents; the existence of prisoners with release orders who continue to be detained; in addition to due process violations.<sup>107</sup> One of the persons detained there is Juan Pedro Lares, who is said to have spent more than a year without his case being brought before the courts. Lares was subsequently released.<sup>108</sup> The IACHR has received information about allegations of torture of persons held in that facility.<sup>109</sup> During the riot the State announced that a commission would be constituted to look into the claims. According to the information received, the authorities transferred detainees to another prison as a result of those events. Nonetheless, there is no official information in this regard.<sup>110</sup>

80. The State informed the IACHR that the Commission of Truth, Justice, Peace and Public Tranquility of the Justice System recommended evaluating the application of non-custodial measures for persons detained or convicted for their alleged or proven participation in episodes of violence for political reasons in recent years. Based on these recommendations, 123 persons are said to have received non-custodial measures and so are free on the condition that they must present themselves periodically to the corresponding court. The State reported that 10 persons are beneficiaries of precautionary measures handed down by the IACHR.<sup>111</sup>

81. The IACHR analyzed the information provided by the State and took the opportunity to ask the State for information about the failure to carry out a series of release orders issued by the judiciary in favor of persons who are still being detained, based on information provided by civil society organizations.<sup>112</sup> In particular, details were requested concerning 58 persons of Colombian nationality<sup>113</sup> and two of the 14 police agents known as *“polichacoas”* deprived of liberty due to their alleged ties to a crime, Fred Mavares and Reggie Jackson Andrade. As of this writing no response has been forthcoming.

<sup>104</sup> [Resolution 75/18 - PM 862/18 - Luis Humberto de la Sotta Quiroga, Venezuela.](#)

<sup>105</sup> [Resolution 78/18 - PM 688/18 - Pedro Patricio Jaimes Criollo, Venezuela, para. 6.](#)

<sup>106</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela.”](#) 2018, recommendation No. 18.

<sup>107</sup> Information provided by Defiende Venezuela to the IACHR, May 16, 2018.

<sup>108</sup> Provea, [Entrevista Provea “Me rociaron con gasolina y me decían que iban a prenderla si no les decía dónde estaba mi padre.”](#) June 15, 2018.

<sup>109</sup> Written information provided by the organization Defiende Venezuela to the Commission in the context of the 170<sup>th</sup> period of sessions. See also Amnesty International, [Gregory Sanabria requiere atención médica urgente](#), May 25, 2018.

<sup>110</sup> El País, [Motín en la cárcel de Caracas que encierra a los presos políticos más emblemáticos](#), May 18, 2018.

<sup>111</sup> IACHR, request for information to the State, July 16, 2018, Note CIDH/SE/Art.18/07-2018/37.

<sup>112</sup> Information provided by civil society in the context of the hearing “Citizen security and institutional framework in Venezuela,” held during the 167<sup>th</sup> period of sessions of the IACHR.

<sup>113</sup> Amnesty International, Venezuela: [Orden de Libertad a favor de migrantes procedentes de Colombia debe cumplirse sin más demora](#), November 23, 2017.

82. On May 29, the Panel of International Independent Experts of the OAS issued its report on the possible commission of crimes against humanity in Venezuela.<sup>114</sup> It concluded that there are sufficient grounds for considering that the acts to which the civilian population of Venezuela has been subjected, including the crimes of murder, incarceration, torture, rape and other forms of sexual violence, persecution, and forced disappearance, which date back to at least February 12, 2014, constitute crimes against humanity as per the Rome Statute.<sup>115</sup> In addition to pointing to abundant evidence, the Panel noted that the IACHR contributed to the process by submitting a report on Venezuela's judicial system.<sup>116</sup>

83. The Panel recommended to the Secretary General of the OAS that this Report and the evidence compiled by the OAS General Secretariat be forwarded to the Office of the Prosecutor of the International Criminal Court (ICC), and that the Secretary General should invite the states party to the Rome Statute to refer the situation of Venezuela to the Office of the Prosecutor of the ICC, and ask the Prosecutor to open an investigation into the crimes against humanity described in this Report, in keeping with Article 14 of the Rome Statute.<sup>117</sup> In December 2018, the Office of the Prosecutor of the ICC reported that the investigation with respect to whether there is a reasonable basis for considering the alleged crimes to fall within the jurisdiction of the Court is open, and that it would continue to receive evidence.<sup>118</sup>

84. In June 2018, the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued its report "Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017."<sup>119</sup> That report describes an ever more critical human rights situation from the beginning of the protests, evidencing an escalation in repression of the political opposition by the security forces and an increase in the stigmatization and persecution of persons perceived as opposing the Government. The OHCHR found that agents of the security forces made systematic use of excessive force, including arbitrary detentions of demonstrators, patterns of mistreatment, which on occasion could constitute torture, and the violation of the rights to enjoy the highest possible level of health and an adequate diet. The report was prepared without access to Venezuelan territory due to the lack of consent and was rejected by the Government.<sup>120</sup>

#### **D. Violence and Citizen Security**

85. The IACHR indicated in earlier years that the high levels of violence and crime, and the context of militarization of citizen security and involvement of civilians in security tasks had contributed to a sustained increase in extrajudicial executions.<sup>121</sup>

86. In June the Scientific, Criminal, and Criminological Investigation Corps (CICPC: Cuerpo de Investigaciones Científicas, Penales y Criminalísticas) reported that the figures for homicides in Venezuela diminished in the first half of 2018, compared to the same period the previous year. It noted that there was a 26% reduction in the incidence of this crime as compared to 2017, with a total of 5,762 deaths due to homicide

<sup>114</sup> OAS, C-031/18, [Panel of Independent International Experts Finds "Reasonable Grounds" for Crimes against Humanity Committed in Venezuela](#), Washington D.C., May 29, 2018.

<sup>115</sup> [Report Panel of Independent International Experts Venezuela](#), p. 463.

<sup>116</sup> [Report Panel of Independent International Experts Venezuela](#), p. 19.

<sup>117</sup> The report by the Panel indicates: "All of the activities carried out under this process were done without prejudice to the competence and authorities of the Inter-American Commission on Human Rights. With the mandate of the IACHR focused on human rights violations carried out at the state level, the IACHR contributed to the process with the submission of a report on the judicial system in Venezuela," [Report Panel of Experts Venezuela](#), p. 14.

<sup>118</sup> Office of the Prosecutor, International Court of Justice, [Report on Preliminary Examination Activities \(2018\)](#), December 2018.

<sup>119</sup> OHCHR, [Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017](#), August 2017.

<sup>120</sup> Ministry of People's Power for Foreign Relations, Venezuela, [Contundente respuesta de Venezuela al falaz informe del Alto Comisionado para los DDHH](#), August 22, 2018.

<sup>121</sup> IACHR, [Annual Report, Chapter IV.B. "Venezuela."](#) para. 28.

as of June 2018.<sup>122</sup> At the same time, public officials reported that as of October 2018 there was a 35.4% reduction in homicides compared to the previous year.<sup>123</sup> Nonetheless, the State has not produced disaggregated information regarding the causes, victims, and victimizers of these deaths. Specifically, there is no known official data on the number of deaths caused by confrontations, excessive use of force by the security forces, or extrajudicial executions.

87. The Observatorio Venezolano de Violencia (OVV), for its part, reported having recorded 23,047 violent deaths during 2018. Of these, 10,422 represent homicides. According to that information, the participation of the security forces in homicides continues to be high. They counted 7,523 deaths caused by resisting the authorities and 5,102 cases of deaths that are still being legally processed. The rate of violent deaths was 81.4 per 100,000 population.<sup>124</sup> From January to September 2018, in the city of Caracas, 481 homicides were counted caused by putting up “resistance to the authorities,” for a 13% increase with respect to the previous year.<sup>125</sup>

88. In addition, information has continued to be received about security force operations in areas with high rates of violence, characterized by the excessive use of force.<sup>126</sup> The Monitor de Víctimas reported that as of October 2018 the National Bolivarian Police (including the Special Actions Force) and the CICPC are the two security institutions that account for the largest number of homicides, 57% and 35% respectively.<sup>127</sup> Concern has been expressed about the failure to investigate the public servants implicated in violent deaths.<sup>128</sup> The State announced that 89 members of the Special Actions Force were under administrative and criminal investigation, and that 23 police officers are deprived of liberty as a result of reports of abuses perpetrated in the context of the program “Denounce Police who Commit Violations” (“Denuncia al Policía Transgresor”).<sup>129</sup>

89. In January 2018, in a joint action by the state security forces, Operation “Gedeón” was carried out in the area known as El Junquito, in Caracas. On January 16, the Minister of Internal Relations, Justice and Peace reported that after an armed confrontation, a self-styled rebel group in opposition to the government, led by Óscar Pérez, former inspector of the CICPC, had been dismantled. The members of the group were sought for their participation in the 2017 attack on the Supreme Court, and for having issued an appeal for civil disobedience.<sup>130</sup>

90. According to reliable information, the operation included the participation of some 400 agents of the security forces belonging to the Bolivarian National Guard, the Bolivarian National Police, the National Anti-Extortion Command, and the General Military Counterintelligence Bureau.<sup>131</sup> It was announced that as a result of the military operation known as “Gedeón” at least nine persons, including Óscar Pérez, six members of his group, and two police agents had lost their lives, and that eight security agents suffered bullet wounds. The official information indicated that the members of the rebel group shot at officers of the security forces, who took action to respond to the attack, following defined protocols.<sup>132</sup>

<sup>122</sup> See <https://www.telesurvtv.net/news/venezuela-homicidios-cifras-indices-douglas-rico-20180625-0044.html>

<sup>123</sup> See <http://800noticias.com/segun-el-gobierno-los-homicidios-en-caracas-han-disminuido-un-354>

<sup>124</sup> Observatorio Venezolano de Violencia, [OVV registró 23.047 muertes violentas en 2018](#), December 27, 2018.

<sup>125</sup> See Observatorio Venezolano de Violencia, [85% de los delitos más graves en octubre fueron homicidios](#), November 2018; Observatorio Venezolano de Violencia, [¿Es real la supuesta reducción de los homicidios en la capital de Venezuela?](#), November 7, 2018; Monitor de Víctimas, [Reporte Mensual](#), October 2018.

<sup>126</sup> Amnesty International, Venezuela: [This is No Way to Live: Public Security and Right to Life in Venezuela](#), September 2018, p. 35.

<sup>127</sup> Monitor de Víctimas, [Reporte Mensual](#), October 2018.

<sup>128</sup> Amnesty International, Venezuela: [This is No Way to Live: Public Security and Right to Life in Venezuela](#), September 2018, p. 7.

<sup>129</sup> El Nacional, [23 funcionarios de la FAES fueron privados de libertad en el año 2018](#), December 11, 2018.

<sup>130</sup> BBC, [Un helicóptero del CICPC dispara contra el ministerio del Interior y el Tribunal Supremo de Venezuela en lo que el gobierno denuncia como "escalada golpista."](#) June 28, 2017.

<sup>131</sup> OHCHR, [Violaciones Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight](#), June 2018.

<sup>132</sup> Vice Presidency of the Bolivarian Republic of Venezuela, [Ministro Reverol ofreció parte sobre desmantelamiento de célula terrorista](#), January 16, 2018.

91. Videos were disseminated in which Pérez and members of his group report on the negotiations that were initiated with the authorities for their surrender, as well as their calls for a ceasefire, given the presence of women and children in the place. Those videos record shots while the members of the group announce their surrender. According to information received, the seven members died from gunshot wounds to the head.<sup>133</sup> The home that was the scene of these events was demolished. It was also reported that the family members of Óscar Pérez and his group faced a series of obstacles when it came to being allowed to identify the bodies; and that they were not allowed to decide on the details of their burials. The Commission sent a request to the State, asking for information on the state agents and authorities who were in charge of the operation and who participated in it; the persons who were wounded or killed in Operation Gedeón; the status of the investigations initiated in relation to this context and their findings; how the official removal of the bodies was conducted; which authorities or independent experts participated in these processes; the kind of assistance that was given to the persons who were wounded; how the burials of the persons killed took place and whether they were in keeping with the decisions, beliefs, and customs of the family members; and what family members of the deceased were present. As of this writing the State has not provided the information requested.

92. The Commission also received information that describes the violent deaths of at least eight persons in the residential zone of Fuerte Tiuna, in a sector known as “Los Rusos.” The incident was said to have occurred in the context of an operation carried out on September 9 by agents of the Special Actions Force of the Bolivarian National Police (FAES).<sup>134</sup> At the same time, information was received on searches conducted without a judicial warrant and attacks on private homes in the context of protests against the State. According to the information received, the searches were conducted violently, breaking fences and gates, with the use of small tanks and armored vehicles, and with indiscriminate shots fired into homes.<sup>135</sup> It was denounced that once in the homes the officials demanded to be told where the youths were who were protesting, without showing any arrest warrant.<sup>136</sup> The State reported that the demonstrations that have taken place in Venezuela have been violent and that it has made legal use of force to bring them under control. Such events occur in the context of the extension of the state of emergency by decree issued by the Executive branch.<sup>137</sup>

93. The Commission considers it essential to reiterate the call to end the involvement of the armed forces in citizen security activities that are within the purview of the police bodies, as well as ending the involvement of civilians in internal security strategies. In particular, the Commission reiterates to the State the request for information on the circumstances around Operation Gedeón and urges the State to determine the possible responsibilities of those state officials who participated in it. The IACHR reiterates that it is also fundamental to adopt a human rights perspective in addressing citizen security; such an approach is based on looking at people as citizens to be protected rather than enemies who must be combatted.<sup>138</sup>

94. In addition, the Commission recalls that the State is under the inescapable obligation to adopt all measures necessary to protect the life and integrity of the persons under its jurisdiction<sup>139</sup>; which implies taking the measures needed to ensure that the use of lethal force occurs strictly within the principles of

<sup>133</sup> OHCHR [https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018\\_SP.pdf](https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_SP.pdf) PP 23.

<sup>134</sup> Information provided to the Commission by Defiende Venezuela.

<sup>135</sup> Information provided by civil society groups in the hearing “Citizen Security and institutional framework in Venezuela,” held during the 167<sup>th</sup> period of sessions of the IACHR.

<sup>136</sup> Information provided by Amnesty International in the hearing “Citizen Security and institutional framework in Venezuela,” held during the 167<sup>th</sup> period of sessions of the IACHR.

<sup>137</sup> Ministry of People’s Power Communication and Information, Venezuela, [TSJ declara constitucional Decreto de Estado de Excepción y Emergencia Económica](#), September 24, 2018.

<sup>138</sup> IACHR, [Annual Report, Chapter IV.B. “Venezuela,”](#) paras. 29 and 30.

<sup>139</sup> IACHR, [Situation of Human Rights in Venezuela – “Democratic Institutions, the Rule of Law and Human Rights in Venezuela,”](#) 2018, para. 337.

exceptionality, legality, necessity, proportionality, non-discrimination, and accountability.<sup>140</sup> In addition, the State is under the duty to prevent, investigate, prosecute, and punish violent acts.<sup>141</sup>

#### IV. POVERTY AND ECONOMIC, SOCIAL, CULTURAL AND ENVIRONMENTAL RIGHTS

95. The Rapporteurship on Economic, Social, Cultural and Environmental Rights continued monitoring the situation in Venezuela, with great concern, throughout 2018. Antiretrovirals continued to be in short supply for persons with HIV or AIDS, as were medicines for insulin-dependent diabetes and hypertension. Associated with the effects of the health crisis, information is on record regarding the deaths of minor children due to infections caused by deficient hygiene in the hospitals. At the same time, deaths associated with pregnancy and childbirth care due to deteriorating public health services, malnutrition, and epidemics. In particular, projections with regard to child deaths due to malnutrition are alarming. With respect to the right to education, attacks have continued on institutional university autonomy and academic freedom, which led the National Assembly of Venezuela to declare a complex humanitarian emergency in education, which has been ratified by university councils of Venezuela's leading universities. Finally, it is noted that problems persist stemming from pollution, deforestation, violence, and the increase in organized crime activities in what is called the Orinoco Mining Arc.

96. The Commission takes note on the observations of the State made to the project of the present report in which they note that "during 2018, Venezuela reached the sum of 2.500.00 constructed housing built and delivered to the population, with special preference for the sectors in conditions of social vulnerability; all of the aforementioned as part of the "Great Housing Mission of Venezuela"<sup>142</sup>.

##### A. Health

97. The crisis in Venezuela's health system has several aspects associated with different factors; it has taken a particular toll on the country's most vulnerable populations. For example, from January to July the scarcity of medicines for insulin-dependent diabetes and hypertension persisted; these are causes of morbidity in older persons, fluctuating from 89.8% to 78.4% for insulin-dependent diabetes, and from 89.5% to 74.2% for hypertension. These figures are higher for acute respiratory infections and diarrhea, with maximum peaks of up to 97.2% and 92.4%, respectively.<sup>143</sup> There are reports of deaths in older persons due to lack of access to medicines. This is supplemented by the general panorama, as widespread undersupply persists (greater than 79%). This means that more than half of all patients will not get medicines to treat the leading morbidities, whose worsening diminishes quality of life and life expectancy, while these diseases are perfectly treatable in a context in which public policies and investments in health are focused on the well-being of the population.<sup>144</sup>

98. Venezuela has a deficit of medical personnel. According to the 2017 National Survey of Physicians and Medical Students more than 40% of all these professionals who have graduated in the last decade decided to migrate to other countries; and of those who are still in the country, 75% intend to emigrate due to the precarious conditions for health professionals. The playing out of these intentions makes it all the more difficult to provide health services to older persons in Venezuela.

<sup>140</sup> IACHR, [Situation of Human Rights in Venezuela – "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018, para. 376.

<sup>141</sup> IACHR, [Situation of Human Rights in Venezuela – "Democratic Institutions, the Rule of Law and Human Rights in Venezuela."](#) 2018, para. 360.

<sup>142</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026. Project observations chapter IV.B](#), February 15th, 2019, para. 69.

<sup>143</sup> United Nation High Commissioner, [International experts concerned at the decay of older persons' right to health in Venezuela](#), 2018.

<sup>144</sup> United Nation High Commissioner, [International experts concerned at the decay of older persons' right to health in Venezuela](#), 2018.

99. In response to this situation, in October 2018, the Special Rapporteur for Economic, Social, Cultural and Environmental Rights of the IACHR, along with the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health of the United Nations, will issue a joint statement expressing their concern over the detriment to the right to health of older persons in Venezuela. In the document both mandates urged the State to guarantee the right to enjoy the highest attainable standard of health for older persons in Venezuela, recalled the forwarding to the Venezuelan State of a request for a joint visit, and reiterated their utmost interest, and offered to provide technical assistance for protecting the right to health.

100. In addition, other international organizations have taken actions to address the crisis in Venezuela. For example, the regional office of the Pan American Health Organization (PAHO), drew up the Master plan for strengthening the HIV, tuberculosis and malaria response, in June 2018, which included the participation of the directors of the programs of the Ministry of People's Power of Health (MPPS: Ministerio del Poder Popular de la Salud), representatives of civil society, and experts from PAHO and UNAIDS. The Master Plan contains the activities needed for responding to these three health problems, as well as the detail of the needs and costs of medicines, laboratory reagents, equipment, and prevention materials. The Global Fund to Fight AIDS has already earmarked financial resources for purchasing antiretroviral medicines through the PAHO Strategic Fund and we believe we are making progress in addressing the needs for these three diseases, supplementing the efforts of the MPPS and guaranteeing their availability during 2019.<sup>145</sup>

101. Nonetheless, these efforts are diminished if one notes that there is a generalized supply crisis in Venezuela. For example, it is estimated that at least 60% of the medical care available in 2011 was lost from 2012 to 2017; it was provided by public health services to 82% of the user population. With respect to care, it is noted that from 2012 to 2015 the proportion of beds occupied in the public hospitals fell 40%, and from 2014 to 2015 the number of persons served daily in consultations, emergencies, and childbirths fell 58%, according to the latest statistics published by the Ministry of Health in its Memory and Account (Memoria y Cuenta). Moreover, according to 2017 Survey of Living Conditions, population centers such as Barrio Adentro lost 96% of their beneficiaries from 2015 to 2017; and the only public hospital in the state of Amazonas was closed on technical grounds.<sup>146</sup>

102. Accordingly, the Commission finds it alarming that at this time the risk of dying in a public hospital is quite high, causing the extreme vulnerability of persons due to the precarious conditions of care. Most public health establishments have shortcomings in their structure, operating capacity, and logistics, and in some cases a lack of basic hygienic conditions. These inadequate sanitary conditions foster intrahospital infections and 50% of the hospitals with complex services do not have bacteriology laboratories.<sup>147</sup>

103. As regards the health of children, information was received on at least 16 children under 5 years of age who have died at the Hospital Universitario de Pediatría Dr. Zubillaga (Dr. Zubillaga Pediatric University Hospital) in the state of Lara as of this writing in 2018, due to infections caused by deficient hygiene. In 2017 and 2018, 12 children and adolescents died who received dialysis at the J.M. de los Ríos Children's Hospital due to bacterial infection in the water tanks and filters in the units. In one year the number of child deaths at this hospital doubled, from 79 to 160; the three leading causes were septic shock, pneumonia, and malnutrition. Similarly, from December 2017 to February 2018, the death of 112 newborns was reported in the Santa Ana Maternity Hospital of Caracas, due to the bacterium *Klebsiella pneumoniae*.<sup>148</sup>

104. In 66%, the number of maternal deaths increased, while child deaths climbed 30% from 2015 to 2016. Both have continued to rise into 2018, with the aggravating factors of malnutrition and epidemics.

<sup>145</sup> PAHO/WHO, Boletín especial Salud Hoy No. 10, November 10, 2018.

<sup>146</sup> Excubitus Derechos Humanos, Reporte Nacional: Emergencia Humanitaria Compleja en Venezuela: Derecho a la Salud, September 2018.

<sup>147</sup> Excubitus Derechos Humanos, Reporte Nacional: Emergencia Humanitaria Compleja en Venezuela: Derecho a la Salud, September 2018.

<sup>148</sup> Excubitus Derechos Humanos, Reporte Nacional: Emergencia Humanitaria Compleja en Venezuela: Derecho a la Salud, September 2018.

Deaths associated with pregnancy and childbirth care have escalated in Venezuela due to the decline in public health services, malnutrition, and epidemics. The rate of adolescent pregnancy, at 95 per 1,000, is the second highest in Latin America.<sup>149</sup> From 2015 to 2016, maternal deaths grew 66%, reaching mortality of 140 pregnant women per 100,000 live births, and continued to climb during 2017 and 2018. Child deaths, more than 60% of them neonatal deaths, saw a 30% increase (from 8,812 to 11,466) with a rate of 19.0 deaths per 10,000 live births.<sup>150</sup> In the 2017 Survey of Living Conditions, 25,000 pregnant females never received a prenatal checkup and 15,000 only as of the eighth month. In 2017, 117 pregnant females from the state of Bolívar lost their lives due to malaria complications; in 2018, 10 pregnant females also died, of a total of 690 indigenous women with malaria in the state of Amazonas.<sup>151</sup>

105. The number of persons receiving care at public psychiatric institutions fell from 23,000 to 3,500, and those in such institutions do not have food or medicines. Mental health policies have historically been weak in Venezuela. Persons with some mental health condition (schizophrenia, dementia, depression, and bipolar, anxiety, personality, or attention deficit disorders, intellectual disability, or autism) receive attention in only 11 hospitals of the Ministry of Health and 68 cases in rest homes operated by the social security institute. From 2009 to 2013, the number of beds fell off 42%, and from 2013 to 2015, the number of persons served fell from 23,000 to 5,500, due to serious problems with infrastructure, limited budget, and lack of medicines.<sup>152</sup>

106. As regards the lack of access to medicines and medical treatments in Venezuela, the IACHR learned that 85% of the pharmacies in the Venezuelan capital had no medicine for treating opportunistic infections that attack persons living with HIV or AIDS; and that 95% to 100% of the hospitals do not have a supply of antiretrovirals. This has meant that some patients have gone up to six continuous months without receiving the treatment indicated, resulting in approximately five persons a day dying due to causes related to that disease. In that same context, local scientific organizations have observed the serious deterioration of the blood banks in Venezuela, with serious shortcomings in the reception of reagents and inputs for discarding the possibility of diseases in blood donations, surgery and transfusion in kidney, hematology, and cancer patients, among others. That context is aggravated by a worrisome increase in diseases such as malaria, zika, and diphtheria, which has generated alerts due to their gradual spread since 2015.<sup>153</sup>

107. In 2016, the scarcity of psychotropic medicines reached 85%, generating a high probability of disability and mortality. According to the Survey of Living Conditions for 2016, 63% of the persons with these persons did not get medicines at pharmacies. Psychiatrists say they have gone back to practices that had become a thing of the past such as tying down a patient or isolating the patient in a room without clothing to avoid self-inflicted injuries. In 2018, 3,500 persons had to leave the centers due to severe malnutrition and psychotic episodes, for insulin, and due to the undersupply of anti-malaria medicine.<sup>154</sup>

108. Finally, some precautionary measures have been granted to provide immediate protection of the right to health. In Precautionary Measure PM No. 1039/17, the measure was granted in favor of child nephrology patients at the Hospital José Manuel de los Ríos. It argued that the proposed beneficiaries are at serious risk due to their health and the lack of adequate medical treatment, due to an alleged crisis of undersupply and other structural shortcomings. The Commission asked Venezuela to take the measures necessary to guarantee the life, integrity, and health of the children. Similarly, the IACHR granted Precautionary Measure (PM) No. 145/18 with respect to persons who have the HIV virus who are said to be at risk due to the failure to ensure a steady supply of antiretroviral medicines. In particular, the Commission asked Venezuela to adopt the measures necessary to safeguard the life and integrity of the 43 beneficiaries by immediately

<sup>149</sup>El Estímulo, [Las muertes silenciadas de la Maternidad Santa Ana](#), May 14, 2018.

<sup>150</sup> [Provea: Informe Anual 2016. Chapter on Health](#).

<sup>151</sup> Excubitus Derechos Humanos, Reporte Nacional: Emergencia Humanitaria Compleja en Venezuela: Derecho a la Salud, September 2018.

<sup>152</sup> Excubitus Derechos Humanos, Reporte Nacional: Emergencia Humanitaria Compleja en Venezuela: Derecho a la Salud, September 2018.

<sup>153</sup> Excubitus Derechos Humanos, Reporte Nacional: Emergencia Humanitaria Compleja en Venezuela: Derecho a la Salud, September 2018.

<sup>154</sup> El Nacional, [3,500 pacientes psiquiátricos están amenazados de desalojo](#), March 21, 2018.

adopting measures that make possible adequate medical treatment, as well as the diagnoses and medical exams that make it possible to regularly evaluate their health conditions.<sup>155</sup>

109. The Commission urges the State to make the adjustments needed in its public policies and budgets to respect and guarantee the rights to food and health, based on a differentiated and gender-sensitive approach that gives special consideration to the rights of older persons and children. In particular, it should make a change to its comprehensive health policy so as to address basic needs such as the lack of medicines and hospital care, diminishing the quality and availability of health care for the inhabitants of Venezuela.

110. The Commission recalls that the American Declaration, at Article XI, indicates that every person has the right to his or her health being preserved by sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources. This right should be satisfied such that it is available, accessible, acceptable, and of quality.<sup>156</sup> Along these lines, in the face of alarming figures, it is a duty of the Venezuelan State to make every possible effort to eradicate the scarcity of medicines and the lack of personnel at the health centers.

## **B. Food**

111. The most recent report on food and nutrition security by the United Nations Food and Agriculture Organization in collaboration with the Pan American Health Organization, has verified an increase of 1.3 million persons who have been underfed in Venezuela from 2014 to 2016, i.e. 3.9% more than in the previous three-year period. That estimate corresponds to the number of persons in the population who do not meet the minimal nutritional requirements for leading a healthy and active life. Accordingly, the repeated reports on the risk thousands of children in Venezuela face of losing their lives due to malnutrition this year. According to the information received, in 2017 five to six children died weekly due to lack of food, and at least 33% of the child population is showing signs of stunted growth. In addition, an average of 4.5 million persons are eating only once a day, and on occasion only every other day, resulting in 11.4% of the child population already suffering malnutrition.<sup>157</sup>

112. In addition, the scarcity of food products and the rising prices of the few protein products or nutritional supplements available in the country threaten to drive up child malnutrition to 25%, to reduce the number of meals per day, and to meals having less and less animal protein, leafy greens, fruits, and vegetables. This has particular and serious effects on children, older adults, and those persons who suffer diseases such as pneumonia, hepatitis, tuberculosis, or HIV/AIDS, who moreover report that they have not received their medicines for months, nor had access to food appropriate for their survival.<sup>158</sup>

113. In 2017, according to reliable research in the locality of Miranda, older persons lost 1.3 kilograms monthly, which deteriorated their health and adequate levels of nutrition. The situation was worse for those who tend to be alone, without emotional and economic support, since their family members are forced to emigrate from the country to survive. Similarly, some data indicate that there has been a shift in the diet of inhabitants of Venezuela. According to information sent by civil society groups, the foods that many have stopped buying because of their cost or scarcity are animal proteins: chicken (21.3% attribute it to scarcity, 18.6% to cost), beef (19.8% due to scarcity, 20.3% because of cost), and fish (10.4% because of scarcity, 12.3% because of cost).<sup>159</sup> As a result, approximately 76.8% of households reported that at some time in the last three

<sup>155</sup> The Commission also granted precautionary measures 1039, 862, and 798 of 2018 on behalf of persons deprived of liberty who were at serious risk due to their conditions of detention and due to the lack of adequate medical care, which was distinct for each person. In the various measures the Commission asked the government of Venezuela to take the steps necessary to guarantee the health, life, and integrity of persons deprived of liberty.

<sup>156</sup> Committee on Economic, Social and Cultural Rights General Comment No. 14, The right to the highest attainable standard of health, E/C.12/2000.4, August 11, 2000, para. 12.

<sup>157</sup> IACHR, [Press Release No. 016/2018](#), February 1, 2018.

<sup>158</sup> IACHR, [Press Release No. 016/2018](#), February 1, 2018.

<sup>159</sup> Commission for Human Rights of the state of Zulia (CODHEZ), Report on quality of food 2018.



months, because of lack of money or other resources, the adults ceased having a healthy diet – due to not including foods in the quantity and quality needed for healthy and balanced meals.<sup>160</sup>

114. At the same time, it was reported that 6 newborns died at the Hospital Menca in Leoni<sup>161</sup>, and 3 other babies died due to malnutrition at the Children’s Hospital in Maracaibo<sup>162</sup>, figures that are in addition to several deaths recorded in different parts of the country as the result of the lack of guarantees for the rights to health and food. According to civil society organizations, it is likely at least 280,000 children could die of malnutrition.<sup>163</sup> While for 2017, these same organizations were able to provide care to more than 3,000 children with malnutrition, this year the inventories of nutritional supplement are depleted in several parts of the country.<sup>164</sup> As of August 2018, 48% of pregnant females in poor parishes had some degree of malnutrition; 21% had severe malnutrition.<sup>165</sup>

115. Finally, it is worth noting that in its comments on the draft of this report, the State referred to the Local Supply and Production Committees (CLAP) program, under which it "supplies, directly and on a monthly basis, 19 food products at subsidized prices to 6 million families in the country", and assured that "it reaches coverage of more than 24 million people."<sup>166</sup>

116. The Commission reminds the State that under Article XI of the American Declaration, every person has the right to the preservation of his health by measures relating to food. Similarly, Article VII of the same instrument indicates that all women, during pregnancy and the nursing period, as well as every child enjoy the right to special protection, care, and aid. In addition, the Committee on Economic, Social and Cultural Rights, at its General Comment 12, indicates that the core content of the right to food implies "the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture" and "the accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights."<sup>167</sup>

117. It is urgent that the State adopt a new public policy focused on eradicating chronic malnutrition, especially in the most vulnerable sectors of society. Within that strategy, adjustments should be made in monetary policy so as to ensure access to the basic market basket for the poorest and most vulnerable sectors of Venezuela.

### C. Education

118. As regards the right to education, it is noted with concern that on November 21, 2018, the President of the Republic, in the context of the day of the university student, on a nationwide radio and television broadcast, asked the students to create "University Militia" to defend "the revolution" and support their government "with weapons in hand."<sup>168</sup> In addition, from 2010 to 2018 at least 50 judicial decisions have been issued that violate the institutional autonomy of the universities, and consequently academic freedom, on avoiding holding elections of university authorities, having suspended the competitive hiring processes for university professors, having forced the autonomous universities to accept the impositions of places for new students by outside actors, and even with intervention in the graduations when it comes to giving out university

<sup>160</sup> Commission for Human Rights of the state of Zulia (CODHEZ), Report on quality of food 2018.

<sup>161</sup> Panorama, [Denuncian Muerte de seis menores recién nacidos en Bolívar](#), March 25, 2018.

<sup>162</sup> El Nacional, [Murieron tres bebés por desnutrición en hospital de Maracaibo](#), July 6, 2018.

<sup>163</sup> El Espectador, [En el 2018 podrían morir 280 mil niños en Venezuela por desnutrición](#), January 19, 2018.

<sup>164</sup> El Impulso, [280 mil niños podrían morir por desnutrición](#), January 19, 2018.

<sup>165</sup> Excubitus Derechos Humanos, Reporte Nacional: Emergencia Humanitaria Compleja en Venezuela: Derecho a la Salud, September 2018.

<sup>166</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026. Project observations chapter IV.B](#), February 15th, 2019, para. 67.

<sup>167</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 12, E/C.12/1999/5, para. 8.

<sup>168</sup> [Aula Abierta, Maduro propone crear milicias universitarias](#).

degrees.<sup>169</sup> Similarly, on November 27, 2018, the Electoral Chamber of the Supreme Court handed down judgment No. 102, which violates university autonomy on failing to recognize the results of the student elections held November 14, 2018, at the Universidad de Carabobo, instead imposing a student government.<sup>170</sup>

119. Along these lines, one observes the recurrent suspension of elections and of the internal rules of political participation at the autonomous universities. Based on Article 34 of the Organic Law on Education, the Electoral Chamber of the Supreme Court has not allowed the renewal of authorities (rectors, deans, and co-governing bodies). The elections scheduled at the public universities of Venezuela have been suspended since 2011. The universities have pursued remedies before the Supreme Court, seeking the annulment of the effects of this article; no favorable decision has been forthcoming to date.<sup>171</sup>

120. Observing this general situation, the National Assembly of Venezuela, on September 25, 2018 agreed to declare a complex humanitarian emergency in the education sector in Venezuela, pointing to the violations of academic freedom and university autonomy as well as the budgetary asphyxia at the universities caused by the Ministry of People's Power for University Education, Science and Technology, the searches of university facilities, and the criminalization of the university protests, among other situations. This declaration has been ratified autonomously by the various university councils at the country's leading universities.<sup>172</sup>

121. The Commission expresses its concern over the reports regarding interference with university autonomy. The Commission reiterates that it is the duty of the State to respect university autonomy, as it is a fundamental pillar of the right to education, especially for the free development of the students and as a leading pillar of a strong democratic state. Academic debate not only enriches the internal discussion of the universities, but is also useful for fostering public debate, which strengthens democratic institutions.

122. While it is not mentioned expressly in the American Declaration, the IACHR recalls that university autonomy is an essential requirement for academic freedom, which in turn is necessary for full enjoyment of the right to education, which is recognized in Article XII of the American Declaration. In that regard, the Commission urges the State to review and modify, as relevant, any acts that may diminish the autonomy of the universities. In addition, the Commission expresses its condemnation of the reports of arbitrary expulsions of and reprisals against students motivated by political considerations. The IACHR urges the State to refrain from carrying out such acts, and to investigate and, as the case may be, punish them.

#### **D. Healthy Environment**

123. Serious reports have been lodged regarding pollution, deforestation, violence, and an increase in organized criminal activities in the Orinoco Mining Arc, which was created in 2016 by supreme decree for the extraction of bauxite, coltan, diamonds, gold, iron, copper, kaolin, and dolomite all along the southern bank of the Orinoco River, encompassing an area of approximately 112,000 km<sup>2</sup>. Among these, some 33 places have been identified where mining is taking place within or adjacent to the Canaima park. That information, together with that which the Rapporteurship for ESCE rights has pulled together, indicates that members of indigenous communities are participating in mines in the following locations: the middle stretch of the Caura river basin, the Paragua river basin, and the Caroní river basin.<sup>173</sup>

124. In addition, the sector is especially rich in protected areas; and has the largest number of areas under a special regime in Venezuela, among them the three million hectares of the Canaima national park, the 7.5 million hectares of the Caura national park – formalized in 2016, after the serious and stinging criticisms of

<sup>169</sup> Aula Abierta, [Informe preliminar sobre decisiones del Poder Judicial venezolano que vulneran la autonomía universitaria y la libertad académica.](#)

<sup>170</sup> Aula Abierta, [Comunicado en rechazo a las decisiones del Poder Judicial venezolano que vulneran la autonomía universitaria y la libertad académica.](#)

<sup>171</sup> Aula Abierta, [Comunicado en rechazo a las decisiones del Poder Judicial venezolano que vulneran la autonomía universitaria y la libertad académica.](#)

<sup>172</sup> Aula Abierta, [La universidad de Zulia declara Emergencia Humanitaria Compleja en el sector educativo](#), October 22, 2018.

<sup>173</sup> El País, [https://elpais.com/elpais/2018/09/03/planeta\\_futuro/1535983599\\_117995.html](https://elpais.com/elpais/2018/09/03/planeta_futuro/1535983599_117995.html)

government mining policy – and the five million hectares of the Imataca forest reserve.<sup>174</sup> The concern has to do primarily with the fact that the ecosystem has very fine soils that are very difficult to restore. In that sense, the forests of the Guyana shield serves as a protective shield for almost 2,000 endemic plant species.<sup>175</sup>

125. One of the leading concerns is the excessive use of mercury to separate the metal from the minerals. It has been determined that exposure to mercury is causing neurological and kidney disorders, and dermatological harm.<sup>176</sup> Moreover, according to a study conducted by the Sociedad Peruana de Derecho Ambiental (Peruvian Environmental Law Society), it was found that only 32% of the children analyzed in clinical studies showed mercury levels below the safety limit. Worse still, more than 90% of the persons who work in the processing centers had mercury levels above the warning level.<sup>177</sup>

126. The United Nations independent expert for a healthy environment has indicated that the states must comply with substantive and procedural obligations to prevent and safeguard the environment. The states have the obligation to apply legal frameworks for protection from environmental harm that may violate the enjoyment of human rights.<sup>178</sup> Similarly, the states have the duty to comply with procedural obligations that are necessary for safeguarding the substantive aspects of the environment, and carry out Principle 10 of the Declaration of Rio de Janeiro on environment and development, which indicates that one should guarantee the right of access to information, justice, and participation in environmental matters.

127. The IACHR calls on the State of Venezuela to evaluate urgently the environmental, sociocultural, and human rights impact of the creation of the Orinoco Mining Arc National Strategic Development Zone. That evaluation should be done ensuring access to information and the effective participation of the indigenous communities, as well as prior consultation in relation to the decisions that affect them.

## V. SOCIAL PROTEST AND FREEDOM OF EXPRESSION

128. In 2018 the situation of freedom of expression in Venezuela deteriorated significantly due to the initiation of criminal proceedings against journalists who investigate acts of corruption, arbitrary arrests of journalists who cover protests and the detentions of opposition leaders and citizens who express criticisms or dissent from the government via social networks. The so-called Law against Hatred was applied to demonstrators and citizens, and to apply sanctions and warnings to media outlets. The IACHR and its Office of the Special Rapporteur for Freedom of Expression were also informed of the violence brought to bear against journalists and media workers by members of the security forces while covering protests; many were forced by the agents to destroy recorded material or were kept from approaching to cover incidents. The practice of detaining foreign correspondents and visiting journalists persisted. At the same time, the government is deploying new strategies to attempt to control messages on the Internet by blocking websites and surveilling citizens' communications on social networks. The situation of the supply of newsprint by the state company that monopolizes this input also worsened. As a result, 35 newspapers saw their issues, runs, and the number of pages decline. Several stopped circulating in paper versions.

### A. Journalism and the Freedom of Press

#### 1. Attacks, threats, intimidation, and arbitrary detentions

129. The IACHR observes with concern the restrictive environment for the free exercise of journalism in Venezuela, considering that journalists are constantly at risk of becoming the target of attacks,

<sup>174</sup> El Nacional, [Los Estragos de la explotación del arco minero](#), February 25, 2018.

<sup>175</sup> Pulitzer Center on Crisis Reporting, ["Digging into the Mining Arc."](#)

<sup>176</sup> Pulitzer Center on Crisis Reporting, ["Digging into the Mining Arc."](#)

<sup>177</sup> Sociedad Peruana de Derecho Ambiental, ["La Realidad de la Minería Ilegal en los Países Amazónicos."](#) Sergio Milano, Chapter: Venezuela, 2014, p. 232.

<sup>178</sup> Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, "Compilation of good practices," A/HRC/28/61, February 3, 2015, para. 72.

intimidation, and various forms of harassment for doing their work in different contexts.<sup>179</sup> In addition, the IACHR received information about a continuing practice of arbitrarily detaining journalists while they are doing their work of reporting.<sup>180</sup> Reporters are held temporarily and impeded from doing their work under unjustified pretexts, such as being in areas of public access without authorization. The information received points to several cases in which reporters were kept from approaching certain areas where there were protests or episodes of major public interest, and from taking statements from the persons involved or taking photographs.<sup>181</sup> At the same time, the IACHR learned of several attacks on media facilities and harm to infrastructure and equipment.<sup>182</sup>

130. The IACHR recalls that in keeping with Principle 9 of the Declaration of Principles on Freedom of Expression: “The 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.”

## 2. Stigmatizing statements

131. In 2018, the IACHR and its Office of the Special Rapporteur for Freedom of Expression learned of stigmatizing statements by public authorities speaking against the work media outlets and journalists.<sup>183</sup> The IACHR was informed of accusations by public authorities against the organization Transparencia Venezuela.<sup>184</sup> On April 18, the website of the Ministry of People’s Power of the Office of the Presidency and Follow-up of Government Action is said to have published an article in the state-owned daily newspaper *Correo del Orinoco*, on occasion of the Summit of the Americas, in which it said that Transparencia Venezuela is “subversive” and one of the most dangerous organizations in the country. In November 2017, President Nicolás Maduro had said, during an interview with a Spanish press outlet, that the organization was financed by the United States and that one should not rely on it. In addition, on September 10, President Nicolás Maduro said in a nationwide television and radio broadcast that his administration is the victim of a campaign of “worldwide defamation, of worldwide slander against Venezuela” (“*difamación mundial, de injuria mundial contra Venezuela*”), and that he had given assurances that there is “a great worldwide media operation to position a matrix of supposed humanitarian crisis to justify the crazy plans that those sectors are preparing for a military intervention in Venezuela.”<sup>185</sup>

<sup>179</sup> United Nations, Office of High Commissioner. [Human rights violations in the Bolivarian Republic of Venezuela: A downward spiral with no end in sight](#). June 2018; IAPA. [Venezuela - Día del Periodista](#). June 27, 2018; IAPA. Report to the 74<sup>th</sup> General Assembly October 19 to 22, 2018 Salta, Argentina. [Venezuela](#). October 17, 2018; Amnesty International. December 10, 2018. [Venezuela: Inquietante escalada de represión contra periodistas y libertad de expresión](#); IFEX.

<sup>180</sup> Knight Center for Journalism in the Americas. September 26, 2018. [Periodistas venezolanos sufren detenciones arbitrarias y prohibiciones para salir del país](#); Amnesty International. November 2, 2018. [Crímenes contra periodistas: persecución e instrumentalización de la justicia contra el trabajo de la prensa](#).

<sup>181</sup> Espacio Público. February 22, 2018. [Agredidos periodistas durante cobertura en un Hospital en Catia](#); Espacio Público. March 23, 2018. [GNB amenaza a periodista durante la cobertura de una protesta](#); Espacio Público. March 14, 2018. [Impiden cobertura periodística en operativo de captura de Rodríguez Torres](#); Twitter Account of Andrea Tosta (@AndreTostaM). April 2, 2018; Twitter Account of El Pitazo (@ElPitazoTV). April 2, 2018; Espacio Público. April 11, 2018. [Efectivos de la GNB retienen a equipo de prensa de El Pitazo](#); Instagram account of Amira Muci (amiramucic). April 22, 2018; Espacio Público. April 23, 2018. [Agreden a periodista en el Mercado Libre de Maracay](#). Espacio Público. April 26, 2018. [Gobernador de Vargas desaloja a periodista durante una rueda de prensa](#); Espacio Público. April 26, 2018. [Gobernador de Vargas desaloja a periodista durante una rueda de prensa](#).

<sup>182</sup> Colegio Nacional de Periodistas. February 17, 2018. [Atentado en Radio Mundial crimen en Táchira contra “Libertad de Expresión”](#); Colegio Nacional de Periodistas. February 20, 2018. [Colegio de Periodistas y SNTP rechazan ataques a emisora Visionaria 104.7](#); Espacio Público. February 17, 2018. [Visionaria 104.7 FM es atacada por tercera vez en este mes](#); Espacio Público. February 17, 2018. [Fuera del aire Radio Mundial 860 AM de Táchira](#); Colegio Nacional de Periodistas. February 10, 2018. [Colegio de Periodistas y SNTP rechazan ataques a emisora Visionaria 104.7](#); Espacio Público. February 17, 2018. [Visionaria 104.7 es atacada por tercera vez este mes](#); February 17, 2018. [Atacan la sede del Canal 11 NCTV en el Zulia](#); Espacio Público. April 18, 2018. [Civiles armados atacan antigua sede de El Nacional](#); Espacio Público. May 17, 2018. [Bomberos ordenan cierre temporal de emisora de radio en el Zulia](#).

<sup>183</sup> Espacio Público. May 6, 2018. [Jacqueline Farías intentó retirar a la prensa de protesta y manifestantes se negaron](#).

<sup>184</sup> Transparencia Venezuela. Alerta de incidencia contra la directora ejecutiva de la Asociación Civil Transparencia Venezuela. September 13, 2018. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>185</sup> El Universal. September 11, 2018. [Maduro: Venezuela solicitará indemnización por atención de migrantes colombianos](#); Diario Las Américas. September 11, 2018. [Maduro pedirá “indemnización” por colombianos que viven en Venezuela](#).

132. The IACHR recalls that public officials have the duty to ensure that their pronouncements do not cause harm to the rights of those who contribute to public deliberation by expressing and disseminating their thought, such as journalists, media outlets, and human rights organizations, and should heed the context in which they express themselves to ensure that their expressions do not amount to, in the words of the Court, “a form of interference with or pressure impairing the rights of those who intend to contribute to public deliberation by means of expression and dissemination of its thought.”<sup>186</sup>

### 3. Indirect restrictions

133. According to the information received by the IACHR, the lack of supply and government control of newsprint continued to impair the free functioning of the written press in 2018. Several media outlets were forced to reduce the number of pages, reduce circulation or frequency, or have had to indefinitely interrupt their paper edition. According to information available, approximately 35 print media outlets have seen their circulation impacted in 2018 due to the scarcity of newsprint or economic difficulties acquiring plates and ink for printing. Of these, 26 are said to have ceased circulating permanently, and nine are said to have suffered intermittent interruptions.<sup>187</sup>

134. The IACHR also received information that the National Telecommunications Commission (Conatel: Comisión Nacional de Telecomunicaciones) made warnings and initiated administrative proceedings regarding media outlets and journalists in the wake of expressions that the agency considered violent, disturbing, or questioning of the official discourse.<sup>188</sup>

135. The IACHR recalls that Article 13(3) of the American Convention establishes: “The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.”

### 4. Subsequent liability and criminalization of the freedom of expression

136. During 2018 the IACHR and its Office of Special Rapporteur for Freedom of Expression continued receiving information on the initiation of criminal proceedings aimed at having a chilling effect on criticism of the state authorities and critical discourse regarding matters of public interest. In this context, the IACHR was informed of the investigation begun into four reporters and editors of the investigative journalism website *Armando.info* in the wake of a complaint by Colombian businessman Alex Saab for the offenses of defamation and slander.<sup>189</sup> After the justice system accepted the request to open an investigation, journalists

<sup>186</sup> I/A Court HR. *Case of Perozo et al. v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 195. Para. 151. See I/A Court HR. *Case of Ríos and others v. Venezuela*. Preliminary Objections, Merits, Reparations and Costs. Judgment of January 28, 2009. Series C No. 194. Para. 139.

<sup>187</sup> IAPA. Report to the 74th General Assembly October 19 to 22, 2018, Salta, Argentina. [Venezuela](#); El Tiempo. December 14, 2018. [‘El Nacional’ y otros medios afectados por la crisis en Venezuela](#); El Nacional. September 16. [Periódicos en Venezuela dejan de circular por falta de papel](#).

<sup>188</sup> Twitter account of Arnoldo Benítez (@arnoldobenitez). [May 25, 2018](#); Espacio Público. May 31, 2018. [La censura llega a Radio Aragua mediante un exhorto de Conatel](#); El Impulso. February 24, 2018. [CONATEL abrió procedimiento sancionatorio contra Televen #24Feb](#); Contrapunto. February 24, 2018. [Conatel abrió procedimiento sancionatorio contra Televen](#); Colegio Nacional de Periodistas Venezuela. February 27, 2018. [Comisión de medios rechaza agresiones contra periodistas y canal de televisión](#); Colegio Nacional de Periodistas Venezuela. February 27, 2018. [Comisión de medios rechaza agresiones contra periodistas y canal de televisión](#); Crónica Uno. May 25, 2018. [Conatel exhorta a Globovisión a no difundir mensajes que desconozcan a las autoridades](#). Committee to Protect Journalists. May 24, 2018. [Gobierno venezolano abre investigación contra periódico independiente](#); NTN24. May 22, 2018. [Conatel abrió procedimiento contra El Nacional Web por “incitar al desconocimiento de las autoridades”](#); Conatel. May 22, 2018. [Conatel inicia procedimiento administrativo sancionatorio al medio electrónico “El Nacional Web”](#); El Nacional. May 25, 2018. [“Medida Contra El Nacional cercena la libertad”](#); Efecto Cocuyo. May 22, 2018. [Conatel abre procedimiento sancionatorio a El Nacional Web](#); Espacio Público. April 6, 2018. [Prohíben a Bomberos de Iribarren declarar a los medios de comunicación](#).

<sup>189</sup> Amnesty International. March 21, 2018. [Venezuela: periodistas de armando.info perseguidos por investigar corrupción](#); El Mundo. February 7, 2018. [Cuatro periodistas huyen de Caracas y se unen al exilio venezolano](#); El País. February 6, 2018. [La persecución del chavismo obliga a cuatro periodistas de Armando.info a abandonar Venezuela](#)

Roberto Deniz, Joseph Poliszuk, Alfredo Meza, and Ewald Scharfenberg decided to leave Venezuela; since then they have been in exile in Colombia.<sup>190</sup>

137. The IACHR received information about the decision of the Third Court of First Instance for Civil, Commercial, Traffic and Banking Matters of Caracas to find admissible the legal action filed by the speaker of the Constituent Assembly, Diosdado Cabello, against the daily newspaper *El Nacional* in 2015 in the wake of the publication of an investigation by the Spanish newspaper *ABC* in which Cabello was linked to drug-trafficking and illicit businesses. Judge Gustavo Hidalgo ruled that the journalist did moral harm to him and ordered him to pay a fine of 1 billion bolivars (some US\$ 12,500 at the official rate).<sup>191</sup> In addition, the IACHR and its Office of the Special Rapporteur were informed that the courts had admitted the action filed by Cabello against the digital media outlet *La Patilla*, also for reproducing the investigation by the daily newspaper *ABC*. On September 26, on his program on state television VTV Cabello is said to have read fragments of the court judgment that ruled favorably on his claim, of which *La Patilla* has yet to have received notice.<sup>192</sup>

138. In addition, the IACHR was informed of several episodes in which it was warned that the “law against hatred” was being applied.<sup>193</sup> In addition, it was reported that the owner of a website that puts out information about the exchange rate was arrested for disseminating information considered “false”<sup>194</sup>; and the conviction and sentencing to four years and ten months in prison of a military officer who, during a protest in the state of Táchira on May 18, 2017, tore up his “*carnet de la patria*” and made criticisms of the high-level military commanders and the policies of the national Government.<sup>195</sup>

139. In another episode, the IACHR was informed that on May 10 officers of the Bolivarian National Intelligence Service (SEBIN) detained twitterer Pedro Patricio Jaimes Criollo, administrator of the account @AereoMeteo, after he published information about the route of the presidential airplane that transported Nicolás Maduro to the state of Aragua. Jaimes Criollo was accused of attacking national security and was reportedly subjected to pretrial detention. For one month family members and human rights organizations had no information as to his whereabouts and the State had refused to provide any information about his detention. On June 15, after he had been detained for 33 days, Jaimes Criollo communicated by telephone with his family and told them that he was being held at the SEBIN facility known as El Helicoide and that he had been the victim of mistreatment and beatings.<sup>196</sup> On October 4, the IACHR granted a precautionary measure on behalf of Jaimes Criollo, considering that his situation meets *prima facie* the requirements of seriousness, urgency, and irreparability contained in Article 25 of the Rules of Procedure. The Commission asked the State of Venezuela to adopt the measures necessary for guaranteeing the rights to health, life, and personal integrity of Jaimes

<sup>190</sup> Amnesty International. March 21, 2018. [Venezuela: periodistas de armando.info perseguidos por investigar corrupción](#); El País. February 6, 2018. [La persecución del chavismo obliga a cuatro periodistas de Armando.info a abandonar Venezuela](#).

<sup>191</sup> El País. June 6, 2018. [Diosdado Cabello obliga a pagar a 'El Nacional' una demanda por daño moral](#); Semana. June 6, 2018. [Diosdado Cabello ganó demanda contra el diario El Nacional](#).

<sup>192</sup> Twitter account of the Sindicato Nacional de Trabajadores de la Prensa de Venezuela (@sntpvenezuela). [September 26, 2018](#); Diario Las Américas. September 27, 2018. [Cabello dice que portal venezolano La Patilla debe pagarle \\$32 millones por daños morales](#); El Comercio/AFP. September 26, 2018. [Cabello dice que ganó demanda contra La Patilla y que el medio deberá indemnizarlo](#).

<sup>193</sup> Venezuelan Bishops' Conference. No date. [Comunicado de la Presidencia de la CEV ante las palabras emitidas por el Sr. Presidente en la alocución del 15 de enero](#); Espacio Público. January 17, 2018. [Maduro amenaza con la "ley" del odio a Obispo de Barquisimeto](#); Espacio Público. February 20, 2018. [Ministerio de Interior y Justicia cita a dos sacerdotes por "incitar al odio"](#); Espacio Público. Cases of violations of the right to freedom of expression and information in which the “law” against hatred has been applied. Available at Archive of the Office of the Special Rapporteur for Freedom of Expression; Committee to Protect Journalists. May 24, 2018. [Gobierno venezolano abre investigación contra periódico independiente](#); NTN24. May 22, 2018. [Conatel abrió procedimiento contra El Nacional Web por "incitar al desconocimiento de las autoridades"](#); Conatel. May 22, 2018. [Conatel inicia procedimiento administrativo sancionatorio al medio electrónico "El Nacional Web"](#); El Nacional. May 25, 2018. ["Medida Contra El Nacional cercena la libertad"](#); Efecto Coyuyo. May 22, 2018. [Conatel abre procedimiento sancionatorio a El Nacional Web](#).

<sup>194</sup> Versión Final. [Será enjuiciado el propietario de Dólar Pro por ilícitos cambiarios](#); Espacio Público. May 31, 2017. [Ministerio Público acusó a propietario del portal Dólar Pro](#); El Pitazo. May 15, 2018. [Fiscalía ordena averiguación contra diario La Verdad de Vargas](#); Espacio Público. May 16, 2018. [Fiscalía ordena averiguación penal contra diario La Verdad de Vargas](#).

<sup>195</sup> El Nacional. May 25, 2018. [Sentenciado teniente a 4 años por romper carnet de la patria](#); Espacio Público. May 30, 2018. [Condenan a cuatro años de cárcel al teniente que rompió el carnet de la patria](#); YouTube/Lo más trinado. May 18, 2017. [Discurso de Militar que se rebeló contra Maduro rompiendo su carnet de la patria en Venezuela](#).

<sup>196</sup> Twitter account of VIVO Play (@vivoplaynet). [November 22, 2018](#); El Pitazo. November 22, 2018. [De 20 a 30 años es la pena que podría enfrentar tuitero que publicó ruta de avión presidencial](#); Crónica Uno. November 23, 2018. [Difieren por quinta vez la audiencia preliminar del tuitero Pedro Jaimes](#).

Criollo, the he be provided adequate medical care, and that it be assured that his conditions of detention are compatible with international standards.<sup>197</sup>

140. On August 29, graphic journalist with the digital media outlet *Dolar Today*, Jesús Medina Ezaine, was reportedly detained while reporting on the situation in a Caracas hospital along with a team of international journalists.<sup>198</sup> Two days later the 13<sup>th</sup> Court of Control of Caracas was said to have issued a measure ordering his pretrial detention for purported crimes of asset laundering (*legitimación de capitales*), conspiracy to engage in criminal conduct, illegal profiting from administrative acts, and instigating hatred. Medina was held at the Ramo Verde military prison.<sup>199</sup> He had already been detained in November 2017, after having received threats for taking photographs of the Aragua prison. He was held for three days and was said to have been beaten and threatened. He was released along a highway partially naked with signs of violence. He does not know who was responsible for his detention.<sup>200</sup>

141. The IACHR was informed of the detention of firemen Carlos Varón and Ricardo Prieto, on September 12, for producing a satirical video in which they compared President Nicolás Maduro with a donkey.<sup>201</sup> The firemen were accused of the crimes set forth in Articles 20 and 21 of the “law against hatred,” but these were later changed to the crimes of offending the President and public instigation of hatred, established in Articles 147 and 285 of the Criminal Code, and which could draw a sentence of up to nine years in prison. On October 31, both were released on probation; they must report every 30 days and are prohibited on leaving the state of Mérida.<sup>202</sup>

142. Billy Six, a journalist of German nationality, was reportedly arrested November 17 in Paraguaná, state of Falcón. According to the information received, intelligence officers took him, without a judicial order, to the SEBIN facility El Helicoide, in the city of Caracas. In addition, he was accused before a military tribunal on charges of espionage (“*espionaje*”), rebellion (“*rebelión*”) and violation of security zones (“*violación de zonas de seguridad*”).<sup>203</sup>

143. Principle 11 of the Declaration of Principles on Freedom of Expression of the IACHR establishes: “Public 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.” In addition, the IACHR has held repeatedly that the application of the criminal law to punish expression referring to public officials is disproportionate when involving protected speech, such as information or expression about matters of public interest, and violates the right of freedom to expression.<sup>204</sup>

## 5. Social protest and public demonstrations

144. As indicated at section III.C. of this report, the IACHR received information about various demonstrations that continued to take place in various parts of Venezuela, in general protesting the situations

<sup>197</sup> IACHR. [Resolution 78/2018. Precautionary Measure No. 688-18](#). October 4, 2018.

<sup>198</sup> NTN24. August 29, 2018. [Funcionarios del Servicio Nacional Bolivariano de Inteligencia \(Sebin\)](#). Efecto Cocuyo. August 29, 2018. [Jesús Medina Ezaine es detenido en Caracas junto a reporteros internacionales](#).

<sup>199</sup> CNN. September 2, 2018. [Venezuela: detienen a periodista y lo envían a prisión militar](#); Efecto Cocuyo. August 31, 2018. [Jesús Medina Ezaine queda privado de libertad, tras dos días desaparecido](#); Committee to Protect Journalists (CPJ). September 7, 2018. [Venezuelan freelance photographer detained, sent to military prison](#).

<sup>200</sup> Committee to Protect Journalists (CPJ). September 7, 2018. [Venezuelan freelance photographer detained, sent to military prison](#); CNN. September 2, 2018. [Venezuela: detienen a periodista y lo envían a prisión militar](#).

<sup>201</sup> Clarín. September 17, 2018. [Detienen a dos bomberos en Venezuela por comprar a Maduro con un burro](#); Twitter account of Espacio Público (@espaciopublico). [September 14, 2018](#); El País. September 19, 2018. [Hasta 20 años de prisión por burlarse de Maduro en las redes sociales](#).

<sup>202</sup> Twitter account of the Observatorio de Derechos Humanos at the Universidad de Los Andes (@Uladdhh). [October 31, 2018](#); IPYS Venezuela. [Balance semanal](#). November 6, 2018.

<sup>203</sup> Espacio Público. Information forwarded by email of December 10, 2018. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>204</sup> IACHR. [Annual Report 2015. Report of the Office of the Special Rapporteur for Freedom of Expression](#). Chapter V (Conclusions and Recommendations). OEA/Ser. L/V/II. Doc. 48. December 31, 2015.

of undersupply and the economic difficulties the population faces.<sup>205</sup> According to the information received by the IACHR, in this context of continuing protests and critical expressions against the Government, demonstrators and journalists have been arbitrarily arrested by the security forces.<sup>206</sup> The IACHR is concerned about the climate of restriction in Venezuela and the possible reprisals against public servants who participate in the demonstrations, disseminate critical information, or speak out against the Government.<sup>207</sup> In this context, the IACHR received information about episodes in which reporters were kept from approaching certain areas where protests take place and from taking statements from the persons involved, or taking photographs.<sup>208</sup> According to the organization Espacio Público, from January to October 2018, at least 55 persons from the public sector were persecuted, threatened, or detained for protesting or denouncing critical situations in their workplaces.<sup>209</sup>

145. The IACHR has reiterated that social protest is a fundamental tool for the work of defending human rights and is essential for critical political and social expression regarding the activities of the authorities. The Commission has stated that “in principle, criminalization per se of demonstrations in public thoroughfares is inadmissible when they are carried out in exercise of the rights to freedom of expression and to freedom of assembly”<sup>210</sup> and that “the exercise of the right of assembly through social protest must not be subject to authorization on the part of the authorities or to excessive requirements that make such protests difficult to carry out.”<sup>211</sup>

## 6. Access to public information and restrictions on journalistic coverage, public spaces

146. The IACHR observes a persistent failure by the state agencies to clearly inform the population about the situation at health centers and the scarcity of medicines that is affecting the response of the health system.<sup>212</sup> At the same time, the IACHR received information about obstacles to journalists when it comes to accessing sites that should be places of public access, such as polling places or sessions of the National Assembly.<sup>213</sup> In addition, journalists from throughout the country have reported delays in being delivered press credentials from the National Electoral Council (CNE: Consejo Nacional Electoral). According to monitoring by the organization Espacio Público, 63% of the media outlets consulted did not obtain the accreditation on time for entering the polling places and 25% of those who were accredited received incomplete accreditations.<sup>214</sup>

<sup>205</sup> Observatorio Venezolano de Conflictividad Social (OVCS). November 13, 2018. *Conflictividad social en Venezuela durante octubre de 2018*; El País. July 18, 2018. *Venezuela, 30 protestas diarias*.

<sup>206</sup> Knight Center for Journalism in the Americas. September 26, 2018. *Periodistas venezolanos sufren detenciones arbitrarias y prohibiciones para salir del país*.

<sup>207</sup> Espacio Público. February 21, 2018. *PDVSA controla el uso que sus trabajadores le dan a las redes sociales*; Espacio Público. October 10, 2018. *CICPC detiene a tres enfermeras por protestar en el estado Anzoátegui*; Espacio Público. May 8, 2018. *Situación del derecho a la libertad de expresión enero – abril 2018*; Espacio Público. February 16, 2018. *Detienen a Sindicalista de Corpoelec por denunciar el colapso eléctrico*; IPYS Venezuela. April 5, 2018. *Balance semanal | El abuso de poder limitó la labor periodística durante la última semana*.

<sup>208</sup> Espacio Público. February 22, 2018. *Agredidos periodistas durante cobertura en un Hospital en Catia*; Espacio Público. March 23, 2018. *GNB amenaza a periodista durante la cobertura de una protesta*; Espacio Público. March 14, 2018. *Impiden cobertura periodística en operativo de captura de Rodríguez Torres*; Twitter account of Andrea Tosta (@AndreTostaM). *April 2, 2018*; Twitter account of El Pitazo (@ElPitazoTV). *April 2, 2018*; Espacio Público. April 11, 2018. *Efectivos de la GNB retienen a equipo de prensa de El Pitazo*; Instagram account of Amira Muci (amiramucic). *April 22, 2018*; Espacio Público. April 23, 2018. *Agreden a periodista en el Mercado Libre de Maracay*; Espacio Público. April 26, 2018. *Gobernador de Vargas desaloja a periodista durante una rueda de prensa*; Espacio Público. April 26, 2018. *Gobernador de Vargas desaloja a periodista durante una rueda de prensa*.

<sup>209</sup> Espacio Público. November 6, 2018. *Persiguen a trabajadores públicos que denuncian la crisis*; Espacio Público. Opacidad y persecución por informar. 2018. Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>210</sup> IACHR. *Report on Citizen Security and Human Rights*. OEA/Ser.L/V/II.Doc. 57. December 31, 2009. Para. 197.

<sup>211</sup> IACHR. *Second Report on the Situation of Human Rights Defenders in the Americas*. OEA/Ser.L/V/II. Doc. 66. December 31, 2011, para. 139.

<sup>212</sup> IACHR. 168<sup>th</sup> period of sessions. República. May 11, 2018. *Denuncias de hostigamiento contra personas defensoras de derechos humanos, periodistas y medios de comunicación en Venezuela*; Alianza Regional por la Libre Expresión e Información. *Saber Más IX. Informe regional sobre acceso a la información y lucha contra la corrupción*. September 28, 2018.

<sup>213</sup> Espacio Público. May 20, 2018. *20M: que nadie sepa lo que pasó*; Espacio Público. May 20, 2018. *Reporte preliminar 20M: prensa sin acceso*.

<sup>214</sup> Espacio Público. May 20, 2018. *20M: que nadie sepa lo que pasó*; Espacio Público. May 20, 2018. *Reporte preliminar 20M: prensa sin acceso*; Espacio Público. April 24, 2018. *GNB impide el paso de la prensa al Parlamento por tercera vez esta semana*; National Assembly. Standing Committee of People’s Power and Communications Media. Legislator Olivia Lozano, vice-chair. *Censura al Parlamento*. Report of the United Nations High Commissioner for Human Rights and the Office of the Special Rapporteur for Freedom of Expression.



## 7. Internet and freedom of expression

147. According to a study by IPYS Venezuela and the Internet MLAB data lab, Venezuelans' quality of access to Internet deteriorated in the last two years. Average navigation in January and February 2018 was 1.6 megabytes per second (Mbps). This datum reflects a worsening in conditions compared with 2016, when citizens had an average velocity of 1.9 Mbps.<sup>215</sup> Another research study by IPYS Venezuela in August 2018 revealed the existence of intermittent blockages by the public and private Internet providers –CANTV, Molvinet, Movistar, and Digitel – of certain websites, especially news sites. For four days IPYS Venezuela entered 53 websites almost 700 times. The results shows that on average it was only possible to access the content less than half of the times attempted due to some type of intermittent blockage. The pages studied worked intermittently in all the regions, though the greatest frequency was in Táchira, Mérida, Monagas, and Caracas.<sup>216</sup>

148. According to a report prepared by the legislators who are members of the Permanent Committee for Peoples Power and Communication Media of the National Assembly of Venezuela, which analyzes the difficulties in accessing certain news media that maintain an editorial line independent of the Government, the regulator National Telecommunications Commission “refrained from initiating investigations into the practice of blockages [of websites] despite being required to do so.”<sup>217</sup> In addition, several media outlets are said to have been victims of cyberattacks in 2018, both their websites and their social network accounts.<sup>218</sup> In addition, access to some media was blocked for the users of the Internet service provided by the state company.<sup>219</sup>

## VI. VULNERABLE GROUPS

### A. Women

149. Regarding the rights of women, the Commission observes that the deficiencies in the legal framework on gender-based violence and structural shortcomings of State institutions continue to prevent women from having their right to a life free of violence guaranteed a situation that is made worse by the

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Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression; Twitter account of the National Assembly (@AsambleaVE). [May 15, 2018](#); Espacio Público. [May 16, 2018](#). [GNB agrade a periodistas y diputados frente a la Asamblea Nacional](#); National Assembly. Standing Committee of People's Power and Communications Media. Legislator Olivia Lozano, vice-chair. [Censura al Parlamento. Informe para el Alto Comisionado de Derechos Humanos de la Organización de Naciones Unidas y la Relatoría de la Libertad de Expresión](#). Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression; Twitter account of Elyangelica González (@ElyangelicaNews). [April 17, 2018](#). Twitter account of Gabriela González (@GabyGabyGG). [April 17, 2018](#); El Impulso/YouTube. [April 17, 2018](#). [Presidente de la Asamblea Nacional rechaza prohibición de la prensa al Hemiciclo](#); YouTube/VP1tv. [May 6, 2018](#). [Venezuela - Bloquean acceso a las cámaras de VP1TV en el simulacro electoral - VP1tv](#); Espacio Público. [Bloquean acceso a las cámaras de VP1TV durante la cobertura del simulacro electoral](#).

<sup>215</sup> Instituto Prensa y Sociedad Venezuela. [February 27, 2018](#). [Navegación a la mínima expresión | Condiciones de la calidad de internet en Venezuela](#).

<sup>216</sup> The Instituto Prensa y Sociedad of Venezuela undertook a study in which it searched the same 53 websites almost 700 times each for four days. See: Instituto Prensa y Sociedad. [Intercortados. Bloqueos intermitentes en Venezuela](#). [August 2018](#).

<sup>217</sup> National Assembly. Standing Committee of People's Power and Communications Media. [August 13, 2018](#). Available at: Archive of the Office of the Special Rapporteur for Freedom of Expression.

<sup>218</sup> Noticiero Digital. [April 23, 2018](#). [El Pitazo recibió nuevo ataque informático](#); Espacio Público. [March 6, 2018](#). [Página web de Runrunes es víctima de ataque informático](#); Twitter account of Vendata (@Vendata\_org). [May 8, 2018](#); Espacio Público. [May 16, 2018](#). [Vendata fue víctima de un ataque DDos en su servidor](#); Transparencia Venezuela. [Chronology of incidents against the Asociación Civil Transparencia Venezuela 2017/2018](#). Available at: Archives of the Office of the Special Rapporteur for Freedom of Expression; National Assembly of the Bolivarian Republic of Venezuela. [January 15, 2018](#). [Hackearon redes sociales del canal de la Asamblea Nacional, El Capitolio TV](#).

<sup>219</sup> Twitter account of El Pitazo (@ElPitazoTV). [April 11, 2018](#); Espacio Público. [April 11, 2018](#). [ABA-Cantv bloquea acceso a El Pitazo](#); Noticiero Digital. [April 23, 2018](#). [El Pitazo recibió nuevo ataque informático](#); Twitter account of the Caracas branch of the Colegio Nacional de Periodistas de Venezuela (@CNPCaracas). [June 6, 2018](#); Twitter account of Alberto Ravell (@AlbertoRavell). [June 6, 2018](#); Espacio Público. [June 6, 2018](#). [CANTV bloquea portal de noticias La Patilla](#); La Patilla. [August 4, 2018](#). [Conatel censura al gobierno alemán: Saca del aire documental de la DW](#); Twitter account of the Sindicato Nacional de Trabajadores de la Prensa de Venezuela (@sntpvenezuela). [4 de agosto de 2018](#). xxxxxxxx

country's institutional and humanitarian crisis. Despite the existence of a Femicide Law and a Law on the Right of Women to a Life Free of Violence, Venezuela still does not have regulations to harmonize the procedures for providing care to women and handling their cases, nor does it have adequate interagency coordination, which makes fully implementing these laws and making them operational difficult. According to the information provided by the Venezuelan State, since 2017, the Ministry of the People's Power for Women and Gender Equality started drafting the regulations for the Law on Women's Right to a Life Free of Violence by forming a High Level Committee, regulations that have yet to be approved.<sup>220</sup>

150. Among the obstacles that remain to applying the legal framework for protecting the rights of women, the IACHR underscores the lack of official data for planning and programming public policies aimed at preventing and eradicating gender-based violence against women.<sup>221</sup> Despite the lack of updated official statistics, a group of media organizations estimates that between May 2017 and February 28, 2018, 64 women were murdered in the greater Caracas<sup>222</sup> area alone, and that between January and October 2018, a total of 375 women were murdered in Venezuela.<sup>223</sup>

151. The Commission observes that the lack of communication and absence of public data that is consolidated, up to date, and properly disaggregated prevents a comprehensive analysis of the phenomenon of gender-based violence against women in the country, obscuring additional factors involved in the violations such as ethnic-racial origin, sexual orientation, or gender identity,<sup>224</sup> which contributes to perpetuating impunity for these crimes. Likewise, the Commission recalls that the Convention of Belém do Pará establishes in its Article 8(h) the State obligation to take measures aimed at “ensur[ing] research and the gathering of statistics and other relevant information relating to the causes, consequences and frequency of violence against women, in order to assess the effectiveness of measures to prevent, punish and eradicate violence against women and to formulate and implement the necessary changes.” Likewise, the IACHR has stated that, with regard to the information that the State collects and produces, the right to access to information includes a State obligation to collect information on issues such as violence and discrimination against women, as well as the obligation to produce and disseminate statistical information on these issues.<sup>225</sup>

152. In addition, the IACHR has expressed its concern at the differentiated and aggravated impact that the country's economic crisis has had on the rights of women, particularly with regard to their rights to health and maternal health, and their sexual and reproductive rights.<sup>226</sup> According to the information received by the Commission, public healthcare centers have completely run out of reagents for specialized exams for detecting HIV and Highly Active Antiretroviral Therapy (HAART). Pregnant and lactating women who are HIV-positive also do not have access to HAART to prevent transmission to their children, and neither do they have access to formula to substitute for their milk.<sup>227</sup> According to publicly-available information, 5,900 cases of breast cancer are detected in Venezuela every year,<sup>228</sup> but the equipment and drugs needed to treat it have practically disappeared, both in private healthcare centers and pharmacies and in those operated by the State. The Commission notes with concern that although there are no official up-to-date figures available on the issue,

<sup>220</sup> Committee on the Elimination of Discrimination against Women (CEDAW), Concluding observations on the combined seventh and eighth periodic reports of the Bolivarian Republic of Venezuela Information provided by Venezuela in follow-up to the concluding observations, CEDAW/C/VEN/CO/7-8/Add.1, January 11, 2018. Para. 3.

<sup>221</sup> Amnesty International, *State of the World's Human Rights, 2017/2018 Report*, February 22, 2018. Pg. 460.

<sup>222</sup> El Herald, Venezuela: Más de 60 mujeres han sido asesinadas en Caracas, March 8, 2018.

<sup>223</sup> COTEJO, Entre enero y octubre asesinaron a 375 mujeres en Venezuela, November 12, 2018.

<sup>224</sup> AVESA, Mujeres en Línea, CEPAZ, FREYA, Mujeres al Límite: el peso de la emergencia humanitaria y vulneración de los derechos de las mujeres en Venezuela, November 2017.

<sup>225</sup> IACHR, Access to Justice for Women who are Victims of Violence in the Americas, OEA/Ser.L/V/II.154 Doc.19, 2015. Para. 7.

<sup>226</sup> IACHR, Democratic Institutions, the Rule of Law and Human Rights in Venezuela: Country Report, OEA/Ser.L/V/II. Doc.209/17, December 31, 2017.

<sup>227</sup> Acción Solidaria (ACSOL), Programa Venezolano de Educación Acción en Derechos Humanos (PROVEA), Coalición de Organizaciones por el Derecho a la Salud y la Vida (CODEVIDA), Prepara Familia, Convite A. C, Observatorio Venezolano de la Salud (OVS), Acción Ciudadana contra el Sida (ACCSI), International Council of AIDS Service Organizations (ICASO), Fundación Manos Amigas por la Vida (MAVID), Centro por la Justicia y la Paz (CEPAZ) and Defiende Venezuela, “Situación de las Personas con VIH/sida y otras condiciones crónicas de salud en Venezuela,” Request for Thematic Hearing for the 169th Period of Sessions of the IACHR, received on July 17, 2018.

<sup>228</sup> *El País*, El seno enfermo que revela la crisis humanitaria en Venezuela, June 9, 2018.

the Venezuelan Anticancer Society found that 2,300 women died of this type of cancer in 2017, or six deaths per day, in cases that were largely treatable, curable, and preventable.<sup>229</sup>

153. Regarding the maternal health of women in Venezuela, the Commission observes that since the beginning of 2017, the State has not published updated medical bulletins and takes note of the increase in maternal mortality between 2015 and 2017 in the context of the country's health system crisis.<sup>230</sup> Lack of anticoagulant medication, healing ointments, analgesics, antibiotics, or antiseptics; lack of basic medical inputs and supplies, such as scalpels, needles, or gloves; and an ever-shrinking supply of medical staff have led pregnant Venezuelan women to migrate to give birth to neighboring countries.<sup>231</sup> In Colombia, the Erasmo Meoz hospital reports providing maternity services to more than 2,100 women in 2017, with three times as many pregnant Venezuelan women receiving services in that hospital compared to the previous year.<sup>232</sup> According to Colombia's official figures on migration, 8,200 pregnant Venezuelan women entered the country during the first half of 2018.<sup>233</sup> The maternity ward in Boa Vista recorded 571 births to Venezuelan women in the first half of the year, surpassing the total number of births recorded there in 2017.<sup>234</sup> The IACHR expresses concern at the situation of vulnerability facing pregnant women who migrate to other countries, both because of their gender status, which exposes them to multiple forms of violence and discrimination; and because of their status as pregnant women needing specific care and attention.

154. With regard to this situation, the IACHR recognizes the efforts made by the Venezuelan State to protect pregnant women in Venezuela.<sup>235</sup> Thus, since 2017, the State has conducted a campaign on Humanized Birth that provides resources for executing the "Humanized Birth Plan in Venezuela," coordinated by the Ministry of Women, the National Institute of the Woman (Inamujer), and the Ministry of Health.<sup>236</sup> The State reported that the Constitutional Decree for the Promotion and Protection of Humanized was approved on March 21, 2018. According to the information provided by the State, the decree contains provisions aimed at improving the gestation and birth process in the framework of a comprehensive policy to guarantee sexual and reproductive rights in the country, thereby addressing the maternal mortality issue.<sup>237</sup> The Commission calls on the State to take the measures necessary to implement the policy to protect humanized birth by providing adequate resources, proper coordination, and accountability in order to effectively protect the rights of women in the country.

155. Likewise, the IACHR observes with concern that the country's almost total lack of contraceptives and family-planning methods has a negative impact on women's exercise of their sexual and reproductive rights in the country.<sup>238</sup> The scarcity of contraceptives includes the most common forms, such as oral contraceptives and condoms. Although there are no official statistics on the issue, reports issued by the Federación Farmacéutica Venezolana indicate national scarcity levels of these contraceptives of 88%.<sup>239</sup> The Commission observes with concern the consequences that this situation has for the lives of women and their enjoyment of their sexual and reproductive rights, those being an increase in unwanted pregnancies, including

<sup>229</sup> *Efecto Cocuyo*, [Cáncer de mama en Venezuela: cada vez es mayor el riesgo de morir sin tratamiento](#), October 19, 2018.

<sup>230</sup> IACHR, [Democratic Institutions, the Rule of Law and Human Rights in Venezuela: Country Report](#), OEA/Ser.L/V/II. 209/17, December 31, 2017.

<sup>231</sup> Amnesty International, [Fleeing the country to give birth: the exodus of pregnant Venezuelan women](#), May 6, 2018.

<sup>232</sup> IACHR, [Democratic Institutions, the Rule of Law and Human Rights in Venezuela: Country Report](#), OEA/Ser.L/V/II. 209/17, December 31, 2017.

<sup>233</sup> El Espectador, [¿Qué pasa en Colombia con las venezolanas embarazadas?](#), July 21, 2018.

<sup>234</sup> El Comercio, [Las venezolanas embarazadas que van a Brasil a dar a luz](#), August 22, 2018.

<sup>235</sup> PAHO, [Venezuela afina estrategias para reducir morbilidad grave, mortalidad materna y perinatal desde un enfoque de curso de vida](#), November 23, 2017.

<sup>236</sup> TELESUR, [Plan Parto Humanizado protege a las embarazadas en Venezuela](#), November 16, 2018.

<sup>237</sup> BOLIVARIAN REPUBLIC OF VENEZUELA, communication to the IACHR, AGEV/2018-0069, correspondence of April 18, 2018.

<sup>238</sup> El Universal, [Escasez de anticonceptivos dificulta la planificación familiar en Venezuela](#), July 11, 2018. IACHR, [Democratic Institutions, the Rule of Law and Human Rights in Venezuela: Country Report](#), OEA/Ser.L/V/II. 209/17, December 31, 2017.

<sup>239</sup> Mujeres en Línea, AVESA, FREYA, CEPAZ, Equivalencias en Acción, Women's Link Worldwide, Situation of sexual and reproductive rights of women, adolescents, and girls in Venezuela, request for thematic hearing for the 170th Period of Sessions of the IACHR, September 25, 2018.

among adolescents; an increase in unsafe abortions that could have obstetric complications and result in maternal deaths; and the migration of pregnant women to access health services in other countries.

156. In this context, the Commission has paid particularly close attention to the implementation of the National Surgical Plan and the information received on surgical sterilizations of women that have been conducted regularly, in a coordinated fashion, free of charge, and at the national level.<sup>240</sup> However, according to information received by the Commission, these procedures are not always preceded by the provision of complete information on their scope. Some of them are not being adequately documented in the patients' medical records, and there have been cases of procedures performed on adolescent women, disabled women, indigenous women, and women in situations of poverty, among other groups of women in especially vulnerable situations.<sup>241</sup> Also, in the context of the collapse of healthcare system and the lack of medical supplies and materials, the IACHR has been informed of a lack of proper medical follow-up following the procedures. In this regard, the IACHR recalls that States must adopt effective measures to ensure the availability, accessibility, acceptability, and quality of the information, goods, and services for contraceptive methods and practices and emphasizes that surgical sterilization should be only one part of a broad array of safe, effective, affordable, and acceptable contraceptive methods and practices. These methods and practices must be available in adequate quantities so that women may opt for and effectively access the practice or method that best fits their needs, interests, preferences, or health requirements.<sup>242</sup>

157. Additionally, Venezuela's humanitarian crisis has led to migration that is without precedent in the region and has put women, girls, and adolescents in a particular situation of risk. Desperate to leave Venezuela for reasons of health and to obtain work in other countries to support their families, migrant women find themselves at grave risk of falling victim to human trafficking networks. Despite the lack of official figures on the migration's impact on women, countries including Colombia,<sup>243</sup> Spain,<sup>244</sup> and Mexico,<sup>245</sup> as well as civil society organizations, have sounded the alarm regarding the concerning increase of cases of sexual exploitation of Venezuelan women and the existence of trafficking networks that aim to sexually exploit women of Venezuelan origin.<sup>246</sup> According to the District Committee of Bogotá (Colombia), in the fight against human trafficking, in 2018 30% of the victims of sexual exploitation were Venezuelan women and girls. According to information issued by the Fundación Ideas para la Paz (FIP), the sexual trafficking of Venezuelan migrants is particularly extensive along the northern border of Colombia, where criminal gangs and guerrilla groups operate, particularly affecting women, girls, and adolescents.<sup>247</sup> The Commission has thus become aware of reports of women and girls forced to prostitute themselves during their trip from Venezuela to Colombia<sup>248</sup> and of women who have been the victims of sexual violence while crossing the border between the two countries,<sup>249</sup> as well as reports on sexual trafficking and exploitation.<sup>250</sup> The Commission observes with concern that their status as women migrants makes it difficult for them to access healthcare services, protection, and justice, in Venezuela as well as in their destination countries.

<sup>240</sup> IACHR, Request for information from the Venezuelan State, December 6, 2018.

<sup>241</sup> Mujeres en Línea, AVESA, FREYA, CEPAZ, Equivalencias en Acción, Women's Link Worldwide, "Sterilization of women in Venezuela," communication to the IACHR, correspondence of August 24, 2018.

<sup>242</sup> IACHR, *Report on poverty and human rights*, OEA/SER.L/V/II. Doc. 61. November 22, 2011. Paragraph 310. Inter-American Court. Case of I.V. v. Bolivia (Preliminary Objections, Merits, Reparations and Costs). Judgment of November 30, 2016.

<sup>243</sup> Office of the Public Prosecutor of Colombia, [Sexual slavery scheme discovered in Cartagena that uses Venezuelan and Colombian women](#), August 20, 2018.

<sup>244</sup> CNN, [Aumentan un 50% las mujeres venezolanas víctimas de trata en España](#), September 28, 2018.

<sup>245</sup> *EL Universal*, [Mafias colombianas enganchan a venezolanas y las traen a México](#), May 8, 2018.

<sup>246</sup> Corporación Anne Frank, "Situation of migrant and displaced Venezuelan women in situations and/or contexts of prostitution and extreme vulnerability in Latin America," Request for thematic hearing for the 170th Periods of Sessions of the IACHR, September 23, 2018.

<sup>247</sup> Reuters, [Mujeres y niños migrantes de Venezuela están más expuestos a explotación sexual y laboral](#), August 30, 2018.

<sup>248</sup> Reuters, [Mujeres y niños migrantes de Venezuela están más expuestos a explotación sexual y laboral](#), August 30, 2018.

<sup>249</sup> *El Tiempo*, [Una lupa sobre las mujeres venezolanas migrantes](#), December 9, 2018.

<sup>250</sup> *El Tiempo*, [Una lupa sobre las mujeres venezolanas migrantes](#), December 9, 2018.

## B. Human Rights Defenders

158. The IACHR observes that during 2018, the situation of human rights defenders in Venezuela continued to be characterized by an environment of intense stigmatization and harassment for their work.

159. In recent years, the IACHR has repeatedly called on the State of Venezuela to adopt measures regarding the intense campaigns of stigmatization and harassment aimed at people who defend human rights in the country. In its 2017 annual report, the Commission rejected the multiple acts of harassment and criminalization aimed at those who denounce the human rights situation in Venezuela, as well as at those who represent individuals detained because of their political stances or participation in demonstrations.<sup>251</sup> Likewise, in its report *Human Rights Situation in Venezuela*, the Commission indicated its concern at the existence of acts of harassment that involved both state authorities and private individuals entering the homes of human rights defenders.<sup>252</sup>

160. In 2018, the Commission has found that these campaigns by State authorities and private parties to discredit, stigmatize, and harass have continued. For example, among other cases, the Commission received information indicating that on September 10, 2018, the executive director for Transparencia Venezuela participated in a meeting with the United Nations Security Council to present information on the situation of Venezuela. After the meeting, government officials made threatening and stigmatizing statements against those who participated in the meeting with the Council. That same day, the president of the Bolivarian Republic announced during a national broadcast that his government would take measures to address an "international smear campaign against Venezuela." According to this information, the president stated that the international campaign was being led by human rights defenders and foreign governments to justify a military intervention or a terrorist attack in the country.<sup>253</sup>

161. Days later, on September 12, 2018, a blog aligned with the State published an article describing Transparencia Venezuela as an organization funded and supported by the governments of the United States, the European Union, and financial fund KKR, claiming the latter had sent financial resources and weapons to DAESH in Syria and had ties to the CIA.<sup>254</sup> The IACHR observes that this is not the first time that Transparencia Venezuela or its executive director has been direct or indirect target of senior officials of the Venezuelan government. The organization has documented at least 12 attacks between 2017 and 2018, especially related to its cooperation with international organizations and human rights protection mechanisms.<sup>255</sup>

162. The Commission also received information on the smear campaign against Lisa Henrito, an environmental defender who in 2018 was accused in the national media by an officer of the Armed Forces of being "a traitor to the homeland" and promoting the secession in Venezuela. Specifically, Lisa Henrito has been subjected to constant stigmatization over her work as an activist with the Pemón community, her demands that ancestral territories be demilitarized, and her demand that a prior consultation be conducted to secure the community's consent for mining projects.<sup>256</sup>

163. For its part, the OHCHR stated it had evidence of a series of attacks against social activists, students, university professors, and human rights defenders in which senior authorities had publicly accused these individuals of being involved in acts of terrorism, treason, and other serious crimes. The victims interviewed by the OHCHR said they had been harassed, stigmatized, and intimidated by representatives of government authorities, including security forces and other members of pro-government groups.<sup>257</sup>

<sup>251</sup> IACHR, Annual Report, 2017, pg. 699.

<sup>252</sup> IACHR, [Report on the human rights situation in Venezuela](#), OEA/Ser.L/V/II. Doc. 209, December 31, 2017, para. 234.

<sup>253</sup> Front Line Defenders, [Threats from government officials against Transparencia Venezuela](#), September 20, 2018.

<sup>254</sup> Misión Verdad, [Golpes y contragolpes: EEUU contra la ofensiva internacional de Venezuela](#), September 12, 2018.

<sup>255</sup> Front Line Defenders, [Threats from government officials against Transparencia Venezuela](#), September 20, 2018.

<sup>256</sup> Amnesty International, [Press Release, Urgent Action: Lisa Henrito](#), August 3, 2018.

<sup>257</sup> United Nations, Office of the High Commissioner for Human Rights, [Violaciones de los derechos humanos en la República Bolivariana de Venezuela: una espiral descendente que no parece tener fin](#), June 2018, pg. iv.

164. In this context, the Commission underscores that public officials must refrain from making statements that stigmatize human rights defenders or suggesting that organizations are acting improperly or illegally simply by doing their work to promote and defend human rights. The IACHR finds that stigmatizing statements against human rights defenders can damage both the right to humane treatment, the right to honor and dignity, and the principle of presumption of innocence. In this regard, the Commission has found that when authorities give statements or issue communications that publicly accuse a human rights defender for facts that have not been proven in a court of law, it threatens their dignity and honor by delegitimizing their work to society, thereby affecting their work in the defense of human rights. The IACHR also notes that stigmatizing statements issued by public officials to publicly accuse human rights defenders for alleged crimes that have not been declared by a court of law can violate the principle of presumption of innocence, as they presume the human rights defenders are guilty without the corresponding judicial decision.

165. In addition, the Commission has found that the repetition of stigmatizing statements can contribute to exacerbating a climate of hostility and intolerance among different sectors of the population, which could put at risk the lives and personal integrity of human rights defenders and increase their vulnerability. This is due to the fact that government authorities or sectors of society could interpret these stigmatizing statements as instructions, instigation, authorization, or support for the commission of acts that endanger their lives, personal security, or other rights.

166. Regarding the situation of harassment, the IACHR was informed, among other things, that in January of this year, a search was conducted without a search warrant by SEBIN officials in the residence of Gregory Hinds, general director of the NGO Embajadores Comunitarios. He later voluntarily submitted to an interview with SEBIN, where he was detained and held incommunicado.<sup>258</sup> The Commission notes that on the day following the detention of Gregory Hinds, Geraldine Chacón—director of programs for Embajadores Comunitario—was also detained. The Commission notes that the case was submitted to the United Nations Working Group on Arbitrary Detention.<sup>259</sup>

167. The Commission also received information indicating that on June 29, 2018, the website of human rights organization Transparencia Venezuela was subjected to its fourth cyber-attack in less than 12 months. The attack changed the content of a statement by civil society association Alianza por la Libertad de Expresión entitled “*Venezuela: la información en libertad condicional*,” published on the website of Transparencia Venezuela. According to the organization, this was the fourth cyber-attack on Transparencia Venezuela in less than a year.<sup>260</sup>

168. The IACHR notes that the Observatorio Venezolano de Conflictividad Social has indicated that the environment of stigmatization and harassment of human rights defenders could be aggravated with the implementation of the Sociopolitical Coordination and Action Network, a government initiative that would implement mechanisms so any public or private individual could provide information on the activities of citizens who make social demands, defend human rights, or criticize the government. The organization notes that the strategy is based on the doctrine of national security, and that its purpose is to encourage viewing human rights defenders and political dissidents as domestic enemies.<sup>261</sup>

169. Regarding this, the Commission emphasizes that human rights can be defended freely only when the individuals involved are not the victims of threats or subjected to any kind of physical, psychological, or moral attacks or any other type of harassment. The Commission notes that when human rights defenders operate in a climate of hostility, the important issues on which they work can become secondary, and it can

<sup>258</sup> PROVEA, [Comunicado de la organización Embajadores Comunitarios ante la detención de dos de sus miembros](#), February 5, 2018.

<sup>259</sup> Worldwide Movement for Human Rights, [VENEZUELA: Casos de detención arbitraria de Gregory Hinds y Geraldine Chacón presentados ante la ONU](#), May 31, 2018.

<sup>260</sup> Front Line Defenders, [Transparencia Venezuela subject to cyber attacks](#), July 9, 2018.

<sup>261</sup> Observatorio venezolano de conflictividad social, [Aumenta el control social, discriminación y represión en Venezuela: Red de Articulación y Acción Socio Política \(Raas\)](#), March 29, 2018.

have a chilling effect on other human rights defenders. In this regard, the State of Venezuela must not only establish an adequate and effective legal framework, but also must guarantee on-the-ground conditions in which those who defend human rights can carry out their important work.

170. Based on this information, the Inter-American Commission concludes that the situation of human rights defenders in Venezuela has not changed substantially from what was reported in the 2017 Annual Report. Human rights defenders in Venezuela continue to face an environment of intense stigmatization and harassment for their work. It is therefore essential for the State to adopt measures to guarantee and respect the rights of human rights defenders and, specifically, to take all measures necessary to ensure that individuals who defend human rights are not subjected to smear campaigns or harassment, as well as provide effective measures for their protection.

### C. Persons Deprived of Liberty

171. The Commission has repeatedly issued statements through a variety of mechanisms on the critical situation facing individuals deprived of liberty in Venezuela, which constitutes one of the most grave in the region. The situation includes overcrowding; excessive use of pretrial detention; deplorable detention conditions; high rates of violence; lack of effective State control; and corruption. Regarding this, the IACHR has indicated that these patterns have worsened in the context of Venezuela's political, economic, and social crisis, as well as due to citizen security strategies.<sup>262</sup>

#### 1. Overcrowding and pretrial detention

172. The high rates of overcrowding represent one of the main concerns regarding Venezuela's penitentiary system. According to information provided by the State, at end of 2017, total of 53,344 people were deprived of liberty in Venezuela's penitentiaries.<sup>263</sup> For its part, civil society reports there are 57,096 detained individuals,<sup>264</sup> 7% higher than official figures. The IACHR observes that in terms of the number of beds available in the penitentiary system, there is a notable difference between the figures provided by the State and the information collected by civil society. Thus, according to official numbers, and as a result of completing more than 38 infrastructure works throughout the country, housing capacity has reached 82,376 beds.<sup>265</sup> Meanwhile, civil society has found that capacity stands at only 19,000 beds. This would mean that the penitentiary is overfilled by 200%.<sup>266</sup>

173. Regarding the use of pretrial detention and according to the latest available figures, of the 57,096 individuals deprived of liberty in 2017, a total of 38,898 are in pretrial detention.<sup>267</sup> This is equivalent to 68% of the total prison population. Regarding this, the IACHR notes that the fact that more than 60% of the total prison population is under pretrial detention is manifestly an indication that the measure is not used exceptionally, as required for pretrial detention.

174. Considering that overcrowding itself constitutes a violation of the right to humane treatment,<sup>268</sup> and that excessive use of pretrial detention is one of the clearest indications of a justice system's

<sup>262</sup> IACHR, [Report on the human rights situation in Venezuela](#), OEA/Ser.L/V/II. Doc. 209, December 31, 2017, para. 389.

<sup>263</sup> Bolivarian Republic of Venezuela, Ministry of the People's Power for Foreign Relations, Note AGEV/2017-000300, comments on the draft country report, December 21, 2017, para. 73.

<sup>264</sup> Observatorio Venezolano de Prisiones, Annual Report, Caracas, 2017, p. 12; Institute for Criminal Policy Research, [World Prison Brief Data - Venezuela](#), Report, Birkbeck, 2017.

<sup>265</sup> Bolivarian Republic of Venezuela, Ministry of the People's Power for Foreign Relations, Note AGEV/2017-000300, comments on the draft country report, December 21, 2017, para. 73.

<sup>266</sup> Observatorio Venezolano de Prisiones, Annual Report, Caracas, 2017, p. 15.

<sup>267</sup> Observatorio Venezolano de Prisiones, Annual Report, Caracas, 2017, p. 15.

<sup>268</sup> Regarding this, the IACHR has found that overcrowding increases violence among detainees; makes it difficult to access basic services; facilitates the spread of illnesses; creates an environment in which health and hygiene conditions are deplorable; constitutes in itself a risk factor in emergency situations; restricts inmate access to productive activities; and fosters corruption. IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, para. 288.

failure to guarantee the right to presumption of innocence,<sup>269</sup> the Commission urges the State to immediately take actions to ensure that imprisonment is used reasonably. Among these measures, the IACHR underscores the use of conditional release, alternatives to pretrial detention, and the application of pretrial detention in keeping with its exceptional nature and the principles governing its application, those being legality, reasonableness, necessity, and proportionality.<sup>270</sup>

## 2. Detention conditions

175. The Commission is particularly concerned over the deplorable detention conditions in Venezuelan prisons, as they pose a risk to the lives and integrity of the individuals deprived of liberty. Specifically, the IACHR has information indicating that in addition to overcrowding, the penitentiary infrastructure is deficient, and the people being processed are not separated from those who have been convicted. Likewise, the food provided is inadequate as far as its amount and nutritional value, access to drinking water is inadequate, facilities for personal hygiene are insufficient, there is a lack of social re-insertion programs, and penitentiary authorities are corrupt and do not control the facilities.

176. Specifically with regard to medical care, the IACHR has been informed of a lack of medical treatment, lack of medications, and obstacles to accessing health centers under the conditions ordered by courts. Specifically, the Commission is concerned that even though authorities are not able to provide medical treatment, relatives are prevented from bringing in medication they purchase themselves.<sup>271</sup> Likewise, the deplorable situation faced by individuals deprived of liberty and the lack of adequate mechanisms for addressing those complaints has led to strikes among the prison population to demand better conditions.<sup>272</sup> In this context, the IACHR recalls that the State is a guarantor of the rights of the individuals held in its custody.<sup>273</sup> The fact that the individuals in its custody are in a special situation of vulnerability, plus the lack of adequate public policies to address that vulnerability, compounds into a systemic violation of their human rights.<sup>274</sup>

177. Regarding the incidence of corruption in the penitentiary service and the lack of oversight by structures of the central government, one especially concerning aspect is the charging of so-called “vaccinations” (payments made to individuals deprived of liberty to guarantee safety in detention centers). Specifically, information available to the Commission indicates that five prisons—Tocorón, in Aragua; Tocuyito, in Carabobo; Puente Ayala, in Anzoátegui; La Pica, in Monagas; and Vista Hermosa, in Bolívar—have been declared independent territories, where leaders or “*pranes*” manage their business without interference from the authorities.<sup>275</sup> In this regard, the IACHR recalls that lack of effective control by authorities of what happens in penitentiaries can lead to certain detained individuals having power over fundamental aspects of the lives of others, with disproportionate effects for individuals in particularly at-risk situations.<sup>276</sup>

## 3. Incidents of violence

178. In recent years, the IACHR has received information on high rates of violence in the penitentiary system, resulting from overpopulation, deplorable detention conditions, lack of sufficient personnel to harmoniously address conflicts taking place within the prisons, and impunity for criminal acts

<sup>269</sup> See IACHR, [Report on the Human Rights Situation in Guatemala](#), OEA/Ser.L/V/II. Doc. 209, December 31, 2017, para. 397.

<sup>270</sup> IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, paras. 158-174.

<sup>271</sup> Una Ventana a la Libertad, [Monagas: Denuncian Restricción para Entregar Medicinas a Reos en Polimonagas](#), November 30, 2018.

<sup>272</sup> Telam, “Toman como rehenes a presos políticos durante un motín en una cárcel,” February 14, 2018, El Pitazo, “Situación irregular en cárcel de Guárico deja un recluso herido,” February 15.

<sup>273</sup> IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II. Doc. 64, December 31, 2011, para. 328.

<sup>274</sup> IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II. Doc. 64, December 31, 2011, para. 5.

<sup>275</sup> Insight Crime, La delegación del poder estatal: Los “pranes,” May 20, 2018.

<sup>276</sup> IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II. Doc. 64, December 31, 2011, para. 91.



that take place within the prison. Although the total number of detained individuals who died during 2018 is not known, civil society reports that from July 2011 through the first half of June 2018, a total of 2,140 violent deaths were recorded within Venezuelan prisons. Likewise, 2,792 people have been injured.<sup>277</sup> Of the cases identified in 2018, the Commission highlights the 11 individuals who lost their lives during a riot in the Fénix Penitentiary Community, in the state of Lara.<sup>278</sup> In this context, the Commission reiterates that a fundamental measure for preventing prison violence and deaths is the investigation, processing, and punishment of those responsible. The IACHR reiterates that when acts of this nature remain in impunity, it sends a message to the population that such acts can be committed without serious legal consequences, leading to a climate of impunity.<sup>279</sup>

#### 4. Pretrial detention centers

179. As a result of the lack of beds in the formal penitentiary system, the IACHR observes that the so-called pretrial detention centers—intended for temporary detentions—are increasingly being used as permanent prison facilities. In this regard, civil society reports that outside the formal penitentiary system, such centers house approximately 45,000 people.

180. According to information available to the Commission, the centers tend to be overpopulated, with deplorable detention conditions and inadequate infrastructure. In addition, police officers are not trained to properly guard the detained individuals. In this respect, regarding high rates of overcrowding—based on the 93 pretrial detention centers in 12 states analyzed by the organization Una Ventana a la Libertad—it is reported that Falcón is the state with the highest overcrowding rate, at 704%. In this regard, the organization reports that with installed capacity for only 199 inmates, a total of 1,402 people are detained there.<sup>280</sup> Likewise, it reports that 65% of the pretrial detention centers lack drinking water, 96% do not have a medical service area, and 93% do not provide recreation or sports areas. Additionally, the pretrial detention centers do not have enough resources to provide a proper diet, so detained individuals depend on the financial conditions of their relatives and the opportunities they can provide.<sup>281</sup>

181. The IACHR also notes that the detention conditions in these types of centers are so poor that they have come to affect the detained individuals' right to life. In this regard, according to information provided by civil society, more than 163 deaths were recorded during the first half of the year. Of those, 71 were the results of riots, 34 from tuberculosis, 11 from fights, 15 from confrontations following escapes, 6 from attempted escapes, 5 due to malnutrition, 5 due to a lack of medical care, 2 from suicide, and 4 whose causes were unknown.<sup>282</sup> The most high-profile case took place on March 28 in a jail in Carabobo, in the north of Venezuela, when at least 68 people lost their lives in a riot.<sup>283</sup> Regarding these events, the IACHR urged the State to, with all due diligence, investigate, identify, and punish those responsible, as well as take the measures necessary to prevent the repetition of similar facts.<sup>284</sup>

182. In this context, the Commission recalls that using these places as permanent detention centers is a violation of international standards on deprivation of liberty. This is because such centers are overcrowded

<sup>277</sup> Observatorio Venezolano de Prisiones. [OVP responde a la Ministra: Siete años de colapso penitenciario](#). August 18, 2018.

<sup>278</sup> *Efecto Cocuyo*, "[Iris Varela confirmó que motín en cárcel de Lara dejó 11 fallecidos](#)", May 18, 2018; *El País*, "Once muertos y 28 heridos en un nuevo motín en una cárcel venezolana" May 19, 2018.

<sup>279</sup> IACHR, [Report on the Human Rights of Persons Deprived of Liberty in the Americas](#), OEA/Ser.L/V/II. Doc. 64, December 31, 2011, para. 284

<sup>280</sup> Una Ventana a la Libertad, [Las Fugas en los Centros de Detención Policial, Previsible Fenómeno en Expansión](#), September 2018, p. 8. Also see Luis Alfredo Ledezma, [Presos están muriendo por desnutrición en cárceles venezolanas](#), Caraota Digital, October 2, 2017.

<sup>281</sup> Una Ventana a la Libertad, [Informe de la Situación de los Derechos Humanos de los Privados de Libertad en Centros de Detención Preventiva en Venezuela durante el Primer Semestre de 2018 \(Enero-Junio\)](#).

<sup>282</sup> Una Ventana a la Libertad, [Informe de la Situación de los Derechos Humanos de los Privados de Libertad en Centros de Detención Preventiva en Venezuela durante el Primer Semestre de 2018 \(Enero-Junio\)](#), pg. 5.

<sup>283</sup> UN, Statement by UN Human Rights Office on Venezuela jail deaths, Geneva, March 29, 2018.

<sup>284</sup> IACHR, Press Release 077/18 - IACHR Condemns Deaths of Scores of People at a Venezuelan Detention Center, Washington, D.C, April 3, 2018.

and lack the infrastructure and basic services to ensure dignified detention conditions in the long term.<sup>285</sup> Likewise, they do not have the means of ensuring the social reintegration of detainees, and the police officers who run them do not have the training necessary to ensure the safety of the individuals in their custody. In this regard, the State must take urgent and necessary measures to stop using police jails as permanent prisons.

**D. Migrants, asylum applicants, refugees, beneficiaries of complementary protection, internally displaced people, and victims of human trafficking.**

183. The forced migration of Venezuelans that has taken place represents one of the greatest challenges in the history of the region as far as migration and asylum. In this regard, the IACHR has expressed its concern at the large number of Venezuelans who have been forced to migrate to other countries in the region in recent years for multiple reasons, including forced migration as a mechanism for survival as a consequence of the severe humanitarian crisis affecting the country, particularly in response to the effects of shortages of food, medicine, and medical treatment;<sup>286</sup> violence and insecurity;<sup>287</sup> and persecution based on political opinion.<sup>288</sup>

184. In order to provide technical assistance to States on how to respond to the mass arrival of Venezuelans, the Commission issued Resolution No. 2/18 on the Forced Migration of Venezuelans<sup>289</sup> and the Joint Statement for the development of a regional response to the massive arrival of Venezuelans to the Americas, together with the United Nations Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW); the United Nations Committee on the Rights of the Child (CRC); the Regional Office for South America of the United Nations High Commissioner of Human Rights (UNHCHR); and, Mr. Felipe González, United Nations Special Rapporteur on the Human Rights of Migrants.<sup>290</sup>

185. The IACHR has monitored the situation resulting from Venezuela closing its border with Colombia in August 2015<sup>291</sup> and with Brazil in December 2016<sup>292</sup> under the declaration of a state of emergency for the border area. The Commission is concerned that this situation could lead to the violation of the right to seek and receive asylum, as it obstructs the right of all individuals wishing to leave Venezuelan territory and wishing to seek and receive asylum, complementary protection, or other protection.<sup>293</sup>

186. According to a study conducted in Colombia, 72.3% of these individuals decided to migrate due to insecurity; 79.08% due to desperation at what was happening in the country; 63.1% due to hunger; 62.9% due to high levels of stress; 58.8% due to uncertainty; and 56.3% due to a lack of medicine for medical treatments.<sup>294</sup> Regarding the profile of the Venezuelans who have decided to leave their country, it has been found that 49.67% of them in Colombia are women, with 50.24% being men and 0.075% being transgender.<sup>295</sup> This study also found 118,709 children and adolescents, 26,572 indigenous people, and 6,150 Afro-descendants. The leading places of origin for these individuals were the states of Zulia (32.72%), Carabobo

<sup>285</sup> IACHR, [Annual Report - Chapter IV\(B\) - Venezuela, 2016](#), para. 207.

<sup>286</sup> IACHR, [Resolution 81/2018. Precautionary measure No. 490-18. M.B.B.P. regarding Panama](#), October 15, 2018.

<sup>287</sup> IACHR, Press Release 6/17 – IACHR Expresses Concern about Situation of Venezuelan Migrants and Calls on States in the Region to Implement Measures to Protect Them.1 Washington, D.C., January 2, 2017; Human Rights Watch, [Venezuela: Humanitarian Crisis Spilling into Brazil](#), April 18, 2017; Palomino, Sally, [Es imposible parar la migración de venezolanos hacia Colombia](#), El País, May 8, 2017.

<sup>288</sup> UNHCR, [Situation Update: Venezuela Situation](#), August 2017.

<sup>289</sup> IACHR, [Resolution 2/18 Forced Migration of Venezuelans](#).

<sup>290</sup> IACHR, [Press release 197/18 – Joint Statement for the development of a regional response to the massive arrival of Venezuelans to the Americas of the Inter-American Commission on Human Rights, and committees, organs and special procedures of the United Nations](#), September 5, 2018.

<sup>291</sup> Official Gazette of the Bolivarian Republic of Venezuela, [Decree No. 1950, declaring a state of emergency in the Bolívar, Pedro María Ureña, Junín, Capacho Nuevo, Capacho Viejo, and Rafael Urdaneta municipalities in the state of Táchira](#), August 21, 2015.

<sup>292</sup> Official Gazette of the Bolivarian Republic of Venezuela, Decree No. 41,053, December 15, 2016.

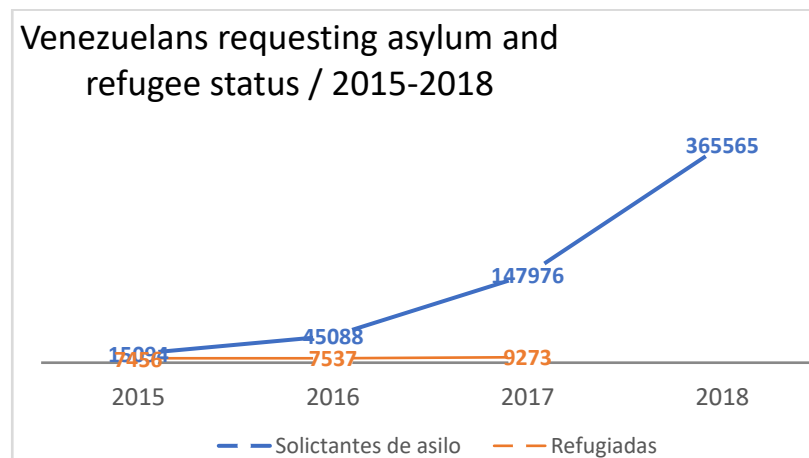
<sup>293</sup> IACHR, Press Release 6/17 – IACHR Concerned about Situation of Venezuelan Migrants and Calls on States in the Region to Implement Measures to Protect Them. Washington, D.C., January 2, 2017.

<sup>294</sup> Servicio Jesuita a Refugiados, UCAT, Universidad Simón Bolívar, Entreculturas, Migración Colombia. [Informe sobre la Movilidad Humana Venezolana. Realidades y perspectivas de quienes emigran](#), April 9 to May 6, 2018.

<sup>295</sup> RAMV, [Informe final. Registro Administrativo de Migrantes Venezolanos en Colombia 2018](#), Decree 542

(10.16%), Táchira (7.37%), and Lara (6.59%).<sup>296</sup> In Brazil, it has been documented that 41% of the migrants are women and 58% are men, with high education levels: 51% having graduated high school and 26% having higher education.<sup>297</sup>

187. According to figures from the United Nations High Commissioner for Refugees, as of November 8, there were a total of 3 million Venezuelan migrants and refugees,<sup>298</sup> a number that is expected to grow to 3.6 million in 2019.<sup>299</sup> Also, as of December 31, 2018, 365,565 request for asylum from Venezuelans were recorded, while 958,965 Venezuelans had opted for other forms of legal migration, traveling mainly to Colombia, Chile, Peru, Ecuador, Argentina, the United States, and other countries in the world.<sup>300</sup>



Prepared by the IACHR with information from the UNHCR, Global Trends, 2015-2017

188. Regarding this, Article 22(1) of the American Convention on Human Rights establishes that "Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law." The Inter-American Court has found that this provision protects the right to not be forcibly displaced within a State and not be expelled from the territory of a State in which one is residing legally. Thus, guarantees must be provided to ensure that individuals can move about and reside freely in their places of origin.<sup>301</sup>

189. One of the main difficulties that the Commission has been observing in recent years has to do with the obstacles facing Venezuelan people to accessing official identification documents, such as passports, identification cards, and civil registry certificates, as well as criminal records. Regarding this, the Commission observes that making it impossible to access government documents violates the rights to juridical personality and identity, along with related rights. The IACHR has observed that lack of access to documents make it hard for people to enter other States legally, thus violating the right to movement and residency. Regarding this, the Inter-American Court has established that the right to identity can be conceptualized as a collection of attributes and characteristics that enable an individual to be identified.<sup>302</sup> It has also established that the direct consequence of the right to juridical personality is the recognition of any individual as a subject of rights and obligations, as it entails the capacity to be the bearer of said rights (capacity and enjoyment). Therefore, the

<sup>296</sup> RAMV, *Informe final. Registro Administrativo de Migrantes Venezolanos en Colombia 2018*, Decree 542

<sup>297</sup> OIM, DTM – Brazil, n. 1, *Matriz de Monitoramento do Fluxo Migratório Venezuelano*, 2018.

<sup>298</sup> UNHCR, *3 millones de refugiados y migrantes venezolanos*, November 13, 2018.

<sup>299</sup> UN News, *La ONU incluye por primera vez a Venezuela en el plan anual de ayuda humanitaria*, December 4, 2018.

<sup>300</sup> UNHCR, *Venezuelan Situation, Asylum Seekers 2014 – 17*.

<sup>301</sup> Inter-American Court. Case of Manuel Cepeda Vargas v. Colombia. Preliminary Objections, Merits, Reparations, and Costs. Judgment dated May 26, 2010. Series C No. 213, and Inter-American Court. Case of Valle Jaramillo et al. v. Colombia. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C No. 192.

<sup>302</sup> Inter-American Court. Case of Gelman v. Uruguay Merits and Reparations. Judgment of February 24, 2011. Series C No.221.

violation of this recognition is an absolute failure to acknowledge a person's capacity to have rights.<sup>303</sup> This situation has become an obstacle to Venezuelans who choose to migrate to do so legally to some countries in the region, such as Ecuador and Peru, which require the presentation of an official passport to enter their territory, a requirement that violates the provisions of Resolution 2/18 on Forced Migration of Venezuelans<sup>304</sup> and are currently being litigated.

190. The most important challenges raised by the forced migration of Venezuelans are the lack of international protection, requirements of documentation that people cannot obtain, discrimination and xenophobia,<sup>305</sup> physical safety, sexual and gender-based violence, abuse and exploitation, and the lack of access to basic rights and services.<sup>306</sup> Likewise, the situation of vulnerability facing migrants could result in them becoming victims of human trafficking for sexual, labor, or other types of exploitation. Additionally, indigenous communities are affected by having had to flee their territories of origin. They need special care, as well as a humanitarian response and differentiated and specific protection.<sup>307</sup>

191. The Commission observes that currently, there are protection gaps in different countries in the region when it comes to the forced migration crisis facing Venezuelans. However, the Commission recognizes that several countries of the region have reacted by providing protection to Venezuelan migrants. Measures worth highlighting include the Administrative Registry of Venezuelan Migrants in Colombia and the Special Residency Permit in Colombia;<sup>308</sup> the Temporary Residency Permit in Peru;<sup>309</sup> the granting of refugee status based on the Cartagena Declaration in Mexico;<sup>310</sup> the Mercosur visa in Argentina and Uruguay;<sup>311</sup> the options for legalization and receiving a UNASUR visa in Ecuador;<sup>312</sup> and the granting of temporary residency in Brazil.<sup>313</sup>

192. The Commission also values the different measures adopted by the different actors regarding the situation of forced Venezuelan migration and observes the need to unify those measures to secure a regional human rights-based response. The measures include the Declaration of Quito on Human Mobility of Venezuelan Citizens in the Region,<sup>314</sup> the appointment of Eduardo Stain as special representative of the UNHCR and the IOM,<sup>315</sup> the Joint Statement of National Human Rights Institutions on the Protection of the Rights of Venezuelans regarding Human Mobility,<sup>316</sup> and the action plan prepared by civil society organizations on Venezuelans needing national and international protection.<sup>317</sup>

193. Regarding internal displacement, the Commission received information on the effects caused by large mining operations, especially in the states of Bolívar and Amazonas, where indigenous communities have seen their way of life affected and reported that prior, free, and informed consultations have not been

<sup>303</sup> Inter-American Court. Case of Yean and Bosico Children v. Dominican Republic. Judgment of September 8, 2005. Series C No. 130. Considering paragraph 179.

<sup>304</sup> IACHR, [Resolution 2/18 Forced Migration of Venezuelans](#).

<sup>305</sup> [Civil society action plan for Venezuelans who need national and international protection](#), November 16, 2018, p. 17.

<sup>306</sup> UNHCR, [El aumento de las solicitudes de asilo de venezolanos lleva a ACNUR a reforzar su respuesta](#), July 14, 2017.

<sup>307</sup> UNHCR, [El aumento de las solicitudes de asilo de venezolanos lleva a ACNUR a reforzar su respuesta](#), July 14, 2017.

<sup>308</sup> Administrative Department of the Presidency of the Republic, [Decree number 1288](#), July 25, 2018.

<sup>309</sup> Peru, [Supreme Decree No. 002-2017-IN](#), January 3, 2017.

<sup>310</sup> See: Ríos, Jorge, [La COMAR reconoce violaciones a derechos humanos en Venezuela](#), September 1, 2016, Sin Embargo.

<sup>311</sup> IACHR, [Public hearing: Human rights situation of Venezuelan migrants, asylum applicants, and refugees in the countries of the Americas](#), 163rd Period of Sessions, July 7, 2017.

<sup>312</sup> IACHR, [Public hearing: Human rights situation of Venezuelan migrants, asylum applicants, and refugees in the countries of the Americas](#), 163rd Period of Sessions, July 7, 2017.

<sup>313</sup> Official Newspaper of the Union, [Regulatory Resolution No. 216](#), of March 2, 2017, Brazil.

<sup>314</sup> [Declaration of Quito on Human Mobility of Venezuelan Citizens in the Region](#), September 3 and 4, 2018.

<sup>315</sup> UN News, [ACNUR y OIM nombran un representante especial para los refugiados y migrantes venezolanos](#), September 19, 2018.

<sup>316</sup> [Joint Statement of National Human Rights Institutions on the Protection of the Rights of Venezuelans regarding Human Mobility](#), September 18, 2018.

<sup>317</sup> [Civil society action plan for Venezuelans who need national and international protection](#), November 16, 2018.

conducted. The presence of the military and large enterprises has caused the displacement of some indigenous persons.<sup>318</sup>

194. With regard to the victims and survivors of human trafficking, the Commission observes that the crime of human trafficking is defined in the Organic Law on women's right to a life free of violence (2007)<sup>319</sup> and in the Organic Law against organized crime (2005),<sup>320</sup> which only defines human trafficking as an act of organized crime.

195. The IACHR observes that these provisions do not fully comply with international and regional law and standards on the matter. For the Commission, it is extremely concerning that the definition of human trafficking is found in the Organic Law on the right of women to a life free of violence (2007),<sup>321</sup> which, in its Article 56, only bans the trafficking of women, girls, and adolescents, leaving out the other modalities of human trafficking of men and boys. Additionally, the law requires force, fraud, or coercion for all forms of trafficking for sexual purposes, including for girls, which is contrary to Article 3(c) of the Protocol, which specifies that the capture, transportation, transfer, acceptance, or reception of a child for the purposes of exploitation is considered "human trafficking," including in the absence of any of the measures set forth in the section of that article.

#### **E. Lesbian, gay, transexual, bisexual, and intersex (LGBTI) persons**

196. The situation of the rights of LGBTI persons in Venezuela remains weak due to the context of the political situation affecting the country. The Commission is aware that many LGBTI persons who live with HIV are migrating to other countries in the region due to shortages of the specific drugs needed to treat HIV/AIDS-related infections. At the same time, the people staying behind are turning to the unregulated market in order to be able to continue with their treatments.<sup>322</sup>

197. The IACHR also learned of an increase in the number of crimes against trans persons in Venezuela, which increased from five in 2017 to six in 2018. The Inter-American Commission takes note of the murder of Malvina Paiva—a trans woman—in Caracas, allegedly carried out by police officers and which is the first time a death has been classified as a hate crime.<sup>323</sup>

198. It is concerning to the Commission that information on Venezuela's LGBTI population is scarce, with no official information in its existence or on human rights violations carried out against these individuals. The situation causes consternation at the lack of visibility of the human rights situation of LGBTI persons in the country. The Commission reminds the State of Venezuela of its obligation to guarantee protection of LGBTI persons, as well as to produce official data on its efforts and allocate sufficient resources to systematically collect and analyze disaggregated statistics on the prevalence and nature of the violence and discrimination, as well as on the effective and proper inclusion of LGBTI persons via the laws and public policies implemented.

#### **F. Indigenous peoples**

199. Due to the humanitarian crisis in Venezuela, the structural problems that affect indigenous peoples have worsened.

<sup>318</sup> Semana Sostenible, [El crecimiento del Arco Minero de Venezuela aniquila a los pueblos indígenas](#), January 24, 2018.

<sup>319</sup> Venezuela, Organic Law on the right of every woman to a life free of violence, 2007.

<sup>320</sup> Venezuela, Organic Law against Organized Crime, September 27, 2005.

<sup>321</sup> Venezuela, Organic Law on the right of every woman to a life free of violence, 2007.

<sup>322</sup> *El Nacional*, [Alertan de riesgo de epidemia de VIH por falta de tratamiento en Venezuela](#), July 1, 2018; *Caribe Afirmativo*, [Crisis humanitaria de venezolanos LGBT en el Caribe](#), August 27, 2018; *El Espectador*, [El drama de ser migrante venezolano y LGBT](#), August 28, 2018.

<sup>323</sup> Fundación reflejos de Venezuela, [Asesinan a mujer trans en Caracas](#), March 9, 2018; Transrespeto versus Transfobia en el Mundo (TvT), Press Release [Trans Day of Remembrance \(TDoR\) 2018](#)

200. According to the latest census—from 2011—Venezuela's indigenous population is calculated at 725,128 people, or 2.5% of the total national population. Although 36.76% of the population lives on traditional territories (rural), the majority of the indigenous are moving to cities, increasing poverty in peripheral areas.

201. According to information provided to the IACHR by Amnesty International Venezuela's economic, social, cultural, and environmental rights program, the complex health situation affecting the indigenous population in Venezuela is, among other things, related to the difficulties it faces in accessing aid services. These geographical barriers require them to seek medical care in far-off areas, and they therefore require very well coordinated transportation logistics. The lack of communication between service providers and indigenous communities and their failure to understand indigenous peoples' realities is another significant barrier.<sup>324</sup>

202. The lack of epidemiological information is another problem noted, as the public health system does not include a variable for ethnicity. This means data must be sought from other types of entities, such as indigenous organizations and their allies. That is, there is a very significant underreporting of epidemiological information in territories that are difficult to access and where the healthcare system has very little coverage.<sup>325</sup>

203. In addition to this, the IACHR has been able to confirm the existence of illegal mining taking place in indigenous territories in Venezuela.

204. In addition to violence for territorial control, this activity produces a largely rootless population that becomes ill in the mines and infects the local indigenous population. Malaria, flu, and measles, as well as other infectious diseases, have reached communities such as the Warao in Delta Amacuro State y the Yanomami along the border with Brazil. The inaccessibility of aid centers in these cases presents a mortal risk.

205. In 2018, the IACHR received information on the serious health situation currently affecting the Yanomami indigenous people. According to the information provided by the State of Venezuela to the Commission in the framework of Friendly Settlement Agreement No. 32/12, health plans were drawn up to address the situation. However, measures adopted have not been sufficient to eradicate the illness.

206. Regarding the situation of indigenous human rights defenders and leaders in Venezuela, the situation of Lisa Henrito, an activist with the Pemón people, has drawn attention from a number of international bodies.<sup>326</sup> The human rights defender has stated that her participation in the Pemón people's security committee has brought her to the attention of State and non-State armed groups.

207. The IACHR has also received information regarding the call for attention made by the indigenous communities and the General Chiefs of the Pemón people. In a press release, they have asked the authorities to address the "true tragedy facing the indigenous residents and communities of El Dorado," asking them to deal with the organized crime groups that afflict this population.<sup>327</sup>

208. Along with this, on December 9 of this year, the Commission took note of the situation of the Canaima National Park in Bolívar, where officials of the General Directorate of Military Counterintelligence (DGCIM) allegedly murdered a member of the Pemón people and injured another two indigenous people, upon which the National Civilian Aeronautics Institute suspended all flights to and from Santa Elena de

<sup>324</sup> Amnesty International said this year that "thousands of indigenous people from the Venezuelan Amazon travel daily to large cities in the country or outside it with one goal: to recover their health. From sleeping in the street to begging for food at the doors of a variety of State institutions, their severe need causes pain as well as illnesses and complications. Their stories show the most severe and least visible consequences of the human rights crisis facing Venezuela and the dismantling of public policies for providing care and protection to indigenous peoples," Amnesty International, [Salud indígena devastada por la crisis humanitaria](#), April 6, 2018.

<sup>325</sup> Civilis, Derechos Humanos, [Amnistía Internacional celebró el Foro la salud en emergencia humana](#), November 13, 2017.

<sup>326</sup> Amnesty International, [Urgent. Indigenous activist slandered and stigmatized](#), August 3, 2018.

<sup>327</sup> Observatorio de Ecología Política de Venezuela, [Comunicado del Pueblo Pemón: "No a las bandas armadas en las comunidades indígenas"](#), April 24, 2018. La patilla, ["La muerte de un indígena eleva la tensión de la crisis en Venezuela"](#), December 9, 2018.

Uairén and Canaima<sup>328</sup>. Due to a lack of effective judicial oversight of the deployment of security forces, severe abuses and violence have taken place against the individuals inhabiting the territory, the majority of which are members of the Canaima indigenous community. Along with this, the militarization of the territory that includes the Canaima National Park continues, and air traffic was prohibited until December 14, leaving the families who lived there isolated.

209. Lastly, the context of the crisis in Venezuela has also included the forced displacement of indigenous peoples. This year, in the public hearing held by the IACHR during the 168th and 169th periods of sessions, the requesting organizations expressed their concern regarding the grave situation affecting migrant and refugee indigenous persons.<sup>329</sup>

210. In the context of the displacement, indigenous peoples such as the Warao and Wayúu have had to abandon their lands to seek protection because of shortages of food and medicine. As the situation worsens, an increasing number of indigenous people seek humanitarian assistance and protection in Brazil and Colombia.<sup>330</sup>

211. The IACHR urges the State of Venezuela to execute the recommendations contained in this chapter, as well as in the current body of law on indigenous rights. Pursuant to the American Convention, States must guarantee, under equal conditions, the full exercise and enjoyment of the rights of the individuals subject to their jurisdiction. To effectively guarantee those rights in the case of indigenous peoples, when interpreting and applying their domestic law, States must take into consideration the specific characteristics that differentiate members of these collectives from those of the general population, in consideration of their cultural identity. In keeping with this, they must intensify their efforts to ensure that all their institutions, as well as their legislative and administrative measures adopted, comply with international human rights standards.<sup>331</sup>

## G. Children and adolescents

212. Regarding children and adolescents, the IACHR observes that the context of Venezuela's economic, social, and political crisis has also affected the full exercise and enjoyment of human rights by children and adolescents. The affectation of these rights is particularly intense because this group is in a special situation of vulnerability and is often invisible when demanding its rights.

213. On one hand, shortages of food products has increased child malnutrition rates,<sup>332</sup> causing retardation in the growth of Venezuelan children, at times even causing their deaths. In a press release,<sup>333</sup> the IACHR urged the State to adopt the measures necessary to guarantee and respect the rights to food and health, as, according to information received by the Commission, during 2017, between five and six children died every week from lack of food; 33% of children suffered retardation in their growth; and 11.4% were experiencing malnutrition. The IACHR recalls that the State must adopt whatever measures may be necessary to ensure the right to adequate and sufficient food for all children and adolescents.<sup>334</sup>

214. On one hand, the shortage of medicines prevents children and adolescents from receiving proper medical treatment, gravely violating their rights to life, humane treatment, and health, and in extreme cases, putting at risk the lives of those who suffer from serious illnesses. According to the information received

<sup>328</sup> *Versión Final, Suspendidos vuelos a Santa Elena de Uairén y Canaima hasta el 14-D*, December 13, 2018.

<sup>329</sup> IACHR Press Release No. 104A/18, [Annex: Hearings held during the 168th Period of Sessions](#), Washington, D.C, May 11, 2018; IACHR, Press release 220A/18, [Public hearings held during the 169th Period of Sessions in Boulder, Colorado](#). Annex to Press Release 220/18, Washington, D.C., October 19, 2018.

<sup>330</sup> UN Mexico, ["El hambre y la desesperación empujan a grupos indígenas a salir de Venezuela"](#), August 13, 2018.

<sup>331</sup> Constitution of the Bolivarian Republic of Venezuela, Chapter VIII Indigenous Peoples Rights, articles 119 to 126.

<sup>332</sup> The New York Times, [La malnutrición que mata en Venezuela](#), December 17, 2017, para.

<sup>333</sup> IACHR, Press Release No. 16/18, [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Urge the State of Venezuela to Protect and Respect the Rights to Food and Health](#), February 1, 2018.

<sup>334</sup> IACHR, [Juvenile Justice and Human Rights in the Americas](#), 2011, para. 469.

by the Commission, so far in 2018, at least 16 children under the age of five lost their lives at the Hospital Universitario de Pediatría Dr. Zubillaga due to infections caused by poor hygiene; other children died at a number of hospitals because of malnutrition, severe respiratory infections, and severe diarrhea, among other ailments. This urgent context led to another press release<sup>335</sup> in which the IACHR expressed its concern at the crisis facing Venezuela's healthcare system. The Commission reminds the State that both the right to health and the right to food are indispensable for the exercise of other human rights, such as the right to life, the right to humane treatment, and, especially in the case of children, the right to education.<sup>336</sup>

215. On February 21 of this year, the IACHR granted precautionary measures<sup>337</sup> to the benefit of the children who were patients in the nephrology area of the Hospital José Manuel de los Ríos in Caracas, who were in a grave situation of risk due to their delicate health (suffering from chronic renal insufficiency) and the lack of adequate medical treatment as a result of shortages of medications and inputs, deficient facilities, and unsanitary conditions in the hospital. In this context, the IACHR asked the State of Venezuela to adopt the measures necessary to guarantee their rights to life, humane treatment, and health, underscoring the importance of authorities providing medical treatment that was adequate to their needs and access to the necessary medications and procedures, as well as meeting their nutritional needs and ensuring the hygienic and safety conditions in the nephrology area.

216. Likewise, according to information provided to the IACHR by civil society organizations, there is a concerning increase in the number of children and adolescents living in the street because of food shortages, hyperinflation, abandonment and overpopulation in shelters, and the death of parents from the violence.<sup>338</sup> According to a review conducted by the Asociación Civil Red de Casas Don Bosco,<sup>339</sup> in the first half of 2018, there was a 40% increase in this population. The street children are also victims of stigmatization, abuse, and violence by police and shopping center security staff. There are reports of extreme cases in which they have lost their lives from remaining at length in this situation of vulnerability, abandonment, and hunger.<sup>340</sup> The Commission underscores that children have a right to a living standard that is adequate for their full development, a right that is enshrined in Article 27 of the Convention on the Rights of the Child (CRC). Pursuant to this article, the State has the duty to adopt measures to support families and/or those responsible for caring for children with the aim of preventing children from ending up on the street and of enhancing caretakers' capacities through programs that support them as they exercise their parental duties as a function of their need to comply with their caretaker obligations.<sup>341</sup>

217. In addition, food shortages have led to situations of violence, criminality, and citizen insecurity that have negatively impacted the growth and development of children and adolescents, subjecting them to serious situations that have put their personal integrity and lives at risk. According to a report issued by the Observatorio Venezolano de Violencia (OVV),<sup>342</sup> 6.2% of the fatal victims of violence in 2017 were adolescents between the ages of 12 and 17 years old. The IACHR reaffirms that, due to their status as individuals who are developing and growing, the State has an obligation to adopt specially-adapted and strengthened measures to protect children in order to prevent them from being subjected to any form of violence, abuse, or mistreatment. The State must adopt all appropriate measures to protect and preserve the right to life and humane treatment of all individuals under its jurisdiction.<sup>343</sup>

<sup>335</sup> IACHR, [Venezuela: Human rights experts say health system in crisis](#), October 1, 2018.

<sup>336</sup> IACHR, Press Release No. 16/18, [IACHR and its Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights Urge the State of Venezuela to Protect and Respect the Rights to Food and Health](#), February 1, 2018.

<sup>337</sup> IACHR, RES. 8/2018, Precautionary Measure No. 1039-17, [Child Patients in the Nephrology Area at José Manuel de los Ríos Hospital, Venezuela](#), February 21, 2018.

<sup>338</sup> Runrun, [#MonitorDeVíctimas/4 niños quedan huérfanos cada día en Caracas por la violencia](#), November 3, 2017. Also see Observatorio Venezolano de Violencia, [Informe OVV de Violencia 2017](#), January 5, 2018.

<sup>339</sup> The Asociación Civil Red de Casas Don Bosco is a civil society organization that focuses on caring for street children and protecting their human rights.

<sup>340</sup> The New York Times, [La malnutrición que mata en Venezuela](#), December 17, 2017, paLa ra.

<sup>341</sup> IACHR, [Violence, children and organized crime](#), 2015, para. 592.

<sup>342</sup> Observatorio Venezolano de Violencia, [Informe OVV de Violencia 2017](#), January 5, 2018.

<sup>343</sup> Inter-American Court, *Case of Huilca Tecse v. Peru*. Judgment of March 3, 2005. Series C No. 121, para. 66; *Case of Myrna Mack Chang v. Guatemala*. Judgment dated November 25, 2003. Series C No. 101, para. 153, among others.



218. The IACHR continues to observe with concern the increased migration of the Venezuelan population as it seeks protection, security, and better living conditions. For Venezuelan children, this involves the loss of their right to grow up in the place where they belong, or even to grow up within a family, as in some cases, not all members of the family have the chance to migrate, while in others, the children lose their families on the way. It also means exposure to the risk of falling victim to kidnappers, forced recruitment by armed groups, trafficking, and sexual and labor exploitation. This outlook is especially serious for unaccompanied minor children, who are also exposed to enhanced risk of becoming victims, mainly of abuse, violence, human trafficking, and sexual exploitation. The IACHR underscores that children have the right to enjoy family life;<sup>344</sup> that measures of protection should be adopted for them, especially to address any potential situation of violence, exploitation, or trafficking;<sup>345</sup> and that the risks to which migrant children are exposed be identified, and that the children be provided with international protection.<sup>346</sup>

## H. Afro-descendants

219. The Commission welcomes the progress made by the government toward recognizing the rights of the Afro-descendant population, including the issuing of a decree on the International Decade for People of African Descent, with which it aims to promote the human rights of Afro-descendant persons through their recognition, justice, and development.<sup>347</sup> Likewise, the IACHR recognizes the interest Venezuela has taken in Afro-descendant peoples and highlights its holding of the World Day on the Rights of Peoples of African Descent, “Reparations: From resistance to action,” which was held in the Bolivarian Republic of Venezuela and where officials recognized the importance of reparations as a type of reclamation in response to slavery.<sup>348</sup>

220. The Commission also celebrated the planning and execution of the Comprehensive Prevention Plan called “The Route of the Drum,” through which the National Institute against Racial Discrimination (INCODIR) seeks to promote Afro-Venezuelan traditions and a life of peace. The “Route of the Drum” will take place locally and involve educators in order to promote Afro-Venezuelan knowledge and practices, as well as continue to promote these peoples’ popular and ancestral cultures.<sup>349</sup> The Commission recognizes that the Venezuelan State is making efforts to raise awareness among the population on the cultural contributions of Afro-Venezuelans, with the aim of bringing a stop to acts of discrimination against people of African descent, indigenous peoples, and immigrants.

221. However, the IACHR notes with concern that people of African descent and their communities have been particularly affected by Venezuela’s economic crisis, which is worsening their historical and structural situational vulnerability.<sup>350</sup> Likewise, the Commission notes with concern the obstacles facing Afro-Venezuelans to exercising their economic and social rights, including the rights to health, security, and mobility. Lastly, the IACHR is concerned at the lack of discussion over the rights of people of African descent in the framework of the Constitutional Reform being carried out by the National Constituent Assembly.<sup>351</sup>

<sup>344</sup> Inter-American Court, Advisory Opinion 21/2014. August 19, 2014. Rights and guarantees of children in the context of migration and/or in need of international protection, paras. 265 and 272.

<sup>345</sup> Inter-American Court, Advisory Opinion 21/2014. August 19, 2014. Rights and guarantees of children in the context of migration and/or in need of international protection, para. 91.

<sup>346</sup> Inter-American Court, Advisory Opinion 21/2014. August 19, 2014. Rights and guarantees of children in the context of migration and/or in need of international protection, paras. 102 and 261.

<sup>347</sup> Radio Mundial, [Venezuela firma decreto de Decenio Internacional para los Pueblos Afrodescendientes](#), March 24, 2018.

<sup>348</sup> Bolivarian Government of Venezuela [Reparations for Peoples of African Descent to be referred to international fora.](#) May 10, 2018.

<sup>349</sup> Correo del Orinoco, [Ruta del Tambor” sembrará valores en niños y niñas de las comunidades de Venezuela](#), November 28, 2018.

<sup>350</sup> Ministry of the People’s Power for Transportation, [The Ministry of the People’s Power for Transportation opens its doors to the National Counsel for the Development of Communities of African Dissent in Venezuela](#), April 12, 2018.

<sup>351</sup> Movimientos, [Venezuela: Afrodescendientes tomaron hoy la ANC para exigir sus derechos](#), August 2, 2018.

## I. People with Disabilities

222. At the request of the State of Venezuela, the Commission held a hearing on the Human Rights Situation of People with Disabilities in Venezuela during its 168th Period of Sessions.<sup>352</sup> According to information provided by representatives of the State, the 2011 national population and housing Census found there were 1,720,311 people with some kind of disability living in Venezuela, with visual disabilities being the most common.<sup>353</sup> The State representatives underscored the recognition of people with disabilities as subjects endowed with rights under the Constitution, as well as the Constitution's recognition of the right to communicate and express oneself in Venezuelan sign language. Regarding access to health and social protection, the State underscored the existence of the *carnet de la patria* system as a mechanism that benefits people with disabilities by providing economic assistance and streamlining processes for receiving benefits through government social policies. In its observations to the project of the present report, the State manifested that with the carnet system, "it has implemented a set of cash allocations for social protection that directly benefits more than 18 million people registered in this mechanism, and this is to say that approximately 80% of the adult population in the country"<sup>354</sup>.

223. Additionally, in the renowned hearing, the State recognized that the crisis in Venezuela over shortages of medications disproportionately affects people with disabilities.

224. For their part, although they highlighted legal progress, civil society representatives pointed to the persistence of a series of challenges that have become more serious due to the country's humanitarian crisis. First, they argued that people with disabilities were undercounted, estimating the real figure at between 3 million and 4 million people with some type of disability, of which they estimate that 80% are living in poverty. They also alleged that the State authorities themselves discriminate against people with disabilities by failing to follow the law on the rights of people with disabilities. The civil society representatives alleged that the *carnet de la patria* system, which is managed by the ruling party, is used to discriminate and block access to medications when people with disabilities do not have the *carnet*.<sup>355</sup> Regarding the right to health, the civil society representatives reported a lack of accessibility at hospitals, as well as shortages of medications and inputs for performing the medical procedures needed by people with disabilities.<sup>356</sup>

225. Additionally, the IACHR requested information from the State on the exercise of the right to vote by people with disabilities.<sup>357</sup> Both during the hearing and in its written response to the request for information, the State provided information on the adoption of measures including: (i) adjustments to make the voting stations accessible; (ii) the incorporation of assisted voting; (iii) the preparation of an instruction manual on providing assistance and support to people with disabilities during elections.

226. The State also communicated that its Political Constitution enshrines that people with disabilities have "the right to full and autonomous exercise of their capacities and to family and community integration." However, the Commission takes note with regard to the Organic Law on Electoral Processes that it is legally impossible for people under interdiction regimes to exercise their right to vote, and that under Venezuela's Civil Code, people subject to interdiction processes include those with "intellectual deficiencies."<sup>358</sup>

<sup>352</sup> Hearing on the "Situation of people with disabilities in Venezuela", 168th Period of Sessions, May 10, 2018. The representatives of the State reported on the progress made by Venezuela regarding education, access to information, work, sports, culture, and political rights for people with disabilities.

<sup>353</sup> Hearing on the "Situation of people with disabilities in Venezuela", 168th Period of Sessions, May 10, 2018.

<sup>354</sup> Bolivarian Republic of Venezuela. Ministry of Popular Power for Foreign Affairs, [Note AGEV/2019-026. Project observations chapter IV.B](#), February 15th, 2019, para. 65.

<sup>355</sup> Information provided by civil society at the hearing on the "Situation of people with disabilities in Venezuela", 168th Period of Sessions, May 10, 2018.

<sup>356</sup> Also see: [8.000 personas con sordera no tienen acceso a medicamentos](#), June 18, 2018; [Pacientes con esclerosis no reciben medicamentos desde hace dos años](#), July 24, 2018.

<sup>357</sup> Ministry of the People's Power on Foreign Relations, Venezuela, note AGEV/2018-0197 of November 19, 2018, received by the Executive Secretariat of the IACHR.

<sup>358</sup> Venezuelan Civil Code. Title X. Chapter I. Art. 393.

227. The Commission appreciates the legal progress made by the State of Venezuela in recent years regarding its population of people with disabilities and urges it to continue working to fully include people with disabilities in the country's social and political life. However, the Commission reminds the State of Venezuela that it must adjust its legal regimen to the postulates of the "social model" on disability enshrined in the Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities and the UN Convention on the Rights of Persons with Disabilities. This especially applies to the inability of people under interdiction regimens to vote.

228. Likewise, the Commission observes with concern how Venezuela's economic and social crisis has disproportionately affected people with disabilities, a group that was already historically in a position of greater vulnerability,<sup>359</sup> such that, with the difficulty accessing medications and food, their enjoyment of their human rights has been diminished and obstructed.

## J. Elderly

229. During its 169th Period of Sessions, the Commission held a hearing on the situation of this group. Venezuela has a population of approximately 2,976,079 elderly people, according to the figures of the National Statistics Institute, or 9.71% of its total population. The State has reported that in the framework of its process to withdraw from the OAS, it will not ratify the Inter-American Convention on Protecting the Human Rights of Older Persons.<sup>360</sup>

230. Civil society organizations alerted to an upward trend in homicides and suicides of the elderly. However, the State said the homicide rate for the elderly had declined, in line with an overall decline.<sup>361</sup> The Commission is concerned over the lack of disaggregated statistics available to the public on the violent deaths of elderly individuals, something that prevents going into more depth on the causes and designing public programs aimed at addressing this phenomenon.

231. Information was also received on the failure to adopt plans to address the population's rapid aging. According to civil society, the main problems facing elderly people in Venezuela include shortages of medication and food, the outbreak of illnesses such as malaria, and the suspension of healthcare services, a situation addressed in the section on the right to health (Section IV of this report). In particular, they emphasize the particularly acute impact of shortages of medications for diabetes and hypertension, two of the main causes of morbidity in this group.

232. During the hearing, the State said pensions coverage had reached 100% at the historically large figure of 4,095,023 pensions for elderly people.<sup>362</sup> However, civil society has questioned the lack of disaggregated information on the pensions list in question. It has also questioned the program and criteria used to grant pensions.

233. The Commission appreciates the information provided by the State on the universality of pension coverage. However, it reiterates its request for the State to publicly and transparently make information available on the administration of State agencies, along with official figures broken down by age that would make it possible to evaluate whether human rights are effectively respected in Venezuela. Likewise,

<sup>359</sup> Inter-American Court, *Furlan and relatives v. Argentina*, August 31, 2012, para. 134.

<sup>360</sup> Information provided by civil society during the hearing "Political crisis in Venezuela and its effects on the elderly and the LGBTI community," held during the 169th Period of Sessions of the IACHR.

<sup>361</sup> According to information from the organizations who participated in the hearing, in 2017, 321 murders were recorded, a 50% increase compared to the 213 elderly people murdered in 2016. They underscored that these figures could be undercounting the phenomenon, as the report only includes information on violent incidents collected from websites. Regarding suicides, they stated that according to the information gleaned from digital media sources, they increased from 15 suicides in 2016 in 10 states to 25 suicides in 2017 in only four states. They stated that the trend in 2018 appears to be worsening, given that as of May, 26 suicides were reported in the state of Trujillo, nine of which were elderly persons. For its part, the State indicated that between January and September 2017, there were 406 murders of elderly people, while from January to September 2018, the figure had declined to 272, or a 33% reduction. Also see *El Nacional*, [En lo que va de año han asesinado a un adulto mayor cada mes](#), July 14, 2018.

<sup>362</sup> National Institute of Statistics, Venezuela, [Venezuela reaches 100% of pensioners](#), April 18, 2018.

it reiterates the inter-American standard that elderly people have a right to enhanced protection, which should be provided through differentiated measures.

### K. Memory, Truth, and Justice

234. Through a variety of measures and mechanisms, the inter-American human rights system has found that truth, justice, reparation, and guarantees of non-repetition contribute to achieving two intermediate or medium-term objectives (providing recognition to the victims and fostering trust), as well as two final objectives (contributing to reconciliation and enhancing the rule of law).<sup>363</sup> Given that these pillars are complementary but have their own content and scope, "the truth cannot be a substitute for justice, reparation, or guarantees of non-repetition."<sup>364</sup> In this regard, the Commission urges the Venezuelan State to redouble its efforts, particularly in terms of justice, reparations, and guarantees of non-repetition with regard to the violations of human rights that have taken place both historically and in the recent past, as well as to procure the highest respect for the rule of law and the separation of powers and greater involvement of victims in the process of memory, truth, and justice.

235. Regarding the mass human rights violations that took place over the last century in Venezuela, the IACHR appreciated State efforts to establish historic truth and memory through a Justice and Truth Commission Report, which took note of and identified 10,071 victims of human rights violations.<sup>365</sup> The IACHR is not aware of any measures taken in 2018 to move forward judicially to complement the Truth Commission.

236. Regarding this situation, the Commission recalls that, without prejudice to the importance of having a truth commission to establish the facts related to the most serious violations, its functions, although relevant, cannot be considered a proper substitute for a judicial process. The value of truth commissions is that their establishment is not based on the premise that there will be no trials. Rather, they represent a step toward restoring truth and, eventually, justice.<sup>366</sup> The message sent emphatically by the inter-American human rights system through its various mechanisms has been that the State has an obligation to combat impunity and provide reparations to the victims of grave human rights violations through the justice system.<sup>367</sup>

237. Thus ruled the Inter-American Court in the case of *El Amparo v. Venezuela*, where it accepted the State's recognition of responsibility while establishing that acknowledging the truth and paying reparations is not sufficient if investigation and punishment of those responsible is not guaranteed.<sup>368</sup>

238. Regarding this specific case, the IACHR notes that during 2018, no progress was made toward trying those responsible for the events in Venezuelan courts, in compliance with the judgment of the Inter-American Court.<sup>369</sup> Regarding this, the IACHR recalls that the State of Venezuela is required to pursue the investigations into the facts in question in this case and punish those found responsible, as well as fully comply with the Court's judgment.

<sup>363</sup> Human Rights Council, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, A/HRC/21/46, August 9, 2012, para. 21.

<sup>364</sup> Human Rights Council, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, A/HRC/24/42, August 28, 2013, para. 26.

<sup>365</sup> IACHR, "Right to truth and report of the Justice and Truth Commission in Venezuela," 161st Ordinary Period of Sessions, March 22, 2017; Bolivarian Republic of Venezuela, Justice and Truth Commission, AGAINST SILENCE AND FORGETTING. FOR TRUTH AND JUSTICE. Report of the State Commission for Justice and Truth, as provided for in the Law to Punish Crimes, Disappearances, Torture and Other Human Rights Violations for Political Reasons Committed from 1958-1998.

<sup>366</sup> IACHR Report No. 136/99, Case 10,488, Ignacio Ellacuría, S.J.; Segundo Montes, S.J.; Armando López, S.J.; Ignacio Martín Baró, S.J.; Joaquín López y López, S.J.; Juan Ramón Moreno, S.J.; Julia Elba Ramos; and Celina Mariceth Ramos, El Salvador, December 22, 1999, para. 229.

<sup>367</sup> IACHR, The Right to Truth in the Americas, OEA/Ser.L/V/II.152, Doc.2, August 13, 2014, paras. 34 and 133-135; IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II, Doc. 66, December 31, 2011, para. 149.

<sup>368</sup> Inter-American Court of Human Rights, *Case of El Amparo v. Venezuela* Judgment of January 18, 1995. CEJIL, *Corte Interamericana ordena a Venezuela investigar de inmediato masacre de El Amparo*, February 25, 2010.

<sup>369</sup> Inter-American Court of Human Rights. *Case of El Amparo v. Venezuela*. Resolution on monitoring compliance with judgment of November 22, 2018.

239. Regarding human rights violations that took place subsequent to 1998, the IACHR takes note of the creation of the Commission on Public Truth, Justice, Peace, and Tranquility by the National Constitutional Assembly<sup>370</sup> and its activities carried out in relation to providing reparations to victims<sup>371</sup> and releasing individuals processed over the incidents of political violence within the scope of its competence.<sup>372</sup> Regarding the victims, the State reported that as of June 2018, more than 681 people had received the necessary support from the State delegation.<sup>373</sup> Regarding the releases, after the initial release in September 2017, others were released over the course of 2018.<sup>374</sup>

240. Regarding this, the IACHR<sup>375</sup> and civil society organizations have reacted with concern at the creation of the Commission for Public Truth, Justice, Peace, and Tranquility, stating that "in the end, what is being proposed is the installation and intensification of mechanisms for persecuting dissidents, not addressing the real and specific needs of the population."<sup>376</sup>

241. The IACHR reiterates the importance of a transitional justice program aimed at securing a lasting peace and respect for democratic institutions. It is for this reason that the transitional justice framework must be applied as a system of incentives aimed at revealing the truth, identifying and punishing those responsible, and providing reparations to victims, with a high degree of legitimacy among the affected population, not as a mechanism for political persecution or violation of the constitutional order.<sup>377</sup>

242. Likewise, the IACHR reiterates the same criticisms with regard to the Commission for Justice and Truth as far as the State obligation to support the search for truth and provide reparations by guaranteeing that justice is done. In this regard, the Victims Committee supported the government's measure,<sup>378</sup> although it noted that little progress has been made on justice, as out of 43 deaths and 850 injuries, only one case has been resolved: the case in which Johnny Bolívar was implicated.<sup>379</sup>

243. In terms of guarantees of nonrepetition, in February 2018, Venezuela's representatives to the United Nations ratified the National Human Rights Plan 2016-2019 and the technical support of the United Nations system in Venezuela.<sup>380</sup>

<sup>370</sup> Official Gazette of the Bolivarian Republic of Venezuela of August 8, 2017, 6,323, and Official Gazette of the Bolivarian Republic of Venezuela of August 8, 2017, 6,323, Article 1.

<sup>371</sup> Vice Presidency of the Bolivarian Republic of Venezuela, Truth Commission of the National Constitutional Assembly reviews process of reparations with victims of political violence, May 27, 2018.

<sup>372</sup> Official communication of the Government of the Bolivarian Republic of Venezuela, December 23, 2017.

<sup>373</sup> Vice presidency of the Bolivarian Republic of Venezuela, More than 680 people have attended the Commission for the Truth, June 8, 2018.

<sup>374</sup> El Heraldo, Venezuela libera a primer grupo de presos políticos, December 23, 2017; El Mundo, Nicolás Maduro libera a 23 presos políticos, incluidos Daniel Ceballos y el patinador de 16 años, June 1, 2018; Vanguardia, Excarcelados otros 43 presos "políticos" en Venezuela, June 14, 2018; 2001, "Otorgaron beneficios procesales a tercer grupo de presos políticos," June 13, 2018; Vice Presidency of the Bolivarian Republic of Venezuela, Commission on Truth, Justice, and Peace complies with mandate by supporting national reconciliation process, June 1, 2018.

<sup>375</sup> IACHR, Democratic Institutions, the Rule of Law and Human Rights in Venezuela: Country Report 2017.

<sup>376</sup> IACHR Press Release No. 131/17. IACHR Deeply Concerned about Further Weakening of Separation and Independence of Powers and Undermining of Democratic Institutions in Venezuela. August 31, 2017; National Assembly of the Bolivarian Republic of Venezuela, National organizations reject National Constitutional Assemblies Truth Commission, November 13, 2018; Capriles, Henrique, Second report of Governor Henrique Capriles Radonski on human rights violations in Venezuela, page 38; FPV, report on State repression in Venezuela – August 2017; p. 9; El Nacional, "Todos los poderes públicos quedan subordinados a la ANC," August 9, 2017; and AVN, "ANC aprobó decreto para el funcionamiento armónico con Poderes Público," August 8, 2017; Vice Presidency of the Bolivarian Republic of Venezuela, Julio Borges to be investigated for affecting the country's economic development; August 16, 2017.

<sup>377</sup> IACHR, The Right to Truth in the Americas, OEA/Ser.L/V/II.152, Doc.2, August 13, 2014, para. 85.

<sup>378</sup> Correo del Orinoco, Comité de víctimas de la violencia política respalda medidas impulsadas por el presidente Maduro en aras de la paz, June 1, 2018.

<sup>379</sup> La Iguana, "Victimas de la Guarimba 2014: "Despues de cuatro años seguimos esperando justicia," March 13, 2018.

<sup>380</sup> Bolivarian Government of Venezuela, Venezuela ratifies to the UN its commitment to the defense and guarantee of human rights, February 26, 2018; Decree No. 2,254 approving the National Human Rights Plan 2015-2019, drafted by the National Human Rights Council. Reprinted. Official Gazette, March 2, 2016.

## VII. CONCLUSIONS

244. Based on this analysis, the Commission observes that in 2018, the persistent structural situations that affect the human rights of the Venezuelan population have worsened and led to a severe political, social, economic, and humanitarian crisis, resulting in the absence of the rule of law. The presidential elections and the extension of the state of emergency further worsen the already critical institutional situation, characterized by the lack of effective separation, independence, and balance of State powers, with the lack of an independent and impartial judiciary being one of its main causes. The deterioration of political rights and the right to participate in public life led to new and serious episodes of attacks, persecution, and imprisonment of opposition politicians, dissidents, journalists, demonstrators, public employees, human rights defenders, and members of the general public. Deaths during social protests continued in a context of the militarization of security, which continues to affect the lives, safety, and property of Venezuelans. At the same time, Venezuela's severe economic and social crisis, characterized by shortages and scarcity, directly affects access to economic, social, and cultural rights, particularly of the most vulnerable groups, and has led to mass displacement of migrants and refugees from the country. All of this has negatively impacted the rule of law in Venezuela.

## VIII. RECOMMENDATIONS

### A. Position of the State toward the Inter-American System

1. Reverse the decision to withdraw from the OAS.
2. Adhere once again the American Convention on Human Rights.
3. Fully comply with the recommendations of the inter-American human rights system in accordance with the obligations under the OAS Charter, pursuant to its Article 143.

### B. Overall Human Rights Situation

#### • Democratic Institutionalality

4. Reestablish constitutional order by guaranteeing (i) the independence and balance of powers, (ii) the political participation of the entire population without discrimination, and (iii) citizen control over the actions of the different State powers.
5. Ensure that the procedures for selecting and appointing the magistrates of the Superior Tribunal of Justice include the prior dissemination of the announcement of the process, terms, and procedures; guarantees of equal and inclusive access for the candidate; the participation of civil society; and selection based on merit and professional capacity.
6. Adopt decisive measures to guarantee the separation of powers and the proper exercise of the constitutionally established functions of the National Assembly, with respect for due process where parliamentary immunity must be lifted.
7. Promote spaces for permanent citizen oversight of electoral processes: Specifically, by conducting electoral audits in the presence of representatives from political parties and members of civil society without discrimination.
8. With regard to the National Constitutional Assembly, reverse the measures that exceed the competencies of a constitutional body and affect the separation of powers and representative democracy, and abstain from adopting decisions that overstep those competencies.
9. With regard to the National Electoral Council, take the measures necessary to ensure its independence by selecting its members based on the requirements established in the

Constitution, as well as ensuring that its decisions protect the political rights of the Venezuelan population, without undue interference.

10. Ensure that the provisions related to the state of emergency are used in situations of extreme gravity and real emergency, and adhere strictly and reasonably to the needs of the situation in question, without going beyond what is strictly necessary, extending excessively over time, disproportionality, deviation, or abuse of power.
  11. Adopt the measures necessary for the Office of the Ombudsman to fully comply with its mandate under the Constitution and contribute to effectively protecting human rights in Venezuela, including by adopting legal measures to guarantee that the appointment and removal of the Ombudsman is done independently and pluralistically.
- **Administration of Justice and Judicial Independence**
12. Urgently adopt measures to (i) significantly reduce the number of acting judges and increase the number of permanent judges; (ii) ensure that even acting judges can only be removed through a disciplinary process or administrative act that is strictly respectful of due process guarantees, especially the duty to provide proper grounds; and (iii) guarantee the stability of the position.
  13. Adopt urgent measures to conclude the judicial actions pending and issue judgments in the shortest time possible and in keeping with international standards on due process.
  14. Take the measures necessary—including legislative measures—to ensure civilians are not investigated, processed, and/or brought to trial by criminal military jurisdiction, and, where necessary, retry them in civilian courts.
- **Political Rights and Right to Participate in Public Life**
15. Guarantee the full exercise of political rights for all people, independently of their stance toward government policies, and cease all actions that impede people's exercise of their right to freely elect their representatives and hold them accountable for their performance.
  16. Refrain from making illegal or arbitrary detentions, and when a person is deprived of liberty, ensure that the measure is exceptional and complies with all guarantees for restricting this right, including the requirement to be brought immediately before a judge.
  17. Refrain from retaliation or using the punitive power of the State to intimidate or punish people based on their political opinions.
  18. Adopt the measures necessary to guarantee the political rights of mayors, governors, deputies, and any other authority—including political leaders—so they can exercise their activities without being subject to harassment, threats, and violence. These measures must include withdrawal of measures declaring these authorities in contempt and/or disqualifying them for office, and the State must refrain from taking new measures without due process guarantees.
  19. Guarantee that orders of the Judicial Branch to release detained individuals or apply measures other than deprivation of liberty are fully executed within the shortest amount of time possible.
  20. Remove all legal obstacles to the legitimate exercise of the right to protest, specifically by eliminating the legal requirement of prior authorization to hold demonstrations.

21. Guarantee that at social mobilizations carried out in exercise of the right of assembly and peaceful demonstration, the rights to life, humane treatment, and personal liberty of everyone demonstrating are protected.
  22. Adopt all necessary and appropriate measures to protect the right to life and humane treatment of children and adolescents during social protests. This includes establishing protocols for the actions of security forces and on the use of force, specifically regarding the treatment of children and adolescents to ensure their rights.
  23. Take a variety of measures, including legal measures, to ensure that firearms are not used to control social protests, as well as establish guidelines to ensure the use of less lethal weapons, in keeping with human rights standards.
  24. Immediately conduct the corresponding investigations into deaths that take place during demonstrations, and do so diligently, effectively, and independently in a way that results in the trial and punishment of those responsible, as well as the corresponding measures of reparation for the victims and their relatives.
  25. Stop all acts of repression against peaceful demonstrations, immediately adopting the appropriate measures to protect the population from all forms of violence, with particular attention to women, adolescents, children, and the elderly.
  26. Release all individuals who have been detained and/or processed for the sole fact of having exercised the right to social protest.
  27. Refrain from any acts of torture; treatment or punishment that is cruel, inhumane, or degrading; and any type of sexual violence against detainees or during the detention; and investigate reports of such acts with due diligence, punishing those responsible and providing reparations to the victims.
- **Violence and Citizen Security**
28. Reform the policies and practices of security forces related to citizen control operations to bring them into a framework of respect for human rights.
  29. Produce disaggregated State information that is accessible to the public on the causes, victims, and perpetrators of violent deaths.
  30. Train public servants in charge of public order work on the protection and respect for human rights, particularly regarding the principles that govern the use of force.
  31. Ensure that force is used in strict compliance with the principles of exceptionality, legality, necessity, proportionality, nondiscrimination, and accountability; and launch, ex officio and without delay, a serious, impartial, and effective investigation that is open to public scrutiny into facts related to the potentially excessive use of force.
  32. Immediately and decisively adopt measures to exclude the military and armed forces from performing citizen security work. In exceptional cases in which members of the military participate in public order operations, which are the responsibility of the police, they must be placed under civilian authority.
  33. Conduct an independent and impartial investigation into the circumstances surrounding the deaths and injuries during the so-called "Operation Gedeón," to eventually assign responsibilities to the security forces officials who participated in it.



34. Cease including civilians in security work, and specifically, prevent civilians with military training from being part of domestic defense strategies.
35. Refrain from providing any type of support to civilian collectives, prevent them from acting in coordination with or with the acquiescence of the State; and when the State is aware or should be aware of acts of violence between private parties, it should take reasonable measures to prevent, investigate, and punish those actions.

**C. Poverty and economic, Social, Cultural, and Environmental Rights.**

36. Take new measures to ensure the availability and quality of healthcare services, ensuring that the facilities have sufficient medications and medical equipment.
37. Monitor the availability of medicines and healthcare services and the population's access to them, along with their consequences, and gather information on this for regular and detailed publication, including epidemiological bulletins, mortality statistics, inventories and acquisition of medicines, supplies, and equipment, and other public documents on the situation of healthcare services at the national level.
38. Refrain from any action or conduct that could limit the autonomy of universities, investigating and, where necessary, punishing attacks on that autonomy, as well as reviewing and amending all legislation or practices that reduce it.
39. Take urgent action to eradicate chronic malnutrition in vulnerable sections of the country, especially among children and adolescents and women. This includes providing the resources necessary to strengthen public food programs for children and the guarantees necessary for private aid programs to be able to operate without problems.
40. Conduct an environmental and social impact evaluation for the entire Orinoco Mining Crescent and set up a program for regular soil and water quality monitoring.
41. Establish an environmental reparations program with a social component to address the many needs of the sector's inhabitants affected by the constant mining activities in order to stimulate the area's economy.

**D. Social Protest and Freedom of Expression**

42. Grant journalists the highest level of protection to ensure they are not detained, threatened, or attacked for exercising their profession, especially during a public demonstration. Their work materials and tools must not be destroyed or confiscated. The State must guarantee national and foreign media the ability to broadcast live during demonstrations and public events and not adopt measures to regulate or limit the free circulation of information;
43. Refrain from exerting direct or indirect pressure aimed at silencing journalists, in accordance with Principle 13 of the Declaration of Principles on Freedom of Expression. In particular, remove all disproportionate or discriminatory restrictions that prevent media outlets of all formats, from effectively completing their commercial, social, or public missions;
44. Change ambiguous or imprecise criminal laws that disproportionately limit freedom of expression, such as laws intended to protect the honor of ideas or institutions or that seek to protect national security or public peace, in order to prevent the use of criminal proceedings to inhibit free democratic debate on matters of public interest and the full exercise of political rights. Also, move to repeal *desacato* laws, no matter what form they take, as these laws violate

Inter-American standards and restrict public debate, which is an essential element for the functioning of democracy;

45. Ensure that crimes against freedom of expression are subject to independent, quick, and effective investigations and judicial proceedings. In addition to criminal investigations, disciplinary proceedings should be launched when there is evidence that public officials have violated freedom of expression in the course of their professional conduct. As has been noted on other occasions, the failure to punish the perpetrators and masterminds of murders, attacks, and threats related to the exercise of journalism activity fosters the commission of new crimes and generates notable chilling effect, which severely impacts the possibility of having a truly open, uninhibited, and democratic debate;
46. Adopt legislation on access to public information in keeping with inter-American standards in order to provide all people with tools for effectively monitoring State operations, supervising public administration, and controlling corruption, all of which are essential for democracy. The IACHR and its Office of the Special Rapporteur also call on Venezuela's judicial authorities to guarantee this right and ensure their rulings comply with international standards on the subject at all times.
47. Refrain from limiting the functioning of webpages, blogs, apps, or other systems for disseminating information over the Internet, electronically, or otherwise, including support systems such as ISPs or search engines. These limitations are permissible only when they are compatible with the conditions governing the limitation of freedom of expression.

**E. Women**

48. Regularly produce complete statistics on violence and discrimination against women, disaggregated at least by gender, age, race, ethnicity, socioeconomic status, disability, sexual orientation, and gender identity, as well as the location of the incidents, with the aim of building an accurate picture of the specific ways in which violence and discrimination affect women.
49. Diligently publish and disseminate the statistical information produced.
50. Enhance efforts to reduce maternal mortality by adopting a comprehensive strategy that includes the effective application of the current protocol for prenatal care and emergency obstetric care.
51. Take the measures necessary to implement the policy to protect humanized birth by providing adequate resources, proper coordination, and accountability.
52. Take necessary and urgent measures to make available a varied, accessible, and acceptable array of contraceptive and family-planning methods, both male and female, throughout the country for women, men, and adolescents.

**F. Human Rights Defenders**

53. Urge State authorities to refrain from making public statements that stigmatize human rights defenders and from using State media to conduct public campaigns that may incite violence against human rights defenders based on their work to defend human rights;
54. Provide human rights defenders with adequate resources when they are subject to stigmatizing statements that could affect their reputations, compromise their personal integrity, or lead to or facilitate their criminalization;

55. Adopt positive measures to enable human rights defenders to conduct activities freely by fostering a human rights culture and an environment free of violence and threats. Do this by, among other things, training public officials; educating the public as a whole; recognizing the value and importance of the work of human rights defenders; and conducting serious and effective investigations into any violation of the human rights of people who defend human rights.

**G. Persons Deprived of Liberty**

56. In order to make reasonable use of imprisonment, the State must promote the use of measures alternative to deprivation of liberty and use of pretrial detention that is in keeping with its exceptional nature and limited by the principles of legality, presumption of innocence, necessity, and proportionality.<sup>381</sup>
57. Regarding deaths that take place within prisons, the IACHR asks the State to prepare a detailed report covering 2015 through the present day that includes the following information at a minimum: (a) date and place of death; (b) cause of death; and (c) where applicable, the status of the investigation into the individual's death. Likewise, the Commission reiterates the State's duty to investigate, process, and punish those responsible, as well as its duty to adopt measures to prevent death resulting from incidents of violence within detention centers.
58. Guarantee that people in State custody are treated with dignity. Specifically, ensure that detained individuals have the medical care they need for their specific health conditions, receive sufficient food with high nutritional value, and have hygienic living conditions. The Venezuelan State also must adopt the measures necessary to guarantee that individuals deprived of liberty are transferred from police detention centers to prison facilities with the minimum conditions needed to guarantee the rights of individuals deprived of liberty.

**H. Migrants, Asylum Applicants, Refugees, Beneficiaries of Complementary Protection, Internally Displaced People, and Victims of Human Trafficking**

59. Adopt measures to address the humanitarian crisis by preventing situations of deprivation or denial of rights—in particular the rights to health, right to food, right to work, right to decent housing, and other economic, social, and cultural rights—that may be factors behind the forced migration of people from Venezuela.
60. Guarantee access to and provision of unobstructed humanitarian aid for the Venezuelan population that may need it, all of which should be provided in keeping with principles of humanity and impartiality and without any discrimination.
61. Eliminate all measures that hinder the right of all individuals wishing to leave Venezuelan territory and wishing to seek and receive asylum, complementary protection, or other protection.
62. Ensure the rights to juridical personality and identity by issuing identity documents in a timely fashion, including passports, ID cards, civil registry certificates, and criminal background records.
63. Properly define the crime of human trafficking pursuant to regional and international human rights regulations and standards, and execute a coordinated and comprehensive response to

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<sup>381</sup> IACHR, [Report on the Use of Pretrial Detention in the Americas](#), OEA/Ser.L/V/II., Doc. 46/13, December 30, 2013, paras. 158-174.

prevent, address, and provide reparations to victims, as well as investigate, process, and punish the crime.

#### **I. Lesbian, gay, Transsexual, Bisexual, and Intersex (LGBTI) Persons**

64. Take the measures necessary—including legislative, public policy, and State programs—to address the underlying causes of violence against trans and genderqueer persons. Among other things, these measures must ensure that people have access without discrimination to formal employment, education, healthcare, and housing;
65. Conduct exhaustive and impartial investigations into cases of violence against LGBTI persons and take effective measures to try, punish, and provide reparations for the violence suffered by these individuals;
66. Develop measures to gather data to study and evaluate the scope of and trends in prejudicial violence against LGBTI persons.
67. Implement measures to prevent violence against LGBTI persons, including procedures for effectively and independently reporting the violations suffered. Likewise, offer training courses to raise awareness among State officials, especially justice and security officials and health and education professionals.

#### **J. Indigenous Peoples**

68. Immediately adopt measures to safeguard the security of indigenous human rights defenders, leaders, and communities, and carry out exhaustive, independent, and impartial investigations to establish the motives and circumstances of violations against them and identify, process, and punish the perpetrators and masterminds. These investigations should take into consideration the context of the defense of the right to territory;
69. Guarantee the exercise of the participatory rights belonging to indigenous peoples. The State specifically has a duty to conduct free, prior, and informed consultations on all legislative and administrative matters that may directly or indirectly affect indigenous peoples. The State is reminded that these consultations must be conducted in order to reach mutual agreement or consent. Likewise, the consultation initiatives carried out by indigenous organizations themselves must be recognized and strengthened in the framework of the State's duty to conduct consultations;
70. Adopt urgent measures to eradicate illegal mining activities.
71. Ensure full respect and guarantee for the rights of indigenous peoples in voluntary isolation or initial contact in the Amazon—especially self-determination—by establishing effective mechanisms for protecting their territory and prohibiting the intrusion of outsiders.
72. Adopt sanitary measures to address the outbreak of measles and other uncontrolled illnesses that are affecting indigenous peoples and provide them with urgent medical care. The State is reminded that the health measures must take an inter-cultural approach.
73. Adopt measures aimed at respecting, protecting, and guaranteeing the rights of indigenous peoples in Venezuela with the aim of ending the forced displacement that has been taking place and that impacts their cultural survival.

**K. Children and Adolescents**

74. Implement nutrition programs that prioritize providing adequate and sufficient food for children and adolescents, especially taking into consideration their stage of growth and development.
75. Adopt the measures necessary to ensure that children have access to quality healthcare services, including the provision of medications, especially considering the situation of children suffering from grave illnesses.
76. Expand the capacities of shelters to ensure that all Venezuelan children have a safe place to live.
77. Provide material aid to families exposed to poverty, with the aim of ensuring acceptable and dignified living conditions for children and their families.
78. Adopt all necessary special measures to protect children from the risks of becoming victims of any form of violence, abuse, trafficking, sexual exploitation, or labor exploitation, as well as implement programs to prevent those risks.

**L. Afro-Descendants**

79. Adopt an ethno-racial approach in social policies for combating poverty to address the specific situation of people of African descent, particularly women and children.
80. Adopt affirmative action measures to prioritize the inclusion of the Afro-descendant population at all levels of the labor market and educational spaces, both public and private.
81. Modify school curriculums to include the contribution of people of African descent in the various countries of the region, thus promoting a more inclusive education, eradicating racial prejudices, and establishing national cultures to promote the real equality of persons in day-to-day life.
82. Incorporate a gender approach and address the cultural nature and various dimensions of the poverty facing women, particularly women of African descent, pregnant adolescents, migrants, human rights defenders, and those who live in rural areas.

**M. People with Disabilities**

83. Conduct a systemic evaluation of national legislation to adjust it to comply with international principles on the rights of people with disabilities. In particular, review the concepts of caretaking and custody currently in force in the Venezuelan Civil Code in view of the right to equal protection of people with disabilities.
84. Conduct a census on living, health, work, and educational conditions for people with disabilities in Venezuela in order to draft action plans for reducing the disproportionate impact that Venezuela's economic and social crisis has had on people with disabilities.
85. Refrain from placing obstacles to people with disabilities' access to the healthcare system that are based on their political opinions.

**N. Elderly**

86. Develop a comprehensive plan for protecting the rights of the elderly in keeping with the precepts of the 1982 Vienna International Plan of Action on Ageing and of the Inter-American Convention on Protecting the Human Rights of Older Persons.
87. Generate disaggregated statistics that are accessible to the public on the violent deaths of the elderly, their causes, and actions taken by the State to reduce such deaths.
88. Make it a priority to address the needs of the elderly with regard to medications, healthcare, and food, and develop specific programs and policies targeting that group.
89. Generate disaggregated information that is accessible to the public regarding the list of pensions granted, programs developed, and criteria used for granting them.

**O. Memory, Truth, and Justice**

90. Guarantee the effectiveness of the recommendations presented by the Commission for Justice and Truth in its final report, specifically by following up by investigating grave human rights violations, launching a search for the remains of the disappeared, guaranteeing that those responsible will be punished, and providing comprehensive reparations to the victims.
91. Take measures to guarantee that the Commission on Public Truth, Justice, Peace, and Tranquility aims to establish the truth, identify and punish those responsible, and provide reparations to victims, while avoiding mechanisms to increase political persecution or violation of the constitutional order.