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“Deepening Political and Economic Crisis in Venezuela: Implications for U.S.
interests and the Western Hemisphere”
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Chairman Rubio, Ranking Member Boxer, and members of the Subcommittee on the Western Hemisphere, thank you for the opportunity to appear before you today to share critical information impacting United States policy towards Venezuela, in particular regarding the human rights and security situation in that country. I commend the Committee for holding this important and timely hearing.

Introduction

Democracy and rule of law in Venezuela have been on a downward spiral for the past 15 years, with great consequences not only for the country’s economy and security, but also for the human rights of the Venezuelan people. I would like to focus on this generalized disregard for the respect of basic human rights that has become the state-sanctioned rule in Venezuela.

The signs of this decline have been unequivocal: increasing concentration of power in the Executive Branch, debilitating the independence and autonomy of the judiciary; restricting freedom of expression and shutting down dissenting media outlets; excessive—sometimes lethal—use of force and other forms of restrictions to peaceful assembly; widespread use of torture and horrid detention conditions; restricting civic space and financing of NGOs; imposing administrative sanctions or even prosecuting under false charges political opposition leaders; and closing the door to any outside monitoring or criticism, among others.

The current human rights violations in Venezuela are not isolated instances. On the contrary, they are the product of a pattern of systematic violations that started more than a decade ago. To understand what is currently happening in Venezuela it is necessary to know the context that gives rise to today’s violations. Instead of reversing this trend, the assumption of power by Nicolás Maduro after president Chávez’s death has only increased the government’s repression of the Venezuelan people in a desperate attempt to hold on to power in the midst of growing popular discontent.

Chavez and Maduro have repeatedly disregarded all the accusations of human rights violations as an international conspiracy of right wing individuals and NGOs. However,

respected institutions and groups of the international community have consistently denounced the human rights violations taking place in Venezuela.

International human rights bodies and officials, including the United Nations High Commissioner for Human Rights, the UN Special Rapporteur on Torture, the Working Group on Arbitrary Detention, the UN Rapporteur on Extrajudicial Executions, the UN Special Rapporteur on the independence of judges and lawyers and the UN Special Rapporteur on Human Rights Defenders, as well as regional bodies such as the Inter-American Commission and Inter-American Court of Human Rights, have made strong calls of concern over the last years regarding the intentional disregard by the Venezuelan Government of its human rights obligations under international law.

Openness to dissent and criticism has not only been lacking with regard to local actors. In fact, since 1996 no special procedure of the United Nations has been allowed to visit the country.¹ Likewise, there have been several instances of international human rights delegations of non-governmental organizations being expelled from the country, including a Human Rights Watch's delegation.²

Widespread human rights abuses are committed daily in total impunity. The Venezuelan government itself admits the shockingly low levels of violations that end up being prosecuted. In its most recent reports to the UN Committee Against Torture, the government informed the Committee that of the 31,096 human rights violations reported to the authorities between 2011 and 2014, only in 3.1 percent did a prosecutor present criminal charges.³

Meanwhile, the government continues amassing authority and completely eroding the separation of powers. Indeed, since 2010 the Government has adopted a series of so-called Enabling Laws (*Leyes Habilitantes*), which authorize the President of the Republic to issue decrees with the rank, value, and force of statute on those matters that are so delegated. Many of these laws are overly broad and have been used by the Executive to imposed restrictions on human rights without appropriate controls. Following his predecessor's steps, just a few months after assuming power, President Maduro requested the National Assembly to enact a law granting him special powers for 12 months to address the economy and combat corruption. On November 19, 2013 a law was passed which allow the President to reform –by decree- norms to

¹ According to the information published by the Office of the High Commissioner for Human Rights (OHCHR), only a visit by the Special Rapporteur on the Right to Food was accepted by the Government of Venezuela in 2011 but it has not yet taken place. Information available at:

<http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx>

² HRW, *Venezuela: Human Rights Watch Delegation Expelled*, September 19, 2008. Available at:

<http://www.hrw.org/news/2008/09/19/venezuela-human-rights-watch-delegation-expelled>

³ Committee Against Torture (CAT), *Concluding Observations: Bolivarian Republic of Venezuela*, UN Doc. CAT/C/VEN/CO/3-4 (in Spanish), December 12, 2014, para. 8. Available at:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fVEN%2fCO%2f3-4&Lang=en.

strengthen punishment in criminal, administrative, civil and disciplinary areas “to avoid damage to or inadequate management of the public patrimony, and to prevent acts of corruption” and norms that punish “attacks on the Security and Defense of the Nation, the institutions of the State, Public Powers, and the provision of public services indispensable to the development and the quality of life of the people”; among other areas generally reserved to Congress.⁴ On Sunday February 15, the National Assembly started discussing a new “Enabling law” requested by President Maduro to receive special decree powers for at least the next 6 months, allegedly in response to the most recent U.S. sanctions.⁵

Authorities at several levels openly disregard the Venezuelan Constitution, as has been recently the case with the Minister of Defense’s authorization to the armed forces to potentially use lethal force if needed to control public protests.⁶ This authorization to use lethal force is even more concerning taking into consideration the existing pattern of extrajudicial executions that has taken place in Venezuela over the last decade. According to information collected by the UN Committee Against Torture, 667 homicides at the hands of state agents were committed in 2012 and 600 in 2013.⁷

While openly restricting civil and political rights, the government of Venezuela has also made an effort to portray itself as a promoter of economic, social and cultural rights both domestically and throughout the region by providing economic assistance through Petrocaribe⁸ and other foreign assistance programs. Indeed, in June 2013, Venezuela received recognition from the United Nations Food and Agriculture Organization (FAO) for the early achievement of one of the Millennium Development Goals and the World Food Summit (WFS) goal of halving the number of hungry people by 2015.⁹ However, there have been growing reports over the past few years on the increasing difficulties for the Venezuelan population to access food and other basic necessities,¹⁰ which President Maduro attributes to “an economic war by sectors who seek to destabilize the country ... through the undersupply of food products.”¹¹

This situation has motivated a series of measures against private distributorships of food and other basic supplies, including the adoption in 2011 of the Law on Costs and Fair Prices that

⁴ Law authorizing the President of the Republic to Issue Decrees with the Level, Strength and Validity of Laws on delegated matters. Articles 1 and 2. Published in Extraordinary Official Gazette No. 6.112 of November 19, 2013.

⁵ Reuters, “Venezuela’s Maduro seeks decree powers to face U.S. ‘imperialism’”, March 10, 2015. Available at: <http://www.reuters.com/article/2015/03/10/us-venezuela-usa-idUSKBN0M61JK20150310>

⁶ Resolution No. 008610 of the Ministry of Defense published in the Official Gazette on January 27, 2015.

⁷ CAT, Concluding Observations: Bolivarian Republic of Venezuela, para. 15.

⁸ The Petrocaribe program established in 2005 by Venezuela is described as a development cooperation program through energy supply assistance. Official page of Petrocaribe: <http://www.petrocaribe.org/>

⁹ FAO, Progress is proof that hunger can be eliminated, press release of June 16 2013.

Available at: <http://www.fao.org/news/story/en/item/178065/icode/>

¹⁰ IACHR, Annual Report 2013, para. 667. Available at: <http://www.oas.org/en/iachr/docs/annual/2013/docs-en/AnnualReport-Chap4-Venezuela.pdf>

¹¹ Aporrea.org, *Venezuela pide a la FAO apoyo para sistema de oferta de alimentos*, June 16, 2013, as cited in IACHR, Annual Report 2013, para. 669.

regulates a “maximum” sales price for certain foods and other goods.¹² Such measures have included, in extreme cases, taking over a toilet paper factory,¹³ the authorization to occupy supermarket chain accused of “hoarding” and more recently, putting Venezuela’s food distribution under military protection.¹⁴

Major human rights violations

I. Violations of Freedom of Expression

Violations of the right to freedom of expression are rampant in Venezuela. Journalists face constant threats and harassment. The State exercises tight control over media outlets, including through restrictive telecommunications laws. There is overall repression of dissenting views. Peaceful protesters are violently attacked. A review of the analysis of leading human rights and press freedom organizations reveal a shockingly bad situation.

The United Nations Secretary General, High Commissioner for Human Rights, and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression have strongly criticized the Venezuelan government for severely limiting free expression in the country, and have urged authorities “to ensure that people are not penalized for exercising their rights to peaceful assembly and freedom of expression.”¹⁵

Venezuelan media outlets are governed by the 2004 Law on Social Responsibility in Radio, Television, and Electronic Media (Resorte), amended in 2010. CONATEL has used this law to impose heavy fines on television and print media outlets, which have criticized the government.¹⁶ It is also through this law that the Venezuelan government gave itself the authority to require all broadcasters to air the obligatory broadcasts previously mentioned.¹⁷

Furthermore, changes to the Organic Law of Telecommunications in December 2010 declared broadcast media and the internet to be public services reserved for the State. These changes gave the Venezuelan executive the power to suspend and revoke broadcasting

¹² Decree No. 8,331 with rank, value and force of Law on Costs and Fair Prices. Published in Official Gazette No. 39,715, of July 18, 2011.

¹³ CNN, “Facing shortages, Venezuela takes over toilet paper factory”, September 21, 2013. Available at: <http://www.cnn.com/2013/09/21/world/americas/venezuela-toilet-paper/>

¹⁴ Bloomberg, “Venezuelans Throng Grocery Stores Under Military Protection”, January 9 2015. Available at: <http://www.bloomberg.com/news/articles/2015-01-09/venezuelans-throng-grocery-stores-on-military-protection-order>

¹⁵ UN, *Venezuela: UN Human Rights Chief Urges Halt to Violence, Inflammatory Rhetoric*, Feb. 28, 2014. Available at: <http://www.un.org/apps/news/story.asp?NewsID=47246#.VQNH4HF9QY>.

¹⁶ Freedom House. *Venezuela: Freedom of the Press 2014*. Available at: <https://freedomhouse.org/report/freedom-press/2014/venezuela#.VQTzmYHF9QY>

¹⁷ *Id.*

concessions and to take control over privately owned stations or channels whose operating licenses were allowed to expire or were terminated.¹⁸

In recent years, State authorities have gradually tightened restrictions on television and radio through forced closures, fines, judicial cases, and economic pressures.¹⁹ The most famous examples of this trend are with regard to Venezuela's oldest private television channel, Radio Caracas Televisión (RCTV), and main opposition channel, Globovisión. In May 2007, the government of Venezuela decided not to renew RCTV's license, forcing it to close down. Globovisión was taken over in 2010 and then sold to pro-government owners in 2013, essentially eliminating the primary media voice critical of the Chávez and Maduro governments.

Numerous other media outlets have been forced to shut down because of government pressure as well. Various sources reported the closure of 34 radio stations in 2009 and 27 in 2011. From 2013 to 2014, 13 newspapers stopped operating according to *El Nacional*²⁰ and many more are at risk of closure now due to newsprint shortages. The Venezuelan government has decreed that media organizations can only import newspaper if it is purchased with dollars provided through government currency exchange, but independent media sources are systematically denied this option.²¹

The Venezuelan government also continues to use “obligatory national radio and television broadcasts to transmit government messages,” according to information received by Inter-American Commission on Human Rights.²²

In response to the February 2014 protests, the IACHR issued a press release in which it noted with concern the fact that CONATEL, the Venezuelan National Telecommunications Commission, had issued an official statement in which it advised media outlets that coverage of the protest-related violence could be considered a violation of the Resorte Law, for which they would be sanctioned accordingly.²³ The Special Rapporteur on Freedom of Expression expressed particular concern at the continuing and worsening pattern of government actions resulting in the loss of opportunities for public debate, noting the lack of guarantees for the free and independent

¹⁸ HRW, *Venezuela: Legislative Assault on Free Speech, Civil Society*, Dec. 22, 2010. Available at: <http://www.hrw.org/news/2010/12/22/venezuela-legislative-assault-free-speech-civil-society>.

¹⁹ Freedom House, *Venezuelan Government Silencing Media During Protests, Undermining Free Expression*, Feb. 21, 2014. Available at: <https://freedomhouse.org/article/venezuelan-government-silencing-media-during-protests-undermining-free-expression#.VQHVX4HF9QY>.

²⁰ El Nacional, “300 desempleados ha dejado cierre de periódicos”, Feb. 8, 2014. Available at: http://www.el-nacional.com/politica/desempleados-dejado-cierre-periodicos_0_351565080.html.

²¹ Freedom House, *Venezuelan Government Silencing Media During Protests, Undermining Free Expression*, Feb. 21, 2014.

²² IACHR *Annual Report of the Office of the Special Rapporteur for Freedom of Expression: 2013*, OEA/Ser.L/V/II.149 Doc. 50 Dec. 31, 2013.

²³ IACHR, *IACHR Expresses Deep Concern over Acts of Violence in Venezuela and Urges the State to Ensure Democratic Citizen Security*, press release No. 13 of Feb. 14, 2014. Available at: <http://www.oas.org/es/cidh/prensa/comunicados/2014/013.asp>.

exercise of the right to freedom of expression in conformity with Venezuela's international obligations.²⁴

Since 2003 and continuing until today, Freedom House, an independent watchdog organization dedicated to the expansion of freedom around the world, has rated Venezuela as “not free” given that “the ability of independent journalists and media outlets to operate freely and impartially” has been seriously impeded by the political and economic crises which have evolved under the leadership of Hugo Chávez and Nicolás Maduro.²⁵ In its most recent analysis, it states that “Maduro’s administration hampered the opposition media by arbitrarily fining outlets, enforcing licensing requirements without respecting due process rights, and excluding certain outlets from access to public information.”²⁶ Furthermore, “high-level government officials constantly demonized opposition-aligned outlets and exerted systematic pressure on the tone and content of reporting.”²⁷ Human Rights Watch has likewise noted with grave concern that “over the past decade, the [Venezuelan] government has expanded and abused its powers to regulate media.”²⁸

Reporters without Borders has also expressed its grave concern at the rapidly eroding press freedoms in Venezuela, and has ranked it 137 out of 180 countries on the 2015 World Press Freedom Index.²⁹ This marks a significant decline from its ranking of 116 in 2014, and demonstrates the continued and rapid deterioration of press freedoms in Venezuela.³⁰ The organization notes that “local and foreign journalists were the targets of threats, insults, physical attacks, theft, destruction of equipment and arrests during a succession of protests” and places the blame for the majority of these with the Bolivarian National Guard.³¹

The Committee to Protect Journalists details the shutting down of critical radio and television stations, the shortage of newsprint as the government seeks to control imports, and the resignations of multiple journalists who have complained of censorship.³² The CPJ characterizes these actions on the part of the Venezuelan government as “a campaign to silence the critical media.”³³

²⁴ *Id.*

²⁵ Freedom House, *Freedom of the Press 2003: Venezuela*. Available at: <https://freedomhouse.org/report/freedom-press/2003/venezuela#.VQH1CoHF9QY>

²⁶ *Id.*

²⁷ *Id.*

²⁸ HRW, *World Report 2014: Venezuela*. Available at: <http://www.hrw.org/world-report/2014/country-chapters/venezuela>

²⁹ Reporters without Borders, *Venezuela*. Available at: <http://index.rsf.org/#!/index-details/VEN>

³⁰ Reporters without Borders, *World Press Freedom Index 2014: Venezuela*. Available at: <http://rsf.org/index2014/en-index2014.php>

³¹ Reporters without Borders, *Venezuela*.

³² Committee to Protect Journalists (CPJ), *In Venezuela, Campaign to Silence Press*. Available at: <https://www.cpj.org/americas/venezuela/>

³³ *Id.*

With regards to threats and harassment of journalists, over 259 incidents between January and April 2014 were reported to the UN Committee Against Torture.³⁴ The Venezuelan National Association of Journalists reported more than fifty incidents of violence or threats against reporters between 12 and 21 February 2014 alone.³⁵

In its 2013 annual report, the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, published details of the almost 80 reports it received during the previous year of threat and assaults of journalists.³⁶ Likewise, the Commission compiled information on almost 40 attacks on newspaper offices and radio stations during the same time period.³⁷ In a September 2014 press release, the Commission once again called on the government of Venezuela to respect the right to freedom of expression, citing reports that President Maduro had publicly accused *CNN en Español*, *El Nuevo Herald*, *NTN24*, and other media outlets of engaging in “media terrorism.”³⁸

In the *Case of Perozo et al. v. Venezuela*, the Inter-American Court of Human Rights considered a series of attacks against and harassment of Globovisión Television Channel staff, including hostile public remarks and physical and verbal attacks by state officials. The State was found to have violated its obligations under the American Convention on Human Rights to “ensure the right to freely seek, receive and impart information and the right to humane treatment.”³⁹ Despite this judgment, Globovisión would ultimately succumb to pressure and fall under State control, as detailed below.

II. Violations to freedom of association and assembly

Examples of violations of the rights to freedom of association and assembly are also abundant. Peaceful opposition protesters are routinely violently assaulted by the Venezuelan police and military, the latter of which was recently granted explicit power to use force to control peaceful demonstrations.⁴⁰ Indeed, on January 27 of 2015, the Minister of Defense authorized the use of “potentially lethal force, be it with a firearm or with another potentially lethal weapon” as a last recourse [...], “to avoid public disorder, to support the legitimate authority, and to immediately

³⁴ CAT, Concluding Observations: Bolivarian Republic of Venezuela, December 12, 2014, para. 14.

³⁵ Freedom House, *Venezuelan Government Silencing Media During Protests, Undermining Free Expression*, Feb. 21, 2014.

³⁶ IACHR., *Annual Report of the Office of the Special Rapporteur for Freedom of Expression: 2013*, OEA/Ser.L/V/II.149 Doc. 50 Dec. 31, 2013.

³⁷ *Id.*

³⁸ IACHR, *Office of the Special Rapporteur Expresses Concern over the Situation of the Freedom of Expression in Venezuela*, Sept. 22, 2014. Available at: <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=961&IID=1>.

³⁹ IACtHR., *Case of Perozo et al. v. Venezuela*, Series C No. 195, January 28, 2009. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_195_ing.pdf.

⁴⁰ HRW, *Venezuela: Unarmed Protestors Beaten, Shot*, May 5, 2014. Available at: <http://www.hrw.org/news/2015/02/12/venezuela-new-military-authority-curb-protests>.

reject aggression using any necessary means.”⁴¹ in direct contradiction with article 68 of the Venezuelan constitution, which explicitly prohibits the use of firearms and toxic substances as a means of containing public protests.

A legal framework has been put in place that has incrementally more severely restricted freedom of association and assembly in Venezuela. For example, under the Law for the Defense of Political Sovereignty and National Self-Determination, passed in 2010, Venezuelan human rights defenders are prohibited from receiving international support. As Human Rights Watch noted in a December 2010 press release, the law bars Venezuelan NGOs “that ‘defend political rights’ or ‘monitor the performance of public bodies’” from receiving money from foreign sources.⁴² Furthermore, the law permits the expulsion of foreigners invited by NGOs “if they express opinions that ‘offend the institutions of state, top officials or attack the exercise of sovereignty.’”⁴³ Venezuelan civil society organizations liaising with foreign donors would also be sanctioned, facing high fines and individual prohibitions against running for public office.⁴⁴ Under the “Organic Law on Social Control,” adopted by the National Assembly at the same time, individuals are obligated to adhere to Venezuela’s socialist principles and values or face civil, administrative, or criminal sanctions.⁴⁵ Both of these laws aggressively limit the activities of human rights defenders.

The International Center for Not-for-Profit Law, for its part, has also detailed the dire legal situation in which Venezuelan civil society finds itself. It characterizes the enactment of the laws mentioned thus far, as well as Decree No. 458, which created the Strategic Center of Security and Protection of the Country (CESPPA), as having an overall chilling effect on freedom of assembly.⁴⁶ Opposition leaders have concluded that the goal of CESPPA is to control and censor the worsening political, economic, and social crisis enveloping the country.⁴⁷

Even prior to the passage of these laws, in its 2009 Annual Report, the Inter-American Commission on Human Rights noted a “trend toward the use of criminal charges to punish people exercising their right to demonstrate or protest against government policies.”⁴⁸ During the

⁴¹ Resolution No. 008610 of the Ministry of Defense published in the Official Gazette on January 27, 2015.

⁴² HRW, *Venezuela: Legislative Assault on Free Speech, Civil Society*, Dec. 22, 2010. Available at:

<http://www.hrw.org/news/2010/12/22/venezuela-legislative-assault-free-speech-civil-society>.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Int’l. Ctr. for Not-for-Profit Law, *NGO Law Monitor: Venezuela*, Dec. 1, 2014. Available at:

<http://www.icnl.org/research/monitor/venezuela.html#analysis>.

⁴⁷ See, e.g. Visión Global, *Capriles: “Cespa busca ocultar realidad de los venezolanos,”* 2013. Available (in Spanish) at: <http://www.visionglobal.info/capriles-cespa-busca-ocultar-realidad-de-los-venezolanos/> and Manzana Mecánica, *Venezuela censura Twitter y fortalece CESPA: duro golpe a la libertad de información*, Feb. 28, 2014. Available (in Spanish) at:

<http://manzanamecanica.org/2014/02/venezuela-censura-twitter-y-fortalece-cespa-duro-golpe-a-la-libertad-de-informacion.html>.

⁴⁸ IACHR, *Annual Report 2009: Chapter IV, Human Rights Developments in the Region: Venezuela*, OEA/Ser.L/V/II. Doc. 51, corr. 1, Dec. 30, 2009.

five years prior to the publication of that report, the Inter-American Commission received information regarding 2,200 individuals who faced criminal charges in connection with their involvement in public demonstrations.⁴⁹ These crimes, which include “blocking public highways, resisting the authorities, damage to public property, active obstruction of legally-established institutions, offenses to public officials, criminal instigation and criminal association, public incitement to law-breaking, conspiracy, restricting freedom of employment, and breaches of the special secure zones regime, among others, carry prison sentences of up to twenty years.⁵⁰ More recently, Freedom House and PROVEA (Programa Venezolano de Educación-Acción en Derechos Humanos) have echoed the concerns of the Inter-American Commission, reporting that at least ten protesters were put on trial before military courts in 2012.⁵¹

The same groups have tracked the continually increasing repression of peaceful protests in Venezuela. According to Freedom House, “PROVEA described a sharp rise in suppressed protests in 2007, including a 300 percent increase in the number of injuries sustained during demonstrations, many caused by beatings, rubber bullets, and tear gas. The group also reported a 250 percent increase in the number of cases in which charges were brought against protesters, a sign of the ongoing criminalization of protest.”⁵²

The use of force by law enforcement during a protest must be considered in the context of the human rights to freedom of association and assembly. The principal purpose of a law enforcement presence at demonstrations should be to ensure public safety and protect the rights of protesters and bystanders.⁵³ The use of force by police is only permissible if it is strictly or absolutely necessary to protect an individual from harm or to enable a lawful arrest,⁵⁴ not for the purpose of infringing upon a protester’s right to freedom of assembly and association. Use of force must be strictly necessary and proportional to the danger to the physical integrity or life of the law enforcement agent or other individual.⁵⁵ Whenever the lawful use of force is unavoidable, it must minimize damage to property and injury to persons, and respect and

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Freedom House, *Venezuela: Freedom in the World 2013*. Available at: <https://freedomhouse.org/report/freedom-world/2013/venezuela#.VQUAF4HF9QY>. See also PROVEA, *Provea rechaza la criminalización de la protesta y advierte sobre la institucionalización de la mentalidad represiva en la acción de gobierno*, Feb. 7, 2014. Available at: <http://www.derechos.org/ve/2014/02/07/provea-rechaza-la-criminalizacion-de-la-protesta-y-advierte-sobre-la-institucionalizacion-de-la-mentalidad-represiva-en-la-accion-de-gobierno/>.

⁵² Freedom House, *Freedom of Association Under Threat: The New Authoritarians’ Offensive Against Civil Society*. Available at: <https://freedomhouse.org/report/freedom-association-under-threat-new-authoritarians-offensive-against-civil-society/venezuela#.VQUKbIHF9QZ>.

⁵³ See International Covenant on Civil and Political Rights [hereinafter ICCPR] art. 21, art. 22(2), 999 U.N.T.S. 171, entered into force Mar. 23, 1976; MANFRED NOWAK, U.N. COVENANT ON CIVIL AND POLITICAL RIGHTS: CCPR COMMENTARY 487-488 (2005). See generally Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), available at <http://www2.ohchr.org/english/law/firearms.htm> [hereinafter “Use of force principles”].

⁵⁴ Code of Conduct for Law Enforcement Officials art. 3, G.A. Res. 34/169 (1979).

⁵⁵ Code of Conduct, art. 3.

preserve human life.⁵⁶ Furthermore, law enforcement must ensure that medical aid is rendered to any injured protesters and that their next of kin are notified.⁵⁷

Despite these internationally recognized principles, Venezuelan authorities have deployed excessive use of force against protesters in violation of multiple human rights, including the rights to freedom of assembly and association. At the outbreak of violence against protesters in February 2014, the Inter-American Commission on Human Rights declared that it was “profoundly disturbed by various complaints alleging violations of the demonstrators’ rights to peaceful protest and their rights to life and humane treatment, personal liberty, freedom of association and freedom of expression.”⁵⁸ Human Rights Watch (HRW) found that Venezuelan security forces repeatedly resorted to force, including lethal force, against peaceful, unarmed protesters and bystanders “in situations in which it was wholly unjustified.”⁵⁹ HRW noted that these abuses included “severely beating unarmed individuals; firing live ammunition, rubber bullets, and teargas canisters indiscriminately into crowds; and firing rubber bullets deliberately, at point-blank range, at unarmed individuals.”⁶⁰ Amnesty International (AI) corroborated these accounts and noted that, contrary to international standards, state security forces used firearms against protesters without providing adequate warning.⁶¹ AI also reported on the “excessive and indiscriminate” use of tear gas by police.⁶²

In its December 2014 review of Venezuela, the UN Committee Against Torture noted “with concern that 43 people died in the context of the demonstrations that occurred between February and June 2014, and 878 were wounded, of which 68% were civilians,”⁶³ noting consistent reports regarding the excessive use of force. The Committee also expressed concern regarding the abuse of firearms and riot control agents against demonstrators and in residential areas, as well as the involvement of the National Guard in controlling demonstrations as opposed to civilian police forces.⁶⁴

The Committee Against Torture also reported a total of 437 attacks by armed pro-government groups against protesters during demonstrations between February and April 2014, noting that a large number of these attacks were carried out with the complicity and acquiescence

⁵⁶ Use of force principles, at 5.

⁵⁷ Use of force principles, at 5.

⁵⁸ IACHR, *IACHR expresses deep concern over the situation with respect to the right to peaceful protest, freedom of association and freedom of expression in Venezuela*, press release No. 17 of February 21, 2014. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/017.asp.

⁵⁹ HRW, *World Report 2012: Venezuela*, p. 9. Available at: <http://www.hrw.org/world-report-2012/world-report-2012-venezuela>.

⁶⁰ *Id.* at p. 8.

⁶¹ Amnesty International, *Venezuela: Human rights at risk amid protests* (AMR 53/009/2014), April 1, 2014, p. 5. Available at: <https://www.amnesty.org/en/documents/amr53/009/2014/en/>

⁶² *Id.* at p. 6.

⁶³ CAT, *Concluding Observations: Bolivarian Republic of Venezuela*, December 12, 2014, para. 12.

⁶⁴ *Id.*

of the state security forces, and went unpunished.⁶⁵ Human Rights Watch also noted that armed pro-government groups attacked protesters, journalists, and persons perceived to be opposed to the government in the presence of security forces and with impunity. In some cases, state security forces openly collaborated with pro-government groups in committing these attacks.⁶⁶ The Inter-American Commission on Human Rights condemned attacks of this nature and noted that they occurred in many parts of the country.⁶⁷

Protests have reignited since February of this year after the arrest of the Caracas Metropolitan Mayor Antonio Ledezma. Violent repression and the use of military force during these demonstrations have already resulted in new fatal victims, wounded persons and arbitrary arrests. On February 24, Kliverth Roa Núñez, a fourteen-year old high school student was killed by a gunshot wound in the head during the clashes between students of the Catholic University of Táchira (UCAT) and security forces. Reports indicate that the boy was not even participating in the protests.⁶⁸

III. Lack of judicial independence

In May 2004 the National Assembly passed a new Organic Law of the Supreme Court, which completely weakened Venezuela's judicial branch.⁶⁹ This Organic Law increased the membership of the Supreme Court from 20 to 32 justice and established that the new Justices could be designated with a simple majority vote of the National Assembly, making it easier for the Government and its majority in the Legislative to take control of the country's highest Court. Since this political takeover of the Supreme Court of Justice, its members have publicly rejected the principle of separation of powers and the judiciary has acted as another arm of the Executive branch to advance the government's political agenda by legitimizing its policies and decisions, consistently ruling in its favor and "validating the government's disregard for human rights"⁷⁰.

But the weakness of the judiciary precedes 2004 and is also a consequence of the inadequate transition in the Judicial branch following the adoption of the 1999 Constitution, which has resulted in the practice of appointing provisional or interim judges. For over a decade, the Judicial Commission of the Supreme Court has been discretionally ordering the removal of

⁶⁵ *Id.* at para. 13.

⁶⁶ HRW, *World Report 2012: Venezuela*, p.12.

⁶⁷ IACHR, *IACHR expresses deep concern over the situation with respect to the right to peaceful protest, freedom of association and freedom of expression in Venezuela*, press release No. 17 of February 21, 2014. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2014/017.asp.

⁶⁸ IACHR, *IACHR Laments the Death of a Student during Protests in Venezuela*, press release no. 22 of March 3, 2015. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2015/022.asp. See also Amnesty international, public declaration of February 25, 2015 (in Spanish) Available at: <https://www.amnesty.org/en/documents/amr53/1073/2015/es/>

⁶⁹ *Ley Orgánica del Tribunal Supremo de Justicia (2004)*

⁷⁰ HRW, Submission to the Human Rights Committee in advance to its pre-sessional review of Venezuela, July 29 2014. Available at: <http://www.hrw.org/news/2014/07/29/venezuela-un-human-rights-committee>

hundreds of provisional judges without a prior disciplinary proceeding, denying Venezuelan's judges one of the most basic safeguards for their independence: security of tenure.

It is estimated that 62 per cent of the judges in Venezuela are provisional, and therefore can be easily appointed and removed⁷¹. As underscored by the IACHR, the high number of provisional appointments “weakens the judicial branch and strips it of its independence and impartiality, thereby adversely affecting the right of access to justice”.⁷² The Special Rapporteur on the independence of judges and lawyers has also expressed his concern over the high number of judges and prosecutors who are provisional, considering that they are “subject to various mechanisms of political interference that affect their independence,” in particular bearing in mind that their removal is “absolutely discretionary: without cause, or procedure, or an effective judicial remedy.”⁷³

One of the most notorious examples of interference by the Executive in the administration of justice has been the case of Maria Lourdes Afiuni. A judge at the 31st control Court of Caracas, in December 2009 Afiuni granted conditional release to a businessman critic of the government who had been awaiting trial on corruption charges for almost three years. She was immediately arrested and President Chávez called Judge Afiuni a “bandit”, asking for her to be given a 30-year prison sentence despite her compliance with UN standards and Venezuelan law. Afiuni was formally accused of corruption, abuse of authority and favoring evasion of justice.⁷⁴ After over a year in a women's prison in Caracas under deplorable conditions and where she repeatedly suffered to threats and acts of intimidation by other inmates,⁷⁵ she was put under house arrest in February 2011. On June 14, 2013 the judicial authorities lifted the house arrest but her trial continues.⁷⁶

The case of Judge Afiuni has captured the international attention and generated calls from UN experts and the inter-American System of human rights urging for her “immediate and unconditional release”.⁷⁷ However, as denounced by Human Rights Watch in a comprehensive report on this issue, the arrest of Judge Afiuni has had a powerful impact on lower court judges who have been afraid to issue rulings that may upset the government, and “whereas in the past they only feared losing their jobs, now they also fear being criminally prosecuted for upholding

⁷¹ CAT, Concluding Observations: Bolivarian Republic of Venezuela, December 12, 2014, para. 16.

⁷² IACHR, Annual Report 2013, para. 441. Available at: <http://www.oas.org/en/iachr/docs/annual/2013/docs-en/AnnualReport-Chap4-Venezuela.pdf>

⁷³ OHCHR, “Preocupante la situación de la justicia en Venezuela”, *advierte experto de la ONU*, July 30, 2009. Available at: <http://www.ohchr.org/SP/NewsEvents/Pages/DisplayNews.aspx?NewsID=7567&LangID=S>

⁷⁴ HRW, *Tightening the Grip: concentration and Abuse of Power in Chávez's Venezuela*, July 2012, pp. 30-36. Available at: <http://www.hrw.org/sites/default/files/reports/venezuela0712webwcover.pdf>

⁷⁵ *Id.* at p. 36.

⁷⁶ BBC, *Venezuela ends house arrest of Judge Maria Afiuni*, June 14, 2013. Available at: <http://www.bbc.com/news/world-latin-america-22916391>

⁷⁷ UN News Centre, *Venezuelan leader violates independence of judiciary – UN rights experts*, 16 December 2009. Available at: <http://www.un.org/apps/news/story.asp?NewsID=33273#.VQM4YFPF9jE>.

the law”.⁷⁸

As recently as last month, Alí Fabricio Paredes, another judge – who incidentally presided over Afiuni’s case at some point- was arrested by national intelligence agents, less than 24 hours after he had convicted Walid Makled to 14 years in prison for drug-trafficking and money laundering. The Attorney-General ordered Judge Paredes’ arrest for considering that he had unduly favored Makled with a lenient prison sentence.⁷⁹

IV. Arbitrary arrests and detentions

The Venezuelan constitution prohibits the arrest or detention of an individual without a judicial order and provides that any detained individual has the right to immediately communicate with family and lawyers. But in practice, it is estimated that more than 70 people have been arbitrarily detained or arrested in Venezuela over the last year alone.⁸⁰

The use of arbitrary arrest and detention in Venezuela is not recent. However, international human rights organizations have registered an increase in the number of people arbitrarily detained since 2014, particularly around the protests against the Government. According to official information, 3,306 people were arrested, including 400 adolescents, between February and June of 2014 in the context of the public protests that took place across the country.⁸¹ It was reported that of the thousands of people arrested many were denied access to a lawyer of their choice and to medical assistance during the first 48 hours of their detention before appearing before a judge. Some of the people arrested remained in pre-trial detention for several months, in spite of the absence of solid evidence against them.⁸² Even the UN High Commissioner for Human Rights expressed concern over the prolonged and arbitrary detention of political opponents and protestors in Venezuela, and stated that it was only “exacerbating the tensions in the country.”⁸³

⁷⁸ HRW, *Tightening the Grip: concentration and Abuse of Power in Chávez’s Venezuela*, July 2012, p. 5. See also IACHR, Annual Report 2013, para. 660.

⁷⁹ International Bar Association, *IBAHRI expresses grave concern at arrests and further deterioration of rule of law in Venezuela*, 18 February 2015. Available at: <http://www.ibanet.org/Article/Detail.aspx?ArticleUid=98091835-3f0c-47b4-9110-8f3275e0d578>

⁸⁰ OHCHR, UN Human Rights Chief urges Venezuela to release arbitrarily detained protestors and politicians, 20 October 2014. Available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15187&LangID=E>

⁸¹ CAT, Concluding Observations: Bolivarian Republic of Venezuela, December 12, 2014, para. 9.

⁸² CAT, Concluding Observations: Bolivarian Republic of Venezuela, December 12, 2014, para. 9. See also Amnesty International, Report 2014/15, Venezuela. Available at: <https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/>

⁸³ OHCHR, UN Human Rights Chief urges Venezuela to release arbitrarily detained protestors and politicians, 20 October 2014. Available at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15187&LangID=E>

Notably, one of the individuals that were arrested in connection to the February 2014 protests is Leopoldo López, leader of the opposition party Voluntad Popular. After being accused of promoting violence in the anti-government demonstrations that started a few days later, on 18 February 2014 Leopoldo López handed himself in to the National Guard. He has remained in pre-trial detention since, with charges of incitement and conspiracy to commit arson and damages to property, among other offences, which could carry a maximum penalty of 10 years of prison.⁸⁴

A month after Leopoldo Lopez' detention, members of the Intelligence Security Services (SEBIN) arrested Daniel Ceballos, mayor of San Cristobal (Táchira State) and also a member of opposition party Voluntad Popular on suspicion of rebellion and conspiracy to commit a crime for his involvement in the antigovernment protests that had taken place in February. No arrest warrant was produced at the time of his arrest and shortly after, the Minister of Justice and Interior of Venezuela posted several messages on Twitter claiming that justice had been done and accusing Ceballos of promoting violence, anarchy and civil rebellion.⁸⁵

In August 2014, the United Nations Working Group on Arbitrary Detentions adopted an opinion concerning Leopoldo López, concluding that his detention was arbitrary. It considered that “Mr. López’s participation in a march for political reasons or the exercising of his right to freedom of expression during the same march, such as which took place on February 12, 2014, does not constitute an illicit justification for the deprivation of liberty of a speaker or participant.” It further stated that in his case “there are no elements that allow the concluding of a cause and effect relationship between the call for a political demonstration, speaking during the same demonstration, and the resulting deaths, wounds and material damage”.⁸⁶ The Working Group also found that “the detention of Mr. López in a military compound seems based on a motive of discrimination based on his political opinions”.⁸⁷ The Working Group also found the detention of Daniel Ceballos to be arbitrary.⁸⁸

The UN High Commissioner for Human Rights, also expressed serious concern at the continued detention of Venezuelan opposition leader Leopoldo López, as well as more than 69 other people who were arrested in the context of the public protests that started in February 2014. He further called on the Venezuelan authorities “to act on the opinions of the Working Group and immediately release Mr López and Mr Ceballos, as well as all those detained for exercising

⁸⁴ Amnesty International, Venezuela: Trial of opposition leader Leopoldo Lopez raises concerns about the independence of the justice system in Venezuela, 21 July 2014. Available at: <https://www.amnesty.org/en/documents/AMR53/016/2014/en/>

⁸⁵ Amnesty International, Venezuela: Arrest of local mayor signals potential “witch hunt”, 20 March 2014. Available at: <https://www.amnesty.org/en/articles/news/2014/03/venezuela-daniel-ceballos/>

⁸⁶ Opinion Number 26/2014 (Bolivarian Republic of Venezuela) adopted by the Working Group on Arbitrary Detention at its seventieth session, August 25-29, 2014, para. 54.

⁸⁷ *Id.* at para. 55.

⁸⁸ OHCHR, UN Human Rights Chief urges Venezuela to release arbitrarily detained protestors and politicians, 20 October 2014.

their legitimate right to express themselves and protest peacefully”.⁸⁹ Both López and Ceballos remain in detention to date, despite repeated calls from the international community for their immediate release.

Exactly one year after Leopoldo Lopez’s arrest, on February 19, 2015, Caracas Metropolitan mayor Antonio Ledezma was arrested and thereby expelled from office. Mr. Ledezma is an opposition leader and ally of Leopoldo López. According to Mr. Ledezma’s wife, intelligence agents forcibly entered his office and beat the mayor before dragging him away. Soon afterwards, President Nicolas Maduro publicly denounced Mr. Ledezma as a “vampire” and accused him of conspiring with the United States and other foreign governments to foment a coup.⁹⁰ President Maduro said he would respond “with an iron fist.”⁹¹ The evidence presented of this alleged conspiracy is a statement that Mr. Ledezma signed along with other opposition leaders published in a national newspaper, which highlighted the multiple challenges facing the country and called for an agreement to reach a peaceful and democratic transition. As such, his arrest was clearly politically motivated and arbitrary.

V. Torture and cruel, inhumane and degrading treatment in prisons

Political prisoners in Venezuela have been subject to torture and other cruel, inhuman and degrading treatment while in custody. The scale of these human rights violations seems to have increased since anti-government protests began last year, but follows a long-standing pattern. Reports to this end have been issued from multiple international and regional organizations including the Inter-American Commission on Human Rights; the Office of the High Commissioner for Human Rights; and the United Nations Committee Against Torture; as well as countless non-governmental organizations such as Human Rights Watch and Amnesty International.

The UN Committee Against Torture expressed alarm regarding reported acts of torture and ill-treatment of persons arrested in connection with the demonstrations which occurred in Venezuela between February and June 2014. These acts include beatings, electric shocks, burns, suffocation, sexual violence and threats, apparently to punish protesters and obtain confessions.⁹² Similarly, in most cases documented by Human Rights Watch in its report regarding last year’s protests, security forces subjected those arrested for protesting to severe physical abuse, including beatings with fists, helmets, and firearms; being forced to squat or kneel, without

⁸⁹ OHCHR, UN Human Rights Chief urges Venezuela to release arbitrarily detained protestors and politicians, 20 October 2014.

⁹⁰ El Pais, “La policía de Maduro detiene al alcalde opositor de Caracas,” February 20, 2015. Available (In Spanish). Available at: http://internacional.elpais.com/internacional/2015/02/20/actualidad/1424386802_955983.html.

⁹¹ *Id.*

⁹² CAT, Concluding Observations: Bolivarian Republic of Venezuela, December 12, 2014, para. 10. *See also* UN Human Rights Chief urges Venezuela to release arbitrarily detained protestors and politicians, October 20, 2014.

moving, for hours at a time; and extended exposure to extreme temperatures.⁹³ Human Rights Watch also reported cases of torture including a pattern of firing rubber bullets point blank at protesters, withholding medical treatment despite life-threatening injuries, and psychological abuse.⁹⁴ Amnesty International reported similar horrific accounts of abuse against detainees in its report and highlighted that inhuman and degrading treatment of detainees appeared to be in retaliation for their involvement in protests. For example, both male and female detainees reported being raped or threatened with rape by security agents. Other reports of torture and inhuman and degrading treatment include detainees being repeatedly and intentionally run over or hit by police officers on motorcycles; being doused in gasoline; and being subjected to severe beatings with batons.⁹⁵

Inhumane treatment of detainees continues to this day. Last week, Rodolfo Gonzalez, a political prisoner and former aviation pilot, committed suicide in prison. He was reportedly suffering from extreme physical and emotional distress due to the conditions of his detention at the headquarters of the state intelligence service (SEBIN) and the news that he would soon be transferred to an extremely dangerous prison known as “Yare.”⁹⁶

In the heart of Caracas is a prison known as “La Tumba” (“the tomb”). Located five stories below ground are holding cells for protesters and political prisoners. Prisoners of La Tumba are not only confined to tight spaces and constantly exposed to sub-freezing temperatures, but are also deprived of sunlight, sanitary conditions, and ventilation. The conditions of detention have reportedly caused all inmates to become extremely ill, with symptoms including severe vomiting, diarrhea, fever, and hallucinations. However, they are denied access to adequate medical treatment.⁹⁷

Just earlier this month, the IACHR granted precautionary measures for the protection of political prisoners Lorent Saleh and Gerardo Carrero.⁹⁸ These measures, which are only granted in extreme cases of urgency, gravity, and threats of irreparable harm, were issued based on reliable reports that the detention conditions of Mr. Saleh and Mr. Carrero put their lives and

⁹³ Human Rights Watch, *Punished for Protesting: Rights Violations in Venezuela’s Streets, Detention Centers, and Justice System* 2014, pp. 15. Available at:

http://www.hrw.org/sites/default/files/reports/venezuela0514_ForUpload_0.pdf.

⁹⁴ *Id.* at p. 17

⁹⁵ Amnesty International, *Venezuela: Human rights at risk amid protests* (AMR 53/009/2014), April 1, 2014, available for download at <https://www.amnesty.org/en/documents/amr53/009/2014/en/>.

⁹⁶ “Muere en prisión Rodolfo González, opositor detenido en manifestaciones en Venezuela,” BBC Mundo, March 13, 2015. Available (in Spanish) at:

http://www.bbc.co.uk/mundo/ultimas_noticias/2015/03/150313_ultnot_venezuela_muere_rodolfo_gonzalez_egn

⁹⁷ ABC.es, “‘La tumba,’ siete celdas de tortura en el corazón de Caracas,” February 10, 2015. Available at: <http://www.abc.es/internacional/20150210/abci-tumba-celdas-tortura-venezuela-201502091144.html>.

⁹⁸ IACHR, Resolution 6/2015, Precautionary Measure No 223-13, *Matter of Lorent Saleh y Gerardo Carrero regarding Venezuela*, March 2, 2015. Available at: <http://www.oas.org/es/cidh/decisiones/pdf/2015/MC223-13-ES.pdf>.

safety at risk. These deplorable conditions have resulted in injuries and illness, for which no adequate medical treatment is provided. In issuing the precautionary measures, the IACHR referred to multiple reports it had investigated and received in recent years regarding serious violations of the human rights of detainees in Venezuela.⁹⁹

The inhumane conditions in Venezuelan prisons are not only suffered by political prisoners are exacerbated by extreme overcrowding. During the first half of 2014, jails were reported to be at 190% capacity.¹⁰⁰ Additionally, as noted by the Committee Against Torture, detainees were deprived of medical care, potable water, food, sanitation, and ventilation.¹⁰¹ Further, 309 prisoners died in Venezuelan prisons during 2014 alone,¹⁰² but the numbers of inmates that have died in prison since 2004 is 4,791 and 9,931 have been wounded in the last decade.¹⁰³

The CAT Committee highlighted reports that political prisoners such as Leopoldo López, have been held in solitary confinement.¹⁰⁴ There have been numerous reports regarding the cruel, inhuman and degrading treatment of Mr. López, who is detained in Ramo Verde prison. For example, in October guards ordered Mr. López and other detainees to defecate into plastic bags, and subsequently threw the same bags of human excrement at them and prevented them from bathing.¹⁰⁵

Last February 13, Mr. López's cell was forcibly broken into for the apparent purpose of attacking and intimidating him. Since then, Mr. López has been held in isolation, and deprived of communication with his lawyers and family, in direct violation of his rights.¹⁰⁶ The UN Special Rapporteur on Torture recently expressed that Venezuela had violated international law "by failing to take measures to prevent mistreatment" and "torture" of demonstrators and detainees, including the imposition of solitary confinement to opposition leader Leopoldo López and the recent violent searches in the cells of other political prisoners such as Daniel Ceballos, Enzo Scarano and Salvatore Luchesse.¹⁰⁷

⁹⁹ *Id.* at para. 16.

¹⁰⁰ CAT, Concluding Observations: Bolivarian Republic of Venezuela, December 12, 2014, para. 18.

¹⁰¹ *See generally* CAT, Concluding Observations: Bolivarian Republic of Venezuela, December 12, 2014.

¹⁰² Venezuelan Prisons Observatory. See more information (in Spanish) at: <http://elimpulso.com/articulo/violencia-en-carceles-venezolanas-dejo-309-reclusos-muertos-en-2014>.

¹⁰³ CAT, Concluding Observations: Bolivarian Republic of Venezuela, December 12, 2014, para. 19.

¹⁰⁴ *Id.* at para. 18.

¹⁰⁵ Juan Carlos Vargas, *Caso Leopoldo López: Situación actual del juicio, violaciones de DDHH y pronunciamientos internacionales*, Acción por la Libertad, January 30, 2015 (in Spanish, on file with author).

¹⁰⁶ Americas Quarterly, *Meeting with Vice President Biden Triggers Alleged Retaliation from Venezuelan Government*, February 13, 2015. Available at: <http://www.americasquarterly.org/tags/lilian-tintori>

¹⁰⁷ El Heraldo, "Venezuela no previno actos de torturas", relator de ONU, March 12, 2015. Available (in Spanish) at: <http://www.elheraldo.co/internacional/venezuela-no-previno-actos-de-torturas-relator-de-onu-187298>

VI. Violations of the right to political participation

The right to participate in one's political system is fundamental right, which not only gives citizens a voice in their own government, but also protects human rights defenders, supports underrepresented and vulnerable populations, and prevents violent political transitions.¹⁰⁸ The rights to vote, participate in, and benefit from public service are protected by international instruments such as the Universal Declaration of Human Rights (UDHR)¹⁰⁹ and the International Covenant on Civil and Political Rights (ICCPR).¹¹⁰ Article 21 of the UDHR provides that "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives." ICCPR article 25 affirms that "Every citizen shall have the right and the opportunity...(a) To take part in the conduct of public affairs, directly or through freely chosen representatives; (b) To vote and to be elected at genuine periodic elections ... (c) To have access, on general terms of equality, to public service in his country." Likewise, the American Declaration on the Rights and Duties of Man¹¹¹ states in Article XX: "Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free."

Despite these legal obligations enshrined in international law and freely accepted by the state of Venezuela, the government has repeatedly stymied the right to political participation for opposition leaders, thereby repressing the rights of individuals as well as limiting free discourse and debate about matters in the public interest. Specifically, opposition leaders have both been denied the right to run for office and arbitrarily expelled from their positions.

Leopoldo López, leader of the opposition party Voluntad Popular (Popular Will), was elected mayor of the Chacao municipality of Caracas in July 2000. Mr. López was recognized for his commitment to transparency and accountability.¹¹² However, in August and September 2005 the government imposed sanctions for alleged corruption which had the effect of disqualifying Mr. López from public office for a period of three and six years, respectively.¹¹³ Mr. López was thus prevented from running for mayor in 2008. In 2011, the Inter-American

¹⁰⁸ See "Political Participation: A Fundamental Right in Need of Protection," submission by Human Rights Advocates and University of San Francisco School of Law's International Human Rights Clinic to the UN Human Rights Council, available at http://www.humanrightsadvocates.org/wp-content/uploads/2010/05/Peter_Micek_-_Right_to_Political_Participation_-1.pdf

¹⁰⁹ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

¹¹⁰ ICCPR. Ratified by Venezuela on May 10, 1978. Ratified by the United States of America on June 8, 1992.

¹¹¹ American Declaration of the Rights and Duties of Man, O.A.S. Res. XXX, adopted by the Ninth International Conference of American States (1948)

¹¹² See, e.g. "Premio Transparencia 2008 para Leopoldo López," October 6, 2008 Available at: <http://www.noticias24.com/actualidad/noticia/18446/premio-transparencia-2008-para-leopoldo-lopez/>

¹¹³ IACtHR, *Case of López Mendoza v. Venezuela*, Judgment of September 1, 2011 (Merits, Reparations, and Costs), Series C No. 233. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_233_ing.pdf.

Court of Human Rights issued a unanimous decision on this matter in favor of Mr. López.¹¹⁴ The Inter-American Court found that the alleged charges of corruption brought against Mr. López, which he maintained were baseless, were never adjudicated by a competent tribunal and that Mr. López was never charged with a crime. The Inter-American Court held that Mr. Lopez's human right to political participation had been violated. However, the Venezuelan regime refused to abide by the ruling, and Mr. Lopez was thus prevented from running in the 2012 presidential election.¹¹⁵ As described above, Leopoldo López has been arbitrarily detained since February 18, 2014 in the military prison of Ramo Verde, specifically for exercising his rights to political participation and other human rights.

Multiple elected officials who are opposition party members have been arbitrarily expelled or threatened with expulsion from their positions. For example, María Corina Machado, an opposition leader and the founder, former vice president, and former president of the Venezuelan volunteer civil organization *Súmame*, was stripped of her seat in the National Assembly after being accused of treason by President Maduro in 2014. She had previously been charged with conspiracy for funds *Súmame* received from the National Endowment for Democracy (NED).¹¹⁶

Ms. Machado ran for the National Assembly in 2010 and received the highest number of votes in the country.¹¹⁷ Ms. Machado has been one of the most vocal critics of President Maduro and the late President Chávez. She has repeatedly called for the removal of Mr. Maduro by legal means. In March 2014, after she accepted Panama's invitation to speak about repression in Venezuela at the Organization of American States General Assembly, and in response to her vocal support of the anti-government protests last year, she was expelled from the National Assembly.¹¹⁸ By arbitrarily ousting Ms. Machado, the government violated her right to political participation and inhibited free expression and dissent among the legislature. The Inter-American Commission on Human Rights expressed concern about the reported "lack of guarantees to ensure due process in the investigations and prosecutions" of Ms. Machado and other members of the opposition.¹¹⁹

¹¹⁴ *Id.*

¹¹⁵ See, e.g., Jeremy McDermott, "Chavez accused of behaving like 'dictator' ahead of elections," The Telegraph (UK), November 21, 2008. Available at: <http://www.telegraph.co.uk/news/worldnews/southamerica/venezuela/3496565/Chavez-accused-of-behaving-like-dictator-ahead-of-elections.html>

¹¹⁶ HRW, "Venezuela: Court Orders Trial of Civil Society Leaders," July 8, 2005. Available at: <http://www.hrw.org/en/news/2005/07/07/venezuela-court-orders-trial-civil-society-leaders>.

¹¹⁷ Mery Mogollon and Chris Kraul, "Venezuela elections weaken Chavez's hold," Los Angeles Times, September 28, 2010, available at <http://articles.latimes.com/2010/sep/28/world/la-fg-venezuela-election-20100928>.

¹¹⁸ "Venezuela opposition congresswoman's mandate revoked," BBC News, March 24 2014, available at <http://www.bbc.com/news/world-latin-america-26726282>.

¹¹⁹ IACHR, *IACHR Expresses Deep Concern over the Situation regarding the Rule of Law in Venezuela*, press release No. 15 of February 24, 2015. Available at: http://www.oas.org/en/iachr/media_center/PReleases/2015/015.asp.

Further evidence of the government's campaign to silence dissent and violate the right to political participation came last month, when the ruling party in the National Assembly moved to strip opposition party Congressman Julio Borges of his seat.¹²⁰ Legislators called for an investigation into Mr. Borges, accusing him of conspiring along with Mr. Ledezma to foment a coup to overthrow President Maduro. The National Assembly President, Diosdado Cabello, also accused him of planning to murder Leopoldo López to create chaos.¹²¹ Like other opposition leaders accused of plotting to overthrow the government, Mr. Borges would lose his legislative immunity if expelled from Congress, and thus could be prosecuted.¹²² The pattern of repression of the right to political participation thus has a chilling effect on all Venezuelans who hold dissenting views and wish to advocate for democratic change.

Mr. Chairman, Ranking Member Boxer and members of the Subcommittee on the Western Hemisphere, the disregard by the Venezuelan Government of the human rights of its people is absolute. The account I have just presented is only but a fraction of the grave and systematic violations that are taking place in that country but show the speedy deterioration of the security and enjoyment of the most basic rights and freedoms of the Venezuelan people. It is time for the international community to ensure through multilateral and bilateral efforts that democracy and the rule of law are respected in Venezuela. In 2001, the hemisphere adopted the Democratic Charter to address challenges such as the ones Venezuela is going through. The U.S. government should work together with the Organization of American States (OAS), the Union of South American Nations (UNASUR) and the leaders of the region to ensure that the Democratic Charter is respected.

Thank you and I look forward to your questions.

¹²⁰ Sara Schaefer Muñoz and Ezequiel Minaya, "Venezuela Cracks Down on Dissent," Wall Street Journal, February 24, 2015, *available at* <http://www.wsj.com/articles/venezuela-spat-gathers-pace-1424817126>.

¹²¹ The Star, "Venezuela's Ruling Socialists Target Another Opposition Leader", February 24, 2015. Available at: <http://www.thestar.com.my/News/World/2015/02/24/Venezuelas-ruling-Socialists-target-another-opposition-leader/>.

¹²² The New York Times, "Clashes, Tear Gas After Police Kill Boy at Venezuela Protest", February 25, 2015. Available at: <http://www.nytimes.com/aponline/2015/02/25/world/americas/ap-It-venezuela-unrest.html>.