

## Rule of law crisis, militarization of citizen security, and effects on human rights in Venezuela

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### Abstract

Venezuela has one of the highest homicide rates in the world as well as the highest rate of killings by state officials in Latin America. This article seeks to interpret the evolution of violence over the last 20 years through studying the militarization of citizen security policies and the rule of law crisis. Crime was no longer framed as a socio-economic issue, so the neutralization of enemies became a priority. This has occurred in the context of an increasingly militarized citizen security policy that actively involves the military, the militarization of the police and state promotion of civilian armed groups. The parallel rule of law crisis has removed most of the limits to the process of militarization and has contributed to the high levels of violence. This paper argues that the Venezuelan state currently can be understood as anomic, without clear and consistent rules. *Keywords:* Security, citizen security, militarization, human rights, Venezuela, rule of law.

Resumen: Crisis del Estado de Derecho, militarización de la seguridad ciudadana y efectos sobre los derechos humanos en Venezuela

Venezuela tiene una de las tasas más altas de homicidios en el mundo y la tasa de letalidad policial más alta en América Latina. Este artículo busca interpretar la evolución de la violencia en los últimos 20 años a través del estudio de la militarización de las políticas de seguridad ciudadana y la crisis del estado de derecho. La criminalidad dejó de estar enmarcada como un problema socioeconómico para priorizar la neutralización de enemigos. Esto ha ocurrido en el contexto de una política de seguridad ciudadana militarizada que involucra la participación de los militares, la militarización de la policía y la promoción estatal de grupos armados civiles. La crisis paralela del estado de derecho ha eliminado la mayoría de los límites al proceso de militarización y ha contribuido a los altos niveles de violencia. Se argumenta que el estado venezolano puede ser entendido como anómico, sin reglas claras y consistentes. *Palabras clave:* Seguridad, seguridad ciudadana, militarización, derechos humanos, Venezuela, estado de derecho.

## Introduction

Venezuela is the country with the second-highest homicide rate worldwide (UNODC 2019). Homicides rates saw a steep increase from 11 per 100,000 in 1981 (Sanjuán 1997) to 71.1 in 2016, meaning that 21,752 people were killed violently, mostly by the use of firearms (86.6 percent) (Ministerio Público 2017). Venezuela also has the highest rate in Latin America of civilians killed by officials (Monitor Fuerza Letal 2019: 25). According to the Public Prosecutor, officials were responsible for 4,467 deaths, 22 percent of the total number of homicides in 2016. Between 2015 and June 2017 there were 8,292 alleged extrajudicial executions (OHCHR 2018: 15). Between 2018 and May 2019, the government reported 6,856 killings by officials during security operations that were classified as “resistance to authority”, which may constitute extrajudicial executions (OHCHR 2019: 10-11). In the first nine months of 2019, police agents were responsible for 3,389 deaths, which represented 37.5 percent of total homicides in the country (Galaviz 2019). This paper seeks to contribute to the understanding of this evolution through focusing on the militarization of citizen security.

Human security encompasses the quality of life, dignity and the empowerment of individuals that live within states (OCHA 2009). It contains several dimensions, including citizen security, which is concerned with the protection of the right to life and personal integrity from crimes and violent acts or the threat of these (UNDP 2013). Citizen security is then conceived as a type of protection from violence while guaranteeing the wellbeing of people and their human rights (UNDP 2008). Since 1990 Latin American governments have defined citizen security as the capacity of states – in conjunction with the private sector and civil society – to provide protection to people’s lives and properties within a democratic framework that enables peaceful coexistence (IDB 2018).

The response to criminal violence from the Venezuelan state has historically consisted of militarized policies. Although the Bolivarian political project initially considered that the alleviation of poverty would reduce violence (Antillano 2012), it soon became evident that a temporary improvement of socio-economic indicators did not imply a decrease in homicides. Since 2009, Venezuelan authorities have encouraged militarized repressive security operations that are not only unable to reduce homicides, but have also generated more violence. In addition, militarization has been replicated in civil society through the creation of organizations promoted by authorities, in which civilians assume security functions. As many cases from Latin America show, the end of political conflicts and dictatorships is not necessarily accompanied by the restoration of the rule of law or a new era of security (Waldmann 2003: 9; Cano & Rojido 2017: 11). When discussing transition scenarios in Venezuela, violence – and not exclusively politically motivated violence – will be one of the main issues that authorities will need to address.

In this article, I explore the relationship between the militarization of citizen security in a context of institutional crisis and the implementation of violent and ineffective policies. I argue that the militarization of citizen security has provided the mechanisms to carry out a policy to neutralize enemies.<sup>1</sup> Militarization has been further facilitated by the rule of law crisis. Although the rule of law crisis and the militarization of citizen security do not necessarily have the same origin, the current lack of accountability procedures resulting from the deep institutional crisis means that there are no restraints on militarization. In sum, the militarization of citizen security – which actively involves the military, the militarization of the police and civilian armed groups promoted by the state – has instrumentalized repressive policies, while the rule of law crisis has removed any limits to deter this process. The theoretical framework of the “anomic state”, describing a situation with no clear, consistent rules to direct behaviour (Waldmann 2003), is used to discuss the underlying conditions that have allowed the militarization of citizen security and the neutralization of enemies in a context of politicized institutions. Furthermore, in order to analyse the conditions of the militarized approach to citizen security, it is important to engage in a historical review of the origins of the state’s excessive use of force in citizen security policies.

### **Framing the institutional crisis: emergence of the “anomic state”**

The elemental tenet of the rule of law is the imposition of limits to state power to avoid arbitrary interventions. Division of powers and the correlation between law administration and the protection of human rights are necessary conditions to control state officials’ behaviour (Waldmann 2003: 86). Rule of law demands the restraint of people under the state’s jurisdiction, but also requires officials to abide by laws that are compatible with the guarantee and protection of rights. In this sense, the key conditions of the rule of law are enforceable rules through measures that guarantee equality and equity in their application, accountability, and predictable sentences, without arbitrariness (United Nations Security Council 2004).

The current institutional crisis in Venezuela can be understood using the concept of the “anomic state”. Émile Durkheim introduced the term *anomie* to describe social environments characterized by the absence of rules or regulations. Waldmann (2003) developed the theory of the anomic state after studying Latin American dictatorships that had destroyed their legal bases in order to rule without restraints through repressive coercion. An anomic state hinders the creation of a transparent and consistent law system able to direct social behaviour effectively and guarantee a peaceful binding order. There are different levels of *anomie*: when there is no social consensus on the linguistic components of essential concepts; when formal law lacks social acceptance; and when informal norms clash with formal law risking its capacity to provide order and giving way to its total dissolution. On this last level, while the formal state and

rules do exist, its content, however, is devoid of effectiveness. These informal parallel norms form an anti-order that competes with the rule of law, thus causing the collapse of the legal system. An anomic state does not renounce its pretensions to rule, but is in no condition to execute effective, consistent and binding laws able to provide security. Anomie is generated by state intervention: states become sources of disorder and confusion. Judges and the police, taking advantage of their special privileges, are the cause of fear and insecurity as they are centres of arbitrariness and deviations from norms. The gravest infractions are the abuse of force and corruption. This author distinguishes between dualism and anomie. In dualism there are two sets of rules; nevertheless, the formal order remains. In anomie, there is also a confusing variety of rules, but additionally, this dualism nullifies the formal order.

Anomic states are those in which there is no rule of law: constitutions are permanently infringed; laws are technically deficient and arbitrarily applied by officials; judges and courts are not accessible to the people. An anomic state lacks legitimacy, as it fails in producing a social contract that binds state and social behaviour: not only do ordinary citizens transgress the laws, but also state officials when they use force abusively – especially against poorer populations – and are rarely sanctioned for it (Waldmann 2003). An anomic state becomes evident in the inefficiency of criminal law, the poor performance of police and judicial officials, and the breach of human rights. As a consequence, citizens perceive that their complaints denouncing abusive power by officials are considered insignificant (Mata 2015).

Fernández (2018a) defines the anomic state as the incomplete and irregular adaptation of the German state of rule of law based on the social market economy, individual freedoms, and human rights. Two opposing juridical state models coexist in conflict, where sub-legal rules breach the constitution, deform institutions and make them operationally inefficient. In Venezuela, Fernández (2018a) argues that this dualism is expressed in the simultaneous existence of the democratic and constitutional formal rule of law on one side, and the development of a socialist state on the other, through the implementation of informal and illegal procedures such as the criminal law of the enemy<sup>2</sup> to persecute any political dissidence, presidential decrees and continuous states of emergency that jeopardize formal law. This perspective on the state serves as the backdrop for the following discussion of the evolution of citizen security policies.

### **Understanding the militarization of citizen security**

The police and the military are different in their purposes, training, equipment, and skills (IACHR 2009). While police forces are in charge of domestic security and carry out preventive operations, the military must ensure national security. They deal with external threats for which their use of force is less restrained: “The military are trained to use force to kill, whereas the police are

only to shoot to kill as a last resort” (Osse 2007). The armed forces neutralize enemies, whereas police forces minimize damage and prioritize communication (United Nations 1990). Flores-Macías and Zarkin (2019) define militarized law enforcement as “the process through which government agencies tasked with providing public safety adopt the weapons, organizational structure, and training typical of the armed forces.” Militarized police display a centralized and hierarchical organization, as well as heavy weaponry and combat training that provides for greater disruptive capacity and destructive power conducive to the use of lethal force. In Latin America, the distinction between civil policing duties and those of the military has become blurred. Due to rising crime and the perception of greater military competence, police forces have adopted military tactics, training, and equipment, while the military has performed police functions in domestic law enforcement. There are different types of militarization: the militarized police that relies on military tactics and equipment, while maintaining a civilian jurisdiction and low-hierarchy structure; the paramilitary police that maintains a civilian jurisdiction and a police rationale but operates under military deployment tactics and units, while having a hierarchical structure; and constabularized militaries that assume citizen security tasks such as crime prevention, crime contention, and prison security while reporting to the Ministry of Defence. The constabularization of the military occurs when the armed forces adopt the responsibilities of civilian law enforcement agencies; for example, when active army officials are in charge of police departments. They operate under military law, failing to provide greater regulation and contributing to impunity (Flores-Macías, & Zarkin 2019).

Flores-Macías and Zarkin (2019) warn: “The legal disconnect brought about by constabularization has undermined the rule of law precisely by the same agency who was tasked with upholding it.” Constabularized militaries also have a strict hierarchical structure and centralized management. They use destructive weapons conducive to intensifying violence and committing human rights violations. In these cases, the distance between communities and security forces increases, making the military more prone to the use of excessive and lethal force. They distinguish the type of generalized constabularization, in which the armed forces carry out policing functions permanently and throughout the territory. Venezuela falls into the generalized constabularization type of militarization, as the military has been engaged in domestic security operations and the constitution has been modified to legalize its intervention.

From their origin, Venezuelan police forces have been influenced by the military. When the National Security Service was created in 1937, it included the National Guard and was developed under militarized management styles. Military commanders kept directing, instructing and training the police (Gabalaldón 1999: 138-139). According to Venezuelan law, the citizen security system includes one of the military components, the Bolivarian National Guard (GNB), as a branch that assists in public order functions under the authority of the Ministry for Internal Affairs (MPPRIJP),<sup>3</sup> while also supporting other

branches of the armed forces under the Ministry of Defence (MPPD). The Venezuelan legal framework also includes the maintaining of domestic order and active participation in national development as functions of the armed forces, thus raising concerns regarding militarization by granting the military domestic security responsibilities (IACHR 2009: 181-182).<sup>4</sup> The implementation of militarized security operations has been a recurrent, institutionalized practice in Venezuela. Since the late 80s, NGOs have denounced the commission of human rights violations by security forces, including torture, degrading treatment, and extrajudicial executions (Amnesty International 1993; Provea 1989).

Between 2006 and 2012, Venezuelan authorities initiated a police reform process with the National Commission for Police Reform, a diverse space that created the framework for a new police model, in which the demilitarization of citizen security forces became one of the main goals (Gabaldón 2009). The model was formalized through the Organic Law of the Police Service and the Bolivarian National Police Force and Law of the Statute of Police Function, and translated into operational measures with the creation of the Bolivarian National Police (PNB), as well as the National Experimental Security University and the General Police Council.

Despite these efforts, a militarized approach to policing prevailed. One of the main reasons was the influence and dominance of the military sector within governmental institutions. For example, the law that formalized the new police model was modified by the Review Commission of the Vice Presidency:<sup>5</sup> it eliminated the faculty of local authorities to define policies, concentrating these functions within the MPPRIJP (Gabaldón 2013: 670), whose ministers would be mostly from the military in the coming years. Of the nineteen ministers that have led the MPPRIJP since 1996, eleven were from the military (Amnesty International 2018). In 2016, 30 percent of the ministers at the executive level were from the military (Control Ciudadano 2016a: 3). The Minister for Internal Affairs as well as the Director of the National Police are military officials. Moreover, citizen security operations and procedures have increasingly been militarized. For example, the Plan Patria Segura of 2013 included the presence of 10,000 military officials in the most violent municipalities of the country (Jacome 2013). Likewise, the MPPRIJP along with the MPPD decided<sup>6</sup> that the Integral Defence Operational Zone (ZODI)<sup>7</sup> must plan the functioning and oversight of points of control for the protection of citizens, and other matters involved with citizen security measures. Citizen security forces must also request the ZODI permission to install points of control (RNV 2017). Previously, such functions had been assigned to the Viceministry of Citizen Security.

These militarized security operations have been enabled in part by the loss of civilian control of the armed forces since 1999. President Chávez promoted the idea that the military is better able to conduct state matters. Gradually, the military – renamed the Bolivarian Armed Forces – became a key actor in the advancement of the Bolivarian political project (Jacome 2013). This process

was further developed due to changes in the new Constitution in 1999: The President, instead of the National Assembly (NA), started to promote high-ranking military personnel. Furthermore, within the Constitution the co-responsibility of security and defence, which laid the foundations for a new civic-military alliance to defend the nation,<sup>8</sup> amplified the range of action of military actors not only in regards to citizen security measures but also in political, economic and social activities (Ramos 2018). The political alliance between the government and the armed forces became more evident when high-ranking personnel expressed open allegiance to the revolution (Control Ciudadano 2016a).<sup>9</sup> After president Chávez's death, the new government led by Nicolás Maduro brought greater militarization with the growing influence of the military in political and economic affairs (Ramos 2018; Jacome 2013). Following the protests of 2014 and the unfavourable results for the government's party in the elections for the National Assembly in 2015, the military budget was increased by 163 percent and the number of personnel almost doubled (Ramos 2018: 265). Furthermore, the GNB passed from having nine regional commands to twenty-four in all states of the country (Control Ciudadano 2018).

The weakening of civilian democratic control over the military is evident in the growing involvement of the military in the government, the politicization of high-ranking personnel and the militarization of society (Jacome 2013). Militarization of the government, citizen security institutions and – as will be presented later – civil society have been conditioned toward the development of an organizational culture that permits the neutralization of enemies who are considered threats to political stability.

### **Guaranteeing public order through the neutralization of enemies**

In 1999, the government considered the increasing amount of violence, at least discursively, as a phenomenon that had resulted from the failure to deal with structural social problems that neoliberal policies were unable to solve. Violence was a product of exclusion, inequality, poverty, and redistribution, and social investments were the answers to bring about change (Antillano 2012). The government planned preventive measures that articulated a socioeconomic approach with tactical policing strategies that prioritized the integration of communities (Gabaldón & Monsalve 2012). However, this new paradigm approach to citizen security was not put into practice or institutionalized by the whole system, including the MPPRIJP and the police. Internal Affairs ministers, the military and government officials in charge of security policies considered that deaths resulting from clashes between gangs and those between gangs and the police were inevitable and did not “affect” citizen security and therefore should not be included in homicides statistics: young men involved with crime were expected to die (Hernández 2008; Noticias24 2010; Da Corte 2014). This paradigm still prevails (FGMATVV 2019). At the same time, qual-

itative studies showed that police forces had been inclined to use force coercively with punitive purposes. Researchers found that for police officials the use of force was not merely instrumental but also symbolic to reinforce punishment in a context of loss of state power, given the resistance to police and impunity resulting from an inefficient justice system. As a consequence, police officials respond coercively with violence to impose their authority, as they have been unable to achieve peaceful social consensus (Antillano 2010).

Despite some promising initiatives, militarized security operations continued. Illegal searches, extrajudicial executions, and torture became the norm (Amnesty International 2018; OHCHR 2018; Human Rights Watch & Provea 2016). As years passed, it was evident that an approach aimed at improving socio-economic conditions, which lacked implementation and failed to go beyond old practices, would be ineffective in reducing violence. Instead, homicides and crime increased, particularly among the poor. In 2009, 83 percent of victims were from the lowest socioeconomic strata and 80 percent were males between 15 and 44 years old (INE 2009).

In 2013, the new government intensified a punitive approach that considered the delinquent not a victim of the system but an enemy of the people and the revolution (Antillano 2014). Since then, reactive police operations that approach citizen security as a matter of eradicating an “enemy” – mostly impoverished young men – have since been preferred over preventive mechanisms for effective compliance with the law (Amnesty International 2018: 24). Efforts for civilian police forces that complied with human rights standards were displaced. In the context of a deep socio-economic crisis, in 2015 the Operation Liberation and Protection of the People (OLP) was launched. This was a series of militarized police operations with the intention to “liberate” communities from criminal gangs and Colombian paramilitaries. Sociologists Verónica Zubillaga and Rebecca Hanson (2018: 38) argue that the OLP introduced a new stage of an “extralegal systematic killing practice” to control the most impoverished people. In this case, militarization manifested both in discourses that “systematically define[d] delinquents of popular origin as agents of evil that had to be eradicated to preserve the decent citizenship”, and in militarized police practices that legitimized the illegal use of force. According to the Public Prosecutor’s Office, 99 percent of the victims of the OLP were men between 16 and 55 years of age coming from impoverished areas (Amnesty International 2018: 40).

Zubillaga and Hanson (2018: 41) interviewed officials involved with the OLP who justified social cleansing through the extermination of criminal gangs, given the impunity that results from the inefficiency of the justice system. Officials were even asked by superiors to “hand in” a dead person per brigade. Repression and terror were the means to control crime and preserve sovereignty in the face of an economic crisis that risked state legitimacy. The OLPs expanded the war logic in which young men from impoverished areas were deprived of their rights as they were considered internal enemies that

must be neutralized. This neutralization of enemies has counted on public support of high-ranking authorities, including the Minister for Internal Affairs and the President.<sup>10</sup> More recently, the operations carried out by the Special Action Forces (FAES), the tactical group of the PNB to combat crime and terrorism, killed 205 people in 2018 during irregular operations (Provea 2019a). The victims were mostly low-income men that were killed under the allegation of reducing crime. In the first trimester of 2019, 275 killings by the FAES were reported (OHCHR 2019: 10-11).

Militarization has been accompanied by increasing insecurity. Antillano and Ávila (2017) argue that police violence stemming from militarized approaches to citizen security has caused an increase in criminal violence. Between 2014 and 2015, for instance, the increase in police violence was coupled with the increase of homicides (69 percent and 21 percent, respectively). According to one hypothesis, police violence erodes the capability of security forces to dissuade and control criminal violence, while criminal groups reorganize and increase their firepower to defend themselves more efficiently (Antillano & Ávila 2017: 92-95).

Apart from the GNB, the Bureau for Scientific, Criminal and Forensic Investigations (CICPC), the PNB, and the regional and municipal police forces, the Venezuelan security system comprises the Bolivarian National Intelligence Service (SEBIN) and the General Directorate of Military Counterintelligence (DGCIM). The SEBIN is an auxiliary body of the Executive that reports directly to the Vicepresident with the task to neutralize threats to the Venezuelan state. The DGCIM responds to the President and the Ministry of Defence and is in charge of implementing counterintelligence operations that prevent espionage and enemy intelligence activities to ensure the protection of the President and the armed forces.<sup>11</sup> Both organizations have been used to persecute and arbitrarily detain political dissidents considered as threats, encouraging the perpetration of torture, ill-treatment, and forced disappearances (Amnesty International 2017; OHCHR 2019).

Political persecution also manifests in the repression of protests. In 2014 and 2017, officials used force excessively against protesters, journalists, and passers-by, generating violations of the right to personal integrity and peaceful assembly. In 2014, 43 people were killed during protests, while in 2017, there were 124 violent deaths (Amnesty International 2015b; OHCHR 2017). In 2015, the Executive power along with the MPPD emitted resolution 008610 that allowed the deployment of all components of the armed forces to control public order and the use of firearms. Patterns to neutralize political opponents have aggravated in 2019. The FAES has been used to carry out “selective extrajudicial executions as a method of social control” against people who participated in protests in impoverished areas (Amnesty International 2019). In the context of an institutional crisis in which officials are not accountable and where high-ranking authorities motivate the eradication of enemies, the conditions are set for the systematic violation of political dissidents’ rights.

## **A porous line: citizens as agents co-responsible for security and defence**

The militarization of citizen security has also affected civil society. The concept of co-responsibility, which assigned civilians functions that should be exclusive to the state, laid the foundations for a new civic-military alliance to defend the nation. It drove the creation of a system that includes the Bolivarian National Militia (MNB), the Bolívar Chávez Units (UBCh),<sup>12</sup> and armed groups (known as *colectivos*), which have received ideologically infused training to defend the government's political project from enemies.

The MNB acquired by law the rank of a complementary body of the armed forces with the mission to militarily train, prepare and organize the people for defence, internal order, security, and national development.<sup>13</sup> The law then placed the MNB at the same level as other components of the armed forces<sup>14</sup> under the direct command of the President and authorized militiamen and women to use arms. In 2013, 5,000 FAL 7.62x51mm battle rifles were handed out to the MNB (Control Ciudadano 2016b). In 2019, the President announced the distribution of 500,000 weapons to the militia (Rodríguez 2019), and ordered the assignment of 320,000 rifles for armed street patrolling (Deutsche Welle 2019). High-ranking authorities have emphasized the role of the MNB in the defence of the government's political project against enemies (VTV 2014), as well as have publicly encouraged the militia to use arms (VTV 2018). As of December 2018, there were 1,662,338 armed militiamen and women distributed throughout the country in conjunction with the REDI and the ZODI (MPPCI 2018). In 2019, in the midst of protests, high-ranking authorities ordered the GNB to include 30,000 militiamen and women in their ranks (VTV 2019). In a context of economic and institutional crisis combined with the collapse of public services, the MNB was also included in preventive intelligence tasks, in addition to defensive and offensive activities against enemies and invading forces (Correo del Orinoco 2019).

The government has further developed mechanisms to involve civil society in public security plans, such as the Popular System for Protection for Peace (SP3)<sup>15</sup> (MPPRIJ 2015). This has facilitated the formation of organizations to repress internal enemies with the support of the state (Nederr 2019). In the case of the OLP, which was framed under the SP3, social movements such as the UBCh<sup>16</sup> were encouraged to participate in security operations (Globovisión 2015). According to the decree of the "state of exception" declared in May 2016,<sup>17</sup> social organizations were assigned surveillance functions alongside police forces to maintain public order and guarantee security. High-ranking authorities have also stated that members of the UBCh would be receiving military training including training for shooting, combat, self-defence, and public control for the defence of the country amid the 2017 protests (Aporrea 2017).

There are also armed pro-government groups that have been formed to advance the project of the Bolivarian Revolution (RTVE 2019). Some of their members are former police agents, who are in charge of security activities of

“social intelligence” to combat gangs involved with drug trafficking (Aporrea 2014). Since 2009, the IACHR (2009) has raised concerns regarding some of these groups that have police or military training, control popular areas, and carry out violent acts with the acquiescence of the authorities (par. 41). They have been accused of extorting small businesses, imparting exemplary punishment, and assaulting journalists and opposition political leaders (Control Ciudadano 2017). Armed groups have contributed to the state system of social control of local communities and in coordination with security forces have repressed the political dissidence causing severe injuries and deaths (OHCHR 2019: 7 and 9). Notably, these groups have been used to violently defuse opposition protests with the acquiescence and promotion of the state. High-ranking authorities have even called them publicly to repress some of these demonstrations.<sup>18</sup> For example, in the protests of 2014, NGOs denounced armed groups that were responsible for the killing of at least thirteen people (Foro Penal 2014).

The confluence of all these groups, however opaque, could be seen in the implementation of the Zamora Plan in the midst of the 2017 protests, a security operation involving joint activities of the armed forces, the militia and the UB-CHs in intelligence and defence activities (OHCHR 2019: 7). This was considered to be the inflection point of the increase of the military rationale exerted not only by police and military forces, but also by armed pro-government groups against protesters considered as internal enemies (Provea 2017b). NGOs confirmed the presence of these groups in at least 523 protests out of 6,729 between April and July of that year (OVCS 2017). These groups killed 27 people, as well as threatened and attacked people with firearms with the acquiescence of security forces (OHCHR 2017). In the protests in 2019, according to NGOs, civilians killed nine people and paramilitaries another six (Provea 2019b).

### **The rule of law crisis in Venezuela**

A main condition for the reduction of homicides is strengthening the rule of law, including access to legal aid, eliminating wrongful convictions, and reducing pre-trial imprisonment. Weak rule of law, which manifests in inefficient justice systems that fail to advance the protection of human rights, will produce impunity “creating an environment in which criminal activities can flourish” on one side, and facilitating the conditions for state officials to infringe their obligations for the respect of human rights on the other. Likewise, it creates the conditions for loss of government legitimacy: the lack of an independent judiciary able to rightfully administer authority will lessen the ability of the security system to guarantee order and protect citizens (UNODC 2019b: 13).

In Venezuela, the rule of law crisis is undeniable: impunity surpasses 90 percent (Amnesty International 2018), and the lack of equality and equity in the application of the law is commonplace. Fernández (2018b) estimates only 6

percent of cases in criminal courts go on trial, and of those, only 10 percent have definite sentences. For instance, victims of human rights violations have not had access to adequate reparation. People refuse to introduce complaints due to fear and lack of trust in the justice system, which fails to develop effective, independent, impartial, and transparent investigations. Among the factors of impunity, the lack of cooperation of security forces, the manipulation of crime scenes, the delays of investigations, the continuous replacement of prosecutors, and the immediate immunity of higher officials stand out. The Prosecutor's Office and the Ombudsman fail in their obligation to investigate and prosecute those responsible for human rights violations. There are no effective protection mechanisms for victims, and government officials discredit and stigmatize dissidents, violating the innocence presumption principle (OHCHR 2019: 12). Moreover, officials issued with arrest warrants remain on active duty; cases stagnate in the initial phase of investigation for years; officials of bodies responsible for forensic investigations are those who carry out the killings and refuse to hand out key documentation for the investigation process; relatives are mistreated and denied access to files (Amnesty International 2018). The attorney general reports on sporadic cases of officials under investigation, but fails to release reports that present systematized and accurate information about the prosecution of such cases, including extrajudicial executions.

These two signs are coupled with the lack of accountability measures, which respond to years of malpractice. For instance, since the early 2000s, researchers have identified severe weaknesses in the control and accountability in police forces, as they lack performance indicators to supervise, conduct, and assess arbitrary procedures; present untrustworthy records of abusive behaviour due to technical difficulties; have an undetailed recount of presumed clashes that cover up excessive use of force and prioritize officials' version of the facts, especially if the victim was poor, which altogether will cause impunity and opacity. Police agents moreover tend to justify their irregular behaviour in their moral judgment of the victim as a criminal (Antillano 2010; Gabaldón 2013; Gabaldón & Birbeck 2002). In addition, accountability is further eroded when authorities in charge of citizen security fail in their obligation to timely and accurately inform about operations – including their objectives and procedures – as well as about data of homicides and deaths committed by officials.

The lack of independent public powers is a factor of the weakening of democratic control over the military and the police, given the undermining of the legislative power that has lessened its function to supervise budgets and operations. The President has governed without the legislature since the AN provided the Executive with its own legislative power to rule by decree based on the urgency to restructure institutions. Between 1999 and 2012, president Chávez enacted 233 laws and decrees and president Maduro enacted two additional laws (Acceso a la Justicia 2019). In addition, the judicial power has enacted further actions undermining the NA since 2016: magistrates ordered the dis-

incorporation of elected deputies; has invalidated all of the NA's decisions alleging contempt; issued two sentences that granted the Executive part of its competences (Ávila & Gan 2017). Lastly, the President called a Constituent National Assembly in 2017 without consulting civil society through an irregular process that excluded opposition sectors. Ever since, it has decreed "constitutional laws" that have served to persecute political dissidents (Fernández 2018a).

Moreover, justifying the guarantee of public order and national security against threats, since 2015, the Executive has implemented indefinite States of Emergency. NGOs have denounced the irregularity of such processes, as they have exceeded the duration of 60 days allowed by the Constitution and the Law of the State of Exception; have failed in stating the restricted guarantees clearly; and have relied on the approval of the Supreme Court of Justice dismissing the say of the NA, which is the designated power to authorize such decrees (Acceso a la Justicia 2017). States of exception have granted the President discretionary powers allowing the implementation of measures that infringe on human rights, weaken the National Assembly, repress protests, and incorporate armed civilians to control public order (CDH-UCAB 2017).

The absence of a counterbalance of power has conditioned the militarization of the government by enabling the assignment of politically aligned military officials to the Ministry of Defence, the Internal Affairs Ministry, the police and intelligence agencies on one side, while facilitating the open allegiance given by high-ranking military personnel to the official political project, as well as the ideologically infused training, on the other (Jacome 2013). This, in turn, has enabled the lack of monitoring and accountability mechanisms to prosecute illegal behaviour by officials and armed pro-government civilians; enforcing actions in line with human rights law; and implementing adequate policies.

In the midst of the rule of law crisis, we see the emergence of signs of an "anomic state" in Venezuela, which has become the source of disorder and helplessness instead of creating public order and protecting rights. Abuse of power, impunity of human rights violations, arbitrary and selective law enforcement, governability crisis, inability to implement efficient public policy, and the loss of democratic institutions are key manifestations of the anomic state present in the Venezuelan case (Mata 2015). As the evidence presented shows, politicized institutions have erased limits to public officials, who have become the source of fear<sup>19</sup> with the acquiescence of high-ranking authorities; have disabled non-contradictory, socially consented, and enforceable rules; and have conditioned the continuing infringement of the Constitution.

In Venezuela, there is a clear level of anomie identified by Waldmann: while there is a formal body of law, a parallel system created by state officials and comprised of informal decrees and rules continually undermines its effectiveness and displaces it. The dualism of rules has been elemental in further consolidating parallel citizen security institutions that simultaneously strength-

en militarization and help consolidate political power. These explain the displacement of the police reform; the decision for the ZODI to acquire citizen security functions; the creation of intelligence bodies that escape formal regulation; the resolution authorizing the use of firearms and the deployment of armed forces in the control of public order; the creation and legal formalization of civil society organizations that defend objectives of the official political party at the expense of state structures and resources; the SP3, which assigns citizen security and defence functions to civilians.

## **Conclusions**

Violence in Venezuela is a multifaceted phenomenon that authorities have not only been unable to reduce but have also aggravated. The response to violence has been inefficient, excessive and illegal. Venezuelans suffer from generalized violence but also from state violence by officials and armed groups. Venezuelan security forces are by many accounts the most violent in the region. Historically, violence by officials, driven by the inefficiency of the justice system and the loss of authority in maintaining public order, has been operationalized by the militarization of its structures and practices. The rule of law crisis has aggravated the situation, as it has enabled officials to act illegally given the absence of oversight and accountability mechanisms.

In addition, organizations coming from civil society and created with state resources – the militia, social groups, and pro-government armed groups – have been assigned citizen security functions to defend the official political project. While security officials receive training to use lethal force in compliance with human rights standards, armed civilians are neither adequately prepared nor constrained by these rules. Moreover, authorities have insisted that these groups be armed in a country where almost 90 percent of homicides are produced by firearms with no efficient gun control policies. In the case of pro-government armed groups, the systematic effects on the protection of human rights have been clear. Concerning the MNB and social groups such as the UBCh, there is no clarity in regards to their operational capacity, their real numbers, and their effective involvement with security and defence operations. However, this lack of clarity is in itself an irregularity, as – beyond public announcements – there is no sufficient official information available to civil society.

The anomic state theory serves to frame the underlying conditions that have allowed the militarization of citizen security and the neutralization of enemies in a context of the rule of law crisis and politicized institutions. Institutional violence executed by security forces, both in security operations and in political persecution, find no restraint in the face of the rule of law crisis in which there are contradictions between the law, irregular decrees, and practical policy. There are contradictory understandings of what citizen security implies and how problems must be approached: while the law establishes that the state

must guarantee security and public order through civil security forces that preserve life and minimize damage; authorities have advanced decrees, procedures, and structures that respond to a conception of security as actions to defeat enemies in order to preserve their own political survival. This conception prevails from police agents on the ground to the highest authorities in charge of ordering citizen security public policies. Formal state institutions have been jeopardized by informal structures that respond to a political project at the expense of the rule of law and human rights.

In this sense, the militarization of citizen security, the long-standing institutional failures of the whole criminal justice system, the lack of effective accountability mechanisms and independent powers, and the political co-optation of state agencies and social organizations are factors that have established the elimination of enemies as a citizen security *de facto* policy. Venezuelans are threatened by state-given impunity and the lack of independent investigations: while officers enjoy privileges that make them immune to any accusation, victims remain criminalized and unprotected.

No change in citizen security will be effective if the basic conditions that have generated such a complex situation are not addressed. As long as the institutional crisis remains, any efficient and human rights-oriented approach will be unfeasible. When discussing a transition in Venezuela, criminal violence and the institutional violence that has come as a response will be one of the main structural issues to address. Debates that discuss the effects of the Venezuelan crisis in different problematic areas identify that a transversal obstacle in advancing possible solutions is the institutional crisis and the fragmentation of the state. In the case of citizen security, it is necessary to critically review the structural factors that have distorted its conception in order to analyse the possibilities and practical conditions needed to reverse the militarization, dismantle armed social organizations, strengthen the rule of law, overcome the policy to eliminate enemies, and enforce security as the protection of people and human rights through policies based on evidence.

\* \* \*

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## Notes

- 1 According to the US Department of Defence (1989), neutralize refers to render the target ineffective or unusable. In this paper, neutralization of enemies is understood as the product of a military rationale to the conduct of hostilities in which the use of force is the first choice of action (shoot to kill), instead of the minimization of damage to protect life (Amnesty International 2015a).
- 2 Conceived as the restriction or elimination of rights by the excessive and abusive use of administrative and criminal law through law enforcement and judicial institutions.
- 3 Article 65.2 of the Decree with Rank Value and Force of Organic Law of the Bolivarian National Armed Forces.
- 4 Article 328 of the Constitution, Article 3 of the Organic Law of the National Armed Forces, Article 20 of the Organic National Security Law.
- 5 The Vicepresident, Ramón Carrizales, at the time (2008), was a retired Colonel of the armed forces, who also became the Minister of Defence during the same period.
- 6 Official Gazette N° 41.304.
- 7 The ZODI military territorial groups are part of the larger Strategic Integral Defence Regions (REDI) with geostrategic features established to plan, conduct and execute integral defence operations meant to guarantee sovereignty, security, the integrity of the geographic space and national development (Control Ciudadano 2016a: 13-14).
- 8 Co-responsibility, introduced in Article 326, established that state officials and civil society are responsible for independence, democracy, equality, peace, liberty, justice, and human rights. The principle was also strengthened in legal frameworks that introduced a new concept of security and defence, which allowed the military to have a more predominant role in socio-economic activities (Articles 2, 3 and 5 of the Organic Law on the Security of the Nation).
- 9 The armed forces' slogans included the defence of socialism and the open allegiance to the President; socialism became a subject within the military curricula; and active military personnel began to subscribe to the official political party.
- 10 The Minister of Internal Affairs offered combat reports in which he presented "casualties" as "military elements" killed in clashes: [https://www.youtube.com/watch?v=\\_Vd3TEAC16I](https://www.youtube.com/watch?v=_Vd3TEAC16I), <https://www.youtube.com/watch?v=ewGuB8U4Eso>, <https://www.youtube.com/watch?v=-uuVALt6OVQ>. The President called security forces to disarticulate, neutralize and bring down the ones responsible for violence and terrorism, linked to "parasites of the right" (Provea, 2016).
- 11 According to the DGCIM website: <http://www.dgim.mil.ve/>
- 12 The UBChs are organizational units of the United Socialist Party of Venezuela (PSUV) that mobilize communities and generate information.
- 13 Organic Law of the Armed Forces, Decree N° 6.239.

- 14 Official Gazette N° 5.933.
- 15 The SP3 was created by Article 59 of the Organic Law of Security of the Nation and developed in the Presidential Decree No. 1.471 of 2015.
- 16 UBCh, the Bolívar Chávez Units, are part of the network of socio-political organizations that execute action plans, including the ideological training of the PSUV. One type of patrol is the Integral Defense Patrol that creates defense plans against public disorder.
- 17 Article, 2.9, Public Gazette 6.227, Decree N° 2.323
- 18 The President: “I call the RAAS and the Collectives, the time for active resistance has arrived:” <https://twitter.com/ovcsocial/status/1105287955063672832?s=12>; “I called the UBCh, the *colectivos* and the *comunas*: lights that go on, lights that go off”: <https://www.youtube.com/watch?v=NZzfVjoVDEc>
- 19 The mother of a man killed by a GNB agent: “The other day I was walking along and I saw several National Guard officials on the street. I had an anxiety attack. That uniform, I don’t know with what face, killed my son” (Amnesty International 2019: 31).

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