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# **Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development**

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EVIDENCE

**Thursday, June 3, 2010**

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**Chair**

**Mr. Scott Reid**



## Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development

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• (1250)

[English]

**The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)):** Thanks very much. We're in public session.

Monsieur Dorion, please continue to move your motion. Would you mind starting at the beginning again, please?

[Translation]

**Mr. Jean Dorion (Longueuil—Pierre-Boucher, BQ):** Thank you, Mr. Chair.

This motion calls on the government to support the UN Human Rights Council and the Universal Periodic Review. It reads as follows:

That the Subcommittee on International Human Rights request that the government renew its candidacy for the UN Human Rights Council and show its support for the Council; that the Subcommittee also request that the Government of Canada take advantage of the review of the work and functioning of the Human Rights Council to help strengthen the effectiveness and credibility of the Universal Periodic Review by suggesting: that more time be devoted to the review than the current three hours; that NGOs and national human rights institutions be given a broader role in interactive dialogue; and that independent experts be heard from; further, that the Subcommittee report this motion to the Standing Committee on Foreign Affairs and International Development to be reported to the House.

Mr. Chair, when the committee last met on Tuesday, Messrs. Sweet, Cotler and Marston all stressed that some of the witnesses's concerns about the Universal Periodic Review process should be included in part one of the report. The motion that I am moving today calls for exactly that. In my opinion, it is critically important that Canada participate in the Universal Periodic Review process recently initiated by the council. The process has reached the midway point in the first four-year cycle. In order for Canada to help make the process better, obviously it needs to become a member of the council.

Recently, I attended a roundtable along with many other experts at which the UPR process and the mid-cycle report were discussed. Many benefits and successes associated with the Universal Periodic Review were noted, along with some major shortcomings. The process works and is effective, but a number of changes could make it even better and more effective. To that end, Canada needs to renew its candidacy for council and participate in the discussions on the Universal Periodic Review. I understand why the government party sometimes call into question the very credibility of the council. According to statements made by some of the people who attended the last committee meeting, some council members are guilty of violating human rights. It should be noted that in the eyes of some

countries, Canada is also guilty of violating rights, specifically those of its aboriginal peoples. Besides, the empty chair policy has never been a sound policy. We must contribute to the dialogue, not exclude ourselves from the process. We need to remember that even the United States joined the council in 2009 and that Canada should have renewed its candidacy at the time, but failed to do so.

My motion outlines the main changes that have been recommended by international experts on the subject. I have prepared a brief overview, describing these experts' backgrounds and the circumstances that led me to draft this motion. To my mind, it is critically important that Canada show leadership in the efforts to strengthen the Universal Periodic Review. If the motion is adopted, Mr. Chair, we could even incorporate certain elements of the review process in part one of our report, for instance, the renewal of Canada's candidacy for the UN Human Rights Council, so that it can participate in the mid-cycle Universal Periodic Review process and make improvements to this mechanism.

That is, Mr. Chair, the aim of this motion.

**The Chair:** Are there any other comments?

Mr. Marston, please.

[English]

**Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP):** I just want to say, Mr. Chair, that in the discourse around the Human Rights Council we quite often hear concerns about those countries that are there that have a very questionable reputation around human rights. I think it's crucial, since this is one of the very few opportunities, if not the only opportunity, we have worldwide to confront racism, to confront the human rights abuses; a country with Canada's reputation must be at the table. It's not good enough for us to stand back and point fingers and talk about the bad actors over here. We have to set an example and we have to give guidance from the perspective we have.

We're not saintly in the area of human rights, but we do have a good record in this country. I really, strongly, ask the committee members to support this motion.

**The Chair:** I'll just remind members that because our report itself is being done in camera, we cannot deal with its.... It's no secret we're working on a report, but we can't refer to any of its details at this point in open session. Thank you.

Does anyone else wish to comment on this? Mr. Silva, please.

**Mr. Mario Silva (Davenport, Lib.):** I'm trying to figure out a way that I can support this. Obviously, I want Canada to renew its candidacy at the UN Human Rights Council, but I have problems as well with the council as is.

So a friendly amendment, if it's acceptable, is that after it says, "and show its support", I would say, "and show its support for reforming and strengthening the council". That way I could support it. Otherwise I could not support it as is, because I think the council as it is needs some serious reform. A lot of issues are going on there. It's gone into bloc voting from certain countries that have an axe to grind against certain western democracies.

Some human rights professors, including ones I've taken courses from, tell me it's worse than it was before, when it was the commission.

•(1255)

**The Chair:** So "reforming and strengthening the council", which amounts to an amendment. We'll see if it's considered a friendly amendment by Monsieur Dorion. If it is, we can adopt it without debate. If not, we'll have to debate the amendment.

[Translation]

In your opinion, would that be an acceptable amendment, Mr. Dorion?

**Mr. Jean Dorion:** Could we not compromise and talk instead about improving the council?

**The Chair:** Improving the council?

**Mr. Jean Dorion:** That would be in keeping with what Mr. Silva is proposing, but not quite as radical.

[English]

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** It's not strong enough.

**The Chair:** I'll ask Mr. Silva, as a starting point, would that be...?

**Mr. Mario Silva:** The word "ameliorate" is to make it better, to improve, but I'm not sure if it also means reform.

**Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.):** It doesn't mean the same thing. "Reform" does not necessarily mean "improve".

**The Chair:** Monsieur Dorion has indicated that as originally worded it's not a friendly amendment, so we're now debating the amendment.

Does anybody want to debate that or can we go to a vote on that?

Mr. Marston.

**Mr. Wayne Marston:** My question is on the intent of this motion. Is this a stand-alone motion or is this something we're trying to incorporate into our report? I took this as a stand-alone motion that would be aside from the report.

**The Chair:** It is. As introduced, it is a stand-alone motion. Nothing precludes adding something like this to the report. It would have to be done by a different mechanism.

**Mr. Wayne Marston:** I wasn't looking for it to be added, because my support of this motion is as a stand-alone, separate from...

**The Chair:** That's currently how it's being handled.

We are now on debate of the amendment.

Mr. Hiebert.

**Mr. Russ Hiebert:** I'm just wondering if somebody can provide some additional information. Do we know that Canada has not renewed its candidacy? Have they given any explanation for that if they have not?

[Translation]

**The Chair:** Mr. Dorion?

**Mr. Jean Dorion:** To my knowledge, Canada has not made any such request, unless government officials know something that we don't know.

[English]

**Mr. Russ Hiebert:** I'd prefer to verify the accuracy of this information before voting on this motion. I think we need to have complete information. They either have done it or, if they have not, perhaps there are good reasons they have not. I'm not in a position to judge or determine that at this point.

**The Chair:** All right. We have to deal with the issues of time that are upon us now.

From a procedural point of view, I'm going to check with the clerks.

The clerk tells me that if we halt the debate now, we have to recommence it where we left off, which means that essentially the amendment ceases to exist. It could be reintroduced, but we'd pick it up or bring the amendment.... In practice, we're out of time.

**Mr. Russ Hiebert:** Wouldn't there be debate on the amendment?

**The Chair:** From a procedural point of view, apparently not, but it's frankly a question that we can resolve out of session, because the rules are going to be the same whether I get them right in describing them to you now or not.

We're going to have to arrange to set aside some time for this at a future meeting. Because we have witnesses in the next little while, this is going to require some planning on my part. I'm going to ask the clerk to find additional time outside our normal meeting time where we can essentially continue this discussion. I hope that's fine with everybody.

All right. Let's suspend. We're effectively adjourning this meeting and starting a new meeting, although that's not what we're formally doing. We're suspending so that our witness can be brought in.

Thanks very much.

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\_\_\_\_\_ (Pause) \_\_\_\_\_

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•(1305)

**The Chair:** Pursuant to Standing Order 108(2), we are continuing our study of human rights in Venezuela.

Today our witness is Ligia Bolivar. She is the co-founder and a board member of the Venezuelan Program for Education—Action in Human Rights. We are very glad she could join us. She has come no small distance to be here. Let's give her our attention as we allow her to make her presentation. Thank you very much.

Please begin at your convenience.

[Translation]

**Ms. Ligia Bolivar Osuna (Co-founder and Board Member, Venezuelan Program for Education - Action in Human Rights):** Mr. Chair, ladies and gentlemen, good afternoon to all of the committee members.

[English]

Thank you very much for the opportunity to address this committee on international human rights.

In the summer of 1999, Venezuela approved a new constitution that contains one of the most comprehensive catalogues on human rights, but at the same time it has a rather weak institutional framework to ensure respect and realization of those rights. This design has been skilfully used by the government to progressively control almost all institutions. The lack of independence of the legislative, judicial, electoral, and so-called citizens' power from the executive branch does not only come from the appointment of members clearly associated with the ruling party, but also from direct interference with their functions.

Probably one of the most shocking examples was a statement made by the President of the Supreme Court in December 2009, when she expressed, "We cannot continue thinking of a revision of powers because that is a principle that weakens the state."

Although human rights might be, and are, violated everywhere, a key element to redress victims in a democratic society is the presence of checks and balances. The division of powers does not exist in Venezuela, and that puts victims in a helpless position.

On the right to freedom of expression, the Venezuelan government would feel even more comfortable if it could control all our informal powers, such as the media. That explains the government's continuous attempts to reduce the influence of independent journalism. Some of the patterns in this area are: closure of media critical of the government; confiscation of equipment; withdrawal of broadcasting permissions to radio stations; short-term detention of journalism photographers with confiscation and destruction of materials.

There has also been penal prosecution of at least one journalist, who spent eight and a half months in prison and was sentenced to three and a half years in jail for alleged corruption charges in a case condemned by the inter-American system, as well as international NGOs.

Official pressure has been put on advertising companies to withdraw publicity from media critical to the government. In this case it is worth noting that the only case we have registered with proven evidence written on paper is a Canadian company. There have been disciplinary, administrative, and criminal procedures against media, media owners, and journalists. There have been attacks with fire weapons and explosives on the headquarters of

media and the houses of journalists by civilian groups close to the government.

The right to freedom of expression also includes the right to seek information. However, journalists and media critical of the government are often not invited, or are prohibited access, to press briefings by public entities. Government spokespeople refuse to give statements to the media, and it is difficult to have access to information and statistics on public issues such as health, education, employment, and housing.

On the right to property, according to *Observatorio de la Propiedad*, there have been 762 expropriations between 2005 and 2009. This includes a wide range of areas such as farms/land, urban land, buildings/housing, universities, cultural centres, industry/factories, media, telecommunications, commerce, shopping centres, hotels, tourism, warehouses, wholesalers, and banks.

According to the law, expropriations can only be declared by courts, and compensation should be determined. However, in a large number of cases, expropriations have been declared by an administrative act, and compensation is unilaterally decided, and paid with extreme delay, if ever. Only expropriations involving multinational corporations have received compensation. There are no cases of expropriation against national owners. A recent trend shows that expropriation has been used as a sanction against alleged violations to administrative or economic regulations, in some cases based on political motivations.

On peaceful protest, the Inter-American Commission on Human Rights has noted that articles 357 and 360 of the penal code limit peaceful demonstration and constrain the right to strike in connection with labour demands.

● (1310)

Likewise, article 56 of the Organic Law on National Security provides for a prison sentence of 5 to 10 years for those deemed to promote conflict in the workplace of basic state industries.

According to information received by the commission, this article was invoked a minimum of 70 times during 2008. According to Provea and Espacio Publico, peaceful protest has almost doubled between 2006 and 2009 and so has repression. As of November 2009, Provea registered 2,240 persons who face criminal charges for participating in demonstrations. The majority are workers, trade union leaders, students, and social leaders. Emblematic cases include: 1,507 peasants under presentation to courts; steel workers from SIDOR under presentation to courts since 2006, even when the maximum length of time they have to be there is only two years; and workers of the metropolitan mayor's office.

It's also interesting to note that half of the workers and trade union leaders facing criminal charges for demonstrations are "Chavistas", that is, sympathizers or supporters of President Chávez. Six persons have been killed in demonstrations in one year. Workers' rights, social services, and rights to education are the most common demands of demonstrators.

With regard to political persecution, some 40 people remain in prison on political grounds, and many others are facing trial or have been sentenced. Although government spokespersons state there are no political prisoners, but politicians in prison, almost all cases present similar patterns: the length of trials is extremely long; most appeals and other recourses are systematically rejected; criminal charges are inflated as a way to keep the prosecuted in prison; corruption charges are often manipulated for political purposes; and evidence favouring defendants is frequently disregarded. In sum, the right to a fair trial is seriously threatened.

In addition, there is a mechanism used in recent years to limit the opportunities of opposition candidates to run for public office, which is the restriction through administrative resolutions. According to the law, such restrictions, *inhabilitaciones*, as they are called, can only be applied as an accessory penalty in criminal trials after final sentence has been decided.

Some 400 people had their political rights restricted by administrative measures prior to regional elections in November 2008. In the last two weeks, at least eight—it was seven when I sent this paper, but it was eight last night—candidates to the national assembly were subject to such restrictions for congressional elections due to take place in September 2010.

With regard to human rights defenders, they are frequently subject to harassment, disqualification, threats, and criminalization, either in public statements by governmental spokespersons or through direct action. At least five defenders or groups of defenders have been granted protection measures by the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights.

In an attempt to restrict international support to local NGOs, including human rights organizations, a draft law has been introduced in the national assembly to regulate international cooperation. The language of the draft is extremely vague, opening the door for discretionary interpretation. Although the law has not been passed yet, some of its provisions have already been applied to human rights organizations.

• (1315)

As part of investigations around the coup attempt of April 2002, a document issued by the national assembly mentioned a number of entities allegedly cooperating “with the objectives of the Empire”. These include the Inter-American Press Association, Human Rights Watch, right-wing parties in the European Parliament and the Mercosur Parliament, the U.S. Treasury Department, the Christian Democrat International and Christian Democratic Organization of America, the so-called anti-drug czar of the United States, the FBI, the CIA, Mossad and their agents in various intelligence organizations around the world, the Rendon Group, the television networks CNN, ABC News, Televisa, Univision, FOX, CBS, TV Azteca, TV Globo, the PRISA Group, and print media controlled by the elite in countries subordinate to United States interests, the Inter-American Commission on Human Rights, and the International Republican Institute.

Human rights, as described above, face serious obstacles due to the lack of independence among powers. The stability of judges has always been an issue in Venezuela, as noted in Provea's first annual report in 1989. For some years, there was a trend toward increasing

the number of career judges. This trend reverted seriously after 1999 when the constitutional assembly decided to declare a judicial emergency. Since then, the number of career judges has dropped to 10%. Lack of stability, together with discretionary hirings of lawyers to become part of the judicial system, has become a key factor in understanding the problems affecting the administration of justice.

A recent study shows that the jurisdiction in charge of ruling on cases against the administration—the *Contencioso administrativo*—avoids making decisions on the substance of the matter. Its rulings tend to be limited to formalities. It is worth mentioning that in October 2003, three of the five magistrates of the First Court of Administrative Disputes were dismissed for alleged inexcusable miscarriage of justice in a case against the central administration.

It is easy to understand why incoming magistrates avoid dealing with the substantive aspects of controversies against the administration, because these three magistrates were dismissed without any administrative or disciplinary procedure. The case was presented by the Inter-American Commission on Human Rights before the Inter-American Court, which ruled in favour of the magistrates. However, the Supreme Court decided that the Inter-American Court ruling was unenforceable. This was the first case where the Supreme Court openly disregarded an Inter-American sentence.

Mr. Chairman, I cannot end this presentation without special mention of the case of Maria Lourdes Afiuni, a tenured judge since 2006. On December 10, 2009, after several judges and prosecutors passed on hearing the following case, she conducted a hearing in the case against Eligio Cedeño, who had been in preventive detention without trial for more than two years. During the hearing, the defence reiterated the petition and Judge Afiuni decided to substitute in place of preventive detention of Cedeño a conditional release pending trial, and imposed on him other restrictions.

The judge based her decision on the Venezuelan criminal code and the recommendations made in a report issued by the UN Working Group on Arbitrary Detention with regard to Cedeño. Less than an hour after Judge Afiuni took her decision, a group of policemen from the Department of Intelligence and Prevention Services arrested Judge Afiuni in her court headquarters without a warrant, as well as two officers of justice.

On December 11, President Chávez accused Judge Afiuni of being a bandit who deserved 30 years in prison. This took place during a simultaneous national TV and radio broadcast. The general prosecutor attended the event. On the same day, the general prosecutor's office presented Judge Afiuni before a criminal tribunal on charges of corruption, abuse of authority, and for evasion and racketeering, and set the place of detention for Judge Afiuni as the National Institute of Feminine Orientation, INOF.

•(1320)

In the INOF prison there are 24 women inmates whom Judge Afiuni has sentenced to prison during her work, including the inmate next door. Since entering the INOF, Afiuni has been subjected to several death threats and attempts to kill her by highly dangerous prisoners, some of whom are condemned for multiple homicides and drug trafficking. Judge Afiuni will complete six months in that prison next June 10. International human rights bodies have made different appeals on her behalf, without success.

The administration of justice has passed from ignoring decisions of international human rights bodies to declaring them unenforceable and finally to putting in jail a judge who dared to enforce a UN decision.

*Merci beaucoup.*

**The Chair:** Thank you very much.

We have 40 minutes. The best way of dividing our time is to give 10 minutes each for rounds of questions and answers. As usual, we'll start with the Liberals, then the Bloc Québécois, the New Democrats, and the Conservatives.

Mr. Silva, please feel free to begin.

**Mr. Mario Silva:** Thank you, Mr. Chair.

I want to thank you very much for your presentation. It was extremely comprehensive.

One of the things you noted over and over again is the whole issue of the lack of the separation of powers and how that is what is needed, to have the checks and balances in government, particularly the judiciary, where you quoted from the President of the Supreme Court. And the statement that was quite disturbing was, "We cannot continue thinking of a division of powers because that is a principle that weakens the State."

I have heard as well, and maybe you can clarify for the committee, that the Supreme Court has been overhauled by Mr. Chávez and expanded to include all his supporters. So there was a change to the Supreme Court, increasing the number of people on the Supreme Court, and only putting people who are true revolutionaries, as he calls them, on the court to make sure his agenda is followed.

Could you tell us a bit of that history and what happened there?

•(1325)

**Ms. Ligia Bolivar Osuna:** Do you mean in the appointment of new—

**Mr. Mario Silva:** That's right, yes.

**Ms. Ligia Bolivar Osuna:** The new Constitution increased the number of members of the Supreme Court. Then there is a provision in the Constitution that all appointments of the magistrates of the Supreme Court, as well as the general prosecutor, the ombudsman, and other key figures for justice should be appointed after there is a process whereby a selection committee studies the curriculum of people who have been presented as candidates.

Don't take the number seriously, but I think there are something like 11 people from society. That's what the Constitution says, 11 people, representatives of society. The problem is that the National

Assembly has interpreted that they are representatives of society. So they have taken the majority of these 11 positions on this committee of scrutiny. So the participation of civil society is almost symbolic. And also many of those who are participating from civil society are very close to the president's revolutionary project.

I don't know if that answers your question.

**Mr. Mario Silva:** Partially, but my understanding was—and that's why I want you to correct me if I'm wrong—that whatever the number of members was on the Supreme Court, that number has been expanded. I remember hearing a statement from Mr. Chávez at one time that he would make sure that all the appointments, I think to use his words, would be "true revolutionaries". He makes no apologies for the fact that he wants to create a Cuban-like revolution in Venezuela and has appointed people who share that type of view. This is what I had read and also had heard, but I wanted you to clarify that for us in the committee. I also want to make sure I have the facts correct.

**Ms. Ligia Bolivar Osuna:** Your interpretation is the correct one. I wouldn't go as far as to say that it's more than similar to Cuba, although I'm sure he would like to have one. It's not completely similar because there is still some resistance from society, but that resistance is largely symbolic; in practice, it's true. The Constitution makes provision for a larger number of members of the Supreme Court, and in practice those members have been appointed in accordance with Chávez's will, which is, "I want people who are close to the process". We have seen, for example, at the opening session of the Supreme Court three years ago, which was the official opening of the judicial year, all judges present there screaming and clapping and chanting, "Oo, ah, Chávez will never go", "*O, ah, Chávez no se va.*" And those are the members of the judiciary.

**Mr. Mario Silva:** So you would state that as of now there is no separation between the government, the judiciary, and the prosecution that takes place. It's all one. Would that be your argument to this committee?

**Ms. Ligia Bolivar Osuna:** Yes, that was one of the points I wanted to raise: the lack of independence and of checks and balances.

•(1330)

**Mr. Mario Silva:** Okay. Thank you very much.

**The Chair:** Are there any further questions? There's still a fair bit of time.

Yes, Mr. Pacetti, please go ahead.

**Mr. Massimo Pacetti:** Thank you for your presentation.

I have a question for my own information. On page 3 of your presentation, you say it's interesting to note that half of the workers and trade union leaders facing criminal charges for demonstrations are Chavistas, yet they're still being put in prison. Isn't that a contradiction?

**Ms. Ligia Bolivar Osuna:** The point is that whoever is perceived by the authorities to be against the so-called process will be persecuted anyway. There is the emblematic case of Rubén González, a steelworkers trade union leader. He is in prison for a strike. The steel industry is considered a key industry for the security of the nation, and therefore strikes are not allowed. The fact is that they were claiming for a basic thing for any worker, which is to come to the end of their trade union contract. Now he is in prison; after that another group of workers went out to the streets to demonstrate against his being in prison for demonstrating, and they went to prison.

**Mr. Massimo Pacetti:** You're saying that nobody's really protected in Venezuela. Whether you're a sympathizer or not, it could turn at any point.

**Ms. Ligia Bolivar Osuna:** That's the trend now. It was not the trend in the years before, but it is becoming a trend now. Even if you have expressed sympathy with President Chávez's project, if there is any interpretation that what is done can jeopardize his project, then there can be consequences.

**Mr. Massimo Pacetti:** I have a question about the expropriations. When an expropriation is conducted, isn't a contract signed? Is nothing signed? Is it just, "Thanks, see you later"?

**Ms. Ligia Bolivar Osuna:** It's more or less, "Thanks, see you later".

As I was saying, according to the law and the Constitution, expropriations can only take place after a judicial procedure, but these are administrative acts. They're more or less, "Thanks, and we will see if we can pay you". The only cases in which compensation has been paid have been multinational cases, banks and others.

I double-checked this information because I knew I was going to say something that sounded very strong, and it's confirmed. There is not one single national business that has received compensation for expropriation.

**Mr. Massimo Pacetti:** Thank you.

Thank you, Mr. Chairman.

**The Chair:** Thank you.

[Translation]

Go ahead, Mr. Dorion.

**Mr. Jean Dorion:** Thank you, Mr. Chair.

Recently, a number of prominent figures in Venezuela's government who had been supporters of the Chávez regime resigned. Do you believe there is a connection between these resignations and the issue of human rights?

[English]

**Ms. Ligia Bolivar Osuna:** Supporting what...? I couldn't get the question.

Which kinds of officers do you have in mind?

[Translation]

**Mr. Jean Dorion:** The media reported that some persons had resigned and that a few weeks or months earlier, these same individuals had been supporters of President Chávez. Do you see a

connection between these resignations and the evolving human rights situation in Venezuela?

[English]

**Ms. Ligia Bolivar Osuna:** I think you're referring to the Governor of Lara and the former director of the national body for *catástrofes* and...?

**Mr. Jean Dorion:** *Oui.*

**Ms. Ligia Bolivar Osuna:** I would say that indirectly, yes, but not directly, because in the case of the Governor of Lara, that was one of those clear cases when Chávez said in camera one day, "We want to expropriate the warehouses of Polar." Polar is the largest producer of food in Venezuela, and it is now under severe pressure by the government. The plants and the places they wanted to take from Polar were in Lara. The governor refused to do it because he said Chávez's motive was allegedly to construct housing developments there. The governor refused to do that because he said, "This is not a place for housing, this is a place for industries, and that's part of the plan of the city. I want to talk to the people here, open a dialogue with the owners of Polar and find alternatives." I think the word "dialogue" was not something President Chávez liked very much, so that produced a confrontation.

In the end he resigned from his party and went to another party. Now he's facing a trial and persecution. He's being openly called a traitor and everything.

So he was indirectly linked to this particular case, which also has to do with property rights.

In the case of the former director of secret protection, or whatever it's called, he didn't directly mention human rights. But he called a press conference where he made very serious accusations—I cannot give you details because it is not the area of my concern—about the presence of Cubans in the armed forces. That was all.

•(1335)

[Translation]

**Mr. Jean Dorion:** We have heard testimony like yours, but we have also heard different viewpoints. As for some radio and television stations losing their licence, some claim that these stations were calling for the government to be overthrown through violent means.

Would you care to comment on these claims?

[English]

**Ms. Ligia Bolivar Osuna:** I don't need to answer that directly. I could refer you...and if the committee is interested I can pass you the information later. The formal excuse is that the time for their permission or authorization is over. You can say in practice it has to do with some political motivation, such as accusing them of being friendly to people who are conspiring against the government. That's the informal excuse. But the formal reason that has been used has always been framed as a legal decision. In the case of Radio Caracas Televisión, it was that the permit was over and they had decided, because they were sovereign, not to renew the concession.

[Translation]

**Mr. Jean Dorion:** Regardless of the reasons or motives, official or otherwise, what do you make of the oft-heard claims that radio and television stations were calling for the government to be overthrown through violent means?

[English]

**Ms. Ligia Bolivar Osuna:** If that were the case, the procedure would have been a penal trial, not an administrative decision to take off the antennas or the signal. One can say that in an environment of polarization in Venezuela, both blocks, if you want to call them that, have been extremely aggressive in the media—the government-owned media as well as the opposition. I don't remember any specific call for overthrowing the government. If that were the case, there should have been penal procedures, not administrative ones, against anyone who was responsible for it.

● (1340)

[Translation]

**Mr. Jean Dorion:** Thank you.

According to some people, the issue being debated is political and legal rights. However, insofar as socio-economic rights are concerned, some will argue that under the current regime, Venezuela's poor have seen improvements to their quality of life. Would you agree with that?

[English]

**Ms. Ligia Bolivar Osuna:** There is no doubt that the government of President Chávez has made some efforts to improve areas such as health. If you go back to the presentation, you will see that most demonstrations are linked to demands in areas such as education, health, and services. So it's obvious that people are not very happy with the results.

[Translation]

**Mr. Jean Dorion:** There has been some question of foreign intervention in Venezuela, in particular by Cuba or the United States.

Do you think that is an important factor in the battle between the two blocks you spoke of earlier?

[English]

**Ms. Ligia Bolivar Osuna:** Again, as I said, it's not the area of my concern because I don't follow the situation very closely, but there are many statements from people who have expressed concerns about the presence of Cuban people in key areas in the country: army, intelligence, all the information about identification, IDs, and these kinds of things.

Also, they're in the area of the office that registers documents for properties, *notarios y revisadores*. And there's one more area I can't remember now. There is one particular organization, Control Ciudadano, who follow the situation very closely, and in fact for making public that information, they've also been subject to harassment during the last few weeks.

I have no information about direct interference from the U.S. government. There is of course some funding provided to NGOs by the National Endowment for Democracy, which is perceived by the government as a branch of the CIA or something like that, as I also stated here in the presentation I made.

So, yes, there is some support from this foundation in the U.S., but I think the problem goes beyond that. At any point, anyone who dares to make any criticism of the government will be seen as an ally, as you say, to the empire.

There is a new NGO that is being organized now, since January, in Washington, and it's being organized by Venezuelans who have lived there for a very long time. We had a meeting with them in March and they presented projects. The director of Provea raised the question and said, "I don't think you would be of any help to us because you're based in the U.S." I said, "Listen, if Mother Teresa comes back from heaven and criticizes President Chávez, she will be seen as an ally to the empire. Whoever criticizes somehow is criminalized and disqualified anyway."

● (1345)

[Translation]

**Mr. Jean Dorion:** Thank you, Madam.

[English]

**The Chair:** Mr. Marston, you have 10 minutes for questions and answers.

**Mr. Wayne Marston:** Thank you, Mr. Chair.

I want to thank the witness for her presentation.

Your presentation is quite different from that of some of the witnesses we've heard here before, but I would like to carry on a little bit with a line that Mr. Dorion was talking about. Both the United States, via the CIA, and Cuba have a reputation for activities within that whole region. It goes back very many years.

In the area of difference in your testimony as opposed to others—and I'm not calling into question in any way the testimony you've given; it's just a comparator. In the area of the Constitution, we had witnesses at this committee talk about how the average citizen was so proud of their Constitution that many of them carried it with them, and that there was a dialogue on the streets, within the community; there was a sense of engagement in the population that in fact we would even envy in this country.

You mentioned health care. They also testified that for the poor people there was a substantial betterment in the area of education.

Again, I want to discuss a little bit what Mr. Dorion started with the TV stations. Evidence was given here that one particular TV station actually led the coup. The other evidence matched yours, though, in regard to the administration's closure of the other stations, which is precisely the evidence that you've given.

Commentary was given that one of the worst problems in the country wasn't the army and it wasn't the government, but it was the police themselves. They saw in the government that they weren't being active enough in controlling and perhaps educating the police, and that there were a lot of abuses there.

I, for one, am not overly surprised that in a country where a coup is attempted against the government, following that coup perhaps there's a hardening. Testimony does match that there's been a hardening of the resolve in the approach of the government.

You mentioned appointments, and I'm not so sure whether you were talking exclusively of the Supreme Court judges, but here in Canada we've had successive governments appoint to our Senate people who are aligned with them politically, including the current government. That's not seen as particularly bad, because if you have a philosophy of how you want to move your country forward to support it in that fashion.... But again, the separation of the court system is something that needs to be protected.

If you'd like to respond to any or all of that, feel free. Then perhaps we can go further.

**Ms. Ligia Bolivar Osuna:** I think that was one of the positive side effects of the current Constitution, which we've had since 1999. It's precisely that it opened a wide discussion within the country, and human rights was one of the key issues during that discussion. So that is a very positive action and effect of that discussion back in 1999.

In my view, the problem the government has is that they were the majority—not the government, but people sympathizing with Chávez probably were the majority in the national constitutional assembly. In my view, they signed a Constitution as if they were in the opposition, but one day they realized they were in power and they had to fulfill the Constitution, respect it, and apply it, and that is the problem they're facing now.

The issue of human rights, as I was saying at the beginning of the presentation, was a key one. I think that's why people feel proud of the Constitution, and that's why people are demanding the rights that the Constitution recognizes. That's why the level of demonstrations has increased seriously during the past few years. At the beginning it was very easy to say, "We're a new government and all the problems we have come from the *ancien régime*", if you want to put it that way, *La Cuarta República de Venezuela*, as they call it.

People trusted the government, and said, "Well, let's wait for a while. It's not your fault. We have to trust you, and you'll do your best." But after 11, or 10, or 9 years, people started to feel very uncomfortable and unhappy with the lack of results. That's why people now have the Constitution in their hands, and they still feel proud about it, but they're using it in a way the government doesn't like.

With regard to television channels leading the coup, there was a blackout, that is true; there was a blackout of information from the private media. All of them shared that responsibility. The four major television channels shared that responsibility. They don't recognize it, of course, but they're responsible for a blackout of information during those days.

I was personally a victim of that. I was trying to approach one radio station when a Chávez member of Parliament was arrested. I went to visit him, and I was not allowed to visit him in the political prison. I couldn't have my voice heard in that television station until 11 p.m., when a journalist who was a personal friend of mine said, "Okay, I will open the microphone", but it was 11 p.m.

So there was a blackout. We cannot say that the private media are innocent. What I'm saying is that they are guilty. They have to go to trial. There's no way that you can solve this problem using

administrative measures that have nothing to do with the grounds of the accusations.

With regard to the police, probably there is one point where we have some good news. The national police was created a couple of years ago. The person who has been appointed as executive secretary to design and monitor all the implementation of the process is a person who came from the human rights NGO movement. Her name is Soraya El Achkar. She's a very prominent human rights defender in Venezuela with high credibility, and I'm sure she's doing her best to make this happen with a lot of resistance from her boss, who is the Minister of the Interior.

• (1350)

Members of my team, Provea, members of all of the human rights organizations, are doing our best to make this happen. We're contributing every Wednesday to the education of these new policemen on human rights. That is the only window of direct and positive contact with the government we have, but it's a good one.

Sorry, it's the national police. That doesn't exclude the other police, so the problem remains.

**Mr. Wayne Marston:** I understand. They were put in place because of some of the problems with the other police forces.

I'm curious. We have your title and your organization. What was your background before taking on this work?

**Ms. Ligia Bolivar Osuna:** Before taking on this work I was a student. I've been working on this for 30 years. I studied sociology. I had the idea of taking post-graduate studies in criminology, but I never did it. I became interested in the prison conditions of political prisoners and that led me to human rights somehow.

**Mr. Wayne Marston:** That's great.

In the area of human rights in this country today, compared to the previous administration, and compared to Colombia and Bolivia, where would you station the country in those relationships overall?

**Ms. Ligia Bolivar Osuna:** In comparing—

**Mr. Wayne Marston:** Comparing your previous administration's record on human rights to this record on human rights, and comparing this administration to the ones in Bolivia and Colombia.

• (1355)

**Ms. Ligia Bolivar Osuna:** My policy has always been not to make comparisons between countries. I compare my country against the Constitution. If I compare my country against the Constitution of our country, I think we have always had problems of human rights.

I've been working in this area for 30 years, as a founding member of Provea—

**Mr. Wayne Marston:** That's why I asked the question.

**Ms. Ligia Bolivar Osuna:** —and I have been facing different governments since 1988. Provea was formally funded on October 1, 1988, and on October 29 we had the first massacre that I had to give attention to.

If we compare this government against the Constitution, I think things are worse than they were before—for different reasons. First, as I was saying, there was a trend to ensure that career judges were increased and that eventually all the positions would be covered by career judges. Now that trend has reverted to a point that is even worse than when we started the moratorium in 1988.

As I said, you can have human rights violations anywhere, but a key point, in my view, is that if you don't have an independent judiciary, then you don't have the means to correct human rights violations. In that respect the situation is becoming more difficult than it was before.

**Mr. Wayne Marston:** Thank you, Mr. Chair.

**The Chair:** Thank you very much, Mr. Marston.

The last two rounds went a few minutes over. I thought the answers were very good and it didn't seem appropriate to cut them off. But in order to allow a full round for our final round of questions, I'd like the permission of the committee to go a few minutes past 2 p.m.

**Some hon. members:** Agreed.

**The Chair:** Mr. Sweet.

**Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC):** Señora Bolivar, thank you very much for your testimony.

I want to confirm a couple of things from your testimony and then ask you a question. You mentioned numbers like 1,507 peasants who are detained right now, and that there are steelworkers who are under presentation to the courts.

Provea has a good reputation. You've actually gone into prisons to visit people, and from time to time your organization does survey the legal proceedings as well. You've made it clear, too, that anybody who criticizes Chávez becomes an enemy and is a friend of the empire.

Do you not fear for your own safety?

**Ms. Ligia Bolivar Osuna:** The figures I mention here come from a joint report done by Provea y Espacio Público, which is an organization that works on freedom of expression and includes demonstrations as well. They are consistent figures, because they have contact with the trade unions and the peasants' organizations, and they do follow some cases in the legal system, such as the one I mentioned, that of Rubén González among others. So I think there are enough grounds on which to think this information is reliable.

With regard to safety and security, I personally don't have any problems so far, but there are others who have had those problems. That doesn't make me any happier, but I don't want to be a target anyway.

**Mr. David Sweet:** Yes, but you are here criticizing the Chávez regime.

**Ms. Ligia Bolivar Osuna:** To tell you the truth, I thought that perhaps after coming back from this meeting I would start having problems because of this, but it's part of our job.

**Mr. David Sweet:** We had some interesting testimony in the past. We had some testimony that said the military—I'm paraphrasing, but this is how I interpreted it—were kind of the “freedom friendly” outreach for the government and were amongst the people and celebrating the Constitution with them on a regular basis. Then we also had some testimony that—

• (1400)

**Ms. Ligia Bolivar Osuna:** Sorry—they were friendly what?

**Mr. David Sweet:** The testimony inferred that the individuals, the military soldiers, were amongst the people and were kind of an outreach for the government, kind of, for lack of better words, a friendly welcoming committee.

We also heard that the military is training ordinary Venezuelans in arms and weapons because the people fear that there's going to be an insurgency, and that there is an imminent, clear, and present danger of invasion from Colombia. Is that what the average person in Venezuela thinks?

**Ms. Ligia Bolivar Osuna:** With regard to the first question, as you probably know, President Chávez has created these so-called *misiones*, or missions, in many areas—education, health, literacy, food, you name it. In those missions, the low ranks of the military play a very key role. It's a way of in fact making them closer to the population, making them closer to the social problems. That's something that's been on the table for a long time, how to close the gap between the military and society, and I think probably President Chávez thought it was a good and positive way to do it.

I have no objections whatsoever to that close link between civil society and the military, because I think that's in favour of democracy. However, there's another side to it that is risky—namely, when you start giving weapons to civilians who are not controlled, who are not part of the organization of the state. Our Constitution is very clear. We have four branches. And now we have a fifth branch that is not part of the Constitution and that is only accountable to President Chávez directly.

In the last military parade that took place, on April 19, a civilian celebration of our 200 years of independence, the main official celebration was a military parade in which 30,000 civilians were in the parade and wearing weapons. That was very shocking for the population. In fact, the former director of public security for *catástrofes*—I never know how to say it, sorry—made a statement of criticism right after that parade, because it was very shocking for many military to see their colleagues, or their former colleagues, marching and shouting slogans in favour of the revolution, in favour of socialism, and behind them also seeing these 30,000 civilians marching with weapons that belong to the state and therefore to us; they were not a particular group identified with a political project.

With regard to the issue of Colombia, it is, as you probably know, almost the last resort of many governments who are losing popularity to invent a foreign enemy. Fujimori did it. The military junta in Argentina did it. There are many examples of people trying to use fictitious foreign enemies to try to pull the country together. Fortunately for Venezuela—fortunately for our peace—Chávez has been unable to put in motion that resort. People are not willing to go to war with Colombia. We all have people and family in Colombia; my grandmother was from Colombia.

A few days after he started that last year, when he ordered the minister of defence to move I don't know how many people to the border... They never arrived, by the way, thank goodness. All the comments you heard on the radio were the same: we don't want a confrontation with Colombia, we're brothers, we're sisters, we don't need this.

• (1405)

It was very different from the reaction in Venezuela during the Malvinas/Falklands crisis, when everybody was against the United States, everybody was against the United Kingdom. It was very different from the *Caldas* crisis we had many years ago, when the vessel *Caldas* from Colombia entered into what we considered to be our national sea. That created a big confrontation and had people shouting in the streets and making very aggressive statements on radio and television. That didn't happen this time.

**Mr. Russ Hiebert:** Thank you.

Mr. Chair, how much time do I have?

**The Chair:** You have a few minutes.

**Mr. Russ Hiebert:** Okay.

Señora Bolívar, in your testimony, you talked about the lack of independence of the judiciary and commented that there's been direct interference in their functions. You even brought our attention to the fact that the president of the Supreme Court said just last December, "We cannot continue thinking of a division of powers because that is a principle that weakens the State."

This is a fundamental question of democracy we're talking about here, the division of powers, the independence of the judiciary. As a lawyer, I can appreciate that from a practice perspective, but you're not the first person to draw this to our attention. We have had previous officials comment on the lack of an independent judiciary, and this just makes it that much more prominent.

We've had a quote here from the United Nations Special Rapporteur on the Independence of Judges and Lawyers, who also raised concern about a lack of judicial independence in Venezuela. Then you raised the situation of Judge Afuni, which I noticed was an emotional experience for you.

Can you highlight for us to what extent is it valid to state that Venezuela's weak judiciary perpetuates human rights abuses?

**Ms. Ligia Bolívar Osuna:** Absolutely, I think that's a valid statement to make. The impunity takes place basically because there is a lack of independence among powers.

**Mr. Russ Hiebert:** If the courts, the judiciary, are so willing to accede to President Chávez's demands, as you pointed out in the case of Ms. Afuni and the situation where, the day after her declaration,

there was a national TV and radio broadcast and she was incarcerated, are there any checks left on President Chávez?

**Ms. Ligia Bolívar Osuna:** I think we count on the international community. Even then it's very difficult. This morning there was a hearing at the UN Human Rights Council about Afuni. I understand, but haven't seen, that there was a very strong confrontation between the Venezuelan ambassador to the UN bodies in Geneva and the special rapporteur.

**Mr. Russ Hiebert:** So you're saying there are no longer any checks and balances on the president within the country?

**Ms. Ligia Bolívar Osuna:** There are very few. You can have some members of congress saying some things. Let me put it this way, you can say it, but it doesn't have any practical consequences.

**Mr. Russ Hiebert:** That leads to another situation that we've heard about, which is that if you say things that are insulting to the president, you could be punished by between 6 and 30 months in prison without bail. Is that true?

**Ms. Ligia Bolívar Osuna:** Yes. We recently had, I think it was early this year, the case of a student demonstration in Barcelona and Puerto La Cruz on the east coast of Venezuela. It was one of these so-called authorized demonstrations, so there shouldn't have been any repression of it, but in the written statement that rests in the courts, the reason given for the repression of the demonstration is that one of the policemen says that some students were shouting offensive words against their commander president, and therefore they were forced to use chemical weapons. With that illustration, I think I can....

• (1410)

**Mr. Russ Hiebert:** One of my last questions is about the fact that you drew to our attention that career judges had dropped to about 10%. Could you just elaborate on that? What is the significance of that?

**Ms. Ligia Bolívar Osuna:** About what?

**Mr. Russ Hiebert:** Career judges have dropped to about 10%. Could you elaborate on the significance of that?

**Ms. Ligia Bolívar Osuna:** The significance is that appointments are discretionary. If someone doesn't enter the judiciary through *concurso*, credential scrutiny, or a kind of test—they used to have psychological tests, and they had to have credentials in terms of post-graduate studies and so on—and people are just being appointed in a discretionary way, then they are basically being appointed by friends.

I can give you an example. The president of the criminal courts in Caracas is very close to President Chávez. In her circuit, her son has direct influence in decisions. He is paid by the judiciary. Nobody knows what exactly he's doing there, and he's the boyfriend of another judge who happens to be the same judge who is looking at Judge Afuni's case. According to the law, you cannot give a case to a judge; it has to go through a computerized distribution process. She received that case in her hands, without this form of distribution.

She's also responsible for the case of two students who are very prominent leaders of the student movement. She's responsible for the case of Richard Blanco, who is an aide of the mayor of the metropolitan area of Caracas. In these cases, she has always put people in prison. In two cases, they have already been released, but on bail. The case continues.

She's also responsible for two cases that remain...which are the bomb attack against a major synagogue in Caracas and the attacks openly recognized by the group La Piedrita against Globovisión and other media's public offices, as well as threats against journalists. La Piedrita is almost a paramilitary group. She's responsible for the investigation. At some point, the situation with La Piedrita was so disturbing that even President Chávez said this guy has to be investigated, and the next day he was out of the country. The rest of the members of La Piedrita are being investigated.

All these cases are in her court, and she's the girlfriend of the son of the head of that circuit. A year and a half ago, she was a secretary.

**Mr. Russ Hiebert:** She doesn't have any legal training?

**Ms. Ligia Bolivar Osuna:** She's a lawyer, but that's it. She's not even 30 years old. She's a very young woman.

I'm providing examples, because I think that's the best way of illustrating what I'm saying.

The same thing happens in many other cases and places.

• (1415)

**The Chair:** Unfortunately, that uses up all the time we have.

I'm very grateful that you were able to come and give us as much of your time as you could on very short notice.

I'm grateful to members for extending the time a little bit so we could hear from you at somewhat greater length than is normally the case.

I would remind members of the committee, vis-à-vis our report on the universal periodic review, that you have a deadline. You have to submit any changes you want to make by Tuesday next week. If you want to add to the list of recommendations in the report, you must do so by Tuesday at 5 p.m. You are duly warned.

I thank everybody again, especially our witness.

The meeting is adjourned.

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