



Report for the Second Discussion
of the Proposed Amnesty and National
Reconciliation Bill

I. Background of the Proposed Amnesty and National Reconciliation Bill:

The Permanent Commission of Domestic Policy, since its installation has had as one of its fundamental objectives the approval of a legal instrument that will provide Peace for the Venezuelan society and put an end to the persecution of political leaders, students, and other citizens who have been subjected to the punitive power of the State by the fact of thinking different and carrying out demonstrations or express criticism to the Government because of their political beliefs.

This led to the presentation of the Proposed Amnesty and National Reconciliation Bill for discussion at the Plenary Meeting of the National Assembly. The Proposed Bill was approved on its First Discussion on February 16, 2016, and was referred to this Permanent Commission according to Article 104 of the Internal Regulation and Debates of the National Assembly, in order to carry out the appropriate consultations and prepare the report for the Second Discussion.

Pursuant to the provisions of Article 105 *ejusdem*, it was approved that the President of the Commission would assume the Exposition for the study of the mentioned Proposed Bill and the preparation of the Report for the Second Discussion.

The mentioned Proposed Bill was submitted to public consultation, as we shall explain below, having been incorporated the NGO's on human rights, organizations of people victims of violence in all its forms, public and private organizations, interested sectors and to the community in general.

As a result of the debate, it is pertinent in this opportunity to draw up the Report for the Second Discussion of the above mentioned Proposed Bill, pursuant to Article 208 of the Constitution of the Bolivarian Republic of Venezuela. This report includes some comments made in the First Discussion of the Proposed Bill, and the ones received during the public consultation period.

II. Process of Public Consultation

The Permanent Commission of Domestic Policy, within the framework of the public consultation of the Proposed Amnesty and National Reconciliation Bill, and complying with the provisions of Article 211 of the Constitution, and Articles 45 and 101 of the Internal

Regulation and Debates of the National Assembly, held a series of events for the purpose of spreading this Proposed Bill and exchange views with the public about its content as well as incorporate observations and propositions resulting from the discussions with the various social sectors. In this regard, the following events were held:

1. 52 forums and conversations, which were distributed as follows:

- 6 in the Andean Region
- 6 in the Llanos Region
- 19 in the Northern Central Region
- 10 in the Western North Region
- 8 in the Eastern Region
- 3 In the Southern Region

As part of these consultation mechanisms, it was distributed to the population a survey about the Proposed Bill under discussion, which resulted in an overwhelming and massive support in favor of such legal instrument.

2. Several written communications were received and many hearings were conducted with various interested sectors for the purposes of seeking the opinion of public and private organizations about this Proposed Bill. As a result, recommendations and observations were received from several organizations, among others:

- Universidad Central de Venezuela (Prof. Jesús Ollarves)
- Universidad del Zulia (Prof. Ney Molero)
- Universidad Católica Andrés Bello (Prof. Magaly Vásquez)
- Universidad Metropolitana (Prof. Andrea Santacruz)
- Colegio de Abogados de Caracas (Caracas Lawyers' Association)
- Venezuelan Criminal Forum
- Various NOG's on human rights.

3. Also, several forums and discussions were held with different sectors and groups interested in the Proposed Bill, for example:

- Universidad Central de Venezuela

- Universidad Católica Andrés Bello
 - Universidad del Zulia
 - Fundación por los Derechos y Equidad Ciudadana (FUNDECI)
 - Fundación para el Debido Proceso (FUNDEPRO)
 - Comité de Víctimas de las Guarimbas
 - Familiares de las víctimas de los sucesos de febrero de 2014
 - Familiares de los presos políticos
4. Meetings were held with lawyers, experts and universities' faculty for the purposes of discussing the technical aspects, feasibility and scope of the mentioned Proposed Bill.
 5. There were several inquiries through the web with the purpose of providing the community with knowledge about the Proposed Bill in order to receive observations or recommendations.
 6. Several conclusions, comments and proposals were gathered through public statements and from the views of the citizens and the participating organizations held in public consultation which were extended until March 28, 2016, as well as the approaches made by the deputies during the First Discussion of the mentioned Proposed Bill and by the General Prosecutor of the Republic, through public declarations, having gathered conclusions, observations or proposals which can be summarized in the following terms:
 - The widely majority feeling of the community in favor of peacekeeping measures as Amnesty, allowing the release of prisoners for political reasons and the union of families separated by the same cause.
 - The support by the population of a legal instrument that promotes National Reconciliation and Amnesty
 - The need of including in the articles of the law the best clarity and precision as possible to avoid any misinterpretations.
 - The need of adopting rules favoring amnesty in labor matters and put an end to the persecution of public officers.

- The need of simplifying the Proposed Bill in order to be handled easily by all citizens.
- The relevance of establishing regulations on the role of victims of crimes covered by the Amnesty
- The relevance of creating a Special Commission to be responsible for the study of possible indemnifications to the victims of violence in all its forms in order to consider the possible creation of a Truth Commission
- In addition, some observations were made from the technical point of view, as well as on the scope of the Law, according to which the following modifications to the text adopted in First Discussion by the National Assembly are proposed.

III. Modifications to the Proposed Bill Approved in the First Discussion.

According to the debates held both during the First Discussion and during the public consultation of the Proposed Amnesty and National Reconciliation Bill, a technical team comprised by members of the Permanent Commission of Domestic Policy and the Legal Department of the National Assembly, has studied and prioritized the observations exposed making a series of modifications to the Proposed Bill approved in the First Discussion. As a result, the legislative text which is reproduced herein, shall become part of the present Report for the Second Discussion which includes the mentioned changes, in compliance with provisions of Article 208 of the Constitution and Article 105 of the Internal Regulation and Debates of the National Assembly.

Modifications to the Preliminary Statements

Some modifications are proposed in the Preliminary Statements which gather the adjustments suggested for the text of the Proposed Bill. For educational purposes, we incorporate a comparative chart with the original text of the Preliminary Statements and the updated text to which some historical references or additional background were incorporated:

Original Preliminary Statements	Updated Preliminary Statements
Venezuelan society has experienced moments of great confrontation in recent	Venezuelan society has experienced moments of great confrontation in recent

decades, characterized by a polarizing dynamic. Even if the differences among views or even among legitimate interests, although partial, cease to exist and conscious that the distance separating them may be wide, coexisting is an imperative of the Venezuelan life on the prospects for the institutional functioning, social development and economic prosperity of everyone according to the guidelines of the Constitution as of its Preamble. In his solicitous concern for Venezuela, his Holiness Pope Francisco, who has received, heard and advised Citizen President of the Republic and other public authorities, leaders of the democratic opposition, families suffering separation from their beloved ones as a result of the radicalism in political confrontation, has said to us "you must not be afraid of peace, of coexisting, of dialoguing". Encouraged by all the Venezuelan people who so peaceful, democratic, constitutional and through their votes, decided the integration of this National Assembly, thus demonstrating its decision of how the controversies should be resolved among us, in the republican spirit of our Constitution and of the call of the Pope, we present this Proposed Amnesty and National Reconciliation Bill.

The speech of power, both in rhetoric and propaganda, and the motivation of

decades, characterized by a polarizing dynamic. Even if the differences between views or even among legitimate interests, although partial, cease to exist, and conscious that the distance separating them may be wide, coexisting in an imperative of the Venezuelan life on the prospects for the institutional functioning, social development and economic prosperity of everyone according to the guidelines of the Constitution as of its Preamble. In his solicitous concern for Venezuela, his Holiness Pope Francisco, who has received, heard and advised Citizen President of the Republic and other public authorities, leaders of the democratic opposition, families suffering separation from their beloved ones as a result of the radicalism in political confrontation, has said to us "you must not be afraid of peace, of coexisting, of dialoguing". Encouraged by all the Venezuelan people that so peaceful, democratic, constitutional and through their votes, decided the integration of this National Assembly, thus demonstrating its decision of how the controversies should be resolved among us, in the republican spirit of our Constitution and of the call of the Pope, we present this Proposed Amnesty and National Reconciliation Bill.

The speech of power, both in rhetoric and propaganda, and the motivation of

decisions of various organs of the Public Power, has influenced significantly to the exacerbation of the political poignancy creating a responsibility, but at the same time, the political and social sectors opposing such behavior are not strange to the responsibility of contributing to create a climate that promotes coexistence in the diversity that is a natural rise of pluralism which is not only one of the preeminent values of our democratic and social State of law and justice, but also one of the features of our system of Government (Articles 2 and 6 of the Constitution of the Bolivarian Republic of Venezuela). As a result of the mutual respect which must identify our social relations, a minimal consensus is imposed on what is common to us, likely to be identifiable as a shared space for the institutional channeling of the democratic process, to which concur, as it is befitted, different ideas, proposals and projects.

In keeping with the spirit that should distinguish an amnesty, this Proposed Bill is not intending to figure out who is the main political factor causing the excision of the national conscience nor assumes one or other answer to this question as a premise. Rather, it obeys to the conviction that it is necessary to rebuild the social structure and the sense of belonging to

decisions of various organs of the Public Power, has influenced significantly to the exacerbation of the political poignancy creating a responsibility but, at the same time, the political and social sectors opposing such behavior are not strange to the responsibility of contributing to create a climate that promotes coexistence in the diversity that is a natural rise of pluralism which is not only one of the preeminent values of our democratic and social State of law and justice, but also one of the features of our system of Government. (Articles 2 and 6 of the Constitution of the Bolivarian Republic of Venezuela). As a result of the mutual respect which must identify our social relations, a minimal consensus is imposed on what is common to us, likely to be identifiable as a shared space for the institutional channeling of the democratic process, to which concur, as it is befitted, different ideas, proposals and projects.

In keeping with the spirit that should distinguish an amnesty, this Proposed Bill is not intending to figure out who is the main political factor causing the excision of the national conscience nor assumes one or other answer to this question as a premise. Rather, it obeys to the conviction that it is necessary to rebuild the social structure and the sense of belonging to

<p>the same political community, which demands to be placed above the partial diatribe and lay the grounds for reconciliation. Amnesty is an absolutely lawful instrument from the constitutional point of view that allows to put an end to the persecution and criminal punishment for certain offences, with the aim of healing the political and social wounds that makes difficult the coexistence and of creating adequate conditions for the participation of all sectors in the public affairs.</p> <p>Amnesty is ultimately at the service of peace, as a fundamental constitutional value that should be preserved for future generations (Preamble of the Constitution of the Bolivarian Republic of Venezuela) and defines the type of society advocated by the Constitution (Article 3 <i>ejusdem</i>). Peace is also a human right of people that sustains solutions such as the amnesty in situations of political conflict.</p> <p>The authority of decreeing the amnesty is typical of the National Assembly, because it is a plural and representative body which must evaluate whether there are circumstances that justify adopting it, being primarily a political appreciation. To such an extent was aware the constituent of 1999 on the significance of this authority of the National Assembly</p>	<p>the same political community, which demands to be placed above the partial diatribe and lay the grounds for reconciliation. Amnesty is an absolutely lawful instrument from the constitutional point of view that allows to put an end to the persecution and criminal punishment for certain offences, with the aim of healing the political and social wounds that makes difficult the coexistence and of creating adequate conditions for the participation of all sectors in the public affairs.</p> <p>Amnesty is ultimately at the service of peace, as a fundamental constitutional value that should be preserved for future generations (Preamble of the Constitution of the Bolivarian Republic of Venezuela) and defines the type of society advocated by the Constitution (Article 3 <i>ejusdem</i>). Peace is also a human right of people that sustains solutions such as the amnesty in situations of political conflict.</p> <p>The authority of decreeing the amnesty is typical of the National Assembly, because it is a plural and representative body which must evaluate whether there are circumstances that justify adopting it, being primarily a political appreciation. To such an extent was aware the constituent of 1999 on the significance of this authority of the National Assembly that</p>
--	---

that excluded the amnesty laws from the scope of the abrogative referendum laws (Article 74 of the Constitution), since it understood that the majority view of the legislative body about the convenience or need of the amnesty should not be undermined by an incidentally popular opinion contrary to it which might be the expression of the same socio-political division that the amnesty is intending to overcome. In the present Venezuelan reality, Amnesty would surely receive a majority popular support but that is not what we now want to emphasize but the nature of the amnesty as a measure of pacification and reconciliation, which responds to the high national interests, whose weighting must be carried out by the National Assembly.

This positive assessment of the amnesty obviously presupposes respect for the limits imposed by the International Law to this form of remission of offences and their penalties. Amnesty must not lead to impunity with regard to war crimes, crimes against humanity or crimes relating to serious human rights violations committed by authorities or officers. So have been determined by the International treaties and jurisprudence which was fully echoed by the present Constitution in its Article 29. Within these boundaries, the amnesty is a legitimate

excluded the amnesty laws from the scope of the abrogative referendum laws (Article 74 of the Constitution), since it understood that the majority view of the legislative body about the convenience or need of the amnesty should not be undermined by an incidentally popular opinion contrary to it which might be the expression of the same socio-political division that the amnesty is intending to overcome. In the present Venezuelan reality, Amnesty would surely receive a majority popular support but that is not what we now want to emphasize but the nature of the amnesty as a measure of pacification and reconciliation, which responds to the high national interests, whose weighting must be carried out by the National Assembly.

This positive assessment of the amnesty obviously presupposes respect for the limits imposed by the International Law to this form of remission of offences and their penalties. Amnesty must not lead to impunity with regard to war crimes, crimes against humanity or crimes relating to serious human rights violations committed by authorities or officers. So have been determined by the International treaties and jurisprudence which was fully echoed by the present Constitution in its Article 29. Within these boundaries, the amnesty is a legitimate

and sometimes necessary mechanism for the promotion, preservation, or the recovery of peace.

Amnesty has had also a special importance in our constitutional history. It has been used at different times of our political evolution as a manifestation of a spirit of tolerance towards the adversaries, that through this legal remission can return to public life and recover the exercise of their rights. It has been present since the founding stage of the Republic. The General Congress of Venezuela used it at the time of the uprising of Valencia, just as the Spanish Government would commit itself according to the provisions established in the "Capitulación de Miranda". Bolívar decreed it at the time of the subversive movement called the "Cosiata", as the Congress of Venezuela would do later under the impulse of Soublette, in regard to the Revolution of the Reforms. The list of situations in which the amnesty in the XIX Century is very extensive, being also worthy of mention the decreed issued by the constituent Assembly of 1864, after the Federal War, which was based on "to destroy all the hatred you should give a great example of national generosity". The succession of uprisings or revolutions which were a characteristic of the XIX

and sometimes necessary mechanism for the promotion, preservation, or the recovery of peace.

Amnesty has had also a special importance in our constitutional history. It has been used at different times of our political evolution as a manifestation of a spirit of tolerance towards the adversaries, that through this legal remission can return to public life and recover the exercise of their rights. It has been present since the founding stage of the Republic. The General Congress of Venezuela used it at the time of the uprising of Valencia, just as the Spanish Government would commit itself according to the provisions established in the "Capitulación de Miranda". Bolívar decreed it at the time of the subversive movement called the "Cosiata", as the Congress of Venezuela would do later under the impulse of Soublette, in regard to the Revolution of the Reforms. The list of situations in which the amnesty in the XIX Century is very extensive, being also worthy of mention the decreed issued by the constituent Assembly of 1864, after the Federal War, which was based on "to destroy all the hatred you should give a great example of national generosity". Characteristic XIX Century uprisings or revolutions succession and the resulting reactions that caused from the

<p>Century and the resulting reactions that caused from the established power were often accompanied by clemency measures taken by the victors to facilitate the emerging official governance or restoration of institutional normality. The practical considerations were combined with respect for political reasons which encouraged the waged struggles.</p> <p>During the XX Century it was also recurred to Amnesty, although to a lesser extent given the character strongly repressive or authoritarian of the majority of Governments that dominated the public stage until the end of the decade of the Fifties and partly also due to the greater political stability ensured. After the democratic recovery and the intense unrest of the Sixties, several pacification measures were adopted which, even though had a different legal form other than the Amnesty, they responded to the spirit of tolerance which has been beneficial to our institutional future. The same thing happened when dismissing measures were issued with respect to the leaders and participants of the armed movements held on February 4 and November 27, 1992 driven first by the President Carlos Andrés Pérez who suffered the military insurrection and later followed by his successors, Presidents</p>	<p>established power were often accompanied by clemency measures taken by the victors to facilitate the emerging official governance or restoration of institutional normality. The practical considerations were combined with respect for political reasons which encouraged the waged struggles.</p> <p>During the XX Century it was also recurred to Amnesty, although to a lesser extent given the character strongly repressive or authoritarian of the majority of the Governments that dominated the public stage until the end of the decade of the Fifties and partly also due to the greater political stability ensured by Juan Vicente Gómez, at the behest of his Secretary Francisco Baptista Galindo, decreed a partial Amnesty allowing the return of numerous ‘‘Tachirenses’’ exiled in Colombia in 1925, and in 1927 a General Amnesty was achieved. Similarly, in 1936, General Eleazar López Contreras, following the death of Juan Vicente Gómez, he released political prisoners who were in jail.</p> <p>After the democratic recovery and the intense unrest of the 1960s, several pacification measures were adopted which, even though had a different legal form other than the Amnesty, they responded to the spirit of tolerance which</p>
--	--

<p>Velásquez and Caldera.</p> <p>At the dawn of the XXI century, a few months after the entry into force of the 1999 Constitution, the organizations that supported the President of the Republic promoted and approved a General Political Amnesty Bill, which was sanctioned by the National Legislative Commission and then promulgated by President Chávez (Official Gazette No. 36.934 of April 17, 2000). In such document it was granted a full and general amnesty "in favor of all those people who, having faced the general order established, had been processed, condemned or prosecuted for crimes based on political motivations, political or related crimes, up to December 31, 1992".</p> <p>By means of this Law the prosecution of the events related to episodes of the national history were left behind, having merited different interpretations but which involved, in any case, the commission of diverse crimes, including some related with the use violence by the corresponding consequences of an amnesty.</p> <p>A special valuation corresponds to the Special Amnesty Law Decree issued by President Hugo Chávez on December 2007 (Extraordinary Official Gazette of</p>	<p>has been beneficial to our institutional future. The same thing happened when dismissing measures were issued with respect to the leaders and participants of the armed movements held on February 4 and November 27, 1992 and 27 November 1992, driven first by the President Carlos Andrés Pérez who suffered the military insurrection and later followed by his successors Presidents Velásquez and Caldera.</p> <p>At the dawn of the XXI century, a few months after the entry into force of the 1999 Constitution, the organizations that supported the President of the Republic promoted and approved a General Political Amnesty Bill, which was sanctioned by the National Legislative Commission and then promulgated by President Chávez (Official Gazette No. 36.934 of April 17, 2000). In such document it was granted a full and general amnesty "in favor of all those people who, faced with the general order established, have been processed, condemned or prosecuted for crimes based on political motivations, political or related crimes, up to December 31, 1992".</p> <p>By means of this law the events related to episodes of the national history that had merited different interpretations but that</p>
--	---

the Bolivarian Republic of Venezuela N° 5870), which faithfully reflects the political and constitutional sense of the figure and highlights its relationship with the value of peace. In this Law Decree President Chávez declared the Amnesty on criminal acts occurred in the wake of the events of April 11 and 12, 2002, as well as in regard to subsequent illicit actions framed within the oil strike, and even granted a General Amnesty: "For the Commission of the Crimes of Instigation to Transgress and Military Rebellion up to December 2, 2007". Whereupon President Chávez took a pacifist and democratic conciliation gesture and demonstrated the broad scope that Amnesty could have according to political considerations which may underlie it. On that occasion, President Chávez stated that his will was "to give once more a demonstration of what we want here, is peace", adding that he was "giving a signal on behalf of those who want the road to peace". All Venezuelans want to walk the path of peace and the Amnesty Law will contribute to reaching it.

In attention to the inherent principles of an Amnesty, this Proposed Bill refers directly to the punishable acts covered by the Amnesty, without implying recognition or attribution of guilt or responsibility in regard to the possible beneficiaries of this measure. At present, there is a debate in

involved, in any case, the commission of diverse crimes, including some related with the use of violence which were remitted by the corresponding consequences of an Amnesty.

A special valuation corresponds to the Special Amnesty Law Decree issued by President Hugo Chávez on December 2007 (Extraordinary Official Gazette of the Bolivarian Republic of Venezuela N° 5870), which faithfully reflects the political and constitutional sense of the figure and highlights its relationship with the value of peace. In this Law Decree President Chávez declared the Amnesty on criminal acts occurred in the wake of the events of April 11 and 12, 2002, as well as in regard to subsequent illicit actions framed within the oil strike, and even granted even including a general Amnesty: "For the Commission of the Crimes of Instigation to Transgress and Military Rebellion up to December 2, 2007" and "For facts configuring or constituting Acts of Civil Rebellion up to December 2, 2007". Whereupon Chávez took a pacifist and democratic conciliation gesture and demonstrated the broad scope that Amnesty could have according to political considerations which may encourage it. On that occasion President Chávez stated that his will was "to give once more a demonstration of what we want here, is

<p>the country about the independence of the Administration of Justice, and many Venezuelans argue, with good reason, that allegations, trials or convictions related to the crimes subject to this amnesty respond to political persecution. Beyond this discussion, the Proposed Bill, identifies the amnestied punishable acts and makes reference to some special cases in which the objective guaranties of an impartial administration of justice have not been met. Upon identifying these assumptions, it has been taken into consideration the international human rights jurisprudence and reports issued by the Inter-Parliamentary Union on Venezuela.</p> <p>The Proposed Bill presented to the National Assembly considers an amnesty that includes the following punishable acts committed since 1 January 1999 and until the entry into force of the Act:</p> <p>a.- The criminal offences specified in Article 4 of the Proposed Bill, committed or could have been committed as part of actions responding to a political motivation in the context of demonstrations or protests; the dissemination of opinions or information; or performing or promoting actions, proclamations or public pronouncements which could threaten the established</p>	<p>peace", and added that it was "giving a signal on behalf of those who want the road to peace". All Venezuelans want to walk the path of peace and the Amnesty Law will contribute to reaching it.</p> <p>As noted, in 2000 the National Legislative Commission had since revealed another aspect of Amnesty, in which emerging political forces put an end to the criminal prosecution of certain offences related to insurrectionary actions that the most representative of the emerging political order had carried out when they tried to take power in 1992, regardless of the institutional channels.</p> <p>In attention to the inherent principles to an Amnesty, this Proposed Bill refers directly to the punishable acts covered by the Amnesty, without implying recognition or attribution of guilt or responsibility in regard to the possible beneficiaries of this measure. In the country there is currently a debate about the independence of the Administration of Justice, and many Venezuelans argue, with good reason, that allegations, trials or convictions related to the object of this amnesty crimes respond to political persecution. Beyond this discussion, the Proposed Bill, identifies the amnestied punishable acts and makes reference to some special cases in which the objective guaranties of</p>
--	--

<p>general order. Article 7 of the Proposed Bill requires, but not limited to, situations covered by the amnesty granted by Article 4 and Article 5 of the Proposed Bill establishes the applicable exceptions.</p> <p>b.- The offences of defamation, slander and vilification or offences against public officers that may have been committed in the conditions laid down in Article 8 of the Proposed Bill.</p> <p>c.- The criminal acts referred to in Article 4 of the Proposed Bill or additional ones which had been committed in the context of situations referred to in Articles 10 and 11 of the Proposed Bill, which refer to the events of April 11, 2002 and subsequent days; and the national and oil strikes occurred between December 2002 and the first months of 2003;</p> <p>d.- Articles 12 to 15 of the Proposed Bill grant Amnesty in connection with other facts related to protests, expressions or statements for political purposes.</p> <p>e.- Delitos previstos en el Código Penal, el Decreto con Rango, Valor y Fuerza de Ley de Reforma de la Ley Contra la Corrupción, o en otras leyes penales, con las excepciones específicas allí contempladas, cuando la investigación o enjuiciamiento penal hayan quebrantado la confiabilidad en la administración imparcial de la justicia, según disponen</p>	<p>an impartial administration of justice have not been met. Upon identifying these assumptions, it has been taken into consideration the international human rights jurisprudence and reports issued by the Inter-Parliamentary Union on Venezuela.</p> <p>The Proposed Bill presented to the National Assembly considers an amnesty that includes the following events:</p> <p>a.- The criminal offences specified in Articles 5 and 6 of the Proposed Bill, committed or could have been committed as part of actions responding to a political motivation in the context of demonstrations or protests; the dissemination of opinions or information; or performing or promoting actions, proclamations or public pronouncements which could threaten the established general order.</p> <p>b.- The offences of defamation, slander and vilification or offences against public officers or other offences that may have been committed in the conditions laid down in Article 9 of the Proposed Bill. It should be noted that some of the punishable acts amnestied in these provisions are crimes of private action, which, however, do not preclude the application of the Amnesty, since in the circumstances indicated there the conflict</p>
---	--

<p>los artículos 16 y siguientes del Proyecto de Ley. Offences established in the Criminal Code, the Decree with Rank and Force of Law of the Reform of the Law Against Corruption or in other criminal laws, with specific exceptions referred therein when the investigation or prosecution has violated the reliability in the impartial justice administration, as contemplate Articles 16 and subsequent of the Proposed Bill.</p> <p>f.- Other crimes included in Article 22 and following of the Proposed Bill, which are related to protests or demonstrations or are included in the Amnesty because the prosecution has implied violation of judicial guarantees or other human rights;</p> <p>g.- The crime of escaping and breaching a sentence, in relation to persons prosecuted or convicted for the commission of any of the punishable acts covered by the Amnesty.</p> <p>On the other hand, the misuse in several cases of disciplinary powers against judges, prosecutors of the Public Prosecutor's Office or other public officers, in the disciplinary area, has motivated the grounds of Amnesty provided for in Article 32 of the Proposed Bill. Also, given the political use which has been made of the authority of the General Comptroller of the Republic of</p>	<p>raised transcends the purely private interests and is projected to the public sphere by the condition of the complainant, the relationship of the information disseminated with the criticism of the conduct of public officers and the public of reported relevance.</p> <p>c.- The criminal acts committed in the context of the mentioned situations in Article 10 of the Proposed Bill which refer to the events of April 11, 2002 and subsequent days and the national and oils strikes occurred between December 2002 and the first months of 2003 if the corresponding offences or faults were not covered by the Decree with Rank and Force of Law of the Special Amnesty Law published in the Extraordinary Official Gazette of the Bolivarian Republic of Venezuela N° 5.870 dated December 31, 2007.</p> <p>d.- Articles 11 and 12 of the Proposed Bill grant Amnesty in connection with other facts related to protests, expressions or statements for political purposes.</p> <p>e.- Other crimes provided for in Articles 13 and following of the Bill, which are included in the Amnesty because the prosecution has infringed the guarantees of a fair administration of Justice. The objective guarantees of the impartial administration of justice are referred</p>
--	---

<p>imposing disqualifications, it is included in the Amnesty the administrative offences specified in Article 34 of the Proposed Bill.</p> <p>Articles 35 and following of the Proposed Bill relate to the scope and effects of the Amnesty, as well as the procedure for their application. The Proposed Bill requires that the enjoyment of the Amnesty is not conditioned to persons allegedly responsible for the corresponding offences are, or have been present in court in the corresponding processes. It also sets the consequences of the Amnesty and the way that the authorities or officers should proceed in order to ensure its compliance. The regulation on this matter, included in the Proposed Bill, conforms to the nature of the Amnesty, since it produces the extinction of criminal action and makes to cease the execution of the sentence and all the penal consequences thereof (Article 104 of the Criminal Code), which means, with respect to the defendants, the cessation of any measure of personal coercion (Article 29 of the Procedure Criminal Code).</p> <p>Finally, Articles 41 and following provide complementary measures to the Amnesty which may contribute to national reconciliation, which presuppose the</p>	<p>according to the international jurisprudence on human rights, to the absence of factors or circumstances that, beyond the intention of judicial officers who have taken the relevant decisions, undermine the reliability of individuals in the system of justice.</p> <p>f.- The crime of escaping and breaching a sentence, in relation to persons prosecuted or convicted for the commission of any of the punishable acts covered by the Amnesty.</p> <p>Each provision specifies the period covered by the Amnesty, which relates to the development of social or political situations and practices or institutional responses related to the motivation of this Proposed Bill. Thus, 2007 marked the awakening of the student movement, which led, then, in the organization of demonstrations with the corresponding official reaction; in addition, on such year an Amnesty Law Decree was issued which included some punishable acts covered by this Proposed Bill until December 2, 2007. Hence, the period covered by the Amnesty referred to in articles 5 and 6 of the Proposed Bill begins on December 3, 2007. At the beginning of year 2003 disciplinary measures and other improperly actions started to be imposed against judges and</p>
--	---

<p>participation of all sectors of the country in the construction of peace, with special mention to the organizations of victims of violence in all its forms and those dedicated to the promotion and defense of human rights.</p> <p>According to the provisions of Article 103 of the Internal Regulation and Debates of the National Assembly, it is clarified that the Proposed Bill does not have direct financial and economic implications.</p> <p>Having complied with the provisions of the Internal Regulation and Debates of the National Assembly and in use of the legislative initiative granted by Article 204, Paragraph 3, of the Constitution, the members adhering to this Proposed Bill hereby present it to the National Assembly for its discussion and approval.</p>	<p>year 2004 opened judicial actions aimed at punishing the dissemination of critical information on matters of public interest. Similar considerations underlie the time periods set out in other provisions.</p> <p>Given the political use granted to the authority of the General Comptroller of the Republic to impose deprivations, the administrative offences are being included in the Amnesty as indicated in Article 19 of the Proposed Bill.</p> <p>Amnesty on administrative offences is not strange to the experience of other countries nor is unprecedented in ours, as partly evidenced by the General Amnesty Policy Law of 2000. It is also clear from the Decree with Force of Law of Civil Aviation, published in the Official Gazette of the Bolivarian Republic of Venezuela No. 37.293 of September 9, 2001, which Fifth Transitional Provision decreed an "administrative amnesty". This amnesty, as well as the tax-character (Article 83 of the Organic Tax Code), has a nature and purpose only partially coincident with the proposed Amnesty in this Proposed Bill but keeps affinity with this.</p> <p>Articles 20 and following of the Proposed Bill relate to the scope and effects of the Amnesty, as well as the procedure for their application. The Proposed Bill requires that the enjoyment of the</p>
---	---

	<p>Amnesty is not conditioned to persons allegedly responsible for the respective offences are, or have been before the court in the corresponding processes. It sets as well the consequences of the Amnesty and the way that the authorities or officers should proceed to give compliance to. The regulation on this matter included in the Proposed Bill conforms to the nature of the Amnesty, since it produces the extinction of criminal action and imposes the cessation of the sentence and all the criminal consequences thereof (Article 104 of the Criminal Code), which means, with respect to the defendants, the cessation of any measure of personal coercion (Article 29 of the Code of Criminal Procedure).</p> <p>Finally, Articles 27 and following of the Proposed Bill provide for complementary to the amnesty measures that can contribute to national reconciliation, which presuppose the participation of all sectors of the country in the construction of peace, with special mention to the organizations of victims of violence in all its forms and those dedicated to the promotion and defense of human rights.</p> <p>According to the provisions of Article 103 of the Internal Regulation and Debates of the National Assembly, it is clarified that</p>
--	--

	<p>the Proposed Bill does not have direct financial and economic implications.</p> <p>Having complied with the provisions of the Internal Regulation and Debates of the National Assembly and in use of the legislative initiative granted by Article 204, Paragraph 3, of the Constitution, the members adhering to this Proposed Bill hereby present it to the National Assembly for its discussion and approval.</p>
--	---

IV.- Text of the Proposed Amnesty and National Reconciliation Bill for the Second Discussion.

FIRST: The name of the approved law during the First Discussion is kept, proposing its approval by the Plenary of the National Assembly under the following terms:

Amnesty and National Reconciliation Law

SECOND: The heading of Chapter I approved during the First Discussion is kept and it is being presented for its approval by the Plenary of the National Assembly in the following terms:

Chapter I

General Provisions

THIRD: It is proposed to approve, with a change in form, Article 1 of the Proposed Bill without amendments, whose wording will be the following:

Article 1.- This law aims to lay the grounds for national reconciliation and social peace through the amnesty of the acts considered crimes, misconduct or offences that are designated in this Law and other measures here referred to.

FOURTH: It is proposed the modification of Article 2 which shall be drafted in the following terms:

Article 2.- This law decrees the amnesty for acts performed in the exercise of citizen liberties and political purposes, that have resulted or may result in investigations, indictments, accusations or convictions by criminal prosecution bodies. It also declares Amnesty with respect to facts related to criminal investigations, accusations, or convictions, or administrative sanctions, which have occurred in circumstances that undermine the confidence in the impartial administration of justice or allow to conclude that those are due to political persecution.

FIFTH: It is proposed the modification of Article 3 which shall be drafted in the following terms:

Article 3.- In accordance with Article 29 of the Constitution of the Bolivarian Republic of Venezuela, the following actions are excepted from the amnesty granted by this law: crimes of war, genocide and crimes against humanity, as defined in the Rome Statute of the International Criminal Court, published in Extraordinary Official Gazette of the Bolivarian Republic of Venezuela No. 5.507, dated December 13, 2000. Crimes relating to serious human rights violations are also exempted from amnesty.

In regard to the convictions already handed down concerning cases in which high authorities of the State, including those performing political tasks have held that crimes or offences of this nature have been perpetrated, such exceptions shall only proceed when it is expressly recorded, not only by the prosecutor's accusation as well as in the dispositive of the convicted sentence, that in fact those sentenced were convicted of such crimes or offences.

SIXTH: It is proposed the incorporation of a new article, which shall be included in the text of the norm as "Article 4", on the following terms:

Article 4.- According to Article 29 of the Constitution of the Bolivarian Republic of Venezuela and the international human rights instruments that must guide their interpretation, it is understood to be serious violations to human rights: torture or other cruel, inhuman or degrading treatment or punishment, extrajudicial, summary or arbitrary executions; slavery and enforced disappearance; rape; committed by authorities or public officers or by private individuals who have participated in any way along with these

authorities or officers, in their perpetration, or they have acted with the acquiescence of those.

SEVENTH: It is proposed the modification of the heading of Chapter II, which shall read as follows:

Chapter II

Acts associated to carrying out demonstrations or expressing statements or with the disclosure of ideas and information entailed to political purposes.

EIGHTH: It is proposed the incorporation of a new article, as Article 5, which shall be drafted in the following terms:

Article 5.- Amnesty is granted for offences or misdemeanors referred to in the following article, committed or deemed to have been committed between December 3, 2007 and December 31, 2015, in the circumstances indicated below:

- a. The organization, call or support for the realization of demonstrations or protests that respond to a political;
- b. Participation in these demonstrations or protests;
- c. The expression of ideas or opinions or the dissemination of information of a political nature, of criticism of the national Government or other public authorities, as well as other information relating to facts or situations of public interest;
- d. Invitation to carry out public actions of protest or claim against the institutional order or the Government;
- e. The preparation and dissemination of proclamations, political transition or pronouncements agreements or acts considered that have been directed to change the established institutional order or the Government;
- f. The organization or participation in meetings considered to have been addressed to plan any or various of the events indicated in the previous literals;

NINTH: It is proposed the modification of Article 4 approved during the First Discussion, which shall become Article 6 of the mentioned legislative text and which shall be drafted in the following terms:

Article 6.- In the indicated circumstances and within the period mentioned in the preceding article, amnesty is granted to all those investigated, charged, accused or convicted as authors or participants in actions for political purposes that correspond to the punishable acts of public incitement; instigation to commit a crime; violence or resistance to authority; disobedience to authority and obstruction of the public roads; property damage, fire, manufacturing, carrying, possession, supply or concealment of explosive or incendiary devices; contempt to public official; association to commit a crime; unlawful assembly; conspiracy; treason against the State; civil or military rebellion; incitement to civil or military rebellion; insubordination; attack and contempt to the sentinel; or other punishable acts related with the purposes and circumstances referred to in the preceding article.

TENTH: It is proposed the modification of Article 5 of the legal text approved during the First Discussion which shall become Article 7 and which shall be drafted as follows:

Article 7.- Amnesty referred to in Articles 5 and 6 of this Law does not extend to those who are responsible for the commission of the crimes of homicide in any of its forms, or the crime of serious or very serious injury. It does include either crimes that have been perpetrated by members of security forces of the State in order to control or suppress protests or expressions referred to in Article 5.

Amnesty mentioned in Articles 5 and 6 of this Law, cover the cases in which the Public Prosecutor's Office, upon investigating the relevant facts, prior to the entry into force of this Law, would have exercised the criminal action expressly excluding crimes of homicide or serious or very serious injuries.

ELEVENTH: It is proposed the amendment of Article 6 of the legal text approved in the First Discussion in order to correct the remission of the text to articles of this legislative

instrument which numbering was modified in this proposal, being that such norm shall become Article 8 drafted in the following terms:

Article 8.- For the purposes of Articles 2, 5, 6, and others of this Law, it is understood that it is being pursued a political purpose or a political cause when the protests, demonstrations, meetings in public or private places; the ideas or information disclosed; or agreements or pronouncements have been addressed to complain against any measure or normative adopted by the national Government or other authorities, against the omissions that have incurred in the performance of its duties, against the general policy developed by the National Executive Power, or other organs of public power, or if they have expressed a global rejection to the Government or have demanded a political change.

TWELFTH: It is proposed the elimination of Article 7 of the Proposed Law approved during the First Discussion.

THIRTEENTH: It is proposed the modification of Article 8 of the legal text approved during the First Discussion which shall be merged with Article 9 of such Proposed text and shall be drafted, under number 9, as follows:

Article 9.- Amnesty is granted for the acts regarded as crimes of defamation or slander, in any of its forms, crimes of offenses to the President of the Republic or other public officers, offences of generation of anxiety through the disclosing of information considered to be false, as well as the crime of insult to the National Armed Forces, which have been committed or might have been committed from January 1, 2004 and until the entry into force of this Law, by any citizen, whether political leaders, journalists, directors and editors of social media or members of their Boards of Directors, publishing or writing, when the expressions are considered defamatory, slanderous, offensive or disturbing expressed in the context of criticism to authorities or officials of any Power of the State, or dissemination or reproduction of information relating to punishable conduct so-called or allegedly perpetrated by them or other matters of public interest. The amnesty granted by this article, or others of this Law concerning the dissemination of information or opinions, also

includes the facts related to the broadcasting of images, messages or expressions through the use of social networks or any other means of dissemination.

.Amnesty is also granted for the punishable acts deemed to have been committed in such period, related to investigations, allegations, indictments or convictions which have led, under disproportionate judicial measures to use them against managers, journalists or dependents of a means of social communication, to the closure of a social media outlet whose editorial line has been critic of governmental management or the actions of State bodies

FOURTEENTH: It is proposed the merger and at the same time the amendment of articles 10 and 11 of the approved normative text during the First Discussion, which shall become Article 10, being drafted in the following terms:

Article 10.- Amnesty is granted in favor of persons investigated, charged, accused or convicted for the commission of crimes or faults directly related to political events and alteration of peace or the established general order alteration occurred between April 11 and 14, 2002, if the respective crimes or misconducts were not covered by the Decree with Rank, Value and Force of the Special Amnesty Law published in the Extraordinary Official Gazette of the Bolivarian Republic of Venezuela No. 5.870 on December 31, 2007.

Amnesty is also granted in favor of persons investigated, charged, accused or convicted of committing crimes or faults directly related to call a general strike or national strike, the cessation of work or other similar actions on the occasion of the national and oil strike declared and carried out since the last months of 2002 and until the first months of 2003, if the respective punishable acts were not covered by the Decree with Rank, Value and Force of the Special Amnesty Law published in the Extraordinary Official Gazette of the Bolivarian Republic of Venezuela No. 5.870 on December 31, 2007.

FIFTEENTH: It is proposed the merger and at the same time the modification of Articles 10 and 11 of the legal text approved in the First Discussion, which shall become Article 10, being drafted in the following terms:

It is proposed the elimination of Article 12 of the legal text approved during First Discussion.

SIXTEENTH: It is proposed the elimination of Article 13 of the legal text approved during the First Discussion.

SEVENTEENTH: It is proposed the modification of Article 14 of the legal text approved during the First Discussion concerning the remission policy to articles of this legislative instrument, which numbering was changed in this proposal, and that in this normative shall become Article 11 drafted in the following terms.

Article 11.- Amnesty is granted to the events considered as contempt to the constitutional protection, provided for in Article 31 of the Organic Law of Protection on Rights and Constitutional Guarantees when the relevant facts of 2014, are related to the purpose or circumstances referred to in Article 5 of this law.

EIGHTEENTH: It is proposed the modification of Article 15 of the legal text approved during the First Discussion, adjusting the wording of the First Paragraph and eliminating the Second, thus this article shall become Number 12 drafted in the following terms:

Article 12.- Amnesty is granted over the punishable acts which are considered to have been committed during year 2014, related to alleged planning of acts aimed at the avoidance or escape of persons deprived of their freedom by attributing them the commission of the punishable acts referred to in Articles 5 and 6 of this law, provided that, according to the allocation, indictment or conviction, such acts have not attempted against the life or physical integrity of any person.

NINETEENTH: It is proposed the merger of Chapters III and IV of the approved legal text during the First Discussion, changing Chapter III to the following denomination:

Chapter III

Other punishable acts covered by the Amnesty

TWENTIETH: It is proposed the modification of Article 16, which shall become Article 13, drafted in the following terms.

Article 13.- Amnesty is granted on the punishable acts whose commission is attributed to judicial officers and is deemed they have been committed between January 1, 2003 and December 31, 2015, when the criminal prosecution against the judicial officer had occurred as a result of any judicial decision that he would have rendered complying with his authorities after a statement, exhortation or request made publicly by some high authority of bodies of constitutional rank with political functions, in which imprisonment or conviction of the officer is required. It is excepted from this amnesty punishable acts included in any accusation or conviction referred to the effective economic benefit by the judicial officer, as retribution for the adoption of the corresponding decision concerning any prosecution or conviction.

TWENTY-FIRST: It is proposed the modification of Article 17, which shall become Article 14 being drafted in the following terms:

Article 14.- Amnesty is granted on the alleged punishable acts which had been reported since the so-called responsible for crime or failure had been elected as Deputy to the National Assembly on September 26, 2010, provided that the respective investigation had started at the request of the President or another Member of the Directive of the National Assembly or any of its Committees, the most pro-Government of this deliberative body or any other organs of the justice system, if this led to the raid of the immunity and the forced separation from the National Assembly and the political disqualification of the Deputy or that he/she renounces the parliamentary investiture to prevent such raids of immunity and thus the legal effects thereof, without a conviction at first instance had been issued before December 31, 2015. Without prejudice to the provisions of Article 3 of this Law, it is excepted from the amnesty granted by this article, the crimes against persons, provided for in the Articles 405 and following of the Criminal Code, and those related with the reception, seizure or theft of assets or public money on behalf of themselves.

TWENTY-SECOND: It is proposed the elimination of Article 18 of the legal text approved during the First Discussion.

TWENTY-THIRD: It is proposed the elimination of Article 19 of the legal text approved during the First Discussion.

TWENTY-FOURTH: It is proposed the elimination of Article 20 of the legal text approved during the First Discussion.

TWENTY-FIFTH: It is proposed the modification of Article 21 of the legal text approved during the First Discussion, which shall become Article 18 and shall be drafted as follows:

Article 18.- For the purposes of verifying the existence of the circumstances constituting acts covered by this Amnesty Law, the competent judge shall take into account as an adjunct, not necessary nor autonomous, that the accused, prosecuted or convicted has been excluded from the list or database of people required by the International Criminal Police Organization (INTERPOL in Spanish), when considering that the criminal prosecution relates to political offences.

In addition, it shall have into special account that the Commission or the Inter-American Court of Human Rights, the Committee on Human Rights provided for in the International Covenant on Civil and Political Rights or committees, commissions, rapporteurs or working groups of the System of the United Nations have declared the violation of any right of the accused, prosecuted or convicted during the development of the corresponding criminal proceedings or that the suspect has been forced to leave the territory of the Bolivarian Republic of Venezuela and has obtained asylum or refugee status. It should be taken into account if any officer of the system of administration of Justice has recognized in fact, the fraudulent manipulation of the record, investigation or criminal proceeding.

TWENTY-SIXTH: It is proposed the modification of Article 22 of the legal text approved during the First Discussion which shall become Article 15 and shall be drafted according to the following terms:

Article 15.- Amnesty is granted to the punishable acts which are considered to be committed between January 1, 2002 and December 31, 2015, when during the criminal prosecution against political leaders of the opposition, public officers or other persons allegedly responsible, the following assumptions had been concurrently verified:

a. When the investigation or criminal proceedings had started, reopened or re-invigorated after any declaration, exhortation or request, publicly made by some high authority of bodies of constitutional political functions, in which it was required, asked or requested imprisonment or condemnation of a determined political leader of the opposition or other people who have held critical positions in the national government even from those already investigated or charged;

b. When alleged illicit enrichments which have given rise to the accusation or indictment for purposes of criminal prosecution, have had only the support of the patrimony verification procedure carried out by the Office of the General Comptroller.

TWENTY-SEVENTH: It is proposed the elimination of Article 23 approved during the First Discussion.

TWENTY-EIGHTH: It is proposed the elimination of Article 24 of the legal text approved during the First discussion.

TWENTY-NINTH: It is proposed the elimination of Article 25 of the legal text approved during the First Discussion.

THIRTIETH: It is proposed the elimination of Article 26 of the legal text approved during the First Discussion.

THIRTY-FIRST: It is proposed the elimination of Article 27 of the legal text approved during the First Discussion.

THIRTY-SECOND: It is proposed the elimination of Article 28 of the legal text approved during the First Discussion, which shall become Article 16 and shall be drafted in the following terms:

Article 16.- Amnesty Is granted to the acts considered punishable, or other violations, committed or allegedly committed by lawyers, human rights defenders or activists between January 1, 2000 and the entry into force of this Law based on the occasion and in the exercise of the defense, representation, assistance, or technical support that have been provided to the beneficiaries of this Amnesty Law during the corresponding processes or procedures.

THIRTY-THIRD: It is proposed the modification of Article 29 of the legal text approved during the First Discussion which shall become Article 17 and it shall be drafted in the following terms:

Article 17.- Amnesty is granted for the crimes of escape and failure to comply with a sentence, included in Articles 258 and 259 of the Criminal Code in regard to the persons prosecuted or convicted for the commission of any of the punishable acts covered by this law.

THIRTY-FOURTH: It is proposed the elimination of Article 30 of the legal text approved during the First Discussion.

THIRTY-FIFTH: It is proposed the elimination of Article 31 of the legal text approved during the First Discussion.

THIRTY-SIXTH: It is proposed the elimination of Article 32 of the legal text approved during the First Discussion.

THIRTY-SEVENTH: As a result of the merge of Chapters III and IV of the legal text approved during the First Discussion, it is proposed the modification of the numbering of Chapter V approved during the First Discussion which is drafted as follows:

Chapter IV

Administrative Violations covered by the Amnesty

THIRTY EIGHTH: It is proposed the elimination of Article 33 of the legal text approved during the First Discussion.

THIRTY-NINTH: It is proposed the elimination of Article 34 of the legal text approved during the First Discussion.

FORTIETH: It is proposed the modification of Article 35 of the legal text approved during the First Discussion, which shall become Article 19 of this legislative proposal being drafted as follows:

Article 19.- The Amnesty decreed by means of this Law shall also cover the following administrative violations:

- a. Acts, facts or omissions related to the financial management of the Public Sector, that occurred between the years 1999 to 2015, in which there has not been reception, seizure or theft of assets or public money of public funds in private benefit and that, in their constituent elements, are coincident or may match alleged generators of administrative liability provided for in Article 91 of the Organic Law of the General Comptroller of the Republic and the National System of Tax Control, as well as in the legal provisions containing the same assumptions in the repealed Organic Law of the General Comptroller of the Republic in 1995.
- b. Omissions, inaccuracies, or failures related to the obligation to submit, within a certain period of time, the affidavit of patrimony provided for in the Organic Law of the General Comptroller of the Republic and of the National System of Tax Control, in the Decree with Rank, Value and Force of Reform of the Law Against Corruption or in the previous legal instrument to this Law Decree, occurred between years 1999 to 2015, provided that, in the case of failure to comply with the obligation to present the affidavit of patrimony within the legal term to do so, this instrument was presented after the legal expiration date.
- c. It is understood that in the case of acts, facts or omissions referred to in the above literals, financial penalties or disqualification for the exercise of public duties had been imposed based in the Organic Law of the General Comptroller of the Republic and the National System of Tax Control or in the Decree with Rank, Value and Force of Law of the Reform of the Law Against Corruption, or in the legal instrument previous to this Law Decree, it would be void from the time this Law becomes into effect.

FORTY-FIRST: In view of the amendment of the numbering of the chapters of the Proposed Bill approved during the First Discussion, it is proposed the modification of the previous Chapter VI which shall become Chapter V, keeping its name, in the following terms:

Chapter V

Scope, effects and process of the Amnesty

FORTY-SECOND: It is proposed the modification and merge of Articles 36 and 37 approved in the First Discussion which shall become Article 20 and would drafted in the following terms:

Article 20.- The effects of the amnesty granted by this law extends to all perpetrators, instigators, immediate collaborators and accomplices in the corresponding punishable acts, have been or not charged, indicted or convicted.

Amnesty granted under this Law is not conditioned upon people considered authors, instigators, immediate cooperators and accomplices of the respective punishable acts are or have been before the court on the corresponding criminal proceedings.

FORTY-THIRD: It is proposed to approve, with a modification as to form Article 38 of the legal instrument approved in the First Discussion, which shall become Article 21 reading as follows:

Article 21.- As a result of the amnesty decreed in this Law, criminal actions raised by the commission of crimes or misconduct included therein, as well as the penalties that have been imposed and which execution is in progress, are hereby fully extinguished. Therefore, investigations initiated by the Public Prosecutor or the Military Criminal Prosecutor, and the processes that are currently in the criminal courts, whether ordinary or special, including military jurisdiction, which correspond exclusively to the offences referred to in this law, cease. Also, main and accessory penalties which have been imposed to perpetrators and participants are condoned.

FORTY-FOURTH: It is proposed the modification of the legal instrument of Article 39 approved in the First Discussion which shall become Article 22 and shall be drafted in the following terms:

Article 22.- In criminal processes that are in the preparatory phase, concerning the punishable acts covered by the amnesty, the Public Prosecutor shall request the dismissal of the cause for extinction of criminal action, within the following ten consecutive days after the entry into force of this Law. The competent court shall issue its ruling in a term not to exceed ten continuous days from the date of the be dealt in one period not exceeding ten consecutive days from the prosecutor's request.

In those criminal proceedings that are in intermediate phase trial, or on appeal, the Court before which the case was introduced ex officio, shall in not later than ten continuous days from the entry into force of this Law, decree the dismissal of all causes in the process that

are related to the facts on which this Law grants amnesty, with all the consequences relating to the extinction of the measures of personal coercion that had been rendered in the corresponding processes, including the release of those who are detained. If the Chamber of Criminal Cassation of the Supreme Court of Justice is aware of an appeal in cassation in cases relating to punishable acts covered by the amnesty, the processing of the appeal shall be suspended and the case will be forwarded immediately to the Court of Appeals, which has spoken out about the appeal filed in the respective case, in order that within ten continuous days of receipt of the record, it rules on the existence of amnesty cases. If the amnesty granted by this law does not cover all punishable acts subject to the investigation, imputation or allegation, the process will go ahead, but only with respect to the facts not covered by the amnesty, with the consequent revision of the measures of personal coercion that had been adopted.

If there is a final ruling concerning the crimes covered by the amnesty, the respective ruling judge shall declare the extinction of the penalty by order, in a period not to exceed ten continuous days from the entry into force of this Law, and shall order the immediate full freedom of the respective convicted or the cessation of the alternative formula for compliance with a penalty other than deprivation of freedom, if it is the case. At the same time, the Court shall issue a substitution sentence if the amnesty granted in accordance with this Law does not cover all of the facts giving rise to the conviction.

In any of the referred cases, the person who considers himself to be benefited by this law, in its condition of investigated, charged, accused or convicted, may request directly before the competent judicial authority the dismissal of the cause for extinction of the criminal action, or, if applicable, the extinction of the penalty. If the person investigated, charged or accused is not right, or if the convicted person has stolen from the fulfilment of the penalty, the application may be submitted also by his legal representative, spouse or person with whom he/she keeps a stable *de facto* relationship, or relatives within the fourth degree of consanguinity or second of affinity. The processing of the request of the person concerned does not exclude the responsibility incurred by the judge for not having acted *ex officio* within the earlier deadline. The dismissal of the case or the extinction of the conviction may also be required by the Public Prosecutor's Office.

Decisions adopted by competent judges on the verification of the assumptions of the amnesty will be appealable or subject to appeal in Cassation, as appropriate, at the request of the Public Prosecutor's Office, who are considered the amnesty beneficiaries, if the judicial decision was denied, or those who have the status of victims in the respective process. The interposition of the corresponding appeal does not suspend the effects of judgments in which it has been found that the accused or convicted is covered by the amnesty.

FORTY-FIFTH: It is proposed the incorporation of a new article which shall become Article 23, under the following terms:

Article 23.- Persons investigated, charged, accused or subject to a non-final sentence by the alleged commission of punishable acts covered by this Law may apply to the Public Prosecutor, in the preparatory phase, not to ask for the dismissal, or to the competent judge to verify the compliance of the assumptions of the amnesty, not to declare the dismissal, so that the process take its course and to obtain a final decision about culpability or innocence.

FORTY-SIXTH: It is proposed the modification of Article 40 which shall become Article 24 and shall be drafted in the following terms:

Article 24.- The administrative agencies, the judicial, military or police bodies in which records or criminal records are filed on persons covered by this Law, shall delete from their files such records and history associated with them, in terms of the punishable acts covered by this Law, once the corresponding judge has decided to verify the assumptions of amnesty. If the authorities or relevant officers have not done so in a timely manner, the interested person in such deletion may require it directly, based on Article 28 of the Constitution, and then, before the competent court in matters of *habeas data*, without prejudice to the responsibilities of those incurred by the delay or denial.

FORTY-SEVENTH: It is proposed the incorporation of a new Article which shall become Article 25, under the following terms:

Article 25.- The amnesty decreed in this Law is not an obstacle for the filing of complaints, claims, or appeals to establish criminal, civil or administrative responsibility to those who had engaged in violations of human rights by exercising the criminal prosecution or to impose penalties or sentences against persons benefitted from the amnesty. Likewise, it will not prevent individual victims of punishable acts covered by this Law to exercise actions or civil remedies to require compensation or indemnification to persons investigated, charged, accused or convicted in the corresponding criminal proceeding.

FORTY-EIGHT: It is proposed the modification of Article 41 of the proposed bill approved in the First Discussion, which shall become Article 26 and shall be drafted in the following terms:

Article 26.- The officers of the Judicial Power or of the Public Prosecutor's Office who incur in unjustified delay or omission of timely and motivated statements or in any other failure to comply with the rules laid down in the preceding articles, shall be punished with imprisonment from 2 to 5 years.

The same penalty shall be applied to police officers, members of the security forces of the State, members of the National Armed Forces and the prison service officers that refrain from immediately complying with the release orders issued by the competent authorities according to the provisions of this Law.

FORTY-NINTH: As a result of the amendment of the numbering of the chapters of the Proposed Bill approved in the First Discussion, it is proposed the modification of Chapter VII, which shall become Chapter VI, keeping its name, in the following terms:

Chapter VI

Other measures aimed at achieving national reconciliation

FIFTIETH: It is proposed the elimination of Article 42 of the approved legal text in the First Discussion.

FIFTY-FIRST: It is proposed the modification of Article 43 approved in the First Discussion which shall become Article 27 and shall be drafted in the following terms:

Article 27.- With the aim of achieving a full reconciliation, based on the respect and guarantee of human rights, the courts and other bodies of the public power shall give strict compliance to the decisions, measures or other decisions issued by the international organisms responsible for the protection of human rights, relating to actions or omissions of the Venezuelan State, which have resulted in the violation of such rights, in accordance with the provisions of the respective treaties, agreements or conventions ratified by the Venezuelan State and to other international obligations of the Republic.

FIFTY-SECOND: It is proposed the modification of Article 44 approved in First Discussion which shall become Article 28 and shall be drafted in the following terms:

Article 28.- The National Assembly shall create a Special Commission for the Reconciliation, having a politically plural composition, which shall follow up the implementation of this Law and which identifies, in consultation with all political and social sectors of the country, the main obstacles to achieve the most wider national reconciliation, deliberate on the measures required to overcome them and formulate, in view of the conclusions reached, appropriate proposals or recommendations, which will be submitted for consideration by the Plenary of the National Assembly in the respective report, in the terms established in the Internal Regulation and Debates. This Commission will hear, especially, the views of non-governmental organizations for the defense of human rights, of the organizations of victims of violence in all its forms, of the popular organizations, Universities and Churches and even promote, in each one of these social scopes, a discussion on the designated topic, whose results shall be incorporated for public consultation.

The Special Commission for Reconciliation may recommend the creation, by means of a law, of a Truth Commission dedicated to collect and compile information, documentation, statements and other evidence relating to any political or social sector-sponsored political violence and human rights violations in the country since 1999 because of political persecution as well as to take measures claiming moral or dignity, rescue the historical memory and other guarantees of non-repetition. It will also review the creation of a special

fund for indemnifications related to such events. The Truth Commission could also investigate situations related to the removal, dismissal or lay-off of civil officers or workers for political reasons as well as formulate recommendations for the restitution of the violated rights.

FIFTY-THIRD: In view of the amendment of the numbering of the chapters of the Proposed Bill approved in First Discussion, it is proposed the modification of Chapter VIII, now Chapter VII, keeping its name, in the following terms:

Chapter VII

Final Provision

FIFTY-FOUR: It is proposed the approval without modifications of Article 45 of the Proposed Bill, approved in the First Discussion which shall become Article 29, in the following terms:

Article 29.- This law shall become into effect as from the date of its publication in the Official Gazette of the Bolivarian Republic of Venezuela.

IV. Structure of the New Proposed Bill

In view of the previous modifications, it is proposed a legal text structured as follows:

Chapter I. General Provisions

This chapter would comprise the Articles running from 1 to 4.

Chapter II. Facts associated to carrying out demonstrations or expressing statements or to disclosure of ideas and information entailed to political purposes.

This chapter would comprise the Articles running from 5 to 12.

Chapter III. Other punishable acts covered by the Amnesty

This Chapter would comprise Articles running from 13 to 19.

Chapter VI. Administrative Violations covered by the Amnesty

This Chapter would comprise for one and only Article, 19.

Chapter V. Scope, effects and process of the Amnesty

This Chapter would comprise Articles running from 20 to 26.

Chapter VI. Other measures aimed at achieving national reconciliation

Este Capítulo estaría conformado por los artículos 27 y 28.

Chapter VII. Final Provision

Este Capítulo estaría conformado por un único artículo, el 29.

V. Definite Proposed Text:

PRELIMINARY STATEMENTS

Venezuelan society has experienced moments of great confrontation in recent decades, characterized by a polarizing dynamics. Even if the differences between views or even among legitimate interests, cease to exist, and conscious that the distance separating them may be wide, coexisting in an imperative of the Venezuelan life on the prospects for the institutional functioning, social development and economic prosperity of everyone according to the guidelines of the Constitution as of its Preamble. In his solicitous concern for Venezuela, his Holiness Pope Francisco, who has received, heard and advised Citizen President of the Republic and other public authorities, leaders of the democratic opposition, families suffering separation from their beloved ones as a result of the radicalism in political confrontation, has said to us that "you must not be afraid of peace, of coexisting, of dialoguing". Encouraged by all the Venezuelan people that so peaceful, democratic, constitutional and through their votes, decided the integration of this National Assembly, thus demonstrating its decision of how the controversies should be resolved among us, in the republican spirit of our Constitution and of the call of the Pope, we present this Proposed Amnesty and National Reconciliation Bill.

The speech of power, both in rhetoric and propaganda, and the motivation of decisions of various organs of the Public Power, has influenced significantly to the exacerbation of the political poignancy creating a responsibility but, at the same time, the political and social sectors opposing such behavior are not strange to the responsibility of contributing to create a climate that promotes coexistence in the diversity that is a natural rise of pluralism

which is not only one of the preeminent values of our democratic and social State of law and justice, but also one of the features of our system of Government. (Articles 2 and 6 of the Constitution of the Bolivarian Republic of Venezuela). As a result of the mutual respect which must identify our social relations, a minimal consensus is imposed on what is common to us, likely to be identifiable as a shared space for the institutional channeling of the democratic process, to which concur, as it is befitted, different ideas, proposals and projects.

In keeping with the spirit that should distinguish an amnesty, this Proposed Bill is not intending to figure out who is the main political factor causing the excision of the national conscience nor assumes one or other answer to this question as a premise. Rather, it obeys to the conviction that it is necessary to rebuild the social structure and the sense of belonging to the same political community, which demands to be placed above the partial rant and lay the groundwork for reconciliation. The Amnesty is an absolutely lawful instrument from the constitutional point of view that allows to put an end to the persecution and criminal punishment for certain offences, with the aim of healing the political and social wounds that makes difficult the coexistence and of creating adequate conditions for the participation of all sectors in the public affairs.

Amnesty is ultimately at the service of peace, as a fundamental constitutional value that should be preserved for future generations (Preamble of the Constitution of the Bolivarian Republic of Venezuela) and defines the type of society advocated by the Constitution (Article 3 *eiusdem*). Peace is also a human right of people that sustains solutions such as the amnesty in situations of political conflict.

The authority of decreeing the amnesty is typical of the National Assembly, because it is a plural and representative body which must evaluate whether there are circumstances that justify adopting it, being primarily a political appreciation. To such an extent was aware the constituent of 1999 on the significance of this authority of the National Assembly that excluded the amnesty laws of the scope of the abrogative referendum laws (Article 74 of the Constitution), since it understood that the majority view of the legislative body about the desirability or necessity of the amnesty should not be undermined by an incidentally popular opinion contrary to it which might be the expression of the same socio-political division that the amnesty is intended to overcome. In the present Venezuelan reality, Amnesty would surely receive a majority popular support but that is not what we now want

to emphasize but the nature of the amnesty as a measure of pacification and reconciliation, which responds to the high national interests, whose weighting must be carried out by the National Assembly.

This positive assessment of the amnesty obviously presupposes respect for the limits imposed by the International Law to this form of remission of offences and their penalties. Amnesty must not lead to impunity with regard to war crimes, crimes against humanity or crimes relating to serious human rights violations committed by authorities or officers. So have been determined by the International treaties and jurisprudence which was fully echoed by the present Constitution in its Article 29. Within these boundaries, the amnesty is a legitimate and sometimes necessary mechanism for the promotion, preservation, or the recovery of peace.

Amnesty has had also a special importance in our constitutional history. It has been used at different times of our political evolution as a manifestation of a spirit of tolerance towards the adversaries, that through this legal remission can return to public life and recover the exercise of their rights. It has been present since the founding stage of the Republic. The General Congress of Venezuela used it at the time of the uprising of Valencia, just as the Spanish Government would commit itself according to the provisions established in the "Capitulación de Miranda". Bolívar decreed it at the time of the subversive movement called the "Cosiata", as the Congress of Venezuela would do later under the impulse of Soublette, in regard to the Revolution of the Reforms. The list of situations in which the amnesty in the XIX Century is very extensive, is also worthy of mention of the decreed by the constituent Assembly of 1864, after the Federal War, which was based in that "to destroy all the hatred you should give a great example of national generosity". Characteristic XIX Century hoists or revolutions succession and the reaction that caused from the established power were often accompanied by clemency measures taken by the victors to facilitate the emerging official management or restoration of institutional normality. The practical considerations are combined with respect for political reasons which encouraged waged struggles.

During the XX Century it was also recurred to Amnesty, although to a lesser extent given the character strongly repressive or authoritarian of the majority of the Governments that dominated the public stage until the end of the decade of the Fifties and partly also due to the greater political stability ensured by Juan Vicente Gómez, at the behest of his

Secretary Francisco Baptista Galindo, decreed a partial Amnesty allowing the return of numerous ‘‘Tachirenses’’ exiled in Colombia in 1925, and in 1927 a General Amnesty was achieved. Similarly, in 1936, General Eleazar López Contreras, following the death of Juan Vicente Gómez, he released political prisoners who were in jail.

After the democratic recovery and the intense unrest of the 1960s, several pacification measures were adopted which, even though had a different legal form other than the Amnesty, they responded to the spirit of tolerance which has been beneficial to our institutional future. The same thing happened when dismissing measures were issued with respect to the leaders and participants of the armed movements held on February 4 and November 27, 1992 and 27 November 1992, driven first by the President Carlos Andrés Pérez who suffered the military insurrection and later followed by his successors Presidents Velásquez and Caldera.

At the dawn of the XXI century, a few months after the entry into force of the 1999 Constitution, the organizations that supported the President of the Republic promoted and approved a General Political Amnesty Bill, which was sanctioned by the National Legislative Commission and then promulgated by President Chávez (Official Gazette No. 36.934 of April 17, 2000). In such document it was granted a full and general amnesty "in favor of all those people who, faced with the general order established, have been processed, condemned or prosecuted for crimes based on political motivations, political or related crimes, up to December 31, 1992’’.

By means of this law the events related to episodes of the national history that had merited different interpretations but that involved, in any case, the commission of diverse crimes, including some related with the use of violence which were remitted by the corresponding consequences of an Amnesty.

A special valuation corresponds to the Special Amnesty Law Decree issued by President Hugo Chávez on December 2007 (Extraordinary Official Gazette of the Bolivarian Republic of Venezuela N° 5870), which faithfully reflects the political and constitutional sense of the figure and highlights its relationship with the value of peace. In this Law Decree President Chávez declared the Amnesty on criminal acts occurred in the wake of the events of April 11 and 12, 2002, as well as in regard to subsequent illicit actions framed within the oil strike, and even granted even including a general Amnesty: ‘‘For the Commission of the Crimes of Instigation to Transgress and Military Rebellion up to December 2, 2007’’ and

“For facts configuring or constituting Acts of Civil Rebellion up to December 2, 2007”. Whereupon Chávez took a pacifist and democratic conciliation gesture and demonstrated the broad scope that Amnesty could have according to political considerations which may encourage it. On that occasion President Chávez stated that his will was "to give once more a demonstration of what we want here, is peace", and added that it was "giving a signal on behalf of those who want the road to peace". All Venezuelans want to walk the path of peace and the Amnesty Law will contribute to reaching it.

As noted, in 2000 the National Legislative Commission had since revealed another aspect of Amnesty, in which emerging political forces put an end to the criminal prosecution of certain offences related to insurrectionary actions that the most representative of the emerging political order had carried out when they tried to take power in 1992, regardless of the institutional channels.

In attention to the inherent principles to an Amnesty, this Proposed Bill refers directly to the punishable acts covered by the Amnesty, without implying recognition or attribution of guilt or responsibility in regard to the possible beneficiaries of this measure. In the country there is currently a debate about the independence of the Administration of Justice, and many Venezuelans argue, with good reason, that allegations, trials or convictions related to the object of this amnesty crimes respond to political persecution. Beyond this discussion, the Proposed Bill, identifies the amnestied punishable acts and makes reference to some special cases in which the objective guaranties of an impartial administration of justice have not been met. Upon identifying these assumptions, it has been taken into consideration the international human rights jurisprudence and reports issued by the Inter-Parliamentary Union on Venezuela.

The Proposed Bill presented to the National Assembly considers an amnesty that includes the following events:

- a.- The criminal offences specified in Articles 5 and 6 of the Proposed Bill, committed or could have been committed as part of actions responding to a political motivation in the context of demonstrations or protests; the dissemination of opinions or information; or performing or promoting actions, proclamations or public pronouncements which could threaten the established general order.
- b.- The offences of defamation, slander and vilification or offences against public officers or other offences that may have been committed in the conditions laid down in Article 9 of

the Proposed Bill. It should be noted that some of the punishable acts amnestied in these provisions are crimes of private action, which, however, do not preclude the application of the Amnesty, since in the circumstances indicated there the conflict raised transcends the purely private interests and is projected to the public sphere by the condition of the complainant, the relationship of the information disseminated with the criticism of the conduct of public officers and the public of reported relevance.

c.- The criminal acts committed in the context of the mentioned situations in Article 10 of the Proposed Bill which refer to the events of April 11, 2002 and subsequent days and the national and oils strikes occurred between December 2002 and the first months of 2003 if the corresponding offences or faults were not covered by the Decree with Rank and Force of Law of the Special Amnesty Law published in the Extraordinary Official Gazette of the Bolivarian Republic of Venezuela N° 5.870 dated December 31, 2007.

d.- Articles 11 and 12 of the Proposed Bill grant Amnesty in connection with other facts related to protests, expressions or statements for political purposes.

e.- Other crimes provided for in Articles 13 and following of the Bill, which are included in the Amnesty because the prosecution has infringed the guarantees of a fair administration of Justice. The objective guarantees of the impartial administration of justice are referred according to the international jurisprudence on human rights, to the absence of factors or circumstances that, beyond the intention of judicial officers who have taken the relevant decisions, undermine the reliability of individuals in the system of justice.

f.- The crime of escaping and breaching a sentence, in relation to persons prosecuted or convicted for the commission of any of the punishable acts covered by the Amnesty.

Each provision specifies the period covered by the Amnesty, which relates to the development of social or political situations and practices or institutional responses related to the motivation of this Proposed Bill. Thus, 2007 marked the awakening of the student movement, which led, then, in the organization of demonstrations with the corresponding official reaction; in addition, on such year an Amnesty Law Decree was issued which included some punishable acts covered by this Proposed Bill until December 2, 2007. Hence, the period covered by the Amnesty referred to in articles 5 and 6 of the Proposed Bill begins on December 3, 2007. At the beginning of year 2003 disciplinary measures and other improperly actions started to be imposed against judges and year 2004 opened

judicial actions aimed at punishing the dissemination of critical information on matters of public interest. Similar considerations underlie the time periods set out in other provisions.

Given the political use granted to the authority of the General Comptroller of the Republic to impose deprivations, the administrative offences are being included in the Amnesty as indicated in Article 19 of the Proposed Bill.

Amnesty on administrative offences is not strange to the experience of other countries nor is unprecedented in ours, as partly evidenced by the General Amnesty Policy Law of 2000. It is also clear from the Decree with Force of Law of Civil Aviation, published in the Official Gazette of the Bolivarian Republic of Venezuela No. 37.293 of September 9, 2001, which Fifth Transitional Provision decreed an "administrative amnesty". This amnesty, as well as the tax-character (Article 83 of the Organic Tax Code), has a nature and purpose only partially coincident with the proposed Amnesty in this Proposed Bill but keeps affinity with this.

Articles 20 and following of the Proposed Bill relate to the scope and effects of the Amnesty, as well as the procedure for their application. The Proposed Bill requires that the enjoyment of the Amnesty is not conditioned to persons allegedly responsible for the respective offences are, or have been before the court in the corresponding processes. It sets as well the consequences of the Amnesty and the way that the authorities or officers should proceed to give compliance to. The regulation on this matter included in the Proposed Bill conforms to the nature of the Amnesty, since it produces the extinction of criminal action and imposes the cessation of the sentence and all the criminal consequences thereof (Article 104 of the Criminal Code), which means, with respect to the defendants, the cessation of any measure of personal coercion (Article 29 of the Code of Criminal Procedure).

Finally, Articles 27 and following of the Proposed Bill provide for complementary to the amnesty measures that can contribute to national reconciliation, which presuppose the participation of all sectors of the country in the construction of peace, with special mention to the organizations of victims of violence in all its forms and those dedicated to the promotion and defense of human rights.

According to the provisions of Article 103 of the Internal Regulation and Debates of the National Assembly, it is clarified that the Proposed Bill does not have direct financial and economic implications.

Having complied with the provisions of the Internal Regulation and Debates of the National Assembly and in use of the legislative initiative granted by Article 204, Paragraph 3, of the Constitution, the members adhering to this Proposed Bill hereby present it to the National Assembly for its discussion and approval.

**THE NATIONAL ASSEMBLY OF THE
BOLIVARIAN REPUBLIC OF VENEZUELA**

Exercising the power granted by Article 187, numbers 1 and 5, of the Constitution of the Bolivarian Republic of Venezuela hereby

DECREES

The following,

AMNESTY AND NATIONAL RECONCILIATION LAW

Chapter I

General Provisions

Article 1.- This law aims to lay the grounds for national reconciliation and social peace through the amnesty of the acts considered crimes, misconduct or offences that are designated in this Law and other measures here referred to.

Article 2.- This law decrees the amnesty for acts performed in the exercise of citizen liberties and political purposes, that have resulted or may result in investigations, indictments, accusations or convictions by criminal prosecution bodies. It also declares Amnesty with respect to facts related to criminal investigations, accusations, or convictions, or administrative sanctions, which have occurred in circumstances that undermine the confidence in the impartial administration of justice or allow to conclude that those are due to political persecution.

Article 3.- In accordance with Article 29 of the Constitution of the Bolivarian Republic of Venezuela, the following actions are excepted from the amnesty granted by this law: crimes of war, genocide and crimes against humanity, as defined in the Rome Statute of the International Criminal Court, published in Extraordinary Official Gazette of the

Bolivarian Republic of Venezuela No. 5.507, dated December 13, 2000. Crimes relating to serious human rights violations are also exempted from amnesty.

In regard to the convictions already handed down concerning cases in which high authorities of the State, including those performing political tasks have held that crimes or offences of this nature have been perpetrated, such exceptions shall only proceed when it is expressly recorded, not only by the prosecutor's accusation as well as in the dispositive of the convicted sentence, that in fact those sentenced were convicted of such crimes or offences. In accordance with Article 29 of the Constitution of the Bolivarian Republic of Venezuela, the following actions are excepted from the amnesty granted by this law: crimes of war, genocide and crimes against humanity, as defined in the Rome Statute of the International Criminal Court, published in Extraordinary Official Gazette of the Bolivarian Republic of Venezuela No. 5.507, dated December 13, 2000. Crimes relating to serious human rights violations are also exempted from amnesty.

Article 4.- According to Article 29 of the Constitution of the Bolivarian Republic of Venezuela and the international human rights instruments that must guide their interpretation, it is understood to be serious violations to human rights: torture or other cruel, inhuman or degrading treatment or punishment, extrajudicial, summary or arbitrary executions; slavery and enforced disappearance; rape; committed by authorities or public officers or by private individuals who have participated in any way along with these authorities or officers, in their perpetration, or they have acted with the acquiescence of those.

Chapter II

Acts associated to carrying out demonstrations or expressing statements or with the disclosure of ideas and information entailed to political purposes.

Article 5.- Amnesty is granted for offences or misdemeanors referred to in the following article, committed or deemed to have been committed between December 3, 2007 and December 31, 2015, in the circumstances indicated below:

a. The organization, call or support for the realization of demonstrations or protests that respond to a political;

- b. Participation in these demonstrations or protests;
- c. The expression of ideas or opinions or the dissemination of information of a political nature, of criticism of the national Government or other public authorities, as well as other information relating to facts or situations of public interest;
- d. Invitation to carry out public actions of protest or claim against the institutional order or the Government;
- e. The preparation and dissemination of proclamations, political transition or pronouncements agreements or acts considered that have been directed to change the established institutional order or the Government;
- f. The organization or participation in meetings considered to have been addressed to plan any or various of the events indicated in the previous literals.

Article 6.- In the indicated circumstances and within the period mentioned in the preceding article, amnesty is granted to all those investigated, charged, accused or convicted as authors or participants in actions for political purposes that correspond to the punishable acts of public incitement; instigation to commit a crime; violence or resistance to authority; disobedience to authority and obstruction of the public roads; property damage, fire, manufacturing, carrying, possession, supply or concealment of explosive or incendiary devices; contempt to public official; association to commit a crime; unlawful assembly; conspiracy; treason against the State; civil or military rebellion; incitement to civil or military rebellion; insubordination; attack and contempt to the sentinel; or other punishable acts related with the purposes and circumstances referred to in the preceding article.

Article 7.- Amnesty referred to in Articles 5 and 6 of this Law does not extend to those who are responsible for the commission of the crimes of homicide in any of its forms, or the crime of serious or very serious injury. It does include either crimes that have been perpetrated by members of security forces of the State in order to control or suppress protests or expressions referred to in Article 5.

Amnesty mentioned in Articles 5 and 6 of this Law, cover the cases in which the Public Prosecutor's Office, upon investigating the relevant facts, prior to the entry into force of this

Law, would have exercised the criminal action expressly excluding crimes of homicide or serious or very serious injuries.

Article 8.- For the purposes of Articles 2, 5, 6, and others of this Law, it is understood that it is being pursued a political purpose or a political cause when the protests, demonstrations, meetings in public or private places; the ideas or information disclosed; or agreements or pronouncements have been addressed to complain against any measure or normative adopted by the national Government or other authorities, against the omissions that have incurred in the performance of its duties, against the general policy developed by the National Executive Power, or other organs of public power, or if they have expressed a global rejection to the Government or have demanded a political change.

Article 9.- Amnesty is granted for the acts regarded as crimes of defamation or slander, in any of its forms, crimes of offenses to the President of the Republic or other public officers, offences of generation of anxiety through the disclosing of information considered to be false, as well as the crime of insult to the National Armed Forces, which have been committed or might have been committed from January 1, 2004 and until the entry into force of this Law, by any citizen, whether political leaders, journalists, directors and editors of social media or members of their Boards of Directors, publishing or writing, when the expressions are considered defamatory, slanderous, offensive or disturbing expressed in the context of criticism to authorities or officials of any Power of the State, or dissemination or reproduction of information relating to punishable conduct so-called or allegedly perpetrated by them or other matters of public interest. The amnesty granted by this article, or others of this Law concerning the dissemination of information or opinions, also includes the facts related to the broadcasting of images, messages or expressions through the use of social networks or any other means of dissemination.

Amnesty is also granted for the punishable acts deemed to have been committed in such period, related to investigations, allegations, indictments or convictions which have led, under disproportionate judicial measures to use them against managers, journalists or dependents of a means of social communication, to the closure of a social media outlet whose editorial line has been critic of governmental management or the actions of State bodies.

Article 10.- Amnesty is granted in favor of persons investigated, charged, accused or convicted for the commission of crimes or faults directly related to political events and alteration of peace or the established general order alteration occurred between April 11 and 14, 2002, if the respective crimes or misconducts were not covered by the Decree with Rank, Value and Force of the Special Amnesty Law published in the Extraordinary Official Gazette of the Bolivarian Republic of Venezuela No. 5.870 on December 31, 2007.

Amnesty is also granted in favor of persons investigated, charged, accused or convicted of committing crimes or faults directly related to call a general strike or national strike, the cessation of work or other similar actions on the occasion of the national and oil strike declared and carried out since the last months of 2002 and until the first months of 2003, if the respective punishable acts were not covered by the Decree with Rank, Value and Force of the Special Amnesty Law published in the Extraordinary Official Gazette of the Bolivarian Republic of Venezuela No. 5.870 on December 31, 2007.

Article 11.- Amnesty is granted to the events considered as contempt to the constitutional protection, provided for in Article 31 of the Organic Law of Protection on Rights and Constitutional Guarantees when the relevant facts of 2014, are related to the purpose or circumstances referred to in Article 5 of this law.

Article 12.- Amnesty is granted over the punishable acts which are considered to have been committed during year 2014, related to alleged planning of acts aimed at the avoidance or escape of persons deprived of their freedom by attributing them the commission of the punishable acts referred to in Articles 5 and 6 of this law, provided that, according to the allocation, indictment or conviction, such acts have not attempted against the life or physical integrity of any person.

Chapter III

Other punishable acts covered by the Amnesty

Article 13.- Amnesty is granted on the punishable acts whose commission is attributed to judicial officers and is deemed they have been committed between January 1, 2003 and December 31, 2015, when the criminal prosecution against the judicial officer had occurred as a result of any judicial decision that he would have rendered complying with his authorities after a statement, exhortation or request made publicly by some high

authority of bodies of constitutional rank with political functions, in which imprisonment or conviction of the officer is required. It is excepted from this amnesty punishable acts included in any accusation or conviction referred to the effective economic benefit by the judicial officer, as retribution for the adoption of the corresponding decision concerning any prosecution or conviction.

Article 14.- Amnesty is granted on the alleged punishable acts which had been reported since the so-called responsible for crime or failure had been elected as Deputy to the National Assembly on September 26, 2010, provided that the respective investigation had started at the request of the President or another Member of the Directive of the National Assembly or any of its Committees, the most pro-Government of this deliberative body or any other organs of the justice system, if this led to the raid of the immunity and the forced separation from the National Assembly and the political disqualification of the Deputy or that he/she renounces the parliamentary investiture to prevent such raids of immunity and thus the legal effects thereof, without a conviction at first instance had been issued before December 31, 2015. Without prejudice to the provisions of Article 3 of this Law, it is excepted from the amnesty granted by this article, the crimes against persons, provided for in the Articles 405 and following of the Criminal Code, and those related with the reception, seizure or theft of assets or public money on behalf of themselves.

Article 15.- Amnesty is granted to the punishable acts which are considered to be committed between January 1, 2002 and December 31, 2015, when during the criminal prosecution against political leaders of the opposition, public officers or other persons allegedly responsible, the following assumptions had been concurrently verified:

a. When the investigation or criminal proceedings had started, reopened or re-invigorated after any declaration, exhortation or request, publicly made by some high authority of bodies of constitutional political functions, in which it was required, asked or requested imprisonment or condemnation of a determined political leader of the opposition or other people who have held critical positions in the national government even from those already investigated or charged;

b. When alleged illicit enrichments which have given rise to the accusation or indictment for purposes of criminal prosecution, have had only the support of the patrimony verification procedure carried out by the Office of the General Comptroller.

Article 16.- Amnesty is granted to the acts considered punishable, or other violations, committed or allegedly committed by lawyers, human rights defenders or activists between January 1, 2000 and the entry into force of this Law based on the occasion and in the exercise of the defense, representation, assistance, or technical support that have been provided to the beneficiaries of this Amnesty Law during the corresponding processes or procedures.

Article 17.- Amnesty is granted for the crimes of escape and failure to comply with a sentence, included in Articles 258 and 259 of the Criminal Code in regard to the persons prosecuted or convicted for the commission of any of the punishable acts covered by this law.

Article 18.- For the purposes of verifying the existence of the circumstances constituting acts covered by the Amnesty Law, the competent judge shall take into account as an adjunct, not necessary nor autonomous, that the accused, prosecuted or convicted has been excluded from the list or database of people required by the international organization of Criminal Police (INTERPOL), when considering that the criminal prosecution relates to political offences.

In addition, it shall have into special account that the Commission or the Inter-American Court of Human Rights, the Committee on Human Rights provided for in the International Covenant on Civil and Political Rights or committees, commissions, rapporteurs or working groups of the System of the United Nations have declared the violation of any right of the accused, prosecuted or convicted during the development of the corresponding criminal proceedings or that the suspect has been forced to leave the territory of the Bolivarian Republic of Venezuela and has obtained asylum or refugee status. It should be taken into account if any officer of the system of administration of Justice has recognized in fact, the fraudulent manipulation of the record, investigation or criminal proceeding.

Chapter IV

Administrative Violations covered by the Amnesty

Article 19.- The Amnesty decreed by means of this Law shall also cover the following administrative violations:

a. Acts, facts or omissions related to the financial management of the Public Sector, that occurred between the years 1999 to 2015, in which there has not been reception,

seizure or theft of assets or public money of public funds in private benefit and that, in their constituent elements, are coincident or may match alleged generators of administrative liability provided for in Article 91 of the Organic Law of the General Comptroller of the Republic and the National System of Tax Control, as well as in the legal provisions containing the same assumptions in the repealed Organic Law of the General Comptroller of the Republic in 1995.

b. Omissions, inaccuracies, or failures related to the obligation to submit, within a certain period of time, the affidavit of patrimony provided for in the Organic Law of the General Comptroller of the Republic and of the National System of Tax Control, in the Decree with Rank, Value and Force of Reform of the Law Against Corruption or in the previous legal instrument to this Law Decree, occurred between years 1999 to 2015, provided that, in the case of failure to comply with the obligation to present the affidavit of patrimony within the legal term to do so, this instrument was presented after the legal expiration date.

c. It is understood that in the case of acts, facts or omissions referred to in the above literals, financial penalties or disqualification for the exercise of public duties had been imposed based in the Organic Law of the General Comptroller of the Republic and the National System of Tax Control or in the Decree with Rank, Value and Force of Law of the Reform of the Law Against Corruption, or in the legal instrument previous to this Law Decree, it would be void from the time this Law becomes into effect.

Chapter V

Scope, effects and process of the Amnesty

Article 20.- The effects of the amnesty granted by this law extends to all perpetrators, instigators, immediate collaborators and accomplices in the corresponding punishable acts, have been or not charged, indicted or convicted.

Amnesty granted under this Law is not conditioned upon people considered authors, instigators, immediate cooperators and accomplices of the respective punishable acts are or have been before the court on the corresponding criminal proceedings.

Article 21.- As a result of the amnesty decreed in this Law, criminal actions raised by the commission of crimes or misconduct included therein, as well as the penalties that have been imposed and which execution is in progress, are hereby fully extinguished.

Therefore, investigations initiated by the Public Prosecutor or the Military Criminal Prosecutor, and the processes that are currently in the criminal courts, whether ordinary or special, including military jurisdiction, which correspond exclusively to the offences referred to in this law, cease. Also, main and accessory penalties which have been imposed to perpetrators and participants are condoned.

Article 22.- In criminal processes that are in the preparatory phase, concerning the punishable acts covered by the amnesty, the Public Prosecutor shall request the dismissal of the cause for extinction of criminal action, within the following ten consecutive days after the entry into force of this Law. The competent court shall issue its ruling in a term not to exceed ten continuous days from the date of the be dealt in one period not exceeding ten consecutive days from the prosecutor's request.

In those criminal proceedings that are in intermediate phase trial, or on appeal, the Court before which the case was introduced ex officio, shall in not later than ten continuous days from the entry into force of this Law, decree the dismissal of all causes in the process that are related to the facts on which this Law grants amnesty, with all the consequences relating to the extinction of the measures of personal coercion that had been rendered in the corresponding processes, including the release of those who are detained. If the Chamber of Criminal Cassation of the Supreme Court of Justice is aware of an appeal in cassation in cases relating to punishable acts covered by the amnesty, the processing of the appeal shall be suspended and the case will be forwarded immediately to the Court of Appeals, which has spoken out about the appeal filed in the respective case, in order that within ten continuous days of receipt of the record, it rules on the existence of amnesty cases. If the amnesty granted by this law does not cover all punishable acts subject to the investigation, imputation or allegation, the process will go ahead, but only with respect to the facts not covered by the amnesty, with the consequent revision of the measures of personal coercion that had been adopted.

If there is a final ruling concerning the crimes covered by the amnesty, the respective ruling judge shall declare the extinction of the penalty by order, in a period not to exceed ten continuous days from the entry into force of this Law, and shall order the immediate full freedom of the respective convicted or the cessation of the alternative formula for

compliance with a penalty other than deprivation of freedom, if it is the case. At the same time, the Court shall issue a substitution sentence if the amnesty granted in accordance with this Law does not cover all of the facts giving rise to the conviction.

In any of the referred cases, the person who considers himself to be benefited by this law, in its condition of investigated, charged, accused or convicted, may request directly before the competent judicial authority the dismissal of the cause for extinction of the criminal action, or, if applicable, the extinction of the penalty. If the person investigated, charged or accused is not right, or if the convicted person has stolen from the fulfilment of the penalty, the application may be submitted also by his legal representative, spouse or person with whom he/she keeps a stable de facto relationship, or relatives within the fourth degree of consanguinity or second of affinity. The processing of the request of the person concerned does not exclude the responsibility incurred by the judge for not having acted ex officio within the earlier deadline. The dismissal of the case or the extinction of the conviction may also be required by the Public Prosecutor's Office.

Article 23.- Persons investigated, charged, accused or subject to a non-final sentence by the alleged commission of punishable acts covered by this Law may apply to the Public Prosecutor, in the preparatory phase, not to ask for the dismissal, or to the competent judge to verify the compliance of the assumptions of the amnesty, not to declare the dismissal, so that the process take its course and to obtain a final decision about culpability or innocence.

Article 24.- The administrative agencies, the judicial, military or police bodies in which records or criminal records are filed on persons covered by this Law, shall delete from their files such records and history associated with them, in terms of the punishable acts covered by this Law, once the corresponding judge has decided to verify the assumptions of amnesty. If the authorities or relevant officers have not done so in a timely manner, the interested person in such deletion may require it directly, based on Article 28 of the Constitution, and then, before the competent court in matters of habeas data, without prejudice to the responsibilities of those incurred by the delay or denial.

Article 25.- The amnesty decreed in this Law is not an obstacle for the filing of complaints, claims, or appeals to establish criminal, civil or administrative responsibility to those who had engaged in violations of human rights by exercising the criminal prosecution or to impose penalties or sentences against persons benefitted from the amnesty. Likewise, it will not prevent individual victims of punishable acts covered by this Law to exercise actions or civil remedies to require compensation or indemnification to persons investigated, charged, accused or convicted in the corresponding criminal proceeding.

Article 26.- The officers of the Judicial Power or of the Public Prosecutor's Office who incur in unjustified delay or omission of timely and motivated statements or in any other failure to comply with the rules laid down in the preceding articles, shall be punished with imprisonment from 2 to 5 years.

The same penalty shall be applied to police officers, members of the security forces of the State, members of the National Armed Forces and the prison service officers that refrain from immediately complying with the release orders issued by the competent authorities according to the provisions of this Law.

Chapter VI

Other measures aimed at achieving national reconciliation

Article 27.- With the aim of achieving a full reconciliation, based on the respect and guarantee of human rights, the courts and other bodies of the public power shall give strict compliance to the decisions, measures or other decisions issued by the international organisms responsible for the protection of human rights, relating to actions or omissions of the Venezuelan State, which have resulted in the violation of such rights, in accordance with the provisions of the respective treaties, agreements or conventions ratified by the Venezuelan State and to other international obligations of the Republic.

Article 28.- The National Assembly shall create a Special Commission for the Reconciliation, having a politically plural composition, which shall follow up the implementation of this Law and which identifies, in consultation with all political and social sectors of the country, the main obstacles to achieve the most wider national reconciliation, deliberate on the measures required to overcome them and formulate, in view of the conclusions reached, appropriate proposals or recommendations, which will be submitted for consideration by the Plenary of the National Assembly in the respective

report, in the terms established in the Internal Regulation and Debates. This Commission will hear, especially, the views of non-governmental organizations for the defense of human rights, of the organizations of victims of violence in all its forms, of the popular organizations, Universities and Churches and even promote, in each one of these social scopes, a discussion on the designated topic, whose results shall be incorporated for public consultation.

The Special Commission for Reconciliation may recommend the creation, by means of a law, of a Truth Commission dedicated to collect and compile information, documentation, statements and other evidence relating to any political or social sector-sponsored political violence and human rights violations in the country since 1999 because of political persecution as well as to take measures claiming moral or dignity, rescue the historical memory and other guarantees of non-repetition. It will also review the creation of a special fund for indemnifications related to such events. The Truth Commission could also investigate situations related to the removal, dismissal or lay-off of civil officers or workers for political reasons as well as formulate recommendations for the restitution of the violated rights.

Chapter VII

Final Provision

Article 29.- This law shall become into effect as from the date of its publication in the Official Gazette of the Bolivarian Republic of Venezuela.

Signed, sealed and delivered in the Legislative Federal palace, seat of the National Assembly, in Caracas, on -----days-----of the month of-----Year Two Thousand Sixteen. Year 205° of the Independence and 157° of the Federation.

By the Permanent Commission of Domestic Policy.

Deputy	Signature
Delsa Solórzano, Presidenta	
Juan Gerardo Guaidó. Vicepresidente	

Teodoro Campos	
Dennis Fernández	
Laidy Gómez	
Juan Pablo Guanipa	
Juan Miguel Matheus	
José Luis Pirela	
Luis Emilio Rondón H.	