

FELONIOUS AMNESIA ACT:

**Arguments against the Amnesty Bill proposed by the Venezuelan
opposition**

**Parliamentary Bloc of the Homeland
National Assembly
Bolivarian Republic of Venezuela**

Caracas, February 22th, 2016

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I.- The amnesty bill as an attempt to impose a felonious amnesia.

*"... amnesties that prevent the prosecution of people who may be legally responsible for war crimes, genocide, crimes against humanity and other serious violations of human rights are incompatible with the obligations of the States under various sources of international law, as well as the policy of the United Nations. In addition, amnesties may not restrict the right of victims of human rights violations or war crimes to an effective remedy and reparation, nor they can hamper the right of victims or societies to know the truth about such violations."*¹

Office of the United Nations High Commissioner for Human Rights

Since 1999, when Commander Hugo Chavez held office for the presidency of the Republic through popular vote, a process of profound political, social and economic transformations has developed in Venezuela. This process has generated the most acute contradictions with the dominant political and economic powers of Venezuela and the world, to the extent that the Bolivarian Revolution has made progress in the redistribution of wealth and national power in the hands of those who were historically excluded and oppressed by elites, adding the fact that it has challenged the hegemonic power of the United States in the region, driving decisively a higher stage of Latin American and Caribbean unity.

Following the passing of President Hugo Chavez and the election of President Nicolas Maduro in April 2013, the fractions of the Venezuelan right wing with the full backing of the US government have been developing systematic actions to destabilize the country, promoting strategies to overthrow the democratically elected government.

This has involved a process of unprecedented economic sabotage, led by the political and economic opposition which consist of a speculative attack against our currency from within and outside Venezuela; programmed food and basic goods shortages; indiscriminate price increases; massive smuggling of such goods into Colombian territory, which have been generating a climate of internal instability and anxiety in the population. This situation has become more complex with the steep fall of international oil prices, on which a significant proportion of tax revenues of the Venezuelan State depend. In this context, between 2014 and 2015, the national foreign exchange earnings decreased by 80%. This scenario generates a set of conditions for the opposition to violate the Constitution, the rule of law and, above all, attack the sovereign decisions of the Venezuelan people.

¹ Extract of the introduction to the document "Instruments for the rule of law for societies that have emerged from conflict: Amnesties" published in 2009 by the Office of the United Nations High Commissioner for Human Rights

Despite this difficult economic time, President Nicolas Maduro, following the legacy of Commander Chavez, has strengthened the social inclusion redistribution model, in which the State assumes as a complete priority, the protection of the Venezuelan families and workers. Just between 2013 and 2016, this has been reflected in 11 increases of the minimum wage and pensions, keeping the unemployment rate at 6% and assigning 600 thousand new pensions. He has finished more than 658 thousand popular houses; he has reduced the structural extreme poverty from 6.3% to 4.9% with the strengthening of the social programs and missions, also maintaining the subsidies of the public services and social grants.

The government of President Maduro always prioritizes social investment over the classic macroeconomic balances recommended by the IMF, all of this without stop paying interests and the capital of the external debt.

In the middle of this economic war against People and the continued execution of plans to force the President Nicolas Maduro's exit, the different Venezuelan Opposition parties obtained the majority of the representatives to the National Assembly, as a result of the parliamentary elections that took place on December 6th, 2015. One of their offer during their election campaign, promoted inside and outside Venezuela, was the approval of an Amnesty Bill that allowed the exoneration of criminal responsibilities to those leaders and supporters of the right-wing, who are currently in prison due to different crimes related to Human Rights' violations in the framework of specific actions to overthrow Presidents Hugo Chavez and Nicolas Maduro, respectively.

This is the way this Opposition majority approved in its first discussion on February 16th, 2016, the Amnesty and National Reconciliation Bill. Representatives of the Patriotic Bloc, who support the Bolivarian Revolution, have identified this Bill as Felonious Amnesia Act since it expects to impose to People, the pardon and the forgiveness of crimes committed by the right wing since 1999 until the entry into force of such Act.

II.- What the Amnesty Bill proposed by the Venezuelan opposition is all about?

The 'Amnesty and National Reconciliation Bill' is a legal and political instrument that the opposition majority of the National Assembly of Venezuela expect to approve aiming to eliminate the criminal responsibilities to those leaders and supporters of the Venezuelan right wing, who committed crimes in the framework of their systematic actions oriented to undermine the Democratic system –through the overthrow of Presidents Hugo Chavez and Nicolas Maduro, respectively– since 1999 until the entry into force of this Bill. This is a

guarantee of the legal impunity of those crimes committed by the Venezuelan opposition in its ambition for the recovery of the political power in Venezuela.

Besides, this Bill seeks to favor opposition leaders and supporters, responsible of the common crimes committed with or without political purposes such as: homicide (article 5); corruption (article 16); profiteering, boycott and cornering (article 19); drugs trafficking (article 30); fraud, scam and usury related to housing construction (article 31) as well as any other crime charged to 'a political leader of the opposition' (article 18).

III.- Scope of the Law

On the validity of the Bill

The provision of this bill referring to the period that would be covered by this amnesty, would be misinterpreted as an invitation to commit a crime since it allows for the possibility to commit crimes before the bill becomes law, assuring automatic forgiveness and therefore impunity.

Article 2: *The broader amnesty of the facts considered crimes, offences or infractions mentioned in this bill, that have been committed or may have been committed **since 1 January 1999 until this bill becomes law**, is granted under the conditions provided for herein.*

Offenses to be 'forgiven'

The Bill provides for "forgiveness" to at least 50 offenses expressly stated in its contents. These include: drug trafficking; terrorism; corruption; scam and fraud; fire; incitement to disobey laws, hatred and crime; damage to public services; use of minors to commit crimes; cause panic or anxiety in the community; and, as if it was not enough, also murder, among other violations of individual and collective human rights.

	Offense	Article of the Amnesty Bill
1	Incitement to disobey the law	4
2	Incitement to hatred.	4
3	Apology of crime	4
4	Incitement to commit crimes	4

5	Personal injury	4
6	Violence or resistance to authority	4
7	Cause panic in the community or keep it in constant fear by spreading false information	4
8	Unlawful assembly	4
9	Obstruction of public roads in order to make them prone to dangerous accidents	4
10	Damage to transport, public services, computer or communication systems	4
11	Destruction or deterioration of roads and works for public travel.	4
12	Damage to property	4
13	Conspiracy	4
14	Import, manufacture, posses, hold unlawfully, supply or concealment of explosives or incendiary devices.	4
15	Disturbance of public peace	4
16	Offend a public official	4
17	Use of minors in the commission of crimes	4
18	Arson and other crimes of public danger	4
19	Treason and other crimes against motherland	4
20	Rebellion	4
21	Insubordination	4
22	Civil rebellion	4
23	Treason to the motherland	4
24	Military rebellion	4
25	Incitement to military rebellion	4
26	Uprising	4
27	False alarm	4
28	Attack to guards	4
29	Insulting guards	4
30	Disclosure of military secrets	4
31	Offense to military decorum	4
32	Misuse of military medals, insignia and titles	4
33	Stealing effects of the armed forces.	4
34	Refusal to render services legally owed	4
35	Concealment	4
36	Unlawful possession of a firearm	4
37	Improper use of a firearm.	4
38	Unlawful possession of a firearm	4
39	Unlawful possession of firearms	4
40	Unlawful possession of firearms in public places	4
41	Damage to facilities of the National Electric System	4
42	Murder	5
43	Terrorism	15
44	Corruption	16
45	Financing of terrorism	20
46	Escape	29

47	Drug Trafficking	30
48	Illicit trafficking in seeds, resins and plants	31
49	Fraud	31
50	Scam	31
51	Usury	31

Persons who violated human rights to be ‘forgiven’:

- a. Killers.
- b. Terrorists.
- c. Drug dealers.
- d. Corrupts.
- e. Fugitive bankers.
- f. Real estate scammers.
- g. Hoarders and loan sharks.

Punishable actions to be forgiven under the Bill:

Article 7 of the bill lists in detail the various crimes committed by leaders or activists of the opposition who have been prosecuted or convicted in accordance with the Venezuelan law. It refers at least to 33 events in which the right confessed implicitly through this bill to having committed at least 50 politically motivated crimes to overthrow the democratically elected government and affect the general population over a period of more than 17 years.

IV.- Reasons to reject the Amnesty Act.

Among many others, we list 11 reasons to publicly reject the Amnesty and National Reconciliation Bill submitted by the Venezuelan right wing:

1. It legalizes impunity.

This bill seeks to leave unpunished all crimes committed by the Venezuelan opposition in its systematic effort to destabilize and violently overthrow the Presidents Hugo Chavez and Nicolas Maduro, respectively, from January 1st, 1999 until the time of entry into force, even if they committed crimes such as murder, personal injury or terrorist acts. It also aims to forgive crimes of drug trafficking, speculation, usury, fraud and corruption, among other crimes, committed in the exercise of public office or not.

This instrument seeks to exonerate opposition politicians of their responsibility to comply with the Constitution and laws. All who are engaged in politics are not exempt from complying with

the laws anywhere in the world. If any leader commits a crime must be prosecuted and punished according to law, whether this is from the left or right.

This is what has happened with some leaders of the Venezuelan right: with the aim to overthrow the democratically elected government by unconstitutional and violent means, planned, financed, executed and promoted crimes against people, private and public property. If a leader guides political mobilization and those who follow that person use violence, the politician must warn immediately and argue that he/she did not guide to manifest violently or asked to burn buildings, much less to injure or kill people. But if such violence is maintained over time and the leader says phrases like " who gets tired gets lost" or "it ends when we can remove who is governing us," then there is no doubt the guilt of the convener in relation to the generation of violence, fires, injuries and deaths, as occurred in the context of opposition demonstrations in 2013 and 2014.

These leaders called for a civil and military rebellion by means of national and international media, without skimping on the consequences; encouraged live and direct to perpetrate acts of violence against people; They instructed the establishment of states of siege under the capsize of the major cities in the country and disrupted the provision of mass public services; and also they have done steadily for several months, directly or indirectly only between 2013 and 2014, causing more than 900 injuries and 54 deaths of Venezuelans who were not political leaders, but ordinary citizens, agents of the security forces and even demonstrators.

2. It legalizes violation of human rights.

The behavior of opposition leaders and activists that have been accused or convicted by the Venezuelan law caused a lot of damages, namely; the death of 43 Venezuelan people and 878 injured; the affectation of the human right to health, education, food, work, free passage among others of thousands of people because of the terrorist actions planned by such leaders and that were carried out in a direct and public manner during the months of February and June of year 2014.

In this sense, it would violate the Venezuelan Constitution if those who violated the human rights seek to be protected by an amnesty, as laid down in Article 29: "Human rights violations and the offense of violating humanity rights shall be investigated and adjudicated by the courts of ordinary competence. These offenses are excluded from any benefit that might render the offenders immune from punishment, including pardons and amnesty."

3. It favors those responsible for common crimes.

This bill seeks to favor people responsible for common crimes such as corruption, speculation, boycott and hoarding; drug trafficking, fraud and usury, related to housing construction and any “opposition political leader” charged with a crime, with or without political motivation. This is the first time in contemporary history of amnesties that pardon for crimes of corruption, drug trafficking, fraud, usury and speculation are included in a bill.

Crimes of scam, fraud and usury related to real-state issue directly affect natural or legal persons and they are not, in theory, politically motivated. Crimes on drugs do not have any type of procedural benefit. Crimes on speculation, cornering, boycott, among others are public order related and they affect the national economy, as well as they affect the supply of goods and services and people’s life quality, therefore, they cannot be subject to amnesty. Commission of corruption crimes are detrimental to the State and the whole society, it cannot be protected by an amnesty bill because of its high social costs.

It has to be emphasized that, according to doctrine, amnesty only applies to political crimes or related:

‘The inconceivable, in legal terms, consists of applying amnesties to common crimes, which represents the subversion of the juridical and moral order of a country. When it occurs, it might be confirmed that lawmakers or government leaders are the same as delinquents, by granting a criminal patent’ (Guillermo Cabanellas, Encyclopedic Dictionary of Ordinary Law)

4. It evidences confessions of the crimes committed by the opposition.

This Bill would be applied to crimes related to acts of criminal violence and serious damage to public property and social stability. By mentioning explicitly the cases to be covered, this law shows the chronology of crimes, as well as the authorship and participation of political actors who have resorted to committing crimes of different categories, including murders and injuries to people, in order to destabilize the State.

5. It favors perpetrators and marginalizes victims.

The Amnesty Bill leads to the failure to defend victims and their families since it focuses on the release and protection of victimizers, namely: murderers, terrorists, fugitive bankers, estate

fraudsters, corrupt politicians, hoarders, usurers, among others. It does not protect those people, families or social groups that have been severely affected by the actions and decisions of opposition politicians who commit crimes and establish terror regimes with the aim of overthrowing violently democratic governments. The right of victims to demand justice, vindication, and reparation will be annulled by a bill that excludes victims and avoids the possibility of peace.

6. It is a self-forgiveness Bill.

By sound doctrine, the adoption of an Amnesty Bill must not fall into the hands of its beneficiaries. Otherwise, it would be a *Self-Amnesty Act*. It is important to underline that this bill has been promoted and would be adopted by those parliament members that participated in, supported and financed actions to which they seek to grant amnesty. Actually, this very bill provides that it applies to all those persons who have contributed to the commission of crimes “whether convicted, accused or condemned or not”. In Venezuelan history, this would be the first case of offenders adopting a bill that ensures impunity.

Human rights treaty bodies, jurists and others have strongly criticized self-amnesty acts since they are the highest expression of impunity by nature. This is **self-forgiveness**. This is equivalent to the **Self-Amnesty Act** passed by Dictator Augusto Pinochet for the benefit of the military participating in the overthrow of President Salvador Allende and caused the death of thousands of Chileans.

7. It repeals *de facto* the rule of law.

Since Hugo Chávez took over the presidency of the Republic in 1999, the opposition has systematically ignored the decisions made by the public authorities when not favorable, and respected when favorable. This was the basis for undermining repeatedly the existing order and causing violent processes with the purpose of overthrowing the democratically elected government.

Now that the opposition has won a majority in the parliamentary elections, it seeks to ignore through an Amnesty Act all the autonomous decisions made by the judiciary in order to grant amnesty to those who commit a great quantity of criminal offences that involve Venezuelan right-wing groups, leaders and militants, regardless their responsibility and guilt in serious criminal events. This puts on hold the validity of both the existing penal laws and the rule of

law. This way, the validity of crimes can be derogated if unfavorable and preserved if favorable.

An example of this approach is found in Article 16 of the Amnesty Bill:

‘Article 16.- In addition to the punishable acts mentioned in the preceding chapter, amnesty shall be granted to punishable acts described in the Criminal Code and the Decree with Rank, Value and Force of Law to Amend the Anti-Corruption Law or other criminal laws, provided that the criminal prosecution of the defendant had occurred under circumstances that lessened the trustworthiness of the impartial administration of justice’.

Due to the ambiguity of the premise ‘the trustworthiness of the impartial administration of justice’, the validity and implementation of the very Penal Code and the Anti-Corruption Law, the pillars of our democratic nations, remain uncertain. In other words, this is an attack *de facto* against the rule of law.

8. It is a threat of repetition of offenses.

Being released the criminals who are protected by the amnesty; the whole society would be vulnerable to become victims of their new crimes. They would be a latent threat to anyone in Venezuela, because they were ordinary people, their original victims. Buildings and schools would be exposed to be burned again; thousands of people across the country would be subjected to the fear of being injured, burned, mutilated and even beheaded, among other atrocities generated by those who now claim to go free.

In general, an amnesty was founded on the unlikelihood of repetition of the facts, but the leaders of the right wing do not guarantee that probability; on the contrary, they threaten publicly and repeatedly to repeat the facts that led to the death or injury of hundreds of people.

9. The perpetrators have not confessed their crimes or apologized to the victims.

The Bill is based on the need for reconciliation of Venezuelan society. However, it expressly states that the Bill does not involve ‘an acknowledgment or attribution of guilt or responsibility with respect to the potential beneficiaries of this measure’. That is, those who planned,

executed or encouraged serious crimes would go free without even recognizing the victims of the crimes committed during the last 17 years, which would leave them in a state of permanent helplessness.

For there to be reconciliation, there must be a pardon. There can be no reconciliation if those responsible for the facts alleged amnestied have not publicly taken responsibility for such events. Before approving an amnesty, the truth of what happened should be established. Therefore, it takes special relevance the proposal from the Commission for Truth made by President Nicolas Maduro.

10. This is an instrument to overthrow the democratic Government

The right wing uses its power to dismantle all the decisions that have been adverse with an only purpose; to unify their different political movement: to overthrow the government of the president Nicolas Maduro. None of this is new, since 1999 the right wing attempts to overthrow the president Hugo Chavez and they just desisted when he died. In the case of the president Maduro, since the elections results were announced showing his triumph, a destabilizing process started and it had a particular emphasis in the sabotage and the economic war. It boosted the negatives effects of the people due to the abrupt fall in the price of oil, the main source of national incomes.

This has been evidenced since the installation of the present legislature, when the president of the National Assembly announced that the opposition will oust, within a period of 6 months, president Maduro, who has been elected by the majority of the people to govern until January 2019. This confirms that the amnesty act is just an instrument that attempts to undermine the rule of law and its institutions. This pretends to legitimate and legalize all the actions that have been made by the right wing in order find a violent and unconstitutional exit of the President of the Republic. This allows justify, in an immediately future, actions to reach the objective that has been stopped by political and judicial means.

11. It is a serious threat to peace and stability of Venezuela and the region.

The Amnesty Act results in suppressing the historical memory of the country to legislatively impede the search and the finding of the truth of some facts for which thousands of Venezuelans have suffered and are still suffering. This is an attempt to impose on the country and the world a kind of felonious amnesia, in a national context of profound contradictions

between people's forces who are committed to the development and peace of the Republic and those who in the ways of violence and terror, They intend to use their circumstantial majority in parliament to ignore the democratic and sovereign decision of the people to have Nicolas Maduro as their President until 2019.

The Venezuelan opposition combines the ignorance of the Rule of Law with disregard to decisions that the Venezuelan people have repeatedly taken through free elections since 1999. This combination becomes a potentially explosive formula that could trigger in unpredictable consequences of unprecedented violence in recent Venezuela history, since a national political factor will impose another violently its particular vision of truth and its forced intention of forgiving and forgetting.

Taking into account the role played by Venezuela in the region as one of the main drivers of regional integration processes and the interest in their internal situations in other countries, an amnesty act of this type could become a reference of political groups interested in subverting the general order established of national States as a mechanism legitimated by the media to overthrow legitimate governments. Therefore, the approval of this Act has a dangerous potential for development in the framework of political conflict processes that are experienced in various countries of Latin America and the Caribbean.

V.- A call to solidarity with the Venezuelan people.

The aforementioned reasons are the basis to reject this Bill and also expose the ominous political and social consequences that the passing of this Bill could bring for Venezuela, Latin America and the Caribbean. Undoubtedly, this document proves that the Hegemonic powers of Venezuela and the world still trying to impose themselves by force over our peoples, our democracies and sovereignties.

This Bill represents the violation of those who have been dedicated and also have sacrificed their lives for promoting and defend the human rights of every one during decades, especially the humblest people. This Bill is a call to hopelessness for the peoples who have been excluded in recent times, and a warning about the possibility that the terror and fear -which were characteristics of the dictatorial regimes from the Southern Cone and of their self-forgiveness laws- return to our region.

Therefore, we invite you –besides your political preferences– to analyze the Bill mentioned hereunder so as to make your own conclusions. Imagine for a moment that political groups that partake in your country present such kind of Bill and then, imagine the consequences that this Bill would bring to your Nation. Once you have finished your analysis, we convene you to join to the Venezuelan people making this denounce in order to ensure that the world be aware of this serious threat to peace and justice, and also we invite you to help to stop the effects of the real objectives of the Venezuelan opposition which aims to impose impunity on the crimes committed within the framework of their systematic efforts to oust a democratically elected Government. Let's advance together towards the right to live in peace.