



# General Assembly

Distr.: General  
16 June 2021

Original: English

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## Human Rights Council

Forty-seventh session

21 June–9 July 2021

Agenda item 4

Human rights situations that require the Council's attention

## Situation of human rights in the Bolivarian Republic of Venezuela

### Report of the United Nations High Commissioner for Human Rights\*, \*\*

#### *Summary*

Pursuant to Human Rights Council resolution 45/20, in the present report, the United Nations High Commissioner for Human Rights details recent developments in the human rights situation, with a particular focus on civic space and the rule of law, and how they relate to the implementation of previously issued recommendations.

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\* The present report was submitted after the deadline owing to circumstances beyond the submitter's control.

\*\* The annex to the present report is circulated as received, in the language of submission only.



## **I. Introduction**

1. The present report is submitted pursuant to Human Rights Council resolution 45/20, in which the Council requested the United Nations High Commissioner for Human Rights to prepare a comprehensive written report on the situation of human rights in the Bolivarian Republic of Venezuela containing a detailed assessment of the implementation of the recommendations made in her previous reports and to present it to the Council at its forty-seventh session.
2. The present report is based on information gathered and analysed by the Office of the United Nations High Commissioner for Human Rights (OHCHR), including on the basis of interviews with victims, witnesses and human rights defenders and meetings with government officials. OHCHR refers to official information and data whenever possible. The report covers the period from 1 June 2020 to 30 April 2021 and is focused on the latest developments related to the rule of law and civic space and the level of implementation of the corresponding recommendations.
3. A report of the High Commissioner providing a complementary overview of the human rights situation in the Bolivarian Republic of Venezuela and an assessment of progress on corresponding recommendations will be presented to the Human Rights Council at its forty-eighth session, pursuant to resolution 45/2.
4. The findings set out in the present report have been documented and corroborated in strict compliance with OHCHR methodology. OHCHR exercised due diligence to assess the credibility and reliability of all sources and cross-checked the information gathered to verify its validity. It sought informed consent from the sources whom it interviewed and took all appropriate measures to protect their identities and to ensure confidentiality, as appropriate. OHCHR assessed the information it collected in the light of international human rights standards and relevant domestic legislation.

## **II. Accountability and the rule of law**

### **A. Right to life**

5. Available data indicates a reduction in the rate of killings in the context of security operations or protests over the past year, yet the number remained high during the reporting period.<sup>1</sup> OHCHR documented 17 cases of alleged killings in the context of security operations or protests, consistent with previously documented patterns of extrajudicial executions,<sup>2</sup> in the Distrito Capital and the States of Miranda, Monagas, La Guaira and Zulia. One of the killings documented by OHCHR occurred in the context of a protest and 16 occurred during purported security operations conducted in areas marked by high levels of insecurity and violence.
6. In 12 of the cases documented by OHCHR, the perpetrators broke into the homes of the victims. Witnesses interviewed by OHCHR reported that security officers used violence, including gender-based violence, to control witnesses and separate the victims from their relatives. Women and children who were relatives of the victims, and were often present at the scene, were the most affected. Relatives of the victims reported being insulted, beaten, dragged by their hair and threatened with death if they did not comply. In some cases, they were subjected to sexual violence and harassment. Officers have reportedly stayed at the houses of victims for several hours, manipulated the evidence of crime scenes and removed

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<sup>1</sup> No official data available. Monitor de Víctimas reported 87 extrajudicial killings by the Bureau for Scientific, Criminal and Forensic Investigations, the Special Action Forces, the Bolivarian National Guard and the Bolivarian National Police in greater Caracas, from 1 June 2020 to 22 March 2021. PROVEA and Fundación Gumilla registered 2,853 killings in the context of security operations or protests in the Bolivarian Republic of Venezuela in 2020. The Comité de Familiares de Víctimas reported 772 killings from June to December 2020.

<sup>2</sup> A/HRC/41/18, paras. 47–49; and A/HRC/44/20, paras. 35–37.

the bodies of victims. In at least seven cases, the perpetrators also reportedly robbed the victims' homes or workplaces.

7. Almost every victim killed in the cases documented by OHCHR were young men and boys from low-income families in marginalized neighbourhoods. The events continue to have severe effects in communities, as they instilled fear in the population, generated mistrust in law enforcement, further marginalized poor communities and caused displacement.

8. In response to the increase in gang-related violence, as many as 650 police officers from various units of the Bolivarian National Police, including the Special Action Forces and the Directorate of Criminal Investigations, were deployed to La Vega parish in Caracas between 6 and 9 January 2021.<sup>3</sup> It is known to have been the largest security operation conducted during the reporting period. In the course of the operation, at least 14 young men were reportedly killed by police force members, including at least 2 teenage boys. As in previous security operations, some of the deaths were reportedly caused by the targeted use of lethal force by the police. Some victims reportedly suffered one or two gunshot wounds to the chest, abdomen or head, vital areas of probable fatality. Others reportedly succumbed from injuries caused by "stray" bullets fired during clashes with armed gangs. No police officers were reported to have been injured or killed, raising questions regarding the proportionality of the force employed. OHCHR welcomes the fact that an investigation was initiated by the Office of the Attorney General. No arrests had been made at the time of drafting the present report.

9. Clashes between the National Bolivarian Armed Forces and alleged dissident factions of the Fuerzas Armadas Revolucionarias de Colombia-Ejército del Pueblo intensified in Apure State, as at 21 March. Deadly confrontations were continuing at the time of preparation of the present report. Non-State armed groups reportedly used landmines. On 25 March, five persons, four of whom were members of the same family, were allegedly detained by the Special Action Forces in the village of La Victoria and found dead hours later. Sources claimed that the deceased were not linked to armed groups and that the crime scene had been manipulated. The Attorney General designated a special commission to investigate human rights violations in Apure State.

10. Most of the killings documented by OHCHR during the reporting period were attributed to members of the Special Action Forces, the Bureau for Scientific, Criminal and Forensic Investigations and the Directorate of Criminal Investigations of the Bolivarian National Police. Marking a shift from previous periods, the preliminary findings of OHCHR indicate fewer allegations of extrajudicial killings attributed to the Special Action Forces since September 2020, but more attributed to other forces, including state and municipal police forces, the Directorate of Criminal Investigations and the Bureau for Scientific, Criminal and Forensic Investigations. Many of the alleged violations would have taken place during joint security operations.

11. Those patterns underscore the need for a comprehensive reform of the State's security policies and institutions to prevent further violations of the rights to life and integrity of the person. On 13 April 2021, the President of the Bolivarian Republic of Venezuela, Nicolás Maduro Moros, ordered the reform of the Bolivarian National Police within six months, created a special commission for that purpose and designated human rights as a guiding principle of the reform. The reform represents an opportunity to implement previously recommended actions, such as restoring the civilian nature of police forces, vetting members

<sup>3</sup> See Bolivarian National Police, "#Importante Más de 650 funcionarios de diversos servicios de la #PNB se encuentran desplegados en la parroquia La Vega con el propósito de garantizar la seguridad y la tranquilidad de los habitantes de esta zona", 8 January 2021. Available from [www.facebook.com/permalink.php?story\\_fbid=1357999437878806&id=231509720527789](https://www.facebook.com/permalink.php?story_fbid=1357999437878806&id=231509720527789); and Special Action Forces (@faespnb), "Nuestra #FAES y demás servicios de nuestro #CPNB continúan dando la batalla contra los grupos delictivos que pretenden acabar con la paz en la parroquia La Vega de #Caracas. Estamos obligados a garantizar la tranquilidad de sus habitantes ¡VENCEREMOS!", 10 January 2021. Available from [www.instagram.com/p/CJ17RMtDRiX](https://www.instagram.com/p/CJ17RMtDRiX).

of the security forces and strengthening oversight and accountability.<sup>4</sup> OHCHR remains available to provide technical assistance and encourages an inclusive process.

12. Throughout the reporting period, the Government continued to implement training programmes for security forces on the use of force and human rights standards.<sup>5</sup> OHCHR is providing technical assistance on four protocols, including on the Protocol on Action of the Public Order Directorate of the Bolivarian National Police, which has been amended accordingly.

## **B. Right to physical and moral integrity**

### **1. Torture and ill-treatment**

13. OHCHR continued to receive credible allegations of torture or cruel, inhuman or degrading treatment or punishment. OHCHR received some accounts of beatings, electric shocks, sexual violence and threats of rape.<sup>6</sup> OHCHR is not aware of any actions taken by the National Commission against Torture between 1 June 2020 and 30 April 2021.

14. Previously identified patterns of enforced disappearance and incommunicado detention persisted.<sup>7</sup> In nine cases documented by OHCHR, individuals were subjected to enforced disappearance, during which they were held incommunicado and the authorities would not disclose their whereabouts to lawyers or relatives. Such practices place detainees at a heightened risk of ill-treatment.

15. The duration of the enforced disappearances documented by OHCHR ranged from between a few hours to several months. For example, Antonio Sequea Torres was arrested on 4 May 2020 and held in detention in Caracas by the Bolivarian National Intelligence Service. On 27 December 2020, Mr. Sequea's relatives were informed that he was no longer at Bolivarian National Intelligence Service premises. As at 1 May 2021, the authorities reported having engaged with the Working Group on Enforced or Involuntary Disappearances on this case, without officially disclosing information about Mr. Sequea's whereabouts to his relatives and lawyers, despite several requests. The whereabouts of others whose cases were considered by the Working Group, including Lieutenant Colonel Juan Antonio Hurtado Campos (since September 2018) and Hugo Enrique Marino Salas (since April 2019), remain unknown.

16. The dynamics and practices previously observed by OHCHR<sup>8</sup> continue to raise concerns. After having denounced instances of torture or ill-treatment before the courts, detainees were returned to the custody of those allegedly responsible for the reported ill-treatment. In some cases, the alleged perpetrators would have been called to testify against the victims in the criminal processes against them. OHCHR continued to receive allegations of such cases, with no precautionary measures taken by judges or prosecutors to protect the alleged victims or address related due process concerns. While article 33 of the Special Law to Prevent and Punish Torture and Other Inhuman or Degrading Treatment imposes criminal and administrative penalties for the introduction of statements or confessions obtained through torture or ill-treatment as evidence, OHCHR is not aware of any cases in which that provision has been applied.

17. For instance, a man arrested by the Directorate General of Military Counterintelligence reported before a judge that he had been tortured and pressured into confessing. He was allegedly told that three relatives, who had also been arrested, would be released if he cooperated with the investigation. He remains in the custody of his alleged torturers, with no precautionary measures granted.

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<sup>4</sup> See A/HRC/41/18; and A/HRC/44/20.

<sup>5</sup> Government response to OHCHR questionnaire.

<sup>6</sup> The details of those cases are consistent with previous findings of OHCHR (A/HRC/44/54, paras. 25–27; A/HRC/44/20, para. 52; and A/HRC/41/18, paras. 42–44).

<sup>7</sup> A/HRC/44/20, para. 46; and A/HRC/44/54, para. 26.

<sup>8</sup> A/HRC/44/54, paras. 24–27.

18. Upon release from the Bolivarian National Intelligence Service and the Directorate General of Military Counterintelligence, detainees were reportedly made to sign documents affirming that their rights had been respected while they were in custody and agreeing not to disclose information regarding their judicial process or detention.

19. OHCHR is concerned about reports of sexual violence against female detainees in pretrial detention, given that the majority of facilities are not tailored to meet gender-specific standards and that women detainees are often guarded by men. On 13 March, an officer of the Barinas State Police killed a woman in police custody, after she reportedly refused to engage in sexual acts. OHCHR welcomes the indictment of the police officer who allegedly shot the victim and calls upon the prosecution to fully investigate the allegations of sexual violence made by other female detainees and to prosecute the police officers allegedly involved.

20. On 9 September 2020, the Supreme Court of Justice annulled the indictment against two lieutenants of the armed forces in the case concerning Rafael Acosta Arévalo,<sup>9</sup> following an appeal by the defence. In October, the Office of the Attorney General filed a new indictment against the two officers, on charges of second degree murder and torture. The qualification by the State of the death by torture of Mr. Acosta Arévalo represents a positive step in the fight against torture. Further efforts are needed to ensure the accountability of both direct perpetrators and those in the chain of command, in order to dismantle structures and practices that have facilitated torture and ill-treatment and to prevent their recurrence. Such efforts include ensuring regular, confidential access to counsel of their own choosing, conducting swift, independent and in-depth investigations into allegations of ill-treatment and adopting precautionary measures to prevent the recurrence of those acts during the investigation.

## 2. Conditions of detention

21. OHCHR welcomes the increased access for and ongoing engagement with authorities to address recommendations related to detention, including pretrial detention.

22. Despite some efforts undertaken, the conditions of detention, including overcrowding, inadequate sanitary and hygiene facilities and the lack of access to adequate food, drinking water, treatment for diseases, meaningful activities and outdoor exercise, still fall short of meeting international standards. The already precarious conditions of detention<sup>10</sup> further deteriorated in many detention centres during the reporting period, compounded by diminished financial resources, sectoral sanctions, the lack of maintenance and measures adopted to prevent contagion in the context of the coronavirus disease (COVID-19) pandemic.

23. OHCHR welcomes the fact that it was granted increased access to centres of detention, which led to 24 visits and exchanges on tailored recommendations. The Ministry for Penitentiary Services and the justice system held dozens of court sessions at detention centres through use of ad hoc measures to expedite proceedings. Those measures are an important effort to address overcrowding in prisons by streamlining criminal proceedings and processing high volumes of cases. Further structural solutions to address the underlying causes of overcrowding, namely, persistent undue judicial delays and excessive use of pretrial detention, are needed.

24. The suspension of visits on 13 March 2020, to prevent the spread of the virus responsible for COVID-19, left persons deprived of liberty without access to their families or lawyers. Visits were resumed in September in centres under management by the Ministry for Penitentiary Services and later at military detention centres, in accordance with established biosecurity protocols. The continuation, regularity and expansion of visits is crucial to ensuring adequate conditions of detention and the right to a legal defence.

<sup>9</sup> Rafael Acosta Arévalo died in custody on 29 June 2019. Autopsy reports revealed that he had suffered multiple blows resulting in bruises, wounds, burns, 15 broken ribs and fractures to his nose and right foot.

<sup>10</sup> A/HRC/41/18, para. 45; and A/HRC/44/20, paras. 54–69.

25. Sources continued to report substandard and insufficient food in detention centres. Restrictions of family visits also had an impact on access to food for detainees, who often rely on their relatives to provide supplementary food sources to fulfil their dietary needs. While many detention centres accepted foodstuffs from relatives, sources denounced irregularities in the delivery of food to detainees. That situation exacerbated reported malnutrition in detention.

26. OHCHR is concerned about the deaths in custody, mainly due to a high incidence of tuberculosis, malnutrition and other illnesses among prisoners.<sup>11</sup> While the Ministry for Penitentiary Services made efforts to provide access to health care in detention centres, access to follow-up treatment or specialized care was sometimes delayed or denied. Salvador Franco, an indigenous Pemon man who had been held in detention since December 2019, died at the El Rodeo II penitentiary in Miranda State in January 2021. According to information received by OHCHR, Mr. Franco had requested medical attention repeatedly. On 21 November 2020, the court had ordered his transfer to a medical facility, but the transfer took place only on the afternoon of 2 January 2021. By then, he was already in critical condition. He was transferred back to prison that evening and died of tuberculosis a few hours later. Several days later, 12 other Pemon people who were accused in the same case as Mr. Franco were released on bail; 15 others remain in detention.

27. According to the Attorney General, there were 22,759 persons in pretrial detention in December 2020.<sup>12</sup> The situation of detainees in police detention continued to be of particular concern. Severe overcrowding, inadequate infrastructure, lack of sanitation, limited access to water, lack of medical attention and sexual violence against women were reported. The majority of pretrial detention centres reportedly do not provide food to detainees, leaving relatives or charities as the sole providers of food. OHCHR notes that neither the police nor investigative bodies have the statutory mandate to hold detainees in custody beyond the 48-hour limit.<sup>13</sup> In the case of the Bureau for Scientific, Criminal and Forensic Investigations, the law expressly prohibits holding detainees in their facilities.<sup>14</sup> However, detainees can effectively remain in pretrial detention centres for months or years, awaiting their presentation and trial before the courts. OHCHR is currently providing technical assistance to identify appropriate measures to address these concerns.

28. During the reporting period, some measures were taken to address concerns in detention centres managed by intelligence services, including the resumption of contact with relatives, the facilitation of religious services and transfers to medical examinations for some detainees. A significant reform, which is in line with previous OHCHR recommendations, has been the decision to no longer have the intelligence services operate detention facilities. In accordance with a decree published on 17 May 2021, the Directorate General of Military Counterintelligence and the Bolivarian National Intelligence Service are transferring those functions to the responsibility of the Ministry of Popular Power for the Penitentiary Service. OHCHR stresses that this reform should be implemented with transparency and encourages the authorities to continue to make efforts to improve the general conditions of detention and to continue to release detainees as appropriate.

### C. Rights to liberty and to a fair trial

29. OHCHR monitoring identified violations of defendants' rights to liberty, to trial without undue delay, to a fair trial and to legal counsel. In at least 12 cases documented by OHCHR, individuals were arrested without presenting an arrest warrant and in the absence of flagrancy. OHCHR also observed the routine use of pretrial detention, without due consideration of alternative measures to detention even in the context of the COVID-19 pandemic.

<sup>11</sup> The Venezuelan Prison Observatory registered 320 deaths of prisoners during the reporting period, 226 of which were due to illness.

<sup>12</sup> Statement by the Attorney General of 25 February 2021.

<sup>13</sup> Organic Code of Corrections, arts. 19–20; and Code of Criminal Procedure, arts. 236–241.

<sup>14</sup> Organic Law of the investigative police service, the Bureau for Scientific, Criminal and Forensic Investigations and the National Institute of Forensic Medicine and Sciences, art. 53.

30. Of the cases followed by OHCHR during the reporting period, civilian and military jurisdictions granted 4 individuals release on humanitarian grounds, 3 individuals conditional release and 14 individuals house arrest. Six individuals were released after being found not guilty, two after the charges against them were lifted and four after serving their sentence. The use of alternative measures to detention is significant for ensuring access to appropriate medical assistance and upholding due process. When investigations do not raise reasonable evidence substantiating the grounds for arrest, the charges should be dismissed.

31. OHCHR notes the positive steps taken, with the liberation of dozens of detainees during the reporting period. On 31 August, the President pardoned 110 individuals facing criminal charges. The measure terminated criminal proceedings against 23 members of the National Assembly and ordered the release of four parliamentarians, as well as other political leaders, activists and journalists, who had been imprisoned.

32. OHCHR welcomes the official responses and measures taken by the Government in response to some communications from special procedure mandate holders, as well as the cooperation for the conduct of a country visit by the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights. During the reporting period, four persons whom the Working Group on Arbitrary Detention had found to have been arbitrarily detained were released, and one was granted house arrest.

## **1. Right to access to a legal counsel of their own choosing**

33. Private defence lawyers faced obstacles to conducting their work and to effectively preparing a defence for their clients. Some attorneys were reportedly not notified of hearings, and others were physically prevented from gaining access to the court. Lawyers also reported difficulties in acquiring access to case files, receiving copies only minutes before the hearings or after the preliminary hearings had already taken place. The restriction of lawyers' visits in places of detention in the context of measures against COVID-19 also affected the rights to effectively access legal assistance, to communicate freely and privately with counsel and to prepare an effective defence.<sup>15</sup>

34. Defendants' right to be assisted by counsel of their own choosing was unduly restricted, in particular by anti-terrorism courts. Article 49 (1) of the Constitution of the Bolivarian Republic of Venezuela and article 127 of the Organic Code of Criminal Procedure establish the right to a legal defence. Pursuant to articles 139 to 141 of the Code, the appointment of private counsel is not subject to any particular formalities. In spite of that fact, in some high-profile cases, courts have denied the appointment of private lawyers, alleging procedural errors, and requested that additional formalities be completed. In other cases, custodial authorities reportedly prevented access to private attorneys, thereby impeding the formalization of their appointment. Judges, prosecutors and other government officials allegedly pressured some defendants to fire their private attorneys and replace them with public defenders.

35. In eight cases documented by OHCHR, public defenders were appointed against the defendants' express will, preventing access to legal counsel of their choice. For example, two foreign citizens who did not speak Spanish were represented, without understanding the proceedings, by a public defender. OHCHR continued to receive consistent reports of malpractice by public defenders, including pressuring defendants to accept charges, negligence in the performance of their duties as defence attorneys and withholding information related to the progress of the case from relatives and defendants.

## **2. Right to trial without undue delay**

36. Despite the efforts made by the authorities, the COVID-19 health crisis aggravated pre-existing delays in judicial processes. On 16 March 2020, the Supreme Court of Justice adopted a resolution freezing procedural time limits and suspending hearings across the judicial system, with the exception of the Constitutional and Electoral Chambers of the

<sup>15</sup> Article 14 (3) (b) of the International Covenant on Civil and Political Rights; principle 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment of 1988.

Supreme Court and urgent matters before the criminal jurisdiction.<sup>16</sup> That measure was extended until 1 October, when the Supreme Court ordered Venezuelan courts to resume hearings on “flexible” weeks.<sup>17</sup>

37. The analysis of cases of persons deprived of liberty monitored by OHCHR shows that, in the majority of cases, procedural time limits were not respected. In the most serious cases, that lead to prolonged periods of arbitrary detention. For instance, trade unionist Rodney Alvarez was arrested in June 2011 and convicted for homicide 10 years later after a lengthy trial and a decade of detention.<sup>18</sup> OHCHR also received credible allegations regarding demands for work supplies and bribes made by judges, prosecutors and public defenders of defendants and their relatives in order to expedite trials. OHCHR recognizes the efforts taken by the military justice system to accelerate the conduct of trials pending in cases monitored by the Office.

### 3. Right to an independent court and a fair trial

38. Structural challenges previously identified by OHCHR continued to undermine the independence of the judiciary, the Office of the Attorney General and the Office of the Public Defender.<sup>19</sup> According to information available to OHCHR, limited progress had been made towards the implementation of the recommendations issued in that regard by OHCHR,<sup>20</sup> United Nations treaty bodies and special procedures<sup>21</sup> and in the context of the universal periodic review.<sup>22</sup>

39. International human rights law provides that, in criminal processes, everyone is entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. However, court hearings before the terrorism and military jurisdictions were held privately, which generated a perception of secrecy and lack of independence. OHCHR continues to request access to observe trials.

40. In December 2020, the Supreme Court of Justice issued a ruling that could reopen the door to the trial of civilians by the military, establishing that “the civilian status of a detainee obliges the Military Control Courts to carry out an *ex officio* preliminary and reasoned analysis of the limits of their jurisdiction”.<sup>23</sup> The decision duly recognized that the rights of the defendants had been violated in this specific case, but the criteria provided would allow for more discretion than prescribed by applicable standards. Indeed, trials of civilians by military or special courts should be conducted strictly on an exceptional basis.<sup>24</sup>

41. The right to a fair trial is closely linked to the right not to be compelled to testify against oneself or to confess guilt.<sup>25</sup> OHCHR is concerned that a number of plea bargains and admissions of guilt may be the result of pressures, including prolonged periods of pretrial detention, poor conditions of detention, ill-treatment and inadequate legal assistance. In some cases, videos of the alleged confessions of detainees were publicly released even before being

<sup>16</sup> Supreme Court resolution No. 001-202029.

<sup>17</sup> In response to the COVID-19 pandemic, the Government established a system of alternating “flexible” weeks, on which greater freedom of movement is permitted, and “strict” quarantine weeks.

<sup>18</sup> International Labour Organization commission of inquiry report on the Bolivarian Republic of Venezuela (October 2019) had recommended his release citing a very serious breach of due process and a serious violation of the freedom of association. Available from [www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_724400.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_724400.pdf). Reply of the Government on 18 March 2021, available from [www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_773043.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_773043.pdf).

<sup>19</sup> A/HRC/44/54, paras. 6–16; and A/HRC/41/18, para. 76.

<sup>20</sup> A/HRC/44/54; and A/HRC/41/18.

<sup>21</sup> See, for example, CAT/C/VEN/CO/3-4; A/HRC/WGAD/2019/13; A/HRC/WGAD/2019/39; and A/HRC/WGAD/2019/75. See also VEN 4/2017; VEN 6/2018; VEN 4/2018; and VEN 1/2020. Available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

<sup>22</sup> See A/HRC/34/6.

<sup>23</sup> Ruling No. 246 of the Supreme Court of 14 December 2020.

<sup>24</sup> Human Rights Committee, general comment No. 32 (2007), para. 22.

<sup>25</sup> International Covenant on Civil and Political Rights, art. 14 (g).



presented before the court, raising both protection concerns and concerns related to the rights to presumption of innocence and to a fair trial.

#### **D. Access to justice and adequate reparations**

42. OHCHR acknowledges the steps taken by the Office of the Attorney General to investigate human rights violations committed by members of the security forces. According to the Office of the Attorney General, between August 2017 and April 2021, 716 security officers and 40 civilians were charged with serious human rights violations, and 153 were convicted.<sup>26</sup> On 1 May 2021, it was announced that 12 Bolivarian National Guard officers had been indicted for the homicide of Juan Pablo Pernaletе, allegedly killed as a result of the impact of a tear gas canister during a protest in 2017.

43. OHCHR stresses the need to strengthen judicial action to ensure accountability for serious human rights violations. Of all cases of killings in the context of security operations or protests documented by OHCHR, only one has led to a judgment to date. In that case, the alleged perpetrators were acquitted.

44. The Office of the Attorney General continues to depend on the forensic work of the Bureau for Scientific, Criminal and Forensic Investigations, which raises an issue as to the independence of the investigations in cases of violations committed by members of the security forces, given that it is also part of the Ministry of the Interior, Peace and Justice. Given the scale of the issue, further action is required to ensure prompt, thorough and independent investigations and the realization of victims' rights to truth, justice, reparation and guarantees of non-repetition.

45. OHCHR welcomes the creation of a specialized Victim Assistance Office for the Protection of Human Rights within the Office of the Attorney General in December 2020. The new Office is entrusted with providing information and comprehensive assistance to victims and is staffed by a team of six legal, social work and mental health professionals.<sup>27</sup> OHCHR notes the creation, in March 2021, of a specialized prosecutor's office for handling cases of femicide and sexual offences.

46. More must be done to ensure access to justice, however, given that victims continue to face significant barriers, including fear of reprisals and lack of financial resources and access to petrol to attend hearings or meetings with the prosecution. Some also report being mistreated by investigative institutions, including through intimidation or use of derogatory language or by questioning the victims' statements or mental health.

### **III. Democratic and civic space**

47. OHCHR continued to document restrictions to fundamental freedoms limiting the civic and democratic space. The work of civil society organizations and the media was impeded through regulatory and administrative restrictions, with some members thereof facing criminal prosecution related to their work.

48. OHCHR recorded 97 incidents related to human rights defenders, including journalists, union leaders, human rights activists and civil society organizations. They included 2 killings, 6 acts of violence, 62 instances of criminalization, 17 accounts of threats and intimidation and 10 cases of stigmatization. At least 16 members of the opposition were arrested; most were released shortly thereafter. OHCHR welcomes the release of dozens of civil society actors and members of the opposition from detention during the reporting period, but it notes the limited progress made in protecting human rights defenders and members of the media, investigating human rights violations committed against them and ensuring the right to participate in political affairs, as previously recommended. OHCHR supports recent efforts made to establish a direct dialogue between the authorities and civil society and

<sup>26</sup> Statement by the Attorney General of 1 May 2021.

<sup>27</sup> Office of the Attorney General, resolution No. 1803 of 30 December 2020.

encourages the strengthening of confidence-building measures and inclusive decision-making.

## A. Right to take part in public affairs

49. The reporting period was marked by the electoral process for representatives to the National Assembly, which commenced on 6 December 2020. Between June and September 2020, the Supreme Court of Justice issued several decisions,<sup>28</sup> leading to the replacement of the leadership of six opposition parties. On 12 June, the Supreme Court also appointed a new board of directors to the National Electoral Council<sup>29</sup> to lead the legislative electoral process, as had been done in previous electoral processes, arguing that the National Assembly had failed to fulfil its duty to do so.

50. On 30 June, the National Electoral Council also introduced new regulations for the election of indigenous representatives to the National Assembly.<sup>30</sup> The changes reduced the proportion of seats held by indigenous peoples in the legislative body<sup>31</sup> and replaced the direct vote with an indirect vote, raising concerns about the presence of sufficient guarantees to ensure the free and meaningful participation of indigenous peoples in the electoral process.<sup>32</sup> While meetings were held with some indigenous organizations to validate the regulations, wide and inclusive consultations, which are essential in accordance with applicable standards, were not held.<sup>33</sup> In protest, three of six indigenous organizations approved by the Council to participate in the process opted not to do so.

51. OHCHR received reports of voter inducement both prior to the commencement of and during the electoral process. Public authorities at the national and local levels made statements either promising social benefits or threatening to withdraw voters' access to social assistance, including food baskets and cash subsidies. Employees of State-owned companies and institutions were also reportedly threatened with dismissal if they did not vote.

52. The parliamentary electoral process began on 6 December, with a separate vote for the three indigenous representatives held on 9 December.<sup>34</sup> While a large presence of security forces and control points known as *puntos rojos*<sup>35</sup> were observed around voting sites, no major incidents were reported. At least 15 journalists covering the electoral process were reportedly intimidated or harassed by members of the security forces, public officials or *colectivos*<sup>36</sup> on 6 December.

<sup>28</sup> Decisions No. 71/2020 of 15 June, No. 72/2020 of 16 June, No. 77/2020 of 7 July, No. 19/2020 of 20 July, No. 127/2020 of 2 September, No. 119/2020 of 18 August and No. 122/2020 of 21 August. Available from [www.tsj.gob.ve/decisiones](http://www.tsj.gob.ve/decisiones).

<sup>29</sup> The body in charge of regulating, organizing and supervising electoral processes.

<sup>30</sup> Regulation No. 200630-0024.

<sup>31</sup> While new rules increased the number of members of the National Assembly from 167 to 277, the number of indigenous representatives remained at three representatives.

<sup>32</sup> Under the rules, indigenous communities should have held assemblies to elect spokespeople in August and September, with the participation of delegates of the National Electoral Council. The spokespeople would then have had to exercise a collective vote on behalf of their communities on 9 December. Sources informed the Office of the United Nations High Commissioner for Human Rights (OHCHR) that a large number of communities reportedly did not hold assemblies, due to lack of information, logistic and economic barriers, restrictions owing to the coronavirus disease (COVID-19) pandemic and disagreement with the new procedures. In some communities, documents supporting the appointment of spokespeople would have to have been signed without the holding of an assembly.

<sup>33</sup> Articles 5, 18 and 19 of the United Nations Declaration on the Rights of Indigenous Peoples; and Committee on the Elimination of Racial Discrimination, general recommendation No. 23 (1997), paras. 4 (a) and (d).

<sup>34</sup> The ruling coalition claimed 91 per cent of the seats in the National Assembly.

<sup>35</sup> Verification points of the participation of voters registered in the Patria card system, the official identification document used to manage the distribution of social assistance programmes, including food assistance and cash subsidies for households.

<sup>36</sup> Pro-government armed civilian groups.

53. Some opposition parties did not participate in the legislative electoral process, citing a lack of minimum guarantees to ensure a free and fair process.<sup>37</sup> Parts of the opposition instead conducted a referendum-like popular consultation from 7 to 12 December 2020. Overall, the process was peaceful. However, OHCHR received reports of threats made against and the harassment of participants by local authorities and armed *colectivos*.

54. The National Assembly elected on 6 December was inaugurated on 5 January and set up special commissions, including one aiming to promote dialogue and reconciliation and one to investigate alleged illegal activities on the part of parliamentarians elected in 2015.<sup>38</sup> On 23 February, the General Comptroller's Office disqualified 28 parliamentarians elected to the National Assembly in 2015 from holding public office for up to 15 years for allegedly failing to declare their income and assets, as is required for public office holders.

55. On 23 March, the Attorney General announced that 25 investigations had been opened against members of the opposition for the alleged seizure of Venezuelan assets abroad. The Attorney General indicated that they were under investigation for crimes of usurpation of functions, corruption, aggravated embezzlement, fraudulent use of public funds, conspiracy with foreign governments, terrorism, rebellion, trafficking in weapons of war, treason and criminal conspiracy. As of April 2021, 11 former representatives elected to the National Assembly in 2015 had been criminally charged.<sup>39</sup> Nine were later granted a presidential pardon, 1 remains detained, 1 is under house arrest and 35 have reportedly left the country or gone into hiding, citing fear of persecution.

56. On 4 May 2021, and for the first time since 2006, a new board of the National Electoral Council was appointed for a seven-year mandate by the National Assembly. Its newly appointed composition reflects a variety of affiliations.

## **B. Stigmatization and criminalization of civil society actors**

57. Officials continued to make derogatory public statements against individuals perceived as critical of the Government, including through institutional media channels and official websites. Human rights defenders, civil society representatives, independent journalists and media workers were branded as “criminals” or “terrorists”. Some officials also called for their prosecution. Discrediting and defaming civil society actors infringes their fundamental rights, including the rights to non-discrimination, protection against threats to their life and personal integrity and the presumption of innocence in cases of criminalization.

58. OHCHR analysed 19 cases of human rights defenders, including local activists, journalists, unionists and members of civil society organizations, who were facing criminal prosecution during the reporting period. Based on information available to OHCHR, the accusations brought against human rights defenders were built on a weak evidentiary basis or on the criminalization of legitimate forms of civic engagement, such as protesting, organizing, expressing critical views or engaging in politics. OHCHR identified due process concerns, including search and seizure procedures and arrests carried out without warrants, the routine use of pretrial detention, non-compliance with procedural time limits, denial of access to legal defence counsel of the defendant's own choosing and failure to provide the defence with timely and full access to case files and documents.

59. The authorities contend that some civil society actors misappropriate funds and have charged them with criminal offences related to the fight against organized crime and terrorism, including “criminal conspiracy”, “financing of terrorism” and “money-laundering”. The charges carry mandatory detention, preventing the possibility for the courts

<sup>37</sup> On 1 August 2020, 27 opposition parties issued a statement announcing that they would not participate in the process.

<sup>38</sup> Special Commission to Investigate Actions Perpetrated against the Republic by the Leadership and Members of the National Assembly in the period 2016–2021, created by the Board of the National Assembly on 7 January 2021.

<sup>39</sup> See decision of the Inter-Parliamentary Union Committee on the Human Rights of Parliamentarians at its 164th session.

to consider alternative measures. In many cases, judicial delays resulted in extended periods of pretrial detention.

60. The definition of “terrorism” contained in the Law against Organized Crime and the Financing of Terrorism of 2012<sup>40</sup> remains vague and continues to be interpreted as encompassing an ever-broadening category of activities, organizations and individuals. Applicable standards require a precise definition and a restricted interpretation, in compliance with the principles of legality, necessity and proportionality.<sup>41</sup> At least three union leaders, one activist and two members of the political opposition were arrested on charges of terrorism or terrorism financing.

61. At least five journalists were arrested, or threatened with arrest, on charges of “incitement to hatred” under the Constitutional Law against Hatred, for Peaceful Coexistence and Tolerance of 8 November 2017. OHCHR also documented the cases of two individuals who were charged with incitement to hatred after posting content critical of the Government on social media or a messaging application. Under the Law, the encouragement, promotion or incitement of hatred, discrimination or violence is penalized with 10 to 20 years’ imprisonment. The Law also bans political parties, organizations and movements that “promote hatred”, without defining the concepts of hate speech or incitement to hatred, allowing for a wide interpretative margin and limited predictability for compliance. Vague legal provisions restricting freedom of expression do not comply with article 19 (3) of the International Covenant on Civil and Political Rights.<sup>42</sup>

62. Criminal procedures against human rights defenders had multiplying effects across civil society, with organizations, journalists and human rights activists reporting that they had limited or ceased their activities due to fear of prosecution. Many reported leaving the country owing to rumours of investigations or arrest warrants against them. Others decided to exercise self-censorship. For those released from detention under conditional terms, the possibility of being rearrested remained, sometimes for years, without the charges being lifted. For instance, Braulio Jatar was arrested in 2015 and granted house arrest in September 2016 and conditional release in July 2019. The trial against him is still ongoing, with hearings to be resumed in 2021. The Working Group on Arbitrary Detention has determined that his detention was arbitrary.<sup>43</sup>

### C. Legal and administrative developments

63. The authorities adopted laws and regulations that affected the rights to freedom of association and assembly, instead of reinforcing their protection as previously recommended.

64. The State of La Guaira revised its State Law of Citizens’ Coexistence in February 2021, reportedly penalizing behaviour that “disrupts citizens’ coexistence”, including participation in peaceful protests, and establishing fines of up to 20 million bolívares for participants. While there are no reports yet of the measures being enforced, OHCHR is concerned that the fines established, which amount to double the monthly minimum wage, would have a chilling effect on the exercise of the right of peaceful assembly.

65. In October 2020, the Government issued regulations requiring non-governmental organizations domiciled abroad to register for a certification allowing them to legally operate

<sup>40</sup> Article 4 defines a terrorist act as an “intentional act, which, by its nature or context, may seriously damage a country or an international organization, committed with the aim of seriously intimidating a population; unduly compelling the government or an international organization to do or abstain from any act; or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization”.

<sup>41</sup> A/HRC/40/52, para. 75.

<sup>42</sup> See Human Rights Committee, general comment No. 34 (2011), in which the Committee noted that, under the requirement of legality, to be characterized as a “law”, restrictions on freedom of expression must be formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and that a law may not confer unfettered discretion for the restriction of freedom of expression. See also VEN 9/2017. Available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

<sup>43</sup> See A/HRC/WGAD/2017/37.

in the Bolivarian Republic of Venezuela.<sup>44</sup> Registration may be denied on broadly defined grounds of needing to protect the “public order and sovereignty”.

66. A series of new measures were introduced for non-governmental organizations, citing compliance with applicable standards in the fight against terrorism and corruption. On 20 November 2020, the Office of the Superintendent for the Banking Sector instructed the national banking sector to strengthen the oversight of financial operations carried out by non-governmental organizations in order to detect operations that could be linked to criminal activities or qualify as money-laundering or financing of terrorism and proliferation of weapons of mass destruction.<sup>45</sup>

67. On 30 March 2021, the Government published new regulations for the enforcement of the Law against Organized Crime and the Financing of Terrorism,<sup>46</sup> establishing a new registry for non-governmental organizations. The new requirements and conditions were lightened in an amendment introduced on 3 May, but with four other mandatory registries for non-governmental organizations, the burden raises concerns regarding the right to freedom of association.

68. In February 2021, a bill on international cooperation was once more placed on the agenda of the National Assembly. Previous drafts of the bill that had been circulated in recent years raised a number of concerns, including in relation of transparency and clarity, that would need to be addressed. Applicable standards determine that freedom of association may only be restricted by law as strictly necessary for the protection of national security, public safety, public health or morals or human rights.<sup>47</sup>

69. The measures were introduced as some senior officials publicly qualified any receipt of foreign funding by civil society organizations and the media as being criminal activity and called for judicial action. Such provisions would curtail the ability of civil society organizations to operate in the country. Reporting obligations should not be overly burdensome or threaten the functional autonomy of organizations, or arbitrarily restrict access to domestic or foreign financial resources. Access to funding and other resources is an integral part of the right to freedom of association and the right to defend human rights.<sup>48</sup>

## D. Fundamental freedoms

### 1. Freedom of association

70. Non-governmental organizations continued to face delays and difficulties in registering in mandatory public registries, updating legal information and submitting official documentation. The additional legal and administrative controls introduced on the registration, funding and operation of non-governmental organizations compounded pre-existing obstacles to their work, as highlighted in previous reports,<sup>49</sup> and to that of international human rights mechanisms.<sup>50</sup> OHCHR welcomes the efforts made to establish a platform of dialogue between the authorities and civil society.

<sup>44</sup> Special Rules for the Recognition and Operation of Non-Governmental Organizations not Domiciled in Venezuela (resolution No. 082 of the Ministry of People’s Power for Internal Relations, Justice and Peace/No. 320 of the Ministry of People’s Power for Foreign Affairs).

<sup>45</sup> Office of the Superintendent for the Banking Sector, resolution SIB-DSB-CJ-OD-06524 of 20 November.

<sup>46</sup> Regulations for the Unified Registry of Obligated Subjects before the National Office against Corruption and the Financing of Terrorism.

<sup>47</sup> Under article 22 of the International Covenant on Civil and Political Rights. A/HRC/20/27, sect. III.C.2.

<sup>48</sup> A/HRC/23/39, para. 20; A/HRC/22/6, para. 9; and Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, art. 13.

<sup>49</sup> See A/HRC/44/20.

<sup>50</sup> See VEN 6/2019; and VEN 5/2020. Available from <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

71. During the reporting period, at least four organizations carrying out humanitarian work were subjected to criminal investigations, search and seizure procedures, the freezing of assets and their staff being interrogated, and at least seven such staff members are currently facing prosecution. In the case of Azul Positivo, five staff members of the humanitarian organization were detained for 31 days on charges of fraud, money-laundering and criminal conspiracy, in connection with the implementation of cash transfer programmes as part of the United Nations humanitarian response plan. They were released on 11 February 2021, but still face criminal charges.<sup>51</sup> Those events generated a climate of fear and led to the suspension of humanitarian assistance programmes.

## 2. Freedom of peaceful assembly

72. Precautions to prevent contagion and restrictions on freedom of movement and assembly adopted to mitigate the COVID-19 pandemic initially resulted in a reduction of collective mobilization. Eventually, as the sectoral sanctions and the pandemic's impact exacerbated the economic crisis and access to fuel and basic services was further constrained, peaceful protests multiplied.

73. The Observatorio Venezolano de la Conflictividad Social reported that 7,371 protests took place from June 2020 to March 2021. The large majority were of a small scale, with protesters calling for access to fuel and basic services.<sup>52</sup> Overall, the security forces appeared to act adequately; however, OHCHR received some reports of excessive force by the Bolivarian National Guard, state police and the Coast Guard. In at least three cases documented by OHCHR, armed *colectivos* participated in the repression of demonstrations. OHCHR recalls its recommendations to prevent the use of force contrary to international standards, to ensure investigations into abuses involving *colectivos* and to dismantle pro-government armed civilian groups.<sup>53</sup>

74. The Observatorio Venezolano de la Conflictividad Social reported six deaths in the context of demonstrations in 2020,<sup>54</sup> a significant reduction compared with previous years, which could indicate a relative improvement in the overall conduct of security forces. No massive protests were registered during the reporting period, and security forces maintained a large presence at peaceful demonstrations.

75. OHCHR documented the killing of an 18-year-old fisher from Toas Island, in Zulia State, who was allegedly shot by Coast Guard officers on 16 July in a protest over access to fuel. OHCHR also documented the detention of 34 persons in the context of protests. The reported violence and arrests continued to generate fear among protesters, and OHCHR was informed of dozens of protesters who went into hiding or left the country due to fear of reprisals. OHCHR reiterates its calls for effective investigations and the publication of the results of investigations into deaths that occurred in the context of protests in 2014, 2017 and 2019.<sup>55</sup>

## 3. Freedom of opinion and expression

76. Media professionals, human rights defenders and members of civil society organizations continued to share with OHCHR their accounts of intimidation and self-censorship. United Nations human rights experts expressed their concern about the state of freedom of expression and access to information during the reporting period.<sup>56</sup>

77. On 21 August 2020, officers of the Special Action Forces reportedly killed two media workers of La Guacamaya TV. OHCHR welcomes the indictment of six officers, and urges

<sup>51</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26757&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26757&LangID=E); and the Government's response (<https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35987>).

<sup>52</sup> Observatorio Venezolano de la Conflictividad Social, bulletins, January 2020–March 2021.

<sup>53</sup> See A/HRC/41/18.

<sup>54</sup> The Observatorio Venezolano de la Conflictividad Social reported 67 deaths in the context of protests in 2019 and 14 in 2018.

<sup>55</sup> See A/HRC/44/54.

<sup>56</sup> See [www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=26620&LangID=E](http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=26620&LangID=E).

the authorities to conduct an exhaustive investigation. OHCHR also documented an attempt on the life of a third media professional by unknown persons in December in Guarico State. OHCHR continued to receive reports of journalists who were compelled to go into hiding or to leave the country, due to fear of reprisals. Some reported being forced to migrate through irregular channels, after border control agents had prevented them from leaving the country and seized their passports. OHCHR reaffirms its recommendations to ensure the safety of journalists and media workers.

78. In at least 11 cases documented by OHCHR, journalists were threatened or harassed by members of the Bolivarian National Guard, the Special Action Forces and the Bolivarian National Intelligence Service. In some cases, members of security forces deleted footage or unlawfully confiscated or destroyed the journalists' equipment. On 6 December 2020, the commencement of the parliamentary electoral process, OHCHR documented seven such cases of intimidation against journalists covering the process perpetrated by members of the Bolivarian National Guard, state police forces, armed *colectivos* and local authorities.

79. At least five radio stations and television channels were closed down, at least temporarily, and their equipment seized, by the National Commission for Telecommunications and the National Integrated Service of Customs and Tax Administration. On 8 January alone, authorities conducted search and seizure operations and suspended the operations of two media outlets. In the case of independent online broadcaster VPI TV, authorities ordered its suspension and confiscated its equipment alleging a violation of the Constitutional Law against Hatred.

80. The adoption of the Constitutional Anti-Blockade Law for National Development and the Safeguarding of Human Rights on 12 October 2020 could further restrict access to information of public interest.<sup>57</sup> The Law granted the Executive the discretion to exclude any file, document, information, fact or circumstances from disclosure, on vague grounds of "national interest and convenience", raising concerns about transparency, access to information and the protection of whistle-blowers.

81. The aforementioned restrictions on media freedoms affected the right of the media to access to information on public affairs and the public's right to receive a wide range of information.<sup>58</sup> Administrative closures, seizures of equipment, fear of retaliation and lack of advertising revenue have contributed to the closure of independent media outlets over the years. Traditional newspapers have also been affected by the scarcity of printing paper and forced to either migrate to online platforms or stop their operations. The situation was especially acute in areas outside the capital.

82. In that context, online platforms played a vital role in facilitating access to information. Conversely, weak Internet connectivity and electricity outages posed challenges to access, especially in regions outside the capital. OHCHR was informed of alleged cyberattacks blocking access to the websites of at least three independent news outlets. Pro-government profiles on social media platforms were reportedly rewarded through the Patria card social benefits system for their online support using pre-determined hashtags.

## IV. Conclusions and recommendations

83. **OHCHR welcomes the measures taken to address the previous recommendations made, yet more remains to be done. Given the recent developments detailed in the present report, OHCHR reiterates its previous recommendations relating to civic space and the rule of law but also welcomes the reforms announced on detention and police as steps in the right direction for human rights and encourages the authorities to take every opportunity to implement OHCHR recommendations. Accountability remains key to preventing and remedying human rights violations and strengthening the rule of law. The protection and expansion of civic space is vital to strengthening democracy, fostering inclusive dialogue and addressing the root causes of current challenges. OHCHR acknowledges the impact of sectoral sanctions in compounding existing**

<sup>57</sup> See A/HRC/41/18.

<sup>58</sup> Human Rights Committee, general comment No. 34 (2011), paras. 14 and 40.

human rights challenges. Overall, OHCHR welcomes the joint workplan established with the Bolivarian Republic of Venezuela in December 2020 as a commitment to making further progress towards the implementation of those recommendations.

84. In addition to the previously issued recommendations (see annex), OHCHR calls upon the Government of the Bolivarian Republic of Venezuela to:

(a) Ensure access to public information and data to monitor and adequately inform public policies, in particular in the context of the COVID-19 pandemic;

(b) Prioritize a legislative agenda aimed at strengthening the promotion and protection of human rights, avoid the adoption of laws and regulations that are disproportionately restrictive of fundamental freedoms and civic space and review adopted laws and regulations to ensure that they are consistent with human rights standards;

(c) Ensure that spaces for civil society participation are maintained and expanded and that any restrictions introduced in the context of the COVID-19 pandemic are strictly necessary and proportional to mitigating the impact of the pandemic;

(d) Ensure that all conditions are in place for free, fair, peaceful and independent electoral processes;

(e) Ensure that judicial action is strictly guided by the principles of legality, due process, presumption of innocence and other national and international standards;

(f) Allocate sufficient resources to ensure adequate conditions of detention and access to justice;

(g) Implement a comprehensive reform of security institutions and policies, to effectively address human rights concerns and provide redress to victims of human rights violations;

(h) Effectively implement a victim and witness protection programme, to safeguard the integrity of victims and witnesses, and ensure accountability for human rights violations;

(i) Conduct independent and thorough investigations into allegations of human rights violations committed in Apure State in the context of clashes with non-State armed groups;

(j) Remain committed to the effective implementation of the joint workplan signed with OHCHR and its engagement with international human rights mechanisms.



## Annex

### Summary of recommendations

#### Democratic and civic space

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##### Right to take part in public affairs

- Halt, publicly condemn, punish and prevent all acts of persecution and targeted repression based on political grounds, including stigmatizing rhetoric and smear campaigns; (A/HRC/41/18)
- Ensure adequate and representative consultations are conducted with all indigenous peoples prior to the adoption or implementation of any decision, activity or measure that may affect them, including any impact on their traditional lands, territories and resources; (A/HRC/44/54)

##### Protection of human rights defenders

- Adopt effective measures to protect human rights defenders and media professionals; (A/HRC/41/18)
- Refrain from discrediting human rights defenders and media professionals, and take effective measures to protect them, including by adopting a specialized protocol to investigate human rights violations and criminal offences against them; (A/HRC/44/20)

##### Freedom of opinion and expression, peaceful assembly and association

- Respect, protect and fulfil the rights to freedoms of opinion and expression, peaceful assembly and association, as well as the rights to access to information and to participate in political affairs; (A/HRC/44/20)
- Allow access to information of public interest; (A/HRC/41/18)
- Reverse closures of media outlets and cease other measures of censorship against media; guarantee access to the Internet and social media, including to news websites, and guarantee the impartiality of governing bodies in the allocation of radio spectrum frequencies; (A/HRC/41/18)
- Cease and prevent excessive use of force during demonstrations; (A/HRC/41/18)
- Publish a comprehensive report on the investigations and criminal proceedings of deaths that occurred in the context of protests in 2014, 2017 and 2019; (A/HRC/44/54)
- Disarm and dismantle pro-government armed civilian groups (armed *colectivos*) and ensure investigations into their crimes; (A/HRC/41/18)

##### States of exception

- Ensure that exceptional measures authorized under the “state of alarm” are strictly necessary and proportionate, limited in time, and subject to independent oversight and review; (A/HRC/44/20)
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#### Accountability and rule of law

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##### Right to life

- Take immediate measures to halt, remedy and prevent human rights violations, in particular gross violations such as torture and extrajudicial executions; (A/HRC/41/18)
- Ensure systematic, prompt, effective and thorough, as well as independent, impartial and transparent, investigations into all killings by security forces and armed civilian groups (armed *colectivos*), and ensure independence of all investigative bodies, accountability of perpetrators and redress for victims; (A/HRC/44/20)

- Dissolve the Special Action Forces of the Bolivarian National Police and establish an impartial and independent national mechanism, with the support of the international community, to investigate extrajudicial executions during security operations, ensure accountability of perpetrators and redress for victims; (A/HRC/41/18)
- Revise security policies to implement international norms and standards on the use of force and human rights, in particular by restoring the civilian nature of police forces, conducting vetting, restricting the functions of “special forces” and strengthening internal and external oversight mechanisms; (A/HRC/44/20)

#### **Right to physical and moral integrity**

- Ensure effective investigation and sanctioning of those responsible for cases of torture and ill-treatment, and strengthen the National Commission for the Prevention of Torture, in compliance with international human rights norms; (A/HRC/44/20)
- Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention for the Protection of All Persons from Enforced Disappearance; (A/HRC/41/18)
- Ensure the rights to food, water and sanitation, health, security and dignity of all persons deprived of liberty, including by meeting gender-specific needs; (A/HRC/44/20)
- Adopt specific measures in the context of the COVID-19 pandemic to ensure the rights to health and security of detainees, including by granting alternative measures to deprivation of liberty to the broadest set of prisoners possible, consistent with the protection of public safety; (A/HRC/44/20)
- Put an end to incommunicado detention, including by intelligence services, guarantee that any individual subject to pretrial detention is held in official pretrial detention centres subject to judicial oversight, and transfer all persons detained in premises of intelligence services to official detention centres; (A/HRC/44/20)

#### **Rights to liberty and to a fair trial**

- Release all persons arbitrarily deprived of their liberty; (A/HRC/41/18)
- Release unconditionally all persons unlawfully or arbitrarily deprived of liberty, including through the implementation of the decisions of the Working Group on Arbitrary Detention; (A/HRC/44/20)
- Address the underlying causes of overcrowding and undue judicial delays through comprehensive reform of the administration of justice; (A/HRC/44/20)
- Put an end to the trial of civilians by military tribunals, and ensure that the jurisdiction of military tribunals is limited to military offences committed by active members of the military; (A/HRC/44/54)
- Publish the legal authority and mandate of the counter-terrorism courts and take all necessary measures to guarantee their independence, impartiality and transparency, as well as their strict compliance with international human rights standards; (A/HRC/44/54)
- Take effective measures to restore the independence of the justice system and ensure the impartiality of the Office of the Attorney General and the Ombudsperson; (A/HRC/41/18)
- Undertake and complete the reforms of the justice system announced by the Government in January 2020 to guarantee its independence, impartiality, transparency, accessibility and effectiveness; (A/HRC/44/54)
- Establish an independent, impartial and transparent mechanism to increase the number of tenured judges and prosecutors through a transparent public process; (A/HRC/44/54)
- Guarantee that lawyers’ associations recover their independence and full autonomy by allowing free internal elections; (A/HRC/44/54)

- Guarantee the independence of the Public Defender, through the provision of sufficient resources and training, and ensure the rights of defendants to appoint a lawyer of their own choice; (A/HRC/44/54)
- Restore the capacity of the criminal unit against the violation of fundamental rights of the Office of the Attorney General to conduct independent forensic investigations into cases of alleged human rights violations by security forces; (A/HRC/44/54)

#### **Access to justice and adequate reparations**

- Conduct prompt, effective, thorough, independent, impartial and transparent investigations into allegations of human rights violations, including deprivation of life, enforced disappearance, torture, and sexual and gender-based violence involving members of the security forces, bring perpetrators to justice and provide victims with adequate reparation; (A/HRC/44/54)
- Conduct prompt, effective, thorough, independent, impartial and transparent investigations into human rights violations, including killings of indigenous peoples, and bring perpetrators to justice; (A/HRC/41/18)
- Ensure the right to remedy and reparations for victims, with a gender-sensitive approach, as well as guarantee their protection from intimidation and retaliation; (A/HRC/41/18)
- Review the protocols and methods of the Office of the Attorney General to provide gender-sensitive attention and support for victims of human rights violations and their families; (A/HRC/44/54)
- Cease immediately any acts of intimidation, threats and reprisals by members of security forces against relatives of victims of human rights violations who seek justice; (A/HRC/44/54)
- Adopt the necessary regulations and protocols to fulfil all rights and obligations enshrined in the Organic Law on the right of women to a life free of violence, and also adopt effective measures to assist and protect victims of all forms of violence, including women and children; (A/HRC/44/54)
- Establish a system for the systematic collection of statistical data on violence against women, disaggregated by forms of violence, number of complaints, prosecutions and convictions imposed on perpetrators; (A/HRC/44/54)

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#### **Engagement with OHCHR and human rights mechanisms**

- Increase engagement with international human rights protection mechanisms, including the special procedures system, by receiving regular official visits from mandate holders; (A/HRC/44/20)
  - Accept and facilitate the establishment of a permanent OHCHR country office; (A/HRC/41/18)
  - Facilitate the establishment of an OHCHR office in the country as an effective means of assisting the State in tackling the human rights challenges and concerns addressed in the present report; (A/HRC/44/20)
-