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Agenda item 2

### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

## Human rights in the Bolivarian Republic of Venezuela\*

### Report of the United Nations High Commissioner for Human Rights on the situation of Human rights in the Bolivarian Republic of Venezuela

#### *Summary*

Submitted pursuant to Human Rights Council resolution 39/1, the present report provides an overview of the human rights situation in the Bolivarian Republic of Venezuela from January 2018 to May 2019.

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\* The present report was submitted after the deadline to reflect recent developments.

## I. Introduction

1. In its resolution 39/1, the Human Rights Council requested the High Commissioner for Human Rights to “prepare a comprehensive written report on the human rights situation in the Bolivarian Republic of Venezuela” (Venezuela) to be presented at its forty-first session.<sup>1</sup>
2. The present report focuses on the situation of human rights in Venezuela since 2018, while also analysing pertinent developments that took place beforehand. It highlights patterns of violations directly and indirectly affecting all human rights – civil, political, economic, social and cultural. The report includes a gender-based approach, highlighting the specific experiences of women and girls.
3. The report is based on information collected and analysed by the Office of the High Commissioner for Human Rights (OHCHR), including through missions. From 11 to 22 March 2019, OHCHR visited Venezuela where it met with a wide range of state and other stakeholders in Caracas, Barquisimeto, Valencia and Ciudad Guayana. Additionally, between September 2018 and April 2019, OHCHR conducted nine visits to interview Venezuelan refugees and migrants in Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru and Spain. OHCHR is grateful to the respective Governments for facilitating these visits.
4. The High Commissioner visited Venezuela from 19 to 21 June 2019. She met with many stakeholders, including President Nicolás Maduro, the Vice-president, the Minister of Foreign Affairs, high-level officials from 17 ministries,<sup>2</sup> the President of the National Assembly, and opposition parliamentarians. She also met with the President of the National Constituent Assembly, the Attorney-General, the President of the Supreme Court of Justice and the Ombudsperson. She held meetings with representatives of the Catholic Church, the business sector, universities, students, trade unions, and human rights organizations, approximately 200 victims, the diplomatic community and the United Nations Country Team.
5. In addition to accepting an OHCHR presence, the Government made several commitments and identified areas of cooperation. OHCHR will support the assessment of the main obstacles concerning access to justice and of the National Commission for the Prevention of Torture and other Cruel, Inhumane or Degrading Treatment. The Government has also agreed that OHCHR will be granted full access to detention centres to monitor conditions of detention and speak to detainees. The Government will adopt a calendar of ten visits of Special Procedures in the next two years. In six months, OHCHR and the Government will evaluate the possibility of enhancing OHCHR’s presence and establishing a country office.
6. OHCHR conducted 558 interviews with victims and witnesses of human rights violations, and other sources, including lawyers, health and media professionals, human rights defenders, and ex-military and security officers.<sup>3</sup> It also held 159 meetings with a broad range of state and other stakeholders.<sup>4</sup> As per its methodology, OHCHR sought informed consent from the sources it interviewed before using any information they provided, ensuring confidentiality when appropriate. It took all appropriate measures to protect the identity of its sources and notes that many expressed fear of reprisals.
7. The report also reflects the analysis of numerous documents, which OHCHR gathered and examined, including official Government documents, open source reports, legislation and legal documents, medical and forensic reports, media (including social media), videos, and photographs. Wherever possible, OHCHR refers to official information and data, but notes access to such material is limited as official publications, including statistics, have been scarce and completely lacking in some areas, since at least 2015.

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<sup>1</sup> A/HRC/RES/39/1.

<sup>2</sup> Including Interior, Defence, Health, Economy and Education.

<sup>3</sup> 460 interviews were conducted in Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru and Spain, and 98 remotely.

<sup>4</sup> In Argentina, Brazil, Chile, Colombia, Ecuador, Mexico, Peru, Spain, Switzerland and Venezuela.

8. In line with its methodology on human rights monitoring, OHCHR exercised due diligence to assess the credibility and reliability of all sources and crosschecked the information gathered to confirm its validity. OHCHR was able to gather, analyse, and verify a substantial body of information that provide reasonable grounds to believe patterns described in the report constitute human rights violations.

9. OHCHR assessed the information it collected in light of international human rights law as applicable to Venezuela and pertinent domestic legislation. Additionally, OHCHR considered relevant standard-setting instruments recognized as complementary to international norms.

## II. Economic and social rights

10. In 2018 and 2019, the economic and social crisis deteriorated further as the economy continued to contract, inflation skyrocketed, and public revenues dropped with the drastic reduction of oil exports. Venezuelans are facing a range of interrelated violations of their economic and social rights.

11. Despite several increases of the minimum wage by the Government, its purchasing power has decreased to the extent that it can no longer be considered a living wage. In April 2019, the minimum wage was estimated at seven USD per month and only covered 4.7 percent of the basic food basket.<sup>5</sup> Notwithstanding some general government subsidies, people interviewed by OHCHR consistently stressed that their monthly family income was insufficient to meet their basic needs, covering approximately four days of food per month.

12. Misallocation of resources, corruption, lack of maintenance of public infrastructure, and severe underinvestment has resulted in violations to the right to an adequate standard of living related to the collapse of public services such as public transportation, access to electricity, water, and natural gas. Since September 2018, members of the Government have begun to speak about the consequences of the economic crisis and to acknowledge certain aspects of the humanitarian situation, particularly food and medicine shortages. The Government affirmed that 75 percent of the annual budget is allocated to social expenditure.<sup>6</sup>

### A. Right to food

13. Information verified by OHCHR confirms violations of the right to food, including the State's obligation to ensure the population is free from hunger. The main food assistance programme known as CLAP boxes does not meet basic nutritional needs. The Government has not demonstrated that it has used all resources at its disposal to ensure the progressive realization of the right to food, nor that it has unsuccessfully sought international assistance to address gaps. In the last few months, the Government has requested and accepted aid, although insufficient to meet the needs of the population.

14. Interviewees consistently reported a lack of access to food due to scarcity as well as unaffordability. Availability of sufficient quality food is deficient, with interviewees reporting eating once, or at most twice, per day, and consuming few proteins or vitamins. Lack of access to food has a particularly adverse impact on women who are the main caregivers and/or heads of households, and who dedicate an average of 10 hours per day queuing for food. Local sources reported some women being compelled to exchange sex for food.

15. In addition to hyperinflation and economic contraction, economic and social policies adopted over the past decade have undermined food production and distribution systems, increasing the number of people that rely on food assistance programmes. The United Nations' Food and Agriculture Organization reported 3.7 million people in Venezuela were

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<sup>5</sup> Centro de documentación y análisis para los trabajadores, <http://cenda.org.ve/default.asp>.

<sup>6</sup> Information provided by the Government.

malnourished, and the NGO Caritas confirmed particularly high levels of malnutrition among children and pregnant women.<sup>7</sup>

## **B. Right to health**

16. The situation regarding the right to health in Venezuela is dire. Interviewees consistently described a healthcare infrastructure that has been declining for years, hallmarked by an exodus of doctors and nurses, unsanitary conditions, and severe shortages in basic medical equipment, supplies and medicines. Families of patients have to provide all necessities, including water, gloves, and syringes. Reports point to shortages of 60 to 100 percent of essential drugs in four of Venezuela's major cities, including Caracas.<sup>8</sup>

17. Moreover, previously controlled and eliminated diseases, including vaccine-preventable diseases such as measles and diphtheria, have re-emerged. In the last year, with the support of the Pan American Health Organization, the authorities implemented a series of vaccination strategies, aimed at interrupting the circulation of measles.<sup>9</sup> The authorities informed that during June 2019, there had been no new case of measles.

18. There is a lack of access to all types of contraceptives, with several cities facing a 100 percent shortage.<sup>10</sup> This increases risk of contracting HIV and other sexually transmitted diseases, and of unwanted and adolescent pregnancies. The rate of adolescent pregnancies has increased by 65 percent since 2015.<sup>11</sup> This impacts girls' right to education, with pregnancy being the primary reason girls drop out of school. Due to restrictive legislation on abortion, some women and girls must resort to unsafe abortions. This has contributed to an increase in preventable maternal mortality, with an estimated 20 percent of maternal deaths reportedly linked to unsafe abortions.<sup>12</sup> Lack of skilled birth attendants, medical supplies and hospital conditions has driven many women to give birth abroad.

19. The National Hospital Survey (2019) found that between November 2018 and February 2019, 1,557 people died due to lack of supplies in hospitals.<sup>13</sup> Blackouts have caused irreparable harm, as evidenced by reports that indicate that 40 patients died as a result of the March 2019 power outages.<sup>14</sup> During the High Commissioner's visit, health professionals and parents of sick children mentioned the impact of economic sanctions on the health sector, particularly the possibility of receiving urgent medical treatment, including transplants, outside the country.

20. Violations of the right to health resulted from the Government's failure to fulfil its core obligations, which are non-derogable, even for economic reasons. Violations of core obligations were linked to the widespread lack of availability of, and access to, essential medicines and treatment, the deterioration of conditions in hospitals, clinics, and maternity clinics, insufficient provision of underlying determinants of health, including water and adequate nutrition, deterioration of immunization and preventative health programmes, and

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<sup>7</sup> FAO, "Panorama de la Seguridad Alimentaria y Nutricional en América Latina y el Caribe", 2018; Caritas Venezuela, "Monitoreo de la Situación Nutricional en Niños Menores de 5 años", *Bulletins of* April-July 2018, July-September 2018 and October-December 2018.

<sup>8</sup> Red Venezolana de Gente Positiva, [www.mavidcarabobo.org.ve](http://www.mavidcarabobo.org.ve); Federación Farmacéutica Venezolana, <http://fefarven.org.ve/portal/>; CONVITE X La Salud, "Monitoring of Access to Health in Venezuela", Newsletter of 20, March 2019.

<sup>9</sup> PAHO, "Venezuela intensifica su campaña de vacunación contra el sarampión y la difteria", 10 March 2019, [www.paho.org](http://www.paho.org).

<sup>10</sup> Magdymar León Torrealba, "Índice de escasez de métodos anticonceptivos en farmacias de cinco ciudades de Venezuela", December 2018; CONVITE X La Salud, "Monitoring of Access to Health in Venezuela", Newsletter 20, March 2019.

<sup>11</sup> Information provided by UNFPA; also see: [www.unfpa.org/maternal-health](http://www.unfpa.org/maternal-health).

<sup>12</sup> [www.unfpa.org/maternal-health](http://www.unfpa.org/maternal-health). See also: AVESA et al., "Salud sexual y reproductiva de mujeres, adolescentes y niñas en Venezuela", 2018, page 34.

<sup>13</sup> Médicos por la Salud, "Encuesta Nacional de Hospitales 2019", [www.encuestanacionaldehospitales.com](http://www.encuestanacionaldehospitales.com).

<sup>14</sup> Interview with source 10 May 2019; CONVITE, "Monitoreo del acceso a la salud en Venezuela", *Bulletin*, March 2019.

restrictions on access to sexual and reproductive health. Moreover, the failure of the Government to publish comprehensive data on public health, essential for the development and implementation of an adequate response to the health crisis is a violation of the right to health.

### C. Social programmes and policies

21. For two decades, the Government promoted social policies through the “Misiones Bolivarianas,” which were economic and social programmes aimed at fighting poverty and social exclusion and decreasing the gender equality gap. Today, Venezuelans are increasingly relying on social programmes to access to minimum levels of income and food.

22. On 13 May 2016, the Government declared a “state of exception and economic emergency”<sup>15</sup> and created the Local Committees for Supply and Food Distribution (CLAP) as part of the local structure of “community councils”.<sup>16</sup> These structures, along with military and security forces, were mandated to distribute food assistance, known as CLAP boxes, which according to the Government, reaches 6 million households. OHCHR received accounts of people, who despite not having adequate access to food, were not included in the distribution lists of the CLAP boxes because they were not Government supporters.

23. In addition, at the end of 2016, the President announced the creation of the “carnet de la patria” (“carnet”), a card through which all social programmes would now be delivered, including a new system of direct financial transfers to families. The list of beneficiaries of these programmes is managed by the local structures of the governing parties, as opposed to Government institutions. Interviewees reported that members of these local structures monitor beneficiaries’ political activity.

24. Women, who carry the burden of household tasks and child rearing, are the majority of beneficiaries of social programmes related to health, food, and housing. They also constitute 72 percent of the membership of local community councils.<sup>17</sup> However, discrimination based on political grounds and social control through “carnets” has had a direct impact on their ability to exercise their rights. In 2018 and 2019, women led many local and peaceful protests demanding access to basic goods and services, they also participated in anti-government protests. OHCHR collected accounts of women, including local leaders, who have been targeted due to their activism, threatened by community leaders and pro-government civilian armed groups (armed “colectivos”), and excluded from social programmes. Women reported not exercising their rights, including not speaking out against the Government, for fear of reprisals.

### D. Unilateral coercive measures

25. The large majority of sanctions that have been imposed to date by a number of States and a regional organization are targeted in nature, consisting of travel bans and asset freezes with respect to some 150 people, including senior-level Government officials, or arms embargoes.<sup>18</sup> One country to date has imposed broader, sectoral sanctions, as of 29 August 2017.<sup>19</sup> On 28 January 2019, sanctions were imposed on the state-owned oil company, PDVSA, also blocking property and property interests of subsidiaries within U.S. jurisdiction.<sup>20</sup>

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<sup>15</sup> Presidential decree No.2323.

<sup>16</sup> The community councils were created in 2006 so that people would directly manage public policies and social projects.

<sup>17</sup> Information provided by the Government.

<sup>18</sup> Canada, Colombia, Mexico, Panama, the United States of America, Switzerland, and the European Union.

<sup>19</sup> Executive Order 13808. Further sectoral sanctions were imposed on 19 March 2018 (Executive Order 13827), 1 November 2018 (Executive Order 13850), and 21 May 2018 (Executive Order 13835).

<sup>20</sup> Executive Order 13857.

26. The Government has assigned blame for the economic crisis on sanctions imposed on Venezuela, arguing that due to over-compliance, banking transactions have been delayed or rejected, and assets frozen, which hinders the State's ability to import food and medicines.

27. The economy of Venezuela, particularly its oil industry and food production systems, were already in crisis before any sectoral sanctions were imposed. Figures published by the Central Bank of Venezuela on 28 May 2019 show that key economic indicators began to decline dramatically well before August 2017.<sup>21</sup> Nevertheless, the latest economic sanctions are exacerbating further the effects of the economic crisis, and thus the humanitarian situation, given that most of the foreign exchange earnings derive from oil exports, many of which are linked to the U.S. market. The Government has agreed to gradually authorize humanitarian assistance from the United Nations and other actors. However, the level of assistance is minimal vis-à-vis the scale of the crisis and there is an urgent need to adopt structural economic reforms.

### **III. Civil and political rights**

#### **A. Freedom of opinion and expression**

28. Over the past years, the Government has attempted to impose a communicational hegemony by enforcing its own version of events and creating an environment that curtails independent media. This situation has continued to worsen in 2018-2019. Dozens of print media closed and the Government shut down radio stations and banned television channels. Detention of journalists increased, including of foreign journalists who were expelled or left the country immediately after having been released. Hundreds of Venezuelan journalists now live in exile. The Internet and social media have become the main means of communication and information for the population, further limiting access to independent information for those who do not have Internet access. Internet speed is also steadily decreasing, including because of lack of investment in infrastructure. Additionally, in recent years, the Government has blocked independent news websites and regularly blocked the main social media platforms.

29. OHCHR documented a number of cases of arbitrary detention of people for expressing opinions on social media. In the last 10 years, the NGO "Espacio Público" registered the arbitrary detention of and criminal charges against 55 persons for social media publications – 24 of them in 2018.<sup>22</sup>

#### **B. Targeted repression and persecution on political grounds**

30. Over at least a decade, the Government and government-controlled institutions enforced laws and policies that have accelerated the erosion of the rule of law and the dismantlement of democratic institutions, including the National Assembly.<sup>23</sup> These measures are aimed at neutralizing, repressing and criminalizing political opponents and people critical of the Government. This trend has accelerated since 2016, after the opposition won the majority of National Assembly seats, resulting in increased repression targeting the political opposition, and steadily reducing the already limited democratic space.

##### **1. Security measures and institutions**

31. On 13 May 2016, the President of the Republic declared a "state of exception," which has since been renewed every 60 days.<sup>24</sup> The decree grants wide, vague and discretionary

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<sup>21</sup> [www.bcv.org.ve](http://www.bcv.org.ve)

<sup>22</sup> Espacio Público, "Detenciones en línea. Presos por usar las redes sociales", 2 May 2019, [http://espaciopublico.org/detenciones-en-linea-presos-por-usar-las-redes-sociales/#.XPBMhY9S\\_cs](http://espaciopublico.org/detenciones-en-linea-presos-por-usar-las-redes-sociales/#.XPBMhY9S_cs).

<sup>23</sup> The "Tascón List" was an early marker of discrimination and persecution on political grounds. A database of over 3 million Venezuelans who supported a referendum to revoke the mandate of then President Hugo Chávez in 2003-2004, the list was used to massively dismiss civil servants.

<sup>24</sup> Presidential decree No.2323.

powers to the Executive with the declared purpose of, inter alia, preserving the internal order. In 2017, the President activated the Plan Zamora, a civil-military strategic security plan for the joint operation of armed forces, militias and civilians. These policies involve the increased militarization of State institutions. They also extend the use of the population in intelligence gathering and defence tasks, through local structures such as community councils, UBChs, CLAPs and “Redes de Articulación y Acción Sociopolítica”.

32. The security apparatus includes the Bolivarian National Guard (GNB),<sup>25</sup> the Bolivarian National Police (PNB) and its Special Action Forces (FAES), the Bureau for Scientific, Criminal and Forensic Investigations (CICPC), the Bolivarian National Intelligence Service (SEBIN), and the Directorate General of Military Counterintelligence (DGCIM). GNB and PNB have been responsible for the excessive use of force in demonstrations since at least 2014. FAES, a rapid-response unit created in 2017 to combat organized crime, has allegedly been responsible for numerous extrajudicial executions in security operations, as well as the CICPC. Intelligence services (SEBIN and DGCIM) have been responsible for arbitrary detentions, ill-treatment and torture of political opponents and their relatives. Armed “colectivos” contribute to this system by exercising social control in local communities, and supporting security forces in repressing demonstrations and dissent.

33. Institutions responsible for the protection of human rights, such as the Attorney-General’s Office, the courts and the Ombudsperson, usually do not conduct prompt, effective, thorough, independent, impartial and transparent investigations into human rights violations and other crimes committed by State actors, bring perpetrators to justice, and protect victims and witnesses. Such inaction contributes to impunity and the recurrence of violations.

## 2. Targeting of opposition members and individuals critical of the Government

34. These policies are accompanied by a public rhetoric, including by high-level authorities, that constantly discredits and attacks those who criticize or oppose the Government. The political opposition, human rights activists and journalists, among others, are frequently the targets of discourse labelling them as “traitors” and “destabilizing agents”. This rhetoric is widely disseminated through pro-government media, such as the weekly TV programme “Con el Mazo Dando”, presented by the President of the National Constituent Assembly (NCA).<sup>26</sup>

35. Successive laws and reforms have facilitated the criminalization of the opposition and of anyone critical of the Government through vague provisions, increased sanctions for acts that are guaranteed by the right of freedom of peaceful assembly, the use of military jurisdiction for civilians, and restrictions on NGOs to represent victims of human rights violations.<sup>27</sup>

36. In 2018-2019, various trade union leaders and many workers were fired or detained after protesting for decent salaries and working conditions. Dozens of health professionals who denounced the state of healthcare were dismissed and/or threatened by superiors and some were arbitrarily detained. University staff critical of the Government was threatened with non-payment of salaries, prevented from accessing their workplace and travelling abroad, and arbitrarily detained. Human rights defenders were victims of defamation campaigns in pro-government media, and subjected to surveillance, intimidation, harassment, threats and arbitrary detention. Attacks have also targeted supporters of former President Hugo Chávez and military dissidents as well as civil servants and employees of State companies perceived as opponents. Many victims of such acts have reduced their activities, gone into hiding or exile. Further, women, in particular human rights defenders, nurses, teachers and civil servants, have faced gendered attacks such as sexist comments, online

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<sup>25</sup> Part of the armed forces.

<sup>26</sup> Established in August 2017 after an electoral process that lacked political inclusivity and was marred with irregularities. The NCA assumed *de facto* the constitutional responsibilities of the National Assembly.

<sup>27</sup> “Constitutional Law against Hatred, for Peaceful Coexistence and Tolerance”, adopted by the National Constituent Assembly on 8 November 2017, the “Law against Organized Crime and Funding of Terrorism” of 31 January 2012, and the reform of the Criminal Procedure Code, adopted by ministerial decree on 15 June 2012.

gender-based violence, and public humiliation. The targeted repression of opposition members and social leaders instils fear by demonstrating the possible consequences of opposing or merely criticizing the Government or expressing dissent.

37. As of June 2019, 22 deputies of the National Assembly, including its President, have been stripped of their parliamentary immunity by the Supreme Court of Justice. Many of them have been charged with treason, conspiracy, incitement to insurrection, civil rebellion, and association, among others, following 4 August 2018, when a reported assassination attempt against the President of the Republic failed, and 30 April 2019, when the President of the National Assembly called for the armed forces to defect and defy the Government. Two deputies are being held in pre-trial detention<sup>28</sup> while 16 have sought protection in foreign Embassies, left the country, or gone into hiding.

38. Attacks against relatives of political opponents are part of the targeted repression. OHCHR documented an increasing number of arbitrary detention of relatives, particularly women, of alleged political opponents. Without access to lawyers, they are interrogated about the whereabouts of their relatives and, in some cases, are ill-treated and tortured. These detentions are carried out as a means to exert pressure on the alleged fugitive, but also as a punishment. Relatives are also victims of death threats, further harm to their families, surveillance, intimidation and harassment. Additionally, women are subjected to sexual and gender-based violence (SGBV) and humiliation during visits in detention centres, security operations, and house raids.

### **3. Excessive use of force and deaths in the context of anti-government demonstrations**

39. As the political, social and economic crisis deepened, protests against the Government increased in number and intensity since 2014. According to the Government, 12,913 demonstrations took place in 2017, 7,563 in 2018, and 3,251 between 1 January and 12 May 2019.<sup>29</sup> However, according to the NGO “Observatorio Venezolano de la Conflictividad Social” (OVCS), 9,787 protests took place in 2017, 12,715 in 2018 and 9,715 between 1 January and 31 May 2019.<sup>30</sup> In 2019, security forces did not resort to excessive force during all demonstrations. Nonetheless, during certain political protests, GNB, PNB, FAES and some state and municipal police forces, allegedly used excessive force deliberately, to instil fear and discourage further demonstrations. Armed “colectivos” also resorted to violence against demonstrators, often in coordination with security forces. In many cases, these actions resulted in deaths and serious injuries.

40. According to the Government, there were no deaths during demonstrations in 2018. They reported that 29 persons were killed between January and May 2019.<sup>31</sup> However, the OVCS reported 14 deaths in the context of demonstrations in 2018<sup>32</sup> and OHCHR documented 66 deaths between January and May 2019. Many demonstrators were arbitrarily detained and ill-treated or tortured. Security forces also conducted illegal house-raids targeting demonstrators.

### **4. Arbitrary detentions, torture and ill-treatment**

41. According to the NGO “Foro Penal Venezolano”, at least 15,045 persons were detained for political motives between January 2014 and May 2019.<sup>33</sup> Of them, 527 were detained in 2018 and 2,091 between January and May 2019. The majority of them were detained in the context of demonstrations. By 31 May 2019, 793 persons remained arbitrarily deprived of their liberty, 1,437 persons had been released unconditionally, and 8,598 had been conditionally released and were still facing lengthy criminal proceedings.<sup>34</sup> The rest had been released without having been brought before a judge. Some of them left Venezuela for

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<sup>28</sup> The Vice-president of the National Assembly, Edgar Zambrano, is detained since 8 May 2019, and Deputy Juan Requesens is detained since 7 August 2018.

<sup>29</sup> Information provided by the Government.

<sup>30</sup> Observatorio Venezolano de la Conflictividad Social, <http://www.observatoriodeconflictos.org.ve/>.

<sup>31</sup> OHCHR received conflicting information from the Government regarding the number of deaths.

<sup>32</sup> Observatorio Venezolano de la Conflictividad Social, <http://www.observatoriodeconflictos.org.ve/>.

<sup>33</sup> Information provided by Foro Penal Venezolano.

<sup>34</sup> Idem.



fear of being arrested again. OHCHR considers that the Government has used arbitrary detentions as one of the principal means to intimidate and repress the political opposition and any real or perceived expression of dissent since at least 2014.

42. OHCHR was able to collect detailed information on 135 people (23 women and 112 men) arbitrarily deprived of their liberty between 2014 and 2019. Of them 23 were arrested in 2018 and 8 in 2019. Some of these cases constituted enforced disappearances until the authorities revealed the whereabouts of the individuals days or weeks after their arrests. In most cases, people were detained for exercising their fundamental rights, particularly freedom of opinion, expression, association and peaceful assembly. The detentions often had no legal basis. OHCHR also identified serious and repeated violations of the right to a fair trial in each of these cases. None of the victims interviewed who had been released have received remedies for the violations suffered as a result of their arbitrary detention.

43. In most cases, women and men were subjected to one or more forms of torture or cruel, inhuman or degrading treatment or punishment, including electric shocks, suffocation with plastic bags, water boarding, beatings, sexual violence, water and food deprivation, stress positions and exposure to extreme temperatures. Security forces and intelligence services, particularly SEBIN and DGCIM, routinely resort to such practices to extract information and confessions, intimidate, and punish the detainees. The authorities have failed to conduct prompt, effective, thorough, independent, impartial and transparent investigations into credible allegations of torture and ill-treatment, including SGBV, to bring the alleged perpetrators to justice and to provide reparation to the victims. In particular, judicial authorities have often reversed the burden of proof refusing to open investigations if the victims did not identify perpetrators. According to the Attorney-General's Office, 72 complaints of alleged torture and other ill-treatment concerning 174 persons detained in the context of demonstrations between 2017 and 2019 have been filed. No information was provided on the status of investigations.

44. OHCHR documented cases of SGBV against women and girls in detention, particularly by SEBIN and DGCIM elements and officers of GNB. Women interviewed referred to physical assaults, such as being dragged by the hair and inappropriate touching, threats of rape, forced nudity and gendered and sexist insults, aiming at humiliating and punishing them, as well as extracting confessions.

45. Additionally, information analysed by OHCHR shows that conditions of detention of a significant number of persons deprived of their liberty do not meet basic international standards for the humane treatment of detainees, and often constitute ill-treatment. Detention centres, especially preventive detention centres, are often overcrowded and insalubrious. Detainees have limited access to food, water, sanitation, sunlight, and recreation facilities. Their access to essential healthcare is restricted or even denied.<sup>35</sup> These conditions were recognized by the authorities during the visit of the High Commissioner.

46. The detention centre in the SEBIN headquarters "Helicoide" is not tailored to meet gender-specific standards. OHCHR interviewed several women who had been detained there, who indicated there was only one cell designated for women. The cell was overcrowded and mainly guarded by men, even though there are women guards working in the facilities. Guards and other prisoners pressured women to exchange sex for "privileges" and/or protection. Several women also said they had no access to specialized medical care and that, unlike men, they were not always allowed to go to the patio of the gym. Women detained for political motives were often denied visits.

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<sup>35</sup> According to the NGO Observatorio Venezolano de Prisiones, 37 inmates died for health-related reasons (tuberculosis, malnutrition, hepatitis, salmonella, pneumonia, HIV/AIDS) during the first trimester of 2019 ([www.oveprisiones.com/desn nutricion-enfermedades-y-violencia-mataron-a-46-presos-en-el-1er-trimestre-2019/](http://www.oveprisiones.com/desn nutricion-enfermedades-y-violencia-mataron-a-46-presos-en-el-1er-trimestre-2019/)).

### C. Excessive use of force and killings in the context of security operations

47. According to the Government, the implementation of its citizen security operations has led to a steady decrease of crime in the country, especially homicides.<sup>36</sup> However, OHCHR documented cases of extrajudicial executions by security forces in the context of security operations conducted in poor neighbourhoods. Since early 2018, security operations by FAES, created to combat drug trafficking and criminal organizations, replaced the security operations known as “Operations for the Liberation of the People” implemented from 2015 to 2017.<sup>37</sup> Interviewees consistently referred to FAES as a “death squad” or “extermination group”. NGOs have reported that the FAES is responsible for hundreds of killings.<sup>38</sup>

48. OHCHR interviewed the relatives of 20 young men killed by FAES from June 2018 to April 2019. All described a similar modus operandi. FAES would arrive in black pickup trucks without licence plates and block access points in the area. They were dressed in black, without any personal identification, with balaclavas covering their faces. They would also carry long weapons. Families of the victims described FAES breaking into their houses, taking their belongings, and exercising gender-based violence against women and girls, including forced nudity. They would separate young men from other family members before shooting them. According to their relatives, almost all of the victims had one or more shots in the chest.

49. In every case, witnesses reported how FAES manipulated the crime scene and evidence. They would plant arms and drugs and fire their weapons against the walls or in the air to suggest a confrontation and to show the victim had “resisted authority”. In many cases, FAES brought the victims to hospital even though they were already dead, apparently with the intention of manipulating the bodies and modifying the crime scene. In some cases, the authorities declared that the victims were criminals before the conclusion of a formal investigation.

50. The authorities classify the killings resulting from security operations as “resistance to authority”. The number of these deaths is unusually high. In 2018, the Government registered 5,287 such killings,<sup>39</sup> while the NGO “Observatorio Venezolano de la Violencia” (OVV) reported at least 7,523 killings under this category.<sup>40</sup> Between 1 January and 19 May 2019, the Government reported 1,569 killings for “resistance to authority”.<sup>41</sup> The OVV reported at least 2,124 of such killings between January and May 2019.<sup>42</sup> Information analysed by OHCHR suggests many of these killings may constitute extrajudicial executions.

51. Taking into account the profile of the victims, the modus operandi of the security operations, and the fact that FAES often maintains a presence in the communities after the operation ends, OHCHR is concerned the authorities may be using FAES and other security forces as an instrument to instil fear in the population and to maintain social control.

52. Additionally, OHCHR documented the cases of six young men executed by FAES in reprisal of their role in anti-government protests in 2019. These extrajudicial executions took place during illegal house-raids after demonstrations had ended and followed the same modus operandi described above.

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<sup>36</sup> The Government registered 17,407 homicides in 2016, 14,665 in 2017, and 10,598 in 2018.

<sup>37</sup> From July 2015 to March 2017, the Office of the Attorney-General recorded the killing of 505 people in Operations for the Liberation of the People (“Actuaciones del Ministerio Público relacionadas con las OLP en Venezuela (julio 2015–marzo 2017)”, <https://lortegadiaz.com/wp-content/uploads/2017/10/Folleto-OLP-2017.pdf>).

<sup>38</sup> The NGO PROVEA reported 275 killings in the first quarter of 2019. The NGO Monitor de Víctimas reported 256 killings only in Caracas in 2018. The NGO COFAVIC reported 3,684 killings in 2017–2018, of which 28 percent could be attributable to FAES/PNB.

<sup>39</sup> Information provided by the Government.

<sup>40</sup> Observatorio Venezolano de la Violencia, “Informe anual de violencia 2018”, <https://observatoriodeviolencia.org.ve/ovv-lacso-informe-anual-de-violencia-2018/>.

<sup>41</sup> Information provided by the Government.

<sup>42</sup> Information provided by Observatorio Venezolano de la Violencia.

#### **IV. Access to effective justice and adequate reparation for victims**

53. The Government has recognized that a problem exists regarding access to justice for all people and has asked OHCHR to help them resolve this issue. According to the Government, as of June 2019, 44 persons are detained and 33 arrest warrants have been issued against persons for their alleged responsibility for killings during demonstrations in 2017 and 2019. Five members of FAES have been convicted of attempted murder, misuse of a weapon, and simulation of a punishable act, for events that occurred in 2018. Additionally, 388 FAES members are under investigation for murder, cruel treatment, and illegal house raids committed between 2017 and 2019.

54. The majority of victims of human rights violations highlighted in this report have had no effective access to justice and remedies. According to interviewees, few people file complaints for fear of reprisals and lack of trust in the justice system. When they do, authorities do not investigate or do not conduct prompt, effective, thorough, independent, impartial and transparent investigations.

55. For example, families of those killed during the mass protests of 2017 continue to face pervasive obstacles to their rights to truth, justice, and reparation, with no progress in the majority of investigations. Moreover, families, especially women, have been threatened and harassed by intelligence services and police, and some have been forced to leave the country. The families of men killed during FAES operations have not received justice either. They have faced multiple obstacles, including reluctance of prosecutors to receive their complaints, and denials of access to information and to protection measures and psychosocial support.

56. Impunity factors identified in 2018 remain, including the lack of cooperation of security and armed forces with investigations, the tampering with crime scenes and evidence by security forces, undue delays in judicial proceedings, high turnover of prosecutors and judges, and de facto immunity of senior officials.<sup>43</sup> The lack of independence of, and corruption within, the judiciary are also major obstacles faced by victims in their search for justice and reparation.

57. The Attorney-General's Office has regularly failed to comply with its obligation to investigate and prosecute perpetrators, and the Ombudsperson has remained silent vis-à-vis human rights violations. Neither of these institutions, nor the Government or the police provide protection to victims and witnesses of human rights violations. Further, the Attorney-General has contributed to public rhetoric stigmatizing and discrediting the opposition and those critical of the Government, in violation of the principle of presumption of innocence.

58. Women are often at the forefront of the struggle for truth, justice and reparation. They follow-up and participate in investigations and criminal proceedings, often in a hostile environment. Women reported being threatened, mistreated and insulted by public and judicial officials. These women face social exclusion due to public shaming and stigmatization. In addition to seeking justice, these women often become the main caregivers, take on additional dependants, and/or become breadwinners.

59. Almost two years after its creation, the Commission on Truth, Justice, Peace and Public Tranquillity has not published its report on the political violence that took place between 1999 and 2017.<sup>44</sup> The Commission has granted monetary compensation and has provided legal aid, psychological assistance, health care, and social protection measures to 107 relatives of 50 victims who died during protests in 2017. Yet, families interviewed by OHCHR consider financial support as an attempt to buy their silence in the absence of an impartial truth-seeking, justice and reparation process. According to the Government, as of

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<sup>43</sup> OHCHR, "Human Rights in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight", 22 June 2018.

<sup>44</sup> The NCA established the Commission on Truth, Justice, Peace and Public Tranquillity on 8 August 2017, to examine and report on the "political violence" from 1999 to 2017, including related human rights violations. As observed by OHCHR, the Commission does not meet international standards related to truth commissions.

29 May 2019, 193 persons detained for their participation in protests, have been conditionally released based on recommendations of the Commission.<sup>45</sup>

## V. Groups at risk

### A. Indigenous peoples

60. Indigenous peoples make up 2.5 percent of the population of Venezuela and there are more than 50 indigenous groups.<sup>46</sup> Individually, they face the same challenges to their human rights as the general population, often disproportionately, and/or in a differentiated manner. They also face challenges to their collective rights as indigenous peoples.

61. The economic and social rights of many indigenous peoples have been disproportionately affected by the humanitarian situation, particularly their rights to an adequate standard of living, including their rights to food, and their rights to health. The closure of Venezuela's borders<sup>47</sup> in February 2019 had dire consequences for indigenous groups whose traditional territories span the border, such as the Wayuu.

62. There are violations of indigenous peoples' collective rights to their traditional lands, territories, and resources. They have lost control of their land, including from militarization by State actors. Their presence has led to violence and insecurity in their territories in recent years, in addition to the presence of organized criminal gangs, and armed groups.

63. Mining, particularly in Amazonas and Bolívar, including in the "Arco Minero del Orinoco" region, has resulted in violations of various collective rights, including rights to maintain customs, traditional ways of life, and a spiritual relationship with their land. Mining also has grave environmental and health impacts, such as increased malaria, and contamination of waterways. The presence of mining operations has had a differentiated impact on indigenous women and girls, who face an increased risk of human trafficking. The failure to consult indigenous peoples regarding these activities amounts to a violation of their right to consultation.

64. OHCHR documented seven deaths of indigenous peoples in violent circumstances in 2019. Indigenous authorities and leaders, including women, are often subjected to threats and attacks by State actors, which has an impact on their right to self-determination. In Bolívar State, Pemón communities who oppose the Government, particularly indigenous authorities and leaders, face targeted repression by State actors.

65. In February 2019, violent incidents occurred in Pemón territory in the context of the possible entry of aid from nearby Brazil. However, they did not happen in isolation, but amidst tension between the Government and the Pemóns, who have reported increased insecurity, including killings during the past year.

66. On 22 February soldiers open-fired on members of the Pemón community of Kumaracapay, killing three and wounding 12 others. During these events, four soldiers were held by Pemóns, and reported suffering ill-treatment. On 23 February, GNB used excessive force against individuals, both indigenous and non-indigenous, in and around the town of Santa Elena, including against people heading to the border to receive aid. Witnesses described attacks and chaos lasting throughout the day and evening, GNB shooting indiscriminately from armoured vehicles at close range, as well as attacks against the hospital. Due to lack of medicine and supplies, the injured were transferred to a Brazilian hospital 200 kilometres away where many received surgery and face months of rehabilitation. OHCHR confirmed seven people were killed (four indigenous, three non-indigenous) and 26 injured by gunshot, by military forces. At least 63 individuals (indigenous and non-indigenous) were detained. Detainees were ill-treated. OHCHR is concerned about witness

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<sup>45</sup> Information provided by the Government.

<sup>46</sup> Instituto Nacional de Estadística, "Censo Nacional de Población y Vivienda 2011", [http://www.ine.gob.ve/index.php?option=com\\_content&view=category&id=95&Itemid=9#](http://www.ine.gob.ve/index.php?option=com_content&view=category&id=95&Itemid=9#).

<sup>47</sup> Venezuela's borders were closed on 22 February 2019. The borders with Aruba and Brazil were re-opened on 10 May 2019 and the Colombian border was partially re-opened on 10 June 2019.

statements suggesting many more people may have been killed. It is also concerned with reports of a possible mass grave, which warrants further investigation. The State has yet to undertake an independent, impartial investigation into the incidents.

67. During these events, military forces took control of the previously indigenous-controlled airport in the Maurak Pemon community. Maurak and two other communities remain militarized at the time of writing.

68. These events forced at least 966 Pemons to flee to Brazil,<sup>48</sup> and most interviewees said they would not return for fear of persecution. The events, and the subsequent displacement, have caused irreparable harm to the Pemon, who have suffered violations of individual and collective rights, related to their customs, territory, and self-determination.

## **B. Migrants and refugees**

69. The number of people compelled to leave Venezuela has increased dramatically since 2018 and reached over four million as at 6 June 2019.<sup>49</sup> Colombia is hosting the highest number of Venezuelans, followed by Peru, Chile, Argentina, Ecuador and Brazil.

70. Violations of the rights to food and health are the primary drivers. Many seek protection of their right to life with dignity. Other drivers are violence and insecurity, the collapse of basic services, and the deterioration of the education system. For women, additional drivers include lack of access to pre and post-natal care, and insufficient protection mechanisms from domestic violence. Persecution on political grounds is also forcing many Venezuelans to seek asylum.<sup>50</sup> Children and older persons are often those left behind, with grandmothers assuming care roles.

71. The violations of economic and social rights that drive migration also affect the conditions in which people leave the country, the way people move, and the situations of vulnerability they face during migration. Migrants can already be in precarious health conditions, which worsen when they have difficult access to healthcare in receiving countries. Moreover, regardless of previous socio-economic status, migrants usually leave with very little or no savings. Some lack the resources to travel by bus and have no choice but to walk long distances. These “caminantes” undertake physically gruelling journeys, during which they are exposed to hostile weather conditions, lack of adequate shelter, food, safe water, and sanitation. They also face armed theft and other abuses. Many are under pressure to send food, medicines and money back home.

72. Vulnerable situations generated in Venezuela are compounded by challenges that migrants face in transit and destination countries, such as lack of regular migration status, inadequate living conditions, labour exploitation, discrimination, and xenophobia. These factors of vulnerability, combined with hyper-sexualized stereotypes, increase migrants’ exposure to trafficking, sexual exploitation and gender-based violence, particularly of women and girls.

73. Venezuelans face obstacles to obtain or legalize documentation, which infringe their right to leave their country and the right to an identity. These obstacles also have a negative impact on the right to acquire a nationality and the right to family life and they impede family reunification, regular entry and residence, and the ability to access education, health care, and decent work. Migrants who are leaving or re-entering Venezuela are often victims of extortion and requisitions, especially at the hands of GNB. Moreover, border closures and additional requirements to travel to transit and destination countries force migrants to use unofficial crossing points and therefore increase their exposure to abuses. According to Government information, between 2017 and 2019, the Attorney-General’s Office has registered 85 complaints against officials of the administrative service of identification,

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<sup>48</sup> Information provided by Foro Penal Venezolano.

<sup>49</sup> <https://r4v.info/en/situations/platform>

<sup>50</sup> UNHCR, “Guidance Note on International Protection Considerations for Venezuelans – Update I”, May 2019.

migration, and immigration; 196 officials are being investigated, 87 were charged and 34 condemned for corruption.

74. According to Government information, since 2018 14,070 Venezuelans have returned to the country in the context of its plan “Return to the Homeland”.<sup>51</sup> Human rights violations in Venezuela, including of the rights to food and health, create protection needs based on international human rights law and standards, including obligations related to non-return. Further, these violations create situations of vulnerability that mark the migratory process at every stage, which require human rights protection.

## **VI. Conclusions**

75. OHCHR considers there are reasonable grounds to believe that grave violations of economic and social rights, including the rights to food and health, have been committed in Venezuela. Until recently, the Government refused to acknowledge the scale of the crisis and failed to adopt appropriate measures. As the economic crisis deepened, the authorities began using social programmes in a discriminatory manner, based on political grounds, and as an instrument of social control, disproportionately affecting women. Recent economic sanctions are exacerbating the economic crisis, which will ultimately increase the negative impact on the population’s enjoyment of economic and social rights.

76. For over a decade, Venezuela has adopted and implemented a series of laws, policies and practices, which have restricted the democratic space, weakened public institutions, and affected the independence of the judiciary. Although these measures have been adopted with the declared aim of preserving public order and national security against alleged internal and external threats, they have increased the militarization of State institutions and the use of the civilian population in intelligence gathering and defence tasks.

77. This context has enabled the Government to commit numerous human rights violations. The authorities have particularly targeted certain individuals and groups, including members of the political opposition and those perceived as threats to the Government due to their capacity to articulate critical positions and to mobilize others. This targeted repression manifests itself in a multitude of human rights violations, which may amount to persecution on political grounds. These violations require further investigation to determine relevant State and individual criminal responsibility.

78. Thousands of people, mainly young men, have been killed in alleged confrontations with state forces during the past years. There are reasonable grounds to believe that many of these killings constitute extrajudicial executions committed by the security forces, particularly FAES. OHCHR is concerned that the authorities may be using FAES, and possibly other security forces, as part of a policy of social control. These killings warrant immediate investigation to ensure accountability of perpetrators and guarantees of non-recurrence.

79. Venezuelan indigenous peoples face serious violations to their individual and collective rights. OHCHR is particularly concerned about reports of threats and violence against indigenous authorities and leaders, and targeted repression of Pemons who oppose the Government. Further investigation into the rights of indigenous peoples is needed, with particular attention to the repression of indigenous peoples, and violations to their collective rights to land, territories, and resources.

80. The State has systematically denied victims of human rights violations their rights to truth, justice, and reparation. Impunity has enabled the recurrence of human rights violations, emboldened perpetrators, and side-lined victims. OHCHR is concerned that if the situation does not improve, the unprecedented outflow of Venezuelan migrants and refugees will continue to grow, and conditions of those remaining will worsen.

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<sup>51</sup> Information provided by the Government.

## VII. Recommendations

81. OHCHR calls on the Government of Venezuela to immediately:

- (a) Take all necessary measures to ensure availability and accessibility of food, water, essential medicines and healthcare services, including comprehensive preventative healthcare programmes with particular attention to children's and maternal services, including sexual and reproductive healthcare;
- (b) Take immediate measures to halt, remedy and prevent human rights violations, in particular gross violations such as torture and extrajudicial executions;
- (c) Conduct prompt, effective, thorough, independent, impartial, and transparent investigations into human rights violations, including killings of indigenous peoples, and bring perpetrators to justice;
- (d) Release all persons arbitrarily deprived of their liberty;
- (e) Halt, publicly condemn, punish and prevent all acts of persecution and targeted repression based on political grounds, including stigmatizing rhetoric and smear campaigns;
- (f) Adopt effective measures to protect human rights defenders, and media professionals;
- (g) Cease any intimidation and attacks against indigenous peoples, including leaders, and ensure their protection and take all necessary measures to protect their individual and collective rights, including their right to land;
- (h) Cease and prevent excessive use of force during demonstrations;
- (i) Dissolve FAES 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;
- (j) Take effective measures to restore the independence of the justice system and ensure the impartiality of the Attorney-General's Office and the Ombudsman;
- (k) Ensure the right to a remedy and reparation for victims, with a gender-sensitive approach, as well as guarantee their protection from intimidation and retaliation;
- (l) Ensure the right to identity and documentation to all persons, including children;
- (m) Accept and facilitate the establishment of a permanent OHCHR country office.

82. In addition, OHCHR calls on the Government to:

- (a) Regularly publish comprehensive health and nutritional data, disaggregated by sex, age, ethnicity, and location that may be used *inter alia*, to develop and implement a full-scale humanitarian response to the crisis;
- (b) Allocate the maximum available resources towards the progressive realization of economic and social rights in a transparent and accountable manner that allows the assessment of expenditures;
- (c) Allow access to information of public interest;
- (d) Ensure provision of all social programmes in a transparent, non-politicized, and non-discriminatory manner, including effective oversight and accountability measures;
- (e) Increase vaccination coverage for preventable diseases and take adequate measures to control outbreaks of communicable diseases;

(f) **Prioritize measures to decrease early pregnancies, and ensure that all plans regarding sexual and reproductive rights include measurable indicators and monitoring mechanisms;**

(g) **Reverse closures of media outlets, and cease other measures of censorship against media; guarantee access to Internet and social media, including to news websites, and impartiality of governing bodies in the allocation of radio spectrum frequencies;**

(h) **Disarm and dismantle pro-government armed civilian groups (armed “colectivos”) and ensure investigations into their crimes;**

(i) **Protect persons, including those on the move, from abuses, corruption, and extortion by state agents;**

(j) **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.**

83. **The Human Rights Council could:**

**Request OHCHR to focus on ensuring accountability for human rights violations and abuses in Venezuela, including by enhancing its monitoring, documentation, analysis, and public reporting on the human rights situation.**