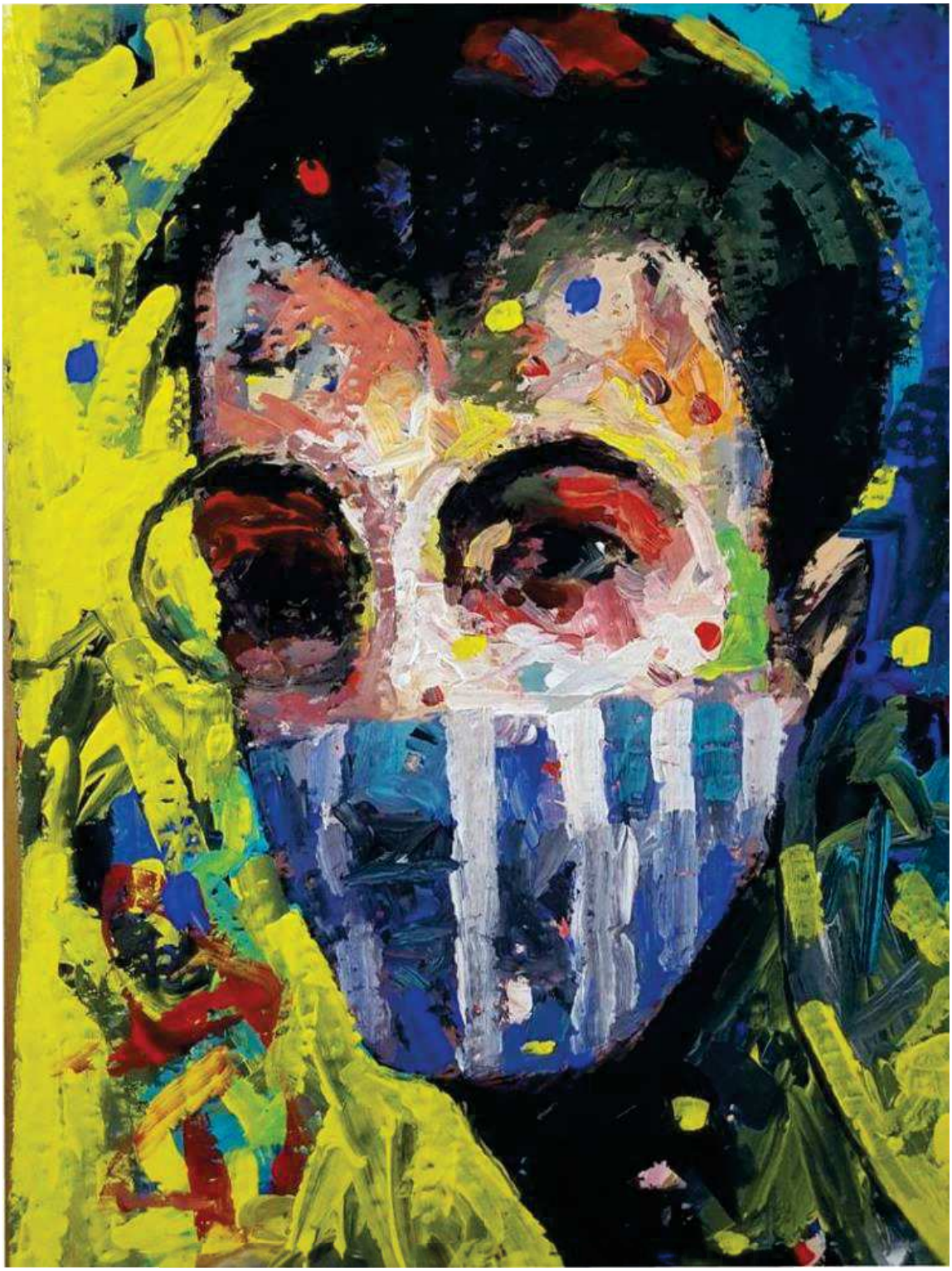
Human rights violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight



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Human Rights Violations in the Bolivarian Republic of Venezuela: a downward spiral with no end in sight

Report by the Office of the United Nations High Commissioner for Human Rights

June 2018

Executive summary

This report provides an update on the main human rights violations documented in the report "Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017" published by the UN Human Rights Office (OHCHR) in August 2017. It addresses in particular issues of accountability and access to justice for victims of serious human rights violations and their families. The report also documents human rights violations committed by State authorities since August 2017, including the use of excessive force in non-protest related security operations, new instances of arbitrary detentions, torture and ill-treatment, as well as violations of the rights to the highest attainable standard of health and to adequate food. Further, the report documents human rights violations, such as alleged extrajudicial killings, arbitrary detentions, and torture and ill-treatment, committed by State authorities since 2014. The information gathered by OHCHR indicates that human rights violations committed during demonstrations form part of a wider pattern of repression against political dissidents and anyone perceived as opposed, or posing a threat, to the Government.

As the Venezuelan Government did not grant OHCHR access the country, the information was collected through remote monitoring. This included 150 interviews with victims and witnesses, as well as civil society representatives, journalists, lawyers, medical doctors and academics, and the review of numerous reports and information from a range of sources.

Access to justice for protest-related killings

Since the change of Attorney-General in early August 2017, State authorities have failed to act with due diligence to promptly and effectively investigate the excessive use of force and the killings of protestors by security forces, punish the alleged perpetrators, and establish chain of command responsibilities of senior authorities, in violation of victims' and families' rights to truth and justice. The relatives of 19 victims killed during protests in 2017 interviewed by OHCHR all stated they had lost trust in the justice system and did not expect the Government would provide genuine accountability.

Security forces, particularly the Bolivarian National Guard, blocked the efforts of the former Attorney-General and her Office to identify alleged perpetrators. OHCHR identified cases in which evidence was not integrated or disappeared from case files. It also documented cases where security forces allegedly responsible for the extrajudicial killings of demonstrators were released despite judicial detention orders or were held in police or military compounds where they were free to move around and were not treated as detainees. In the few cases where alleged perpetrators were identified and deprived of their liberty, unjustified judicial delays punctuated the proceedings. OHCHR received information on only one case where investigations had led to the opening of the trial of the alleged perpetrators. Moreover, none of the relatives of victims interviewed by OHCHR trusted the Commission on Truth, Justice, Peace and Public Tranquillity, created by the Constituent Assembly in August 2017, as they considered it lacked independence and impartiality.

Excessive use of force and killings in other types of security operations

OHCHR found that security forces' excessive use of force during demonstrations is one aspect of a larger problem of excessive use of force in security operations in general that has been ongoing since at least 2012. Since July 2015, State authorities have used security operations known as Operations for the Liberation of the People (OLPs) as an instrument to showcase alleged results in crime reduction. OHCHR identified a pattern of disproportionate and unnecessary use of force by security forces in these operations, which resulted in high numbers of killings that could constitute extrajudicial executions. From July 2015 to March 2017, the Attorney-General's Office recorded the killing of 505 people, including 24 children, by security forces during OLPs. OLPs were also characterized by high levels of impunity. Indeed, the Bureau for Scientific, Criminal, and Forensic Investigations, allegedly responsible

for most of the killings during OLPs, is also in charge of conducting forensic examinations in all violent deaths.

The pattern of violations identified during OLPs was also observed during the security operation that led to the killing of 39 detainees in the detention centre of Amazonas in August 2017, as well as during the security operation that resulted in the killing of seven members of an alleged armed group in the area of "El Junquito" in January 2018. Information gathered by OHCHR indicated that in both cases security forces used excessive force and tampered with the scene and evidence so that the killings would appear as having resulted from the fire exchanges.

Arbitrary detentions and violations of due process guarantees

OHCHR observed that, since the end of July 2017, security forces, notably the intelligence services, have continued to use arbitrary and unlawful detentions as one of the main tools to intimidate and repress the political opposition or any person perceived as a threat to the Government for expressing dissent or discontent. These detentions were, however, more selective than during the period of mass protests. Persons arbitrarily deprived of their liberty included political and social activists, students, human rights defenders, media workers, and members of the armed forces. According to civil society records, at least 570 persons, including 35 children, were arbitrarily detained from 1 August 2017 to 30 April 2018.

OHCHR identified recurrent violations of due process, including *incommunicado* detention, brief enforced disappearances, severe restrictions to the right to an adequate defence, and unjustified judicial delays. "Talking about criminal proceedings is illusory because there are absolutely no legal guarantees," said one lawyer. Civilians also continued to be processed before military courts. In a number of cases, persons were deprived of their liberty despite a judicial release order in their favour.

According to civil society, at least 12,320 political opponents or persons perceived as either opposed, or posing a threat, to the Government were arbitrarily detained from January 2014 to April 2018. Of those, more than 7,000 have been released on the condition that they abide by a number of measures restricting their freedoms. They still face lengthy criminal trials, including in some cases before military tribunals. Many are living in fear of being re-arrested and some have left the country.

Torture, ill-treatment and conditions of detention

For this report, OHCHR documented over 90 cases of persons arbitrarily deprived of their liberty and subjected to one or more forms of cruel, inhuman or degrading treatment, which in many cases could constitute torture, prior to, during, and after the 2017 wave of mass protests. Security forces, notably members of the SEBIN, the DGCIM and the GNB, resorted to such measures to intimidate and punish the detainees, as well as to extract confessions and information. The most serious cases generally took place on the premises of the SEBIN, the DGCIM and the military throughout the country. In some cases, people were held in unofficial detention places. Ill-treatment and torture documented included electric shocks, severe beatings, rape and other forms of sexual violence, suffocation with plastic bags and chemicals, mock executions and water deprivation. "I'm not the only one – there are many more [victims] throughout Venezuela," said a man arbitrarily arrested and raped by security forces. OHCHR also documented cases of cruel, inhuman or degrading treatment of detainees' families.

OHCHR observed that conditions of detention of persons deprived of their liberty did not meet basic international standards for the humane treatment of detainees and often constituted in and of themselves cruel, inhuman or degrading treatment. Overcrowding is rife and the infrastructure is insalubrious. In many detention centres across the country, detainees have limited access to food and water, including drinking water, which has to be provided by their relatives. Further, OHCHR found that a number of detainees were in poor health, but were

denied medical care in a manner that constituted a violation of their rights to health, to physical integrity and to be treated with humanity.

According to OHCHR's findings, impunity for acts of torture and ill-treatment prevails, as the authorities have failed to promptly and effectively investigate credible allegations of torture and ill-treatment, bring the alleged perpetrators to justice, and provide reparations to the victims. The cases documented by OHCHR, together with the information gathered, indicate that the ill-treatment and torture of persons deprived of their liberty for their political opinions and/or for exercising their human rights were not isolated incidents. To the contrary, the same forms of ill-treatment have been documented to have been committed by members of different security forces throughout the country, in different detention centres, reportedly, with the knowledge of superior officers, demonstrating a clear pattern.

Attacks and restrictions on democratic space

The report finds that, since the end of the 2017 mass protests, State authorities have continued to intimidate and repress the political opposition and any person expressing dissenting opinions or discontent, but in a more targeted way than during the demonstrations. In 2017 and during the first months of 2018, OHCHR recorded attacks against leaders and members of opposition parties, including elected representatives, as well as social activists, students, academics and human rights defenders. Senior authorities often publicly accused them of terrorism, treason and other serious crimes. "The regime has a file with my name on it," said a political activist from the state of Lara. The victims were harassed, stigmatized, intimidated, threatened and/or physically attacked by government authorities, including security forces, and/or pro-government individuals. In some cases, they were arbitrarily detained, ill-treated or tortured, and reportedly charged with groundless crimes.

OHCHR further documented recurrent violations of the rights to freedom of opinion, expression, peaceful assembly, and association. Civil society organisations working on human rights issues are also facing increasingly difficult conditions in which to operate and human rights defenders have been subjected to smear campaigns, threats, harassment and surveillance, and, in a few cases to arbitrary detention and ill-treatment or even torture, for carrying out their legitimate work. This has led to a general climate of fear. "Every day the fear of retaliation for doing one's job is greater," said a human rights lawyer.

Violations of the right to health and food

Medical doctors, hospital directors, and other health professionals, as well as human rights defenders, interviewed by OHCHR all indicated that the current dramatic health crisis was a consequence of the collapse of the Venezuelan health care system. OHCHR documented that State authorities' ineffective measures or inaction to address the acute deterioration of health care facilities and equipment, the unavailability of medicines, in particular for patients with chronic diseases, and the outbreak of diseases that had been eradicated, led to violations of the right to an adequate standard of health of a large number of people throughout the country.

Several medical doctors told OHCHR that State authorities had failed to provide them with the equipment and supplies needed to avoid preventable deaths. They also said that patients were required to buy the medicines and supplies necessary for their treatment outside the hospital and that if they could not find or afford them, they simply could not be treated. Mothers of children suffering from kidney failure told OHCHR that there was a systemic shortage of equipment for dialysis in the only hospital in the country where children under 12 year-old can receive such treatment. They also said that the hospital lacks medicines, food and doctors. Further, ten children reportedly died as a consequence of unsanitary conditions in that particular hospital between May and December 2017.

OHCHR also observed that the Government refused to release information required to assess the dimension and consequences of the health crisis, such as the weekly epidemiology bulletins and the yearbook on mortality. The Government responded instead by threatening,

and even in some cases arbitrarily arresting, medical doctors, patients and media workers denouncing the situation. Health professionals complained about the presence of members of the Bolivarian National Guard, militias and armed *colectivos* inside the hospitals to prevent journalists and other persons from gathering evidence of the dire conditions.

According to experts interviewed by OHCHR, a combination of economic and social policies implemented by the Government during the last decade, including State control over food prices and foreign currency exchange, the mismanagement of confiscated arable land, State monopoly on agricultural supplies, and the implementation of social programmes without clear nutritional objectives, has resulted in critical levels of food unavailability and a situation where large segments of the population cannot afford to buy food at market price.

Available data indicates that malnutrition of children under five years old had rapidly increased and that families had been forced to drastically reduce the quantity and quality of the food they consumed. Families have adopted survival strategies, such as selling their valuables, sending a family member abroad, or searching for food in the garbage. OHCHR also found that food scarcity had a disproportionate impact on women. Doctors were prevented from providing adequate treatment to children with acute malnutrition because of shortages of medicines, nutritional supplements and baby milk fomula in the public health care system. OHCHR also documented that social programmes set up by the Government had been instrumentalized for political gain and to reinforce social control.

OHCHR found that, as the Government refused to acknowledge the scale of the health and food crisis, it has not adopted the urgent measures and policy reforms needed to address the crisis and its root causes, thereby failing to comply with its international obligation to make every possible effort to fulfil the rights to health and food, including through international cooperation and assistance.

Recommendations

OHCHR offers 2 recommendations to the member States of the Human Rights Council and 30 recommendations to the authorities of the Bolivarian Republic of Venezuela aimed at addressing the serious human rights violations documented in the report and at preventing further violations. The recommendations include both measures which should be immediately implemented and reforms aiming at addressing the structural issues that have allowed the commission of human rights violations.

OHCHR continues to request full and unfettered access to the Bolivarian Republic of Venezuela to conduct a comprehensive assessment of the human rights situation and stands ready to engage in dialogue with the Government, including on technical cooperation.

Acronyms

CICPC	Bureau for Scientific, Criminal, and Forensic Investigations
CLAP	Local Supply and Production Committee
CNE	National Electoral Council
CONAS	National Anti-Extortion and Kidnapping Command
DGCIM	Directorate General of Military Counterintelligence
ENCOVI	National Survey on Living Conditions
FAES	Special Action Forces of the National Bolivarian Police
FAO	Food and Agriculture Organization of the United Nations
GNB	Bolivarian National Guard
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
MUD	Democratic Unity Roundtable
NGO	Non-governmental organisation
OAS	Organization of American States
OLP	Operation for the Liberation of the People
OHCHR	Office of the United Nations High Commissioner for Human Rights
PDVSA	Petróleos de Venezuela S.A. (national state-owned oil company)
PNB	Bolivarian National Police
PSUV	United Socialist Party of Venezuela
SCJ	Supreme Court of Justice
SEBIN	Bolivarian National Intelligence Service
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
WHO	World Health Organization

Contents

I. Introduction and methodology

The present report is produced pursuant to the mandate of the United Nations High Commissioner for Human Rights under General Assembly resolution 48/141 "[t]o promote and protect the effective enjoyment by all of all civil, cultural, economic, political and social rights", and "[t]o play an active role in removing the current obstacles and in meeting the challenges to the full realization of all human rights and in preventing the continuation of human rights violations throughout the world."

This report provides an update on the main human rights violations documented in the report "Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017" published by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in August 2017.[1] Its scope extends beyond the human rights violations committed in the context of the 2017 wave of mass protests, in order to provide a more comprehensive overview of the human rights situation in the Bolivarian Republic of Venezuela.

The report addresses in particular issues of accountability and access to justice for victims of serious human rights violations and their families. It also documents human rights violations committed by State authorities since August 2017, including the use of excessive force in non-protest related security operations, new instances of arbitrary detentions, torture and ill-treatment, as well as violations of the rights to the highest attainable standard of health and to adequate food. Further, the report documents human rights violations, such as alleged extrajudicial killings, arbitrary detentions, and torture and ill-treatment, committed by State authorities since 2014.

The report aims at documenting the commission of serious human rights violations in the country in order to contribute to the implementation of effective measures of redress and prevent their recurrence, as well as to contribute to a better understanding of their root causes.

Methodology

In preparing the present report, OHCHR conducted a total of 150 interviews and meetings with a broad range of sources from different parts of the country and from a variety of backgrounds. These included victims and their families, witnesses, and other sources, such as civil society representatives, journalists, lawyers, medical doctors and academics. The majority of interviews and meetings were conducted remotely, using internet-based technologies to connect to interviewees in Venezuela or third countries. A number of interviews and meetings were also held in Geneva. All possible measures were taken to protect sources' identities to avoid exposing them to reprisals.

[1] On 30 August 2017, OHCHR published the report "Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017" (available at: http://www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_EN.pdf). The report documented extensive and serious human rights violations committed in the context of anti-government protests in the country and pointed to the existence of a policy to systematically repress political dissent and instil fear in the population. The report also included a number of recommendations aimed at preventing the further deterioration of the human rights situation.

OHCHR also examined a large number of documents and reviewed information on the incidents monitored, including through official information, legal documents, medical and forensic reports, videos, photos, traditional media and social media material, as well as reports from national and international non-governmental organisations (NGOs) and international organisations, including United Nations agencies. Figures related to incidents documented by NGOs were used when OHCHR assessed them as reliable and corroborated them with first-hand information.

In line with its methodology on human rights monitoring, OHCHR exercised due diligence to assess the credibility and reliability of sources and cross-checked the information gathered to confirm its validity.

Despite facing various challenges in drafting this report, including the lack of access to the country,[2] the lack of information provided by the authorities,[3] and protection risks faced by sources, OHCHR was able to gather, analyse and verify a substantial body of information leading to the conclusion that there are reasonable grounds to believe the findings of the report occurred as described.

Legal framework

The information gathered was analysed based on the country's binding legal obligations, as imposed on State parties to international human rights treaties.[4] OHCHR also considered relevant standard-setting instruments recognized as complement to existing international norms in order to further its analysis.[5]

[2] On 26 September 2017, the High Commissioner held a meeting with the Minister of Foreign Affairs of the Bolivarian Republic of Venezuela, during which he insisted on being granted access to the country and informed that OHCHR would continue raising its human rights concerns publicly. In a letter dated 8 March 2018, the High Commissioner reiterated his request for access to the country to assess the human rights situation, consolidate working relationships with the Government and other counterparts, and explore possibilities for technical cooperation. He also informed the Government that a new public report would be prepared.

[3] On 20 March and 23 April 2018, OHCHR sent letters to the Permanent Mission of the Bolivarian Republic of Venezuela in Geneva transmitting requests for specific information to the Venezuelan authorities, including on the consequences of the sanctions imposed on the country. On 2 May, in a reply to the letters dated 8 and 20 March, the Permanent Mission of the Bolivarian Republic of Venezuela questioned whether the High Commissioner held the mandate to issue a public report in the absence of a request from the Human Rights Council.

[4] For a list of international human rights treaties ratified by the country, see: http://www.ohchr.org/EN/Countries/LACRegion/Pages/VEIndex.aspx.

[5] See in particular: the Code of Conduct of Law Enforcement Officials; the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions; the Standard Minimum Rules for the Treatment of Prisoners; the Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders; the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; the UN Rules for the Protection of Juveniles Deprived of their Liberty; UN Standard Minimum Rules for the Administration of Juvenile Justice; the Basic Principles on the Independence of the Judiciary; the Basic Principles on the Role of Lawyers; the Guidelines on the Role of Prosecutors; the Updated Set of Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity.

II. Context

Economic and social crisis

Living conditions in the Bolivarian Republic of Venezuela have continued to deteriorate since August 2017, as the economy entered into a fifth consecutive year of recession, following a 40.6 per cent accumulative reduction of its Gross Dometic Product (GDP).[6] According to estimates, the GDP could decrease by an additional 8.5 per cent in 2018,[7] and consumer price inflation could further increase by 13,864.6 per cent by the end of the year.[8] As reported in the National Survey on Living Conditions (ENCOVI), poverty reached historic levels in 2017, affecting 87 per cent of the population.[9] Extreme poverty reached 61.2 per cent in 2017, an increase from 23.6 per cent in 2014.[10]

The Government has implemented various policies meant to reduce inflation and attract investments, such as a currency reform to redenominate the national currency Bolívar, and the introduction of the crypto-currency *Petro*. However, the drastic decline in oil production[11] of the State oil company PDVSA and the continued depreciation of the Bolívar[12] have placed the Government on the brink of a major default on its foreign debt and increased the budget deficit. State institutions are rapidly losing capacity to provide essential services to the population, such as electricity, water and sanitation, and public transport, and are not adequately addressing pervasive food and medicine shortages (as explained in chapters H and I below).[13]

The Government affirms that over 70 per cent of the State budget is allocated to social expenditure.[14] Recently, a significant share of the State's social investments have been allocated to direct cash transfers to beneficiaries as well as to a food distribution program known as the Local Supply and Production Committees (CLAPs). The Government has created the *carnet de la patria*, an identification system through which around 16 million people were registered and provided with a personal card granting them access to social programmes.[15] Since August 2017, cash transfers to specific groups, such as women, the

[6] International Monetary Fund, *World Economic Outlook: Cyclical Upswing Structural Change*, 2018, available at: https://www.imf.org/en/Publications/WEO/Issues/2018/03/20/world-economic-outlook-april-2018.
[7] Economic Commission for Latin America and the Caribbean, "Updated growth projections for Latin America and the Caribbean in 2018", April 2018, available at: https://www.cepal.org/en/pressreleases/eclac-holds-steady-its-estimates-economic-activity-latin-america-and-caribbean-it-will.
[8] International Monetary Fund, *World Economic Outlook: Cyclical Upswing Structural Change*, op. cit.
[9] The ENCOVI is a study conducted by three major Venezuelan universities, *Universidad Simón Bolívar*, *Universidad Central de Venezuela* and *Universidad Católica Andrés Bello*. The 2017 ENCOVI study is available at: https://www.ucab.edu.ve/investigacion/centros-e-institutos-de-investigacion/encovi-2017/.
[10] ENCOVI 2017, op. cit. The ENCOVI also indicates that multidimensional poverty, measured by the level of deprivation of basic rights and used to reflect structural causes of poverty, increased from 41.3 per cent in 2015 to 51.1 per cent in 2017.
[11] Oil production plunged from 2,213 million barrels per day in 2016 to 1,468 million barrels per day in 2018 (see: The Economist Intelligence Unit, "Country Forecast: Venezuela", available at: http://country.eiu.com/venezuela).
[12] At the end of 2017, the parallel exchange rate was 23,418.4 Bolivars for 1 US Dollar (see: The Economist Intelligence Unit, op.cit.).
[13] Observatorio del Gasto Público, "Monitoreo de servicios: Al borde del colapso", April 2018, available at: http://cedice.org.ve/observatoriogp/portfolio-items/monitoreo-servicios-abril-2018/.
[14] Ministry of Comunications and Information, press release of 1 January 2018, available at: http://minci.gob.ve/2018/01/mas-16-millones-500-mil-personas-se-inscrito-carnet-la-patria/.
[15] Ibid.

elderly, youth and people with disability, have increased, channelled through the *carnet de la patria* system (see chapter I below).

Several reports have highlighted that corruption is widespread in the country and that it is one of the causes of the current food and health crisis.[16] The Government's policy of allowing access to the US Dollar at a government-set rate to certain actors only, when the unofficial exchange rate is much higher, has incentivised large-scale corruption. The Attorney-General is currently conducting investigations about alleged corruption against former directors and members of PDVSA's executive board. The former Attorney-General has also denounced alleged corruption ties between high-level officials and the construction company Odebrecht. Transparency International's 2017 corruption perception index ranked the Bolivarian Republic of Venezuela at the 169th position out of 180 countries.[17]

Political and institutional crisis

The erosion of the rule of law has accelerated since August 2017 as the Government further dismantled the institutional checks and balances essential to maintaining democracy. Deputies have complained that the Government has not provided any funding to the National Assembly since August 2016.[18] Following the issuance of a decree on 8 August 2017, all branches of the State are now subordinate to the National Constituent Assembly and its decisions.[19] Further, and in violation of the fundamental principle of legality, the provisions of the Constitution only remain valid if they do not contradict legislative acts passed by the Constituent Assembly.[20] The Constituent Assembly also appointed senior officials, including the Attorney-General and the Ombudsperson, and called for the holding of anticipated presidential elections, disregarding the procedures set by the Constitution. The President did not present his 2018 budget proposal to the National Assembly for its approval as prescribed in the Constitution.

State institutions also continued to lack transparency and closely control information on key public issues.[21] The Government has failed to disclose indicators that are essential to assess the human rights situation, such as the homicide rate, the prevalence of child malnutrition, food availability, child and maternal mortality rates, as well as information on the performance of the economy. Public information available on government websites is extremely restricted. The Attorney-General's Office has stopped releasing information on progress in the investigations of human rights violations. The 2017 Open Budget Index ranked Venezuela at

[16] See for instance: IACHR, *Situation of Human Rights in Venezuela: Democratic Institutions, the Rule of Law and Human Rights in Venezuela*, 2017, OEA/Ser.L/V/II. Doc.209/17; and InSight Crime, *Venezuela: A Mafia State?,* 2018, available at: https://www.insightcrime.org/.
[17] Available at: https://www.transparency.org/news/feature/corruption_perceptions_index_2017.
[18] International Parliamentary Union, Committee on the Human Rights of Parliamentarians, "Decisions adopted by the IPU Governing Council at its 202nd session (Geneva, 28 March 2018)", CL/202/11(b)-R.1, p. 28, available at: https://www.ipu.org/decisions-committee-human-rights-parliamentarians.
[19] Official Gazette No. 6.323 of 8 August 2017.
[20] Ibid.
[21] For instance, during 2016 and 2017, the NGO *Espacio Público* presented 122 demands for information to a number of State bodies and institutions, only one of which was replied to in a satisfactory manner (see: Espacio Público, "Informe sobre faltas de garantías del Acceso a la Información Pública como instrumento para ejercer el derecho a la salud y alimentación", available at: http://espaciopublico.ong/).

the 98th position out of 102 countries, attributing a value of zero reflecting that the public had not received any information on budget.[22]

The negotiations between the Government and opposition parties held in the Dominican Republic as of December 2017 did not lead to any agreement. One of the major stumbling blocks was the lack of agreement on guarantees for a fair, transparent and credible electoral process for the anticipated presidential elections.

President Maduro won the presidential elections held on 20 May with 6.2 million votes.[23] Two major opposition parties had been disqualified from running by the National Electoral Council (CNE) and the official opposition coalition (MUD) had been invalidated by the Supreme Court of Justice. The CNE acknowledged that only 46.5 per cent of registered voters had participated, the lowest turnout in the last three presidential elections. In addition to irregularities and the lack of guarantees for free and credible elections denounced prior to and during the electoral process,[24] civil society organisations also denounced irregularities on election day. In particular, they observed the presence of so-called "red spots", tents run by governing party members, in close proximity to more than 80 per cent of the polling stations.[25]

Migration crisis

The ever growing number of Venezuelans fleeing their country is the starkest reflection of the deterioration of the human rights and socio-economic situation in the Bolivarian Republic of Venezuela. In March 2018, UNHCR reported that, based on information provided by host countries, over 1.5 million people had left the country and asylum applications lodged in 18 countries had increased by 2,000 per cent since 2014.[26] By May 2018, over 185,000 asylum requests from Venezuelans had been registered.[27] UNHCR considers that, while not all Venezuelans leaving the country do so for reasons that could qualify them as refugees, "a significant number are indeed in need of international protection."[28] According to UNCHR, the main reasons pushing Venezuelans to leave were: specific threats from armed groups; fear of being targeted for one's political opinions; threats and extortion; high crime rates; domestic violence; food insecurity; as well as lack of access to adequate health care, medicines and basic services. Over 510,000 Venezuelans were able to regularize their status through other

[22] International Budget Partnership, "Open Budget Survey 2017", available at: https://www.internationalbudget.org/open-budget-survey/.
[23] CNE, Official Bulletin, available at: http://www4.cne.gob.ve/DivulgacionElecciones2018/.
[24] Civil society's concerns were echoed by the United Nations High Commissioner for Human Rights who declared that the human rights context did not in any way fulfill minimal conditions for free and credible elections in his statement before the Human Rights Council on 7 March 2018, available at: http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22772&LangID=E. The IACHR and OAS also expressed concerns about the conditions of the elections (see IACHR press release of 18 May 2018, available at: http://www.oas.org/en/iachr/media_center/PReleases/2018/112.asp; and OAS, "Informe de la Secretaría General: Elección Presidencial y de Consejos Legislativos de Venezuela", 20 May 2018, available at: http://www.oas.org/documents/spa/press/Informe-Elecciones-presidenciales-en-Venezuela-20-de-Mayo-de-2018-v1.pdf.
[25] See: Un Mundo Sin Mordaza, "Reporte de la Jornada del 20 de Mayo 2018", available at: https://sinmordaza.org/reporte-jornada-20m/; and Observatorio Electoral Venezolano, press statement of 22 May 2018, available at: http://www.oevenezolano.org/2018/05/22/paso-lo-que-tenia-que-pasar/.
[26] UNHCR, "Venezuela Situation: Situational Update", May 2018, available at: https://data2.unhcr.org/en/documents/download/63883.
[27] Information available on UNHCR's Venezuela Situation Portal, at: https://data2.unhcr.org/en/situations/vensit.
[28] UNHCR, "Venezuela Situation: Responding to the Needs of People Displaced from Venezuela - Supplementary Appeal", March 2018, available at: https://data2.unhcr.org/en/documents/details/63088.

forms of protection or alternative legal status.[29] UNHCR also reported that around 60 per cent of Venezuelans who had left the country remained in an irregular situation, leaving them particularly vulnerable to exploitation, extortion, violence, including sexual and gender-based violence, human trafficking, forced recruitment into criminal groups, discrimination and xenophobia.

Response of the international community

Since the end of the mass protests in July 2017, an increased number of States and multilateral organisations have expressed concerns about the human rights and humanitarian situation in the country, including the "Lima Group",[30] the High Representative of the European Union[31], and the Permanent Council of the Organization of American States (OAS).[32] At the time of writing, Canada, the European Union,[33] Panama, Switzerland and the United States of America had imposed sanctions against 91 Venezuelan officials and prominent figures, including travel bans and assets freeze.[34] In some cases, the sanctions were imposed based on the individuals' alleged responsibility for serious human rights violations. The European Union and Swiss sanctions also included an embargo on arms and material that could be used for repression.[35]

In August 2017, the United States issued an executive order prohibiting, inter alia, United States citizens and any other persons residing in the United States to make transactions related to re-financing the Government's and PDVSA's debt or bonds.[36] The Venezuelan Government has argued that sanctions are the main reason for the economic crisis and that they have had collateral effects on the transfers of US Dollars and banking transactions, which in turn have had an impact on the Government's ability to import necessary goods. While it is necessary to assess the impact of economic sanctions on the capacity of the Government to fulfil its human rights obligations in more detail, information gathered indicates that the socio-economic crisis had been unfolding for several years prior to the imposition of these sanctions.

On 8 February 2018, the Prosecutor of the International Criminal Court (ICC) announced that a preliminary examination had been opened to analyse crimes allegedly committed in the Bolivarian Republic of Venezuela in the context of demonstrations and related political unrest

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[29] Ibid.
[30] Integrated by 14 countries form the Americas.
[31] See declarations of 26 July 2017, 2 August 2017, 26 January 2018, 19 April 2018, and 22 May 2018, available at: http://www.consilium.europa.eu/en/press/press-releases/.
[32] CP/RES.1095 (2145/18), available at: http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-004/18.
[33] Albania, Bosnia and Herzegovina, Georgia, Iceland, Liechtenstein, Macedonia, Montenegro, Norway, the Republic of Moldova and Ukraine, have aligned themselves with the European Union position on Venezuela (see: http://www.consilium.europa.eu/en/press/press-releases/2018/02/14/declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-alignment-of-certain-third-countries-concerning-restrictive-measures-in-view-of-the-situation-in-venezuela/).
[34] WOLA, "Targeted Sanctions Database", available at: https://venezuelablog.org/venezuela-targeted-sanctions-database-switzerland-panama-update/.
[35] European Union Council, Conclusions on Venezuela, 13 November 2017, available at: http://www.consilium.europa.eu/en/press/press-releases/2017/11/13/venezuela-eu-adopts-conclusions-and-targeted-sanctions/; and Federal Department of Foreign Affairs of Switzerland, press release of 28 March 2018, available at: https://www.fdfa.admin.ch/eda/en/home/news/news-fdfa.html/content/eda/en/meta/news/2018/3/28/70265.
[36] Presidential executive order of 24 August 2017, available at: https://www.whitehouse.gov/presidential-actions/presidential-executive-order-imposing-sanctions-respect-situation-venezuela/.

since at least April 2017.[37] On 29 May, the OAS published a report on the possible commission of crimes against humanity in the Bolivarian Republic of Venezuela prepared with a panel of independent international experts.[38]

On 21 March 2018, the Governing Body of the International Labour Organization decided to appoint a commission of inquiry to examine allegations that the Venezuelan Government has failed to comply with Conventions on freedom of association, tripartite consultation and setting of minimum wages.[39]

[37] Statement available at: https://www.icc-cpi.int//Pages/item.aspx?name=180208-otp-stat.
[38] In the report, the experts conclude "that there are reasonable grounds […] for considering that acts to which the civilian population of Venezuela was subjected to dating back to at least February 12, 2014, constitute crimes against humanity." (see: OAS, *Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes Against Humanity in Venezuela*, 29 May 2018, p. vii, available at: http://www.oas.org/documents/eng/press/Informe-Panel-Independiente-Venezuela-EN.pdf).
[39] See press release of 21 March 2018, available at: http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_622567/lang--en/index.htm.

III. Main findings

A. Violations of the right to freedom of peaceful assembly

"Demonstrations are still frequent due to the fact that the Government is not responding to the crisis."
NGO representative[40]

According to NGO estimates, an unprecedented 9,787 protests occurred throughout the country in 2017.[41] During the wave of mass demonstrations that took place from 1 April to 31 July 2017, OHCHR found that Venezuelan authorities had systematically violated the right to peaceful assembly.[42] In August 2017, the number of demonstrations quickly dropped and their size significantly decreased, but they have continued occurring regularly to this date. From 1 January to 30 April 2018, the NGO *Observatorio Venezolano de Conflictividad Social* recorded 3,341 protests throughout the country, both in urban and rural areas.[43] These protests were usually small and spontaneous, showing low levels of organisation or coordination.

OHCHR observed that, as the socio-economic crisis worsened, protesters' claims increasingly shifted from political to social and economic demands. Indeed, in over 85 per cent of the demonstrations recorded by the NGO so far in 2018, protestors requested improvements in labour rights, and access to food, medication, health care, and other basic services, such as electricity, drinkable water and domestic gas.[44] "The [health] situation is so serious that the patients themselves are taking to the streets to draw the authorities' attention," said an NGO representative.[45] He also noted that these demonstrations were not receiving much media coverage and that mobilization had been strongest in the poorest sectors of the country.

Following the mass protests of 2017, State authorities, in particular the security forces, continued to infringe upon the exercise of the right to peaceful assembly, mainly by resorting to the excessive use of force and arbitrary detentions. At least four people, including a child, were allegedly killed in the context of protests between January and April 2018.[46] The military forces, namely the Bolivarian National Guard (GNB), and pro-government armed civilians (armed *colectivos*) have continued to intervene in public order operations in the framework of

[40] Interviewed on 15 March 2018.
[41] Observatorio Venezolano de Conflictividad Social, "Conflictividad social en Venezuela en 2017", available at: https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2017.
[42] OHCHR 2017 report, p. 24.
[43] Information available on the website of the *Observatorio Venezolano de Conflictividad Social*, www.observatoriodeconflictos.org.ve/.
[44] Observatorio Venezolano de Conflictividad Social, "Emergencia Humanitaria en Venezuela: Conflictividad Social – Primer Trimestre del 2018", available at: https://www.observatoriodeconflictos.org.ve/sin-categoria/conflictividad-social-en-venezuela-en-el-primer-trimestre-de-2018; and "Conflictividad social en Venezuela en abril de 2018", available at: https://www.observatoriodeconflictos.org.ve/destacado/conflictividad-social-en-venezuela-en-abril-de-2018.
[45] Interviewed on 15 March 2018.
[46] OHCHR identified the deaths of: Argenis Serrano (33 years old) allegedly killed by Navy Police officers on 28 February in the state of Sucre; Antonio Hidalgo (18 years old) allegedly killed by state police officers on 4 March in the state of Barinas; Carlos Rafael Garimata (48 years old) allegedly killed by Bolívar municipal police officers on 8 March in the state of Anzoátegui; and Anderson Luis Oliveros Nuñez (15 years old) allegedly killed by the member of an armed group on 23 April in the state of Zulia.

the *Plan Zamora*.[47] Laws and regulations criminalizing protests and imposing undue restrictions on the right of freedom of assembly remained in place. As such, the applicable legal framework continues to subject protests to prior authorization, prohibit demonstrations in extended security areas, and criminalize the obstruction of public roads.[48] In 2017, the Constitutional Chamber of the SCJ issued over 40 decisions ordering mayors to prevent meetings in public areas that might restrict freedom of movement and to remove barricades. Five mayors were later sentenced to prison terms for failing to comply with the decisions (see chapter F below). The adoption of the law against hatred by the National Constituent Assembly established further limitations to the right of peaceful assembly (see chapter G below).

B. Violations of the rights to truth and justice of the families of people killed during protests

"*While this Government remains in power, justice will not come for the victims."*
Mother of a protestor killed during a demonstration[49]

Testimonies gathered by OHCHR revealed that the families of persons killed during demonstrations have faced a series of pervasive obstacles to their rights to truth, justice, and reparations. According to information collected by OHCHR, authorities have not excercised due diligence in accordance with their obligations under international law to conduct prompt, thorough, independent and impartial investigations into the killings of protestors, and to punish the alleged perpetrators, including by bringing them to justice. The relatives of 19 victims killed during protests in 2017, interviewed by OHCHR, all stated they had lost trust in the justice system and did not expect the Government would allow genuine accountability.

In its 2017 report, OHCHR identified that security officers were allegedly responsible for the killing of 46 protestors.[50] By 31 July 2017, the Attorney-General's Office had issued at least 54 arrest warrants against security officers allegedly involved in 17 of these deaths.[51] Yet, over a year following the beginning of the wave of protests, only one formal trial has started, that of a municipal police officer accused of killing Cesar Pereira on 27 May 2017 in the state of Anzoátegui.

Since a new Attorney-General took position on 5 August 2017, relatives of victims have indicated that the pace of investigations has dramatically slowed down. They have also observed that the level of engagement of prosecutors has significantly decreased. A new internal policy established that any investigation against members of security forces would require the personal approval of the Attorney-General, raising concerns for the independence

[47] The *Plan Zamora* is a civil-military strategic plan to guarantee the functioning of the country, its security, internal order and social integration through the joint operation of armed forces, militias and peoples' forces (see OHCHR 2017 report, p. 8).
[48] OHCHR 2017 report, p.25.
[49] Interviewed on 20 February 2018.
[50] OHCHR 2017 report identified the deaths of 124 persons in the context of the protests. OHCHR found evidence indicating that 46 protesters had likely been killed by members of the security forces and that 27 had reportedly been killed by members of armed *colectivos*. The information available did not allow OHCHR to indicate responsibility for the deaths of the other 51 victims.
[51] Ministry of Communication and Information, "Víctimas fatales de la violencia política en Venezuela, abril-agosto 2017", available at: http://minci.gob.ve/wp-content/uploads/2017/08/Investigaci%C3%B3n-Period%C3%ADstica-V%C3%ADctimas-Fatales-de-la-Violencia-Pol%C3%ADtica-ABRIL-AGOSTO-2017-Actualizado-04-08-17.pdf.

of prosecutors.[52] In some cases, prosecutors were dismissed or removed from cases. The prosecutor investigating the death of Ruben González, killed by a gunshot allegedly fired by the GNB on 10 July 2017 in the state of Valencia, was removed from the case as she was about to interrogate the GNB officers allegedly involved.[53]

In August 2017, the Attorney-General dismissed several members of the direction of his office's fundamental rights department, in charge of investigating human rights violations committed by security forces. The new director has not shown any concrete results in the investigation of protest-related killings. Her department was also reportedly left understaffed. At the same time, the Attorney-General dismantled his Office's Forensic Unit against the Violation of Fundamental Rights, established in 2014 to gather forensic evidence in cases where members of security forces are accused of having committed human rights violations. The head of that Unit and several of its forensic experts fled the country following death threats. As a result, the Attorney-General's Office lost its capacity to conduct independent forensic examinations in cases of human rights violations allegedly committed by members of the security forces. Such examinations are now the responsibility of the Bureau for Scientific, Criminal and Forensic Investigations (CICPC), part of the Bolivarian National Police (PNB) and under the direct authority of the Ministry of Interior, Justice and Peace.

Victims' relatives also reported that prosecutors have failed to order key investigative procedures and that evidence had disappeared from the files. In the case of Yoinier Peña, killed on 10 April 2017 in the state of Lara, prosecutors had failed to subpoena the alleged perpetrator or to request the requisition of the vehicle from which the gunshot came according to witnesses' accounts.[54] In the case of Luis Guillermo Espinoza, killed by a gunshot wound to the head allegedly fired by a member of the GNB on 5 June 2017 in the state of Valencia, the autopsy protocol and the death certificate were reportedly not integrated to his file.[55] In the case of Manuel Sosa reportedly killed by a GNB officer on 25 May 2017 in the state of Lara, the results of the review of camera footage and examinations of the ballistic trajectory were not included to the file.[56] Other relatives complained about not having had full access to the case files.

OHCHR also received information about the GNB's refusal to cooperate with the investigations. Despite formal requests from the former Attorney-General, the GNB has systematically refused to provide the list of names of GNB members who had participated in the security operations resulting in the killing of protestors. The lack of cooperation has effectively blocked any progress in the criminal investigations into a number of cases, including the killings of Juan Pablo Pernalete, Armando Cañizales, Miguel Castillo, Nelson Arévalo and Luis Guillermo Espinoza. In these cases prosecutors had gathered evidence pointing to the responsibility of GNB officers, yet GNB senior officials' refusal to cooperate with the investigations made it impossible to identify the perpetrators. In the case of Juan Pablo Pernalete, allegedly killed by the impact of a tear gas canister on 26 April 2017 in Caracas, the GNB provided a list with the names of all the officers that had taken part in security

[52] Interviews with sources on 6 and 27 February 2018.
[53] Interview with source on 28 March 2018.
[54] Interview with source on 7 March 2018.
[55] Interview with source on 26 February 2018.
[56] Interview with source on 22 February 2018.

operations in Caracas during the entire month of April, without specifying those who had participated in the security operation that had taken place at the time and location of his death.[57]

The GNB has also refused to comply with arrest warrants against some of its members. In the case of Antonio Canelón, killed on 11 April 2017 in the state of Lara, the GNB has failed to comply with a judicial detention order against 13 officers allegedly responsible for his death. The officers were reportedly transferred to another state and remain on active duty.[58] In the case of Manuel Sosa, killed on 25 May 2017 in the state of Lara, the GNB has failed to comply with the detention order issued against a lieutenant identified by the Attorney-General´s Office as responsible of his death.[59] The lieutenant was reportedly promoted to the rank of captain on 5 July 2017.

OHCHR also found that security officers against whom arrest warrants had been issued were held in custody in police compounds or military garrisons, but effectively retained their freedom of movement and were not treated as detainees. For instance, the sergeant of the Bolivarian Air Force allegedly responsible for the killing of David Vallenilla on 22 June 2017 stayed on the military base of *La Carlota* until 19 October when a judge ordered his transfer to the military prison of *Ramo Verde*. The victim's father and lawyers were not allowed to attend the hearing and do not know whether the sergeant was brought before the court.[60] A PNB officer allegedly responsible for the killing of Jairo Ortiz on 6 April 2017 in the state of Miranda was held in a police compound until the preliminary hearing took place in December 2017.[61] The five local police officers allegedly responsible for shooting Augusto Puga in the head on 24 May 2017 in the state of Bolívar remained in their police station.[62] The local police officer allegedly responsible for the killing of Cesar Pereira on 27 May 2017 in the state of Anzoátegui, stayed in a police station despite a court decision ordering his transfer to a detention centre.[63]

In the few cases where alleged perpetrators were identified and deprived of their liberty, unjustified judicial delays punctuated the criminal proceedings. The trial of the local police officer charged for the killing of Daniel Queliz on 12 April 2017 was postponed without valid justification on four occasions.[64] According to the investigation by the Attorney-General's Office, Daniel was shot in the neck by a 9mm handgun during a protest on 10 April in the state of Carabobo. In the case of Fabian Urbina, killed on 19 June 2017 in Caracas, three members of the GNB who had fired their service weapons at protestors have been clearly identified, yet their first hearing has been postponed without valid justification on seven occasions.[65] The preliminary court hearing of the member of the Air Force allegedly responsible for the killing of David Vallenilla was postponed without a valid justification on three occasions. The case of Leonardo González, allegedly killed by a member of the state police of Carabobo on 27 July 2017 after his car was hit by 26 gunshots, was assigned to a tribunal that was not functioning

[57] Interview with source on 21 February 2018.
[58] Interview with source on 27 February 2018.
[59] Interview with source on 22 February 2018.
[60] Interview with source on 16 February 2018.
[61] Interview with source on 28 February 2018.
[62] Interview with source on 27 March 2018.
[63] Interview with source on 20 February 2018.
[64] Interview with source on 7 June 2018.
[65] Interview with source on 19 February 2018.

because of the absence of judges.[66] After a judge was assigned to the tribunal, the preliminary court hearing was postponed on six occasions due to the administrative negligence of the court.

Families informed OHCHR that the Attorney-General's Office has abandoned investigations into the alleged responsibility of senior officials who may have committed, ordered, or failed to prevent, investigate or punish extrajudicial killings and other serious violations during the demonstrations. Before her dismissal, Attorney-General Luisa Ortega Díaz and her Office had documented a series of patterns relating to the use of excessive force during the protests, patterns which were also identified in OHCHR 2017 report.[67] The recurrence of these patterns in all the states where the demonstrations took place clearly demonstrates that the human rights violations did not result from isolated acts but occurred as part of a State policy to systematically repress protests and political dissent.

In the case of Fabian Urbina, for example, the Attorney-General's Office has presented charges against the three GNB officers who opened fire, killing Fabian and wounding four other protestors. However, no investigation into the responsibility of the operation's command was conducted, for failing to take all measures in their power to prevent the officers from carrying their service weapons in a demonstration-control operation.[68]

One of the only attempts at investigating senior officials was blocked on 4 July 2017, when the SCJ annulled the subpoena issued by the Attorney-General against then commander of the GNB, Antonio José Benavides Torres, to testify on the commission of "serious and systematic violations of human rights." The SCJ argued that Mr. Benavides Torres, appointed Chief of Government of the District Capital by presidential decree on 21 June 2017, had procedural immunity. The SCJ also considered that its ruling extended to protect other senior officials in similar circumstances.[69] On 30 June 2017, the Attorney-General's Office issued a subpoena against Gustavo González López, director of the Bolivarian National Intelligence Service (SEBIN). Two days later, President Maduro promoted him to General Chief of the Venezuelan Military, a rank that comes with procedural immunity.

OHCHR documented cases where relatives of persons killed during demonstrations have been the victims of threats or other types of harassment to dissuade them from seeking justice. The sister of a deceased protestor reported that she received several phone calls ordering her to stop making public statements and following up on her brother's case.[70] The father of another late protestor received a phone call during which a Government official offered him financial compensation for dropping his son's case.[71] The father of a third deceased protestor

[66] Interview with source on 26 February 2018.
[67] Report given to OHCHR by the former Attorney-General entitled "Informe sobre vulneraciones de Derechos Humanos en Venezuela durante los sucesos violentos desde abril de 2017", 2017.
[68] Article 68 of the Constitution of the Bolivarian Republic of Venezuela prohibits the use of firearms during demonstration-control operations. In addition, Article 21 of the "rules of operation of police forces during public demonstrations", adopted by the Ministry of Interior, Justice and Peace on 18 April 2011, establishes that security forces should not carry or use firearms during demonstration-control operations (see Official Gazette No. 39.658).
[69] Supreme Cour of Justice, Decision of 4 July 2017 in Exp. 17-0711, available at https://www.civilisac.org/civilis/wp-content/uploads/Sentencia-528-Sala-Constitucional-3-7-17-Nulidad-de-citacion-de-Antonio-Jos%C3%A9-Benavides-Torres-por-MP.pdf.
[70] Interviewed by OHCHR on 7 February 2018.
[71] Interviewed by OHCHR on 5 February 2018.

reported that his office had been ransacked and that all the files, both printed and electronic, related to his son's case had disappeared.[72] SEBIN officers tried to arrest the brother of another late protestor on two occasions.[73] He had to go into hiding for several months.

Commission on Truth, Justice, Peace and Public Tranquillity

On 8 August 2017, the National Constituent Assembly established a Commission on Truth, Justice, Peace and Public Tranquillity (Truth Commission) to examine and report on the "political violence" from 1999 to 2017, with a particular focus on the protests of 2014 and 2017.[74] The majority of the relatives interviewed by OHCHR have also been contacted by staff members of the Truth Commission. They consider that the information provided to them did not allow them to fully undersand the Commission's role and how it would contribute to their fight for justice.

All relatives expressed distrust towards the Truth Commission and its work, and questioned its independence and impartiality because of the links between its members and the Government and the governing party. The father of Juan Pablo Pernalete questioned the value of testifying before the Truth Commission, as the president of the Commission had already publicly declared that security forces were not responsible for his son's death.[75] The mother of another young victim killed during demonstrations shared that the Truth Commission disputed the cause of her son's death. According to the victim's death certificate, her son had died of a bullet wound, yet the representative of the Truth Commission claimed that the cause of death had been established in a different report stating he had been killed by a mortar that had accidentally exploded.[76]

Other parents complained that representatives of the Truth Commission had insisted on conducting a socioeconomic assessment of their living conditions in order to provide them with financial compensations.[77] The mother of another victim told OHCHR that a representative of the Truth Commission offered her a significant amount of money as well as other benefits for her son's death. The representative did not acknowledge State responsibility nor did she explain to her how justice would be guaranteed.[78] All parents interviewed opted to refuse any economic support as long as the investigations were not completed and the Government had not acknowledged responsibility for the death of their relatives. None of the relatives interviewed by OHCHR accepted to engage with the Truth Commission.

The Truth Commission does not meet international standards on the matter in various respects.[79] It was established without any broad consultative process; its operational independence is not guaranteed; and its members have not been accepted as independent and impartial by all sectors of society, nor were they elected following a participatory and

[72] Interviewed by OHCHR on 16 February 2018.
[73] Interview with source on 6 February 2018.
[74] Official Gazette No. 6.323 of 8 August 2017.
[75] See video available at: https://www.youtube.com/watch?v=__1umhQVoRE.
[76] Interviewed by OHCHR on 20 February 2018.
[77] Interviewed by OHCHR on 26 and 28 February 2018.
[78] Interviewed by OHCHR on 5 June 2018.
[79] OHCHR, *Rule-of-Law tools for Post-Conflict States: Truth Commissions*, 2006; available at: https://www.ohchr.org/Documents/Publications/RuleoflawTruthCommissionsen.pdf.

consultative process. The Commission's criteria for its work lack transparency. For instance, the Commission did not publish the criteria applied in order to select the cases under its review and invite victims to its hearings, or the methodology used to assess each case..

On 23 December 2017, the President of the Truth Commission publicly declared that a preliminary report including recommendations had been sent to the President.[80] She stated that the Commission had granted alternative measures of detention to 80 people who would have allegedly participated in "political violence".[81] On several occasions, she further observed that violence during protests had mainly been triggered by opposition parties in order to destabilize the Government. At the time of writing, the Commission had not yet disclosed its report or released comprehensive evidence sustaining its President's declarations.

C. Killings in the context of security operations not related to protests

"*They [security forces] killed my son to say to the press that they got a criminal.*"
Father of a 16 year-old boy killed in Caracas[82]

Venezuelan security forces' excessive use of force in the context of demonstrations – as documented in the OHCHR 2017 report – is one aspect of a larger problem of excessive use of force in security operations in general that has been ongoing since at least 2012. This chapter examines security operations conducted throughout the country as one of the Government's main strategies to fighting criminality, referred to as the Operations for the Liberation of the People (OLPs), as well as two other security operations resulting in alleged extrajudicial killings which took place following the mass protests of 2017. Based on a number of incidents documented during OLPs as well as in a few other circumstances, OHCHR notes a pattern of disproportionate and unnecessary use of force, at times lethal, by security forces. According to witness accounts, the deaths were often covered by simulated armed resistance, thereby obstructing any possible impartial and effective investigations into the killings. In other cases, security forces reportedly tampered with the scene and evidence so that the killings would appear to have resulted from fire exchanges.

In the absence of official data, a civil society organisation estimated that the murder rate had increased from 73 violent deaths per 100,000 inhabitants in 2012 (21,630 deaths) to 89 violent deaths per 100,000 inhabitants in 2017 (26,616 deaths).[83] As reported by the Inter-American Commission on Human Rights (IACHR), the Government put in place a series of policies to tackle this growing insecurity that exacerbated the militarization of public security.[84] They

[80] See video available at: http://tu.tv/videos/venezuela-anc-presenta-informe-sobre-la-comision-de-la-verdad.
[81] As the authorities have not published the names of the 80 detainees, it was not possible to verify if all of them had been released.
[82] Interviewed by OHCHR on 23 February 2018.
[83] Observatorio Venezolano de Violencia, "Informe de Violencia 2017", available at: https://observatoriodeviolencia.org.ve/informe-ovv-de-violencia-2017/. The Attorney-General had reported 21,752 violent deaths during 2016, a ratio of 70.1 killings per 100,000 inhabitants (see: http://www.mp.gob.ve/c/document_library/get_file?uuid=caa5a53d-7e70-4716-958e-0986b593b266&groupId=10136). With a ratio of 57.1 of intentional killings per 100,000 inhabitants in 2015, the country had the third highest rate in worldwide statistics gathered by the United Nations Office on Drugs and Crime (see: https://data.unodc.org).
[84] The IACHR refers, inter alia, to the following plans: Safe Fatherland and Smart Patrols (2013); People´s Protection for Peace Intelligence System (2014); Liberation of the People Operation (2015); the Plan Zamora (2017); and the Plan Carabobo 2021 (2017) (*Situation of Human Rights in Venezuela: Democratic Institutions, the Rule of Law and Human Rights in Venezuela*, op. cit., para. 352).

explicitly recognized roles for civilians in security-related tasks, provided for the participation of the armed forces in public security-related operations and tasks,[85] and appointed high-ranked military officials as heads of the different civilian law enforcement agencies.[86]

The number of alleged extrajudicial killings have risen in parallel to the increase in insecurity and violence throughout the country. A civil society organisation has registered at least 5,846 alleged extrajudicial killings between 2012 and 2016, of which 134 victims were women.[87] The numbers of alleged extrajudicial killings constantly increased from 384 in 2012 to 2,379 in 2016. In the complaint filed to the ICC, the former Attorney-General reported 1,777 alleged extrajudicial killings in 2015, 4,667 in 2016 and 1,848 between January and June 2017.[88]

> *"One day in August 2017, at 6:00 a.m., my son heard gunshots and went out on the balcony to see what was happening. Officers of the FAES ordered him to come down to the street. As he refused and went back into the house with his two children (two and four years old), three members of the FAES broke into his home. They took his children into a separate room and ordered him to kneel down. My four year-old grandson later told me that the officer had shouted at his father "where is the gun", and that he then heard one shot. When they took my grandsons out of the apartment, the oldest saw his father bleeding. An officer wrapped him in a white sheet and dragged him down the stairs. The neighbours told me that after the first gunshot, other officers shot at the windows and walls of my son's apartment simulating a shooting. That same day two other men and one woman were killed in his neighbourhood. The next day the newspapers reported that the Government had dismembered a group that had kidnapped the wife of a colonel of the GNB."*
>
> Mother of a 27 year-old man killed during an OLP interviewed on 21 February 2018

Operations for the Liberation of the People

It is in this context that, on 13 July 2015, the Government announced the implementation of the Operations for the Liberation of the People (OLPs).[89] Until now, the Government has not disclosed any official document explaining the rationale and objectives of the OLPs. However, high-level authorities have made public statements and released video messages of propaganda highlighting that OLPs sought to "liberate" areas where criminal groups and alleged paramilitaries operated and targeted the population through extortion and kidnappings.[90]

The OLPs were joint operations involving several law enforcement agencies (the PNB, the Special Action Forces of the

[85] Article 20 of the Organic Law on National Security adopted on 28 November 2002 establishes that, in addition to the responsibility of guaranteeing the independence and sovereignty of the nation and safeguard the integrity of the national territory, the National Armed Forces should cooperate in maintaining domestic law and order.
[86] At the time of writing, the Minister of Interior, the director of the PNB, the director of the SEBIN and the director of the CICIPC were high-ranked military officials.
[87] COFAVIC, *Venezuela: Ejecuciones extrajudiciales-40 historias de 6385 vidas ignoradas (2012-2017)*, p. 45.
[88] Complaint presented to the ICC on 16 November 2017 by Luisa Ortega Diaz, former Attorney-General of the Bolivarian Republic of Venezuela.
[89] According to the Official Gazette of the state of Carabobo, the main objective of the OLPs were "to provide protection to the different sectors of the population, including in the state of Carabobo, from crime and paramilitary groups led by the fascist Venezuelan and international far-right" (Official Gazette No. 0045-2015 of 21 July 2015, available at: http://sgg.carabobo.gob.ve/gaceta/GACETANro5372.pdf).
[90] See for example press conference of 22 September 2015, available at: https://www.youtube.com/watch?v=7vj2QsO6AqY; and video available at: https://www.youtube.com/watch?v=aNFf8zJA8Hs.

National Bolivarian Police (FAES), the SEBIN, the CICPC and local police forces) and military forces (the GNB, the National Anti-extortion and Kidnappings Command (CONAS), and the Directorate General of Military Counterintelligence (DGCIM)).[91] Enormous power was generally displayed, including the use of armoured vehicles, tanks, drones, heavy weapons, and the deployment of an average of 500 members of the police and the military in each operation. Using military tactics, OLPs took over entire neighbourhoods for several hours, during which multiple house raids were conducted to arrest alleged criminals and seize alleged drugs and weapons. Each security force had a specific function. For example, local police usually blocked the main entrances to the neighbourhood, the SEBIN provided the intelligence used to identify the houses of alleged criminals, the GNB conducted the majority of the arrests, and the CICPC and the FAES conducted the house raids. The operations were conducted without the presence of representatives of the Attorney-General's Office. OLPs generally started at dawn and lasted until the afternoon and took place in the poor neighbourhoods showing the highest crime rates. The Ministry of Interior, Justice and Peace, which was coordinating the OLPs, usually released a press statement highlighting alleged achievements in fighting criminal groups at the end of each operation.[92] According to a database established by investigative journalists, at least 44 OLPs were conducted from July 2015 to June 2017 in 20 Venezuelan states.[93]

> *"One day in March 2017, 11 PNB officers broke into my home at 6:30 a.m. Five of them went up to my 16 year-old son's room. The others took my wife, my daughter and myself outside, put us in a van and drove us to another neighbourhood. They stole our belongings: my mobile phone, my wife's perfume and even the food we had. I asked them why they had broken into my house and they only responded that they had presidential orders. They did not have any judicial warrant. At 12:00 p.m., I was informed that my 16 year-old son had been killed. When we left the house, he was still sleeping. He had no criminal record and was a good student. The death certificate mentioned that he died of two gunshots to the heart fired at point blank."*
>
> Father of a 16 year-old man killed during an OLP interviewed on 23 February 2018

Allegations of extrajudicial killings have first surfaced following the first OLP conducted on 13 July 2015 in *Cota 905*, one of the poorest and most violent neighbourhoods of Caracas, during which 14 people were killed and 134 arrested.[94] Civil society organisations have recorded the death of 560 people during OLPs between July 2015 and June 2017.[95] The Attorney-General's Office later confirmed this information in a report that revealed that, from July 2015 to March 2017, 505 people, including four women and 24 children, had been killed by security forces during

[91] Keymer Ávila, "Las OLPs: entre las ausencias y los excesos del sistema penal en Venezuela", in *Misión Jurídica Revista de Derechos y Ciencias Sociales*, No.13, July-December 2017, pp. 31-45.
[92] See for instance: https://www.youtube.com/watch?v=aNFf8zJA8Hs.
[93] Runrunes and Connectas, "OLP: The mask of official terror in Venezuela", available at: http://runrun.es/especiales/olp/en/venezuela-crime-without-borders/.
[94] Human Rights Watch and PROVEA, "Unchecked Power: Police and Military Raids in Low-Income and Immigrant Communities in Venezuela", April 2016, available at: https://www.hrw.org/report/2016/04/04/unchecked-power/police-and-military-raids-low-income-and-immigrant-communities.
[95] Runrunes and Connectas, "OLP: The mask of official terror in Venezuela", op. cit.

OLPs.[96] The killings took place in 19 states of the country, half were perpetrated by security forces in the state of Carabobo and the metropolitan area of Caracas.[97]

Victims' accounts raise questions as to whether OLPs were really meant to dismember criminal groups, stop crime and bring alleged criminals to justice. A number of elements seem to indicate they were an instrument for the Government to showcase alleged results in crime reduction. OHCHR interviewed families of 12 victims killed by security forces who stated that security forces would have conducted random house searches to arrest young men who would match the profile of criminals. Security forces would follow a pattern of breaking into houses without judicial warrant, and subduing the victim before opening fire at close range without any justification. Security forces would then cover up the killings by simulating a fire exchange, suggesting the victims had opened fire first. Based on information available to OHCHR, police reports incorporated into the different case files were almost identical and stressed that security forces had been compelled to use lethal force as the alleged criminals had resisted arrest and shot at them.

A significant number of factual elements supported victims' accounts. For instance, in contrast to the high toll of civilians killed, PROVEA and Human Rights Watch identified that only three security officers had died and 14 resulted injured during OLPs.[98] In general, no civilians were injured during OLPs, they were either arrested or killed. During the 43 OLPs documented by the Attorney-General's Office from

"In August 2016, I was at home with my two sons; the oldest was 22 years old and the youngest 16. I was doing laundry in the courtyard when CICPC officers broke into my house. I came back in and saw that one officer was leaning over my son who was on the floor and I heard him ask his boss if he should arrest him. The boss answered that the instruction was to kill him. I was taken to another room and I heard two shots. At that moment, my son was on parole. If he had done something bad, they should have taken him back to court, rather than simply kill him. I was brought to a police station where they told me that I did not have the right to sit in a chair. They started asking questions about my son. They beat me and threw me on the floor. They kept me there for one day without food and water and told me that I was responsible for having given birth to a criminal. They also told me that they would visit my home whenever they wanted and that within less than a year they would come back for my other son. During the following year, CICPC officers broke into my house five times. On 19 July 2017, the OLP came back to my neighbourhood. This time they arrested my youngest son who was out in the street with some friends. After searching for him at hospitals and police stations, someone told me that he was in the morgue. They showed me a photo of his body. That day the newspapers reported that nine people had been killed in armed clashes with security forces. Among them was a 10 year-old boy who was living on the same street."

Mother of two young men killed during OLPs interviewed on 21 February 2018

[96] Attorney-General´s Office, "Actuaciones del Ministerio Público relacionadas con las OLP en Venezuela (julio 2015 –marzo 2017)", available at: https://lortegadiaz.com/wp-content/uploads/2017/10/Folleto-OLP-2017.pdf.
[97] Ibid.
[98] Human Rights Watch and PROVEA registered three deaths of security officers in OLPs between July 2015 and April 2016 (see: "Unchecked Power: Police and Military Raids in Low-Income and Immigrant Communities in Venezuela", op., cit.).

July 2015 to April 2016, only 213 firearms, less than 7 kilograms of cocaine and 12 kilograms of marihuana were seized.[99] The Attorney-General's Office also identified that in many cases the victims were poor young men who were not linked to any criminal structure or did not have any criminal record.[100] Of 1,050 people arrested during OLPs, 33 per cent were subsequently formally deprived of their liberty, the rest of them were released shortly after their arrest, either conditionally pending investigation or fully without any charges having been brought against them.

Victims' accounts also pointed to the fact that security forces were normally unidentified and had been wearing balaclavas and helmets. On some occasions, DGCIM officers had even used skeleton masks to cover up their faces.[101] During house raids, security forces often destroyed belongings, seized money and stole food. They covered the windows with sheets, locked up other family members in separate rooms and interrogated young men. After victims had been killed, CICPC officers entered to remove the bodies, take them to a hospital as if they were injured, and later to the morgue. Hospitals records often mentioned that the victims were admitted without vital signs. Relatives also underlined that they had not been allowed to see the bodies until two or three days after the incidents had occurred and that the bodies had not been adequately preserved to prevent decomposition.

Lack of accountability also characterized OLPs. By March 2017, 357 security officers were reportedly under investigations for the killings of 505 people during OLPs[102] and 112 officers had been charged in relation to 43 deaths. There is no publicly available information on the number of security officers that have been tried and sentenced by a court. One of the main obstacles for accountability is that the CICPC, allegedly responsible for most of the killings,[103] is also in charge of

> *"At 4 a.m. in March 2018, around 50 police officers broke into our home, knocking down the door. All were dressed in black with a skull symbol on their jackets. They woke my 23-year-old grandson up, handcuffed him with plastic ties and took him out. They only told us to go to the police station. After a few minutes, we heard two gunshots. When we went downstairs, we saw the police officers circling him. They threatened us and the neighbours and ordered us to go back inside. Later, the forensic doctor told me that he had died of two gunshots to the chest and that he had been severely hit on the head. The police report mentioned that my grandson was carrying a gun and that he had opened fire against security forces, which is a lie. I want justice, he was a human being, not a dog. He was a rap singer, a street-vendor and father to a six-month-old baby."*
>
> Grandmother of 23 year-old man killed during a security operation interviewed on 22 March 2018

[99] Attorney-General´s Office, "Actuaciones del Ministerio Público relacionadas con las OLP en Venezuela (julio 2015 – marzo 2017)", op. cit.
[100] Ibid.
[101] On 17 March 2017, the CICPC issued an internal memorandum banning the use of any garment to cover the face of security officers that might generate distrust among communities. (available at: http://www.panorama.com.ve/sucesos/MIJ-Prohiben-a-los-cicpc-el-uso-de-pasamontanas-y-mascaras--20170324-0013.html).
[102] Attorney-General´s Office, "Actuaciones del Ministerio Público relacionadas con las OLP en Venezuela (julio 2015 –marzo 2017)", op. cit.
[103] The Attorney-General's Office reported that 65 per cent of investigations for human rights violations during OLPs were conducted against CICPC officers, 12 per cent against PNB officers, 11 per cent against state police officers, seven per cent against municipal police officers, and 0.47 percent against military officers (see: "Actuaciones del Ministerio Público relacionadas con las OLP en Venezuela (julio 2015 –marzo 2017)", op. cit.).

conducting all forensic examinations in cases of violent death.

One of the common complaints of victims' families is that prosecutors did not have control over the investigations. Their work depended completely on that of the CICPC, which was in charge of preserving crime scenes, collecting evidence, conducting *post-mortem* examinations and ballistic tests, and other key investigative requirements. In many cases, the CICPC delivered results to the Attorney-General's Office with a one-year delay. The involvement of different security forces which failed to use clear identification and covered their faces with balaclavas has also been a significant obstacle into identifying perpetrators of the alleged extrajudicial killings.

On 15 January 2017, in response to national and international criticism, President Maduro acknowledged "some deficiencies" in the conduction of the OLPs and launched a new phase of OLPs called Operations for the Humanitarian Liberation of the People (OLHPs).[104] An official document explaining the purpose of the OLHPs stresses that the operations should not infringe upon human rights, but fails to establish any accountability measures in cases of human rights violations.[105] The only significant difference in this new phase is operational, as security forces are mandated to establish temporary operational commands in the neighbourhoods where they have regained control.

OHCHR notes that authorities have not informed the public about the results of these operations since January 2017. OLHPs have become less transparent and more challenging to track than OLPs. Civil society organisations have nevertheless continued to gather information on alleged extrajudicial executions committed in the context of these operations.[106]

OLPs and OLHPs have exacerbated the spiral of violence affecting in particular the most impoverished neighbourhoods of the country. Crime rates have reportedly continued to increase since the beginning of the operations, which only instilled fear among poor communities. Mostly, they modified the balance of power between criminal groups operating in these territories without preventing criminality.[107] OHCHR notes that the *modus operandi* used during these operations appears to have been replicated during violent house raids conducted during the period of mass protests of 2017 and documented in OHCHR 2017 report, with the difference that the latter did not result in deaths.

Killing of 39 detainees in the Judicial Detention Centre of Amazonas

On 16 August 2017, 39 of the 100 detainees held in the Judicial Detention Centre of the state of Amazonas (Amazonas detention centre) were killed with firearms. The Minister of Interior, Justice and Peace reported that joint security forces had taken control of the detention centre

[104] See video available at: https://www.youtube.com/watch?v=p_mhU9Uq-Ko.
[105] Ministry of Interior, Justice and Peace, "Protocolo de actuaciones de los cuerpos de seguridad del Estado en la operación de liberación humanista del pueblo", 2017, available at: https://www.scribd.com/document/360500479/Protocolo-de-Actuacion-de-Los-Cuerpos-de-Seguridad-de-Estado-en-La-OLHP.
[106] Interview with source on 8 March 2018.
[107] International Crisis Group, "Containing the Shock Waves from Venezuela", March 2018, available at: https://www.crisisgroup.org/latin-america-caribbean/andes/venezuela/65-containing-shock-waves-venezuela.

following an outbreak of violence among the detainees, who since 2012 had established a system of self-government within the centre.[108]

OHCHR received information indicating that, on 15 August at around 9:00 p.m. officers of the PNB, GNB, FAES, CICPC, CONAS, and the Immediate Response Security and Custody Group, which reports to the Ministry of Penitentiary Services, had launched a security operation to regain control of the Amazonas detention centre. Credible sources reported that, fearing for their physical integrity, detainees had refused entry to the centre to security forces at night, but assured the authorities that they would surrender in the morning. Security forces prevented the director of the detention centre, as well as the bishop of Amazonas, from intervening and reaching a peaceful settlement with the detainees. During the night, some detainees used firearms to repeal the actions of the security forces, who used heavy weapons, such as R-15 and AK-47 rifles, against the detainees.

By 7:00 a.m. the following morning, all detainees had surrendered and the security forces controlled the situation. Three detainees had reportedly died during the night's fire exchange and 15 security officers had been injured. The authorities seized seven pistols, two revolvers, one rifle and two grenades. An investigation conducted by the NGO *Observatorio Venezolano de Prisiones* reported that after having taken control of the centre, the security forces had killed all the detainees that were injured, as well as a number of uninjured detainees whose names appeared on a list they had.[109] Most of the detainees killed were indigenous. The investigation of the *Observatorio* also stressed that some of the survivors had been beaten and subjected to mock executions. Ten women who had been visiting their relatives in detention when the operation started had been intimidated, insulted and beaten by security forces.

Relatives of the victims stressed that the authorities had not provided them with timely information about their family members. By the time they were allowed to enter the detention centre, the victims' bodies had been piled up and had started to decompose. According to the *Observatorio's* investigation, the victims had gunshots wounds to the head and some had been disfigured from having been thrown off the rooftop of the centre.[110] Despite the Minister of Interior's announcement that the fundamental rights department of the Attorney-General's Office in Caracas had opened an investigation into the events, relatives had been informed that the investigation was being conducted by prosecutors of the state of Amazonas. At the time of writing, relatives and witnesses interviewed by OHCHR had not been called to testify as part of the investigations.

The Minister of Interior, Justice and Peace highlighted that some detainees had resisted the operation using firearms and hand grenades, and that one of the detainees' leaders had killed other detainees to prevent them from surrendering.[111] However, accounts of victims' relatives

[108] Statement of the Ministry of Interior, Justice and Peace, Nestor Reverol, on the events of the Judicial Centre of the State of Amazonas, available at: http://minci.gob.ve/2017/08/reverol-solicito-investigar-a-liborio-guarulla-por-inaccion-en-reten-policial-de-amazonas/.
[109] Observatorio Venezolano de Prisiones, "Ni olvido, ni impunidad: Masacre con premeditación y alevosía en el Centro de Detención Judicial de Amazonas", 2017, available at: https://www.derechos.org.ve/web/wp-content/uploads/Informe-ni-olvido-ni-impunidad-.pdf.
[110] Ibid.
[111] See video at: https://www.youtube.com/watch?v=Bo-LnjfbKBo.

and witnesses gathered by OHCHR pointed to the fact that security forces were responsible for the killings as they had used firearms before having first used less lethal weapons and had not allowed detainees to surrender.[112] States have positive obligations towards persons deprived of liberty as they are particularly vulnerable because of their status. This implies, inter alia, the obligation to respect and actively protect their rights to life and physical integrity.[113]

Killings in El Junquito, Caracas

On 16 January 2018, the Minister of Interior, Justice and Peace reported that, the previous day, joint security forces had dismantled a "terrorist group" following armed clashes at a residence located in an area of the District Capital known as "El Junquito".[114] The Minister said that the group was led by former CICPC officer Oscar Pérez, wanted by the authorities since 27 July 2017 for having reportedly thrown four hand grenades from a stolen helicopter at the seat of the SCJ. The Minister stressed that the use of force during the operation had been progressive; as the group had fired back, the security officers had had to revert to lethal force. Seven members of the alleged terrorist group and two alleged PNB officers died in the armed exchange.[115] According to the Minister, eight security officers also suffered gunshot wounds.

Around 400 officers of the GNB, FAES, PNB, CONAS and DGCIM allegedly participated in the operation, using assault rifles, such as AK103, AR15, and HK MP5, hand grenades and an anti-tank rocket-propelled grenade launcher (RPG-7) against the group. Security forces allegedly seized four rifles, one pistol and two hand grenades.

Information gathered by OHCHR suggested that, although the group had initiated negotiations with commanders of the GNB to surrender, officers received counter-orders from the Strategic Operational Command to use lethal force and execute all the members of the group once they had been subdued.[116] There is credible evidence supporting this version, including a series of videos filmed by Oscar Pérez showing the group negotiating with the operation's commander; a sound recording of communications between officers indicating that negotiations were ongoing; accounts from relatives of the victims who received telephone calls and video messages stating they wanted to surrender to the authorities; a photo showing the body of Oscar Perez lying in rubble with a gunshot to the forehead; and the death certificates of the seven members of the group indicating that the cause of death was in each case a gunshot to the head.

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[112] Observatorio Venezolano de Prisiones, "Ni olvido, ni impunidad: Masacre con premeditación y alevosía en el Centro de Detención Judicial de Amazonas", op. cit.
[113] Human Rights Committee, General Comment No. 21, HRI/GEN/1/Rev.9 (Vol. I).
[114] Press conference of 16 January 2018, available at: https://www.youtube.com/watch?v=AY4wpOV1zKk.
[115] Oscar Alberto Pérez, Daniel Soto Torres, Abraham Lugo Ramos, Jairo Lugo Ramos, Abraham Israel Agostin, José Alejandro Díaz Pimentel and Lisbeth Ramírez Montilla. According to information received by OHCHR, the two PNB officers, Heyker Leovaldo Vazquez Ferrera and Nelson Antonio Chirinos Cruz, were actually members of a armed *colectivo* that operates in that sector. They were given PNB uniforms to participate in the operation. Both of them had had been shot in the back.
[116] According to the Organic Law of the Armed Forces (Decree No 1.439), the Strategic Operational Command is the main body for the coordination, direction and supervision of joint military operations in times of peace and internal unrest. The Strategic Operational Command reports directly to the President, as Commander in Chief of the Armed Forces.

According to the information received, the Attorney-General' Office has not yet initiated any investigation into the alleged extrajudicial executions. Instead, the Military Attorney-General was from the beginning in charge of the investigation on Oscar Pérez and the group and of securing evidence at the scene. Yet, the house was destroyed shortly after the events without preserving key evidence, in violation of established forensic procedures and the chain of custody. For example, the deceased's clothes were incinerated and photographs documenting the autopsies were removed from the archives.[117] Members of the GNB would have also prevented a commission of inquiry of the National Assembly from accessing the scene and relevant information on the case.[118] Victims' families reported that they had been allowed to see the bodies only after three days, that the location of burial had been imposed by authorities, and that security forces had restricted attendance to the funerals to a few family members only.[119] The authorities also arrested at least 35 people, prior to and after the incident, for their alleged links to members of the group.

General considerations

The right not to be arbitrarily deprived of one's life is a universally recognised right, applicable at all times and in all circumstances. No derogation from article 6 of the International Covenant on Civil and Political Rights, to which the Bolivarian Republic of Venezuela is a party, is permissible. States must not deprive any person of his or her life arbitrarily and can only use lethal force to protect the life of others. Contravention of this international obligation amounts to excessive use of force, and can constitute an extrajudicial execution.[120]

Where evidence suggests that a death may have been caused unlawfully, the State must ensure a prompt, effective, independent and transparent investigation.[121] Family members have the right to seek and obtain information on the death of their relatives and to learn the truth about the circumstances, events and causes that led to it.[122] State obligations arise in all circumstances involving the actuation of law enforcement forces, including during the control of demonstrations. States also have a positive obligation to investigate all killings, including in cases involving third parties,establish their circumstances and bring the alleged perpetrators to justice.

D. Arbitrary detentions and violations of due process

"Talking about criminal proceedings is illusory because there are absolutely no legal guarantees."
Lawyer from Carabobo state[123]

Since the end of July 2017, OHCHR observed that the authorities have continued to use arbitrary and unlawful detentions as one of the main tools to intimidate and repress the political

[117] Interview with source on 30 May 2018.
[118] Report given to OHCHR by representatives of the National Assembly, "Masacre en el sector "El Junquito": Comisión Especial de la Asamblea Nacional para Investigar los hechos ocurridos".
[119] Interview with source on 2 April 2018.
[120] UNODC-OHCHR, *Resource book on the Use of Force and Firearms in Law Enforcement*, 2017, p. 24.
[121] OHCHR, *The Minesota Protocol on the Investigation on Potentially Unlawful Death*, 2016, p.7.
[122] Ibid, p.4.
[123] Interviewed on 16 February 2018.

opposition or any person perceived as a threat to the Government for expressing dissent or discontent, albeit in a more selective manner than during the period of mass protests.

Security forces, notably the intelligence services, have been arresting individuals who are in a position to mobilize and organise people, or are members of certain social groups. They include particularly political and social activists, students, human rights defenders, media workers, and members of the armed forces. According to data from the NGO *Foro Penal Venezolano*, at least 570 persons, including 35 children, were arbitrarily detained from 1 August 2017 to 30 April 2018 in the District Capital and 20 states of the country. The number of cases of arbitrary detentions could be higher as affected individuals either do not have access to legal counsel or decide against denouncing their situation for fear of reprisals or in the hope of a more lenient treatment. "Detentions are becoming invisible as relatives choose to keep a very low profile", commented one lawyer.[124] "Victims are afraid. It is becoming more complicated to document the cases and talk about them publicly," said another lawyer.[125]

OHCHR is particularly concerned about the significant number of members of the armed forces reportedly detained in 2018. They would be targeted because of their perceived opposition to the Government, and the threat they represent from within the armed forces. In some cases, their relatives were also threatened or detained. These detentions have been very challenging to document, especially as military members are generally kept *incommunicado*, access to military places of detention is restricted, and family members often fear reprisals for denouncing their relatives' situation.

Use of military justice

In a press conference held on 25 August 2017, the new Attorney-General declared that 84 out of 110 cases of civilians detained during the protests and processed before the military jurisdiction would be transferred to the regular justice system. However, at that time more than 600 civilians had been brought before military tribunals, a discrepancy which was not addressed by the Minister.*

OHCHR observed that civilians arrested following the Attorney-General statement continued to be brought before military tribunals. According to the NGO Foro Penal Venezolano*, between August 2017 and April 2018, 80 civilians were processed through the military justice system. As already noted by OHCHR, the use of military justice to try civilians results in serious violations of the defendants' human right to a fair trial, including the right to be tried before a competent, independent and impartial tribunal established by law.***

** OHCHR 2017 report, p. 23*
*** Ibid*

OHCHR also found violations of guarantees of due process in every detention case out of over 100 cases documented for this report, confirming the pattern observed in the 2017 report.[126] These violations were exacerbated when detainees were brought before military tribunals, as

[124] Interviewed on 29 March 2018.
[125] Interviewed on 6 November 2017.
[126] OHCHR 2017 report, p. iii.

lawyers were facing more difficulties to access military courts, their clients' case files and other important information to prepare an adequate defense. Arresting officers rarely presented judicial warrants and did not inform the persons of the reason for their arrest. Detainees were consistently kept *incommunicado* until they were brought before a judge, often done beyond the 48 hour-limit set under domestic law. Arresting officers also failed to promptly inform the detainees of the charges against him or her.

In numerous cases, *incommunicado* detentions became brief enforced disappearances, as the authorities refused to inform the detainees' families and lawyers of their whereabouts.[127] Further, OHCHR documented more than half a dozen cases of people arrested by members of security forces or intelligence services and held in unofficial detention places for up to a week before they were released without having been brought before a judge.[128] In all these cases, the persons were threatened, humiliated, ill-treated or even tortured, while they were interrogated about their activities or that of relatives. A woman arrested by members of intelligence services interviewed by OHCHR said that she felt completely helpless. "They owned us, they owned our lives."[129] When they let her go, her captors said: "if you talk, you will not see the light of day again." Such practices, which seem to have increased in 2018, generate high levels of distress for the victims and their families. OHCHR also documented the enforced disappearance of a young man reportedly detained by security forces in 2015 and whose fate and whereabouts remain unknown.

In a number of cases documented by OHCHR, detainees were kept *incommunicado* for weeks or even months, sometimes as a punishment. For instance, Gregory Hinds, a human rights defender arbitrarily arrested on 31 January 2018, was held *incommunicado* at the SEBIN *Helicoide* until his conditional release on 1 June. At the time of writing, retired General Raúl Baduel, arbitrarily detained since January 2017, had not had any contact with his family or lawyers for over four months. Juan Pedro Lares was kept *incommunicado* almost uninterruptedly from his arrest on 30 July 2017 until his release on 1 June 2018 (see also chapter F below).[130] The authorities had not officially acknowledged his detention and he did not appear in the SEBIN *Helicoide's* prison registry. As he holds a double nationality, Colombian consular authorities had visited him a few times and confirmed his presence there. Mr. Lares spent 10 months in detention without ever being brought before a judge and despite two habeas corpus applications, in violation of his right to liberty and personal security. OHCHR reiterates that *incommunicado* detention often gives rise to serious human rights violations, and, if prolonged, constitutes a form of cruel, inhuman or degrading treatment.[131]

[127] As highlighted by the UN Working Group on Enforced or Involuntary Disappearances "there is no time limit, no matter how short, for an enforced disappearance to occur" (see: A/HRC/30/38, para. 102).
[128] Interviews with victims on 13 Feburary, 16 February and 6 June 2018.
[129] Interviewed on 6 June 2018.
[130] Interview of witnesses and sources on 13 and 16 February 2018.
[131] Human Rights Committee, General Comment No. 35, CCPR/C/GC/35, paras. 35 and 56.

Children detained* incommunicado

*OHCHR documented the case of two boys** who were arrested separately by the SEBIN in mid-January 2018. They were part of a group of friends who had been exchanging messages on social media about going out to protest. All the members of that group, including girls, were arrested around the same time. They were not allowed access to a lawyer of their choice and, in both cases, the judge ordered their release provided they could secure* fiadores *(a form of bail which takes time to approve).*

They were detained at the SEBIN Helicoide *together with adults and deprived of any contact with their families or legal counsels for over four months. One family had received two letters but they said they were not certain their son had written them. "We do not have access to anything, we are helpless", they said. Both cases were denounced to the fundamental rights department of the Attorney-General's Office, the Ombudsperson's Office and the National Council on the Rights of Children and Adolescents to no avail. They were conditionally released on 1 June 2018.*

** Interviews with witnesses and sources on 12 April and 17 April 2018*
*** One of them turned 18 during his detention.*

OHCHR found that prompt access to a lawyer has been heavily restricted in numerous cases, significantly jeopardizing detainees' right to an adequate defence. In most cases, lawyers were granted access to their clients only a few minutes before their hearings, which meant that they did not have sufficient time and access to adequate material to prepare the defence. Lawyers' visits to detentions centres were also arbitrarily restricted or suspended. It was particularly challenging for lawyers to gain access to military tribunals and prisons. In some cases, defendants were denied a lawyer of their choice and imposed a public defender. In one case, the public defender imposed on a defendant was changed five times in three months.[132] Defendants and their families were also pressured not to choose lawyers linked to human rights organisations. OHCHR also documented cases where lawyers were threatened or arrested for discharging their professional duties.

In the cases documented for this report, OHCHR observed that judicial proceedings were regularly delayed. The approval processes of *fiadores,* a type of bail often imposed by judges for the conditional release of detainees, were generally delayed, *de facto* prolonging the detention. In one case, a judge was suspended shortly after she issued conditional release orders in favour of children who had been waiting in detention for their *fiadores* to be approved for over three months. Judicial hearings were repeatedly suspended or postponed without convincing reasons, including because of the involuntary absence of defendants who were not transferred to court from their place of detention, or because of the unjustified absence of judges or prosecutors. For instance, the hearing of Lorent Saleh, arbitrarily detained since September 2014, was postponed more than 40 times. The hearing of Villca Fernández, arbitrarily detained since January 2016, was postponed 15 times. Procedural delays were exacerbated by the dismissal of at least 100 staff members of the Attorney-General's Office in the two months that followed the change of Attorney-General in August 2017.

[132] Interview with witness on 17 April 2018.

Further, OHCHR has documented a worrying number of persons who remained deprived of their liberty for months despite a valid release order in their favour. For instance, Fred Mavares and Reggie Andrade, police officers from the municipality of Chacao arrested on 20 June 2016 and detained at the SEBIN *Helicoide,* have had a release order since 8 August 2016 but remain deprived of their liberty. These situations of continued confinement in defiance of judicial orders do not only constitute arbitrary and unlawful detentions, they also show utter contempt for the judicial authority.

59 Colombians unlawfully detained

OHCHR documented the case of 59 Colombian nationals arrested in separate security operations, part of an OLP, over a period of a few days in late August and early September 2016. While they had been told they would be deported, President Maduro publicly accused them of being Colombian paramilitaries.*

*They were all detained in the same precarious police jail in extremely difficult conditions. They did not have access to natural light and received very little food, usually eating only once a day. Most of their food had to be brought by their families who suffered from very difficult socio-economic conditions – many of them having lost their breadwinners. They were also in poor health but were not allowed access to adequate treatment and medication. A medical evaluation was ordered by the judge, but they were not transferred to the forensics centre (*medicatura forense*). They were originally 61, however one man and one woman were released on humanitarian grounds. The man died of an acute respiratory insufficiency due to a respiratory infection shortly after his release.*

On 21 November 2017, a judge ordered their unconditional release because no arrest orders had ever been produced and they had not been arrested in flagrante delicto*. At the time of writing, they had still not been released.*

** Interview of victims and witnesses on 16 and 19 January 2018*

OHCHR observed that victims of arbitrary detention also faced important struggles after their conditional release as criminal procedures dragged on. A young man[133] arbitrarily detained for about a month in April 2017 told OHCHR that the date of his preliminary hearing still had not been set. He went to the tribunal to inquire about the status of his case and was simply told: "as a terrorist, a *guarimbero*,[134] you do not have rights." He is still required to report to the tribunal every 30 days and is prevented from leaving the Caracas area. "I feel like I am still in prison," he said. "I cannot build a future, I cannot pursue my goals because I have a criminal record."

In some cases, security forces continue to monitor former detainees, taking pictures and questioning their friends and neighbours. Some also received threats from pro-government armed groups (armed *colectivos*). Arbitrary detentions and the treatment received in jail has had negative consequences on the physical and mental health of former detainees. Some are traumatized and suffer from depression. A young man told OHCHR that he was afraid to leave

[133] Interviewed on 26 February 2018.
[134] Derogatory expression used to refer to anti-Government protestors.

his house and be recognized by the security officers who had ill-treated him during his detention.[135]

Consequences on detainees' families

A human rights defender told OHCHR that "having a relative in jail costs a lot for the families", explaining that families have to pay for food, water, basic commodities, privileges and protection. In some cases, relatives have to pay to be able to visit or leave food and other basic goods. Transport to centres of detention and/or tribunals could be very difficult, particularly when the detainee is held far from his or her place of residence. The negative consequences on the family are worse when the person deprived of liberty is the family's breadwinner. "It is not only the detainee who is affected but the family too," said the father of a young man arbitrarily deprived of his liberty for more than two years.** Some relatives are monitored and their phones tapped, others are threatened, some have to quit their jobs to dedicate themselves to find food and basic necessities for the family member deprived of liberty.*

** Interviewed on 13 December 2017*
*** Interviewed on 27 December 2017*

From January 2014 to April 2018, *Foro Penal Venezolano* recorded at least 12,320 arbitrary detentions of political opponents or persons perceived as either opposed, or posing a threat, to the Government.[136] Individuals were sometimes perceived as such for the mere exercise of their human rights, including participating in a protest or publicly expressing their dissent. Of those 12,320, more than 7,000 were released on the condition that they abide by a number of measures restricting their freedoms, such as regularly reporting to a tribunal, not leaving the country, and/or not discussing their cases publicly. They still face lengthy criminal trials, including in some cases before military tribunals. Many are living in fear of being re-arrested and some have left the country.

According to *Foro Penal Venezolano*, at 3 June, there were at least 316 persons arbitrarily deprived of their liberty for their political opinions or for having excercised their human rights,[137] including opposition figures such as Leopoldo López, Lorent Saleh, and Villca Fernández.

Since 2014, the Working Group on Arbitrary Detention has issued 13 opinions concerning 333 individuals arbitrarily detained in the Bolivarian Republic of Venezuela.[138] It recently noted that the "multiple arbitrary detentions of persons who are member of the political opposition to the Government, or for having exercised their rights to freedom of opinion, expression, association, assembly, and political participation" constitute "an attack or systematic practice on the part of the Government to deprive political opponents, particularly those who are

[135] Interviewed on 26 February 2018.
[136] The IACHR also expressed alarm at continued unlawful and arbitrary detentions in the Bolivarian Republic of Venezuela, especially at the high figures observed in 2017 (see: IACHR, *Situation of Human Rights in Venezuela: Democratic Institutions, the Rule of Law and Human Rights in Venezuela*, op.cit., para. 237).
[137] List provided by *Foro Penal Venezolano*.
[138] See opinions of the Working Group on Arbitrary Detention: A/HRC/WGAD/2014/26; A/HRC/WGAD/2014/29; A/HRC/WGAD/2014/30; A/HRC/WGAD/2014/51; A/HRC/WGAD/2015/1; A/HRC/WGAD/2015/7; A/HRC/WGAD/2015/26; A/HRC/WGAD/2015/27; A/HRC/WGAD/2017/18; A/HRC/WGAD/2017/37; A/HRC/WGAD/2017/52; A/HRC/WGAD/2017/84; and A/HRC/WGAD/2017/87.

perceived as opponents of the regime, of their liberty, in contravention of fundamental norms of international law."[139]

OHCHR notes with concern that the number of victims of unlawful and arbitrary detention could be much higher.[140] As mentioned above, many cases go undetected, especially when persons deprived of their liberty lack resources to seek support and/or their families do not want or know where to denounce their situation. NGOs also have limited capacities to monitor the occurrence of detentions particularly in remote areas. A large number of people could also be arbitrarily deprived of their liberty, not because they were arrested for their political opinions or for exercising their human rights, but because of grave violations of their right to a fair trial.

E. Torture and ill-treatment

"I'm not the only one – there are many more [victims] throughout Venezuela."
Man arrested and raped by security forces in August 2017[141]

OHCHR has continued to receive credible accounts about persons deprived of their liberty and subjected to one or more forms of cruel, inhuman or degrading treatment, which in many cases could constitute torture, prior to, during, and after the 2017 wave of mass protests. Security forces, in particular members of the SEBIN, the DGCIM and the GNB, resorted to such measures to intimidate and punish the detainees, as well as to extract confessions and information. In some cases, family members, in particular women, were also subjected to cruel, inhuman or degrading treatment when visiting their relatives.

The prohibition of torture is absolute and non-derogable. States have an obligation to take effective measures to prevent torture and other ill-treatment in any territory under their jurisdiction. This includes the obligation to conduct prompt and impartial investigations, wherever there are reasonable grounds to believe that an act of torture has been committed, to prosecute alleged perpetrators, and to provide redress and adequate compensation to the victims.[142]

OHCHR documented over 90 cases of persons arbitrarily deprived of their liberty who had been submitted to one or more forms of ill-treatment or torture for this report. The most serious cases generally took place on the premises of the SEBIN, the DGCIM and the military throughout the country. In some cases, people were held in unofficial detention places.

Ill-treatment and torture documented included electric shocks, severe beatings, including with metal pipes and baseball bats, rape and other forms of sexual violence, suffocation with plastic bags and chemicals, mock executions and water deprivation. Detainees were also exposed to cold temperature and/or constant electric light, handcuffed and/or blindfolded for long periods of time, as well as subjected to death threats and insults.

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[139] Working Group on Arbitrary Detention, Opinion no. 87/2017, A/HRC/WGAD/2017/87, para. 48.
[140] For instance, between January 2014 and December 2017, the NGO PROVEA has recorded at least 30'861 possible violations of the right to personal liberty (PROVEA Annual Reports 2014, 2015, 2016 and 2017, available at: https://www.derechos.org.ve/).
[141] Interviewed on 16 February 2018.
[142] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

A university student detained for more than six months told OHCHR[143] he had received electric shocks and was beaten, suffocated with a plastic bag and drenched in cold water while interrogated by military intelligence officers on his relations with opposition leaders. A lawyer explained that, in addition to having been subjected to electric shocks, including on his genitals, his client had been stripped naked by the guards, tied to a vehicle and dragged on a stone path over a hundred meters.[144] A journalist detained in a military detention centre said that he was left without water for three days as punishment.[145] Other reported punishments included forced physical exercise, the use of small isolation cells, long-term solitary confinement, the prohibition of family visits, and the confiscation of the detainees' personal belongings.

A lawyer who had been defending protestors told OHCHR that he was detained by GNB officers on his way home from a court hearing.[146] He was blindfolded and brought to a place where he was first beaten with a pipe. He was then stripped naked and raped by the officers. They claimed he was responsible for the ongoing protests because he had been helping terrorists. He was released a day and a half later without having been brought before a tribunal. The lawyer went to the forensic clinic but they refused to document his complaint. Fearing for his safety, he left the country a few days later.

In another case, a journalist,[147] known for being critical of the government and investigating cases of corruption, told OHCHR he was arrested by unidentified security forces who placed a hood over his head and brought him to an unknown place of detention (see also chapter G below). He was stripped naked and beaten for hours. The officers told him they would kill him "to give an example to the press." After over three days of ordeal, they handcuffed him and took him to an isolated area close to a highway. They took his hood off and one officer put a gun to his head and shot. The gun was not loaded and they left him there, handcuffed and wearing only his underwear.

A young woman[148] arrested by members of intelligence services and held in an unofficial detention place recalled that, at night, despite the loud music played by the guards, she would hear other detainees scream while they were tortured. One man was begging "please shoot me." She said hearing these cries was unbearable.

[143] Interviewed on 12 December 2017.
[144] Interviewed on 21 March 2018.
[145] Interviewed on 4 May 2018.
[146] Interviewed on 16 February 2018.
[147] Interviewed on 13 February 2018.
[148] Interviewed on 6 June 2018.

Cruel, inhuman or degrading treatment of family members

OHCHR documented a few cases of family members, in particular women, who were subjected to cruel, inhuman or degrading treatment by security officers or prison guards. A number of women told OHCHR that each time they came to visit their relatives in jail, they had to completely undress and squat; female guards also opened their vaginas with their fingers to ensure they were not hiding anything.** "If you have your period, they do not let you in," said one of them.****

*Another woman**** explained that CICPC officers came to her house to arrest her 17 year-old son. As he was absent, they brought her back to their offices for interrogation. While they interrogated her about her son's whereabouts, one officer spat on her face several times and called her a bitch (cabrona). Another officer put a gun to her head and said: "what do you prefer, your life or that of your son?" They let her go but came back a few days later to search her house. Her son, a student who used to participate in political protests, had to leave the country. The security forces continued monitoring her house for a few months after the incident.*

** Women are more likely to visit their relatives in prison than men and are therefore more exposed to such treatment. In addition, certain detention centres prohibit visits from men.*
*** Victims and witnesses interviewed on 17 February,18 February and 23 February 2018*
**** Interviewed on 18 February 2018*
***** Interviewed on 12 January 2018*

Conditions of detention

The conditions of detention of persons deprived of their liberty in all cases documented by OHCHR did not meet basic international standards for the humane treatment of detainees and often constituted in and of themselves cruel, inhuman or degrading treatment. Overcrowding is rife and infrastructures are insalubrious and infested with rats and insects. Not all detainees have access to natural light. In many detention centres across the country, detainees have limited access to food and water, including drinking water, which have to be provided by their relatives. A man had to drink water from the toilet until his family could provide him with bottled water.[149] Many detainees have lost a considerable amount of weight as some said they were only given one small meal a day. Detainees with poor families or deprived of their liberty in centres located far from their place of origin are particularly affected.

OHCHR observed that some detainees were in poor health conditions, but were denied medical care in a manner that constituted a violation of their rights to health, to physical integrity and to be treated with humanity. Many detainees suffered from a range of illnesses and ailments, such as gastric problems, ulcers, hypertension, scabies and other skin infections, tuberculosis and other respiratory infections, malaria and HIV/AIDS, and yet most of the time they were not provided with adequate medical attention and medicines, putting their physical integrity, sometimes their lives, at risk.

A woman told OHCHR that, during a visit, she had to inject her son who was suffering from scabies with dog medicine, the only treatment should could buy.[150] A man said that the first

[149] Interview with witness on 28 March 2018.
[150] Interviewed on 17 February 2018.

time he could visit his son in detention, he had a wound on his scalp that had been infected with worms and was spitting blood.[151] He did not have access to medical care and his family had to bring him medication.

Retired army General Ángel Vivas Perdomo suffered from a fractured vertebra resulting from the beating to which he was subjected during his arrest in April 2017.[152] He also suffered from a grade 4/4 prostatic growth and a growth in the groin area, which he developed in detention. Despite having been transferred to a military hospital several times, he was not provided with timely and adequate medical care and medication. The health status of Villca Fernández, who suffered from hypertension and heart problems, was also delicate.[153] Several judicial orders have been issued, requesting his transfer from the *Helicoide* to a hospital for medical attention and specialized examinations, yet these orders were not complied with by the SEBIN. The *Foro Penal Venezolano* recorded 53 cases of persons detained for political reasons in serious health conditions in 2017.[154]

Detainees were also confronted with violent situations which put their security and even life at risk. Riots, often triggered by bad conditions of detentions and ill-treatment, were a recurring problem, often ending in loss of life.[155] Persons deprived of their liberty for political motives were often taken hostage by common prisoners to be used as bargaining chips to pressure the authorities. Alexander Tirado, arbitrarily detained during a peaceful protest, has lived through seven riots. After the last one, he was severely beaten with a baseball bat by security officers who accused him of having incited the other prisoners to revolt.[156]

The NGO *Observatorio Venezolano de Prisiones* reported that overcrowding, mainly due to judicial delays, to the overuse of incarceration sentences and to the lack of new infrastructures, reached 161 per cent in prisons and preventive detention centres throughout the country in 2017.[157] This rate reached 3,976 per cent in the top seven overpopulated detention centres.[158] Out of an estimated population of 57,096 detainees, only 35 per cent had been sentenced. Further, in 2017, 143 persons deprived of their liberty reportedly died in violent circumstances, 120 got injured, while 28 died of malnutrition or tuberculosis. Between 1999 and 2017, the *Observatorio* recorded the death of 6'897 persons deprived of their liberty, while 16'805 had been injured. The work of the *Observatorio* and of the NGO *Una Ventana a la Libertad* indicate that the prison system in the Bolivarian Republic of Venezuela is going through a structural

[151] Interviewed on 23 February 2018.
[152] Interviews with witness and source on 15 February and 13 March 2018.
[153] Interview with witness on 27 December 2017.
[154] Foro Penal Venezolano, "Reporte sobre la represión en Venezuela: 2017", p. 13, available at: https://foropenal.com/category/publicaciones/nacionales/reportes-de-represion/.
[155] See for instance: the death of at least 68 people in a police station jail in Valencia, state of Carabobo, on 28 March 2018 ("Statement by UN Human Rights Office on Venezuela jail deaths", 29 March 2018, available at: http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22907&LangID=E); and the killing of 39 detainees in the Judicial Detention Centre of Amazonas (documented in chapter C of this report).
[156] Interview with witness on 18 February 2018.
[157] Observatorio Venezolano de Prisiones, "Informe 2017", available at: http://oveprisiones.com/informes/.
[158] Tocorón, Tocuyito, Puente Ayala, Guanare, La Pica, Uribana and Coro (see: Observatorio Venezolano de Prisiones, "Informe 2017", op. cit.).

crisis.[159] The IACHR also qualified conditions of detention in the country as one of the worst in the Hemisphere.[160]

Impunity

OHCHR observed that few victims filed official complaints for the torture and ill-treatment they suffered for fear of retaliation and because they did not trust the justice system. A woman told OHCHR that she first thought about presenting a complaint for the death threats and degrading treatment she received at the hands of security forces, but that a prosecutor had advised against it to avoid reprisals.[161] During their compulsory initial forensic examination, detainees were sometimes pressured not to denounce their cases. The examination was also often done in the presence of security officers. A police officer told a young man once the forensic doctor had arrived: "if you say something I'm going to screw you!"[162]

Under the Convention against Torture (articles 12 and 13), however, States' obligations include the obligation to ensure that any individual who alleges he has been subjected to torture has the right to have his case promptly and impartially examined by the competent authorities, and that complainants are protected against all ill-treatment or intimidation as a consequence of their complaint.

The complaints of those who did gather the courage to denounce were rarely effectively investigated. None of the complaints presented in cases of ill-treatment or torture documented by OHCHR, including for the 2017 report, had shown any result or even progress. A young man told OHCHR he had filed a complaint for torture with the fundamental rights department of the Attorney-General's Office, but that they had not done anything about it.[163] The prosecution had not even ordered a forensic examination. At some point, prosecutors suggested he go alone to the GNB garrison where he had been detained to identify the perpetrators, which he refused to do for obvious reasons. The friends that were detained with him did not denounce their situation for fear of reprisal. Alexander Tirado denounced that he had been subjected to torture and other ill-treatment, including severe beatings, suffocation and a mock execution, on many occasions but to no avail.

Even when complaints were made in court by victims showing clear signs of ill-treatment, no actions was taken by judges or prosecutors. The father of an ex-detainee said that at the presentation hearing before the tribunal "[his] son could not even stand up because of the beating they had given him."[164] A lawyer told OHCHR that his client was bleeding during a court hearing without triggering any response from the judge.[165] Another lawyer[166] said that he defended a group of protestors, who had been shot with buckshot at short range early into their detention. Their untreated wounds were clearly visible to the judge and prosecutor. The

[159] See for instance: Observatorio Venezolano de Prisiones, "Informe 2017", op. cit.; and Una Ventana a la Libertad, "La muerte y la violencia asedian a los privados de libertad: Situación de los derechos humanos en los centros de detención preventiva en Venezuela (2017)", available at: http://unaventanaalalibertad.org/uval/.
[160] IACHR, *Situation of Human Rights in Venezuela: Democratic Institutions, the Rule of Law and Human Rights in Venezuela*, op. cit., para. 389.
[161] Interviewed on 12 January 2018.
[162] Interview with victim on 20 December 2017.
[163] Interviewed on 26 February 2018.
[164] Interviewed on 23 February 2018.
[165] Interviewed on 21 March 2018.
[166] Interviewed on 16 February 2018.

ill-treatment to which they had been subjected, which also included beatings, was formally denounced to the judge who did not address it. Impunity for acts of torture or ill-treatment will only lead to more violations of the right to personal integrity as perpetrators know they can act without consequences.

The cases documented by OHCHR, together with other the information gathered, indicate that ill-treatment and torture of persons deprived of their liberty for their political opinions and/or for exercising their human rights were not isolated cases. To the contrary, the same forms of treatment seem to have been occurring throughout the country at the hands of a number of security forces, in different detention centres, and with the reported knowledge of superior officers, demonstrating a clear pattern.[167]

F. Attacks against political opponents, social activists, and human rights defenders

"The regime has a file with my name on it."
Political activist from the state of Lara[168]

In 2017 and during the first months of 2018, OHCHR observed that leaders and members of opposition parties, including elected representatives, as well as social activists, and human rights defenders were publicly accused of terrorism, treason and other serious crimes or otherwise suffered attacks by government authorities, including security forces, and pro-government individuals. Such attacks included harassment, stigmatization, intimidation, threats and physical aggression. In some cases, they also included arbitrary detentions, ill-treatment or torture, and groundless criminal prosecution, including before military tribunals.

Repressive measures taken against elected representatives from opposition parties have continued. Between May and July 2017, the Constitutional Chamber of the SCJ issued over 40 decisions ordering at least 16 opposition mayors to prevent meetings in public areas that might restrict freedom of movement and to remove barricades.[169] In late July and early August, the Chamber sentenced five of these mayors to 15 months imprisonment for failing to implement the constitutional orders.[170] Alfredo Ramos, the mayor of Iribarren, state of Lara, was arrested by the SEBIN on 28 July 2017. He was conditionally released on 23 December. Fearing for their personal liberty and integrity, five mayors, four of whom had been sentenced by the Chamber and one who was the subject of an arrest warrant, left the country. According

[167] Hundreds of cases of ill-treatment and torture have been documented by NGOs, including the Casla Institute, Foro Penal Venezolano, Human Rights Watch, PROVEA, and Una Ventana a la Libertad (see for instance: Foro Penal Venezolano and Human Rights Watch, "Crackdown on Dissent: Brutality, Torture, and Political Persecution in Venezuela", November 2017, available at: https://www.hrw.org/report/2017/11/29/crackdown-dissent/brutality-torture-and-political-persecution-venezuela; Una Ventana a la Libertad, "Situación de los Derechos Humanos de las personas privadas de libertad en los calabozos del Servicio Bolivariano de Inteligencia Nacional (SEBIN) en el Helicoide y Plaza Venezuela", July 2017, available at: http://unaventanaalalibertad.org/uval/).
[168] Interviewed on 23 February 2018.
[169] The Chamber's decisions targeted municipalities in which demonstrations were particularly frequent and important and ignored the fact that municipal authorities did not have competence over the control of demonstrations.
[170] See for instance: CIVILIS, "Amenazas y Restricciones a los Derechos Humanos y la Democracia en Venezuela: Informe Comprehensivo – enero 2016/septiembre 2017", 2017, pp. 17-18 and 33-36, available at: http://www.civilisac.org/sin-categoria/informes-civilisddhh-2.

to the NGO *CEPAZ*, by September 2017, 34 of 77 opposition mayors elected in 2013 had been harassed, prohibited from leaving the country, disqualified, removed from their position, or condemned to prison.[171] The NGO *Transparencia Venezuela* indicated that by August 2017, 51 per cent of the municipal councils (*alcaldías*) won by opposition parties in 2013 had been subjected to judicial or administrative measures.[172]

OHCHR documented the case of Deputy Gilber Caro, who was arrested on 11 January 2017 despite his parliamentary immunity and who is being processed before the military jurisdiction on groundless charges of treason and stealing the property of the Bolivarian Armed Forces. Deputy Caro was conditionally released on 1 June 2018. In November 2017, at the SCJ's request, the National Constituent Assembly suspended the parliamentary immunity of Freddy Guevara, then Vice-President of the National Assembly. Facing baseless allegations of serious crimes, including conspiracy against the State, Deputy Guevara sought asylum at the Chilean Embassy.

In March 2018, the Governing Council of the Inter-Parliamentary Union expressed deep concern "about the scale of ongoing efforts, with apparent impunity, to repress opposition members and undermine the integrity and autonomy of the National Assembly of Venezuela."[173] The Committee on the Human Rights of Parliamentarians stated it had received "credible and serious allegations of human rights violations affecting 57 parliamentarians" from the MUD.[174] In 2017 only, the IACHR granted precautionary measures for the harassment and threats suffered to seven deputies, including Freddy Guevara and Julio Borges, then President of the National Assembly.[175]

A significant number of students, university professors and other social leaders have also been subjected to state persecution. A student leader told OHCHR that, after he had been detained for protesting and conditionally released earlier in 2017, security forces had continued to monitor him. When CICPC officers came to his house to arrest him in September 2017, he went into hiding and soon after left the country.[176] Another student leader, who had been attacked and injured several times during demonstrations in 2017, explained that the SEBIN had come to arrest him after he had been publicly accused of a crime by a member of the Constituent Assembly.[177] He went into hiding and later left the country. In February 2018, a female student leader was insulted and beaten by local police officers who had followed her after she had taken part in a peaceful protest.[178]

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[171] CEPAZ, "Nuevos patrones y agudización de la persecución política: seguimiento y actualización de casos de persecución", p. 15, available at: https://cepaz.org.ve/documentos-informes/nuevos-patrones-y-agudizacion-de-la-persecucion-politica/.
[172] Transparencia Venezuela, "Aumenta a 51% las alcaldías de oposición que han sido atacadas por el Gobierno", available at: https://transparencia.org.ve/aumenta-51-las-alcaldias-oposicion-atacadas-gobierno/.
[173] International Parliamentary Union, Committee on the Human Rights of Parliamentarians, "Decisions adopted by the IPU Governing Council at its 202nd session (Geneva, 28 March 2018)", op. cit., p. 29.
[174] Ibid, p. 28.
[175] IACHR, *Situation of Human Rights in Venezuela: Democratic Institutions, the Rule of Law and Human Rights in Venezuela*, op. cit., para. 173.
[176] Interviewed on 20 December 2017.
[177] Interviewed on 20 December 2017.
[178] Interviewed on 21 February 2018.

According to the NGO *Aula Abierta*, at least 17 professors were arbitrarily detained in 2017 for expressing dissenting opinions or participating in peaceful protests, seven of them were brought before military tribunals.[179] The persecution of student leaders and professors formed part of an ensemble of repressive actions by security forces to prohibit and dissolve protests and meetings taking place on university premises, often using excessive and unnecessary force and resorting to arbitrary arrests. In addition to violating the rights to freedom of opinion, expression, peaceful assembly, and association, these actions, which have continued in 2018, have jeopardized students' right to education.[180] OHCHR documented the case of Professor Santiago Guevara who was arbitrarily arrested on 21 February after having published an article critical of government policies. He was brought before a military tribunal and was conditionally released on 23 December 2017 after 10 months of detention at the headquarters of the DGCIM. At the time of writing, one professor remained under house arrest, 13 had been conditionally released but were facing criminal proceedings, while three others had been released without having been brought before a tribunal.[181]

OHCHR also observed that persecution had extended to the families of opposition members, social activists or human rights defenders. Family members have been subjected to surveillance, threats, intimidation, and reprisals, solely on the basis of their family ties.[182] OHCHR documented the particularly extreme case of Juan Pedro Lares, son of Omar Lares, former mayor of Campo Elías in the state of Mérida, who was arbitrarily arrested on 30 July 2017 when the SEBIN came to his house seeking to detain his father (see also chapter D above).[183] Juan Pedro was detained *incommunicado* at the SEBIN *Helicoide* until his release on 1 June 2018. He was never brought before a judge.

The situation of human rights defenders

OHCHR observed that since August 2017 individuals and NGOs working on human rights were facing increasingly difficult conditions to operate in an ever shrinking civic space. Human rights defenders and their organisations have been subjected to smear campaigns, threats, harassment, surveillance, and, in a few cases to arbitrary detention and ill-treatment or even torture, for carrying out their legitimate work, leading to a general climate of fear. Organisations' web pages and defenders' emails have been hacked. Authorities, including at the highest level of Government, and other pro-government public figures have regularly stigmatized human rights defenders in public media, using derogatory language and accusing them of conspiracy, treason and other serious crimes for carrying out their legitimate work. Some defenders were also harassed when flying out of the country. Less prominent organisations and defenders seemed to be facing heightened risks of persecution.

[179] Aula Abierta, "Informe preliminar: ataques y represalias contra profesores y estudiantes universitarios en Venezuela (Febrero-Octubre 2017)", available at: http://aulaabiertavenezuela.org/wp-content/uploads/2017/08/05-2018-Restricciones-y-represalias-contra-estudiantes-y-profesores-universitarios-en-Venezuela-Febrero-Julio-2017.pdf.
[180] See for instance website of Aula Abierta, http://aulaabiertavenezuela.org/.
[181] Aula Abierta, "Informe preliminar: ataques y represalias contra profesores y estudiantes universitarios en Venezuela (Febrero-Octubre 2017)", op. cit.
[182] See for instance testimony of the mother of a student, referred to in chapter D above.
[183] Witnesses and sources interviewed on 13 and 16 February 2018.

In keeping with the Declaration on Human Rights Defenders, States shall take all necessary measures to ensure the protection of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of human rights.[184]

A human rights lawyer interviewed by OHCHR explained how threats had become more direct over time. "Every day the fear of retaliation for doing one's job is greater", he said.[185] A human rights defender told OHCHR that, above all, he was afraid to expose the victims for which he was working.[186] These conditions have forced organisations and defenders to be extremely careful, taking a variety of security measures, and to avoid unnecessary public exposure, sometimes even leading to self-censorship. A number of defenders have had to leave the country for fear of being arrested.

Persecution of the Fundación Embajadores Comunitarios*

The Fundación Embajadores Comunitarios *is a non-governmental organisation working on empowering disadvantaged and at-risk youth through educative programmes.*

On 31 January 2018, SEBIN officers presented themselves at the offices of the foundation where they proceeded to search the premises and interrogate those present without a judicial order. The officers then requested that the Director of the foundation, Gregory Hinds, follow them to their headquarters under the pretext they had to record his interrogation. In the early hours of 1 February, SEBIN officers detained one of the Programme Directors of the foundation at her house without presenting a judicial warrant or notifying her of the reasons of her arrest. They both were detained incommunicado *at the headquarters of the SEBIN until their conditional release on 1 June 2018.*

They were brought before a tribunal on 5 February. They only had access to their lawyers for a few minutes before the hearing and were reportedly charged with instigation and conspiracy to commit a crime. The judge ordered their conditional release provided that they presented two fiadores *(guarantors) each.[*] The documents requested to secure the* fiadores *were filed on 7 and 9 February, yet it took the tribunal almost two months to process the paperwork. On 2 April, the judge issued a release order for both of them. They were finally conditionally released on 1 June.*

SEBIN officers also presented themselves at the homes of three other members of the foundation's board of directors but they were absent. Fearing for their personal liberty, at least five members of the board went into hiding. "These were moments of great anguish," said one board member.[**] They all left the country in a haste, leaving their lives behind, without even being able to say good-bye to their families. "Everything changed in 24 hours," said another board member.[***] "We never imagined to be at risk simply for educating kids", concluded a third one.[****]

** Interviews with victims, witnesses and sources on 28 March, 29 March, 3 April and 18 April 2018*
*** Interviewed on 3 April 2018*
**** Interviewed on 3 April 2018*
***** Interviewed on 3 April 2018*

[184] Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, article 12.
[185] Interviewed on 8 November 2017.
[186] Interviewed on 13 December 2018.

The socio-economic situation of the country and high rates of insecurity have also had a negative impact on the functioning of civil society organisations. Besides, a number of laws and decrees have affected NGOs and their work, including by restricting their registration, limiting sources of funding, or allowing the monitoring of suspicious activities.

G. Violations of the right to freedom of opinion and expression

"You watch yourself, but there is fear."
Journalist from Caracas[187]

The NGO *Espacio Público* documented 708 cases involving 1,002 violations of the right to freedom of expression in 2017, the highest annual number of violations they have recorded over the last 16 years.[188] Sixty-nine per cent of these cases took place during the wave of mass protests,[189] confirming OHCHR's observation that attacks against media outlets, journalists and other media workers had escalated during that period.[190] Between January and April 2018, *Espacio Público* documented 86 cases involving 126 violations of the right to freedom of expression.

While an important proportion of the violations documented were directly related to demonstrations and their coverage, media workers investigating the health and food situation, prison conditions or corruption have also faced harassment, intimidation, attacks and arbitrary detention. One journalist told OHCHR that they had to use hidden cameras to document the situation of a public hospital in Caracas.[191] Another journalist, who had been investigating cases of corruption, explained that in November 2017 he had been arrested by unidentified security forces who had severely beaten him and had simulated his execution before abandoning him by a highway three days later (see also chapter D above).[192] OHCHR also recorded the detention of foreign journalists who were subsequently released.[193]

OHCHR found that impunity for attacks targeting journalists and other media workers had generated a hostile and intimidating environment, negatively affecting the freedom with which they carry out their work. "I preferred to leave the country before having to censor myself", said one journalist who exited Venezuela in the fall of 2017 after having suffered a series of attacks and intimidation.[194]

OHCHR observed that violations of the rights to freedom of opinion and expression have not only affected journalists and media workers, but also NGO representatives, academics, student leaders, social and political activists, and members of the general public. They have been harassed, threatened, attacked or detained for expressing or publishing opinions opposed to or dissenting with the authorities, including during protests, or prevented from

[187] Interviewed on 4 May 2018.
[188] Espacio Público, "Situación del Derecho a la Libertad de Expresión e Información: Informe 2017", available at: http://espaciopublico.ong/informes/.
[189] Ibid.
[190] OHCHR 2017 report, p. 26.
[191] Interviewed on 28 February 2018.
[192] Interviewed on 13 February 2018.
[193] Interview with victims on 14 February and 28 February 2018.
[194] Interviewed on 9 January 2018.

making declarations to the media. Villca Fernández, a student leader and political activist from the state of Mérida, has been arbitrarily detained since January 2016 following the publication of a tweet in which he had replied to the Vice-President of the PSUV, accusing him of conspiring against the government in his television programme, that he was not afraid. His case moved to trial on 9 April 2018 and he was accused of incitement to hatred and spreading false information.[195]

OHCHR also documented how restrictive administrative measures, including regarding the distribution of printing paper, had targeted certain media outlets based on their alleged anti-government editorial lines and their coverage of certain topics, including demonstrations, limiting the diversity of information to which Venezuelans have access, in particular for those who have limited or no access to the internet. According to the National Press Workers Union,[196] over the course of 2017, eight television channels and 54 radio stations have gone off the air and 17 printed media have stopped circulating, six of them indefinitely, and between January and April 2018, at least an additional seven printed media have reportedly stopped circulating for lack of paper.[197] The rights to freedom of opinion and expression generate an obligation for the State to guarantee the rights to seek, receive and impart information and ideas of all kinds.[198]

[195] Interview with witness on 27 December 2017.
[196] National Press Workers Union (SNTP), press release at the occasion of World Press Freedom Day, 3 May 2018, available at: https://drive.google.com/file/d/1UH37fMyiMi9v-nOv6vv8Wg06oA-bdVXj/view.
[197] The State-controlled *Complejo Editorial Alfredo Maneiro* has had a monopoly on the supply of paper in the country since 2013; with the hyperinflation, paper has become too expensive to import at the parallel USD exchange rate and a government authorization is needed to benefit from the preferential exchange rate.
[198] Human Rights Committee, General Comment No. 34, CCPR/C/GC/34, para. 11.

A new instrument to criminalize dissent: the law against hatred

On 8 November 2017, the National Constituent Assembly, having seized the constitutional powers of the National Assembly, adopted a "constitutional law against hatred, for peaceful coexistence and tolerance" (law against hatred). Under its provisions, anyone who encourages, promotes or incites to hatred, discrimination or violence faces from 10 to 20 years of imprisonment. The law prohibits political parties, organisations and social movements that promote hatred, intolerance and war. It also contains administrative sanctions for media outlets, including social media, which diffuse messages promoting hatred or war.*

*The law is vaguely phrased,** in contravention of the principle of legality, allowing for its discretionary interpretation and application to prosecute anyone expressing dissenting opinions and to lead to self-censorship. Further, the penalties and sanctions foreseen do not abide by the principle of proportionality. The enjoyment of the rights to freedom of opinion, expression, peaceful assembly and association, and to political participation have thereby been further jeopardized.****

High-level authorities have already publicly threatened to apply this law, including against the NGO Un Mundo Sin Mordaza *or representatives of the Catholic Church for sermons delivered during mass. Since the beginning of the year, OHCHR has documented the cases of five people, who were detained and charged for incitement to hatred under this new law for having allegedly participated in a protest or called on people to demonstrate. At least two additional official complaints have also been lodged before the Attorney-General's Office.*

** Official Gazette, no. 41.274, 8 November 2017*
*** Among other, it does not define what constitutes hate speech or incitement to hatred.*
**** The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur of the IACHR for freedomo of expression also commented on the law (see OL VEN 9/2017 of 11 January 2018, available at: http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/LegislationAndPolicy.aspx).*

H. Violations of the right to the highest attainable standard of health

"*There are a lot of patients dying that we could save if we just had sufficient resources.*"
Medical doctor from the state of Zulia[199]

Medical doctors, hospital directors, other health professionals, and human rights defenders interviewed by OHCHR all indicated that the country suffers from a dramatic health crisis and an outright collapse of the Venezuelan health care system, which have resulted in massive violations of the right to health. Indicators, such as the increase of maternal mortality by 60 per cent and infant mortality by 30 per cent from 2014 to 2016,[200] the lack of access to adequate and regular treatment for more than 300,000 patients with chronic diseases, or the outbreak of malaria and diphtheria (diseases which had previously been eradicated), all point to a dramatic deterioration of the health care system.

[199] Interviewed on 6 April 2018.
[200] Epidemiological Bulletin of December 2016, available at: https://www.ovsalud.org/descargas/publicaciones/documentos-oficiales/Boletin-Epidemiologico-2016.pdf.

This has been a long process caused by multiple factors. According to the World Health Organization (WHO), the percentage of health expenditures in relation to the country's GDP went from 5 percent in 2007 to 3 percent in 2015.[201] Taking hyperinflation into consideration, the budget allocations to the Ministry of Health also regressed over the last two years.[202]

Simultaneously, the establishment of a parallel health care system, known as *Misión Barrio Adentro*, and aimed at expanding preventive health services to the poorest neighbourhoods, resulted over time in the severe underfunding of the network of public hospitals and clinics administrated by the Ministry of Health and upon which more than 64 per cent of the population depended.[203] The *Misión* proved not to be sustainable as its funding was entirely dependent on PDVSA oil revenues. The lack of institutionalization and control transformed it into an inefficient programme with limited coverage. According to the ENCOVI, the population covered by the *Misión* dropped from 2.6 million people in 2015 to 200,000 in 2017.[204] The Committee on Economic, Social and Cultural Rights has established that retrogressive measures taken in relation to the right to health are not permissible. The burden falls upon the State to justify that it has dedicated the maximum available resources to fulfil its obligations regarding the right to health.[205]

Another factor that has contributed to the deterioration of the health care system was the high dependence of the Government on imports of medicines and health equipment and the further decrease of the already limited productive capacity at the national level. In 2014, due to inflation and the important debt acquired with health supplies companies, the Government´s capacity to import medicines and health equipment was reduced by 60 per cent. As the Government's imports represented 95 per cent of the health supplies needed to run the public health care system, the reduction in import capacity prompted systematic shortages of medicines and medical equipment.[206] Furthermore, over the last few years, around 50 per cent of medical doctors and 37 per cent of nurses emigrated to other countries of the region, mainly due to their low wages[207] and the lack of conditions to provide adequate health services.[208]

The level of deterioration of public hospital facilities and the dire shortages of medicines and medical supplies point to what must be called a collapse of the health care system. The 2018 National Survey of Hospitals showed that the capacity of the national network of hospitals has

[201] WHO, "Global Health Expenditure Database", available at: http://apps.who.int/nha/database/ViewData/Indicators/en.
[202] According to *Transparencia Venezuela* although the Government increased the budget allocated to the Ministry of Health by 350 per cent from 2015 to 2017, if one takes into account the level of inflation in real terms the 2017 budget suffered a 75 per cent decrease in relation to 2016 (see: https://transparencia.org.ve/project/analisis-del-presupuesto-nacional-2017/).
[203] ENCOVI 2017, op. cit. While the objective and scope of Mission Barrio Adentro seems in line with recommendations of the Committee on Economic, Social and Cultural Rights, operational constraints have diverted from achieving them.
[204] ENCOVI 2017, op. cit.
[205] Committee on Economic Social and Cultural Rights, General Comment No. 14, E/C/2000/4.
[206] Interview with source on 20 April 2018.
[207] At the time of writing, a resident medical doctor earned around 4 USD a month.
[208] In 2018, the Venezuelan Federation of Doctors considered that 22,000 doctors had emigrated, while the School of Professional nurses reported that 3,000 nurses had left the country, available at: http://runrun.es/nacional/341472/federacion-medica-venezolana-22-mil-medicos-se-han-ido-al-exterior.html; and http://cronica.uno/mas-de-3000-profesionales-enfermeria-se-fueron-venezuela-no-tienen-con-que-comer/).

been gradually dismantled over the last five years.[209] The survey reported 88 per cent of shortages in medicines and 79 per cent of shortages of surgical supplies in 2018. Doctors told OHCHR that patients were required to buy the medicines and supplies necessary for their treatment outside the hospital, including syringes and medical gloves. "If patients cannot find or afford to buy these supplies, they simply cannot be treated" a doctor told OHCHR.[210] Hospitals in general had ran out of common analgesics and, as palliative medicine was hard to acquire, terminal patients were dying in pain. The National Survey also highlighted that only 7 per cent of emergency units and 8.4 percent of operating rooms were functional and that 70 per cent of emergency units and 76 per cent of operating rooms had reported intermittent failures. Doctors in the state of Zulia said that due to the energy shutdowns, water shortages and operating rooms contamination, they could only do a few surgeries a week, resulting in a waiting list for surgeries of around six months.[211] Doctors in the state of Lara reported that hospitals had ran out of reagents to conduct laboratory examinations and that there was no functioning tomography equipment in the whole state.[212] According to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, one of the essential elements of the right to health is the availability of health care facilities, goods and services in sufficient quantity and quality. States must ensure access to preventive, curative and rehabilitative health services.[213]

Lack of water and hygiene supplies were also causing pervasive infection problems. Yoinier Peña, who had been shot on 11 April 2017 during a protest in the state of Lara, contracted an infection during the spinal surgery he had to undergo to remove a bullet. The hospital did not have antibiotics and his mother was only able to buy them for a few weeks thanks to donations. Yoinier died of the infection in the hospital 54 days after he had been shot.[214] Luis Guillermo, who had been shot in the head on 15 June 2017 in the state of Carabobo, died after two months in the hospital. His mother said he had died of malnutrition and untreated infections.[215]

Medicine shortages were also widespread in pharmacies. From September 2017 to April 2018, a mechanism monitoring pharmacies' stocks in five of the main cities of the country reported an 84.23 per cent shortage of medicines essential to treat four of the most recurrent causes of morbidity in the country, i.e. diarrhea, respiratory tract infections, diabetes and high blood pressure.[216] Since the Government decided to stop pharmaceutical companies' access to preferential currency rates in October 2016, all medicine imports have to be made under the "parallel" USD exchange. Due to hyperinflation, most medicines had become unaffordable for the majority of the population and pharmacies did not have the financial resources to restock. For example, the cost of a box of hypertension pills have become higher than the monthly minimum salary. Another essential element of the right to health is economic accessibility,

[209] The National Survey of Hospitals 2018 was conducted by a network of resident medical doctors in 104 hospitals covering 22 states. It has been conducted annually for the last five years and its results were shared with OHCHR.
[210] Interviesed on 6 April 2018.
[211] Interviewed on 6 April 2018.
[212] Interviewed on 5 April 2018.
[213] Committee on Economic Social and Cultural Rights, General Comment No. 14, op. cit. paras. 12 and 17.
[214] Interview with source on 7 March 2018.
[215] Interviewed on 26 February 2018.
[216] Convite x la Salud, "Newsletter 9: Monitoring the right to health in Venezuela", April 2018, available at: https://twitter.com/conviteac/status/1001432974758330369.

which means that health facilities, goods and services must be affordable for all, including socially disadvantaged groups.[217]
This shortage situation, compounded by rampant corruption, has incentivized a black market of medicines that are not properly certified or have expired. In February 2016, the Government established a hotline that people can call to obtain medicines at affordable prices. Nevertheless, OHCHR gathered information indicating that only those who have the *carnet de la patria* can access this service and that the type and quantity of medicines available is limited (see chapter I below).

At least 300,000 people living with chronic diseases have been dramatically affected by the unavailability and unaffordability of medicines.[218] Since 2015, the Venezuelan Institute of Social Services has limited the acquisition of high cost treatments mainly due to its accumulated debt with external suppliers. In 2017, the Institute reached a 95 per cent shortage in medicines and treatment for patients with chronic diseases.[219] As an example, almost 77 per cent of the 77,000 people living with HIV/AIDS did not have access to adequate treatment throughout 2017.[220] There were also no reagents to test the level of antibodies in their blood. At the end of 2017, the Institute only had four out of a list of 26 antiretroviral drugs in stock.[221] OHCHR also received reports indicating that pregnant women with HIV/AIDS had been giving birth without adequate measures and treatment to prevent infecting their babies.

Around 55,000 patients with cancer also had limited access to treatment. Equipment for radiation therapy in public hospitals were mostly inoperative because of the lack of maintenance.[222] The Foundation against Breast Cancer FUNCAMAMA stressed that the Ministry of Health had dismantled its capacity to provide women with timely breast cancer diagnosis and that around 300,000 women diagnosed with breast cancer had been struggling to access the needed treatment, including surgery.[223] Doctors interviewed by OHCHR acknowledged that for the majority of patients with cancer the only option to receive adequate medical treatment was to migrate to other countries.[224]

At the beginning of 2018, access to adequate treatment for 16,000 patients with kidney diseases was compromised as 50 of the 300 centres of dialysis in the country had stopped working and the rest experienced recurrent failures. The NGO CODEVIDA reported that by the end of February 2018, five patients had died because of lack of dialysis.[225]

OHCHR observed that the right to health of children with kidney failure was particularly compromised as the nephrology unit of the Hospital J.M de los Rios in Caracas, the only centre in the country where under 12 year-old children can get dialysed, presented serious failures.

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[217] Committee on Economic Social and Cultural Rights, General Comment No. 14, op. cit. para. 12.
[218] Given to OHCHR by CODEVIDA and PROVEA and presented to the IACHR in February 2018.
[219] Interview with source on 12 April 2018.
[220] CODEVIDA and PROVEA, op cit.
[221] Ibid.
[222] Alianza Venezolana por la Salud, February 2018, available at: https://www.ovsalud.org/descargas/publicaciones/salud/Que-sucede-con-el-programa-nacional-de-cancer-envenezuela.pdf.
[223] Interview with source on 16 April 2018. According to *Senosalud*, an average of six women die daily due to breast cancer in the country (see: http://www.el-nacional.com/noticias/historico/senosalud-quotdiariamente-registran-diagnosticos-cancer-mama-fallecimientosquot_40641).
[224] Interviewed on 2 February 2018.
[225] Interview with source on 10 April 2018.

Mothers of children receiving treatment at that hospital informed OHCHR about the systematic shortages of equipment for the dialysis, and the lack of medicines, food and doctors to supervise the treatment.[226] The majority of the children had been infected with different bacteria, and had not had access to adequate antibiotics. Between May and December 2017, 10 children had reportedly died as a consequence of unsanitary conditions. At the time of writing, despite the precautionary measures granted by the IAHRC to the patients of the hospital's nephrology unit, representatives of the Ministry of Health had not yet met with the petitioners to discuss how to implement the measures.[227]

> *"My child is 11 years old. She has kidney failure level V and needs to be dialysed three times a week. Two years ago, the hospital started having serious problems. Now we don´t have dialysis kits and our kids are using adult catheters. They do not received the vitamins or supplementary food for their treatment. The hospital has many problems with water. My girl has been infected twice and the hospital does not have antibiotics. We need to buy them outside and if we do, then we do not have money to buy food. We are fighting for the life of our children. My girl has seen how some of her friends here have died because of infections."*
>
> Mother of a girl with kidney failure treated at the Hospital J.M. de los Rios interviewed on 12 April 2018

The Ministry of Health closed the programme for organ transplantation in 2015, denying this option to patients with kidney diseases and other organs failures. Further, around 3,500 people who had received transplantations were struggling to find immunosuppressants. During the first trimester of 2018, CODEVIDA registered 64 patients with organ rejection because of the lack of access to adequate treatment.[228]

Another sign of the serious deterioration of the health care system was the outbreak of diseases which had previously been eradicated or controlled, such as malaria[229] and diphtheria. The Government's budget to prevent and control malaria has suffered a 70 per cent cut from 2015 to 2016.[230] In 2017, WHO ranked the Bolivarian Republic of Venezuela as the country in the Americas with the greatest number of estimated malaria cases, 300,900, representing 34 per cent of the total number of estimated cases in the region.[231] WHO further reported an estimated 280 deaths related to malaria.[232] The International Council of AIDS Service Organisations reported that cases of malaria had been registered in 10 states in 2017.[233] Following 24 years without any reported cases, cases of diphtheria were reported in 22 states in 2017, revealing serious failures in the Government's immunization programme. WHO confirmed 726 cases diphtheria, resulting in 113 deaths, between July 2016 and

[226] Interviewed on 12 April 2018.
[227] IACHR, Precautionary Measure No. 1039-17, 21 February 2018, available at: http://www.oas.org/es/cidh/decisiones/pdf/2018/8-18MC1039-17-VE.pdf.
[228] CODEVIDA and PROVEA, op. cit.
[229] The WHO had certified that Venezuela had eliminated malaria in 1961.
[230] WHO, "Malaria – Country Profile: Venezuela (Bolivarian Republic of)", available at: http://www.who.int/malaria/publications/country-profiles/profile_ven_en.pdf?ua=1.
[231] WHO, "World Malaria Report", 2017, available at: http://www.who.int/malaria/publications/world-malaria-report-2017/wmr2017-regional-profiles.pdf?ua=1.
[232] WHO, "Malaria – Country Profile: Venezuela (Bolivarian Republic of)", op. cit.
[233] ICASO, "Triple threat: Resurging epidemics, a broken health system, and global indifference to Venezuela's crisis", 2017, available at: http://icaso.org/wp-content/uploads/2017/10/Triple_Threat.pdf.

February 2018.[234] On 6 April 2018, WHO also reported 1,006 cases of measles recorded in eight states.[235] In April 2018, the Ministry of Health announced the launch of a national vaccination plan against diphtheria, measles and yellow fever.

OHCHR observed that women were particularly affected by the health crisis. For instance, the number of maternal deaths rose from 368 in 2012 to 756 in 2016, revealing how preventive health care had rapidly deteriorated.[236] No related public information has been released since 2017. Women's sexual and reproductive health was also jeopardized as the majority of them did not have regular access to contraceptive methods. In 2017, pharmacies reported a 90 per cent shortage of contraceptive methods.[237] In 2015, the Ministry of Health provided access to family planning methods for only 2 per cent of its targeted population. A survey conducted in June 2017 indicated that 72 per cent of women interviewed had not been able to find contraceptives in pharmacies over the last 12 months, and that 27 per cent of women could not afford them.[238] In 2017, Venezuela registered the second highest rate of adolescent pregnancies in the Americas, mainly due to lack of access to contraceptive methods and sexual and reproductive education.[239] According to the Committee on Economic, Social and Cultural Rights, the realization of women's right to health requires interventions aimed at the prevention and treatment of diseases affecting women, as well as policies to provide access to a full range of high quality and affordable health care, including sexual and reproductive rights.[240]

While the Government has recognized some level of medicine shortage, it has not acknowledged the ongoing health crisis and has not sought international cooperation to the levels warranted by the situation. In May, however, the Ministry of Health accepted the support of UNICEF, UNAIDS and the Pan American Health Organization to implement its vaccination plan and acquire immunosuppressants and antiretrovirals.[241]

Although one of the main State obligations related to the right to health is to inform about the major health problems, OHCHR found that the Ministry of Health has not disclosed information that is essential to assess the health situation.[242] The publication of weekly epidemiology bulletins was suspended from July 2015 to May 2017. In May 2017, days after the publication of a new epidemiology bulletin indicating, inter alia, a sharp rise in maternal mortality and child mortality rates, the Minister of Health was dismissed. No bulletins have been published since. The last yearbook on mortality was published in 2013, which impedes the assessment of preventable deaths since the health crisis broke.

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[234] WHO, "Epidemiology Update: Diphtheria", 28 February 2018, available at: https://www.paho.org/hq/index.php?option=com_content&view=article&id=14164%3A28-february-2018-diphtheria-epidemiological-update&catid=2103%3Arecent-epidemiological-alerts-updates&Itemid=42346&lang=en.

[235] WHO, "Epidemiology Update: Measles", 6 April 2018, available at: https://www.paho.org/hq/index.php?option=com_content&view=article&id=14231&Itemid=2291.

[236] Epidemiological Bulletin of December 2016, op. cit.

[237] CEPAZ, AVESA and FREYA, "Mujeres al Límite", 2017, available at: https://www.derechos.org.ve/web/wp-content/uploads/Mujeres-al-limite.pdf.

[238] Ibid.

[239] UNFPA, *State of the World Population 2017*, available at: https://www.unfpa.org/sites/default/files/sowp/downloads/UNFPA_PUB_2017_EN_SWOP.pdf

[240] Committee on Economic Social and Cultural Rights, General Comment No. 14, op. cit. para. 21, and General Comment No. 22, E/C.12/GC/22.

[241] UNICEF, press statement of 9 May 2018, available at: https://www.unicef.org/venezuela/spanish/media_38422.html.

[242] Committee on Economic Social and Cultural Rights, General Comment No. 14, op. cit. para. 44.

OHCHR received first-hand accounts of measures implemented by the Government to prevent the public exposure of health facilities' conditions. Health professionals denounced the presence of GNB officers and members of militias (*milicianos*) and armed *colectivos* in hospitals to prevent journalists or other persons from taking pictures of the facilities, recording videos, and interviewing doctors, nurses and patients. Hospital directors have threatened and sanctioned doctors and nurses for having made statements to the press on the inadequate conditions of hospitals. Security forces have also used force to repress protests led by health professionals. On 15 May, in the state of Zulia, local police officers arrested and beat two doctors that were leading a protest outside their hospital.

During the first trimester of 2018, patients and health professionals denounced the lack of medicines and treatment and demanded better working conditions in 287 protests.[243] On 17 April only, 54 protests were organised outside the main hospitals in 20 states of the country.

I. Violations of the right to adequate food

"When I was a kid, my family used to eat an arepa *with the three meals every day. Now it is hard to get an* arepa*, and when you get it, you don´t have anything to fill it with."*
24-years-old man living in Barquisimeto, state of Lara[244]

The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement.[245] The Committee on Economic, Social and Cultural Rights has stressed that the core content of the right to adequate food implies the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals and acceptable within a given culture, as well as economic and physical accessibility.[246] In addition to the obligations to respect and to protect, States also have the obligation to fulfil human rights, which implies the duty to pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, and the duty to provide the right directly whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal.[247]

State policies that have affected the right to food

Deep economic recession, hyperinflation and the loss of purchasing power, together with the dismantlement of the domestic food production system and the dependency on food imports, have created a vicious circle that has affected the right to food for most Venezuelans. According to experts interviewed by OHCHR, this crisis situation was caused by a combination of economic and social policies implemented by the Government over the last decade, including State control over food prices and foreign currency exchange, the mismanagement

[243] Observatorio Venezolano de Conflictividad Social, "Emergencia Humanitaria en Venezuela: Conflictividad Social – Primer Trimestre del 2018", available at: https://www.observatoriodeconflictos.org.ve/sin-categoria/conflictividad-social-en-venezuela-en-el-primer-trimestre-de-2018.
[244] Interviewed on 2 May 2018.
[245] Committee on Economic Social and Cultural Rights, General Comment No. 12, E/C.12/1999/5, para. 6.
[246] Ibid, para. 8.
[247] Ibid, para. 15.

of confiscated arable land, State monopoly on agricultural supplies, the militarization of food distribution, and the implementation of social programmes without clear nutritional objectives.

Government policies have affected almost every aspect of the food chain. With the 2010 expropriation and nationalization of Agroisleña, once the largest private agricultural supplier, the State gained control over 95 per cent of all agricultural inputs. Mismanagement of the referred State company, combined with tight controls on access to foreign currencies to import agricultural supplies, caused a drastic reduction of agricultural productivity. For example, between 2013 and 2017, white corn production used to prepare *arepas*, (a staple food accompanying every Venezuelan meal), dropped by 85 per cent. OHCHR was told that, at the beginning of white corn sowing season in 2018, producers only had 10 per cent of the seeds and fertilisers needed to sow their fields.[248]

During a decade of high oil prices (2004-2014), the Government increased the countries' dependency on food imports. As a result, in 2013, 65 per cent of the necessary caloric intake was covered through food imports.[249] With the fall in oil prices and the reduction of PDVSA's extractive capacity, food imports drastically dropped, yet the Government was unable to reactivate domestic food production to fill the gap.[250] In addition, the food price control policy in place since 2011 hampered the productive capacity of the domestic food industry.[251] The establishment of food quotas to be commercialized at prices unilaterally fixed by the Government, which were generally below production costs, increased food scarcity as profits were not sufficient for maintaining levels of production. In 2018, the food industry reported to be producing at only a 30 per cent of the capacity it had in 2012.[252] Moreover, in October 2016, the Government issued a decree forcing food companies to sell 50 per cent of their production to the Government at fixed prices for social programmes like the Local Supply and Prodcution Committees (CLAPs).[253] At the end of 2017, this quota was even set at 70 per cent of the production. This policy drasticly reduced the levels of food availability on the market.

In 2017, the Government allowed certain corporations to import food but only through the parallel Dollar exchange rate, which meant that while the availability of some food items increased, prices were unaffordable for most Venezuelans.[254] OHCHR was told that pervasive food shortages combined with high levels of corruption had generated a massive black market selling food items smuggled from Colombia or re-selling food items bought at State-controlled supermarkets or through social programs (like the CLAPs). Prices on the black market could be up to 70 times higher than the State-regulated prices.[255]

Moreover, hyperinflation has been causing food prices to skyrocket. Although the Government has raised the minimum wage on 21 occasions since May 2013, in March 2018, a family

[248] Interview with source on 20 April 2018.
[249] Interview with source on 19 April 2018.
[250] Inter-American Network of Academics of Sciences, "Food and Nutritional Security in Venezuela, the Agrifood Abduction of a Country: Vision and Commitment", 2017, available at: http://www.ianas.org/Food/fchap20.pdf.
[251] In 2011, the Organic Law on Fair Costs and Prices was approved. Since then, price controls have intensified and expanded.
[252] Interview with source on 20 April 2018.
[253] PROVEA, *Informe Anual 2017*, available at: https://www.derechos.org.ve/web/wp-content/uploads/resumen-2.pdf.
[254] Alejandro Gutiérrez, "Balance Agroalimentario", in *Revista SIC*, January-Feburary 2017.
[255] CEPAZ, AVESA and FREYA, "Mujeres al límite", op cit., p. 10.

needed to earn 57 times the minimum wage to buy the monthly basic food basket.[256] At the moment of writing this report, a monthly minimum wage could barely buy a carton of eggs or a kilogram of meat.[257] According to the 2017 ENCOVI, 89 per cent of Venezuelans considered that their income was not sufficient to buy the food they needed.[258]

OHCHR observed that food availability was at a critical level as food imports had been reduced by 76 per cent between 2013 and 2017[259] and domestic food production had dropped from covering 75 per cent of the food demand in 2013 to only 25 per cent by the end of 2017.[260]

Impacts on the right to food

The combination of food unavailability and inaccessibility has forced Venezuelan families to change their eating habits and to implement new subsistence strategies. Currently options for Venezuelans to get food were: to queue for long hours to buy food at State-controlled prices, which was usually offered sporadically and in limited quantities; to be the beneficiary of a social programme; or to buy products at the supermarket or on the black market (bachaqueros) at hyper-inflated prices.

> *"My sister has two children. One of them has a disability. For a while now my sister and her family have only eaten yucca and bananas. When she had a job, she only earned the minimum salary and could not afford the medicines needed for her son. She decided to migrate to Colombia to see if she can find a job and send money to her two kids."*
>
> 31-year-old man living in Caracas interviewed on 5 May 2018

Despite the absence of official data on food availability, a number of indicators point to a serious crisis. According to the 2017 ENCOVI survey, 78 per cent of Venezuelans acknowledged having eaten less in the last three months because of food shortages.[261] On average, by the end of 2017, Venezuelans were reportedly consuming only 75 per cent of their daily caloric requirements, particularly affecting the poorest sector of the population[262]

Products with high nutritional value, such as chicken, eggs, beef, fortified cereals and vegetables, have been substituted by a diet based on three staple foods, tubers, cereals in the form of maize or bread, and cheese, as well as sugar and fats. A study conducted by Caritas in 44 of the poorest parishes in ten states of the country revealed that 39 per cent of the families interviewed had had to sell their electro-domestics and other valuables to buy food

[256] The basic basket covers basic needs relating to food, housing, clothing, transportation and health for a family of five.
[257] Interview with source on 2 May 2018.
[258] ENCOVI 2017, op., cit.
[259] In 2017, the country imported 78.3 USD of food per inhabitant, while in 2013 food imports per inhabitant amounted to 337.2 USD (see: Inter-American Network of Academics of Sciences, "Food and Nutritional Security in Venezuela, the Agrifood Abduction of a Country: Vision and Commitment", op. cit.).
[260] Interview with source on 20 April 2018.
[261] ENCOVI 2017, op. cit.
[262] Alejandro Gutiérrez, "La crisis avanza, la emergencia alimentaria también", in *Revista SIC*, August 2017, available at: http://revistasic.gumilla.org/2017/la-crisis-avanza-la-emergencia-alimentaria-tambien/.

and that 41 per cent had resorted to begging or searching for food in the garbage.[263] OHCHR heard from different sources that in many cities of the country groups of people, mostly children, were waiting outside restaurants every evening to eat from the garbage[264]. The 2017 ENCOVI also revealed that 63 per cent of the families surveyed had acknowledged that one member of their family skipped one meal, as food was insufficient for all family members.

As shown in Caritas' study, pregnant women, the elderly and children are at particular risk of malnutrition. According to Caritas, acute malnutrition in under-five-year-old children the organisation has attended has increased from 8.7 per cent in October 2016 to 16.8 in December 2017, above the crisis threshold of 10 per cent set by WHO.[265] Caritas also alerted that 33 per cent of the children assessed presented chronic malnutrition, which implied that there had been food insecurity in the country for a period of at least four years.[266] The trend identified by Caritas' was recently confirmed in the 2017 Food and Nutritional Security Report of the FAO, which found that undernourishment increased by 1.3 million people from 2014 to 2016, amounting to a total of 4.1 million undernourished people in the country.[267] UNICEF also warned that a growing number of children were suffering from malnutrition due to the prolonged economic crisis affecting the country.[268]

The situation was particularly dire for newborn babies whose mothers could not breastfeed. Baby milk formula is almost impossible to find on the market and when it is available, it costs more than two monthly minimum salaries. In the absence of any public official records, independent medical reports revealed that an increasing number of children were hospitalized for malnutrition. The paediatric unit of the General Hospital in Caracas reported a 260 per cent increase of cases of children with acute malnutrition in 2017.[269] The shortage of medicines, nutritional supplements and in particular baby milk formula in the public health care system has had a fatal impact as doctors could not provide adequate treatment for children with acute malnutrition.[270] During the first trimester of 2018, local media outlets

> *"I have a little baby that cries and cries because I can´t feed her. The baby's milk formula costs 3 million Bolivars and my husband only makes 1.2 million a month. Everything at the market is expensive, even corn flour. My husband and I are only eating twice a day, so my two little girls can eat a little bit more. We are eating yucca, bananas and soya meat as we can´t afford beef. You need to spend all night in a queue only to get a kilogram of rice. I pay 2,500 Bolivars for a CLAP box but it only lasts for three or four days. My neighbours told me that if I don't vote for the Government they will take the food , the cash bonus and my house from me. They control the electoral authority, so they know for which party you vote."*
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> *Mother of a baby in a nutritional centre in the state of Lara interviewed on 3 May 2018*

[263] Caritas Venezuela, "Monitoreo de la situación nutricional de niños menores de 5 años: May-August 2017", available at: http://caritasvenezuela.org/que-hacemos/salud/.
[264] Interviews on 15 March, 17 April and 2 May 2018.
[265] Ibid.
[266] Ibid.
[267] FAO, "Panorama of Food and Nutritional Security in Latin America and the Caribbean", 2017, available at: http://www.fao.org/americas/publicaciones-audio-video/panorama/en/.
[268] UNICEF, "Llamado a la coordinación de todos los actores frente a los retos de nutrición que enfrentan los niños, niñas y adolescentes en el país", 26 January 2018, available at: https://www.unicef.org/venezuela/spanish/media_37929.html.
[269] Caritas Venezuela, op. cit.
[270] Interview with source on 17 April 2018.

reported high numbers of children having died from malnutrition in some states.[271] It is, however, almost impossible to know the exact number of children who have died from malnutrition, as doctors usually do not mention malnutrition as the cause of death.

Food scarcity has reportedly also been having a disproportionate impact on women. According to a 2017 survey, men were consuming food with higher nutritional value than women, whose diet was usually lacking sufficient proteins and micronutrients.[272] Women were also more likely to be the ones eating less or skipping meals when there was not enough food for the entire family.[273] In addition, women were carrying most of the burden for finding food. For example, women represented the majority of people queuing to buy food items at regulated prices. On average, women could spend 8 to 14 hours a week waiting in a queue in the street, exposed to weather conditions and high insecurity.[274]

Food shortages have also prompted spontaneous protests in almost all states the country. The NGO *Observatorio Venezolano de la Conflictividad Social* registered 549 protests related to food shortages, the high cost of food and irregularities regarding the delivery of CLAP boxes during the first trimester of 2018. In addition, the *Observatorio* registered 141 cases of lootings, including of supermarkets, trucks transporting food, and attacks against cattle, during the first 90 days of 2018, which represents a 642 per cent increase in comparison to the same period of 2017 and reflects the desperation of some communities. At least seven individuals have been killed during lootings in 2018.[275]

Government response to the food crisis

The Committee on Economic, Social and Cultural Rights has stressed that even where a State faces severe resources constraints, whether caused by a process of economic adjustment, economic recession or other factors, measures should be undertaken to ensure that the right to food is especially fulfilled for vulnerable population groups and individuals.[276] The Committee has also highlighted that a State claiming that it is unable to carry out its obligation for reasons beyond its control still has the burden to prove that this is the case and that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of necessary foods.[277]

In 2016, the President launched a plan called the "Great Mission for Sovereign Supply" to coordinate the food system, boost domestic food production and guarantee food distribution. As part of this Mission, the Government launched a programme to support food production

[271] For example, *El Carabobeño* reported the death of 43 children in the state of Monagas in January 2018, (see: https://www.el-carabobeno.com/43-bebes-murieron-desnutricion-monagas-lo-va-ano/), *El Confidencial* reported the death of 30 children in the state of Bolívar until April 2018 (see: https://www.elconfidencial.com/mundo/2018-03-12/venezuela-ninos-muertos-desnutricion-interior_1533765/); and *La Verdad* reported the death of 7 children in the state of Táchira until Feburary 2018 (see: http://www.laverdad.com/zulia/136863-el-hambre-cobra-la-vida-de-al-menos-19-ninos-en-ciudad-guayana.html).
[272] Dataanálisis, "Tendencias del consumidor venezolano: 2017", available at: http://www.datanalisis.com/2034/tendencias-del-consumidor-venezolano/.
[273] CEPAZ, AVESA and FREYA, "Mujeres al límite", op cit., p. 15.
[274] Ibid, p. 11.
[275] Observatorio Venezolano de Conflictividad Social, "Emergencia Humanitaria en Venezuela: Conflictividad Social – Primer Trimestre del 2018", op. cit.
[276] CESCR, General Comment 12, op., cit., parr. 28.
[277] Ibid, para. 17.

from small-scale farmers and a programme to promote urban agriculture. However, the scarcity of agricultural supplies, such as fertilizers, seeds, and pesticides, and water limited the development and impact of these programmes.[278] In addition, the President declared a state of exception and economic emergency, which, inter alia, militarized food distribution and commercialization, in response to allegations of food speculation and hoarding portrayed by the Government as an "economic war."[279]

Also in 2016, the Government started to focus its efforts and resources on the implementation of the food distribution programme known as CLAPs. According to the Government, CLAPs were a new form of social organisation to distribute and deliver food at State-controlled prices from house to house, giving priority to low income families. The CLAPs distribute a "CLAP box", which contains food items that have varied over time and is supposed to be delivered every 21 days by neighbourhood organisational structures.[280] The Government said that, at the end of 2017, 31,600 CLAPs had been organised, reaching 6 million families and that 90 million "boxes" had been delivered.[281]

However, in light of General Comments No. 12 of the Committee on Economic, Social and Cultural Rights,[282] OHCHR considers that the CLAPs programme does not comply with certain standards related to the right to food.

The programme does not meet the nutritional needs of Venezuelans. The nutritional content of the items contained in the CLAP boxes is low in proteins and vitamins and high in fats, sugar and carbohydrates. The quantity covers the needs of a family for less than a week and the quality of some products, such as milk, is inadequate. In addition, some of the items, such as cornflour imported from Mexico, meant to prepare tortillas and not arepas, are not culturally appropriate.[283]

The programme lacks clear procedures and accountability mechanisms. As the CLAPs operate through a parallel structure outside of the oversight of any ministry and do not offer an effective complaint mechanism, members of local committees can make arbitrary decisions on who gets to be a beneficiary, the cost of the box, and when to stop delivery. People interviewed by OHCHR have complained about recurrent delays in boxes' deliveries, the continued increase of their price, which they needed to pay in advance, the fact that CLAP boxes products were re-sold at higher prices on the black market, and the fact that they had been discriminated against in getting access to the boxes based on their perceived lack of support to the Government.[284]

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[278] PROVEA, Anual Report; Right to food 2016: available at: https://www.derechos.org.ve/informe-anual/informe-anual-enero-diciembre-2016.
[279] Official Gazette No. 6.227 of 13 May 2016.
[280] The usual content of a clap box is 2 kilos of cornflour, 2 kilos of rice, 1 kilo of pasta, 1 kilo of sugar, 1 kilo beans and 1 litre of oil.
[281] Statement of the Minister of Agriculture and Food before the National Constituent Assembly on 5 January 2018 (see video: https://www.youtube.com/watch?v=nZioy0QuJFI).
[282] The Committee on Economic, Social and Cultural Rights has stressed that strategies to comply with the right to food require full compliance with the principles of accountability, transparency, people's participation, decentralization, legislative capacity and the independence of the judiciary (see: General Comment No. 12, op. cit. para. 23).
[283] See PROVEA, Anual Report; Right to food, 2017, op. cit.
[284] See also: *Transparencia Venezuela*, "Vecinos de cinco comunidades denuncian disparidad en cobros y entregas de cajas CLAP", available at: https://transparencia.org.ve/project/vecinos-cinco-comunidades-

The programme has been used as a tool for political propaganda and social control. CLAPs maintain strong links with the governing party PSUV, not just with the Government. They operate through the party's local organisational structures in each neighbourhood. An official CLAP magazine has been used to support the PSUV in recent elections as well as to condemn political opponents. The face of President Maduro was printed on the boxes during the electoral process. The critical food crisis, combined with high levels of arbitrariness in the operations of the programme, have given the governing party great power over the recipients of the CLAP boxes. OHCHR received accounts from people who had been threatened by CLAP members who said that they would stop receiving CLAP boxes if they did not vote for the PSUV or because they had allegedly participated in anti-government protests. Addressing the National Constituent Assembly in January 2018, the director of the CLAP programme and member of the PSUV's executive board stated that the programme had been instrumental to winning elections for mayors (municipal), governors (regional), and the National Constituent Assembly.[285]

The *carnet de la patria* has also been requested as condition for receiving the CLAP box. While this strategy could be seen as a way to digitalize and organise information on social programs recipients, a number of allegations have surfaced pointing to a political use of the *carnet de la patria*. Accounts gathered by OHCHR seem to indicate that the Government has used the local structures of the PSUV to conduct the registration process for the carnet, and that during regional and municipal elections people had been requested to activate their *carnet de la patria* in so-called "red spots", tents run by governing party members and located close to polling stations. Despite the Government's assurances that the vote remains confidential, many people believe that they could be excluded from social programs if they did not vote for the ruling party.[286] During campaign rallies, President Maduro promised that people who would vote for him would receive a special gift through the *carnet de la patria*.[287]

denuncian-disparidad-cobros-entregas-cajas-clap/. See also survey conducted by the National Assembly in February 2018,

[285] Statement of the Minister of Agriculture and Food before the National Constituent Assembly on 5 January 2018, op. cit.

[286] The *Latinobarómetro* has shown that only 45 per cent of Venezuelans believe their vote is secret (see: Report 2017. available at: http://www.latinobarometro.org/latNewsShow.jsp.

[287] See for instance: statement in a rally in Caracas on 7 May 2018, available at: https://www.youtube.com/watch?v=0zjGLzVBLMM.

IV. Recommendations

In light of the report's findings, OHCHR offers the following recommendations to the member States of the Human Rights Council and to the Government of the Bolivarian Republic of Venezuela, aimed at addressing the serious human rights violations documented in the report and at preventing further violations.

Human Rights Council

- Member States of the Human Rights Council should monitor developments in the Bolivarian Republic of Venezuela and consider taking appropriate measures to prevent the further deterioration of the human rights situation;
- Member States of the Human Rights Council should establish an international commission of inquiry to investigate human rights violations in the Bolivarian Republic of Venezuela.

OHCHR stands ready to provide additional information in a regular manner to the Human Rights Council in the format it considers appropriate.

Government and other authorities of the Bolivarian Republic of Venezuela

- The Government should grant OHCHR direct and unfettered access to the country to carry out a comprehensive assessment of the human rights situation, and explore possibilities for technical cooperation;
- The Government should allow access to the country to the Special Procedures of the Human Rights Council that have requested so and to regional human rights mechanisms.

Excessive use of force and killings

- Security forces should take immediate measures to cease the use of excessive force and prevent the commission of other human rights violations during all types of security operations, including by fully cooperating in bringing alleged perpetrators to justice;
- The Attorney-General's Office should re-establish the Forensic Unit against the Violation of Fundamental Rights, to restore its capacity to conduct independent investigations in cases allegedly involving security forces;
- The Attorney-General's Office should prepare and publish a comprehensive report on the progress of investigations related to each death that took place during the 2017 period of mass demonstrations. The report should establish in each case the obstacles faced to identify the perpetrators and measures taken to overcome them.

Arbitrary detentions and due process

- Authorities, in particular security forces and intelligence services, should halt all arbitrary detentions and fully release and compensate all persons who have been arbitrarily detained;
- Security forces and intelligence services should immediately comply with judicial release orders;

- Authorities, in particular security forces and intelligence services, should ensure that accurate information on the detention and location of any person deprived of liberty is promptly made available to their family members and lawyers;
- Authorities, in particular security forces and intelligence services, should ensure that persons deprived of their liberty have access to a lawyer from the moment of their detention, and are provided with adequate opportunities, time and facilities to be visited by and to communicate and consult with a lawyer in full confidentiality;
- Judicial authorities should take urgent measures to prevent unjustified delays in judicial proceedings, including the approval process of *fiadores*;
- The Government, in particular the Ministry of Interior, Justice and Peace, should take urgent measures to protect lawyers from intimidation, harassment or improper interference of any sort;
- The Government, in particular the Ministry of Defence, should end the use of the military jurisdiction for civilians and ensure that military courts only try active military personnel accused of military offences or breaches of military discipline;
- The Government, in particular the Ministry of Interior, Justice and Peace, and judicial authorities should implement the opinions of the Working Group on Arbitrary Detention and accept their request for a visit.

Torture, ill-treatment and conditions of detention

- High-level authorities should publicly condemn all cases of torture and ill-treatment and take prompt measures to end this practice;
- The Attorney-General's Office should conduct prompt, effective and independent investigations into all alleged cases of torture and ill-treatment, and bring the perpetrators to justice;
- The Government, in particular the Ministry of Penitentiary Services, should adopt urgent measures, including through policy reform and budget allocation, to address conditions of detention, in particular overcrowding, violence, and access to food and health care, to ensure the humane treatment of everyone deprived of their liberty;
- The Government, in particular the Ministry of Penitentiary Services, should allow the International Committee of the Red Cross to visit all places of detention in the country, including intelligence and military detention centres;
- Authorities should ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

Attacks and restrictions on democratic space

- The Government, ruling party leaders, local authorities, and security forces should refrain from attacking and unduly interfering with the legitimate activities of the political opposition, social activists, media workers, student leaders and professors, and human rights defenders, and protect them from attacks from third parties;
- The Government should lift restrictions unduly limiting the rights to freedom of expression, association and assembly;
- The Government should take measures to ensure that no reprisals will be taken against individuals and organisations who provided information for this report.

Health and food crisis

- The Government should adopt effective measures, including by allocating the maximum available resources, to address the food and health crises, focusing first on the most vulnerable populations;
- The Government should seek the cooperation and technical assistance of the United Nations and its agencies and other multilateral organisations to address the urgent needs of populations in vulnerable situations, in particular with regards to health services and food;
- The Government, in particular the Ministries of Health and of Food and Agriculture, should make information of public interest available, in particular information about the food and health situation, such as weekly epidemiology bulletins and the yearbook on mortality, to allow the proper assessment of the scale of the crisis and adequate measures to be taken;
- The Government should establish a multidisciplinary committee integrated by experts from non-governmental organisations and academia from diverse backgrounds to advise on the economic and social reforms needed to address the root causes of the food and health crisis.

Institutional and policy reforms concerning the justice system, rule of law, and law enforcement

- Authorities should conduct a new selection process to appoint the Attorney-General and the Ombudsperson, in line with the Constitution and laws of the Bolivarian Republic of Venezuela and international standards;
- The Government, in particular the Ministry of Interior, Justice and Peace, should reformulate the policies meant to address the high level of criminality in the country, adopting a human rights-based approach;
- The Government, in particular the Ministries of Interior, Justice and Peace and Defence, should adopt a plan with a clear timeline to end the participation of military forces in public security functions and to demilitarize civil law enforcement agencies;
- The Government should refrain from interfering in the independence of the judiciary; they should take measures to restore the independence of the justice system; inter alia, judges should be selected following international standards, their tenure should be guaranteed, and they should be protected against restrictions, improper influences, threats or interferences, direct or indirect, from any quarter or for any reason;
- The Government should establish a multidisciplinary commission of national and international experts to conduct a detailed assessment of the criminal justice system, in order to propose measures to address pervasive violations of due process and the right to a fair trial and to advise the Attorney-General's Office, law enforcement forces and the judiciary on investigations of human rights violations, including alleged extrajudicial killings, committed during security operations and protests, in compliance with the State's international obligations. The commission should look into the possible responsibility of senior officials. The members of the commission should be selected through a broad participatory process, including civil society.