



General Assembly

Distr.: General
17 September 2020

Original: English

Human Rights Council

Forty-fourth session

15 June–3 July 2020

Agenda item 2

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

Outcomes of the investigation into allegations of possible violations of the human rights to life, liberty, and physical and moral integrity in the Bolivarian Republic of Venezuela

Report of the United Nations High Commissioner for Human Rights*

Summary

Pursuant to Human Rights Council resolution 42/4, the present report provides an overview of the human rights situation in the Bolivarian Republic of Venezuela from 1 June 2019 to 31 May 2020, including the outcome of investigations into allegations of violations of the human rights to life, liberty and integrity of the person.

* The present report was submitted after the deadline in order to reflect the most recent developments.



I. Introduction

1. In its resolution 42/4, the Human Rights Council requested the United Nations High Commissioner for Human Rights to present to it a comprehensive written report on the situation of human rights in the Bolivarian Republic of Venezuela at its forty-fourth session, including the outcomes of the investigation on the ground into allegations of possible human rights violations of the human rights to life, liberty, and physical and moral integrity in the country, with a view to ensuring the accountability of perpetrators and redress for victims.

2. The present report is focused on the situation of human rights in the Bolivarian Republic of Venezuela from 1 June 2019 to 31 May 2020, in particular on the issues outlined in Council resolution 42/4. The report also contains an overview of the cooperation between the Government of the Bolivarian Republic of Venezuela and the Office of the United Nations High Commissioner for Human Rights (OHCHR) during the reporting period.

3. On 20 September 2019, the Minister of Foreign Affairs of the Bolivarian Republic of Venezuela and the High Commissioner for Human Rights signed a letter of understanding, setting out parameters for cooperation for a period of one year, renewable upon the further agreement of both parties. In October 2019, they agreed upon a workplan on technical assistance. On that basis, two OHCHR human rights officers have been working in the Bolivarian Republic of Venezuela since October 2019 under the mandate of the High Commissioner and as part of the United Nations Resident Coordinator Office. In addition, temporary support has been provided for three human rights officers to conduct activities contemplated in the workplan.

4. The present report was prepared on the basis of information collected by OHCHR through interviews with multiple sources and meetings with a broad range of State and other stakeholders. The report was prepared taking into account official information and data provided by the Government, the Office of the Attorney General and the judiciary, including through a questionnaire sent by OHCHR for the purpose of the report. The report also reflects the analysis of information and documents provided by victims, civil society and other sources.

5. The findings presented in the report have been documented and corroborated in line with OHCHR methodology. OHCHR exercised due diligence in assessing the credibility and reliability of all sources, and it cross-checked the information gathered to verify its validity. OHCHR sought informed consent from the sources it interviewed, ensuring confidentiality when requested, and took all appropriate measures to protect their identity.

6. During the reporting period, the political crisis deepened owing to persistent tensions between the Government and the opposition. Despite international and national efforts, the main political actors have been unable to reach a comprehensive negotiated solution to resolve the protracted political crisis. Political discussions mainly focused on establishing the conditions for parliamentary elections, scheduled for 2020, and on the opposition's demand that presidential elections be held earlier than initially planned. OHCHR welcomes the recent efforts between the Government and the political opposition to join forces with the Pan American Health Organization to collaborate in pursuing policies and searching for international financial resources to address the coronavirus disease (COVID-19) pandemic.

7. OHCHR welcomes the increased cooperation with authorities and access to the country. Some of the human rights concerns presented in the report are being addressed through technical assistance requested by the Government from OHCHR in areas such as prevention of torture, access to justice and conditions of detention. The presence of OHCHR in the country has also allowed it to engage more closely with victims and to promptly channel their claims to duty-bearers.

II. Economic and social rights

8. People in the Bolivarian Republic of Venezuela continued to experience interrelated violations of their economic and social rights, due to the protracted and multifactorial social and economic crisis. According to the Economic Commission for Latin America and the Caribbean, the economy contracted by 25.5 per cent in 2019¹ and is expected to contract by a further 13 to 28 per cent in 2020 owing to the decline of international oil prices, the reduction of oil production, the economic stagnation caused by the COVID-19 pandemic and the impact of economic sanctions.²

9. Increased economic and financial sanctions have exacerbated the pre-existing economic and social crisis by reducing resources that could have been used to better protect and fulfil economic and social rights. In August 2019, the United States of America issued an executive order blocking property and financial interests of the Government of the Bolivarian Republic of Venezuela in the United States, prohibiting American citizens from engaging in transactions with the Government of the Bolivarian Republic of Venezuela and authorizing financial sanctions on persons of other nationalities that assist or support the Government or the State oil company *Petróleos de Venezuela*.³ In the first half of 2020, the United States adopted secondary sanctions against the State-owned airline – *Consortio Venezolano de Industrias Aeronáuticas y Servicios Aéreos* – and foreign companies buying and distributing oil from the Bolivarian Republic of Venezuela to markets outside of the United States.⁴

10. According to the Office of Foreign Assets Control of the Department of Treasury of the United States, since August 2019, it has issued 25 licences authorizing transactions involving the delivery of food, agricultural supplies, medicine and remittances. Despite these exceptions, the Government of the Bolivarian Republic of Venezuela has asserted that “over-compliance”, in particular in the financial sector, has meant tighter controls, administrative delays and transactional costs for imports.⁵

11. While the reduction of the oil production capacity of *Petróleos de Venezuela* can be attributed to multiple factors, including mismanagement and corruption, sanctions against the oil sector have contributed to a sharp decrease in oil production and consequent reduction of revenue that could otherwise have been available for social programmes and public services.⁶ These sectoral sanctions have targeted the country’s economy at its weakest point, with approximately 88.5 per cent of its total exports being oil products.⁷ However, the lack of access to official data on budgets and expenditures has hindered the ability of OHCHR to fully assess the extent to which the sanctions have directly affected

¹ Economic Commission for Latin America and the Caribbean, “Preliminary overview of the economies of Latin America and the Caribbean – 2019. Available at https://repositorio.cepal.org/bitstream/handle/11362/45001/89/BPI2019_Venezuela_en.pdf.

² www.latinamerica.undp.org/content/rblac/en/home/library/crisis_prevention_and_recovery/el-impacto-economico-del-covid-19-en-venezuela--la-urgencia-del-.html.

³ Executive Order 13884. Published in *Federal Register*, vol. 84, No. 152 (7 August 2019). See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24882.

⁴ On 7 February, the Office of Foreign Assets Control of the Department of Treasury of the United States designated the State-owned airline, *Consortio Venezolano de Industrias Aeronáuticas y Servicios Aéreos*. On 18 February and 12 March 2020, respectively, the Office of Foreign Assets Control designated *Rosneft Trading S.A.* and *TNK Trading International S.A.*, for operating in the oil sector in the Bolivarian Republic of Venezuela.

⁵ According to the response provided to an OHCHR questionnaire by the Government of the Bolivarian Republic of Venezuela, the average time for a financial transfer increased from 2 days in 2017 to 45 days in 2020 and banking fees for transfers increased from 0.5 per cent in 2017 to 10 per cent in 2020.

⁶ According to the Organization of the Petroleum Exporting Countries, between January 2019 and January 2020, oil production dropped by 37 per cent. Crude oil production figures are based on secondary sources. According to the response provided by the Government of the Bolivarian Republic of Venezuela to the OHCHR questionnaire, there was a 50 per cent decrease in revenues related to its oil exports from 2018 to 2019.

⁷ 2018 figures published by the Central Bank of Venezuela (see www.bcv.org.ve/estadisticas/comercio-exterior (in Spanish)).

the capacity of the Government to take steps, to the maximum of its available resources, to provide the greatest possible protection of economic and social rights.

12. During the second half of 2019, the Government adopted economic and fiscal reforms that resulted in a slight containment of hyperinflation and increased the availability of goods. These reforms led, however, to a de facto dollarization of goods and services, increasing the gap between a minority of the population with access to foreign currency and the rest of the population.

13. According to the documentation and analysis centre for workers (CENDA), although the Government has increased the minimum wage by 1,200 per cent since July 2019, in May 2020, this was estimated at a value of \$2.01 per month, covering 1.1 per cent of the basic food basket.⁸ According to an evaluation undertaken by the World Food Programme in October 2019, a total of 59 per cent of households reported having insufficient income to buy food.⁹

14. In January 2020, the Government reported that social expenditures represented 76 per cent of the national budget and that it was able to maintain distribution of subsidized food to around 6.2 million households.¹⁰ It also reported that it continued to make regular money transfers to around 17 million people registered for the “Carnet de la Patria” and to maintain a high level of subsidies for public services.¹¹

15. On 13 March 2020, President Maduro decreed a “state of alarm” to address the COVID-19 pandemic, adopting measures such as a quarantine, the suspension of non-essential work and academic activities, and the restriction of movement.¹² The Government sought support from the United Nations, assigned 46 hospitals and 573 health centres for the referral of COVID-19 cases, and adopted economic measures to alleviate the impacts of social confinement. According to official figures, the Bolivarian Republic of Venezuela has registered some of the lowest numbers of confirmed cases in the Americas as a result of early quarantine, proactive identification of positive cases and information campaigns.¹³ The Government also sought the assistance of the United Nations to address the return of over 50,210 migrants affected by measures adopted in host countries in response to the pandemic.¹⁴

16. Access to and quality of basic services, such as transportation, electricity, water and sanitation, and natural gas, continued to deteriorate, undermining the right to an adequate standard of living. Doctors and nurses reported poor conditions in public hospitals, including lack of medicines and medical supplies, water shortages and electricity outages.¹⁵ Sanction-imposed obstacles to importing fuel and diluents have exacerbated fuel shortages which, in turn, have disrupted food production and distribution and restricted access to transport and health services, further complicating the response to COVID-19.¹⁶

17. According to the non-governmental organization Observatorio Venezolano de la Conflictividad Social, from July 2019 to May 2020, a total of 10,026 protests were

⁸ <http://cenda.org.ve/noticias.asp> (in Spanish).

⁹ World Food Programme, *Venezuela – Evaluación de Seguridad Alimentaria*, January 2020, p. 3.

¹⁰ Annual statement by President Maduro at the National Constituent Assembly, 14 January 2020. See www.telesurtv.net/news/presidente-maduro-memoria-cuenta-venezuela--20200114-0011.html (in Spanish).

¹¹ Information provided by the Government to the United Nations country team.

¹² Bolivarian Republic of Venezuela, Decree No. 4,160, declaring the state of alarm to attend to the coronavirus disease (COVID-19) emergency. See *Extraordinary Official Gazette* No. 6,519 (13 March 2020).

¹³ As at 29 June 2020, authorities had confirmed 5,530 cases and registered 48 deaths (<https://covid19.patria.org.ve/estadisticas-venezuela/> (in Spanish)).

¹⁴ Response from the Government of the Bolivarian Republic of Venezuela to the OHCHR questionnaire.

¹⁵ Médicos por la Salud, “Encuesta Nacional de Hospitales 2019”. See www.encuestanacionaldehospitales.com/ (in Spanish).

¹⁶ Office for the Coordination of Humanitarian Affairs, *Venezuela: COVID-19 – Flash Update No. 3* (23 April 2020).

registered throughout the Bolivarian Republic of Venezuela.¹⁷ Around 73 per cent were related to low wages, high food prices, delays in the distribution of food assistance boxes, and lack of basic services, including health care. Since April 2020, OHCHR has observed an increase in the number of protests related to lack of water, high food prices and fuel scarcity. In April and May, 44 such protests led to looting. OHCHR documented the killing of a man in the context of looting in Bolívar State on 23 April 2020, for which a criminal proceeding was initiated against four members of the municipal police for homicide and unlawful use of a firearm. On 24 April, in response to high food prices, the Government announced that it would take over a number of food companies for a period of 180 days and set price controls on 27 basic food items. On 4 May, the President renewed the decree on the state of economic emergency in place since May 2016.¹⁸

18. Indigenous communities have also reported a lack of access to medical care. Fuel shortages have prevented access to medical treatment outside their often isolated territories, and exacerbated challenges in accessing food. Several indigenous groups, including the Warao peoples, reported severe food scarcity, which has worsened since the implementation of measures related to the COVID-19 pandemic. Access to drinking water is also of increasing concern, including for the Wayuu peoples. The Wayuu have held seven protests against increases in water, food and medicine shortages since the imposition of measures related to COVID-19. Three of those protests were met with excessive use of force, including one in Zulia State on 12 April, when an indigenous woman was injured by buckshot.

19. As part of its response to the serious humanitarian situation, in 2019 the United Nations country office in the Bolivarian Republic of Venezuela provided humanitarian assistance to more than 2.4 million of the 7 million people considered to be in need. The assistance included medicines and medical equipment; water, sanitation and hygiene support; school kits; and food distribution, cash vouchers and agricultural support.¹⁹

III. Democratic and civic space

20. OHCHR continued to document restrictions to freedoms of opinion and expression, peaceful assembly and association, and the right of participation in public affairs, which have continued to restrict civic and democratic space in the run-up to the electoral process.

21. Since 5 January 2020, security forces have blocked access to the National Assembly, including by using force, of a group of parliamentarians supporting the renewal of Juan Guaidó as president of the National Assembly. As of June 2020, the Supreme Court of Justice had stripped 28 opposition deputies of their parliamentary immunity. Four were detained and one was under house arrest. In addition, 36 deputies had left the Bolivarian Republic of Venezuela or had gone into hiding, many having been charged with treason, conspiracy, incitement to insurrection, civil rebellion and criminal association, among others. Three of Mr. Guaidó's aides, his uncle and a woman previously related to an aide were detained. On 25 May, the Attorney General requested that the Supreme Court determine if the political party Voluntad Popular could be considered to be a terrorist organization under the law against organized crime and the funding of terrorism. On 26 May, the Supreme Court validated the 5 January 2020 election of Luis Parra²⁰ as President of the National Assembly. In addition, the Supreme Court declared as "in contempt" the Presidency of Mr. Guaidó.

22. During the reporting period, the Government reported that security forces and intelligence services had thwarted several attempted insurrections, rebellions and assaults on military bases, including an incursion by former members of the country's military and two former members of the United States military in Vargas State, on 3 and 4 May 2020.

¹⁷ Calculations made on the basis of reports provided by the organization. See www.observatoriodeconflictos.org.ve/ (in Spanish).

¹⁸ Bolivarian Republic of Venezuela, *Extraordinary Official Gazette*, No. 6,534 (4 May 2020).

¹⁹ https://reliefweb.int/sites/reliefweb.int/files/resources/venezuela_hrp_2020_es_vf.pdf (in Spanish).

²⁰ Deputy from the opposition that broke with the majority of the opposition.

23. From 1 July 2019 to 31 May 2020, the non-governmental organization Observatorio Venezolano de la Conflictividad Social reported 2,689 protests demanding civil and political rights.²¹ While some restrictions to the right to peaceful assembly were documented, security officers generally showed restraint and, in most cases, complied with international norms and standards on crowd management. The Government implemented training programmes and activities for security forces on the use of force and human rights standards.²²

24. Security forces were also deployed in the context of opposition and student protests, with reports of intimidation of demonstrators, preventing them from reaching their planned destination or from gathering before the protest began. This was the case during national protests organized by students and members of the opposition on 16 and 21 November 2019. More than 20 people were reportedly arrested, including six human rights defenders who were monitoring the demonstrations in Cojedes State. In Lara State, five people were detained for two months.

25. OHCHR also documented attacks by pro-Government armed civilian groups (known as armed *colectivos*) against political opponents, demonstrators and journalists. Security forces made no effort to prevent these attacks. On 11 February, Government supporters and alleged armed *colectivos* attacked 12 journalists covering the arrival of Juan Guaidó at Maiquetía International Airport. On 29 February, in Lara State, members of armed *colectivos* attacked demonstrators and journalists who had gathered at a political rally convened by Mr. Guaidó. High-level officials often discredited the victims after the attacks. The opposition demonstrations of November 2019 were preceded and followed by acts of intimidation on social media against some journalists by alleged sympathizers of the Government and public officials. There were also reports of blocked access to social media around key protest dates.

26. In addition to limited access to public data and, in many cases, to self-censorship for fear of reprisals, media workers continued to be victims of threats and harassment (see para. 42).

27. Non-governmental organizations, especially those critical of the Government, continue to face obstacles in carrying out their work. OHCHR observed significant delays in the registration of new organizations or the updating of mandatory legal information owing to the length of the documentation review process. High-level officials also made negative statements seeking to discredit several human rights defenders and non-governmental organizations and reiterated declarations about plans to adopt a law that would criminalize activities of organizations receiving funds from abroad.

28. OHCHR registered five forced evictions of the headquarters of trade unions in Bolívar State and five raids by security forces of the headquarters of political parties, non-governmental organizations and media offices. There also continued to be threats to the independence of universities, in particular harassment of and judicial proceedings against some university authorities.²³ OHCHR welcomes the decision by the Supreme Court of Justice, in February 2020, to suspend the August 2019 measure that threatened university autonomy, hoping that it paves the way for a negotiated and sustainable solution consistent with university autonomy.²⁴

29. In November 2019, the Government announced a new national security plan involving the use of the Bolivarian Militia to “secure peace” and the distribution of over

²¹ Calculations made on the basis of reports provided by the organization. See www.observatoriodeconflictos.org.ve/ (in Spanish).

²² Response from the Government of the Bolivarian Republic of Venezuela to the OHCHR questionnaire.

²³ Aula Abierta, “Informe preliminar: violaciones a la libertad académica, autonomía universitaria y otros derechos de los universitarios en Venezuela” (2019).

²⁴ Supreme Court of the Bolivarian Republic of Venezuela, Decision No. 0047-2020, 27 February 2020. In August 2019, the Supreme Court ordered public universities to conduct elections to appoint university authorities following new election rules and allowing the Ministry of Education to appoint new authorities if universities failed to organize elections in a six-month period.

300,000 rifles to them. On 30 January 2020, the National Constituent Assembly adopted a law incorporating the Bolivarian Militia into the National Bolivarian Armed Forces.

30. The “state of alarm” decree issued on 13 March 2020 in response to COVID-19 was not approved by the National Assembly as required by the Constitution. At the time of writing of the present report, the Government had extended the “state of alarm” on three occasions, for a total of 120 days, exceeding the 60-day limit established by the Constitution.²⁵

31. OHCHR observed a discretionary implementation of the “state of alarm” by the military, law enforcement and local authorities. It also observed the involvement of armed *colectivos* in the enforcement of confinement measures in poor neighbourhoods, and documented undue restrictions on access to information and freedom of expression, which resulted in the detention of demonstrators, journalists, human rights defenders and political leaders by security forces.

IV. Outcomes of the investigation into allegations of violations of the rights to life, liberty and integrity of the person

A. Right to life

32. OHCHR acknowledges past efforts by the State to develop security policies consistent with international law, which culminated in the creation of a National Commission for Police Reform in 2006. Main outcomes of the National Commission for Police Reform were the reorganization of civilian police forces with a civilian character, the elaboration of protocols on the use of force in line with international standards, the vetting of police forces responsible for abuses and the creation of oversight mechanisms to ensure accountability.

33. The Government reported that since 2013, it has been implementing a security strategy known as *cuadrantes de la paz*, based on a preventive approach of community policing. In 2018, the Government launched an initiative entitled *Gran Misión Cuadrantes de Paz*, which according to the Government led to a reduction of the homicide rate.²⁶

34. According to statistics provided by the Government, 6,710 homicides were registered in 2019. An additional 1,363 homicides were recorded from January to May 2020. The Government reported that 41 members of security forces had died in the context of security operations in 2019. These data do not include killings in the context of security operations, qualified as “resistance to the authority”.

35. Based on an OHCHR analysis of open sources, from 1 January to 31 May 2020, a total of 1,324 individuals, including 9 women, were reportedly killed in the context of security operations. The Special Action Forces were allegedly responsible for 432 deaths; the Bureau for Scientific, Criminal and Forensic Investigations for 366 deaths; the Bolivarian National Guard for 136 deaths; and the State police forces of Zulia for 124 deaths. The highest numbers of cases were recorded in Zulia (323), Aragua (148), Bolívar (140) and Lara (121). Five members of security forces were reportedly killed and 16 were injured in the context of these security operations.

36. OHCHR documented 38 cases of young men allegedly killed by security forces between May 2019 and May 2020, in the States of Anzoátegui, Aragua, Bolívar, Guárico, Lara, Miranda, Sucre, Táchira and Zulia. In 23 cases, the Special Action Forces were

²⁵ Article 338 of the Constitution of the Bolivarian Republic of Venezuela; and article 8 of the Organic Law on States of Exception, contained in *Official Gazette*, No. 37,621 (15 August 2001).

²⁶ According to the response provided by the Government to the OHCHR questionnaire, from 2016 to 2019, murder rates decreased from 56 per 100,000 inhabitants to 21 per 100,000 inhabitants. According to the non-governmental organization Observatorio Venezolano de Violencia, during the same period the murder rates decreased from 91 per 100,000 inhabitants to 60 per 100,000 inhabitants (see <https://observatoriodeviolencia.org.ve/informes/informe-anual-de-violencia/> (in Spanish)).

identified as the alleged perpetrator. In addition, seven cases were attributed to the Bureau for Scientific, Criminal and Forensic Investigations; three cases to armed *colectivos*; two cases to the National Bolivarian Police; one case to the Directorate of Criminal Investigation; one case to the National Anti-Extortion and Kidnapping Command of the Bolivarian National Guard. Moreover, one death occurred in custody and was allegedly committed by the Bolivarian National Guard. The pattern identified in these cases is similar to that described in the report of the High Commissioner of July 2019 to the Human Rights Council.²⁷

37. The victims of the killings documented by OHCHR were all young men, mostly under the age of 30, belonging to low-income families in disadvantaged neighbourhoods marked by high crime rates. Some victims had a criminal record, while others did not and were allegedly targeted for personal revenge or due to mistaken identity.

38. The Government reported that from 2017 to the first trimester of 2020, a total of 731 members of security forces were accused of homicide. Of those accused, 492 were charged, 436 were deprived of their liberty and 117 were convicted for homicide.²⁸ In the same period, the Office of the Attorney General initiated 4,890 investigations for killings in the context of security operations. As of March 2020, a total of 4,861 of the investigations were in a preliminary phase, 15 in an intermediate phase and 13 in the trial phase. The perpetrator was convicted for homicide in one case.²⁹

39. OHCHR presented to the Directorate for the Protection of Human Rights of the Office of the Attorney General a list of 28 alleged killings perpetrated in the context of security operations conducted between May 2016 and November 2019. According to the Office of the Attorney General, all cases were still under investigation, pending the receipt of information – e.g., result of the autopsy, ballistic comparison and criminal record of the victim – from investigative bodies, in particular from the Bureau for Scientific, Criminal and Forensic Investigations. Witnesses were reportedly interviewed in one case.

B. Right to liberty

40. During the reporting period, OHCHR documented restrictions to the right to liberty of demonstrators, and media and health workers, including in the context of the COVID-19 pandemic. It also documented violations of due process in cases of persons charged for crimes such as treason, rebellion, public incitement, conspiracy, attempted assassination, terrorism or funding of terrorism.

41. In the context of protests related to public services, OHCHR documented the detention of 17 demonstrators throughout the country, including children and older persons. It also documented three cases of torture and a sexual assault of demonstrators detained by members of security forces in Lara State on 20 May.

42. Four media workers were victims of arbitrary arrests by security forces, and seven were granted precautionary measures by a judge while awaiting trial. Many reported facing additional difficulties extending to loss of employment and having bank accounts closed. Four journalists have gone into hiding for fear of detention. OHCHR documented eight cases of security forces, local authorities and armed *colectivos* intimidating or impeding journalists from covering the health crisis, as well as six journalists and media workers arrested while reporting on COVID-19 cases. Three of them were charged under legislation against hate speech.

43. During the reporting period, OHCHR also documented the arbitrary arrest of three health professionals for denouncing the lack of basic equipment, providing information about COVID-19 or criticizing the Government's response to the pandemic. OHCHR documented the brief detention by the Bolivarian National Guard of a human rights defender who was assisting individuals protesting in Lara State.

²⁷ A/HRC/41/18, paras. 47–52.

²⁸ Response from the Government to the OHCHR questionnaire.

²⁹ Ibid. OHCHR did not receive disaggregated data related to the reporting period.

44. OHCHR documented 110 cases of persons, including three women, under criminal prosecution, charged for crimes such as treason, rebellion, public incitement, conspiracy, attempted assassination (of the President), terrorism or funding of terrorism. A total of 63 were members of the military and 47 were civilians. Of the cases, 60 had been submitted to civilian jurisdiction, 48 of which had appeared before specialized courts dealing with terrorism; and 50 cases, including of 12 civilians, had been subjected to military jurisdiction.

45. Based on an analysis of these cases, OHCHR found that, at the time of arrest, judicial warrants had not been routinely presented and the individuals had not been informed of the reasons for their arrest. In several cases, arrest warrants had been issued retroactively, including with modified dates of issuance, and houses had been raided without judicial orders. Arrests had mostly been conducted by members of the Directorate General of Military Counter-intelligence and the Bolivarian National Intelligence Service. However, other security forces, such as the Special Action Forces and the Bolivarian National Guard, have been increasingly involved in such arrests.

46. Almost all individuals detained by the Directorate General of Military Counter-intelligence from the cases documented by OHCHR had been subjected to enforced disappearances for short periods following their arrest and before being presented to a judge. Authorities did not confirm the whereabouts of the individuals to the relatives or lawyers for periods usually ranging from 7 to 40 days, which raised concerns about increased risks of torture and ill-treatment.

47. OHCHR documented that access to individuals held in detention centres of the Directorate General of Military Counter-intelligence or the Bolivarian National Intelligence Service was particularly challenging. When lawyers were granted access to their clients, they were not allowed adequate time or confidentiality. Courts repeatedly rejected legal filings of defence lawyers at key hearings, challenging jurisdiction, witnesses or other evidence without clear reasoning or without providing an explanation. In 14 cases documented by OHCHR, lawyers did not have access to the case files of their clients, and in many cases, access was only granted immediately before the presentation hearing. The case files would generally contain very little evidence and lacked most of the fundamental legal documents, such as the indictment. In many cases, the only incriminating evidence on file was a report by the agency that conducted the investigation and the arrest. In some cases, especially those involving alleged terrorist acts, the prosecutors reportedly did not allow access to the files, invoking the confidentiality of the investigation.

48. In all 110 documented cases, there were undue delays at all stages of the judicial proceedings. According to the Criminal Procedure Code, following the presentation hearing, the prosecution should finalize the investigation and formally indict the person within 45 days so the preliminary hearing can take place without delay. However, judicial hearings at all stages of the proceedings were constantly suspended or postponed for multiple reasons, including the absence of judges or prosecutors, or the failure to transfer the detainee to the tribunal. During the reporting period, OHCHR identified that out of the 110 cases documented, 41 individuals had exceeded two years in pretrial detention, raising concerns of compliance with international standards prohibiting arbitrary detention.

49. After their presentation hearing, individuals charged with crimes related to treason, rebellion or conspiracy remained at the headquarters of the Directorate General of Military Counter-intelligence, and some were held incommunicado for up to 40 days. At the time of writing of the present report, the authorities had not officially reported the place of detention of opposition parliamentarian Gilber Caro, who was arrested on 20 December 2019. At least 33 military and civilians arrested between 20 April and 31 May 2020 and reportedly involved in the incursion known as Operation Gedeón, which occurred on 3 and 4 May, have been held incommunicado in the premises of either the Bolivarian National Intelligence Service or the Directorate General of Military Counter-intelligence in Caracas.

50. OHCHR documented cases of individuals benefitting from precautionary measures who were arrested again by intelligence services without a revocation of the measures by a tribunal. OHCHR also identified three cases of individuals detained despite having served

their sentences. Detention beyond the length of a sentence and in defiance of a judicial order is manifestly arbitrary and unlawful under international law.³⁰

51. OHCHR found that during the period covered by the report, some people had been conditionally released with precautionary measures ordered at the pretrial stage, such as weekly appearances before authorities. They were also prohibited from leaving the country, commenting publicly on their cases or participating in political activities. These measures have been imposed for months or years owing to delays in judicial proceedings. In the case of journalists, these restrictions can considerably affect their ability to work, as illustrated by the case of Luis Carlos Díaz, who was detained on 11 March 2019 for public incitement and released with precautionary measures the day after. At the time of writing of the present report, his preliminary hearing had still not taken place and he was unable to leave the country or to comment on his case publicly, seriously affecting his professional and personal life.

C. Right to physical and moral integrity

1. Torture and ill-treatment

52. During the reporting period, OHCHR received allegations of torture and ill-treatment. OHCHR observed that individuals deprived of their liberty were interrogated by intelligence services following their arrest, either at the premises of the Directorate General of Military Counter-intelligence or at non-official and unknown locations. It was mainly during this period of time that victims had reportedly been subjected to ill-treatment and, in some cases, torture. According to accounts gathered by OHCHR, such acts were aimed at intimidating and punishing detainees, extracting confessions or incriminating others through videos or written statements. Reports of physical and psychological torture of military or ex-military personnel were common, while high-profile individuals, such as members of parliament, did not report physical abuse.

53. According to the Government, by May 2020, the Attorney General had carried out 361 investigations for torture and 9,951 investigations for ill-treatment. The investigations resulted in 517 State agents being charged, 401 indicted, 167 deprived of their liberty and 26 convicted of torture and ill-treatment.³¹

2. Conditions of detention

54. OHCHR conducted 13 visits to 11 penitentiary centres, of which 10 were administered by the Ministry for Penitentiary Services and 1 by the Ministry of Defence. OHCHR interviewed 134 detainees during the visits. OHCHR acknowledges positive cooperation with authorities who granted access to the centres.

55. The Ministry for Penitentiary Services reported that it had reduced the level of violence in the penitentiary system by investing in infrastructure and security, and by taking control of all centres for women and adolescents and of 98 per cent of the centres for men, through a new penitentiary regime. The Ministry had also implemented programmes to provide primary and secondary education (*Misiones Robinson* and *Ribas*), to support the family and social environment of inmates through social contributions to families (*Plan Chamba*), and to address judicial delays when granting benefits to inmates, by offering alternative measures to serving sentences (*Plan Cayapa*).

56. The Ministry reported that it had been distributing food to 41 penitentiary centres, reaching 39,723 inmates (37,482 men and 2,241 women), on a monthly basis. While the Ministry reported ensuring three meals per day to inmates, OHCHR observed that access to food was limited in the centres it visited. The Ministry reported 1,328 cases of malnutrition of inmates in 2019.³² OHCHR also observed that access to water in the centres was limited

³⁰ Human Rights Committee, general comment No. 35 (2014) on liberty and security of person, para. 11.

³¹ Response from the Government of the Bolivarian Republic of Venezuela to the OHCHR questionnaire.

³² Ibid.

and that sanitation was precarious. The Ministry argued that the difficulties related to health and clean water, among others, were related to the impact of sanctions.

57. Despite efforts by the Ministry to expand health facilities in detention centres, access to health care remained insufficient, with only two centres having permanent doctors, while the rest relied mainly on nurses. Medicines and treatments are lacking, as are vehicles to refer emergency cases to hospitals. The Ministry implemented programmes to provide treatment to patients with chronic diseases, reporting malnutrition, hypertension and tuberculosis among the main ailments. OHCHR also gathered allegations of cases of scabies.

58. OHCHR identified delays in judicial proceedings as one of the main challenges. Causes for procedural delays were multiple, in particular a lack of transportation to bring detainees to tribunals, a lack of timely issuance and reception of transfer orders from tribunals, and absences of parties at hearings. A lack of access to interpretation services for some foreign detainees was also observed, as well as limited access to appropriate legal counsel by public defenders, which often led inmates to plead guilty in order to avoid lengthy proceedings.

59. The Ministry reported that 62 per cent (24,577) of its detainees had been indicted and 38 per cent (15,146) had been convicted.³³ OHCHR documented cases of inmates who met the criteria to benefit from alternative measures to detention, including inmates over 70 years of age or qualifying for conditional release for health reasons, but who nonetheless were remained in detention due to lack of response from the judicial system to requests for the granting of benefits. To address these delays in the judicial system, the Ministry reported that in 2019, through the *Plan Cayapa*, a total of 378,143 legal counselling actions were undertaken. In addition, in the period 1 June 2019 to 31 May 2020, a total of 4,320 alternative measures to serving sentences were granted. In response to the COVID-19 pandemic, the Ministry granted more than 800 alternative measures to detention to ensure the security and health of detainees.

60. OHCHR identified additional, discriminatory challenges faced by women in detention, including greater limitations in opportunities for family visits; restrictive access to sanitation required to meet their gender-specific hygiene needs and sexual and reproductive health care; fewer recreational activities; and fewer – and less-varied – training activities.

61. OHCHR documented a riot that occurred³³ in the Cepello detention centre in Guanare, Portuguesa State, on 1 May, during which 47 detainees were killed and 69 injured. The Office of the Attorney General conducted a prompt investigation into the killings. On 13 May, it charged five members of the Bolivarian National Guard with deliberate murder and abuse of power. It also charged four detainees who had internal control over the prison with deliberate murder and arms trafficking, and the director of the centre with complicity in introducing weapons. The Ministry for Penitentiary Services transferred all surviving detainees to other centres and announced that it had regained control of the centre. As at 30 May, around 30 detainees with serious injuries were still waiting for surgical interventions, pending the delivery of health equipment and materials to the local hospital.³⁴

62. OHCHR regrets it did not have access to preventive detention centres administered by the Ministry of Interior, State governments and municipal police. However, it received information about overcrowding, with detention centres averaging above 315 per cent of maximum capacity on a country-wide basis; high levels of violence; and lack of access to food, water and health care.³⁵

63. In a penitentiary administered by the Ministry of Defence for military personnel, OHCHR observed the presence of civilian detainees, undue judicial delays, a lack of

³³ Ibid.

³⁴ <http://unaventanaalibertad.org/alertas/portuguesa-30-sobrevivientes-de-la-masacre-del-cepella-padecen-sin-tratamientos-ni-cirugias/> (in Spanish).

³⁵ <http://unaventanaalibertad.org/wp-content/uploads/2020/08/Informe-I-Semestre-2020-VERSION-FINAL.pdf> (in Spanish).

adequate facilities for women detainees and the use of punishment cells with inadequate hygienic conditions. OHCHR received information of excessive use of force during inspections conducted by the Directorate General of Military Counter-intelligence. The military jurisdiction reported that in the context of the COVID-19 pandemic, 72 alternative measures to deprivation of liberty were granted to detainees in military penitentiaries who had been convicted of minor offences.

64. OHCHR received numerous allegations of inadequate conditions of detention at the headquarters of the Directorate General of Military Counter-intelligence and the Bolivarian National Intelligence Service; it had no access to either facility. The facilities are not official detention centres and lack minimum requirements, including sufficient space to guarantee the rights of detainees. The facilities of the Directorate General of Military Counter-intelligence, which were originally built as offices, have been remodelled to increase detention capacity in the basement.

65. In the Directorate General of Military Counter-intelligence premises in Boleíta, Caracas, OHCHR documented that most individuals were held in overcrowded rooms lacking adequate sanitary facilities. Lights were reportedly left on 24 hours a day and air conditioning was used excessively to create uncomfortable conditions. Detainees could not leave their cells during the day, and opportunities to spend time in open spaces were seriously restricted.

66. OHCHR documented that, during the initial period of detention at the Directorate General of Military Counter-intelligence in Boleíta, as well as the 45-day period of preliminary investigation, some detainees were held for extended periods of time in complete isolation in small cells without any ventilation, in the dark and handcuffed most of the time.

67. Basic necessities such as water, food and medication were mostly provided by female family members through the authorities, with concerns as to whether they were effectively delivered to detainees. Detainees rarely received adequate medical treatment and in a number of cases when a doctor recommended medical assistance, officials of the Directorate General of Military Counter-intelligence did not follow up. Female detainees reported being held in overcrowded cells and not having regular access to menstrual hygiene products. Following the suspension of visits during the COVID-19 pandemic, OHCHR documented further challenges faced by family members in facilitating access to food and medicines and to communicating with detainees.

68. OHCHR has documented that a common method of punishment used against detainees by authorities of the Directorate General of Military Counter-intelligence was the shortening or cancelling of weekly visits by relatives without notice. In some cases, visits were cancelled for months at a time. The schedule for visits was usually set arbitrarily. Visits with relatives and attorneys were monitored by security agents and cameras.

69. OHCHR observed that the Directorate General of Military Counter-intelligence remained de facto in control of detainees they arrested, even after their transfer to military penitentiary centres. The Directorate General usually continued to make decisions affecting transfers and searches of these detainees without any scrutiny or oversight mechanism.

V. Cooperation and technical assistance

70. Following the first-ever official visit by a United Nations High Commissioner for Human Rights to the Bolivarian Republic of Venezuela, which took place from 19 to 21 June 2019, the Government agreed to a continuing presence of two human rights officers in the country to provide technical assistance. On 20 September 2019, the High Commissioner and the Minister of Foreign Affairs signed a letter of understanding setting out the parameters of cooperation for a renewable period of one year.

71. In October 2019, OHCHR and the Government of the Bolivarian Republic of Venezuela agreed on a workplan to develop the nine areas of technical cooperation highlighted in the letter of understanding. On 17 October 2019, the Government established an inter-institutional coordination committee to follow up on the implementation of the

workplan. The committee includes the participation of OHCHR and 21 representatives of 10 State institutions: the Vice-presidency, the Ministry of Foreign Affairs, the Ministry of Interior, the Ministry for Penitentiary Services, the Ministry of Defence, the Office of the Attorney General, the Office of Public Defence, the Supreme Court of Justice, the military jurisdiction and the Office of the Ombudsperson. The Coordination Committee has met 10 times, holding substantive discussions around key areas of cooperation and human rights concerns, and increasing constructive engagement by the authorities.

72. OHCHR organized two training workshops for State officials, to guide the adoption of an inclusive and participatory methodology for the development of the second national plan for human rights and the establishment of a national mechanism for reporting and follow-up of recommendations of international human rights mechanisms. OHCHR will subsequently provide technical advice to the State's proposals on the road map to establish a national mechanism and the methodology for the adoption of the human rights plan of action. OHCHR also organized a workshop for State officials on the United Nations special procedures system and facilitated dialogues with the Working Group on Enforced or Involuntary Disappearances and the Working Group on Arbitrary Detention.

73. OHCHR conducted missions to Maracaibo, Zulia State; Ciudad Bolívar and Ciudad Guayana, Bolívar State; and Barquisimeto, Lara State. It is grateful to the Government for facilitating the visits.

74. The Bolivarian Republic of Venezuela has agreed to a visit by the Special Rapporteur on the negative impact of the unilateral coercive measures on the enjoyment of human rights. The date of the visit is pending, owing to restrictions related to the COVID-19 pandemic. The country also reiterated its invitation to the Special Rapporteur on the right to development who, as a result of the pandemic, would not be able to accommodate a visit in 2020. The country has expressed its commitment to inviting a third mandate holder in 2020.

75. OHCHR has also pursued technical assistance to strengthen the justice system, by developing technical advice for the incorporation of the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) into national investigations of suspected extrajudicial killings and allegations of torture and ill-treatment. OHCHR provided technical assistance to the Office of the Ombudsperson, by organizing a series of training activities to assess its capacity-building and methodological needs and initiating an assessment of the National Commission for the Prevention of Torture, in order to enhance its capacities to effectively prevent cases of torture. OHCHR is also providing technical assistance to identify factors that affect the situation in preventive detention centres; to assess the impact of sanctions on human rights; and to update police force protocols on the use of the force.

76. The outbreak of the COVID-19 pandemic and the "state of alarm" declared on 13 March affected the implementation of technical cooperation. On 12 May, the Coordination Committee agreed to prioritize a series of technical assistance activities in the context of the restrictions and reaffirmed its commitment to fulfilling most areas of technical cooperation by the end of September 2020. Such areas include capacity-building of officials of the justice system and of law enforcement, and updating the human rights-compliant standard operating procedures of law enforcement.

77. The Coordination Committee has also addressed cases of persons deprived of liberty that were submitted by OHCHR. Since June 2019, OHCHR has referred 244 documented individual cases (230 men and 14 women) that required urgent solutions owing to health reasons, judicial delays, non-execution of judicial release orders and/or continued detention despite completion of sentences. The Coordination Committee provided information on the judicial status of the cases and on the measures taken to address the humanitarian, penitentiary and judicial concerns with regard to over 102 cases.

78. Since September 2019, in the context of the national dialogue launched by the Government with minority opposition parties and through the referral of the Commission on Truth, Justice, Peace and Attention to the Victims of Political Violence, the judiciary

granted conditional release to 42 individuals (36 men and 6 women). In addition, in May 2020, a total of 24 individuals were conditionally released from the Directorate General of Military Counter-intelligence headquarters in Boleíta and the Bolivarian National Intelligence Service headquarters in Helicoide. This followed the release of 62 people in accordance with commitments made pursuant to the visit of the High Commissioner to the country, including cases considered to be arbitrary by the Working Group on Arbitrary Detention.

VI. Conclusions

79. OHCHR welcomes the increased cooperation with authorities to promote the respect, protection and fulfilment of human rights through its presence in the country. OHCHR also welcomes efforts by the Government to increase engagement with international human rights mechanisms, in particular the special procedures system, and through the establishment of a national mechanism for reporting and follow-up. Increased access to detention centres and detainees by OHCHR and the consolidation of the mechanism established to refer individual cases to authorities constitute key protection tools that could serve as catalysts for necessary reforms to ensure respect for human rights.

80. The Government's efforts to reactivate the economy, increase wages and maintain the coverage of social programmes has been insufficient to guarantee a minimum essential level of economic and social rights, in particular for the most vulnerable sectors of society. The enjoyment of the right to an adequate standard of living for millions of Venezuelans is affected on a daily basis by low wages, high food prices, limited access to health care, and persistent public service shortfalls, which have been aggravated in the context of the COVID-19 pandemic and fuel shortages. Sectoral economic sanctions and related over-compliance by the financial sector have exacerbated this situation, including by significantly reducing the State revenues that could have been allocated for the realization of economic and social rights.

81. OHCHR continued to document restrictions to civic and democratic space, including under the "state of alarm" decreed in response to the COVID-19 pandemic. In a context of heightened political tension, OHCHR remains concerned about criminal processes against citizens protesting against lack of access to public services, as well as parliamentarians, leaders of the opposition, journalists, health professionals and trade union leaders. Journalists and human rights defenders critical of the Government continued facing intimidation and public defamation.

82. OHCHR acknowledges a reduction in homicides rates. However, killings of young men by security forces in marginalized neighbourhoods marked by high levels of insecurity continued. Further efforts are needed to address exclusion, inequality and insecurity in impoverished neighbourhoods. OHCHR welcomes the information provided by relevant authorities on the status of investigations and stands ready to continue providing technical assistance to ensure accountability of perpetrators and redress for victims, based on international human rights norms and standards.

83. OHCHR observed a pattern of unlawful arrests, arbitrary detentions and violations of due process guarantees against individuals on the grounds of their alleged involvement in actions to destabilize the Government. Almost all individuals detained by the Directorate General of Military Counter-intelligence were forcibly disappeared for short periods following their arrest and before appearing in front of a judge. OHCHR condemns the various reported attempts of armed insurrections against the Government, and it acknowledges the right of the Government to prevent such acts, in a manner consistent with international human rights law, and to fairly prosecute those involved. However, according to international law, the prohibition of torture, ill-treatment and arbitrary deprivation of liberty are absolute, and the right to a fair trial must be guaranteed, even in states of emergency or in matters of national security.

84. OHCHR acknowledges that the Ministry for Penitentiary Services has reduced the level of violence in detention centres under its administration and has implemented initiatives to address judicial delays in opting for alternative measures to deprivation of

liberty. Challenges remain in access to food, health care, and water and sanitation, as well as in relation to undue judicial delays that could lead to arbitrary detention. According to the information received, conditions of detention at the Directorate General of Military Counter-intelligence do not comply with international human rights norms and standards.

85. The severe economic and social crisis and the political stalemate are affecting millions of Venezuelans and require urgent action by all parties concerned. OHCHR reiterates its call for an inclusive political and social dialogue based on a comprehensive human rights agenda. It stands ready to provide support to ensure that the human rights of all Venezuelans are at the centre of a negotiated and peaceful solution. The establishment of an OHCHR country office would facilitate such support by enhancing engagement with State authorities and institutions, victims of human rights violations, civil society and the United Nations system.

VII. Recommendations

86. The High Commissioner considers that most of the recommendations contained in her previous report to the Human Rights Council (A/HRC/41/18) remain valid. The following recommendations are complementary and seek to guide the Government on the adoption of concrete measures to address the human rights concerns identified in the present report. The High Commissioner recommends that the Government of the Bolivarian Republic of Venezuela:

- (a) Ensure that exceptional measures authorized under the “state of alarm” are strictly necessary and proportionate, limited in time, and subject to independent oversight and review;
- (b) Respect, protect and fulfil the rights to freedoms of opinion and expression, peaceful assembly and association, as well as the rights to access to information and to participate in political affairs;
- (c) Publish the national annual budget and expenditure reports, guarantee access to key data to assess the realization of rights and re-establish the oversight role of the National Assembly on use of public funds;
- (d) Refrain from discrediting human rights defenders and media professionals, and take effective measures to protect them, including by adopting a specialized protocol to investigate human rights violations and criminal offences against them;
- (e) Revise security policies to implement international norms and standards on the use of force and human rights, in particular by restoring the civilian nature of police forces, conducting vetting, restricting the functions of “special forces” and strengthening internal and external oversight mechanisms;
- (f) Ensure systematic, prompt, effective and thorough, as well as independent, impartial and transparent, investigations into all killings by security forces and armed civilian groups (armed *colectivos*), and ensure independence of all investigative bodies, accountability of perpetrators and redress for victims;
- (g) Put an end to incommunicado detention, including by intelligence services, guarantee that any individual subject to pretrial detention is held in official pretrial detention centres subject to judicial oversight, and transfer all persons detained in premises of intelligence services to official detention centres;
- (h) Ensure the rights to food, water and sanitation, health, security and dignity of all persons deprived of liberty, including by meeting gender-specific needs;
- (i) Address the underlying causes of overcrowding and undue judicial delays through comprehensive reform of the administration of justice;
- (j) Adopt specific measures in the context of the COVID-19 pandemic to ensure the rights to health and security of detainees, including by granting alternative

measures to deprivation of liberty to the broadest set of prisoners possible, consistent with the protection of public safety;

(k) Release unconditionally all persons unlawfully or arbitrarily deprived of liberty, including through the implementation of the decisions of the Working Group on Arbitrary Detention;

(l) Ensure effective investigation and sanctioning of those responsible for cases of torture and ill-treatment, and strengthen the National Commission for the Prevention of Torture, in compliance with international human rights norms;

(m) Guarantee a full-scale, United Nations-led response to the humanitarian situation, including increased access for humanitarian actors, facilitating the entry of the World Food Programme, regularizing the presence of international non-governmental organizations and ensuring the protection of all humanitarian workers;

(n) Adopt all necessary measures to ensure the safe, dignified and voluntary return and sustainable reintegration of Venezuelan returnees, ensure their access to health care and social protection, and also ensure their protection from discrimination and stigmatization;

(o) Increase engagement with international human rights protection mechanisms, including the special procedures system, by receiving regular official visits from mandate holders;

(p) Facilitate the establishment of an OHCHR office in the country as an effective means of assisting the State in tackling the human rights challenges and concerns addressed in the present report.

87. The High Commissioner recommends that Member States consider revising, suspending or lifting sectoral sanctions imposed on the Bolivarian Republic of Venezuela, which impede the Government's efforts to address the combined impact on the population of the humanitarian situation and the COVID-19 pandemic.
