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Report of the independent international fact-finding mission on the Bolivarian Republic of Venezuela*

Summary

The present report, submitted to the Human Rights Council pursuant to Council resolution 42/25, contains the findings of the independent international fact-finding mission on the Bolivarian Republic of Venezuela. The report contains an overview of the mission's findings with respect to extrajudicial executions; enforced disappearances; arbitrary detentions; and torture and other cruel, inhuman or degrading treatment committed in the country since 2014. The report concludes with the mission's assessment of responsibilities for the violations found.

* This report was submitted after the deadline to reflect recent developments.



I. Introduction

1. In its resolution 42/25, the Human Rights Council decided to establish an independent international fact-finding mission on the Bolivarian Republic of Venezuela to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhuman or degrading treatment since 2014 with a view to ensuring full accountability for perpetrators and justice for victims.
2. In the same resolution, the Council requested the fact-finding mission to present a report on its findings to the Council during its forty-fifth session. The mission produced the present report and an extended report, issued as a conference room paper, which contains more detail on incidents, analysis and conclusions.
3. Also in the same resolution, the Council urged the authorities to cooperate fully with the fact-finding mission, to grant it immediate, full and unfettered access to and throughout the country, including to victims and places of detention, and to provide it with all the information necessary to fulfil its mandate.
4. The mission sent correspondence to an official of the Government on six occasions between January and August 2020 and did not receive any response. The mission regrets that it was not able to meet with the Venezuelan authorities, either within or outside of the country, to discuss the mandate and to obtain relevant information.
5. Lack of access to the country and travel restrictions related to the coronavirus disease (COVID-19) pandemic presented challenges for the mission's work, and in some respects led to a more restricted focus than would otherwise have been the case. Nonetheless, the mission was able to gather the information necessary to establish facts and draw conclusions in accordance with its mandate. The investigation has identified patterns and documented specific incidents establishing reasonable grounds to believe that violations of international human rights law have been committed, along with crimes under national and international criminal law.

II. Methodology and legal framework

6. The mission used the following data collection methods to establish findings:
 - (a) Interviews with victims, families, lawyers and witnesses with direct knowledge of incidents;
 - (b) Interviews with former officials of the Government, police, intelligence and military, and others with direct knowledge of specific cases or institutions;
 - (c) Interviews with current and former members of the judiciary;
 - (d) Interviews with currently serving members of security forces;
 - (e) Certified digital information (videos, satellite imagery, photos or social media content);
 - (f) Publicly available statements by Government representatives;
 - (g) Review of Venezuelan laws, policies and directives.
7. The mission also referred to secondary information assessed as credible and reliable to corroborate and contextualize information gathered from direct sources, and to discern the extent of patterns of conduct on a wider scale than those revealed by cases investigated in depth.
8. The mission investigated 223 individual cases,¹ out of which 48 are included as detailed case studies in the full report. The mission selected cases for investigation on the basis of substantive and security considerations, including availability and safety of witnesses, and availability of legal case files and digital evidence. This selection in no way

¹ A case refers to a particular incident, event or occurrence, which could involve one or more victims.

suggests that other reported cases are of lesser importance or credibility. In addition, the mission reviewed an additional 2,891 reported human rights violations across its four mandated areas to corroborate patterns. Owing to time and resource limitations, the mission was not able to investigate all contexts involving violations relevant to its mandate, including those within the Arco Minero del Orinoco region, and violations against indigenous peoples.

9. Consistent with other fact-finding missions established by the Human Rights Council, the mission used reasonable grounds to believe as the standard of proof. This standard is met when factual information has been collected that would satisfy an objective and ordinarily prudent observer that the incident has occurred as described with a reasonable degree of certainty. The standard of proof required does not give rise to a finding of criminal responsibility. It is for the appropriate criminal authorities to investigate the acts and conduct documented in the report and establish criminal responsibility.

10. In line with best practices, the mission devoted specific attention to gendered issues and the gender impact of violations throughout its investigation. It used gender-sensitive methodologies and tools for collecting, organizing and analysing information.²

11. The mission assessed facts in the light of international human rights law and international criminal law, as applicable in the Bolivarian Republic of Venezuela. The mission also considered the human rights guarantees under Venezuelan domestic law and other relevant aspects of national legislation.

III. Structural factors contributing to violations

12. The violations documented in the present report took place amid a gradual breakdown of democratic institutions and the rule of law in the Bolivarian Republic of Venezuela since 2014. The weakening of democratic, judicial and institutional accountability mechanisms resulted in increasing impunity, which exacerbated the violations.

13. The Bolivarian Republic of Venezuela continues to suffer hyperinflation, severe shortages of food and medicine and a dire humanitarian crisis, which is aggravated by the COVID-19 pandemic. As of April 2020, the situation had forced over 5 million Venezuelan citizens, about one sixth of the population, to leave the country.

14. The National Assembly, the State's legislative branch, has been continuously stymied since the opposition coalition won two thirds of the seats in December 2015. Since then, the Supreme Court of Justice has continuously struck down laws that the legislature attempted to pass. In September 2016, the Supreme Court held that all National Assembly legislation was null and void (Judgment No. 808).

15. Since August 2017, the National Constituent Assembly, convened by President Maduro in May 2017 and later established by a popular vote,³ has acted as a de facto legislative branch, supplanting the functions of the National Assembly, which are mandated by the Constitution (art. 187). In August 2020, President Maduro announced that the National Constituent Assembly's mandate would end, coinciding with the programmed elections of the National Assembly.

16. As the National Assembly was rendered ineffective, the executive took on increasingly expansive powers. Since 2016, over 25 states of emergency have been declared across the country, authorizing the President to take broad economic, social and security measures. The Supreme Court's constitutional chamber has upheld each of these, despite lack of National Assembly approval, as required under the Constitution (art. 339).

17. In December 2015, a total of 13 judges were appointed to the Supreme Court, in violation of procedures established by law. Since then, the Court's decisions have been aligned with the executive. In March 2017, the Supreme Court assumed legislative functions

² The conference room paper, which functions as a supplement to the present report, includes a chapter on gender analysis and sexual and gender-based violence.

³ Presidential Decree No. 2830 of 1 May 2017.

(Judgment No. 156) and lifted parliamentary immunity of all opposition deputies (Judgment No. 155), decisions that were in part subsequently reversed following a public outcry.

18. Compromised judicial independence contributed to the violations documented in the present report. Most judges are appointed on a temporary basis following selection procedures that are not in accordance with the law. Judges can be removed without cause or regard for the process provided for in the Constitution. Moreover, judges have faced undue pressure to reach certain decisions, as revealed in various cases investigated by the mission.

19. Since 2014, the Government has implemented at least 27 changes to the security framework, adopting laws, plans and policies through executive orders or ad hoc plans, which bypassed the legislative process. Many of these increased military involvement in citizen security tasks and permitted or encouraged State security forces to coordinate with private citizens in maintaining public order.

20. The State security institutions comprise the Bolivarian National Armed Forces, including the Bolivarian National Guard; and police institutions, including the National Bolivarian Police and its Special Action Forces, and the Scientific, Criminal and Criminological Investigator Corps. State intelligence services are mainly carried out by the Directorate General of Military Counter-intelligence and the Bolivarian National Intelligence Service.

IV. Findings

A. Targeted political repression

21. In 2014, the Venezuelan opposition movement intensified efforts to change the Government. Opposition has taken many forms since then, within political, civil and diplomatic circles. It has also involved elements within the Venezuelan military, which attempted to topple the Government by force. Facing threats of destabilization, the Government apparatus responded with repressive tactics and measures. In accordance with its methodology, the mission investigated 110 cases involving these violations, identifying core patterns. Of these, 21 are included in detailed case studies in the full report.

1. Victim profiles

22. The mission found that principal targets of violations were often government critics with high public profiles or people who achieved prominence or represented a perceived threat owing to their actions. They mainly included social activists and political leaders at the forefront of protests; opposition politicians; and military dissidents accused of rebellion, plotting coups or other conspiracies.

23. Intelligence agencies also targeted other profiles seen to challenge official narratives, including selected civil servants, judges, prosecutors, defence lawyers, human rights defenders, journalists, and bloggers and social media users. In 2020, health workers and social media users critical of the Government's response to the COVID-19 pandemic were also detained.

24. People associated with principal targets were also singled out, including families, friends and colleagues or human rights defenders. The questions authorities asked these people under interrogation appeared to suggest that they had been detained to extract information about or apply pressure on the main targets. Organizations that may have provided funding to opposition movements or received international funding were also targeted.

25. From 1 January 2014 to 15 July 2020, the non-governmental organization (NGO) Foro Penal registered 3,479 cases of politically motivated detention, of which 902 (26 per cent) were selective detentions, with the remainder taking place in the context of protests.⁴ Foro

⁴ Foro Penal, *Detenciones de Presos Políticos por Circunstancias Distintas a Manifestaciones y Protestas, sobre la Base de "Presos Políticos"*, p. 1 (document on file with the mission).

Penal describes a “revolving door” phenomenon in cases, in which some people are detained as other people are released, so that the number of detainees remains somewhat fixed over time.⁵

26. Starting in 2014, the first wave of targets included people affiliated with the La Salida protests and associates. Among them were leaders of opposition parties, opposition mayors, human rights activists, social media users, student leaders and people perceived to be on the front line of demonstrations. The repression extended to political leaders and others taking critical stances against the Government during the 2017 and 2019 political crises.

27. Six opposition mayors were detained between April 2014 and December 2017, for periods ranging from 72 hours to over four years, under charges including rebellion, conspiracy and omission of acts to prevent public disorder. The families of opposition mayors have also faced attacks.

28. In December 2015, after the opposition won a majority of seats in the National Assembly, opposition parliamentarians became a focus of repression. The targeting of opposition parliamentarians was ongoing at the time of writing. Since 2014, the Supreme Court has requested that the immunity of 32 National Assembly parliamentarians be lifted, allowing them to be criminally prosecuted. The Supreme Court made the vast majority of these requests to the National Constituent Assembly, although under the Constitution (art. 200), the National Assembly is the body responsible for lifting parliamentary immunity.

29. In 28 of these decisions, the Supreme Court accused parliamentarians of being in a permanent state of committing crimes in flagrante delicto of treason against the homeland, conspiracy, instigation of insurrection, civil rebellion, contempt of court and hate crimes. Six National Assembly members were then arrested and detained, with all but one held for over two years.

30. People associated with National Assembly members and/or with opposition parties were also detained. During interrogations, they were questioned about deputies, particularly about their involvement in alleged conspiracies or other crimes against the Government.

31. Since 2017, there have been a series of arrests of current and former military officials allegedly involved in rebellions or coup attempts to oust the Government of President Maduro. As alleged conspiracies increased, the number of acts of counter-intelligence operations against them also increased. The number of operations and coups d'état planned – or alleged to have been planned, according to high-level Government officials – grew from 3 between 2014 and 2016, to at least 16 between 2017 and 2020.

32. Beginning in 2018, civilians linked to the military targets, such as family, friends and associates, also increasingly became victims of repression, including those who might know the whereabouts of the accused and relatives of military members.

33. On 31 August 2020, President Maduro pardoned 110 people, mainly members of the political opposition, who had been accused of committing criminal acts.⁶

2. Violations

34. The mission finds reasonable grounds to believe that arbitrary detentions were used to target individuals based on their political affiliation, participation, views, opinions or expression, throughout the period under review. In the cases investigated, a number of detainees were also victims of short-term enforced disappearances and acts of torture and cruel, inhuman or degrading treatment, including sexual and gender-based violence, at the hands of the Bolivarian National Intelligence Service and the Directorate General of Military Counter-intelligence.

35. The violations involved individuals at different institutional and hierarchical levels. Key institutional actors within the executive, the law enforcement and intelligence services, and the judiciary played a role.

⁵ <https://foropenal.com/la-puerta-giratoria-de-los-presos-politicos-en-venezuela/> (in Spanish).

⁶ www.youtube.com/watch?v=FUzrg5DeJ3U (in Spanish).

36. State intelligence services have played an integral part in the patterns of violations committed. The intelligence agencies identified targets; carried out arrests, detentions and interrogations; and tortured or inhumanely treated detainees. Detainees were held mainly in intelligence service headquarters in Caracas, outside the purview of the penitentiary system.

(a) *Bolivarian National Intelligence Service*

37. The Bolivarian National Intelligence Service conducts civilian intelligence and counter-intelligence activities against perceived or potential threats to the State, whether internal or external. It advises the executive on security and defence matters.

38. The mission investigated 33 cases, involving 21 male and 12 female victims, in which it found reasonable grounds to believe that the Bolivarian National Intelligence Service had arbitrarily arrested, detained and/or tortured or ill-treated people for political motives. Of these cases, 13 are detailed as case studies in the full report.

39. Most of the arrests followed a period of surveillance and investigation. The arrests took place in a range of circumstances: in the arrestee's home, in public places or while arrestees were driving. The Bolivarian National Intelligence Service searched arrestees' homes and seized items without presenting a search warrant.

40. A former employee of the Bolivarian National Intelligence Service told the mission that the orders determining who would be investigated often came from President Maduro and Diosdado Cabello.⁷ The orders were issued to the Director General of the Bolivarian National Intelligence Service, who passed instructions to the operational directorates.

41. The Bolivarian National Intelligence Service frequently made arrests without warrants, particularly prior to 2019. Many political dissidents were purportedly arrested in flagrante delicto, despite the fact that no crime was actually in progress or had just been committed.

42. In several of the cases investigated, officials of the Bolivarian National Intelligence Service used force or violence during arrests, despite witnesses stating – or video footage showing – that the arrestees were not violent or resisting arrest. Bolivarian National Intelligence Service officials forcibly entered homes, breaking down doors or entering through windows.

43. The mission has reasonable grounds to believe that in several cases, the Bolivarian National Intelligence Service falsified evidence, including planting evidence on the victims, especially firearms, and/or distorting the results of home or car raids.

44. A common pattern was that high-level government officials made public statements referring to detentions either shortly before or shortly after they took place and commenting on the criminal responsibility of the accused. In some cases, government officials announced that the detentions had taken place as part of the Tun Tun Operation announced by Mr. Cabello in his television programme *Con el Mazo Dando*.

45. Those arrested were brought either to the Bolivarian National Intelligence Service headquarters in Plaza Venezuela or to its El Helicoide building, both in Caracas. Once there, officials interrogated detainees without the presence of a lawyer and/or refused to allow them to contact their lawyers when requested.

46. The mission has reasonable grounds to believe that some political opponents and persons associated with them were subject to short-term enforced disappearance during the period under review. The mission documented cases in which Bolivarian National Intelligence Service officials and other authorities either denied having the person in detention or told family members and lawyers trying to locate them that they did not have any information. The whereabouts of detainees remained unknown for periods ranging from a few days – in most cases – to several weeks.

47. The mission found reasonable grounds to believe that Bolivarian National Intelligence Service agents tortured or subjected detainees to cruel, inhuman and degrading treatment.

⁷ Mission interview C2HH03, June 2020.

The torture and ill-treatment were usually carried out within the first few days of detention, prior to initial court appearances, while detainees remained incommunicado. Many former detainees also witnessed the torture of other, non-political detainees in the Bolivarian National Intelligence Service's facilities.

48. The acts were usually committed during interrogations to extract confessions or information, including phone and social media passwords, or to coerce detainees to incriminate themselves or others, particularly high-profile opposition leaders, in the commission of crimes. In the case of National Assembly deputy Juan Requesens, Bolivarian National Intelligence Service officials allegedly administered psychotropic drugs to induce a confession.

49. Cases reviewed by the mission occurred primarily between 2014 and 2018. The torture techniques documented by the mission included stress positions; asphyxiation with plastic bags, chemical substances or water; beatings; electric shocks; death threats; rape threats against either the victim and/or relatives; psychological torture, including sensorial deprivation, constant lighting and extreme cold; and forced nudity.

50. In seven cases investigated, Bolivarian National Intelligence Service agents perpetrated acts of sexual or gender-based violence against detainees in an attempt to elicit confessions or information implicating others, or to degrade, humiliate or punish them.

51. The mission investigated the case of Fernando Albán, who died while in the custody of the Bolivarian National Intelligence Service. High-level officials publicly deemed the death of Mr. Albán a suicide, although forensic evidence raises doubts about this conclusion. The examination did not apply the standards required by the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) or the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. His family was unable to undertake an independent autopsy or to bury his corpse, despite numerous requests.

52. The mission's analysis of accounts from former detainees indicates that from 2014 to 2018 torture was committed in the presence or under the supervision of more senior officials, including the Chief of the Strategic Investigations Directorate and other high-ranking commissioners in the unit.

53. Political detainees spent long periods in pretrial detention with the Bolivarian National Intelligence Service, ranging from months to years, and in one case over four years. In several cases investigated, the Bolivarian National Intelligence Service failed to release detainees despite court orders approving their release while they awaited trial.

54. Political detainees were held in one of two buildings of the Bolivarian National Intelligence Service: headquarters (at Plaza Venezuela) or El Helicoide, often with long periods in isolation. Detention conditions in these buildings were inadequate, in some cases rising to the level of torture or cruel, inhuman or degrading treatment. The mission describes these in detail in the full report.

(b) *Directorate General of Military Counter-intelligence*

55. The Directorate General of Military Counter-intelligence has broad powers to conduct, coordinate and execute activities aimed at the discovery, prevention and shutdown of enemy activity.⁸ It is also tasked with preventing subversive activities against the Bolivarian National Armed Forces and protecting the President.

56. The mission investigated 77 cases in which the Directorate General of Military Counter-intelligence arrested, detained and tortured current and former military officials and civilians associated with them. Of these, eight are detailed as case studies in the full report. Arrests of military personnel and associated civilians increased in 2017 as the number of operations against the Government grew more frequent.

57. The mission has also reviewed information received from Foro Penal about 339 arrests of military personnel and associated civilians. Of these, 187 continue to be detained, two

⁸ Art. 2 of Presidential Decree No. 1,605, 10 February 2015.

having served their sentences fully; 61 have substitute measures; and 41 have been released. The status of the remainder varies.

58. The Directorate General of Military Counter-intelligence arrests took place during the day either at the arrestee's workplace or military base, or upon convening the arrestee to a meeting at which they were detained. In some cases, Directorate General of Military Counter-intelligence officials did not identify themselves and often covered their faces and/or used aliases. The arrests took place at different places around the country. Arrestees were brought to Caracas, either directly to Directorate premises in Boleíta, or first passing through one of several unofficial or clandestine "safe houses" for hours or days.

59. The Directorate General of Military Counter-intelligence has used unofficial or clandestine facilities increasingly since 2018. The mission documented 24 cases of torture taking place in these facilities in 2018 and 2019. The mission was able to identify six such sites on the basis of information provided by victims, lawyers, family members and organizations, the details of which appear in the long report.

60. Officials of the Directorate General of Military Counter-intelligence failed to present arrest warrants and/or failed to explain the reason for detention. In a number of cases, there was a discrepancy between the date of the victim's last known whereabouts and the official date of detention or the official date on the arrest warrant. The official record usually placed the date of detention within 48 hours of the initial appearance, purportedly to appear to be in compliance with the period established by law.

61. In each of the cases investigated, within hours or days of arrests, high-level government authorities made public declarations related to the arrest, damaging the detainees' right to the presumption of innocence.

62. Once detained, arrestees' whereabouts were unknown for periods ranging from a few days to over a week. They were not permitted to call family members or lawyers to inform them about their detention or whereabouts. When relatives approached authorities at the Directorate General of Military Counter-intelligence to inquire about the whereabouts of the victims, they were either provided with no information, or knowledge of their location was denied. The mission has reasonable grounds to believe that these amount to short-term enforced disappearances.

63. The mission examined 77 cases in which military personnel and associates were tortured in the custody of the Directorate General of Military Counter-intelligence. Acts of torture usually occurred during interrogations, shortly after arrest while detainees were held incommunicado and before the initial court appearance. Some were also tortured during later periods of detention in Boleíta.

64. Questions put to detainees suggest that the acts were carried out to extract a confession, to obtain information regarding the participation of others in alleged conspiracies and/or to punish the detainee. Cases reviewed by the mission suggest that methods used by agents of the Directorate General of Military Counter-intelligence to inflict pain have evolved between 2014 and 2020, with a marked increase in levels of violence since 2017.

65. The mission found numerous acts of torture and other ill-treatment, including heavy beatings; asphyxiation with toxic substances and water; stress positions; prolonged solitary confinement in harsh conditions; sexual and gender-based violence, including rape and forced nudity; cuts and mutilations; electric shocks; use of drugs to induce confession; and psychological torture.

66. Some of these acts resulted in serious and/or permanent physical injury, including loss of sensory or motor functions, reproductive injuries, miscarriage, blood in urine and broken ribs. These acts also resulted in severe psychological trauma and depression. Former captain Rafael Acosta Arévalo died in the custody of the Directorate General of Military Counter-intelligence. The mission has reasonable grounds to believe his death was the result of torture.

67. In three cases investigated by the mission, the Directorate General of Military Counter-intelligence perpetrated acts of sexual or gender-based violence against military detainees during interrogation in order to degrade, humiliate or punish them. Female and male officials of the Directorate General of Military Counter-intelligence subjected

individuals to forced nudity, sometimes for days. Male custodians threatened to rape male detainees with pointed objects, mainly sticks and bats, and in one case raped a detainee. Electric shocks and blows were administered, including to the testicles.

68. In most of the cases investigated, the victims were not brought to a medical professional prior to their initial court appearance. In some cases, medical professionals provided medical evidence indicating that detainees were in good health or had not suffered mistreatment, despite visible evidence to the contrary.

69. After initial court appearances, detainees were held in pretrial detention at one of several facilities, although most often in the premises of the Directorate General of Military Counter-intelligence in Boleíta or in Ramo Verde military prison. In the full report, the mission describes detention conditions in detail. In many cases, especially in the Directorate premises in Boleíta, conditions were poor enough to amount to torture or cruel, inhuman or degrading treatment.

70. In some cases reviewed, while detained and awaiting trial in one of several detention centres, individuals were also subjected to torture consisting mainly of harsh disciplinary regimes and severe punishments during their detention, including reprisals for complaints.

(c) *Justice system*

71. The mission found that some public prosecutors and judges played a direct role in cases amounting to arbitrary detention. In many cases, it is difficult to determine whether actors in the justice system willingly participated in the arbitrary detention or whether they did so under pressure.

72. The cases investigated did not provide indications that the legality of detentions was subject to judicial review. At various procedural stages, the State did not provide sound evidence to sustain defendants' participation in the commission of punishable acts. Accusations against defendants were later revealed to be false or based upon manipulated evidence. Confessions were extracted without a lawyer present or under duress. Civilians were also charged with military crimes and contained within the Organic Code on Military Justice, treason against the homeland (art. 464),⁹ theft of military belongings (art. 570), rebellion (art. 476) or outrage against the sentinel (art. 501 ff).

73. Non-compliance with procedural time frames established in the Criminal Procedure Code was systematic. These delays resulted in extended periods of pretrial detention¹⁰ that exceeded two years in many cases. Courts failed to respond to habeas corpus or other judicial review requests that were filed by the detainees or their lawyers to question the delays. Some detainees remained in custody despite having served their sentences. The vast majority of cases reviewed by the mission remained in the preparatory or intermediary phases, despite the time limits for those phases having expired in most cases.

74. All cases reviewed revealed recurrent violations of due process guarantees under domestic and international standards. Political and military detainees also faced interference with the right to adequate defence and a lawyer of their choosing. In addition, in many of the cases documented, courts ignored defendants' requests for privately hired representation and assigned public defenders instead.

75. When defendants were able to secure representation by private lawyers, the lawyer's ability to prepare an adequate defence was hindered. Sometimes lawyers were not provided with essential documents. At other times, lawyers were not informed of court dates. Lawyers also complained that they faced limitations on visits with their clients and/or suffered various forms of harassment and intimidation against them or their families.

76. The mission found that processes for the distribution of cases were often circumvented in order to ensure that cases were assigned to specific prosecutors and judges. Judges and prosecutors have also said that they have been improperly pressured. Franklin Nieves, the

⁹ Treason is also contemplated in arts. 128 ff of the Criminal Code (2005).

¹⁰ Criminal Procedure Code, art. 236.

public prosecutor in the case of Leopoldo López, later described the trial as a sham, and indicated that he remained silent because of fear, owing to pressure exerted by his superiors.

77. According to the Constitution (art. 261), the jurisdiction of military courts is limited to crimes of a military nature, and ordinary crimes, human rights violations and crimes against humanity are subject to ordinary jurisdiction.¹¹ Traditionally, there has been a restrictive interpretation of military jurisdiction.¹² However, the mission's analysis of cases revealed an increasingly frequent use of military jurisdiction to prosecute and try civilians, especially since April 2017.

78. Judicial authorities refused to order investigations into allegations of torture, even in cases in which victims either appeared in court with clear marks of mistreatment or stated during hearings that they had been tortured. In several cases, the judges ordered that the accused be returned to the place where they claimed to have been tortured, usually the premises of the Directorate General of Military Counter-intelligence in Boleíta.

B. Violations in a social control or security context

1. Background

79. The human rights violations that the mission was mandated to investigate, particularly extrajudicial executions, also took place within the context of security operations. These were police and/or military operations aimed at combating crime, which resulted in high numbers of extrajudicial executions against people perceived as criminals.

80. According to the Constitution (art. 43), the right to life is inviolable and the death penalty is prohibited. The organic laws of the various police forces – including the National Bolivarian Police¹³ (and its by-law¹⁴) and the Scientific, Criminal and Criminological Investigator Corps¹⁵ – permit the use of lethal force if necessary to protect the life of a police officer or a third party.

81. Official information about killings by State security forces is not generally available. In the full report, the mission provides an extensive overview of the data collected by others, including from the Ministry of Interior, Justice and Peace; the former Attorney General; and two NGOs: Observatorio Venezolano de la Violencia and Comité de familiares de las víctimas de los sucesos de febrero-marzo de 1989 (COFAVIC). Even the lowest estimates suggest that the rate of killings carried out by State agents is among the highest in Latin America. While not all of the killings were necessarily unlawful, the estimates provide relevant background to the violations documented by the mission.

82. The mission requested information from the Government on the progress of investigations into killings by State security forces. At the time of writing of the present report, the mission had not received a response. The vast majority of cases of killings by security forces have not been subject to prosecution. The principal exceptions are the Public Prosecutor's Office investigation into 43 operations known as Operations for People's Liberation and Operations for People's Humane Liberation, and into the Barlovento case.

2. Operations for People's Liberation and Operations for People's Humane Liberation

(a) Strategy and objectives

83. The mission investigated and reviewed 140 of the Operations for People's Liberation and Operations for People's Humane Liberation, five of which are detailed in the full report as case studies. It also investigated the military operation in Barlovento, which differed in some ways from other operations, having been carried out in accordance with a military plan known as Plan Rondón.

¹¹ See also art. 29 of the Constitution.

¹² Supreme Court, Judgment No. 883, case No. 01-2721, 24 April 2002.

¹³ Decree No. 5,895, arts. 68–72.

¹⁴ Decree No. 2,765, arts. 60–90.

¹⁵ Decree No. 9,045, arts. 84–85.

84. Government representatives presented Operations for People's Liberation as a series of joint military and police operations, which began in July 2015 and continued until July 2017, and which were aimed at liberating territories from criminal activity. Initially implemented five months before the National Assembly elections in December 2015, there are indications that the Operations for People's Liberation were an effort to gain electoral popularity by showing results in combating crime.

85. A first phase of operations took place from July 2015 to May 2016, at which point a new phase was officially launched. On 13 July 2016, one year after the first operation, the Minister of the Interior announced that 143 operations had been carried out during the first half of 2016.

86. In January 2017, the Government relaunched the Operations for People's Liberation as Operations for People's Humane Liberation. In a televised statement, President Maduro said that Operations for People's Liberation had been a good experience, but had also faced criticism. The Government published a protocol of action for the Operations for People's Humane Liberation, containing information about organization and operational design.¹⁶

87. By mid-2017, Government representatives had largely stopped referring to the Operations for People's Liberation and the Operations for People's Humane Liberation in statements, indicating a change of strategy. This shift coincided with a 14 July 2017 public announcement that a specialized tactical force – the Special Action Forces, established within the National Bolivarian Police – would take the lead in the fight against crime and terrorism.

88. The operations involved the deployment of considerable human and logistical resources. In July 2016, the Minister of the Interior said that 95,021 police and military officials had participated in operations to date. The Operations for People's Liberation were implemented in 19 out of 24 states. Of the 140 cases reviewed by the mission, most took place in the Caracas metropolitan area and in Miranda and Carabobo states.

89. A common pattern is that the Operations for People's Liberation began during the early hours of the morning, often before dawn, and that security forces blocked off neighbourhood streets so that people were unable to enter or leave. Operations for People's Liberation took place primarily in urban, low-income neighbourhoods. Both female and male security officials participated in the operations.

90. Several of the operations were announced as having specific criminal targets. In some cases, security forces carried out prior intelligence work to identify the targets, including infiltrating community activities; recruiting sex workers; using drones; reviewing pictures and profiles on social media; and reviewing contacts and photos in cell phones seized from known criminals. Most people killed in the cases investigated did not have criminal records or outstanding arrest warrants against them.

(b) *Killings in the Operations for People's Liberation and the Operations for People's Humane Liberation*

91. There are reasonable grounds to believe that security forces committed extrajudicial executions, and arbitrary arrests and detentions during the Operations for People's Liberation and the Operations for People's Humane Liberation.

92. In its investigations, the Public Prosecutor's Office identified 505 people killed during the Operations for People's Liberation (502 men and 3 women, including 27 adolescents). In the 140 cases¹⁷ reviewed by the mission, 413 people were killed. Among them were 306 men (16 of which were minors) and 3 women; no information was available on the sex of the other 104 victims. The range of number of deaths in a single operation were 1 to 3 deaths, in 52 cases; 4 to 9 deaths, in 36 cases; and 10 or more deaths, in 8 cases.

93. There is a clear pattern of the Government claiming that deaths occurred as a result of confrontations or that victims were resisting authority at the time of their death. In most of

¹⁶ Ministry of Interior, Justice and Peace, *Protocolo de Actuación de los Cuerpos de Seguridad del Estado en la Operación de Liberación Humanista del Pueblo*, (Caracas, January 2017).

¹⁷ A case refers to one operation, often involving numerous victims, rather than the human rights violations faced by one person.

the cases, victims' family members – usually women, older persons and children – were removed from the houses by the security forces, limiting witnesses at the scene to security forces only.

94. These claims stand in contrast to accounts from family members and other witnesses who last saw the victim alive under the control of armed security officials. Furthermore, victims received fatal shots to vital areas of the body, sometimes at point blank range. The fatal shots suggest that security forces did not attempt to employ non-lethal methods of control, de-escalation or restraint prior to the use of lethal force. In the cases investigated, no security forces were reported killed in the Operations for People's Liberation, making armed confrontations seem unlikely.

95. There are reasonable grounds to believe that during the Operations for People's Liberation and the Operations for People's Humane Liberation, security forces planted evidence or simulated confrontations. Allegations of cover-ups that were documented included the planting of weapons or contraband; the shooting of walls of the house to make it look like a gunfight had taken place; and shots fired in the air while shouting that the victims were attempting to escape.

96. While official numbers vary, the Public Prosecutor's Office said that, between July 2015 and March 2017, security forces had detained 1,050 individuals.¹⁸ One year after the official launch of the Operations for People's Liberation, the Minister of the Interior indicated that 2,399 people had been detained for different crimes. The NGO Programa Venezolano de Educación-Acción en Derechos Humanos documented even more, reporting an estimated 15,946 arrests in the context of the Operations for People's Liberation in 2015 alone.¹⁹

97. The mission analysed data from the Public Prosecutor's Office of 329 cases of detentions in more than 160 operations, involving 877 people who were allegedly detained in flagrante delicto, during the Operations for People's Liberation carried out between 12 July 2015 to 13 October 2016. The most common crimes charged were: resistance to authority (26.8 per cent); smuggling (8.2 per cent); drug trafficking (7.6 per cent); and/or illegal possession of firearms (7 per cent). There is no information available regarding the outcome of these cases.

98. Some common patterns in the modus operandi of the detentions emerged. Security forces neither presented arrest warrants nor informed detainees of the reasons for their arrest. Security forces used violence during arrests. The mission also documented temporary detentions of family members of victims who were killed – especially women, children and older persons – who were removed by force or detained for short periods.

99. The security officers entered homes and seized items without a search warrant. The mission also documented consistent allegations by witnesses and victims that security forces destroyed furniture and installations, and stole items, including food and household goods, cash, cell phones, computers and other valuables.

100. Victims of executions and detentions carried out by security forces were largely young men. Officers involved in the operations also perpetrated acts of violence against women, most often during the process of removing relatives from their homes.

101. Female relatives were generally the ones to file complaints about the murder of their family members or to seek information about their whereabouts. Surviving family members also faced the additional social and economic hardship resulting from the executions, detentions and raids.

3. Other extrajudicial executions by police forces

102. There are reasonable grounds to believe that officers from two branches of the police – the National Bolivarian Police and its Special Action Forces, and the Scientific, Criminal and Criminological Investigator Corps – committed extrajudicial executions during security

¹⁸ Public Prosecutor's Office, *Actuaciones del Ministerio Público relacionadas con los OLP en Venezuela (Julio 2015–Marzo 2017)*.

¹⁹ www.derechos.org.ve/pw/wp-content/uploads/Derecho-a-la-Libertad-Personal.pdf (in Spanish).

operations outside the context of the Operations for People's Liberation and the Operations for People's Humane Liberation.

103. The Special Action Forces unit was created in April 2016 as an elite tactical force within the National Bolivarian Police. Sources with inside knowledge of the unit described it to the mission as unprofessional and lacking training.

104. The mission investigated 11 cases involving 18 extrajudicial executions by State security forces, which are included in case studies in the full report. The mission also conducted an extensive review of cases reported by local press from January 2014 to December 2019 in order to corroborate patterns and changes over time. In total, the mission reviewed 2,417 incidents involving 4,681 deaths by security forces outside of the context of the Operations for People's Liberation and the Operations for People's Humane Liberation.

105. Investigations revealed that two security forces – the Scientific, Criminal and Criminological Investigator Corps, and the National Bolivarian Police and Special Action Forces – were responsible for 59 per cent of killings in the years under review. Both of these institutions depend administratively and functionally on the Ministry of Interior, Justice and Peace. Between 2014 and 2018, the Scientific, Criminal and Criminological Investigator Corps was the security force most commonly involved in cases (45.4 per cent). Subsequently, in 2019, the National Bolivarian Police and Special Action Forces were identified as the perpetrators in the majority of cases (64.5 per cent).

106. In the cases reviewed, the victims were largely young males. The male victims fell between the following age ranges: under 18 years of age (6 per cent), aged 18 to 25 (51 per cent), aged 26 to 35 (31 per cent) and aged over 35 (11 per cent). Only 27 cases reviewed involved women as victims of killings.

107. Although women were not primary targets of physical violence in the operations, in at least 4 of the 11 cases documented, female family members reported being physically assaulted by security forces. In almost all of the cases documented, surviving female relatives reported suffering significant economic hardship following the executions of their sons, brothers or husbands.

108. In the cases investigated, the police approached houses directly, suggesting that they had prior intelligence to identify and locate the victims. According to the investigations, the National Bolivarian Police and Special Action Forces kept files with information about targets, including photos, names, nicknames and suspected crimes. Interviewees also confirmed that information was gathered from community-based informants, including the community councils.

109. Overall, however, officers of the National Bolivarian Police and Special Action Forces interviewed consistently indicated that intelligence work was deficient, lacked adequate resources and was frequently incorrect.

110. The killings most often took place in the victim's house or in the neighbourhood. In several cases, the police carried out the operations in the early morning or late at night, at times when the persons targeted would likely be at home. Police entered homes without presenting a warrant. To ensure there were no witnesses, police removed the victim's family members, primarily women, older persons and children, from their homes or isolated them from the target in separate locations in the house.

111. In several cases, neighbourhoods were cordoned off and neighbours were told to stay inside their homes. Some were still able to see or hear certain relevant events, such as shouting or shots fired. In some cases, the police told family members that they were radioing headquarters to check the victim's criminal record before the killings were committed.

112. A source with inside knowledge of operations of the National Bolivarian Police and Special Action Forces told the mission that, after the background check, the head of the operation in direct communication with superiors could request and receive a "green light to kill". To kill is referred to by the code "80".

113. The mission documented a pattern of shootings at point blank range in vital areas, including the head and thorax, with one or two shots. One former officer of the National Bolivarian Police and Special Action Forces said that he and his colleagues refer to killings

as “squaring people”. This interviewee said that there is a “triangle” from the chest of the victim upwards where shooting people is allowed.

114. The official version of the events in many cases was that the victims were killed while resisting arrest, in a confrontation and/or during an exchange of fire. However, the mission received direct evidence contradicting the official version. Witnesses interviewed stated that the victims were last seen or heard under the control of the police officers, including on a bed, on the ground, with a hood over the victim’s head or with the victim’s hands raised. Despite efforts to remove them from the scene, in some cases witnesses saw the officers firing the fatal shot.

115. The mission identified a pattern of allegations that police had attempted to cover up killings by simulating confrontations. The alleged actions include altering the crime scene and/or destroying forensic evidence; simulating a shoot-out or the escape of the victim; firing a shot from the hand of the victim to leave traces of gunpowder; planting weapons or contraband and transferring victims to hospitals even if they are dead.

116. Officials of the National Bolivarian Police and Special Action Forces corroborated these allegations, confirming practices of simulation of apparent confrontation. A former Special Action Forces officer said that the officials usually fire shots to mimic a shoot-out or they take an illegal weapon they have and then leave it there. Another source told the mission that the police routinely planted a gun or a grenade – referred to in jargon as “agricultural missions” to plant “seeds” – and then alleged that there was an armed confrontation.

117. The police forces themselves have published or confirmed information to news sites regarding the killings, in some cases accompanied by social media posts containing information about victims’ criminal records, their gang nicknames or photos of them wielding guns.

118. In 723 of the cases the mission reviewed, victims’ families said that the victim had no criminal history. In 67 cases reviewed by the mission, media reports said that the police had gone to a neighbourhood to look for a certain wanted person or criminal, but had killed another person by mistake.

119. An allegation appearing in almost all of the cases investigated was that police officers took basic goods (food and clothing) and valuables (cash, jewellery and electronics) from the houses of deceased victims. Several sources said that financial benefits and/or control over criminal markets provided an incentive for the killings, especially in the light of low police salaries, or that the killings were related to retribution or power dynamics within criminal relationships.

C. Violations in the context of protests

120. Since 2014, a series of events have taken place in the Bolivarian Republic of Venezuela to challenge Government decisions and denounce the political, economic and social situation. According to NGO Observatorio Venezolano de la Conflictividad Social, 61,295 protests took place between January 2014 and December 2019.

121. The demonstrations peaked at certain times. A review of available data indicates that human rights violations were higher in periods in which the protests were related to the political crisis. The periods of particular intensity were February to April 2014; April to July 2017; and January and February 2019. The mission prioritized investigating violations occurring during these periods.

122. The mission reviewed 97 cases in which human rights violations occurred. Of these, 14 appear in the full report as detailed case studies. The demonstrations were both planned and spontaneous, and they involved students, political parties, neighbourhood associations, NGOs, unions and professional associations. The demonstrations focused on denouncing concerns related to the political situation and economic and social rights.

123. Many protests caused transport disruptions, either owing to the number of participants, or as a result of sit-ins or roadblocks, including *guarimbas* made of different types of items.

124. Of the protests the mission reviewed, 13 involved some form of confrontation between security forces and protesters. Security forces fired tear gas canisters, anti-riot pellet guns and used hydrant trucks. The mission reviewed over 70 videos shot at demonstrations, none of which gave any indication that security forces attempted non-violent measures, such as dialogue or warnings, before taking these measures.

125. Some individuals involved in protests also committed violent acts, including throwing rocks or Molotov cocktails at the security forces, which could be criminal acts. On occasion, protesters used improvised mortar devices to fire low-grade explosive material.

126. According to the Constitution, the police are responsible for maintaining public order (art. 332). The Constitution also grants the Bolivarian National Guard a basic responsibility for conducting operations as required to maintain internal order within the country (art. 329).

127. Since 2014, the command structure responding to protests became increasingly militarized. With resolution No. 8,610 of January 2015, the Minister of Defence authorized the Bolivarian National Armed Forces to intervene in public meetings and demonstrations. In April 2017, the President enacted Plan Zamora, describing a military response in protests and against different categories of perceived enemies. Other targeted military plans were derived from that master plan: for example, Plan Guaicaipuro and Plan Zamora Fragmentada in Mérida State.

128. Several plans and policies applied to demonstrations provided scope for military and paramilitary intervention in protests and sometimes for the participation of *colectivos* (armed citizen groups) in security tasks.

1. Arbitrary detentions and due process concerns

129. The mission has reasonable grounds to believe that during the protests in the periods reviewed – February to April 2014; April to July 2017; and January and February 2019 – recurring arbitrary detentions of demonstrators occurred in violation of their rights to liberty and security.

130. Official statistics are not available publicly but civil society organizations have attempted to track numbers of arrests in the context of protests, identifying between 3,459 and 3,696 in 2014; between 2,553 and 5,549 in 2017; and an estimated 2,252 in 2019.²⁰

131. In April 2014, the Supreme Court issued a judgment interpreting the right to peaceful assembly under the Constitution (art. 68) and the 2010 Law on political parties, public meetings and protests as requiring prior permission from local authorities.²¹ The Court held that failure to obtain authorization absolutely limited the right to peaceful demonstration, preventing any kind of meeting or demonstration from being held and that those holding protests without authorization could incur in criminal responsibility for disobeying authority.

132. The mission observes that the Supreme Court decision appears at variance with the country's international obligations related to the right of peaceful assembly, under the International Covenant on Civil and Political Rights. Human rights standards obligate States to allow peaceful assemblies without unwarranted interference and to facilitate the exercise of that right. Notification systems are permissible to facilitate peaceful assemblies but must not be misused to repress them.

133. Detainees were held *incommunicado* before being brought to a judge for their initial court appearance, unable to contact families and lawyers. In most cases, the detainees were not informed of the reasons for their arrest until they were brought before a judge for the initial court appearance, which often did not take place within 48 hours of detention, as required by the Constitution (art. 44 (1)).

134. In the cases investigated, 403 persons were arrested. Of these, 312 were charged with a criminal offence during the initial appearance. In 66 cases, the judge ordered the pretrial detention of the detainees to be continued. The mission's review of the cases did not reveal

²⁰ See www.derechos.org/ve/wp/wp-content/uploads/16libertad_personal1.pdf (in Spanish); and Foro Penal, *Gráfica de Arrestos por Año 2014–2019* (on file with the mission).

²¹ Supreme Court, Judgment No. 276, 24 April 2014.

a basis for a reasonable presumption of risk of flight or obstruction with the investigation, as required to sustain custodial measures.²²

135. The most common crimes charged under civilian jurisdiction were public incitement,²³ instigation to commit a crime,²⁴ criminal association²⁵ and obstruction of a public thoroughfare.²⁶ To a lesser extent, detainees were charged with damages or arson,²⁷ use of minor to commit a crime²⁸ and possession of an incendiary substance.²⁹

136. The mission has reasonable grounds to believe that in some cases charges were based on information planted or fabricated by security forces. Such acts included forging police reports or taking pictures of protestors posing next to Molotov cocktails. The mission interviewed a witness who worked for Venezuelan intelligence services for over 10 years. The witness stated that there were times when there were interventions against students, but there was no merit in doing so, so the Bolivarian National Guard had to plant information.

137. In 2017, many protesters arrested were prosecuted under military jurisdiction, contrary to the “natural judge” principle contained in article 49 (4) of the Constitution. The most common charges were the crimes of attacking the sentry (a military crime involving an attack on a military guard, which carries a penalty of 14 to 20 years in prison); rebellion; and damage to the facilities of the armed forces.

138. The mission found that compromised judicial independence and the executive interference in judicial processes contributed to arbitrary detentions of protesters. One former judge said that the pressure was tremendous at that time (2014) and so was the fear of reprisals. He said that the executive ordered judges to grant arrest and search warrants against certain people. The former judge said the president of the judicial circuit visited him more than once and asked why he had released protesters when the order was to leave them in detention.

2. Torture and cruel, inhuman or degrading treatment

139. The mission has reasonable grounds to believe that security forces, including the Bolivarian National Guard, the National Bolivarian Police and the Bolivarian National Intelligence Service, subjected demonstrators to torture and cruel, inhuman or degrading treatment during the periods under review.

140. The detainees remained in detention for a period of between three days and almost three years. In almost all cases reviewed, the detainees were denied contact with their families or lawyers before initial court appearances. Detainees were held with numerous other people who had been arrested in the context of the protests and who experienced similar situations as those described in the cases investigated.

141. Detainees suffered ill-treatment and torture during arrest and transfer to detention facilities, as well as during detention. The facilities used to hold detainees before initial court appearances were not equipped as detention centres, lacking sleeping space, bathroom facilities, or food and water. Overcrowding was common.

142. The mission found that acts of torture or ill-treatment inflicted upon those arrested and detained at protests included beatings; electric shocks; being forced into stress positions; exposure to tear gas in closed areas; sexual and gender-based violence; and/or psychological torture and ill-treatment.

143. The torture and/or ill-treatment against demonstrators appeared to be for punishment purposes, as revealed by the language used by security forces to humiliate or insult them. In other cases, the torture and/or ill-treatment was used to extract information. In many cases,

²² Criminal Procedure Code (2012), art. 236.

²³ Criminal Code, art. 285.

²⁴ Ibid.

²⁵ Ibid., art. 286.

²⁶ Ibid., art. 357.

²⁷ Ibid., arts. 343 and 473.

²⁸ Organic Law for the Protection of Children and Adolescents (2007), art. 264.

²⁹ Criminal Code, art. 296.

interviewees reported that security officers had made them sign documents saying that their rights had been respected and that they had not been mistreated during detention.

144. Some people arrested during demonstrations, particularly those identified as leaders, were transferred to facilities of the Bolivarian National Intelligence Service. They were detained there for long periods, during which they were subjected to various forms of torture and ill-treatment.

3. Killings in the context of protests

145. The mission has reasonable grounds to believe that in cases investigated, international and national standards on the use of force were not respected, causing arbitrary deprivation of life. Security forces used lethal force against the victim when it was not strictly unavoidable to protect lives. Security forces also used less-lethal weapons in a lethal manner, which resulted in the deaths of the demonstrators.

146. The mission investigated 36 cases of killings in the context of protests (32 men and 4 women) on the basis of information collected from direct sources and published by government sources and NGOs. The Public Prosecutor's Office reported 43 deaths in the context of protests in 2014³⁰ and 124 deaths between April and July 2017.³¹ According to NGOs, between 41³² and 61³³ people were killed in protests in January and February 2019.

147. Different security forces were responsible for the killings, most often the Bolivarian National Guard, followed by the National Bolivarian Police, local police, other members of the Bolivarian National Armed Forces and the Bolivarian National Intelligence Service. The mission examined seven cases in which *colectivos* were responsible for using lethal weapons that killed demonstrators. In each case investigated, State security forces failed to intervene.

148. The Public Prosecutor's Office has taken some steps to investigate killings, particularly prior to the change of the Attorney General in 2017. However, of 165 cases of killings that occurred in the context of protests in 2014, 2017 and 2019, only five have resulted in convictions and sentencing (four in 2014 and one in 2017).

149. Alianza de Familiares y Víctimas 2017 (Alfavic), an organization formed by the parents and relatives of 14 victims of protest killings, reports having faced barriers when attempting to clarify the circumstances surrounding the deaths.³⁴ Those barriers include public prosecutors not sharing case files with private lawyers, the high turnover of public prosecutors assigned to cases and the Bolivarian National Guard's refusal to provide information relevant to the investigations.

150. The right to life under the International Covenant on Civil and Political Rights imposes positive obligations upon the State to investigate and prosecute all allegations of arbitrary deprivation of life, whether committed by State agents or private individuals, including allegations of excessive use of force.³⁵

V. Responsibilities

151. The mission has reasonable grounds to believe that the acts and conduct described in the present report amount to arbitrary killings, including extrajudicial executions; torture and other cruel, inhuman or degrading treatment or punishment, including sexual and gender-based violence; enforced disappearances (often short-term); and arbitrary detentions, in violation of the national law and international obligations of the Bolivarian Republic of Venezuela.

³⁰ Office of the Attorney General, *Informe Anual 2014 a la Asamblea Nacional*.

³¹ Public Prosecutor's Office, *Balance de Víctimas Fallecidas y Lesionadas Durante Manifestaciones en Abril-Junio de 2017* (on file with the mission).

³² www.derechos.org.ve/informe-anual/informe-anual-enero-diciembre-2019 (in Spanish).

³³ www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/01/INFORMEANUAL-OVCS2019-1.pdf (in Spanish).

³⁴ Alfavic, "Note to journalists/press, 10 December 2019" (document on file with the mission).

³⁵ Human Rights Committee, general comment No. 36 (2018) on the right to life, paras. 27–29.

152. The human rights violations and crimes investigated by the mission and outlined in the present report give rise both to State responsibility and to individual criminal responsibility under domestic or international criminal law, or both.

153. The State, as primary duty holder of international human rights obligations, is responsible for all acts that are attributable to it and that constitute a violation of international obligations. In addition to the State's obligation to prevent human rights violations and ensure accessible and effective remedies to individuals when they occur, the State's failure to investigate and to bring to justice perpetrators of such violations itself gives rise to a separate breach of the international human rights obligations.

A. Findings by context

154. With respect to violations against targeted political and military dissidents by intelligence services, the mission has recorded in its database the names of officers identified by victims as those directly responsible for the violations and crimes committed. The mission also has reasonable grounds to believe that high-level authorities within the Bolivarian National Intelligence Service and the Directorate General of Military Counter-intelligence either committed, ordered or contributed to violations, or they knew that subordinates were committing violations and, despite having the authority to prevent and repress them, failed to do so.

155. The individual responsibility of specific prosecutors or judges for violations or crimes, by acts or omissions, merits additional investigation. In certain cases, prosecutors and judges have played a direct role in cases that amount to arbitrary detentions. In addition, the judiciary has failed to act as a check on other State actors, perpetuating impunity for the violations and crimes committed.

156. In relation to violations and crimes committed during the Operations for People's Liberation and the Operations for People's Humane Liberation, the mission found that extrajudicial executions were committed by officers belonging to the military, police and intelligence, who acted jointly. The mission has reasonable grounds to believe that high-level officials in those institutions contributed to the commission of the documented crimes. In addition, the mission has reasonable grounds to believe that police and military superiors and commanders knew or should have known about the violations committed during operations and, having had effective command and control, failed to take adequate measures to prevent and repress them.

157. With regard to the Barlovento case, the mission has reasonable grounds to believe that the responsibility for the violations and crimes committed extends beyond those identified as responsible and charged by the Public Prosecutor's Office.

158. Regarding extrajudicial executions committed by the National Bolivarian Police and its Special Action Forces, and the Scientific, Criminal and Criminological Investigator Corps, the mission has reasonable grounds to believe that certain high-level authorities had knowledge of and contributed to the commission of those crimes. It also has reasonable grounds to believe that others, in their roles as commanders and superiors, knew or should have known about those crimes, and having effective command and control, did not take measures to prevent or repress them. The responsibility of regional and State-level authorities within these forces correspond to the areas where they exercised effective authority and control.

159. Regarding human rights violations in the context of protests, in the cases investigated, the mission has collected information regarding individuals and units allegedly involved in the perpetration of arbitrary detentions; torture and cruel, inhuman and degrading treatment; and arbitrary deprivation of life, at various levels of the chain of command, including at the tactical, operational, strategic and political levels. The mission observes that more investigations would be necessary to identify specific individual responsibilities, especially at low- and mid-levels of authority and control.

B. Individual criminal responsibility

160. The mission has reasonable grounds to believe that most of the violations and crimes documented in the present report were committed as part of a widespread and systematic attack directed against a civilian population, with knowledge of the attack, pursuant to or in furtherance of two distinct State policies. First, there was a policy to silence, discourage and quash opposition to the Government of President Maduro, including by targeting individuals who, through various means, demonstrated their disagreement with the Government, or who were perceived as being against the Government. In addition, their relatives and friends were targeted for being associated with them. Second, there was a policy to combat crime, including by eliminating individuals perceived as “criminals” through extrajudicial execution.

161. The mission has reasonable grounds to believe that the following crimes against humanity were committed in the Bolivarian Republic of Venezuela in the period under review: murder; imprisonment and other severe deprivations of physical liberty; torture; rape and other forms of sexual violence; enforced disappearance of persons in the Barlovento case; and other inhumane acts of a similar character intentionally causing great suffering or serious injury to the body or to mental or physical health. Some of the same conduct may also constitute the crime against humanity of persecution, as defined by the Rome Statute of the International Criminal Court.

162. All the violations and crimes documented in the present report give rise to individual criminal responsibility, either as crimes against humanity or as distinct crimes established in national law, or both. The mission does not attempt to determine the modes of criminal responsibility that different individuals mentioned in the report may incur. However, the report presents ample information demonstrating that, in the period of review, State authorities – both at the presidential and the ministerial level – held and exercised their power and oversight over the civilian and military security forces and agencies identified in the report as perpetrators of violations and crimes documented, namely: the Bolivarian National Armed Forces, including the Bolivarian National Guard; the National Bolivarian Police, including its Special Action Forces; the Scientific, Criminal and Criminological Investigator Corps; municipal and state police forces; the Bolivarian National Intelligence Service; and the Directorate General of Military Counter-intelligence.

163. The information available suggests that the measures taken by State authorities to prevent or repress these crimes, or to afford an effective remedy to victims, were largely insufficient. At the same time, there are multiple indications that, despite having knowledge of the crimes documented in the report, the authorities not only failed to change their course of action, but in fact, continued to adopt policies and plans and contributed to their implementation, resulting in the commission of those crimes. Authorities provided essential contributions, including the material, logistical and human resources necessary for the security and intelligence operations that, as documented in the report, resulted in the commission of crimes.

164. The mission has reasonable grounds to believe that the President; the Minister of Interior, Justice and Peace; and the Minister for Defence ordered or contributed to the commission of the crimes documented in the report, and having the effective ability to take preventive and repressive measures, failed to do so. The exact contours and extent of these contributions must be duly investigated and a determination of their individual criminal responsibility – either in a national or international jurisdiction – must be made by the competent judicial authorities.

165. The mission also has reasonable grounds to believe that the directors of the security and intelligence entities, which were involved in the commission of the crimes documented in the report, ordered or contributed to the commission of these crimes, and that despite having the effective ability to take preventive and repressive measures, failed to do so. The exact contours and extent of these contributions must be duly investigated and a determination of their individual criminal responsibility – either in a national or an international jurisdiction – must be made by the competent judicial authorities.

166. The direct perpetrators of the crimes documented in the report are responsible for their actions. Others are also liable for their criminal conduct, including the immediate supervisors of the perpetrators and others in the chain of command who had knowledge or should have had knowledge of the crimes, who had effective control over their subordinates and who failed to take adequate measures to prevent or repress the crimes. Their acts must be duly investigated and a determination of their individual criminal responsibility made by the competent judicial authorities.

C. Recommendations

167. In the full report, the mission makes 65 detailed recommendations regarding measures that should be taken to address the violations and crimes documented, including structural factors contributing to violations. The mission recommends that the Bolivarian Republic of Venezuela immediately carry out prompt, effective, thorough, independent, impartial and transparent investigations into the human rights violations and crimes described in the present report, bringing perpetrators to account in line with international human rights norms and standards, and providing justice and reparations for victims. The State should ensure that investigations include those at higher levels of responsibility, with respect to all violations and crimes documented.

168. The mission also addresses recommendations to the international community, including that States should consider initiating legal actions against individuals responsible for the violations and crimes identified in the report, in accordance with their relevant domestic legislation. The report recommends that, in its consideration of cases, the Office of the Prosecutor of the International Criminal Court take into account the victims' needs to have justice served in a timely fashion.
