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

* Reproduced as received in the language of submission only.

CHAPTER I. INTRODUCTION AND FRAMEWORK

I. Introduction

1. In its resolution 42/25 of 27 September 2019, the Human Rights Council established an independent fact-finding mission on the Bolivarian Republic of Venezuela (hereinafter "Venezuela") "to investigate extrajudicial executions, enforced disappearances, arbitrary detentions and torture and other cruel, inhumane or degrading treatment since 2014 with a view to ensuring full accountability for perpetrators and justice for victims". The Human Rights Council requested the Fact-Finding Mission to present a report on its findings during an interactive dialogue at its forty-fifth session in September 2020.

2. On 2 December 2019, the President of the Human Rights Council appointed Marta Valiñas of Portugal, Paul Seils of the United Kingdom of Great Britain and Northern Ireland and Francisco Cox of Chile to serve as the members of the fact-finding mission. Ms. Valiñas was selected as chairperson. The Fact-Finding Mission (hereinafter "the Mission") was supported by a secretariat of 13 professional staff based in Panama City, consisting of a coordinator, human rights investigators, legal and gender advisers, digital forensic and military experts, and security, administrative and reporting officers.

3. The Mission produced two reports, the report presented to the Human Rights Council (A/HRC/45/33) and the present extended conference room paper, which provides a more detailed description of the incidents, analysis and conclusions contained in the report presented to the Human Rights Council.

4. The report focuses on patterns of conduct within which the four mandated human rights violations occurred. Within each pattern of conduct, the report analyzes specific incidents in more detail as illustrative examples of the patterns within which they took place. Given the focus of the mandate on accountability, the Mission sought to not only establish and verify incidents and investigate the mandated human rights violations and crimes but also to identify those responsible for such violations and crimes. In investigating the linkage evidence between the crimes and those responsible, the Mission has sought to identify command structures, patterns in conduct and indicators of control and discipline.

5. In its resolution establishing the Mission, the Human Rights Council urges the Venezuelan 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 all the information necessary to fulfil its mandate (para. 25). The Human Rights Council specified that it would consider establishing a Commission of Inquiry if the situation continues to deteriorate or if the Venezuelan authorities do not meaningfully cooperate with the Office of the High Commissioner (para. 27).

6. The mission deeply regrets that it was not able to visit Venezuela and undertake in-country fact-finding. The Members formally requested on 14 January 2020 to have a meeting with the Permanent Representation of the Bolivarian Republic of Venezuela to the United Nations in Geneva. This followed a similar request made by the Coordinator of the Mission on 7 January 2020. On 3 March 2020, the Members formally requested access to conduct investigations in Venezuela. The Mission also sent letters to the Government on 14 May 2020, 2 June 2020 and 7 August 2020 requesting information on issues of concern to the mandate. On 21 July and 4 September 2020, the Mission wrote to the Government expressing its intention to deliver the report to the Government ahead of publication for their consideration and comments, and requesting details of how delivery should be made. All correspondence was delivered to the Permanent Representative in Geneva and the letters of 3 March 2020 and 21 July 2020 were delivered in hard copy to the Chancellery in Caracas as well. At the time of publication, the Mission had not received any response to these letters. The Mission regrets not being able to meet with Venezuelan authorities, either within or outside of the country, to discuss issues of relevance to the Mission's mandate.

7. The Mission had several constraints to the investigation, including lack of access to Venezuela and witness protection concerns. These constraints increased in March 2020 when the Covid-19 outbreak prevented the possibility of travel. The in-country movement

restrictions due to the pandemic also presented difficulties for the investigation. This included the fact that several witnesses were unable to travel to secure locations for interviews and sources could not access key documents kept in their offices. Problems of electricity blackouts and internet failures in Venezuela also often hindered telephone interviews.

8. The Mission was nevertheless able to gather the information necessary to establish facts and draw conclusions in accordance with its mandate. The investigation has identified specific incidents and patterns establishing reasonable grounds to believe violations of international human rights law and international criminal law have been committed. The Mission has indicated throughout the present report where further investigations may be required.

II. Methodology and Legal Framework

A. Methodology and Standard of Proof

9. The Mission collected information through the following main methods: (1) confidential interviews, both in-person and via secure telephone or video connections; (2) confidential documents obtained from individuals and organizations, including legal case files; (3) a call for submissions; and (4) review of open source information. The Mission carried out 274 interviews with victims, witnesses, family members, former State officials, lawyers, representatives of non-Governmental organizations and international personnel.

10. The Mission made full use of available open source information on Venezuela to conduct its investigations. This includes social media (especially Facebook, Twitter, Instagram and YouTube), blogs, reports, journalistic articles, op-eds, press releases, etc. The Mission referred to open source information to identify and verify incidents and actors involved (victims and perpetrators) and to corroborate and help contextualize information gathered from direct sources through confidential documentation and interviews. The Mission determined whether the information in open source documents are prima facie reliable by reviewing and evaluating the content as well as contextual information.

11. Consistent with other Fact-Finding Missions established by the Human Rights Council, the Mission used "reasonable grounds to believe" as its standard of proof. The reasonable grounds standard is met when factual information has been collected which 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 is applied to both of the determinations relevant in the identification: (a) that the violation or crime occurred, and (b) that the individual identified was responsible. This standard of proof is lower than that required in criminal proceedings to sustain an indictment, but is sufficiently high to indicate that further investigations are warranted.

12. The Mission investigated 223 cases,[1] of which 48 are included as in depth case studies in the present report. Criteria for selecting cases included substantive, security and other considerations, such as, availability of witnesses, legal case files and digital evidence. In order to corroborate the patterns identified in the cases investigated, the Mission reviewed an additional 2891 cases of human rights violations in its four mandated areas, based on both direct and secondary information.

13. Individual cases or incidents contained in the report are based on at least one credible source of direct information, which was independently corroborated by at least one other credible source of information. Specific major incidents are based on multiple accounts from eyewitnesses and victims, allowing for in-depth fact-finding and detailed event reconstruction. Where the report describes patterns of conduct, these are based on the common elements established by the cases investigated, corroborated by other credible information collected.

14. The Mission considered the following to be sources of direct information, where the sources were reliable and credible:

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

- Interviews with victims, families, lawyers and witnesses with direct knowledge of incidents;
- Legal case files and other verified confidential documents;
- Interviews with former Government and military officials and others with direct knowledge of specific cases or of the internal workings of certain institutions (insiders);
- Interviews with currently serving members of security forces conducted under strict confidentiality;
- Verified digital information (in particular videos, satellite imagery or social media content) containing direct information of an incident;
- Publicly available statements or information regarding relevant facts provided by Government institutions and representatives (including televised statements or statements posted on social media); and
- Laws, policies and directives of the Government in Venezuela.

15. The Mission spoke with former Director General of the Bolivarian National Intelligence Service (SEBIN), General Christopher Figuera. The Mission is aware of his admitted role in the April 2019 coup attempt and his expressed intention to implicate President Maduro in the perpetration of serious crimes. The Mission notes that it has not received any information from the Government, despite requests, and therefore does not have countervailing information contradicting the points alleged by General Figuera. On balance, the Mission has relied on parts of the information provided by Mr. Figuera, cited throughout the present report, on the basis of its applicable standard of proof. In doing so, the Mission notes that other information received, including by other persons with inside information, corroborates parts of the statements provided by Mr. Figuera and that the information provided by General Figuera was, on its face, internally consistent and plausible.

16. Due to time and resource limitations, the Mission has not been able to analyse all contexts involving violations that could fall within its four mandated areas. This includes, notably, violations within the Arco Minero region. It recommends further investigation into allegations of serious human rights violations and crimes in this region, including against indigenous peoples.[2]

17. In its assessment of secondary information, the Mission endeavoured to interview the researcher or author of the publication, submission or text to assess its credibility and the methodology used. The reliability and credibility of each source was carefully assessed. The Mission considered whether the source was trustworthy, consistently probing the veracity of their statements. With respect to digital information, the Mission assessed the information's reliability, namely through objectively verifiable information, corroboration of dates and times, visual comparison, comparing features of objects, persons and/or locations, geolocation, chronolocation, and completeness, namely whether it captured the information in its entirety and surrounding context.

18. The Mission collected and preserved information in accordance with its mandate to support accountability mechanisms. All information gathered by the Mission, including information pertaining to individual perpetrators, was stored in safe platforms, with strict and controlled access, applying best practices in terms of digital security and permanent control. The Mission authorized OHCHR to provide access to the existing materials contained in the database to competent authorities that carry out credible, impartial and independent

[2] See e.g., Office of the High Commissioner for Human Rights, A/HRC/44/54, 15 July 2020, available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A_HRC_44_54_UnofficialSpanishTranslation.pdf; Human Rights Watch, Venezuela: Violentos abusos en minas de oro ilegales, 4 February 2020, available at: https://www.hrw.org/es/news/2020/02/04/venezuela-violentos-abusos-en-minas-de-oro-ilegales; International Crisis Group, El peso del oro: violencia en el sur de Venezuela, 28 February 2019, available at: https://www.crisisgroup.org/es/latin-america-caribbean/andes/venezuela/073-gold-and-grief-venezuelas-violent-south

investigations for the purposes of ensuring accountability for crimes and other violations, in line with international law standards. Access will only be granted to the extent that witnesses or other sources of information have given their informed consent and protection concerns are addressed.

19. In all of its work, the Mission abided strictly by its obligation to "do no harm". The Mission also took into account ethical and protection considerations, including measures for protecting privacy and personal data as well as measures for minimizing any risk of harm to victims, sources, organizations and third parties that could occur from the use of the information. In order to help ensure the safety and security of witnesses and victims, including from reprisals for cooperation with the mission, a risk-assessment was carried out at various points to evaluate potential threats.

20. The Mission ensured it had the informed consent from each person it interviewed before using any information provided. For reasons of witness protection, some individual names have not been included in the present report or are reflected using a code system developed by the Mission. These names are retained on a strictly confidential basis by OHCHR.

21. In line with best practices of integration of a gender perspective, throughout its investigation, the Mission devoted specific attention to gendered issues and impacts of violations and strove to implement a gender approach, using gender-sensitive methodologies and tools for collecting, organizing, analyzing and reflecting information in the present report.

B. Legal Framework

22. The facts documented by the Mission were assessed in light of international human rights law and international criminal law, as applicable in Venezuela. The Mission also considered the human rights guarantees under Venezuelan domestic law, as well as aspects of national legislation and organic laws of Venezuelan security forces, where appropriate.

International Human Rights Law

23. Venezuela is bound by the United Nations Charter and has committed to respect internationally recognized human rights. Venezuela's international human rights obligations are provided by treaties ratified by Venezuela. Guidance on the content and scope of these obligations can also be drawn by reference to various instruments of soft law.

24. As of August 2020, Venezuela is a party to all core United Nations human rights treaties[3], except the Convention on Enforced Disappearances (ICED) and the Optional

[3] International Convention on the Elimination of All Forms of Racial Discrimination, 10 October 1967; International Covenant on Economic, Social and Cultural Rights, 10 May 1978; International Covenant on Civil and Political Rights, 10 May 1978; Convention on the Elimination of All Forms of Discrimination against Women, 2 May 1983; Convention on the Rights of the Child, 13 September 1990; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 29 July 1991; International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 25 October 2016; Convention on the Rights of Persons with Disabilities, 24 September 2013. Venezuela is also a party to: First Optional Protocol to the International Covenant on Civil and Political Rights, which establishes an individual complaints mechanism, 10 May 1978; Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming to abolish the death penalty, 22 February 1993; Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women concerning individual complaints and inquiry procedures, 13 May 2002; Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, concerning individual complaints and inquiry procedures, 10 October 2018; Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, 8 May 2002; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, 23 September 2003; Optional Protocol to the Convention on the Rights of Persons with Disabilities, 24 September 2013. It is not a party to the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

Protocol of the Convention Against Torture (OPCAT).[4] It is also a party to a number of relevant regional instruments.[5] As party to these treaties, Venezuela consented to be bound by the obligations articulated therein and accepted that domestic laws and practice cannot be invoked to justify a failure to comply.[6] It has also agreed to engage with the United Nations treaty bodies established to monitor the implementation of the treaties and to duly consider their findings and recommendations.

25. Among the treaty provisions binding upon Venezuela are provisions related to the four human rights violations that the Mission was mandated to investigate.

Extra Judicial Executions

26. Under international human rights law, the right to life is the supreme right from which no derogation is permitted, even in situations of armed conflict and other public emergencies that threaten the life of the nation.[7]

27. The protection of this right entails the positive obligation to ensure that no one's life is arbitrarily deprived. The use of potentially lethal force for law enforcement purposes[8] is an extreme measure that should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat.[9]

[4] The objective of the OPCAT is to establish, mainly for preventive purposes, a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty. See article 1 of OPCAT: https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx.

[5] Venezuela adhered to the American Convention on Human Rights "Pact of San Jose, Costa Rica (B-32)" on 23 June 1977. On 6 September 2012, the Government of Venezuela denounced the American Convention on Human Rights, pursuant to article 78 of the Convention. It also submitted its denunciation of the OAS Charter on 28 April 2017, an unprecedented decision in the Inter-American System. On 8 February 2019, National Assembly President Juan Guaidó submitted a note to the Secretary General of the OAS indicating the will of the Venezuelan State to remain a State Party to the OAS Charter and thus declaring invalid the denunciation made in 2012. On 9 April 2019, the Permanent Council of the OAS passed a resolution deciding to "accept the appointment of Mr. Gustavo Tarre as the National Assembly's designated Permanent Representative, pending new elections and the appointment of a democratically elected Government", see: https://reliefweb.int/sites/reliefweb.int/files/resources/cp40648e09.pdf On 31 July 2019, the ratification instrument of the American Convention on Human Rights was received from the Permanent Mission of Venezuela to the OAS, see: http://www.oas.org/es/sla/ddi/docs/B-32_venezuela_RA_7-31-2019.pdf. Venezuela is also a party to: Inter-American Convention to Prevent and Punish Torture (A-51), 25 June 1991; Protocol to the American Convention on Human Rights to Abolish the Death Penalty (A-53), 6 April 1994; Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women "Convention of Belém do Pará" (A-61), 16 January 1995; Inter-American Convention on the Forced Disappearance of Persons (A-60), 6 July 1998.

[6] 1999 Constitution, art. 23. See also Vienna Convention on the Law of Treaties, art. 27.

[7] The right to life is protected under ICCPR, art. 6(1); CRC, art. 6; CRPD, art. 10; as well as in UDHR, art. 3. See also Human Rights Committee, General comment No. 36, para. 2 (CCPR/C/GC/36), 3 September 2019.

[8] The conduct of the security forces is governed, among other things, by the Code of Conduct for Law Enforcement Officials (1979, Code of Conduct) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1989, Basic Principles). These instruments, and in particular their provisions on the use of force as they relate to the right to life and physical integrity in particular—article 3 of the Code of Conduct and principle 9 of the Basic Principles—are relied upon as authoritative by regional courts. See, for example, Inter-American Court of Human Rights, Montero-Aranguren et al. (Detention Center of Catia) v. Venezuela, 5 July 2005, IACtHR Ser. C No. 150, paras. 68-69; Zambrano Vélez et al. v. Ecuador, 4 July 2007, IACtHR Ser. C. No. 166, para. 84. See also the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol on the Investigation of Potentially Unlawful Death) See also Commentary to the Code of Conduct: https://www.ohchr.org/EN/ProfessionalInterest/Pages/LawEnforcementOfficials.aspx.

[9] See Code of Conduct, commentary to art. 3 and Basic Principles, principle 9.

28. Accordingly, the police, army, national security or anyone acting in any other public capacity, may only use firearms under limited conditions and circumstances. The use of firearms with a deliberate lethal intention is only authorized in order to protect life in cases of self-defence or to protect the life of a third person.[10] In any other case, it would amount to arbitrary use of force, and, in certain circumstances, could amount to an extrajudicial execution.[11] The State is also responsible for violations of the right to life committed by non-State actors operating in support or as agents of State authorities.[12]

29. According to international standards, States are expected to take all necessary measures to prevent arbitrary deprivation of life by their law enforcement officials, including soldiers charged with law enforcement tasks.[13] These measures include putting in place appropriate legislation regulating the use of lethal force, procedures designed to ensure that law enforcement actions are planned as to minimize the risk they pose to human life,[14] as well as mandatory reporting, review and investigation of lethal incidents.[15]

30. Where authorities know or should have known of potentially unlawful deprivations of life, they are obliged to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequences.[16] These investigations and prosecutions should be undertaken in accordance with relevant international standards, and must be aimed at ensuring that those responsible are brought to justice, including as to explore the legal responsibility of superiors with regard to violations of the right to life committed by their subordinates.[17] An investigation into violations of the right to life should commence ex officio.[18] A failure to investigate properly cases of death following the use of force may itself entail a violation of the right to life.[19]

31. The unlawful and intentional causing of the death of a human being in the context of a widespread or systematic attack constitutes the crime against humanity of murder.[20]

32. The right to life is protected under article 43 of the Venezuela Constitution and violations thereto are criminalized under the Criminal Code (articles 405 and ff.).

Enforced Disappearance

33. Venezuela is a party to the Inter-American Convention on Forced Disappearance of Persons. In addition, enforced disappearance is prohibited in article 45 of the Venezuelan

[10] Principle 9 of the Basic Principles.

[11] Extrajudicial executions are a specific form of arbitrary killings, as the deliberate use of lethal force against a person is committed by, at the behest of, or with the acquiescence of public officials outside of any judicial process. (See for instance Report of the detailed findings of the Commission of Inquiry on Human Rights in Eritrea, A/HRC/29/CRP.1, 5 June 2015, para. 1101). In the framework of its mandate, the Mission has investigated acts of extrajudicial executions and other forms of arbitrary deprivation of life.

[12] See A/HRC/14/24, paras. 46(a) and (b).

[13] See, for instance, Human Rights Committee, General Comment No. 36 (Right to Life), CCPR/C/GC/36, para. 13.

[14] Human Rights Committee, General Comment No. 36 (Right to Life), CCPR/C/GC/36, para. 13, citing European Court of Human Rights, McCann and others v. United Kingdom (application No. 18984/91), judgment of 27 September 1995, para. 150.

[15] Ibid.

[16] Ibid., para. 27.

[17] Although not binding *per se* the 2016 Minnesota Protocol provides useful guidance, available at: https://www.ohchr.org/Documents/Publications/MinnesotaProtocol.pdf. See also Human Rights Committee, General Comment No. 31, CCPR/C/21/Rev.1/Add. 13, para. 18.

[18] See Human Rights Committee, General Comment n. 36 (Right to Life), CCPR/C/GC/36, para. 28, citing European Court of Human Rights, Tanrikulu v. Turkey (application No. 23763/94), judgment of 8 July 1999, para. 103.

[19] A/HRC/26/36, para. 79. See also Kaya v. Turkey, European Court of Human Rights, application No. 22729/93 (19 February 1998) paras. 86-92.

[20] Rome Statute of the International Criminal Court, art. 7(1)(a)

Constitution and is criminalized with a penalty between fifteen and twenty-five years of deprivation of liberty.[21]

34. Under international human rights law, an enforced disappearance occurs when three cumulative elements are combined: the deprivation of liberty against the will of the person; the involvement of Government officials, at least by tolerance or acquiescence; and the refusal to acknowledge the deprivation of liberty or the concealment of the fate or whereabouts of the disappeared person.[22]

35. An enforced disappearance removes the disappeared person from the protection of the law and places his or her life at serious and constant risk, for which the State is internationally responsible.[23] It is a continuous and complex human rights violation and crime, which entails violations of other rights recognized in human rights treaties, including of the right to life, the prohibition of torture or cruel, inhuman or degrading treatment or punishment, the liberty and security of person, and the right to recognition as a person before the law.[24]

36. Given the gravity of the crime, the prohibition of enforced disappearance of persons and the corresponding obligation to investigate and punish those responsible is considered to be of *jus cogens*, or a peremptory norm of international law.[25]

37. International human rights standards also stipulate that any person deprived of liberty shall be held in an officially recognized place of detention[26] and that States shall have official up-to-date registries of detainees.[27]

38. There is no time limit under international human rights standards for an enforced disappearance to occur.[28] Both UN bodies dealing with the issue – the Committee on Enforced Disappearances (CED)[29] and the Working Group on Enforced or Involuntary Disappearances (WGEID)[30] – have consistently emphasized this.[31] A person can therefore be

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[21] 1999 Constitution, art. 45 and Criminal Code, art. 180-A.

[22] Inter-American Convention on Forced Disappearance of Persons (1994) (to which Venezuela is a party), art. 2.

[23] Human Rights Committee, General Comment n. 36 (Right to Life), CCPR/C/GC/36, para. 58.

[24] Ibid.

[25] Inter-American Court of Human Rights, Case Goiburú and others v. Paraguay (22 September 2006), para. 84; See also ICED, art. 9.

[26] Inter-American Convention on Forced Disappearance of Persons, art. 11; See also 1992 Declaration on the Protection of all Persons from Enforced Disappearance, art. 10.

[27] Inter-American Convention on Forced Disappearance of Persons, art. 11.

[28] The Mission acknowledges that IHRL and the conventional definition of enforced disappearance do not require a prolonged duration of disappearance. The Mission has, however, opted for the expression "short term enforced disappearance" to characterise most situations reviewed in the report. While the Mission notes that both short and longer term disappearances are violations of international human rights law and unacceptable, this serves to differentiate the cases documented in the report from cases, too common in the region, where the person disappeared never re-appears or if appearing after a prolonged time was never presented before a judge. The Mission considers it is important, not least for the families of those subject to prolonged disappearance or who have never returned, to recognize the particular gravity of such cases which are all too often synonymous with killing.

[29] In the case Yrusta v. Argentina, the CED recalled that "[…] in order to constitute an enforced disappearance, the deprivation of liberty must be followed by a refusal to acknowledge such deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law, regardless of the duration of the said deprivation of liberty or concealment", CED/C/10/D/1/2013, para. 10.3. In this case, the period in question was 'more than seven days'. See paras. 2.3 and 10.4 to 10.6.

[30] The WGEID has often referred to "short-term disappearances" indicating that "there is no time limit, no matter how short, for an enforced disappearance to occur", as the first hours of deprivation of liberty are often those during which violations and abuses, including torture and cruel, inhuman or degrading treatment, occur. See, for instance, A/HRC/39/46, para. 143 and https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20416&LangID=E.

[31] See also European Court of Human Rights, Case El-Masri v. The Former Yugoslav Republic of Macedonia, judgment of 13 December 2012. In this case, the period in question was of 23 days; "[…] the Court considers that the applicant's abduction and detention amounted to 'enforced

considered forcibly disappeared every time his/her deprivation of liberty is not acknowledged or his/her whereabouts are not revealed by the time that the person should be brought before a judge or other officer authorized by law to exercise judicial power.[32]

39. The Preamble of the Inter-American Convention on Forced Disappearance of Persons reaffirms that the systematic practice of forced disappearance of persons constitutes a crime against humanity,[33] while the Rome Statute envisages an additional constitutive element for the crime of enforced disappearance as a crime against humanity, notably the intention of the perpetrator(s) to place the disappeared person outside the protection of the law for a prolonged period of time.[34]

Arbitrary Detention

40. Venezuela is party to the ICCPR, which binds it to protect those within its jurisdiction against arbitrary or unlawful detention and to guarantee the procedural and fair trial guarantees.[35] Article 9 of the ICCPR prohibits both arbitrary arrest and detention and unlawful deprivation of liberty, or deprivation of liberty not imposed in accordance with procedures established by law.[36] Article 14 establishes the right to a fair trial and due process guarantees.[37] The fundamental guarantee against arbitrary detention is non-derogable.[38]

41. A detention is considered arbitrary when it does not conform with domestic law or with the relevant international standards set forth in the international instruments accepted by the concerned State. The United Nations Human Rights Committee has interpreted the notion of "arbitrariness" to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.[39]

42. The deprivation of liberty for the legitimate exercise of freedom of opinion and expression and/or on the grounds of discrimination based on political or other opinion is arbitrary.[40]

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disappearance' as defined in international law. The applicant's 'enforced disappearance', although temporary, was characterized by an on-going situation of uncertainty and unaccountability, which extended through the entire period of his captivity […]". Ibid., para. 240.

[32] Maximum within 48 hours under Venezuelan Law (1999 Constitution, art. 44, and Criminal Procedure Code, art. 236).

[33] Inter-American Convention on Forced Disappearance of Persons, Preamble.

[34] ICC Statute, art. 7 (2)(i).

[35] See note 5 supra in relation to the American Convention on Human Rights.

[36] ICCPR, art. 9 (1). For instance, unauthorized confinement of prisoners beyond the length of their sentences is arbitrary as well as unlawful and the same is true for continued confinement of detainees in defiance of a judicial order for their release. Examples of arbitrary detention include: detaining family members of an alleged criminal who are not themselves accused; arrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant, including freedom of opinion and expression; and arrest or detention on discriminatory grounds in violation of article 2, paragraph 1, including on the grounds of political or other opinions. See Human Rights Committee, General Comment n. 35 (Liberty and security of person), CCPR/C/GC/35, 23 October 2014, paras. 11, 16 and 17.

[37] These include the right to be tried by an independent and impartial tribunal (paragraph 1); the presumption of innocence (paragraph 2); the right to have adequate time and facilities for the preparation of the defence and to communicate with counsel of own choosing (paragraph 3(b); and the right to be tried without undue delay (paragraph 3 (c). Human Rights Committee, General Comment No. 32, art. 14: Right to equality before courts and tribunals and to a fair trial, CCPR/C/GC/32.

[38] See Human Rights Committee, General Comment No. 35 (Liberty and security of person), CCPR/C/GC/35, para. 66 and General Comment No. 29 on States of Emergency, art. 4, CCPR/C/21/Rev.1/Add.11, paras. 4 and 11. Deliberation No. 9 of the UN Working Group on Arbitrary Detention concerning the definition and scope of arbitrary deprivation of liberty under customary international law, in A/HRC/22/44, paras 37 ff.

[39] Human Rights Committee, General comment No. 35 on Article 9 (Liberty and security of person), CCPR/C/GC/35, para. 12.

[40] See ICCPR, art. 2 and Human Rights Committee, CCPR/C/GC/35, para. 17.

43. International criminal law recognizes imprisonment or other severe deprivation of physical liberty as a crime against humanity, where it is committed as part of a widespread or systematic attack against any civilian population.[41]

44. Article 44 of the Venezuelan Constitution also protects against arbitrary detention[42] and requires that a person deprived of liberty be brought before a judge within 48 hours. This requirement is reiterated in article 236 of the Criminal Procedure Code.[43] The Venezuelan Criminal Code punishes arbitrary detention with a maximum penalty of three and a half years,[44] which can be increased to five with aggravating circumstances,[45] including threats, violence or any other coercion.

Torture and other Cruel, Inhumane or Degrading Treatment

45. Torture and cruel, inhuman or degrading treatment is prohibited under international human rights law.[46] The prohibition is absolute and can never be subject to derogation or exception.[47]

46. Torture is defined as acts that cause severe pain or suffering, whether physical or mental. These acts should be inflicted intentionally; and involving a public official, either directly or indirectly.[48] To constitute torture the acts must be committed for a specific purpose, such as extracting a confession, obtaining information, punishment, intimidation, humiliation, coercion or any reason based on discrimination.[49]

47. The Convention against Torture (CAT) does not contain a definition of cruel, inhuman or degrading treatment, which is thus defined by its distinction from torture, according to article 1 of the CAT.[50] Among the elements that can be taken into account to determine the threshold between the two are the severity of the conduct, the intention of the perpetrator, the purpose of the ill-treatment and the powerlessness of the victim.[51]

48. Under the CAT, states have a positive obligation to take effective measures to prevent all acts of torture and cruel, inhuman, or degrading treatment or punishment and to investigate promptly any allegation of such treatment.[52] They also have an obligation to either prosecute or extradite any individual alleged to have committed any act of torture who may be present

[41] Article 7, paragraph 1 (e), of the Rome Statute of the International Criminal Court. The ICC Elements of Crimes require that the gravity of the conduct was such that it was in violation of fundamental rules of international law and that the perpetrator was aware of the factual circumstances that established the gravity of the conduct.

[42] Article 44 (1): "No person can be arrested or detained except by virtue of a judicial order, unless caught in flagrante. In this case, it will be brought before a judicial authority in a time no longer than forty-eight hours from the moment of arrest".

[43] Article 236 (3): "Within forty-eight hours following the apprehension, the accused will be brought before the Judge, for the presentation hearing".

[44] Criminal Code, art. 176.

[45] Criminal Code, art. 175.

[46] UDHR, art. 5; ICCPR, art. 7 and 10; CAT; CRC art. 37(a); Inter-American Convention to Prevent and Punish Torture, which Venezuela ratified in 1991.

[47] ICCPR, art. 4(2); CAT, arts. 2(2) and (3).

[48] CAT, art. 1.

[49] These purposes of torture are expressly listed in CAT, art. 1. See also A/HRC/13/39/Add.5, paras. 35 and 58-71.

[50] See CAT, art. 16. A definition of cruel, inhuman or degrading treatment is contained in article 5 (3) and (4) of the 2013 Special Law to Prevent and Sanction Torture and other Cruel, Inhuman or Degrading Treatment (see footnote 59).

[51] For a non-exhaustive list of acts that can be considered as amounting to torture, see A/HRC/13/39/Add.5, paras. 50-57. For CIDT, see paras. 186 ff. According to former UN Special Rapporteur on Torture, Manfred Novak, the systematic and historical interpretation of articles 1 and 16 CAT suggest that the decisive criteria for distinguishing CIDT from torture are the purpose of the conduct, the intention of the perpetrator and the powerlessness of the victim – rather than the intensity of the suffering inflicted. See A/HRC/13/39/Add.5, para. 188.

[52] CAT, arts. 2, 12 and 16.

in their territory.[53] Statements which are established to have been made as a result of torture shall not be invoked as evidence in any proceedings.[54]

49. Torture constitutes a crime against humanity when committed as part of a widespread or systematic attack.[55] Under the Rome Statute, the crime against humanity of torture does not require the act to be committed with a specific purpose.[56] Torture is considered as a crime under international law even when committed outside a widespread or systematic context.[57]

50. Article 46 of the Venezuela Constitution prohibits torture and cruel, inhuman or degrading treatment. A special law was issued in 2013 to prevent and punish torture,[58] which establishes a penalty between 15 and 25 years of deprivation of liberty for the crime.[59]

51. Acts of sexual violence may also constitute torture or cruel, inhuman or degrading treatment. International tribunals, human rights courts, and treaty bodies have found that sexual violence, including rape, may reach the threshold of severe pain or suffering, whether physical or mental, necessary to be qualified as an act of torture, provided that the other elements of torture are met.[60]

52. Conduct of sexual violence other than rape that has been found to constitute torture or cruel, inhuman and degrading treatment includes, *inter alia,* threats of rape and other sexual violence against individuals or their family members,[61] the touching of sexual body parts,[62]

[53] CAT, art. 7.

[54] CAT, art. 15.

[55] Rome Statute of the International Criminal Cour, art. 7(1)(f).

[56] The ICC Elements of Crimes requires the "purpose" element with respect to torture as a war crime but not as a crime against humanity (ICC Elements of Crimes, p. 7, footnote 14, stating: "It is understood that no specific purpose need be proved for this crime").The ICTY and ICTR jurisprudence consider the purpose element as the distinguishing feature of torture as opposed to ill-treatment (Akayesu, Trial Chamber Judgment, 2 September 1998, paras, 593-5; Čelebici, Trial Chamber Judgment, 16 November 1998, para. 459; Furundžija, Trial Chamber Judgment, 10 December 1998, para. 161; Krnojelac, Trial Chamber Judgment, 15 March 2002, para.180).

[57] See CAT, arts. 4 and 7. See also Updated Set of principles for the protection and promotion of human rights through action to combat impunity**,** E/CN.4/2005/102/Add.1, p. 6.

[58] Special Law to Prevent and Sanction Torture and other Cruel, Inhuman or Degrading Treatment*,* Official Gazette No. 40.212 of 22 July 2013. Article 2 of the Law emphasizes the constitutional principle (Article 29 of the Constitution) that the State has the obligation to prevent, investigate and punish crimes against human rights committed by public officials. In addition, article 20 provides for specific penalties for the intellectual author of the crime, while article 30 excludes the defence of superior orders as a possible ground for excluding criminal responsibility.

[59] Ibid., art. 17.

[60] International criminal tribunals have found that acts of sexual violence, including rape, may constitute torture or cruel, inhuman or degrading treatment. See, generally: ICTR, Prosecutor v Akayesu Judgement, ICTR-96-4-T, 2 September 1998, para. 597; ICTY, Prosecutor v Delalic et al, Judgement, 16 November 1998, paras. 495, 496; ICTY, Prosecutor v. Kvočka et al, Judgement, IT-98-30/1-T, 2 November 2001. Human rights courts and treaty bodies have reached similar conclusions. See, generally: ECtHR, Aydin v. Turkey, 25 September 1997, paras. 83-84; ECtHR*,* M.C. v. Bulgaria*,* Judgement, 4 December 2003; IACtHR, Ortega et al. v. Mexico*,* Judgement, 30 August 2010; IACtHR, Miguel Castro-Castro Prison v. Peru, Judgement, 25 November 2006, para 260. See also, *inter alia*, Special Rapporteur on torture and other forms of cruel, inhuman and degrading treatment, A/HRC/31/57 (2016); Committee Against Torture, CAT/C/67/D/854/2017, 22 August 2019.

[61] ICTY, Prosecutor v. Kvočka et al, Judgement, IT-98-30/1-T, 2 November 2001, para 144, 145; Committee Against Torture, Saad Ali v. Tunisia, CAT/C/41/D/291/2006, 21 November 2008, para 3.8; ECtHR, Al Nashiri v. Poland, App. No. 28761/11, 2015, paras. 504, 511, 516; EctHR, Elci and Ors. v. Turkey, App. No. 23145/93 and 25091/94, para 21.

[62] ICTY, Prosecutor v. Kvočka et al, Judgement, IT-98-30/1-T, 2 November 2001, paras 98, 99; Report of the UN Special Rapporteur on Torture on torture and ill-treatment in Mexico, A/HRC/28/68/Add.3, December 2014.

targeted violence against genitals[63] and threats of genital mutilation,[64] forced nudity,[65] and being forced to witness sexual violence against others.[66]

53. Acts of sexual violence, including rape, against both men and women are prohibited as such under both domestic and international law.[67] When committed as part of a widespread or systematic attack, they may constitute one or more crimes against humanity listed in Article 7 of the Rome Statute.

State Responsibility

54. States are the primary duty holders of international human rights obligations, whether assumed through ratification of human rights treaties or acquired by virtue of applicable international customary law. States can be held responsible for human rights violations committed by their organs (for example, legislative or executive branch) or by their agents (for example, civil servants, the police, the army, intelligence).[68] The State may also be held responsible for the wrongful conduct of non-State individuals or groups when the latter are acting in complete dependence on the State, and under its direction or its effective control.[69]

55. States have the duty to respect, protect and fulfil human rights. Inherent in these duties is a State's obligation to prevent the occurrence of violations and ensure that individuals have accessible and effective remedies when they occur.[70] States also have a duty to investigate and prosecute gross violations of international human rights law. States' investigations into allegations must be carried out by independent and impartial bodies and be prompt, thorough and effective.[71]

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[63] ICTY, Prosecutor v. Simić et al., IT-95-9-T, 17 October 2003, para 695; ICTY, Prosecutor v. Brđanin, IT-99-36-T, 1 September 2004, paras, 498, 500; Committee Against Torture, X. v. Denmark and Ethiopia, CAT/C/53/D/458/2011, 20 January 2015, para 2.2.

[64] ICTY, Prosecutor v. Simić et al., IT-95-9-T, 17 October 2003; Prosecutor v. Furundžija, IT-95-17/1-T, Judgment, 10 December 1998, paras. 82, 266-67, 272.

[65] Prosecutor v. Kunarac et al, Judgement, IT-96-23-T & IT-96-23/1-T, 2 February 2001, paras. 766-67; ECtHR, Aydin v. Turkey, Case No. 57/1996/676/866, 25 September 1997, paras 78, 84; IACtHR, Miguel Castro-Castro Prison v. Peru, Judgement, 25 November 2006, para 260; Human Rights Committee, Lucía Arzuaga Gilboa v. Uruguay, Communication No. 147/1983, 1 November 1985, para 4.3; Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Mendez, Addendum – Mission to Mexico. A/HRC/28/68/Add.3, December 2014.

[66] Prosecutor v. Furundžija, IT-95-17/1-T, Judgment, 10 December 1998, para. 267.

[67] Criminal Code arts. 374 – 383; Law on Women's Right to a Life Free from Violence (2014, as amended) arts. 39-55. Sexual acts between a detainee and his or her custodian are also prohibited, even in the absence of threat or violence. These acts may also constitute crimes against humanity as per article 7(1)(g) of the Rome Statute if the other requisite elements are fulfilled, and are considered violations of the right to liberty and security, non-discrimination, and equal protection under international human rights law. See, generally, Committee on the Elimination of Discrimination Against Women, General recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19, CEDAW/C/GC/35, 14 July 2017.

[68] See Human Rights Committee, General Comment No. 31 "The Nature of the General Legal Obligation Imposed on States Parties to the Covenant", CCPR/C/21/Rev.1/Add. 13, para. 4. See also International Law Commission 'Draft Articles on Responsibility of States for Internationally Wrongful Acts', hereinafter ILC Articles, (General Assembly resolution 56/83), article 4.

[69] ILC Articles, articles 5 and 8; See also ICJ, Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, 1986 paragraphs 109-110; and 'Application of the Convention on the Prevention and Punishment of the Crime of Genocide' (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, 2007 paras. 392, 397, 400, 401. See also A/HRC/37/CRP.2, para.116.

[70] See ICCPR, art. 2. See also CCPR/C/21/Rev.1/Add. 13, paras. 4, 15 and 17. See also A/RES/60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

[71] CCPR/C/21/Rev.1/Add. 13, para. 15.

International Criminal Law

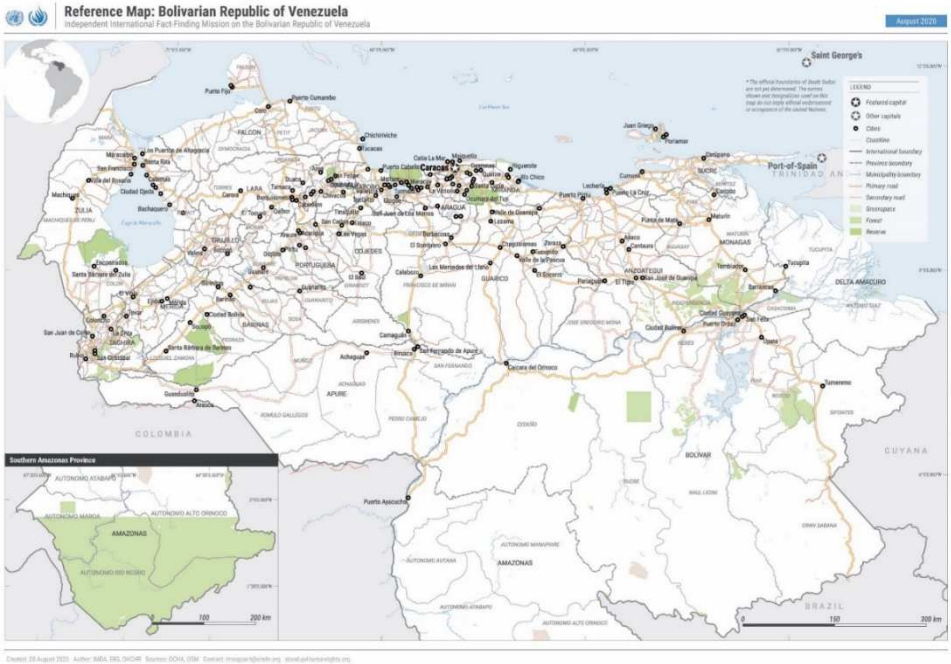
56. In its efforts to characterize appropriately the human rights violations and crimes it investigated, the Mission has considered aspects of international criminal law. This body of law governs the situations in which individuals can be held individually criminally responsible for gross violations of international human rights law that amount to crimes under international law.

57. Venezuela deposited its instrument of ratification of the Rome Statute on 7 June 2000. The International Criminal Court may therefore exercise its jurisdiction over Rome Statute crimes committed on the territory of Venezuela or by its nationals from 1 July 2002 onwards. The preliminary examination of the situation in Venezuela was announced on 8 February 2018. It will analyse crimes allegedly committed in this State Party since at least April 2017, in the context of demonstrations and related political unrest.

58. On 27 September 2018, the ICC Office of the Prosecutor received a referral from a group of States Parties to the Rome Statute, namely the Argentine Republic, Canada, the Republic of Colombia, the Republic of Chile, the Republic of Paraguay and the Republic of Peru regarding the situation in the Bolivarian Republic of Venezuela since 12 February 2014.[72]

59. On 13 February 2020, the Office of the Prosecutor of the ICC received a referral from the Government of the Bolivarian Republic of Venezuela under article 14 of the Rome Statute regarding the situation in its own territory. In the referral, the Government of Venezuela requested the Prosecutor to initiate an investigation into crimes against humanity allegedly committed on the territory of Venezuela "as a result of the application of unlawful coercive measures adopted unilaterally by the Government of the United States of America against Venezuela, at least since the year 2014".[73]

II. Background



[72] Pursuant to article 14 of the Rome Statute of the International Criminal Court the referring States request the Prosecutor to initiate an investigation on crimes against humanity allegedly committed in the territory of Venezuela since 12 February 2014, with the view to determining whether one or more persons should be charged with the commission of such crimes. See https://www.icc-cpi.int/venezuela.

[73] See https://www.icc-cpi.int/venezuelaII.

I. Timeline of Key Events from 2014 to Present

60. Since 2014, a series of events have taken place in Venezuela challenging the Government and denouncing the political, economic and social situation. Official Government information about numbers of demonstration is not available,[74] but the Venezuelan Observatory of Social Conflict (OVCS) has documented of the number of demonstrations each year. According to the OVCS, 9,286 protests took place in 2014;[75] 5,851 protests in 2015;[76] 6,917 protests in 2016;[77] 9,787 protests in 2017;[78] 12,715 protests in 2018;[79] 16,739 protests in 2019;[80] and 3,768 protests in 2020 (January to May).[81]

A. January-May 2014: Growing Dissent

61. In January 2014, in a context of economic decline, inflation and widespread insecurity in the country, a group of opposition leaders initiated a campaign to remove President Nicolás Maduro from office. The effort was referred to as "The Exit" ("La Salida").

62. The opposition's efforts came less than a year after the election of Nicolás Maduro on 19 April 2013, following the 5 March 2013 death of President Hugo Chávez. Mr. Maduro won by a narrow margin against Henrique Capriles, of the Primero Justicia party, part of the opposition coalition Democratic Unity Roundtable (MUD).[82] The opposition also lost the majority of positions in the 8 December 2013 municipal elections.[83]

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[74] The Mission located only once instance of an official reference to the number of protests. In 2017, the Government reported before the Inter-American Commission on Human Rights that between 1 April and 31 July 2017, 9,435 protests were registered, 5,878 (62 per cent) of which the Government said were violent. YouTube Video: Statement by the Government of Venezuela at the Hearing: Violence, Citizen Security, and Freedom of Expression in Venezuela, 165th IACHR Session, minute 62:48, available at: https://www.youtube.com/watch?v=rV0NW2PdBJs&feature=youtu.be.

[75] OVCS, Informe Conflictividad Social en Venezuela 2014, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2015/01/Conflictividad-en-Venezuela-2014.pdf.

[76] OVCS, Informe Conflictividad Social en Venezuela 2015, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2016/01/Conflictividad-social-en-Venezuela-2015.pdf

[77] OVCS, Informe Conflictividad Social en Venezuela 2016, available at: http://www.observatoriodeconflictos.org.ve/sin-categoria/conflictividad-social-en-venezuela-2016

[78] OVCS, Informe Conflictividad Social en Venezuela 2017, available at: https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2017

[79] OVCS, Informe Conflictividad Social en Venezuela 2018, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2019/01/Conflictividad-social-en-Venezuela-2018.pdf

[80] OVCS, Informe Conflictividad Social en Venezuela 2019, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/01/INFORMEANUAL-OVCS2019-1.pdf

[81] In May, 1,075 (http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/06/INFORMEOVCS-MAY2020.pdf); in April, 716 (https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-durante-abril-2020); in March, 580 (https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-durante-marzo-2020); in February, 779 (https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/observatorio-de-conflictividad-registro-799-protestas-en-febrero); in January, 618 (https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-enero-de-2020).

[82] Nicolás Maduro obtained 50.6 per cent of the vote and Henrique Capriles obtained 49.12 per cent. See National Electoral Council, results of 2013 presidential elections, available at: http://www.cne.gob.ve/resultado_presidencial_2013/r/1/reg_000000.html?.

[83] See National Electoral Council, results of 2013 municipal elections, available at: http://www.cne.gob.ve/resultado_municipal_2013/r/1/reg_000000.html?.

63. On 4 December 2013, the National Assembly approved the "Second Socialist Plan for the Economic and Social Development of the Nation,"[84] which had been presented by President Maduro in September. The Plan laid out the public policies, as well as the micro and macro-economic goals, which guided actions of the Government for the period 2013-2019 (a third plan was adopted in 2019 for the period 2019-2025).[85]

64. The January 2014 protests gained momentum after a series of violent attacks increased concerns over the situation of insecurity in the country.[86] This included the killing on 6 January 2014 of a former "Miss Venezuela" and her husband in a roadside robbery and the alleged attempted sexual assault in early February against a university student. In the absence of official data, civil society organizations have estimated that rates of violent deaths in Venezuela in 2014 were at 82 per 100,000.[87]

65. Students in the state of Táchira were the first to organize demonstrations protesting the situation of insecurity in the country.[88] Following the detention of students after alleged violent confrontations with security forces, solidarity protests spread around the country.[89] The demands of the protesters grew to include complaints related to the economic and social rights,[90] including among middle-class sectors. According to the Venezuelan Observatory for Social Conflict, in February 2014, protests increased rapidly in number, totalling 2,248 across the country, an increase of more than 400 per cent as compared to the prior month, and representing a 10-year high.[91]

66. On 12 February, three people were shot and killed during protests.[92] That same day, President Maduro said that he was prohibiting unauthorized protests and said that he had given "clear instructions" to security forces to protect citizens in the main cities.[93] The Government accused the opposition of inciting chaos and violence.[94]

67. On 21 February, President Maduro convened a meeting of "anti-coup commandos," made up by the armed forces and civilian groups, to "continue defeating the fascist coup in

[84] Published in Official Gazette No. 6,118 of 4 December 2013, available at: http://extwprlegs1.fao.org/docs/pdf/ven130206.pdf.

[85] Plan de la Patria 2019-2015, available at: https://observatorioplanificacion.cepal.org/es/planes/plan-de-la-patria-2019-2025-de-venezuela.

[86] For an overview of the numbers of protests, see Foro Penal, Venezuela 2014, Protests and Human Rights 2014: Report February-May 2014, available at: https://foropenal.com/wp-content/uploads/2014/05/informe-2014.pdf

[87] According to the Venezuelan Observatory on Violence (https://institutolacso.org/wp-content/uploads/2019/11/INFORME-ANUAL-DE-VIOLENCIA-2014.pdf).

[88] Equipo de Defensores de Derechos Humanos del Táchira, Informe Preliminar sobre la situación de los Derechos Humanos en el estado Táchira, April 2015. See Chapter VI on Violations in the Context of Protests, below.

[89] See Civilis Derechos Humanos et al., Venezuela 2014: Protestas y Derechos Humanos, available at: https://www.civilisac.org/civilis/wp-content/uploads/Informe-final-protestas-conjunto-1.pdf. See also Case 35: Marches, Colectivos and Torture (12 February 2014).

[90] OVCS, Informe Conflictividad Social en Venezuela 2014, pp. 4-6, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2015/01/Conflictividad-en-Venezuela-2014.pdf.

[91] OVCS, Tendencias de conflictividad: protestas aumentan 400% en febrero, 6 March 2014, available at: https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/tendencias-de-conflictividad-protestas-aumentan-400-en-febrero.

[92] See High Commissioner for Human Rights, UN rights office urges probe into Venezuela violence, calls for dialogue to resolve crisis, 14 February 2014, available at: https://news.un.org/en/story/2014/02/461822-un-rights-office-urges-probe-venezuela-violence-calls-dialogue-resolve-crisis, citing information from the Public Prosecutor's Office on those killed.

[93] See YouTube Video, Últimas Noticias, Presidente Nicolás Maduro sobre protestas, 12 February 2014, available at: https://www.youtube.com/watch?v=VLi3Yz7e4eI.

[94] See statement of the Minister of the Interior and Justice, General Miguel Rodríguez Torres on 13 February 2014. Transcript in CIVILIS, Violaciones a los derechos humanos en el marzo de manifestaciones pacíficas, febrero 2014, 4 March 2014, p. 3, available at: https://www.civilisac.org/informes/venezuela-violaciones-a-los-derechos-humanos-en-el-marco-de-manifestaciones-pacificas-febrero-2014.

Venezuela".[95] This followed a previous announcement on 10 February that the President had activated these commandos and was preparing a "zone by zone" and "name by name" plan to prevent a coup.[96] A warrant for the arrest of opposition leader Leopoldo López was issued, who had called for the protests, and he was detained on 18 February after turning himself in.[97]

68. Protests continued over the next months. By 30 April, the death toll had risen to 40 people. Of these, 32 were civilians and 9 were police.[98] Thousands of people were detained in this period.[99] Two opposition mayors, Daniel Ceballos of San Cristóbal, Táchira, and Enzo Scarano, of San Diego, Carabobo, were among those arrested. Throughout this period, President Maduro criticized media outlets for publishing "war propaganda"[100] and widespread attacks against journalists, censorship and limitations on the press were registered in this context.[101]

69. In early April 2014, mediated talks commenced between the Government and opposition leaders, facilitated by the foreign ministers of the Union of South American Nations (UNASUR) and a representative of the Holy See.[102] During the televised dialogues, President Maduro called for "tolerance" and an end to the violence. At the same time, he referred to an "armed insurgency" in the country, which he said the Government would take severe measures to combat.[103] For his part, opposition leader Henrique Capriles stressed the need for the Government to include the opposition in decision-making, stating "either [this situation] changes, or it will explode".[104] The Government and the opposition were unable to

[95] See YouTube Video, TeleSurTV, Venezuela convoca a reunión del Comando Nacional AntiGolpe, 21 February 2014, available at: https://www.youtube.com/watch?v=aOF5li5HSIU.

[96] See YouTube Video, MultiMedio VTV, Comando AntiGolpe se Mantendrá alerta ante posibles ataques al país, 10 February 2014, available at: https://www.youtube.com/watch?v=us7NeASIlL4.

[97] See YouTube Video, La Patilla, Maduro sobre detención de Leopoldo López, 18 February 2014, available at: https://www.youtube.com/watch?time_continue=5&v=vNVU1rZhYeI&feature=emb_logo. See also YouTube Video, Leopoldo López, #Resistencia18F, 16 February 2014, available at: https://www.youtube.com/watch?time_continue=2&v=vCmoGxEnEJc&feature=emb_logo; see also YouTube Video, Últimas Noticias, Video de la entrega de Leopoldo López, 18 February 2014, available at: https://www.youtube.com/watch?time_continue=1&v=W8Sr7IRoRxo&feature=emb_logo.

[98] See Inter-American Commission on Human Rights, Annual Report 2014: Chapter IV Venezuela, para. 383, available at: http://www.oas.org/es/cidh/docs/anual/2014/docs-es/Anual2014-cap4Venezuela.pdf; See also statement by the UN Secretary-General, 2 August 2019, available at: https://www.un.org/sg/en/content/sg/statement/2014-02-26/statement-attributable-spokesperson-secretary-general-venezuela.

[99] See Inter-American Commission on Human Rights, Annual Report 2014: Chapter IV Venezuela, para. 383, available at: http://www.oas.org/es/cidh/docs/anual/2014/docs-es/Anual2014-cap4Venezuela.pdf; See also statement by a group of Special Procedures mandate holders, Venezuela / Demonstrations: UN experts ask for clarification on alleged arbitrary detentions and use of violence, 6 March 2014, available at: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14318&LangID=E.

[100] See YouTube Video, Télam, Maduro: CNN se va de Venezuela, Si no cesa propaganda de Guerra, 20 Februrary 2014, available at: https://www.youtube.com/watch?time_continue=1&v=HD_JyqY74o4&feature=emb_logo.

[101] For an extremely in-depth review of cases of limitations of freedom of expression, see Inter-American Commission on Human Rights, Annual Report 2014; Chapter IV on Venezuela, paras. 407-566, available at: http://www.oas.org/es/cidh/docs/anual/2014/docs-es/Anual2014-cap4Venezuela.pdf.

[102] See statement by the UN Secretary-General welcoming dialogues, 11 April 2014, available at: https://www.un.org/sg/en/content/sg/statement/2014-04-11/statement-attributable-spokesman-secretary-general-venezuela-scroll.

[103] See YouTube Video, Luigino Bracci Roa, Diálogo Maduro-Oposición: Palabras finales del Presidente Nicolás Maduro, 11 April 2014, minute 12:40, available at: https://www.youtube.com/watch?time_continue=41&v=WJMrMzqe-9o&feature=emb_logo.

[104] See YouTube Video, Luigino Bracci Roa, Diálogo Maduro-Oposición, Palabras de Henrique Capriles, gobernador de Miranda, 11 April 2014, available at: https://www.youtube.com/watch?v=LAetqyZBxZY&feature=emb_logo.

find common ground on key points, including regarding vital Government appointments, and cooperation failed to materialise.

70. The demonstrations continued through the end of May 2014. On 24 April, the Supreme Court ruled that demonstrations could only take place with the permission of local authorities.[105] Protests and violence continued to break out in pockets around the country, particularly in and around universities.[106] Twenty-seven attacks or raids on university campuses by State security forces and/or armed civilians were registered in May 2014.[107] More information regarding the demonstrations and changes over time is in the Chapter V on Violations in the Context of Protests.

71. Simultaneously, and in part as a consequence of the global fall in oil prices, the economic situation in the country deteriorated rapidly, continuing to raise tensions and increase political opposition. Inflation by December 2014 had reached 63.4 per cent.[108]

B. December 2015-December 2016: Deterioration of Democratic Institutions

72. In December 2015, for the first time in 16 years, the coalition of opposition parties – the Democratic Unity Roundtable (MUD) – won two-thirds of seats in the elections for the National Assembly.[109] Before the new legislators took power in January 2016, the outgoing National Assembly moved quickly to select 13 judges and 21 alternates of the Supreme Court, ensuring the appointment of ruling party loyalists.[110]

73. Throughout 2016, the Supreme Court consistently declared laws passed by the National Assembly as unconstitutional,[111] following requests by President Maduro to have them reviewed for constitutionality.[112] Between December 2015 and August 2016, the Supreme Court issued several decisions[113] challenging the election of legislators from the

[105] Judgment No. 276 of 24 April 2014, available at: https://vlexvenezuela.com/vid/gerardo-sanchez-chacon-593352510.

[106] See statement by the High Commissioner for Human Rights, Venezuela: la Alta Comisionada de la ONU preocupada por nuevos actos de violencia", 9 May 2014, available at: https://news.un.org/es/story/2014/05/1301111.

[107] Including in the Universidad Católica del Táchira (UCAT), Universidad de los Andes (ULA, núcleos Mérida y Táchira), Universidad Nacional Experimental del Táchira (UNET), Universidad Rafael Belloso Chacín (URBE), Universidad Metropolitana (UNIMET), Universidad Católica Andrés Bello (UCAB, núcleos Caracas y Guayana) y Universidad Santa María (USM). Centro de Derechos Humanos de la Universidad Católica Andres Bello, Licencia para Protestar: La decisión del Tribunal Supremo de Justicia del 24 de abril de 2014 y el incremento de la represión en el marco de las manifestaciones pacíficas, June 2014, p. 14, available at: http://w2.ucab.edu.ve/tl_files/CDH/Lineastematicas/licencia%20para%20protestar.pdf.

[108] See, e.g.: https://www.eluniverso.com/noticias/2015/02/13/nota/4554261/venezuela-cerro-inflacion-685-2014-segun-banco-central; https://www.finanzasdigital.com/2015/02/bcv-inflacion-acumulada-del-ano-2014-cerro-685/.

[109] The MUD received 65.27 per cent, the United Socialist Party of Venezuela (Partido Socialista Unido de Venezuela – PSUV) received 32.93 per cent and the Indigenous Representation party (Representación Indígena) received 1.80 per cent of the vote. See National Electoral Council, results of the 2015 election of the National Assembly, available at: http://www.cne.gob.ve/resultado_asamblea2015/r/0/reg_000000.html?.

[110] Extraordinary Act No, 4-2015 of 23 December 2015.

[111] See e.g., Judgment No. 259 of 31 March 2016; Judgment No. 246 of 11 April 2016; Judgment No. 327 of 28 April 2016; Judgment No. 341 of 5 May 2016; Judgment No. 343 of 6 May 2016; Judgment No. 460 of 9 June 2016 (deemed unconstitutional in light of the declaration of the President's state of exception); Judgment No. 808 of 2 September 2016.

[112] 1999 Constitution, art. 214, which states, "When the President considers that the law or any of its articles is unconstitutional, he shall be required to request a ruling from the Constitutional Division of the Supreme Tribunal of Justice, within the ten-day period allowed the President for promulgating the law".

[113] See Judgment No. 260 of 30 December 2015; Judgment No. 1 of 11 January 2016; Judgment No. 3 of 14 January 2016; Judgment No. 108 of 2 August 2016; and Judgment No. 126 of 11 August 2016.

Amazonas state, alleging irregularities.[114] Nullifying the four deputies would have effectively reduced the opposition's two-thirds majority to a simple majority.

74. Nevertheless, the National Assembly proceeded to swear in the parliamentarians from Amazonas. This led to a 2 September 2016 decision by the Supreme Court stating that, due to lack of compliance with the court's judgment, the National Assembly was in contempt and all of its acts were "manifestly unconstitutional and absolutely null and lacking all validity and legal effect".[115] On this basis, the Supreme Court ruled that the President did not have to pass the 2017 national budget to the National Assembly for approval.[116]

75. While the legislature was progressively limited, executive powers were broadened. In January 2016, the Government declared a "state of economic emergency" for a period of 60 days. The decree was to "allow the population to ensure the full enjoyment of their rights and free access to fundamental goods and services, and also to mitigate the effects of induced inflation, speculation, artificially inflated currency, sabotage of the system of distribution of goods and services, as well as to counteract the consequences of the oil price war".[117] The decree granted the executive powers to enact "social, economic or political measures […] as it deems appropriate to the circumstances".[118] The decree was not passed to the National Assembly for approval, as required by the Constitution.[119]

76. On 13 May 2016, the executive adopted another "state of exception and economic emergency", Presidential Decree No. 2323.[120] This was also not approved by the National Assembly. This decree granted the executive powers to implement "social, environmental, economic, political and legal" measures to respond to the economic crisis.[121] It also allowed local community citizen organizations to coordinate with State military and police forces in order to maintain public order.

77. The Supreme Court upheld the constitutionality of these and all subesquent decrees declaring states of exception and economic emergency.[122] It also held, on 9 June 2016, that the National Assembly could not legislate in matters covered by the state of exception, and that these would be reserved to the President.[123]

78. Starting in March 2016, the opposition began collecting signatures for a referendum to recall the election of President Maduro and to remove him from power before his presidential term expired in 2019.[124] The recall advanced in accordance with the procedural

[114] For an overview of these judgments, see International Commission of Jurists, The Supreme Court of Justice in Venezuela: an Instrument of the Executive Branch, August 2017, Chapter 1, available at: https://www.icj.org/wp-content/uploads/2017/09/Venezuela-Suprem-Court-Publications-Reports-Thematic-reports-2017-ENG.pdf. The super majority in the National Assembly would have allowed the opposition to make important political appointments, including to the National Electoral Council.

[115] Judgment No. 808 of 2 September 2016.

[116] Judgment No. 814 of 11 October 2016. See analysis of this judgment by Professor Allan R. Brewer-Carías, Universidad Central de Venezuela, 21 October 2016, available at: http://allanbrewercarias.com/wp-content/uploads/2019/04/964.-Brewer.-La-Usurpaci%C3%B3n-de-la-func.-presupuestaria-por-la-SCl.-Sentencia-SC-814-19-10-2016.pdf.

[117] Presidential Decree No. 2184, published in Official Gazette No. 6214, 14 January 2016, art. 1, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2184-mediante-el-cual-se.html

[118] Ibid., art. 3.

[119] 1999 Constitution, art. 339.

[120] Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html

[121] Ibid., art. 3.

[122] Judgment No. 411 of 19 May 2016, available at: https://vlexvenezuela.com/vid/nicolas-maduro-moros-640750817?_ga=2.252385289.1255113119.1584543730-451338070.1584124152.

[123] Judgment No. 460 of 9 June 2016, available at: https://pandectasdigital.blogspot.com/2016/06/sentencia-que-declara-la.html.

[124] This was in accordance Article 72 of the Constitution, which states that any elected public official can be removed from office following the collection of signatures of 20 per cent of the electorate and a subsequent referendum on the recall. See also art. 233 (The President of the Republic shall become permanently unavailable to serve by reason of any of the following events […] recall by popular vote).

steps required by law.[125] On 1 September 2016, a massive protest was held, referred to as "Occupy Caracas", to demand the referendum.[126]

79. On 20 October 2016, the National Electoral Council postponed the recall process indefinitely, due to alleged fraud in the signature-collection.[127] The suspension of the recall process increased tensions further, as lawmakers in the National Assembly announced that they would explore options for impeachment. On 26 October, the opposition called for a protest called "Occupy Venezuela", in which hundreds of thousands of people participated.[128]

80. In October and November, the international community made a fresh attempt to facilitate dialogues between the Government and the opposition, with the Holy See seeking to mediate. A leaked letter from the Holy See to the Government and opposition made reference to Government failure to implement urgent measures to alleviate the serious crisis in the supply of food and medicine, as well as failure to restore the constitutional role of the National Assembly and to release political detainees, among others.[129] The dialogues ended in January 2017.

C. March 2017-December 2017: Escalation of Political Crisis

81. In late March 2017, the political crisis spiked following the Supreme Court's issuing of two judgments that disrupted the constitutional order. On 28 March, the Supreme Court issued Judgment No. 155,[130] ordering the President to take broad "civil, economic, military, criminal, administrative, political, legal and social measures" to ensure governability in the country.[131] It also eliminated parliamentary immunity, referring to acts of the National Assembly as "treason," and implying that deputies could be committing military crimes.[132]

82. The following day, 29 March, in Judgment No. 156,[133] the Supreme Court held that it was assuming the legislative powers of the National Assembly, based on the legislature's alleged continued contempt of the court's decision regarding the participation of parliamentarians from Amazonas state (see above).[134]

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[125] See Report of the National Electoral Council, 6 August 2016, available at: http://www.cne.gob.ve/web/imagen/publicidad/2016/presentacion.pdf. See press release of the National Electoral Council, 10 June 2016, available at: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3455.

[126] See CiberCuba, protestas en Venezuela el 1ro de septiembre de 2016, 2 September 2016, available at: https://www.youtube.com/watch?v=OL_98aNknoc; See also, Venezuelan Observatory on Social Conflict, "Conflictividad social en Venezuela en septiembre de 2016", September 2016, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2016/10/Conflictividad-social-en-Venezuela-en-septiembre-2016.pdf.

[127] See http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3483.

[128] See La Patilla, Así fue la toma de Venezuela en Caracas – 26 de octubre, 26 October 2016, available at: https://www.youtube.com/watch?v=qfjjyh2zEp4.

[129] See letter from Cardinal Pietro Patrolin, Secretary of State of the Holy See, to the Government of Venezuela and the Democratic Unity Roundtable, 1 December 2016, available at: https://www.infobae.com/america/america-latina/2016/12/07/la-carta-completa-que-el-vaticano-envio-al-regimen-de-nicolas-maduro-y-a-la-oposicion/.

[130] Judgment No. 155 of 28 March 2017, available at: https://pandectasdigital.blogspot.com/2017/03/sentencia-n-155-de-fecha-28-de-marzo-de.html.

[131] Judgment No. 155 of 28 March 2017, chapter VIII, art. 5.1.1.

[132] Ibid., chapter VII ("It is appropriate to mention that parliamentary immunity only protects […] the acts carried out by the deputies in exercise of their constitutional powers (which is not compatible with the current situation of contempt in which the National Assembly finds itself)).

[133] Judgment No. 156 of 29 March 2017, available at: https://pandectasdigital.blogspot.com/2017/03/sentencia-n-156-de-fecha-29-de-marzo-de.html.

[134] Ibid., chapter IV, art. 4.4 ("It is advised that as long as the situation of contempt and invalidity of the actions of the National Assembly persists, this Constitutional Chamber will guarantee that parliamentary powers are exercised directly by this Chamber or by the body that it delegates, to ensure the rule of law").

83. Thousands of protests were held across the country in the months following these decisions.[135] On 31 March, former Attorney General Luisa Ortega Díaz strongly criticized the judgments.[136] On 1 April, the Supreme Court partially backtracked on key parts of its decisions, reversing the transfer of legislative powers from the National Assembly to the Supreme Court[137] and restoring parliamentary immunity.[138] This followed a request by President Maduro, via the National Defence Council, for clarification of the decisions in light of public objections.[139] However, serious interference with the National Assembly continued.

84. In the context of ongoing protests, the Government redoubled security measures. On 19 April 2017, President Maduro announced the activation of the "green phase" of Plan Zamora with the objective of maintaining "internal order" in the country.[140] He described the plan as "joint civil-military" operation, involving military, police and civilian forces, to "defeat the coup d'état", which he said was planned by the United States.[141] Activities under the plan were to be coordinated with the "anti-coup commandos", which President Maduro had "reactivated" in January 2017, with then-Vice President Tareck El Aissami in charge.[142]

85. On 1 May 2017, President Maduro enacted Presidential Decree No. 2830,[143] announcing the conformation of a National Constituent Assembly, citing article 347 of the Constitution. This provision allows for the establishment of a Constituent Assembly "with the objective of transforming the State, creating a new legal system and rewriting the Constitution".

86. The move was immediately criticized by the opposition. On 5 July 2017, the National Assembly approved a parallel "national consultation", to be held on 16 July, citing authority under articles 5, 70, 71, 333 and 350 of the Constitution, to determine whether the population agreed with the formation of the National Constituent Assembly.[144] On 16 July, the votes

[135] See Office of the High Commissioner for Human Rights, Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017, available at: https://www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_EN.pdf.

[136] See YouTube Video, Espacio Público, Luisa Ortega Díaz: Sentencias del TSJ violan orden constitucional, 31 March 2017, available at: https://www.youtube.com/watch?v=W56pgztvbVI. See also, La Patilla, Fiscal General solicita antejuicio de mérito a Magistrados del TSJ, 13 June 2017, available at: https://www.youtube.com/watch?v=OpIr-lFjzTw. On 28 June, the Supreme Court barred her from leaving the country and froze her assets alleging "serious misconduct". See Tweet by the Supreme Court: https://twitter.com/TSJ_Venezuela/status/880230205176074241?s=20; See also UN Office of the High Commissioner for Human Rights, statement by the UN Special Rapporteur on Independence of Judges and Lawyers, UN Special Rapporteur on the independence of judges rejects intimidation of Venezuela's Attorney General, 30 June 2017, available at: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21819&LangID=E.

[137] Judgment No. 158, Clarifying judgment No. 156 of 29 March 2017.

[138] Judgment No. 157, Clarifying judgment No. 155 of 28 March 2017.

[139] See e.g., BBC, Venezuela: el Consejo de Defensa pide al Tribunal Supremo de Justicia que revise sus decisiones sobre la Asamblea Nacional, available at: https://www.bbc.com/mundo/noticias-america-latina-39402013.

[140] YouTube Video, Diario Panorama, Maduro anuncia la activación del plan Gran Zamora para la seguridad del país, 18 April 2017, available at: https://www.youtube.com/watch?v=j4IQsMO9BqI.

[141] Ibid.

[142] See YouTube Video, Voice of America, Venezuela: Maduro crea "Comando AntiGolpe", 11 January 2017, available at: https://www.youtube.com/watch?v=h5EWqT68i-I.

[143] Presidential Decree No. 2830, published in Official Gazette No. 6295, 1 May 2017, available at: https://www.sumate.org/documentos/Decreto_N_2.830_del_1_de_mayo_de_2017_Convocatoria_Presidencial_Constituyente.010517.pdf. See also YouTube, Luigino Bracci Roa, Presidente Maduro, Marcha del 1 de mayo, Convoca Asamblea Nacional Constituyente, 1 May 2017, minute 1:13.00, available at: https://www.youtube.com/watch?v=GlXooV7SXI4.

[144] The specific questions were: 1) whether they rejected the effort to hold a constituent assembly that has not been approved by voters; 2) whether they wanted the country's armed forces to uphold the current Constitution and the decisions of the opposition-run National Assembly; and 3) whether they wanted free elections to pick a new "national unity Government".

were held. The opposition reported that over 7 million people participated in the consultation, with 98.4 per cent voting against the formation of a National Constituent Assembly.[145]

87. On 27 June 2017, a CICPC helicopter flew over the headquarters of the Supreme Court of Justice and other Government offices.[146] The pilot was identified as Óscar Pérez, a CICPC officer.[147] Later that day Pérez appeared in a video demanding President Maduro's resignation and asking for national elections.[148] Óscar Pérez, along with nine others, was killed in January 2018 in a raid by mixed security forces.

88. The elections for the National Constituent Assembly took place against this backdrop. They were convened and organized by the National Electoral Council.[149] On 30 July, according to the National Electoral Council, over eight million people voted for the 545 members of the Constituent Assembly.[150] However, detailed results were not published and the official numbers could not be confirmed by non-State sources.[151] A number of deaths were registered during protests, with 10 occurring over the election weekend, according to the Public Prosecutor's Office.[152]

89. In total in 2017, the Venezuelan Observatory for Social Conflict documented 9,787 protests, the highest number recorded since 2014, with 69 per cent (6,729) occurring between 1 April and 31 July 2017.[153] On 28 June in a televised statement, President Maduro referred to "90 days of violence" that had occurred in the country and stated, "We will go into combat. We will never surrender. What could not be done with votes, we will do with arms. We will liberate our nation with arms".[154]

90. The National Constituent Assembly took power on 4 August 2017, presided by Delcy Rodríguez. Within its first week, it removed the Attorney General Luisa Ortega Díaz from power, replacing her with Tarek William Saab, then-Human Rights Ombudsman (4 August);

[145] See YouTube Video, VPItv, Resultados de la Consulta Popular realizada el 16 de julio por la oposición venezolana, 16 July 2017, minute 4:90, available at: https://www.youtube.com/watch?v=bHqeXKpi0eg.

[146] https://twitter.com/AlbertoRodNews/status/879845119205281792.

[147] YouTube Video: Luigino Bracci Roa – Situación en Venezuela, Rueda de prensa de Néstor Reverol sobre helicóptero Cicpc que atacó al TSJ, 28 June 2017, available at: https://www.youtube.com/watch?v=zwye0ZdMjnk.

[148] YouTube Video: Anonymus RESVE, Pronunciamiento de Óscar Pérez Piloto de aeronaves CICPC conta el Gobierno de Maduro, available at: https://www.youtube.com/watch?v=boNPxAMh5Wo; YouTube Video: Luigino Bracci Roa – Situación en Venezuela. Ernesto Villegas lee comunicado sobre ataque de helicóptero del Cicpc contra TSJ y MPPRIJP, available at: https://www.youtube.com/watch?v=TTtm5pXwzlM; YouTube Video: CAREDU, Óscar Pérez el Piloto del Helicóptero del CICPC en Venezuela. available at: https://www.youtube.com/watch?v=Hx_5xQ1coGA.

[149] Resolution No. 170607-118 of 7 June 2017.

[150] See Press reléase of National Electoral Council at: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3551; See also TeleSurTV, Resultados oficiales de las elecciones de la Constituyente en Venezuela, 30 July 2017, available at: https://www.youtube.com/watch?v=Jfm7wkOHIs4&feature=emb_logo.

[151] See study by Datin Corp May 2017, available at: https://www.scribd.com/document/349252570/Datincorp-Informe-Venezuela-Mayo-2017-3-PDF; See also European Union, Official Statement by the Spokesperson on the Election to a Constituent Assembly in Venezuela, available at: https://eeas.europa.eu/delegations/algeria/30529/statement-spokesperson-election-constituent-assembly-venezuela_en.

[152] See YouTube Video, VPItv. Pronunciamiento de la Fiscal Luisa Ortega Díaz sobre la ANC. 31 July 2017, minute 5:20, available at: https://www.youtube.com/watch?v=QsPDs0P3W_M.

[153] See Venezuelan Observatory of Social Conflict, Conflictividad social en Venezuela en 2017, available at: https://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2018/01/Conflictividad-social-en-Venezuela-2017-1.pdf.

[154] See El País, Maduro dice que lo que no logre con votos, lo logrará con las armas, 28 June 2017, available at: https://elpais.com/internacional/2017/06/28/america/1498601188_429829.html ("¡Nosotros jamás nos rendiríamos! ¡Lo que no se pudo con los votos, lo haríamos con las armas, liberaríamos nuestra patria con las armas!"). See also YouTube, Luigino Bracci Roa, Maduro sobre caso Fabian Urbina y GNBs que dispararon en el Distribuidor Alta Mira, 22 July 2017, available at: https://www.youtube.com/watch?v=cM0SjKWCxds.

established a "Truth Commission," to investigate violations against "victims of violence for political motives" between 1999 and 2017 (8 August);[155] and declared that all public powers are subordinated to the National Constituent Assembly (8 August).[156]

91. On 18 August 2017, the National Constituent Assembly assumed legislative functions, stating that it has "the powers to legislate on matters directly aimed at guaranteeing the preservation of peace, security, sovereignty, [and] the socioeconomic and financial system".[157]

92. In parallel, dissent within State and military ranks was growing and targeted repression of political dissidents increased. On 24 June 2017, in front of members of the armed forces, President Maduro referred to plans of a coup and said that all those detained are under military jurisdiction and will be "judged severely".[158] He then referred to the various powers of the State present, including the Supreme Court and the Public Prosecutor's Office, calling on them to take actions against "political leaders" who are plotting an overthrow, stating, "I am asking for justice. I am asking for jail".[159]

93. Amidst this crisis, the international community called for renewed dialogues. Meetings were held in December 2017 and January 2018 in the Dominican Republic, with the support of foreign ministers of Chile, Mexico, Nicaragua, Bolivia and Spain.[160] The discussions mainly revolved around the terms of the upcoming 2018 presidential elections. The Government made some concessions, including the release of 44 political prisoners in late December 2017.[161]

94. In 2017, according to results of a National Survey on Conditions of Life (ENCOVI), analyzed by Fundación Bengoa, 87 per cent of Venezuelans were living in poverty, without access to a basic family food supply.[162] By 2018, an estimated 94 per cent of Venezuelans could not afford basic foods and services.[163]

D. May-December 2018: Disputed Presidential Election

95. Discussions between the Government and the opposition again broke down in January 2018. This was following a 23 January decree by the National Constituent Assembly, now with Diosdado Cabello presiding,[164] declaring that the presidential elections would take place

[155] Ley Constitucional de la Comisión para la Verdad, la Justicia, la Paz y la Tranquilidad Pública, Gaceta Oficial No. 6323, art. 1, 8 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/ley-constitucional-de-la-comision-para.html.

[156] Constitutional Decree of 8 August 2017, Normas para garantizar el pleno funcionamiento institucional de la Asamblea Nacional Constituyente en armonía con los Poderes Públicos constituidos, published in the Official Gazette No. 6323, 8 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/normas-para-garantizar-el-pleno.html.

[157] See YouTube, Luigino Bracci Roa, Asamblea Nacional Constituyente, sesión completa de 18 de agosto 2017, 19 August 2017, minute 26:00, available at: https://www.youtube.com/watch?v=fOl5BZiHHJE.

[158] YouTube Video, Luigino Bracci Roa, Presidente Nicolás Maduro, actos el 24 de Junio de 2017 desde Fuerte Tiuna, 14 June 2017, minute 1:57.00, available at: https://www.youtube.com/watch?v=k5gDK-ESiqI.

[159] Ibid., minute 2:02.00.

[160] See International Crisis Group, Containing the Shock Waves from Venezuela, 21 March 2018, available at: https://www.crisisgroup.org/latin-america-caribbean/andes/venezuela/65-containing-shock-waves-venezuela

[161] Foro Penal, Foro Penal Venezolano contabiliza 44 liberaciones de presos políticos desde el 23 al lunes 25 de diciembre, 25 December 2017, available at: https://foropenal.com/foro-penal-venezolano-contabiliza-44-liberaciones-presos-politicos-desde-23-al-lunes-25-diciembre/.

[162] See Fundación Bengoa, National Report 2018, Complex Humanitarian Emergency in Venezuela, Right to Food, available at: https://www.fundacionbengoa.org/noticias/2019/Reporte%20Nacional%20EHC%20Derecho%20a%20la%20Alimentaci%C3%B3n%20y%20Nutrici%C3%B3n%20diciembre%202018%20Espa%C3%B1ol.pdf.

[163] Ibid.

[164] Diosdado Cabello was fomerly President of the National Assembly.

in the first four months of the year.[165] The National Electoral Council later convened the presidential elections for 20 May 2018, following several date changes, in order to coincide with the date of elections of local representatives.[166]

96. On 15 January 2018, Óscar Pérez (see para. 87 above) announced through his Instagram account that he was being attacked in the Junquito west neighbourhood of Caracas. Mr. Pérez tweeted messages and a video stating that he had surrendered, but that the security forces were continuing the armed attack.[167] According to the report given by the Government, after the confrontation between Mr. Pérez and the mixed-forced security brigade sent to arrest him, the house where Mr. Pérez was sheltering was blown up with an RPG-7 missile. At least nine people died.[168] President Maduro made a statement the same day congratulating the armed forces that stopped the "terrorist threat".[169]

97. On 25 January 2018, the Supreme Court issued a decision holding that the MUD opposition coalition could not participate as a group in the forthcoming elections.[170] Opposition leaders Henrique Capriles (Primero Justicia party) and Leopoldo López (Voluntad Popular party) remained subject to previous measures prohibiting their participation. Prior to this, in December 2017, the National Constituent Assembly had disallowed political parties that had not participated in the previous election cycle from running in the election.[171] Numerous States spoke out against the elections, alleging that measures were not in place to ensure that they would be free, transparent and democratic.[172]

98. On 20 May 2018, President Maduro was elected for a second six-year term. According to official election results, Mr. Maduro achieved 67.84 per cent of the vote against Henri Falcon's 20.93 per cent.[173] Following the opposition's call for a boycott,[174] turnout was significantly less than in 2013, with official figures showing that 46.02 per cent of eligible

[165] See YouTube Video, Luigino Bracci Roa, Asamblea Nacional Constituyente, sesión completa 23 enero 2018, llamado a elecciones, 23 January 2018, minute 22:00, available at: https://www.youtube.com/watch?v=AIu9IDK7Ho8&t=4706s.

[166] See Press Release of the National Electoral Council, dated 1 March 2018, available at: http://www4.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3648.

[167] See YouTube Video: Mr. Rumpelstiltskin, Óscar Pérez Enfrentamiento Video Completo, available at: https://www.youtube.com/watch?v=cXFcUtW1r34.

[168] See YouTube Video: Globovisión, Videos. Ministro Reverol confirma la muerte de Óscar Pérez y seis integrantes de grupo armado, available at: https://www.youtube.com/watch?v=AY4wpOV1zKk.

[169] See YouTube Video: Luigino Bracci Roa, Situación en Venezuela, Todo lo que dijo Maduro sobre Óscar Pérez y su fripo desarticulado este lunes, available at: https://www.youtube.com/watch?v=RlI2E4UHcr0.

[170] Judgment No. 53 of 25 January 2018, available at: https://www.accesoalajusticia.org/wp-content/uploads/2018/01/SC-N%C2%BA-53-25-01-2018.pdf; See also Press Release from Office of the Vice-President (no date), available at: http://vicepresidencia.gob.ve/tsj-ratifica-prohibicion-de-doble-militancia-en-partidos-politicos/.

[171] National Constituent Assembly, Constitutional Decree for the Participation on Electoral Processes, published in the Official Gazette No. 41.308, 27 December 2017, available at: https://www.sumate.org/documentos/41308_DECRETO_DE_LA_ANC.pdf ("Las organizaciones con fines políticos para participar en los procesos electorales nacionales, regionales o municipales deberán haber participado en las elecciones del período constitucional de ámbito nacional, regional o municipal inmediatamente anterior").

[172] See Statement of the Lima Group (Argentina, Brasil, Canadá, Chile, Colombia, Guatemala, Honduras, México, Panamá, Paraguay, Perú y Santa Lucía, with the participation of Spain), "Los países participantes reiteraron la condena al régimen autoritario que prevalece en Venezuela, el cual ha violentado la institucionalidad democrática, el estado de derecho y el respeto a los derechos humanos y ha convocado a un proceso electoral ilegítimo y carente de credibilidad", 14 April 2018, available at: https://www.gob.mx/sre/prensa/comunicado-del-grupo-de-lima-157051; Statement of the United States Senate Committee on Foreign Relations, 27 February 2018, available at: https://www.foreign.senate.gov/press/ranking/release/senate-resolution-condemns-venezuelan-Governments-proposed-sham-election-calls-for-delay-until-minimal-electoral-standards-met.

[173] See National Electoral Council, results of 2018 presidential elections, available at: http://www.cne.gob.ve/ResultadosElecciones2018/.

[174] See YouTube Video, afpes, Oposición venezolana apuesta por boicot a elección presidencial, 21 February 2018, available at: https://www.youtube.com/watch?v=y5YCl_yivxY.

voters participated.[175] After independent monitors reported fraud, Mr. Falcón called for new elections.[176] Various States said the elections had not met international standards.[177]

99. Within this period, there were several renewed attempts by political dissidents allegedly to oust the Maduro Government. Numerous members of the armed forces were arrested in connection with "Operation Armageddon," an alleged coup attempt, which was to coincide with President Maduro's election for a second Presidential term. On 4 August 2018, State television showed images of two drones exploding near the stage where President Maduro and other high-level officials were watching a military parade, injuring at least seven members of the military.[178]

100. Protests continued throughout 2018. The Venezuelan Observatory for Social Conflict recorded 12,715 across the country.[179] According to the organization, 89 per cent of protests were motivated by demands for economic and social rights, including access to food, basic services, labour rights and social security.[180]

E. January 2019-Present: President Maduro's Second Term

101. The year 2019 started with early attempts to block Nicolás Maduro from assuming the presidency. On the first day of its new legislative period, 4 January, the National Assembly passed a resolution formally declaring that President Maduro had usurped power, due to the alleged illegitimacy of the May 2018 elections.[181] The resolution stated that all decisions of the executive would be ineffective and that the National Assembly would initiate measures for a temporary transfer of powers from the executive to the legislature, until a new president could be elected in a free and transparent process.[182]

102. On 10 January 2019, President Maduro was sworn in as President. Soon thereafter, on 21 January, the Supreme Court declared invalid all acts of the National Assembly since 2016, including the election of its directorates for the years 2017 (Julio Borges), 2018 (Omar Barboza) and 2019 (Juan Guaidó), arguing continued contempt of the Court's 2016 judgment.[183]

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[175] See National Electoral Council, CNE emite segundo boletín con resultados de la elección presidencial, 21 May 2018, available at: http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3716. See 2013 participation levels: http://www.cne.gob.ve/resultado_presidencial_2013/r/1/reg_000000.html?.

[176] See YouTube Video, VPItv, Venezuela - Pronunciamiento de Henri Falcón antes de los resultados de las presidenciales, 21 May 2018, available at: https://www.youtube.com/watch?v=K-YVM5BVinU.

[177] See Statement by Chair of G20 on electoral process in Venezuela, 21 May 2018, available at: https://www.international.gc.ca/world-monde/international_relations-relations_internationales/latin_america-amerique_latine/2018-05-21-multilateral-multilaterales.aspx?lang=eng; Statement of the European Union, Declaration by the High Representative on behalf of the EU on the presidential and regional elections in Venezuela, 22 May 2018, available at: https://www.consilium.europa.eu/en/press/press-releases/2018/05/22/declaration-by-the-high-representative-on-behalf-of-the-eu-on-the-presidential-and-regional-elections-in-venezuela/.

[178] See New York Times, How the Drone Attack on Maduro Unfolded in Venezuela | NYT - Visual Investigations, 12 August 2018, available at: https://www.youtube.com/watch?v=EpFNCqCwVzo

[179] According to the Venezuelan Observatory of Social Conflict, there were 12,715 protests in 2018, the second highest number since 2014. See Venezuelan Observatory of Social Conflict, Conflictividad social en Venezuela en 2018, available at: http://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-2018.

[180] Ibid.

[181] See National Assembly, Agreement on the Declaration of Usurpation of the Presidency of the Republic by Nicolás Maduro Moros and the Reestablishment of the Validity of the Constitution, 4 January 2019, available at: http://www.asambleanacional.gob.ve/actos/detalle/acuerdo-sobre-la-declaratoria-de-usurpacionde-la-presidencia-de-la-republica-por-parte-de-nicolas-maduro-moros-y-el-restablecimiento-de-la-vigenciade-la-constitucion-331.

[182] Ibid.

[183] Judgment No. 3 of 21 January 2019, available at: https://www.accesoalajusticia.org/wp-content/uploads/2019/01/SC-3-21-01-2019.pdf. See also NTN24 Venezuela, TSJ no reconoce mandato de Guaidó en la Asamblea Nacional de Venezuela, 21 January 2019, available at:

103. On 23 January 2019, the president of the National Assembly, Juan Guaidó, declared himself "interim president" until new fair elections for a new president could be held.[184] Mr. Guaidó based his action on article 233 of the 1999 Constitution that states that the president of the National Assembly shall take charge of the presidency should a President become unable to serve. Towards this end, the National Assembly announced that it would select a new National Electoral Council so that democratic elections could be held.[185]

104. During this period, a string of Government and military defections also took place.[186] On 21 January, members of the Bolivarian National Guard (GNB) posted videos on social media calling for a revolt against the President, leading to the arrest of 27 officials.[187] The National Assembly adopted measures aimed at gaining the support of members of the armed forces, including a 25 January amnesty bill.[188] Hundreds of members of the military and armed forces defected over the next several months, many requesting refugee status in Colombia.[189]

105. This resulted in a renewed set of protests. Tensions exacerbated on 23 February 2019 when Juan Guaidó and other members of the National Assembly organized an attempt to bring food and health supplies through the border from Colombia and Brazil.[190] The protests continued throughout the next months, denouncing both the political situation and the social and economic crisis, including the series of countrywide blackouts in March 2019 that left millions without power.[191]

106. The opposition continued to encourage a military coup. On 30 April 2019, in what was referred to as "Operation Freedom", Juan Guaidó attempted to launch a military-backed effort to oust President Maduro. Standing near the military base of La Carlota, in Caracas, he called for the armed forces to defect and for support from the population.[192] Leopoldo López, under house arrest, was released during the operation. However, the attempt did not achieve widespread military support.[193]

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https://www.youtube.com/watch?v=djhgFUegN8k. See also tweet of National Assembly president Juan Guaidó, available at: https://twitter.com/AsambleaVE/status/1087399318062014469.

184 See YouTube Video, Milenio, Juan Guaidó se declara presidente 'encargado' de Venezuela, 23 January 2019, available at: https://www.youtube.com/watch?v=Qi6CpHX1Qxo.

185 El Pitazo, Guanipa: Mañana la AN designará al comité de postulaciones electorales para elegir un nuevo CNE, 4 February 2019, available at: https://www.youtube.com/watch?v=DP8VChARuFY.

186 E.g., on 4 January, a Supreme Court justice, previously aligned with the Government, defected to the United States (Univisión Noticias, "Seguir siendo cómplice o rebelarme": el dilema de un magistrado venezolano que por años defendió a, 15 January 2019, available at: https://www.youtube.com/watch?v=WKCVWLLN0To); Subsequently, Hugo Carvajal, former head of military intelligence in the country, broke ranks and announced his support for the opposition, denouncing corruption in Maduro's Government. See video at New York Times, Venezuela's Ex-Spy Chief Rejects Maduro, Accusing Leader's Inner Circle of Corruption, 21 February 2019, available at: https://www.nytimes.com/2019/02/21/world/americas/hugo-carvajal-maduro-venezuela.html.

187 See tweet of Soldados de Franelas, available at: https://twitter.com/soldadoDfranela/status/1087291673447727104.

188 Ley de Amnistía y garantías constitucionales para los militares y civiles que colaboren o hayan colaborado con la restitución del orden constitucional (not published in the Official Gazette), 25 January 2019.

189 See Human Rights Watch, Venezuela: The Defection That Turned into Exile, 25 February 2019, available at: https://www.hrw.org/news/2019/05/08/venezuela-defection-turned-exile.

190 See BBC, Crisis en Venezuela: tensa jornada de disturbios y enfrentamientos ante el intento de entrada de ayuda humanitaria, available at: https://www.bbc.com/mundo/noticias-america-latina-47342448.

191 See Venezuelan Observatory for Social Conflict, Conflictividad Social en Venezuela en 2019, available at: https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2019.

192 See tweet of Juan Guaidó, 30 April 2019, available at: https://twitter.com/leopoldolopez/status/1123161697425010689.

193 See Washington Post, How a plot filled with intrigue and betrayal failed to oust Venezuela's president, 4 May 2019, available at: https://www.washingtonpost.com/world/the_americas/how-a-

107. In May 2019, President Maduro passed a Presidential Decree expelling 55 members of the Venezuela armed forces, including Manuel Cristopher Figuera, then director of the Bolivarian National Intelligence Service (SEBIN), who had joined the overthrow attempt. The National Constituent Assembly[194] lifted the parliamentary immunity of seven members of the National Assembly and the Supreme Court[195] announcing that it would prosecute them for crimes of treason, conspiracy, instigation to commit insurrection among others, in relation to the "Operation Freedom".

108. Between May and August 2019, the international community brokered talks between the two sides, but without success. The Government eventually broke off negotiations following a new round of sanctions issued by the United States.[196]

109. In January 2020, Juan Guaidó was expected to be re-elected as president of the National Assembly, given the majority of opposition deputies.[197] However, on 5 January public security forces, in particular members of the Bolivian National Guard, the National Bolivarian Police and Caracas police, with the alleged support of armed citizen groups called "colectivos" (collectives), blocked his entrance and the entrance of other opposition deputies to the legislature.[198]

110. Inside the parliamentary building, Maduro supporting members of Congress took a vote to elect deputy Luis Parra, the candidate backed by the Maduro Government, to lead the National Assembly.[199] A simple majority of deputies were not present, as required under the Constitution to elect the president.[200] Lawmakers loyal to Mr. Guaidó later held a parallel vote. They re-elected Mr. Guaidó.[201] However, on 26 May 2020, the Supreme Court issued a judgment ratifying the selection process of Luis Parra, declaring him president of the National Assembly.[202]

111. On 13 June 2020, the Supreme Court appointed new members of the National Electoral Council,[203] despite that under the 1999 Constitution, this is a power reserved to the

plot-filled-with-intrigue-and-betrayal-failed-to-oust-venezuelas-president/2019/05/03/4b46ca30-6db1-11e9-a66d-a82d3f3d96d5_story.html.

194 See Resolution of the National Constituent Assembly, published in the Official Gazette No. 41.627, available at: https://www.finanzasdigital.com/2019/05/gaceta-oficial-n-41-627-sumario/.

195 See YouTube Video, TeleSurtv, Venezuela: TSJ ordena juicio contra 7 diputados opositores, 7 May 2019, available at: https://www.youtube.com/watch?v=orMh9VgJJPo.

196 Executive Order 13884 of 5 August 2019, blocking (freezing) the property and interests of the Maduro Government in the United States and within the control of U.S. persons. See: Venezuela-Related Sanctions at https://www.state.gov/e/eb/tfs/spi/venezuela/. See also Congressional Research Service, Venezuela: Overview of U.S. sanctions, available at: https://fas.org/sgp/crs/row/IF10715.pdf (the US Treasury department currently has sanctions on an additional 91 Venezuelan officials, including President Maduro; his wife, Cecilia Flores, and son, Nicolás Maduro Guerra; Executive Vice President Delcy Rodríguez; Diosdado Cabello (Socialist party president); eight supreme court judges; the leaders of Venezuela's army, national guard, and national police; four state governors; the director of the central bank; and the Foreign Minister).

197 1999 Constitution, art. 194 requires the National Assembly to elect a president at the start of each year.

198 Mission interview PCHH01 in May 2020. See e.g., InfoBae, Juan Guaidó y un grupo de diputados lograron quebrar el cerco policial y sesionaron en la Asamblea Nacional: "Fue una hazaña", 7 January 2020, available at: https://www.infobae.com/america/venezuela/2020/01/07/en-vivo-tension-en-venezuela-juan-guaido-intentara-ingresar-a-la-asamblea-nacional-y-el-chavismo-anuncio-que-no-le-permitira-presidir-la-sesion/.

199 See YouTube Video, Cadena SER, Juan Guaidó intenta entrar en la Asamblea Nacional mientras la policía se lo impide, 5 January 2020, available at: https://www.youtube.com/watch?v=voim7SfjudI.

200 1999 Constitution, art. 221.

201 See NTN24 Venezuela, Pese al asalto de Parra, Guaidó recupera sede del Poder Legislativo en Venezuela, 7 January 2020, available at: https://www.youtube.com/watch?v=zLZUnCBOqS4.

202 Supreme Court of Justice, Judgment No. 0065, 26 May 2020, available at: http://historico.tsj.gob.ve/decisiones/scon/mayo/309867-0065-26520-2020-20-0001.HTML

203 Supreme Court of Justice, Judgement No. 0070, 12 June 2020, available at: http://historico.tsj.gob.ve/decisiones/scon/junio/309872-0070-12620-2020-20-0215.HTML

National Assembly.[204] Following this decision, the European Union imposed sanctions against 11 high-level Government officials.[205]

112. On 15 August 2020, President Maduro announced that the mandate of the National Constituent Assembly would come to an end, coinciding with the programmed elections of the National Assembly on 6 December 2020.[206]

113. On 31 August 2020, President Maduro pardoned 110 people, mainly members of the political opposition, who had been accused of criminal acts, both individuals who have already received a judgment and those awaiting trial, including 23 deputies of the National Assembly and 4 alternates.[207]

114. In 2020 and with its medical system already severely debilitated, Venezuela braced for the effects of Covid-19. The collapse in petroleum prices, meanwhile, has had a crippling economic effect. Petrol lines last for several hours or days, despite Venezuela having the largest oil reserves in the world.[208] The country continues to suffer hyperinflation, severe shortages of food and medicine, and a dire humanitarian crisis. This situation has forced around at least one sixth of the population to leave the country, with over five million Venezuelans having left by April 2020, according to estimates by UNHCR.[209]

II. Institutional Framework

A. The National Public Power

115. The 1999 Constitution formally ensured checks and balances of power in Venezuela. Public power is distributed among the municipal power, the power of the states and national public power. For its part, national public power is divided into the legislative, executive, judicial, citizen and electoral branches.[210] Each of the branches has specific and complementary functions. However, as described in this section, this division of powers has been progressively eroded since the Constitution has been in place.

116. An element of the crisis in Venezuela, meriting deeper investigation, is the nexus between corruption and serious human rights violations. A number of sources with whom the Mission spoke, all current or former Government or military personnel, have indicated that a motivating factor behind the human rights violations identified in the present report are the personal financial benefits derived from the capture of State institutions, providing a strong incentive for Government actors to maintain power and ensure impunity.[211]

117. As at August 2020, there are over 85 criminal investigations or proceedings, in 21 different foreign jurisdictions, accusing Venezuelan individuals, including high-ranking political and military actors, of corruption-related crimes.[212] These cases allege the

[204] 1999 Constitution, arts. 187 and 296.

[205] Council Implementing Regulation (EU) 2020/897 of 29 June 2020, Implementing Regulation (EU) 2017/2063 concerning restrictive measures in view of the situation in Venezuela, available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2020:205I:FULL&from=EN.

[206] See YouTube Video, El Tiempo, Asamblea Constituyente de Venezuela cesará funciones en diciembre, anuncia Maduro, 18 August 2020, available at: https://www.youtube.com/watch?v=wYnqSSYXTyU

[207] YouTube Video, TeleSurTV, Gobierno de Venezuela emite decreto de indulto a políticos opositores, 31 August 2020, available at: https://www.youtube.com/watch?v=FUzrg5DeJ3U

[208] See e.g., https://www.nytimes.com/2020/05/15/world/americas/venezuela-gasoline-shortage.html.

[209] See UNHCR, Plataforma de Coordinación para Refugiados y Migrantes de Venezuela, available at: https://data2.unhcr.org/es/situations/platform.

[210] The 1999 Constitution creates two additional branches of the federal Government – the citizen and electoral branches. The Office of the Prosecutor General, the Office of the Defender of the People and the Office of the Comptroller General are the three entities comprising the citizen power. In addition to fulfilling their specific functions, these bodies act collectively as the "Republican Moral Council" and submit reports about their activities to the National Assembly. 1999 Constitution, art. 136.

[211] C1HH03, C1HH01, SCHH10, SCHH07, BSHH01.

[212] List on file with the Mission of corruption-related criminal proceedings against Venezuelan individuals and State businesses from various jurisdictions (Andorra, Argentina, Aruba, Bolivia,

misappropriation of trillions of dollars of public resources.[213] Many of the accusations relate to crimes involving the State oil company Petróleos de Venezuela, SA. – PDVSA. Different foreign States have sanctioned 195 high-level Venezuelan authorities for human rights violations, drug trafficking and corruption-related activities.[214] Former high-ranking officials have denounced widespread corruption in the Maduro Government.[215]

1. Interference with the National Assembly

118. When the opposition won two-thirds of seats in December 2015,[216] the National Assembly became the only state institution not aligned with President Maduro. Since then, its actions have been thwarted. The Supreme Court of Justice, following requests by the President for constitutional review, consistently struck down laws that the opposition-led National Assembly attempted to pass.[217] Laws annulled include a law on reforms to the Law on the Central Bank of Venezuela;[218] a law on food and medicine bonuses for pensioners and retirees;[219] a law on amnesty and national reconciliation;[220] and a law to address the national health crisis.[221]

119. Several of these have been on the basis of the continued "contempt" with the Supreme Court's January 2016 judgment regarding the election of deputies from Amazonas state. It was on this base that the Supreme Court also lifted the parliamentary immunity of 32 deputies of the National Assembly. Also as a result of this continued incompliance, since early 2017, the National Assembly has operated without financial support, meaning that members of parliament receive no wages nor have budgets to travel to their constituencies, following a decision of the Supreme Court prohibiting the executive to disburse salaries.[222]

120. Through a series of judgments, the Supreme Court has limited the constitutional powers of the National Assembly, leaving few subjects upon which the National Assembly could legislate.[223] This comprises all matters covered in the various states of exception issued,

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Brazil, Bulgaria, Colombia, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Italy, Liechtenstein, Mexico, Panama, Portugal, Puerto Rico, Spain, Switzerland, Uruguay and the United States). This information was collected and provided to the Mission by Transparency International.

213 Ibid.

214 List of Venezuelan officials sanctioned by Canada, European Union, Panama, Switzerland, the United States and member countries of the Inter-American Treaty of Reciprocal Assistance (TIAR) and drug trafficking, 7 July 2020, document on file with the Mission.

215 See New York Times, El exjefe de inteligencia militar de Venezuela abandona a Maduro y denuncia corrupción y narcotráfico en el gobierno, 21 February 2019, available at: https://www.nytimes.com/es/2019/02/21/espanol/america-latina/venezuela-maduro-hugo-carvajal.html. Mr. Carvajal himself is under investigation for drug trafficking. See indictments: https://drive.google.com/file/d/1AF5dAo21Kx380IUxLcwbl7YlYXDTGwVs/view and https://www.justice.gov/usao-sdny/press-release/file/1154246/download. Ex Attorney General Luisa Ortega Díaz posted shared a video on her twitter account of the president of Odebrecht-Venezuela stating that he had agreed to make payments to President Maduro. See tweet: https://twitter.com/lortegadiaz/status/918535944432766977; See also United States District Court, Eastern District Of New York, U.S. Plea Agreement v. Odebrecht S.A., Defendant, available at: https://www.justice.gov/opa/press-release/file/919916/download. See also https://armando.info/Series/Details/25.

216 The MUD received 65.27 per cent, the United Socialist Party of Venezuela (Partido Socialista Unido de Venezuela – PSUV) received 32.93 per cent and the Indigenous Representation party (Representación Indígena) received 1.80 per cent of the vote. See National Electoral Council, results of the 2015 election of the National Assembly, available at: http://www.cne.gob.ve/resultado_asamblea2015/r/0/reg_000000.html?.

217 See compilation by Acceso a la Justicia, available at: https://www.accesoalajusticia.org/wp-content/uploads/2020/05/Cuadro-TSJ-vs-AN-127-sentencias-1-1.pdf.

218 Judgment No. 259 of 31 March 2016.

219 Judgment No. 327 of 28 April 2016.

220 Judgment No. 411 of 19 May 2016.

221 Judgment No. 460 of 9 June 2016.

222 Judgment No. 5 of 19 January 2017, available at: https://www.accesoalajusticia.org/wp-content/uploads/2017/01/SC-N%C2%BA-05-19-01-2017.pdf.

223 The competencies of the National Assembly are listed in article 187 of the 1999 Constitution.

including economic, social and environmental issues;[224] its constitutional oversight powers over other branches of the State (including over the judicial power, the electoral power and the armed forces);[225] and its power to approve the national budget and borrowing by the State.[226]

121. Since 2014, there have been numerous acts against opposition members of the National Assembly. Thirty-two members of the National Assembly have had their parliamentary immunity lifted so that they can be criminally prosecuted. Of these, six have been detained and criminally prosecuted on charges of treason of the homeland, conspiracy, instigation of insurrection, civil rebellion, contempt of court and hate crimes, among others. Some of these cases have amounted to acts of arbitrary detentions and/or cruel, inhuman or degrading treatment (see Chapter III below on Targeted Political Repression). The Supreme Court made the vast majority of requests to lift parliamentary impunity to the National Constituent Assembly, despite that under the Constitution, the National Assembly is the body responsible for lifting parliamentary immunity.[227]

122. Repression of National Assembly opposition members has not been limited to detention. Of 132 opposition members, 27 alleged having suffered attacks against their life or physical integrity; 43 alleged receiving threats to their lives and/or physical integrity; and 9 have had their passports removed.[228] The families of 25 deputies also alleged having received attacks or threats. In 2020, the homes or workplaces of 15 National Assembly members were allegedly sprayed with the words "Bolivarian fury" ("furia bolivariana").[229] At least 33 opposition members of the National Assembly are living in exile at the time of writing.[230]

123. Following his election as National Assembly president on 23 January 2019, the constitutional chamber of the Supreme Court announced on 29 January that a criminal investigation would be opened against Juan Guaidó and prohibited him from leaving the country, while freezing his bank accounts and other assets.[231] The Mission does not have information about whether an investigation was ever opened. On 1 April 2019, the National Constituent Assembly said that it had lifted Juan Guaido's parliamentary immunity.[232]

[224] Judgment No. 460 of 9 June 2016, available at: https://pandectasdigital.blogspot.com/2016/06/sentencia-que-declara-la.html.

[225] Judgment No. 9 of 1 March 2016.

[226] Judgment No. 814 of 11 October 2016. See analysis of this judgment by Professor Allan R. Brewer-Carías, Universidad Central de Venezuela, 21 October 2016, available at: http://allanbrewercarias.com/wp-content/uploads/2019/04/964.-Brewer.-La-Usurpaci%C3%B3n-de-la-func.-presupuestaria-por-la-SCl.-Sentencia-SC-814-19-10-2016.pdf.

[227] 1999 Constitution, art. 200.

[228] See National Assembly Commission on Justice and Peace, Report on the Situation of Venezuelan Parliamentarians, April 2020.

[229] Ibid.

[230] Adriana D'Elia; Américo de Grazia; Armando Armas; Carlos Paparoni; Dinorah Figuera; Eudoro González; Franco Casella; Freddy Superlano; Gaby Arellano; Germán Ferrer; Ismael García; Jony Rahal; Jorge Millán; José Guerra; José Simón Calzadilla; Juan Andrés Mejía; Juan Manuel Olivares; Juan Pablo García; Julio Borges; Julio Montoya; Luis Florido; Marianela Magallanes; Mauligmer Baloa; Miguel Pizarro; Milagros Valero; Rafael Guzmán; Ramón López; Richard Blanco; Rosmit Mantilla; Sergio Vergara; Sonia Medina; Tomás Guanipa; and Winston Flores.

[231] See YouTube Video, El Pitazo. TSJ acordó dar inicio a una investigación preliminar contra el Ciudadano Juan Guaidó, 29 January 2019, minute 0:55, available at: https://www.youtube.com/watch?v=fUjCs0z4utU.

[232] See YouTube Video, Luigino Bracci Roa, Situación en Venezuela. Asamblea Nacional Constituyente, sesión donde allanan inmunidad a Juan Guaidó, 3 April 2019, minute 1:47, available at: https://www.youtube.com/watch?v=XK9znl06XYc.

124. All 167 members of the National Assembly are up for re-election in December 2020. In May 2019, President Maduro had proposed holding elections sooner,[233] but this did not happen, and would have been contrary to the Constitution.[234]

2. The National Constituent Assembly

125. With the National Assembly stymied, the National Constituent Assembly was created to fill its place. Many of the decisions taken by the National Constituent Assembly since 2017 have served to neutralize the opposition further. On 20 May 2019, the National Constituent Assembly passed a resolution extending its mandate until 31 December 2020.[235]

126. The 1999 Constitution states that the purpose of the National Constituent Assembly is "to transform the State, creating a new juridical order and drafting a new Constitution".[236] However, the May 2017 Presidential Decree convening the National Constituent Assembly purportedly granted it powers beyond this constitutional mandate.[237] Among the stated objectives of the National Constituent Assembly in that decree were improving the national economic system, expanding the powers of the justice system and defending the sovereignty of the nation.[238]

127. Unlike the Constituent Assembly formed in 1999 to rewrite the Constitution and despite constitutional provisions in this regard,[239] no popular referendum was carried out when establishing the National Constituent Assembly.[240] On 23 May 2017, President Maduro adopted Presidential Decree No. 2878[241] establishing the procedures for election of the National Constituent Assembly, stating that representatives would be selected by territories and by sectors.[242] These modalities raised concerns with respect to universal suffrage.

128. One of the first decrees issued by the National Constituent Assembly was a decree establishing the "Norms to guarantee the effective institutional functioning of the National Constituent Assembly in harmony with other public powers".[243] In doing so, the Constituent Assembly authorized itself to issue decrees on "powers, operation and organization of the

[233] See YouTube Video, RT en Español. Nicolás Maduro propone elecciones anticipadas a la Asamblea Nacional en Venezuela. 20 May 2019, available at: https://www.youtube.com/watch?v=tbyj7RS-exc.

[234] 1999 Constitution, art. 192, which states that deputies shall be in their positions for five years.

[235] Constitutional Decree of 20 May 2019, published in Official Gazette No. 41.636.

[236] 1999 Constitution, art. 347.

[237] Presidential Decree No. 2830, published in Official Gazette No. 6295, 1 May 2017, available at: https://www.sumate.org/documentos/Decreto_N_2.830_del_1_de_mayo_de_2017_Convocatoria_Presidencial_Constituyente.010517.pdf.

[238] Ibid. The full list is (1) peace; (2) to improve the economic system; (3) to constitutionalize socialist missions and programmes; (4) to expand the powers of the justice system; (5) to constitutionalize new forms of democratic participation; (6) to defend the sovereignty and the integrity of the nation; (7) to defend the pluricultural nature of the country; (8) to constitutionalize the rights of youth; and (9) to preserve life on the planet.

[239] Article 347: The original constituent power rests with the people of Venezuela. This power may be exercised by calling a National Constituent Assembly for the purpose of transforming the State, creating a new juridical order and drawing up a new Constitution.

[240] Presidential Decree No. 2830, published in Official Gazette No. 6295, 1 May 2017, available at: https://www.sumate.org/documentos/Decreto_N_2.830_del_1_de_mayo_de_2017_Convocatoria_Presidencial_Constituyente.010517.pdf, art. 2; See also Presidential Decree No. 2831, published in Official Gazette No. 6295, 1 May 2017, available at: https://pandectasdigital.blogspot.com/2017/05/decreto-n-2831-mediante-el-cual-se-crea.html.

[241] Presidential Decree No. 2878, published in Official Gazette No. 41.156, 23 May 2017, available at: https://www.sumate.org/documentos/GACETA_OFICIAL_41156_DECRETO_PRESIDENCIAL_2878_BASES_COMICIALES_DE_LA_ANC_2017.pdf.

[242] Ibid., para. 1. The sectors included workers, campesinos, students, people with disabilities, indigenous peoples, pensioners, business people and the community councils.

[243] Constitutional Decree of 8 August 2017, Normas para garantizar el pleno funcionamiento institucional de la Asamblea Nacional Constituyente en armonía con los Poderes Públicos constituidos, published in the Official Gazette No. 6323, 8 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/normas-para-garantizar-el-pleno.html.

organizations of the Public Power"[244] and declared that, "all of the organisms of the Public Power are subordinate to the National Constituent Assembly, and are obligated to fulfil and enforce the legal acts that emanate from the Assembly".[245]

129. Since its formation in August 2017, the National Constituent Assembly has become a de facto legislative branch, taking over the National Assembly's constitutionally mandated functions.[246] Having granted itself power to legislate over matters related to guaranteeing peace security and sovereignty",[247] the National Constituent Assembly has passed a series of so-called "constitutional laws" or "constitutional decrees" on a range of subjects. This includes:

- The appointment of high-level representatives of other public powers, despite the fact that these appointments are the responsibility of the National Assembly, including appointing the representatives of the: (1) National Electoral Council;[248] (2) Attorney General;[249] (3) Comptroller General;[250] (4) Human Rights Ombudsman;[251] and (5) confirming judges of the Supreme Court of Justice.[252]
- Decisions regarding the modalities and schedules for elections,[253] which under the Constitution are powers of the National Electoral Council, including (1) the timing of Presidential elections of 2018 (moving up elections to the first quarter of 2018);[254] (2) the modalities of the Presidential elections of 2018 (declaring that only political parties that participated in previous electoral cycle may participate);[255] (3) the timing of the 2018 elections of the state legislative and municipal councils (moving up the date of elections to coincide with the Presidential elections);[256] and (4) the timing of the 2017 elections of state governors (reprogramming elections to October 2017).[257]
- Decisions affecting the national economy, including (1) implementing a special tax regime in the Arco Minero (Mining Arc) region;[258] (2) approving all national budgets

244 Ibid., art. 3.
245 Ibid., art. 5.
246 1999 Constitution, art. 187.
247 See YouTube Video, Luigino Bracci Roa, Asamblea Nacional Constituyente, sesión completa, 18 de agosto 2017, 19 August 2017, minute 26:00, available at: https://www.youtube.com/watch?v=fOl5BZiHHJE.
248 Constitutional Decree of 11 August 2017, in which the citizens Tibisay Lucena Ramírez, Sandra Oblitas Ruzza, Soccoro Elizabeth Hernández and Tania D'Amelio Cardiet are named as rectors of the National Electoral Council, published in the Official Gazette No. 6.326, available at: https://pandectasdigital.blogspot.com/2017/08/decreto-constituyente-mediante-el-cual_16.html.
249 The Attorney General is also a member of the PSUV. Constitutional Decree of 17 August 2017, ratifying in the exercise of their constitutional functions the citizens Tarek William Saab, Attorney General of the Republic and President of the Moral Republican Council; Manuel Galindo Ballesteros, Comptroller General of the Republic and Alfredo Ruiz Angulo, Ombudsman, published in Official Gazette No. 41.216 of 17 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/decreto-constituyente-mediante-el-cual_21.html.
250 Ibid.
251 Ibid.
252 Constitutional Decree of 15 August 2017, published in Official Gazette No. 41.214 of 15 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/decreto-constituyente-mediante-el-cual_17.html
253 1999 Constitution, art. 293.
254 Constitutional Decree of 23 January 2018, published in Official Gazette No. 6361, 23 January 2018, available at: https://pandectasdigital.blogspot.com/2018/01/decreto-constituyente-sobre-la.html.
255 Constitutional Decree regarding the participation in electoral process, published in Official Gazette No. 41.308, 27 December 2017, available at: https://pandectasdigital.blogspot.com/2017/12/decreto-constituyente-para-la.html.
256 Constitutional Decree of 1 March 2018, published in the Official Gazette No. 41.351, 1 March 2018, available at: https://pandectasdigital.blogspot.com/2018/03/decreto-constituyente-sobre.html.
257 Constitutional Decree of 12 August 2017, published in the Official Gazette No. 6327, 12 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/decreto-constituyente-mediante-el-cual_47.html.
258 Constitutional Law of 29 December 2017, published in the Official Gazette No. 41.310, 29 December 2017, available at: https://www.badellgrau.com/byg/upl/files/41_310.pdf.

since 2017;[259] (3) reforming the law on taxes of large financial transactions;[260] (4) repealing the illegal currency exchange regime;[261] (5) approving the National Homeland Plan 2019-2025; (6) fixing the costs of priority goods;[262] (7) regulating the Productive Councils of Workers ("to strengthen the socialist economic model");[263] (8) institutionalizing the Local Supply and Production Committees (CLAP);[264] and (9) adopting measures against the alleged "economic war".[265]

- Decisions eliminating the powers or privileges of political opposition leaders, including (1) eliminating the Office of the Mayor of the Metropolitan area of Caracas (held by opposition leader Antonio Ledesma) and the Office of the Mayor of the municipality of Alto Apure;[266] (2) removing of the governor-elect of the state of Zulia (a position won by opposition leader Juan Pablo Guanipa);[267] and (3) at different times, lifting the parliamentary immunity of opposition leaders.[268]

130. On 8 November 2017, the National Constituent Assembly enacted the "Law against Hate, for Peaceful Coexistence and Tolerance"[269] purportedly to promote "diversity," "tolerance," "peace" and "tranquillity"[270] in the country. The decree imposes steep criminal penalties, of 10 to 20 years, against anyone who publicly "encourages, promotes or incites hatred, discrimination or violence against a person or group of people," with a discriminatory motive, "due to their real or presumed membership in a determined group," including political groups.[271] The decree also prohibited media outlets from disseminating information "in favour of war or advocacy of national hatred" and stated that fines would be imposed on the media for such acts.[272]

131. In August 2017, the National Constituent Assembly created the Commission of Truth, Justice, Peace and Public Tranquillity, a non-judicial mechanism, with a mandate to examine

[259] Constitutional Decree of 30 November, published in the Official Gazette No. 41.293, 5 December 2017, available at:https://pandectasdigital.blogspot.com/2017/12/decreto-constituyente-mediante-el-cual.html.

[260] Constitution Decree of 17 August 2018, published in the Official Gazette No. 6396, 21 August 2018, available at: https://pandectasdigital.blogspot.com/2018/08/decreto-constituyente-de-fecha-17-de.html.

[261] Constitutional Decree of 2 August 2018, published in the Official Gazette No. 41.452, 2 August 2018, available at: https://pandectasdigital.blogspot.com/2018/08/decreto-constituyente-mediante-el-cual.html.

[262] Constitutional Law on Agreed Prices, published in the Official Gazette No. 6342, 22 November 2017, available at: https://www.finanzasdigital.com/2017/11/gaceta-oficial-extraordinaria-n-6-342-ley-constitucional-precios-acordados/.

[263] Constitutional Law published in the Official Gazette No. 41.336, 6 February 2018, available at: http://fedeindustria.org/leyesanc/41336.pdf.

[264] Constitutional Law published in Official Gazette No. 41.330 of 29 January 2018, available at: https://www.finanzasdigital.com/2018/01/gaceta-oficial-n-41-330-ley-constitucional-del-comite-local-abastecimiento-produccion/.

[265] Constitutional Law published in Official Gazette No. 41.318, 11 January 2018, available at: http://fedeindustria.org/leyesanc/41318.pdf.

[266] Constitutional Decree published in the Official Gazette No. 41.308, 27 December 2017, available at: https://pandectasdigital.blogspot.com/2017/12/decreto-constituyente-mediante-el-cual_29.html.

[267] Constitutional Decree published in the Official Gazette No. 41.265 of 26 October 2017, available at: https://pandectasdigital.blogspot.com/2017/10/gaceta-oficial-de-la-republica_730.html?m=1.

[268] See e.g., Resolution of the National Constituent Assembly, published in the Official Gazette No. 41.627, available at: https://www.finanzasdigital.com/2019/05/gaceta-oficial-n-41-627-sumario/.

[269] See Law against Hate, published in the Official Gazette 41.274 of 8 November 2017, available at: https://upload.wikimedia.org/wikipedia/commons/6/69/Gaceta_Oficial_de_Venezuela_N%C3%BAmero_41.274.pdf; See also See Inter-American Commission on Human Rights, Relatoría especial para la libertad de expresión manifiesta su grave preocupación por la aprobación de "la ley contra el odio" en Venezuela y sus efectos en la libertad de expresión y de prensa, 10 November 2017, available at: https://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1082&lID=2.

[270] 2017 Law against Hate, art. 1.

[271] 2017 Law against Hate, art. 20.

[272] 2017 Law against Hate, arts. 22 and 23.

"violent acts for political or intolerance motives".[273] In December 2017, the Commission issued a report on its findings, with recommendations to a number of authorities, including recommending measures alternative to the deprivation of liberty to those detained for the acts under the mandate of the Commission.[274] The Government later publicly announced that some political prisoners were released in accordance with the recommendations of the Commission.[275]

132. In 2018, the National Constituent Assembly named Attorney General Tarek William Saab Halabi as the president of the "Truth Commission", replacing the former president of the National Constituent Assembly, Delcy Eliona Rodríguez Gómez, who had been appointed Vice President.[276] In July 2018, the mandate of the commission was extended, in light of the "new acts of violence [that have taken place] for political reasons, which should be duly investigated".[277] It is unclear whether any cases have been passed to the Public Prosecutor's Office for follow up or how these bodies interact. The Commission ended its functions on 31 December 2019.

3. Executive Consolidation of Power

133. As the opposition has been debilitated, the executive has taken on increasingly expansive powers. Under the 1999 Constitution, the executive power is exercised by the President, the Executive Vice-President, the Cabinet Ministers and other officials determined by law.[278] As at 2020, there are 33 ministers of "Popular Power" within the Maduro cabinet, the largest cabinet in Latin America. Since 2014, around 25 to 30 per cent of these have been former or active military personnel.[279]

134. Article 236 lays out the President's powers, which includes acting as commander in chief of the military. However, for over four years, President Maduro has expanded governing powers beyond those enumerated in article 236 of the Constitution thorough decrees declaring states of exception and emergency.

135. The Constitution allows for the adoption of states of exception in social, political, natural or ecological situations "which seriously affect the security of the Nation, institutions and citizens".[280] In such cases, the guarantees enshrined in the Constitution may be temporarily restricted, except those referring to the right to life, the prohibition of incommunicado detention or torture, the right to due process, the right to information and other intangible human rights.[281]

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[273] Constitutional Decree, Ley Constitucional de la Comisión para la Verdad, la Justicia, la Paz y la Tranquilidad Pública, published in the Official Gazette No. 6323, art. 1, 8 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/ley-constitucional-de-la-comision-para.html.

[274] See Press Release of the Commission for Truth, Justice, Peace and Public Tranquillity, 23 December 2017, available at: http://mppre.gob.ve/wp-content/uploads/2017/12/Comunicado-Comision-Verdad-23-12-2017.pdf.

[275] See e.g., BBC, Venezuela: liberado un primer grupo de presos "por motivos políticos", entre los que está el exalcalde Daniel Ceballos, 1 June 2018, available at: https://www.bbc.com/mundo/noticias-america-latina-44339017.

[276] See Constitutional Decree of 19 June 2018, published in the Official Gazette No. 41.423, 20 June 2018, available at: https://pandectasdigital.blogspot.com/2018/06/decreto-constituyente-mediante-el-cual_21.html.

[277] See Decree Constituyente de modificación de la Ley Constitucional de la Comisión para la Verdad, la Justicia, la Paz y la Tranquilidad Pública, published in the Official Gazette No. 41.667 of 3 July 2019, art. 4, available at: https://pandectasdigital.blogspot.com/2019/07/decreto-constituyente-de-modificacion.html#.

[278] 1999 Constitution, art. 225.

[279] https://www.controlciudadano.org/noticias/control-ciudadano-militares-pierden-influencia-en-el-gabinete-de-maduro.

[280] 1999 Constitution, art. 337.

[281] Ibid., Article 7 of the 2001 Organic Law on the States of Exceptions (Gaceta Oficial NO.37.261 de fecha 15 de agosto de 2001) indicates what these intangibles rights are, in accordance with articles 339 of the Constitution, 4.2 of the ICCPR and 27(2) of the American Convention on Human Rights, namely the right to: life; recognition of legal personality; protection of the family; equality before the

136. States of economic emergency may be declared when extraordinary economic circumstances arise and these shall last 60 days, with the possibility of extension for the same period.[282] Under the Organic Law of States of Exceptions, during states of exception, the executive has broad powers to enact "all the measures" considered pertinent to the circumstances.[283] However, under the Constitution, the states of exception must respect civil and political rights under the International Covenant on Civil and Political Rights and the American Convention on Human Rights.[284]

137. The Organic Law on the States of Exceptions establishes that all measures of exception need to be proportional to the situation that needs to be confronted as to the severity, nature and scope of application.[285] All judges have the faculty to check the justification and proportionality of the measures adopted on the basis of the state of exception.[286]

138. Since 2016, a series of states of emergency have been issued over the entire country. The states of economic emergency were declared as of January 2016, over a year before the United States imposed the first financial sanction on Venezuela.[287] All have authorized the President to take broad economic, social and security measures to address a range of issues. Several provisions of the decrees also allowed the President to circumvent approval of the National Assembly for decisions related to the national economy. Among other measures, the local supply and production committees (CLAP)[288] were established under these executive orders.

139. A number of these decrees contain a clause allowing for the restrictions of rights, with the exception of those listed in article 337 of the Constitution (non-derogable rights including right to life and prohibition against torture) and article 7 of the Organic Law on States of Exception (rights to equality before the law, personal liberty, right to due process, prohibition of enforced disappearance, among others).

140. Each of these has been upheld by the constitutional chamber of the Supreme Court, despite having not been approved by the National Assembly, as required under the Constitution.[289] The states of emergency include the following:

law; nationality; personal liberty and the prohibition of the practice of enforced disappearance of persons; personal, physical, psychological and moral integrity; not to be subjected to slavery or servitude; freedom of thought, conscience and religion; the legality and non-retroactivity of laws, especially criminal laws; due process of law; constitutional protection; participation, suffrage and access to public service; and information.

282 Ibid., art. 338.

283 Ley Orgánica sobre estados de excepción, published in Official Gazette No. 37.261 of 15 August 2001, art. 15, available at: https://www.refworld.org.es/type,LEGISLATION,,,57f794aa39,0.html.

284 1999 Constitution, art. 339. ticle 4(1) of the ICCPR provides that in time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the ICCPR may take measures derogating from their obligations under the Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law. Article 4 (2) of the ICCPR indicates that no derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 of the Covenant may be made. There is no information that Venezuela has informed the other States Parties to the ICCPR, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it might have derogated and of the reasons by which it was actuated – as provided in art. 4 (3).

285 2001 Organic Law on the States of Exceptions, art. 7.

286 2001 Organic Law on the States of Exceptions, art. 40.

287 E.O. 13808 of August 2017.

288 Decree No. 2323 of 13 May 2016, art. 2 ("The guarantee, including through the intervention of the Bolivarian National Armed Force and the citizen security bodies, with the participation of the Local Supply and Distribution Committees (CLAP), of the correct distribution and marketing of food and essential products.

289 1999 Constitution, art. 339.

Table 1
States of emergency and exception

	Presidential Decree and date	*SC judgment upholding constitutionality*	*Excerpts of content of state of exception*
1.	Decree No. 2184 of 14 January 2016[290]	Judgment No. 4 of 20 January 2016	Regulating production and distribution of food; requiring public and private businesses to produce essential items; authorizing measures to ensure access of the population to food and medicine
2.	Decree No. 2270 of 11 March 2016[291]	Judgment No. 184 of 17 March 2016	Extension
3.	Decree No. 2323 of 13 May 2016[292]	Judgment No. 411 of 19 May 2016	Creating of the CLAP programme; authorizing cancelling of foreign funding to organizations if can be determined that used for "political" or "destabilization" purposes; temporarily suspending sanctions against high-level officials issued by other public powers; assign surveillance and organizational functions to CLAP and the Communal Councils to coordinate with security forces in order to maintain public order
4.	Decree No. 2371 of 12 July 2016[293]	Judgment No. 615 of 19 July 2016	Extension
5.	Decree No. 2452 of 13 September 2016[294]	Judgment No. 810 of 21 September 2016	Authorizing measures to obtain financial information from individuals to avoid currency speculation, hoarding and usury; allowing the signing of public contracts for economic development, without the authorization of other public powers; temporarily suspending sanctions against high-level officials issued by other public powers; allowing for the derogation of certain rights, other than those under art. 337 of the Constitution and art. 7 of the Organic Law on states of exception
6.	Decree No. 2548 of 13 November 2016[295]	Judgment No. 952 of 21 November 2016	Extension
7.	Decree No. 2667 of 13 January 2017[296]	Judgment No. 4 of 19 January 2017	Authorizing entering into public contacts and indebting the country without approval of other public powers; designing and implementing public security plans "against destabilizing plans that threaten the peace of the nation"; allowing for the derogation of certain rights, other than those under art. 337 of the Constitution and art. 7 of the Organic Law on states of exception
8.	Decree No. 2742 of 13 March 2017[297]	Judgment No. 113 of 20 March 2017	Extension
9.	Decree No. 2849 of 13 May 2017[298]	Judgment No. 364 of 24 May 2017	Authorizing foreign exchange and entering into public contracts without approval of the National Assembly; adopting exceptional measures to prevent plans to destabilize the economy; adopting public security plans "against destabilizing plans that threaten the peace of the nation"; allowing for the derogation of certain rights, other than those under art. 337 of the Constitution and art. 7 of the Organic Law on states of exception
10.	Decree No. 2987 of 13 July 2017[299]	Judgment No. 547 of 25 July 2017	Extension

[290] https://microjurisve.files.wordpress.com/2016/01/gaceta-oficial-extraordinaria-nc2ba-6-214.pdf.
[291] https://pandectasdigital.blogspot.com/2016/05/decreto-n-2270-mediante-el-cual-se.html.
[292] https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html.
[293] https://pandectasdigital.blogspot.com/2016/07/decreto-n-2371-que-prorroga-por-sesenta.html.
[294] http://mundotributariovzla.blogspot.com/2016/09/decreto-de-estado-de-excepcion-y.html.
[295] https://pandectasdigital.blogspot.com/2016/11/decreto-n-2548-de-fecha-13-de-noviembre.html.
[296] https://pandectasdigital.blogspot.com/2017/01/decreto-n-2667-de-fecha-13-de-enero-de.html.
[297] https://pandectasdigital.blogspot.com/2017/03/decreto-n-2742-mediante-el-cual-se.html.
[298] https://pandectasdigital.blogspot.com/2017/05/decreto-n-2849-de-fecha-13-de-mayo-de.html.
[299] http://dctos.finanzasdigital.com/Gaceta-Oficial-41192-Decreto-2987.pdf.

	Presidential Decree and date	*SC judgment upholding constitutionality*	*Excerpts of content of state of exception*
11.	Decree No. 3074 of 11 September 2017[300]	Judgment No. 727 of 25 September 2017	Temporarily suspending sanctions issued against high-level Government authorities issued by other public powers; authorize the development and implementation of public security plans; enter into contracts without the approval of other public powers; allowing for the derogation of certain rights, other than those under art. 337 of the Constitution and art. 7 of the Organic Law on states of exception
12.	Decree No. 3157 of 10 November 2017[301]	Judgment No. 959 of 22 November 2017	Extension
13.	Decree No. 3239 of 9 January 2018[302]	Judgment No. 39 of 17 January 2018	Reiterating previous states of exception; enacting a number of allowing measures to prevent campaigns of destabilization and distortion to the economy; expanding the channels of timely distribution of food and drugs; executing special plans of public security that face the destabilizing actions against the peace of the Nation; allowing for the derogation of certain rights, other than those under art. 337 of the Constitution and art. 7 of the Organic Law on states of exception
14.	Decree No. 3308 of 13 March 2018[303]	Judgment No. 284 of 20 March 2018	Extension
15.	Decree No. 3413 of 10 May 2018[304]	Judgment No. 381 of 23 May 2018	Reiterating previous states of exception
16.	Decree No. 3503 of 9 July 2018[305]	Judgment No. 483 of 25 July 2018	Extension
17.	Decree No. 3610 of 10 September 2018[306]	Judgment No. 638 of 20 September 2018	Implementing digital registry and use of the carnet de la patria for application of subsidies and authorizing the executive to indebt the country
18.	Decree No. 3655 of 9 November 2018[307]	Judgment No. 805 of 22 November 2018	Extension
19.	Decree No. 3736 of 11 January 2019[308]	Judgment No. 5 of 25 January 2019	Reiterating provisions of the previous states of exception
20.	Decree No. 3779 of 12 March 2019[309]	Judgment No. 73 of 28 March 2019	Extension
21.	Decree No. 3844 of 10 May 2019[310]	Judgment No. 128 of 23 May 2019	Reiterating provisions of the previous states of exception
22.	Decree No. 3906 of 9 July 2019[311]	Judgment No. 234 of 18 July 2019	Extension
23.	Decree No. 3980 of 7 September 2019[312]	Judgment No. 325 of 23 September 2019	Reiterating provisions of the previous states of exception

[300] https://pandectasdigital.blogspot.com/2017/09/decreto-n-3074-mediante-el-cual-se.html.
[301] https://pandectasdigital.blogspot.com/2017/11/decreto-n-3157-mediante-el-cual-se.html.
[302] https://pandectasdigital.blogspot.com/2018/01/decreto-n-3239-mediante-el-cual-se.html.
[303] https://pandectasdigital.blogspot.com/2018/03/decreto-n-3308-mediante-el-cual-se.html.
[304] https://pandectasdigital.blogspot.com/2018/05/decreto-n-3413-mediante-el-cual-se.html.
[305] https://pandectasdigital.blogspot.com/2018/07/decreto-n-3503-mediante-el-cual-se.html.
[306] https://pandectasdigital.blogspot.com/2018/09/decreto-n-3610-mediante-el-cual-se_20.html.
[307] https://pandectasdigital.blogspot.com/2018/11/decreto-n-3655-mediante-el-cual-se.html.
[308] https://pandectasdigital.blogspot.com/2019/01/decreto-n-3736-mediante-el-cual-se.html.
[309] Copy not publicly available.
[310] Copy not publicly available.
[311] https://pandectasdigital.blogspot.com/2019/09/decreto-n-3906-mediante-el-cual-se.html.
[312] https://pandectasdigital.blogspot.com/2019/10/decreto-n-3980-mediante-el-cual-se.html.

	Presidential Decree and date	*SC judgment upholding constitutionality*	*Excerpts of content of state of exception*
24.	Decree (No Number) of 6 November 2019[313]	Judgment No. 370 of 22 November 2019	Extension
25.	Decree No. 4090 of 5 January 2020[314]	Judgment No. 2 of 14 January 2020	Reiterating provisions of the previous states of exception
26.	Decree No. 4194 of 4 May 2020[315]	NA	Extension

141. In March 2020,[316] as did many countries around the world, the President enact a state of emergency related to Covid-19, which was extended in May 2020[317] and in June 2020.[318]

142. Before enacting the states of emergency and exception, President Maduro governed under two "enabling laws" enacted by the previous National Assembly, which the PSUV party still controlled.[319] The second of these, the "Anti-Imperialist Enabling Law," adopted in March 2015,[320] conferred special powers to the President to dictate law and decrees for a period of six months. This followed the practice of former President Hugo Chávez governing under enabling laws issued by the National Assembly.[321] Since the ruling party became the minority in the National Assembly, the President has relied upon states of exception and emergency to govern.

143. Of 67 political parties that had existed in December 2015, only 17 remained as of the time of the Presidential elections in 2018 (12 pro-Government and five opposition).[322] Among those were the parties banned by the January 2018 decision of the Supreme Court due to their "double inscription" in their respective parties and the MUD[323] and those banned by the December 2017 decree of the National Constituent Assembly requiring parties to have participated in previous elections.[324]

313 Copy not publicly available.

314 https://pandectasdigital.blogspot.com/2020/02/decreto-n-4090-mediante-el-cual-se.html.

315 Published in the Official Gazette No. 6534 of 4 May 2020.

316 Decree No. 4.160 published in the Official Gazette No. 6519, May 13 2020, available at: https://www.finanzasdigital.com/2020/03/gaceta-oficial-extraordinaria-n6-519-se-decreta-el-estado-de-alarma-en-todo-el-territorio-nacional-por-epidemia-del-coronavirus-covid-19/.

317 Decree No. 4.198 published in the Official Gazette No. 6.535, 12 May 2020, available at: https://pandectasdigital.blogspot.com/2020/05/decreto-n-4198-de-fecha-12-de-mayo-de.html.

318 Decree No. 4.230 published in the Official Gazette No. 6.542, 11 June 2020, available at: https://pandectasdigital.blogspot.com/2020/06/decreto-n-4230-mediante-el-cual-se.html.

319 The first of these, Government Order No. 6112 of 19 November 2013, authorized the President to legislate without restrictions.

320 Anti-Imperialist Enabling Law, Published in Official Gazette No. 6178 of 15 March 2015.

321 Including enabling laws published in Official Gazette No. 36.687 of 26 April 1999, published in Official Gazette No. 37,076 of 13 November 2000, published in Official Gazette No. 38.617 of 1 February 2007 and published in Official Gazette No. 6009 of 17 December 2010. See http://confirmado.com.ve/conozca-cuantas-leyes-habilitantes-se-han-aprobado-en-venezuela-en-los-ultimos-14-anos/.

322 See Acceso a la Justica, Informe sobre la toma absoluta de poder, p. 26, available at: https://www.accesoalajusticia.org/wp-content/uploads/2019/09/Informe-La-toma-absoluta-del-Poder-en-Venezuela.pdf.

323 See Press Release from Office of the Vice-President (no date), available at: http://vicepresidencia.gob.ve/tsj-ratifica-prohibicion-de-doble-militancia-en-partidos-politicos/.

324 National Constituent Assembly, Constitutional Decree for the Participation on Electoral Processes, published in the Official Gazette No. 41.308, 27 December 2017, available at: https://www.sumate.org/documentos/41308_DECRETO_DE_LA_ANC.pdf ("Las organizaciones con fines políticos para participar en los procesos electorales nacionales, regionales o municipales deberán haber participado en las elecciones del periodo constitucional de ámbito nacional, regional o municipal inmediatamente anterior").

144. Similarly, at the regional level, the 2017 gubernatorial elections were reprogrammed several times,[325] finally being set to October 2017 following a decree of the National Constituent Assembly.[326] The ruling party eventually won 18 of 23 gubernatorial seats.[327] In December 2018, the elections for the municipal councils were held. Various irregularities were alleged, including lack of compliance with the Law on Regularization of the Constitutional and Legal Periods for State and Municipal Powers, which states that municipal and gubernatorial elections should take place at the same time.[328]

145. In December 2016, the executive began issuing "Carnets de la Patria".[329] These identification cards contain QR (quick response) codes containing biometric data and information regarding the user's socio-economic status. They were purportedly intended to streamline the distribution of humanitarian aid, through the local CLAP. The executive allegedly uses the cards to distribute assistance based on loyalty to the ruling party.[330] Allegations also arose that the cards were used to track party affiliation during the 2017 gubernatorial election, the 2018 municipal elections and the 2018 presidential elections, after party officials scanned them at kiosks established near polling stations.[331]

146. The executive has exclusively controlled the national budget since 2016, when the Supreme Court held that it need not be passed by the National Assembly, given the legislature's continued contempt of the court's decisions.[332] Executive control of the budget since then has resulted in lack of transparency, as noted by Transparency International Venezuela in its analysis of the 2017 and 2018 budgets.[333]

147. The "Strategic Development Zone Arco Minero de Orinoco" was established in 2016 by Presidential Decree.[334] It was created without carrying out social and environmental impact studies as required by the Constitution.[335] It comprises an area of nearly 112,000 kilometres squared around the Orinoco River spanning the Amazonas and Bolívar states, over concessions expropriated from international companies. Organized crime and irregular armed groups, who engage in illegal mining and various related criminal activities, including trafficking of contraband, have infiltrated the area.[336] Numerous violations falling within the

[325] See YouTube Video, Luigino Bracci Roa, Tibisay Lucena anuncia cronograma de elecciones de gobernadores 2017, 15 June 2017, available at: https://www.youtube.com/watch?v=KXK72ie8c80.

[326] Constitutional Decree published in the Official Gazette No. 6323, 12 August 2017.

[327] See National Electoral Tribunal, results of the 2017 regional elections, available at: http://www.cne.gob.ve/resultados_regionales2017/. See also YouTube Video, Luigino Bracci Roa, Discurso de Nicolás Maduro en la plaza Diego Ibarra tras inscribirse como candidato presidencial, 27 February 2019, available at: https://www.youtube.com/watch?v=BhvHswzJhKI.

[328] Ley de Regularización de los Períodos Constitucionales y Legales de los Poderes Públicos Estatales y Municipales, published in Official Gazette No. 6.013 of 23 December 2010, art. 2.2, available at: https://politikaucab.files.wordpress.com/2015/04/ley_de_regularizacion_de_los_periodos-y-partidos-politicos.pdf.

[329] See official information at: https://descargarplanilla.com/carnet-de-la-patria/; https://twitter.com/carnetdlapatria?lang=en.

[330] See Transparency International Venezuela, El Apartheid Revolucionario, available at: https://transparencia.org.ve/wp-content/uploads/2018/03/Carnet-de-la-patria-2018-TV.pdf.

[331] See Infobae, Promesas y mentiras del Carnet de la Patria, el documento de control social del régimen de Nicolás Maduro, 25 February 2018, available at: https://www.infobae.com/america/venezuela/2018/02/25/promesas-y-mentiras-del-carnet-de-la-patria-el-documento-de-control-social-del-regimen-de-nicolas-maduro/; and El País, "Con el carné de la patria sabemos quiénes están con la revolución", 11 December 2017, available at: https://elpais.com/internacional/2017/12/11/america/1513002736_651010.html.

[332] Judgment No. 814 of 11 October 2016. See analysis of this judgment by Professor Allan R. Brewer-Carías, Universidad Central de Venezuela, 21 October 2016, available at: http://allanbrewercarias.com/wp-content/uploads/2019/04/964.-Brewer.-La-Usurpaci%C3%B3n-de-la-func.-presupuestaria-por-la-SCl.-Sentencia-SC-814-19-10-2016.pdf.

[333] 2017: https://transparencia.org.ve/project/analisis-del-presupuesto-nacional-2017/; 2018: https://transparencia.org.ve/project/presupuesto-nacional-2018-documentos-oficiales/.

[334] Presidential Decree No. 2248 of 24 February 2018, published in the Official Gazette No. 40.855.

[335] 1999 Constitution, art. 129.

[336] See e.g., International Crisis Group, "Gold and Grief in Venezuela's Violent South", available at; https://www.crisisgroup.org/latin-america-caribbean/andes/venezuela/073-gold-and-grief-venezuelas-

Mission's mandate have been alleged in the Arco Minero region.[337] The Mission was not able to investigate these due to time and resource limitations, as noted above.

4. The Supreme Court of Justice

148. One of the elements that contributes to the violations and crimes determined by the Mission is the lack of independence of the judiciary. The 1999 Constitution, which outlines the judicial power and the institutions of justice system,[338] makes clear that the judiciary shall be independent and that the Supreme Court shall enjoy functional, financial and administrative autonomy.[339]

149. Shortly after the adoption of the Constitution, the 1999 National Constituent Assembly passed a transitional measure appointing Supreme Court magistrates outside of the constitutional process that continues to date.[340] Since then, a series of decisions increased Government powers over selection of Supreme Court judges.[341] This includes: (1) the 2000 law of the National Assembly allowing it to elect magistrates by a simple majority rather than the two-thirds majority required under the Constitution;[342] (2) a 2000 Supreme Court decision exempting judicial candidates from fulfilling career requirements outlined in the Constitution;[343] and (3) the 2004 adoption by the National Assembly of the Organic Law of the Supreme Court of Justice increasing the size of the Supreme Court from 20 to 32 judges.[344]

150. In December 2015, the outgoing National Assembly hastily appointed 13 judges (out of the total 32) and 21 alternates to the Supreme Court for the period 2015-2027, who were later referred to as the "express judges". The appointments occurred in the period following the opposition's majority win in the 6 December 2015 legislative elections and the taking of power by the new National Assembly in January 2016.

151. This process was not in accordance with the Constitution nor the 2010 Organic Law of the Supreme Court. The law requires that justices be elected by two-thirds of the National Assembly[345] (allowing only for election by simple majority if three previous attempts to reach

violent-south; Fernando Fernández, Materiales de Sangre, available at: https://observatoriodot.org.ve/materiales-de-sangre/.

337 See e.g., Office of the High Commissioner for Human Rights, A/HRC/44/54, 15 July 2020, available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A_HRC_44_54_UnofficialSpanishTranslation.pdf; Human Rights Watch, Venezuela: Violentos abusos en minas de oro ilegales, 4 February 2020, available at: https://www.hrw.org/es/news/2020/02/04/venezuela-violentos-abusos-en-minas-de-oro-ilegales; International Crisis Group, El peso del oro: violencia en el sur de Venezuela, 28 February 2019, available at: https://www.crisisgroup.org/es/latin-america-caribbean/andes/venezuela/073-gold-and-grief-venezuelas-violent-south

338 1999 Constitution, arts. 253-272.

339 Ibid., art. 254 and 256. See also, Criminal Procedure Code, Official Gazette No. 6078 of 15 June 2012, art. 4.

340 Reorganization of Judicial Power and Penitentiary System, published in the Official Gazette No. 36.805, 11 October 1999, available at: https://www.oas.org/juridico/spanish/ven_res51.pdf.

341 1999 Constitution, art. 272. See also, Acceso a la Justicia, El Secuestro del Sistema de Justicia, available at: https://www.accesoalajusticia.org/secuestro-justicia-pecado-original-chavismo/.

342 This was partially modified by the 2010 reforms to the Organic Law, which allowed for a simple-majority election only if three attempts to reach a two-thirds vote had failed. Ley Especial para la Ratificación o Designación de los Funcionarios o Funcionarias del Poder Ciudadano y Magistrados y Magistradas del Tribunal Supremo de Justicia para el Primer Período Constitucional, published in the Official Gazette No. 37.077 of 14 November 2000.

343 Judgment No. 1562 of 12 December 2000, available at: https://vlexvenezuela.com/vid/defensoria-pueblo-283506271

344 Ley Orgánica del Tribunal Supremo de Justicia de la República Bolivariana de Venezuela, published in the Official Gazette No. 37.942, 20 May 2004, art. 2, available at: https://www.oas.org/juridico/spanish/mesicic2_ven_anexo_44_sp.pdf.

345 The National Assembly may only appoint Supreme Court judges by simple majority if in four previous plenary sessions they have failed to attain at two-thirds majority. Ley Orgánica del Tribunal

a two-thirds majority have failed), and that time be allowed for potential challenges to the candidates nominated.[346] Two of the principal magistrates of the newly elected 13 were active members of the ruling party, PSUV.[347]

152. In January 2016, the newly elected National Assembly created a commission to determine whether the judicial selection process was in accordance with the law. Several outgoing judges testified that they were pressured to apply for their retirements a year before their constitutionally established terms ended.[348] In its March 2016 final report, the commission concluded that the selection was illegitimate, citing various irregularities in the formation of the nominations commission and the judicial selection process, and recommended that the 23 December 2015 election be annulled.[349]

153. Based on those findings, on 14 July 2017, in the midst of the political crisis, the opposition-led National Assembly announced that it would create a judicial appointment commission to proceed with the re-selection of the judges to the Supreme Court.[350] In response, on 18 July, President Maduro announced the beginning of a "Special Plan for Justice and Emergency," for the "search and capture of all of these conspirators".[351] On 19 July, the Supreme Court annulled the National Assembly's decision, affirming that the Supreme Court would continue as currently configured.[352] The current National Constituent Assembly later passed a decree ratifying the current judges.[353]

154. The Supreme Court has ceased to function as an independent check on other branches of Government. In particular, the Constitutional Chamber has wide-reaching powers to nullify decisions of all other branches of the State.[354] From January 2016 to the present, the Supreme Court has consistently struck down decisions of the opposition-led National Assembly.[355] As noted above, in 2017 it has also, notoriously, assumed legislative functions

Supremo de Justicia, published in the Official Gazette No. 39.522 of 1 October 2010, art. 38, available at: http://www.oas.org/juridico/PDFs/mesicic4_ven_ley_org_trib_sup_just.pdf.

346 1999 Constitution, art. 264.

347 See study by Acceso a la Justicia at https://www.accesoalajusticia.org/wp-content/uploads/2017/03/Los-magistrados-de-la-revoluci%C3%B3n.pdf. See also https://www.accesoalajusticia.org/enterate-si-los-magistrados-expres-escogidos-en-el-2015-cumplen-o-no-con-los-requisitos-para-serlo/.

348 Final Report, Comisión especial para el estudio y análisis del proceso de selección de magistrados principales y suplentes del tribunal supremo de justicia, 24 March 2016, p. 11-12, available at: https://supremainjusticia.org/wp-content/uploads/2016/03/INFORME_DEFINITIVO-COMISION-ESPECIAL-ESTUDIAR-DESIGNACION-DE-MAGISTRADOS.pdf

349 Ibid., p. 13.

350 See Final Report, Special Commission for the rescue of the unconstitutionality of the Supreme Court of Justice, available at: https://supremainjusticia.org/wp-content/uploads/2016/07/INFORME-FINAL-COMISION-ESPECIAL-PARA-EL-RESCATE-DEL-TSJ.pdf.

351 Maduro anuncia la activación de "Plan Especial de Justicia de Emergencia", 18 July 2017, https://twitter.com/RPolicial/status/887494952737001472; Also on 23 July, President Maduro openly threatened to arrest the judges, referring to them as "usurpers" and stated that their bank accounts would be frozen. See video at: http://www.telemadrid.es/noticias/internacional/Maduro-amenaza-carcel-nombrados-Parlamento-0-1924007605--20170724030235.html.

352 Judgment No. 614 of 19 July 2016, available at: https://vlexvenezuela.com/vid/gabriela-flores-ynserny-daniel-645380001.

353 Constitutional Decree of 15 August 2017, ratifying the exercise of the constitutional functions of the magistrates of the Supreme Court of Justice, published in Official Gazette No. 41.214 of 15 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/decreto-constituyente-mediante-el-cual_17.html.

354 See Aviso Oficial mediante el cual se corrige por error material la Ley Orgánica del Tribunal Supremo de Justicia, art. 25, available at: https://vlexvenezuela.com/vid/aviso-material-organica-tribunal-supremo-222232906.

355 See compilation by Acceso a la Justica, available at: https://www.accesoalajusticia.org/wp-content/uploads/2020/05/Cuadro-TSJ-vs-AN-127-sentencias-1-1.pdf.

(Judgment No. 156) and lifted parliamentary immunity of all opposition deputies (Judgment No. 155), decisions that it subsequently reversed following public outcry.[356]

155. In three judgments issued between June and July 2020, the Constitutional Chamber of the Supreme Court suspended the boards of opposition political parties Acción Democrática,[357] Primero Justicia[358] and Voluntad Popular,[359] replacing them with *ad hoc* boards whose membership was selected by the Supreme Court in the judgments.[360] On 13 June 2020, the Supreme Court appointed new members of the National Electoral Council,[361] despite that under the 1999 Constitution, this is a power reserved to the National Assembly.[362]

5. Independence of Judges and Prosecutors

156. A principal problem regarding the independence of the judiciary is the temporary nature of appointments of judges. Under the 1999 Constitution, admission to the judicial career and the promotion of judges are determined by a public competitive process to ensure the capability and suitability of candidates.[363] Candidates are to be selected by panels from circuit courts in the form and under the conditions laid out under the law.[364] However, such examinations have not been carried out for over 16 years, resulting in only around an estimated 15 per cent of judges in Venezuela being career judges as at 2019.[365]

157. The vast majority of judges are appointed on a provisional basis, meaning they can be selected, as well as removed, without cause or compliance with the process under the Constitution. In June 2016, the Supreme Court adopted a set of "Norms for evaluation and competition for the ingress to and promotion within the judicial career," which, among others, continued to allow a judicial commission of the Supreme Court (established in 1999 as a transitional measure)[366] to appoint and remove provisional judges discretionarily.[367]

158. The Constitution tasks the Supreme Court with judicial administration, including discipline of lower court judges.[368] The disciplinary regime is outlined in a Code of Ethics, revised by the National Assembly in December 2015.[369] The Code requires that the disciplinary process be public, oral and brief, and in accordance with due process guarantees. However, in February 2016, the Supreme Court issued a judgment suspending application of the Code of Ethics in judicial disciplinary processes with respect to provisional judges.[370]

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356 Judgment No. 158, Clarifying Judgment No. 156 of 29 March 2017 and Judgment No. 157, Clarifying Judgment No. 155 of 28 March 2017.

357 Judgment of 15 June 2020, available at: https://www.accesoalajusticia.org/wp-content/uploads/2020/06/SC-N%C2%B0-0071-15-06-2020.pdf.

358 Judgment of 16 June 2020, available at: https://www.accesoalajusticia.org/wp-content/uploads/2020/07/SC-N%C2%B0-72-16-06-2020.pdf.

359 Judgment of 7 July 2020, available at: https://www.accesoalajusticia.org/wp-content/uploads/2020/07/SC-N%C2%B0-0077-07-07-2020.pdf.

360 The decisions were based on the alleged violation of political rights by the boards against some of the parties' militants.

361 Supreme Court of Justice, Judgement No. 0070, 12 June 2020, available at: http://historico.tsj.gob.ve/decisiones/scon/junio/309872-0070-12620-2020-20-0215.HTML

362 1999 Constitution, arts. 187 and 296.

363 1999 Constitution, art. 255.

364 Ibid.

365 See study by Armando Info, available at: https://armando.info/Reportajes/Details/2581.

366 Reorganization of Judicial Power and Penitentiary System, published in the Official Gazette No. 36.805, 11 October 1999, available at: https://www.oas.org/juridico/spanish/ven_res51.pdf.

367 Normas de Evaluación y Concurso de Oposición para el Ingreso y Ascenso a la Carrera Judicial. published in Official Gazette No. 40.972 of 23 August 2016, available at: http://www.juris-line.com.ve/data/files/3537.pdf. See analysis by Acceso a la Justicia, available at: https://www.accesoalajusticia.org/consideraciones-sobre-las-normas-de-evaluacion-y-concurso-de-oposicion-para-el-ingreso-y-ascenso-a-la-funcion-judicial/.

368 1999 Constitution, art. 267. See also Ley Orgánica del Poder Ciudadano, art. 65.

369 See Código de Ética para el Juez Venezolano y la Jueza Venezolana, published in the Official Gazette No. 6207, 28 December 2015. The code replacing the previous Code of Ethics from 2009.

370 Judgment No. 04 of 4 February 2016, available at: https://vlexvenezuela.com/vid/nancy-castro-varvaro-593077910.

159. Constitutional provisions require that judges not engage in political activism[371] and that political interests do not motivate the appointment or removal of judges.[372] Over half of judges are registered with the PSUV political party, according to estimates.[373]

160. With respect to prosecutors, while access to career is in principle via public examination,[374] the overwhelming majority of them are also appointed on a temporary basis.[375] The career stability of public prosecutors has been further eroded since the 2017 appointment of Tarek William Saab as the new Attorney General by the National Constituent Assembly. In September 2018, Mr. Saab issued a resolution restructuring the Public Prosecutor's Office, which stated that prosecutors are in "positions of trust" and can be named and removed at will, thus removing prosecutorial job security.[376]

161. Some judges and prosecutors have been subjected to criminal persecution following decisions they have taken. Judge María Lourdes Afiuni, for example,[377] was arbitrarily detained in 2009, after she had ordered the conditional release of an individual whose detention had been deemed arbitrary by the United Nations Working Group on Arbitrary Detention.[378] In March 2019, the judge was convicted for "spiritual corruption,"[379] a crime that is not typified under Venezuelan law, which was confirmed on appeal in October 2019.[380] Her case has created an atmosphere of fear amongst judges, commonly known as the "Afiuni effect".

162. Judges and lawyers have also testified that they have been improperly pressured. Franklin Nieves, public prosecutor in the case of Leopoldo López, has spoken publicly that the trial against Mr. López was a sham and that he remained silent out of fear and because of the pressure exerted by his superiors.[381] He said that President Maduro and Diosdado Cabello[382] give orders directly to the Attorney General about what cases to pursue, noting that the judiciary "kneels" before the executive, which "runs absolutely everything".[383] The judge in that case, Ralenis Tovar, has declared that when signing the arrest warrant for Leopoldo López, she was sitting before a large number of officials of the state intelligence services and the Bolivarian National Guard and four national prosecutors, and she was threatened with becoming the "next Judge Afiuni".[384]

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371 1999 Constitution, art. 256.

372 1999 Constitution, art. 145.

373 See study by Armando Info, available at: https://armando.info/Reportajes/Details/2581.

374 Article 93 of the 2007 Organic Law on the Public Prosecutor's Office, available at: http://www.derechos.org.ve/pw/wp-content/uploads/Ley-Org%C3%A1nica-del-Ministerio-P%C3%BAblico.pdf.

375 According to the NGO Acceso a la Justicia, as of 2017 only approximately 0.2 per cent of prosecutors had security of tenure. See https://www.accesoalajusticia.org/wp-content/uploads/2020/06/Informe-El-ministerio-Pu%CC%81blico-en-Venezuela.-Su-actuacio%CC%81n-y-percepcio%CC%81n-ciudadana.pdf.

376 Resolution No. 2703 of 13 September 2018, published in the Official Gazette No. 41.482 of 14 September 2018, available at: https://www.ghm.com.ve/wp-content/uploads/2018/09/41482.pdf.

377 See YouTube Video, Nuestra Tele Internacional, Una vez más difieren el juicio contra jueza María Lourdes Afiuni, 22 January 2015, available at: https://www.youtube.com/watch?v=RUD7aCVukRM.

378 See United Nations Working Group on Arbitrary Detention, Opinion No. 20/2010; Human Rights Committee, Communication No. 1940/2010.

379 See https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24405&LangID=E.

380 See Acceso a la Justicia, Cronología del caso de María Lourdes Afiuni, 30 October 2018, available at: https://www.accesoalajusticia.org/cronologia-maria-lourdes-afiuni/.

381 See La Patilla, Entrevista completa Franklin Nieves Conclusiones 27/10/2015, 28 October 2015, available at: https://www.youtube.com/watch?v=i4-t6NGl1Ec. See also https://www.bbc.com/news/world-latin-america-34656748.

382 Former president of the National Assembly and then president of the National Constituent Assembly.

383 YouTube Video, La Patilla, Entrevista completa Franklin Nieves Conclusiones 27/10/2015, 28 October 2015, minute 2:15, available at: https://www.youtube.com/watch?v=YPsTNZn2Ldo&t=726s.

384 Testimony of Ralenis Tovar at the Hearing of the OAS General Secretariat to analyse the possible commission of crimes against humanity in Venezuela, 16 October 2017, available at: https://www.youtube.com/watch?v=ca5zYBQYcVE.

163. Since 2017, the Public Prosecutor's Office has seen its independence progressively limited by decisions of the Supreme Court.[385] In July 2017, the Supreme Court issued a decision allowing judges to order the Public Prosecutor's Office to continue investigations, even if the prosecutors consider that there is not sufficient grounds to do so, potentially interfering with prosecutorial independence.[386]

164. After speaking out against the Maduro Government, former Attorney General Luisa Ortega Díaz had her immunity lifted on 20 June 2017,[387] allegedly because she had not fulfilled her duties by failing to investigate deaths resulting from "violent acts generated by opposition political parties", among other reasons.[388] She was later removed from the position in one of the first acts of the National Constituent Assembly.[389]

165. As detailed below, the judiciary has itself become an instrument of repression, creating an accountability imbalance at variance with the principle of equality of arms. The Mission documented cases in which members of the judiciary were involved, either by act or omission, in the perpetration of serious human rights violations. This is especially true in the case of the criminal prosecution of political opponents - cases that have demonstrated recurrent violations of due process guarantees. Further, the cases investigated by the Mission show that the State has increasingly turned to military tribunals to try political dissidents. The Mission discusses the issue of the use of military tribunals in Chapter III on Targeted Political Repression, including in relation to specific cases.

III. Security Framework

166. The Constitution of 1999 establishes the basic security structure and chain of command for military and civilian security forces (Title VII). However, since 2014, the Government has made various changes to the security framework, through the adoption of laws, plans and policies, mainly from the President and the Ministry of Popular Power for Defence (hereinafter Ministry of Defence). Most of these have been through executive orders (stamped with note that they have "force and rank of law") or ad-hoc plans, bypassing the legislative process. This has included the following:

Table 2:
Security Plans and Policies since 2014

	Name	*Date*	*Legal basis*	*Description*
1.	Plan Patria Segura (Secure Homeland Plan)	December 2013 (relaunched 2017)	Part of the second Plan Patria to establish a socialist State[390]	Plan contemplating co-responsibility of popular power and FANB for the protection of citizens

[385] For a discussion, see Acceso a la Justicia, Informe sobre el Desempeño del Ministerio Publico (2000-2018), available at: https://www.accesoalajusticia.org/wp-content/uploads/2020/04/Informe-sobre-el-desempe%C3%B1o-del-Ministerio-P%C3%BAblico-2000-2018.pdf

[386] Judgment No. 537 of 12 July 2017 (suspending the Supreme Court suspended application of article 305 of the Criminal Procedure Code).

[387] Judgment No. 43 of 20 June 2017, available at: https://vlexvenezuela.com/vid/sentencia-n-43-tribunal-825475461

[388] Ibid.

[389] Constitutional Decree of 17 August 2017, ratifying in the exercise of their constitutional functions the citizens Tarek William Saab, Attorney General of the Republic and President of the Moral Republican Council; Manuel Galindo Ballesteros, Comptroller General of the Republic and Alfredo Ruiz Angulo, Ombudsman, published in Official Gazette No. 41.216 of 17 August 2017, available at: https://pandectasdigital.blogspot.com/2017/08/decreto-constituyente-mediante-el-cual_21.html.

[390] See Law Plan Patria, published in Official Gazette No. 6118, December 2013, art. 2.5.5.6, available at: https://albaciudad.org/LeyPlanPatria/. See also BBC, Venezuela: Maduro anuncia plan de seguridad ciudadana, 13 May 2013, available at: https://www.bbc.com/mundo/ultimas_noticias/2013/05/130513_ultnot_venezuela_maduro_seguridad_en.

	Name	*Date*	*Legal basis*	*Description*
2.	Creation of the Strategic Centre for Homeland Security and Protection (CESPPA)	January 2014	Ministry of the Interior Resolution No. 007-14 dated 29 January 2014[391]	Establishing the CESSPA to periodically report to the President on the security situation in the country
3.	Activation of the Anti-Coup Commandos	February 2014 January 2017	Unclear, announcements in televised statements[392]	Consisting of high-level political officials to combat threats of coup d'état
4.	Creation of the Special Brigade against groups that generate violence	June 2014	Presidential Decree No. 1014[393]	Creation of the Brigade within the Ministry of Defence against groups that generate violence
5.	Creation of the "Shock Force" under the Strategic Operational Command	September 2014	Resolution of the Ministry of Popular Power and Defence No. 6574[394]	Combat "destabilization plans" that threaten the "internal order" of the country
6.	Reforms to the Organic Law on Security of the Nation	November 2014	Presidential Decree No. 1473[395]	Reforms to the framework law on national security, outlining key concepts and institutions. The law created the System for Protection of Peace (SP3) and established the "Security Zones"
7.	Reforms to the Organic Law of the National Bolivarian Armed Forces (FANB)	November 2014	Presidential Decree No. 1439[396]	Reforms to the basic mission, functions and organization of the National Armed Forces
8.	Presidential Decree establishing the functions of the System for the Protection of Peace (SP3)	January 2015	Presidential Decree No. 1417[397]	Describes the functions of these local civilian groups in combating insecurity
9.	Resolution on the acts of the FANB in protests	January 2015	Resolution of the Ministry of Popular Power and Defence No. 8610[398]	Establishes the functions of the FANB in the context of protests, including the use of force

[391] Ministry of the Interior Resolution No. 007-14 dated 29 January 2014, Published in the Official Gazette No. No. 40,355 dated 13 February 2014, available at: https://pandectasdigital.blogspot.com/2016/06/reglamento-interno-del-centro.html.

[392] See YouTube Video, TeleSUR tv, Reactivará Nicolás Maduro Comando Antigolpe contra sectores de derecho, 26 October 2013, available at: https://www.youtube.com/watch?v=YrZ9n3Bvf3g; See also Voice of America, Venezuela: Maduro crea "Comando Antigolpe", 11 January 2017, available at: https://www.youtube.com/watch?v=h5EWqT68i-I&t=2s; La Patilla, Maduro anuncia más represión por parte del Comando Antigolpe, 21 March 2017, available at: https://www.youtube.com/watch?v=SZ-97COkUDE.

[393] Document on file with the Mission.

[394] Resolution of the Ministry of Popular Power and Defence No. 6574, 17 September 2014, published in the Official Gazette No. 40.502; See also NTN24 Venezuela, Polémica en Venezuela por la creación de una fuerza militar de choque, 25 September 2014, available at: https://www.youtube.com/watch?v=VAik1P-oWR0.

[395] Presidential Decree No. 1473, Ley Orgánica de Seguridad de la Nación (hereinafter 2014 Organic Security Law), Published in Official Gazette No. 6156, 19 November 2014, available at: http://www.controlciudadano.org/web/wp-content/uploads/Ley-Org%C3%A1nica-de-Seguridad-de-la-Naci%C3%B3n.pdf.

[396] Organic Law of the National Bolivarian Armed Forces (hereinafter 2014 Organic Law of the FANB), Presidential Decree No. 1439, 17 November 2014, published in Official Gazette No. 6156, available at: https://pandectasdigital.blogspot.com/2016/07/ley-organica-de-la-fuerza-armada.html.

[397] Presidential Decree No. 1417 of 19 November 2014, Published in Official Gazette No. 40.582, 16 January 2015, available at: https://dhqrdotme.files.wordpress.com/2015/01/sistema-popular-de-proteccic3b3n-para-la-paz.pdf.

[398] Ministry of Popular Power and Defence, Resolution No. 8610 of 26 December 2014, published in the Official Gazette No. 40.589, 27 January 2015, available at: https://docs.google.com/file/d/0B8fhBobOcJfUQm9udmV6WlNuMHM/view.

	Name	*Date*	*Legal basis*	*Description*
10.	Reforms to the Organic Law of the General Directorate of Military Intelligence (DGCIM)	February 2015	Presidential Decree No. 1605[399]	Reforms to the basic mission, functions and organization of the Directorate of Military Intelligence (DGCIM)
11.	Manual of operational rules and procedures of the special administrative police and criminal investigation service in support of the public administration in matters of public order	April 2015	Internal Order by General Commander of the GNB, Nestor Reverol[400]	Provide specialized technical information to the military personnel of the GNB, for intervention in demonstrations and acts against the public order by "Guarimberos"
12.	Implementation of first Operation for People's Liberation (OLP)	July 2015	Unclear, policy of the Ministry of the Interior	Joint military/police security operations carried out between July 2015 and June 2017
13.	Reforms to the Statute on Police Functions	December 2015	Presidential Decree No. 2175[401]	Governs public employment relations between police officers and the police forces of the national, state and municipal public administration
14.	Law on Military Discipline	December 2015	Presidential Decree[402]	Regulating the conduct of military personnel and members of the Bolivarian Militia
15.	Declarations of state of exception and economic emergency (25 in total, extended every three months)	May 2016	Presidential Decree No. 2323[403]	Grants sweeping powers to the executive to adopt public security plans "against destabilizing plans that threaten the peace of the nation"
16.	Plan Rondón	October 2016	Formal operations order by REDI Capital to all agencies, signed by Major Gen. José Adelino Ornelas Ferreira	Directing intelligence operations, criminal investigation and control of public order, and to identify and investigate suspects and gather information (see Barlovento case below)
17.	Reforms to the organic law of the SEBIN	November 2016	Presidential Decree No. 2524 of 1 November 2016[404]	Updates 2013 organic law confirming powers to "neutralize" internal and external threats
18.	Plan Patria Segura / Carabobo 2021	January 2017	Unclear, announced in televised statement	Six strategic lines for combating insecurity, including the SP3 and the Operations of Humane Liberation of the People (OLHP)

[399] Presidential Decree No. 1605, published in the Official Gazette No. 40.599, 10 February 2015, available at: http://www.franciscosantana.net/2016/02/reglamento-organico-de-la-direccion.html.

[400] MAP GNB CO 07 03 01-1, document on file with the Mission.

[401] Presidential Decree No. 2175 of 30 December 2015, published in the Official Gazette No. 6210, 30 December 2015, available at: https://pandectasdigital.blogspot.com/2017/02/ley-del-estatuto-de-la-funcion-policial.html.

[402] Law on Military Discipline, published in Official Gazette No. 6207, 28 December 2015, available at: https://pandectasdigital.blogspot.com/2017/02/ley-de-disciplina-militar.html.

[403] Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html.

[404] Presidential Decree No. 2524 of 1 November 2016 published in the Official Gazette No. 41,021 1 November 2016, available at: http://www.franciscosantana.net/2016/11/nueva-reforma-del-reglamento-organico.html.

	Name	*Date*	*Legal basis*	*Description*
19.	General Regulations of the Organic Law on the Police Service and the Bolivarian National Police Force	March 2017	Presidential Decree No. 2,765 of 21 March 2017[405]	Bylaw of the Organic Law of the Police Serve and PNB
20.	Special Strategic Civic-Military Plan Zamora	April 2017 (implementation announced)	Formal operations plan by CEOFANB to all agencies, signed by Minister Padrino López[406]	Creates a defence strategy against categories of "internal enemies" and "threats to the internal order"
21.	Plan Guaicaipuro	April 2017	Formal operations plan issued by CEOFANB, signed by Gen. Fabio Zavarse[407]	Plan for coordination and conduct of GNB Zone Commands for public order and citizen security
22.	Creation of the Special Action Forces (FAES) of the PNB	July 2017	Announced by President Maduro in graduation ceremony of the PNB[408]	Tactical group of the PNB, to "combat crime and terrorism"
23.	Establishment of the Redes de Artículación y Acción Socio-Político (RAAS)	September 2018	Unclear, explanatory video distributed via official websites[409]	Establishing community-based vigilance committees to identify the enemy through mapping the political preference of inhabitants
24.	Fragmentary order of the Zamora operations of the ZODI No. 22 Merida	January 2019	Internal Order of ZODI No. 22, Mérida[410]	Plan for maintaining order during demonstrations convoked for January 2019
25.	Constitutional Law of the National Bolivarian Armed Forces	January 2020	Constitutional Law of the National Constituent Assembly[411]	Reforms and supersedes the November 2014 organic law, establishing to the basic mission, functions and organization of the FANB
26.	Creation of a National Specialized Anti-Terrorism Corps	February 2020	National Anti-Terrorism Plan, 2020-2022, announced by President Maduro on television[412]	Created for the purpose of "dismembering the terrorist groups that are sent by Colombia and the United States and that seek to sow discord, disturb the peace and security in the country"

[405] Decree No. 2765 of 21 March 2017, available at: https://pandectasdigital.blogspot.com/2017/03/reglamento-general-de-la-ley-organica.html.

[406] Comando Estratégico Operacional, Fuerzas Armadas Nacionales Bolivarianas, CEOFANB "Plan Estratégico Operacional Zamora", Caracas, D.C., 9 April 2014 (updated in 2017, date unclear), p. 5.

[407] Document on file with the Mission.

[408] See YouTube Video, Luigino Bracci Roa, Maduro en la graduación en la UNES de la Policía Nacional Bolivariana, 14 July 2017, minute 1:32:00, available at: https://www.youtube.com/watch?v=JQ43MSRCeUA.

[409] See a video describing the RAAS, available at Aitor Igartua Perosanz, Venezuela (RAAS-Red de Articulación y Acción Sociopolítica), 10 September 2018, available at: https://www.youtube.com/watch?v=MFHk5O4GtJw. See also: https://www.youtube.com/watch?v=4jPetpAjfCk.

[410] Orden de fragmentaria de la orden de Operaciones Zamora para el mantenimiento, control y restablecimiento del orden público ZODI no. 22, Mérida de enero de 2019.

[411] National Constituent Assembly, Constitutional Law on the National Bolivarian Armed Forces, published in the Official Gazette No. 6508, 30 January 2020 (hereinafter 2020 Constitutional Law on the FANB), available at: https://pandectasdigital.blogspot.com/2020/02/ley-constitucional-de-la-fuerza-armada.html.

[412] See TeleSURtv, Pdte. Maduro anuncia creación de Cuerpo Nacional contra el Terrorismo, 27 February 2020, available at: https://www.youtube.com/watch?v=GFGDFxD6zJs

	Name	*Date*	*Legal basis*	*Description*
27.	Creation and activation of a joint direction against terrorism	July 2020	Ministry of Defence Resolution No. 036746 of 10 July 2020[413]	Creation of joint counterterrorism directorate assigned to the military Chief of Staff and the CEOFANB

167. Laws, plans and policies adopted since 2014 have routinely referred to concepts that are part of the Bolivarian security doctrine set in place by former President Hugo Chávez. This includes:

- The "*civic-military union*,"[414] which has been used to to call for citizen participation in security and national defence;
- The "*integral defence*" of the nation, defined as the measures implemented by the State "with the participation of public and private institutions" in order to "safeguard the independence, freedom, democracy, sovereignty, territorial integrity and comprehensive development of the Nation;"[415] and
- Maintaining the "*internal order*," which is defined as "the state in which justice is administered and the values and principles enshrined in the Constitution are consolidated",[416] but which appears in numerous plans and policies related to military intervention in matters of public order.

A. The State Security Institutions

1. The Bolivarian National Armed Forces (FANB)

168. Under the 1999 Constitution, the National Armed Forces consist of the Army, Navy, Air Forces and the National Guard (GNB).[417] This was the first time the GNB was included as a branch of the armed forces, previously considered part of the police. The purpose of the National Armed Forces was broadened under the 1999 constitutional reforms to include maintaining "internal order"[418] and participation in national development.[419]

169. The Constitution establishes civilian control over the armed forces.[420] At the same time, the reforms of 1999 centralized power in one chain of command under the President, eliminating the role of the legislative power in promoting military officials that was in place in the previous 1961 Constitution.[421] The 1999 Constitution introduces the concept of national security as a "shared responsibility" of the State and civil society.

170. The mission of FANB is to ensure the independence and the sovereignty of the nation, maintaining the "internal order" and taking an "active role" in national development.[422] The activities of the FANB are guided by the concept of "civic-military union", the purpose of which is to "guarantee the comprehensive defence of the Nation by exercising the principle of co-responsibility in the various spheres of National Security".[423]

171. The functions of the National Armed Forces[424] are detailed in its organic law and subsequent reforms (reformed 6 times in the last 15 years). In January 2020, the National

[413] Document on file with the Mission.
[414] See e.g., 2020 Constitutional Law of the FANB, art. 84.
[415] 2014 Organic Security Law, art. 3; 2020 Constitutional Law on the FANB, art. 5.
[416] 2014 Organic Security Law, art. 18.
[417] 1999 Constitution, art. 328. In the 2008 reforms to the Organic Law, the armed forces were rebranded as "Bolivarian".
[418] 1999 Constitution, art. 328.
[419] Ibid., art. 326.
[420] Ibid., art. 323.
[421] See Constitution of 1961, art. 150.5.
[422] 2020 Constitutional Law of the FANB, art. 4.
[423] Ibid., art. 84.
[424] For an in-depth discussion see Rocío San Miguel, Chapter on FANB in, Elementos de una transición integral e incluyente en Venezuela: una visión desde lo local (2020), 4 April 2020, available at:

Constituent Assembly[425] enacted a "constitutional law"[426] on the FANB, replacing the previous November 2014 reform to the organic law (despite the concerns related to the authority of the National Constituent Assembly to legislate, noted above).[427] This law implemented several reforms to the structure and functions of the FANB, discussed throughout this section.

172. The Constitution requires that the National Armed Forces is a professional institution, without political affiliation,[428] although the 2020 Constitutional Law introduces concepts including anti-imperialist and anti-oligarchy as among its guiding principles.[429] One former high-ranking military official interviewed by the Mission put it this way, "What happens when [one] fuses the ideal of Nation with […] the ideals and project of a political bias? This […] generates the perception that by defending the Nation [one] defends the Party and vice versa, and that anything that threatens the Party, also threatens the Nation".[430]

173. Active or former military officials have held between 23 per cent and 44 per cent of cabinet positions since 2014[431] and around 30 per cent of state governorships.[432] They also hold leadership roles within key state businesses, including the state oil company Petróleos de Venezuela, SA (PDVSA).[433] In February 2016, the Government created a military company for the mining, petroleum and gas sector.[434] In addition, the armed forces participate in the social sphere, including in the distribution of food through the CLAP programme (according to an investigative report by the Associated Press, its control over the distribution of food has led to a situation of food trafficking).[435]

174. Some military actors have made attempts to oust President Maduro, especially since mid-2017. The Government responded with efforts to bind high-ranking military officials ever closer to it, attempting to limit opposition within the FANB. As investigated by the Mission and described below, the Government has also engaged in targeted repression of members of the armed forces that have allegedly participated in these acts.

https://www.ifit-transitions.org/publications/major-publications-briefings/building-an-inclusive-and-integrated-transition-in-venezuela-a-local-perspective/ifit_v_24_abril_intro_01.pdf/view.

425 See Multimedio VTV, Presidente Maduro: Ley Constitucional de la FANB fundamenta la defensa integral de la nación, 4 February 2020, video on file with the Mission.

426 Constitutional law of the National Bolivarian Armed Forces, published in the Official Gazette No. 6508, 30 January 2020, available at: https://pandectasdigital.blogspot.com/2020/02/ley-constitucional-de-la-fuerza-armada.html.

427 Ley Orgánica de la Fuerza Armada Nacional Bolivariana, Presidential Decree No. 1439, 17 November 2014, published in Official Gazette No. 6156, available at: https://pandectasdigital.blogspot.com/2016/07/ley-organica-de-la-fuerza-armada.html.

428 1999 Constitution, art. 328.

429 2020 Constitutional Law of the FANB, art. 1.

430 Document SCHH01, on file with the Mission. See also statement of opposition leader Henry Allup speaking about lexicon used by Government, YouTube, TeleSurTV, Dentro de la Constitución todo: Henry Ramos, 10 April 2014, available at: https://www.youtube.com/watch?v=RWCuBYjDTfY.

431 https://www.controlciudadano.org/noticias/control-ciudadano-militares-pierden-influencia-en-el-gabinete-de-maduro.

432 See Control Ciudadano, available at: https://www.controlciudadano.org/contexto/gobernadores-que-proviene-de-la-fuerza-armada-nacional-gobernadores-militares.

433 Ibid.

434 Presidential Decree No. 2231, published in Official Gazette No. 40.845, available at: https://pandectasdigital.blogspot.com/2016/02/gaceta-oficial-de-la-republica_11.html.

435 See Associated Press, "Venezuela military trafficking food as country goes hungry", 28 December 2016, available at: https://www.ap.org/explore/venezuela-undone/venezuela-military-trafficking-food-as-country-goes-hungry.html.

175. According to statements by high-level Government officials, large groups of members of the FANB, thousands at a time, have been dismissed[436] or promoted.[437] The grounds for such decisions are not clear. In some cases investigated by the Mission, the Government has promoted military officials identified by the Mission as perpetrators of human rights violations.[438] This included some among the 13 military majors promoted to the rank of lieutenant colonel on 1 July 2020.[439] The resolution does not name the reasons for the promotion.

176. Active military are required to obey lawful orders of their superiors.[440] However, according to the Law on Military Discipline adopted in December 2015, military officials are required to operate under a strict rule of obey first.[441] This law does not distinguish between lawful and unlawful orders. Only after first complying an order may they then file a written complaint regarding disagreement with the order – which must be filed to the superior that gave the order.[442] Further, the Organic Law on Military Justice imposes up to a 16 years' detention for disobedience.[443]

177. Under the 1999 Constitution, the National Defence Council (CODENA) is tasked with planning and advising the organs of the national public power in matters relating to the defence of the nation.[444] It is to be presided by the President, and also to comprise the president of the National Assembly, the Chief Justice of the Supreme Court of Justice, the Minister of Defence, among others.[445]

FANB Components

178. The FANB is composed of the commander-in-chief (the President),[446] the Strategic Operational Command[447] (CEOFANB – Comando Estratégico Operacional),[448] the Army, the Navy, the Air force, the Bolivarian National Guard and the Bolivarian Militia. The Bolivarian Militia, despite not being reflected in the Constitution as part of the National Armed Forces, was introduced for the first time as a "special component" of the FANB in the 2020 law.[449] At the operational level, the FANB includes the Strategic Regions of Integral Defence (REDI) and its subdivisions.[450]

The President and Commander in Chief

[436] In December 2019, for example, Maduro dismissed nearly 6,000 members of the GNB. Administrative Order of the Commander-in-Chief of the Bolivarian National Guard, Resolution 31.086 of 7 July 2019, published in Official Gazette No. 6465, of 9 July 2019, available at: https://www.scribd.com/document/439701262/5-976-miembros-de-la-Guardia-Nacional-expulsados-por-Maduro#from_embed.

[437] See announcement by Minister of Defence that 16,900 members of the FANB would be promoted, 2 July 2018, available at: http://www.presidencia.gob.ve/Site/Web/Principal/paginas/classMostrarEvento3.php?id_evento=10733.

[438] See ABC, Maduro asciende a 1.000 militares entre torturadores y narcos, 6 July 2020, available at: https://www.abc.es/internacional/abci-maduro-asciende-1000-generales-entre-torturadores-y-narcos-202007061836_noticia.html?ref=https:%2F%2Fwww.google.com%2F&fbclid=IwAR3GiHOq4EXrx40i1X0Od8rnhaK0SdMvSU9IeZ2RyE9jGkGFLoZV8Fa6akU.

[439] Ministry of Defence Resolution No. 036583, 1 July 2020.

[440] 2020 Constitutional Law of the FANB, art. 10.

[441] Law on Military Discipline, published in Official Gazette No. 6207, 28 December 2015, arts. 16 and 175, available at https://pandectasdigital.blogspot.com/2017/02/ley-de-disciplina-militar.html.

[442] Ibid., art. 176.

[443] Organic Law on Military Justice, arts. 519 to 522.

[444] 1999 Constitution, art. 323.

[445] Ibid.

[446] Ibid., art. 23.

[447] Ibid., art. 45.

[448] Ibid., art. 56.

[449] Ibid., art. 22.

[450] Ibid.

179. The President is commander in chief of the FANB, exercising supreme command.[451] This includes the development of operations and defining and activating "conflict areas" and the "theatres of operations".[452] Among the new powers of the commander in chief introduced in the 2020 "constitutional law" is the establishment of Special Military Economic Zones, in which the FANB can develop productive activities "to help meet their [the FANB's] basic needs".[453] He also has under his direction the Military General Staff (Estado Mayor), an advisory body that depends on the commander in chief administratively and functionally.[454] The Presidential Honour Guard provides security and protection services to the President.[455]

The Army, Navy Air force and Bolivarian National Guard (GNB)

180. The Army, Navy, Air force, Bolivarian National Guard and Bolivarian Militia act, in the exercise of their operational functions, under the command and guidelines of the CEOFANB.[456] They act under the direction, supervision and control of their respective commander generals, who are designated by the President. The functions of the Army (arts. 62-64), the Navy (arts. 65-67) and the Air Force (arts. 68-70) are outlined in the 2020 "constitutional law".[457]

181. The Bolivarian National Guard (GNB), part of the FANB since the adoption of the 1999 Constitution, has a specific constitutional responsibility for carrying out operations to maintain internal order in the country.[458] Since its incorporation of the GNB into the FANB, the members of the National Guard have military, not police, training. Under the 2020 "constitutional law" of the FANB, the GNB may conduct military operations ordered by the CEOFANB, "for the maintenance of the internal order of the country, the military defence in the integral security of the nation and to participate actively in the national development, through specific, joint, combined and integral operations".[459]

182. The GNB has specific duties in the areas of security and public order, traffic security, border security, rural security, ports and airports, penitentiary security, anti-extortion, kidnapping and anti-terrorist, anti-drugs, and others.[460] The January 2020 "constitutional law" is the first time the GNB has been tasked with anti-terrorism responsibilities. In February 2020, President Maduro created a "National Specialized Anti-Terrorism Corps" (Cuerpo Nacional Especial contra el Terrorismo), to be directed by the GNB, which is tasked with "dismembering the terrorist groups that are sent by Colombia and the United States and that seek to sow discord, disturb the peace and security in the country".[461]

The Bolivarian Militia

183. The Bolivarian Militia is a reflection of the concept of civic-military union that guides the State's security doctrine. It was first included as a component of the FANB in the 2008 reforms to the Organic Law to "complement" the FANB.[462] Under the 1999 Constitution, meanwhile, only the state is permitted to use "weapons of war".[463] According to public statements by President Maduro, the Bolivarian Militia has grown significantly since 2014. In April 2017, President Maduro said he intended to expand the militia five-fold, from

[451] 2020 Constitutional Law of the FANB, art. 23.
[452] Ibid.
[453] 2020 Constitutional Law of the FANB, art. 25.
[454] Ibid., art. 23 and 24.
[455] Ibid., art. 27.
[456] Ibid., art. 60.
[457] Ibid., art. 61.
[458] 1999 Constitution, art. 329.
[459] 2020 Constitutional Law of the FANB, art. 73.
[460] Ibid., art. 73.6.
[461] See YouTube Video, TeleSURtv, Pdte. Maduro anuncia creación de Cuerpo Nacional contra el Terrorismo, 27 February 2020, available at: https://www.youtube.com/watch?v=GFGDFxD6zJs.
[462] See 2008 Organic Law of the FANB, published in Official Gazette No. 5891 of 31 July 2008, available at: http://static.eluniversal.com/2010/12/29/ley_fan_2008.pdf.
[463] 1999 Constitution, art. 324.

100,000 to 500,000 members. In an April 2020 tweet, President Maduro said that the militia had 4.1 million members.[464]

184. In the January 2020 "constitutional law" of the FANB, passed by the National Constituent Assembly, the Bolivarian Militia is described as being, "of a popular nature, made up of men and women who express their patriotic desire to actively participate in actions that contribute to the Security of the Nation".[465] It is made up of citizen volunteers, who assist the FANB in the "integral defence" of the nation and contribute to the system of intelligence and counter-intelligence.[466] The Bolivarian Militia is to mobilize during times of states of exception, among others.[467] Under the 2020 "constitutional law", the Bolivarian Militia command structure is operationally subject to the different command echelons of the Territorial Defence System" (see below).[468]

185. In November 2019, President Maduro launched the "Anti-Imperialist Training School for the Bolivarian National Militia" and said that the militia would be integrated into the military university.[469]

Operational Command Structure

186. The Strategic Operational Command (CEOFANB) is a joint command unit consisting of commanders of the different forces making up the FANB. It is responsible for integration, planning, programming, direction, execution, supervision, command and strategic operational control of security operations, both in times of peace and in times of turmoil, including internal or external conflict.[470] For all operational matters, it response directly to the President as commander in chief of the FANB. For administrative matters, it reports to the Minister of Popular Power for Defence.

187. The Joint General Staff (*Estado Mayor Conjunto*) is the highest advisory body for the planning and control of military operations at the strategic operational level, reporting directly to the CEOFANB.[471]

188. The CEOFANB exercises command control over the various components of the operational command structure.[472] The operational command structure comprises different levels of regional operational comments. This includes the Regional Strategic Defence Integral areas[473] (REDI – Regiones Estratégicas de Defensa Integral), a combination of forces at regional level responsible for planning, conducting and executing comprehensive operations within their geographic area of responsibility.[474] These areas are established by the President, as Commander in Chief of the Military. The REDI are headed by a three-star Major General, designated by the President.

189. Each REDI has several sub-regions, the Integral Defence Operation Zones (ZODI – las Zonas Operativas de Defensa Integral). The ZODI are territorial groupings of forces and means, within the REDI.[475] The ZODI are headed by a two-star General of Division. They may span one or more states. Within the ZODI are the Comprehensive Defence Areas (ADI),

[464] See tweet by President Nicolás Maduro, https://twitter.com/NicolasMaduro/status/1249872285521129472.
[465] 2020 Constitutional Law of the FANB, art. 74.
[466] Ibid., art. 77.
[467] Ibid., art. 81.
[468] Ibid., art. 74.
[469] Multimedio VTV, Pdte. Maduro creará la Escuela Antiimperialista de Capacitación de la Milicia Nacional Bolivariana, 12 November 2019, video on file with the Mission.
[470] 2020 Constitutional Law of the FANB, art. 45.
[471] 2020 Constitutional Law of the FANB, art. 51.
[472] 2020 Constitutional Law of the FANB, art. 45.
[473] Headed by a three-star Major General, designated by the President.
[474] 2020 Constitutional Law of the FANB, art. 53.
[475] 2020 Constitutional Law of the FANB, art. 54.

which may coincide with one or more municipalities.[476] Also distributed regionally within the ZODIs are 24 command zones[477] of the GNB.

190. The January 2020 "constitutional law" introduces the concept of the Territorial Defence System as part of the FANB.[478] This system is defined broadly as "the set of structures, means, measures, methods and actions designed to integrate and execute the operational functions for the comprehensive defence of the nation, in their respective jurisdictional spaces".[479]

191. The constitutional law also states that other groups, institutions or activities "previously defined by the President" can also form part of the Territorial Defence System,[480] implying that a wide range of groups could potentially form part of the national armed forces. The Bolivarian Militia also falls under this command structure, in accordance with the January 2020 law.[481] The implication of the creation of the Territorial Defence Systems merits further analysis.

192. The levels of chain of command at the operational level, are as follows:

Table 3:
Levels of Chain of Command in the FANB

Región Estratégica de Defensa Integrada (REDI)	*State*	*Zona Estratégica de Defensa Integrada (ZODI)*	*Comando de Zona GNB (CZGNB)*
REDI CAPITAL Command post (CP) in Caracas	Distrito Capital	No. 41 (CP in Fuerte Tiuna)	CZGNB 43
	Vargas	No. 42 (CP in La Guaira)	CZGNB 45
	Miranda	No. 43 (CP in Charallave)	CZGNB 44
REDI OCCIDENTAL CP in Maracaibo	Zulia	No. 11 (CP in Maracaibo)	CZGNB 11
	Falcón	No. 12 (CP in Punto Fijo)	CZGNB 13
	Lara	No. 13 (CP in Barquisimeto)	CZGNB 12
REDI LOS ANDES CP in San Cristóbal	Táchira	No. 21 (CP in San Cristóbal)	CZGNB 21
	Mérida	No. 22 (CP in Mérida)	CZGNB 22
	Trujillo	No. 23 (CP in Trujillo)	CZGNB 23
REDI LOS LANOS CP in Fuerte Cerdeño	Apure	No. 31 (CP in San Fernando)	CZGNB 35
	Barinas	No. 32 (CP in Barinas)	CZGNB 33
	Portuguesa	No. 33 (CP in Guanare)	CZGNB 31
	Cojedes	No. 34 (CP in San Carlos)	CZGNB 32
	Guárico	No. 35 (CP in S. Juan de los Morros)	CZGNB 34
REDI CENTRAL CP in Fuerte Tiuna	Yaracuy	No. 14 (CP in San Felipe)	CZGNB 14
	Aragua	No. 44 (CP in Maracay)	CZGNB 42
	Carabobo	No. 45 (CP in Valencia)	CZGNB 41
	Anzoátegui	No. 51 (CP in Barcelona)	CZGNB 52

[476] 2020 Constitutional Law of the FANB, art. 55.
[477] Headed by a one-star General of Division or Brigade General.
[478] 2020 Constitutional Law of the FANB, art. 22.
[479] 2020 Constitutional Law of the FANB, art. 52.
[480] 2020 Constitutional Law of the FANB, art. 52.
[481] 2020 Constitutional Law of the FANB, art. 74.

Región Estratégica de Defensa Integrada (REDI)	*State*	*Zona Estratégica de Defensa Integrada (ZODI)*	*Comando de Zona GNB (CZGNB)*
REDI ORIENTAL CP in Guanta	Monagas	No. 52 (CP in Maturín)	CZGNB 51
	Sucre	No. 53 (CP in Cumaná)	CZGNB 53
REDI ORIENTAL CP in C. Hidroeléctrico Caruachi	Delta Amacuro	No. 61 (CP in Tucupita)	CZGNB 61
	Bolivar	No. 62 (CP in Ciudad Bolivar)	CZGNB 62
	Amazonas	No. 63 (CP in Puerto Ayacucho)	CZGNB 63
REDI MARÍTIMA INSULAR CP in Est.Hidrográfica Pampatar	Nueva Esparta	No. 71 (CP in Porlamar)	CZGNB 71
	Zona Atlántica	No. 72 (CP in Guria)	Dest. Vigilancia Costa
	Caribe Orient.	No. 73 (CP in Cumaná)	Destos. Vig. C. 51 y 53
	Caribe Central	No. 74 (CP in Puerto Cabello)	Destos. Vig. C. 41 y 45
	Caribe Occid.	No. 75 (CP in Base Naval Falcón)	Destos. Vig. C. 11 y 13

Administrative Structure

193. All of the bodies of the FANB depend administratively on the Ministry of Popular Power for Defence.[482] General Vladimir Padrino López[483] has been Minister of Defence since October 2014.[484] The Ministry of Defence is in charge of "formulating, adopting, monitoring and evaluating the policies, strategies, plans and projects" in the defence sector.[485] The President may transmit orders of an operational nature through the Minister of Defence".[486] The Ministry has under its responsibilities the control and maintenance of the intelligence and counter-intelligence system of the FANB.[487]

Military Involvement in Public Order

194. The military has taken on an increasingly expansive role in maintaining public order, including in the context of protests. The Constitution grants the GNB a "basic responsibility for conducting operations as required to maintain internal order within the country".[488] The November 2014 Organic Law of the FANB authorized the GNB to intervene in matters of public order and to "Cooperate with the criminal investigation police, special administrative police and general administrative police functions in accordance with the law".[489] The 2020 Constitutional Law[490] replacing the 2014 presidential decree makes several references to the

[482] Ibid., art. 30.

[483] In March 2020, General Padrino López was indicted in the United States under drug trafficking charges. See Press Release of US Department of Justice, Maduro and Other High Ranking Venezuelan Officials Allegedly Partnered With the FARC to Use Cocaine as a Weapon to "Flood" the United States, 26 March 2020, available at: https://www.justice.gov/opa/pr/nicol-s-maduro-moros-and-14-current-and-former-venezuelan-officials-charged-narco-terrorism.

[484] See http://www.mindefensa.gob.ve/mindefensa/ministrodefensa/.

[485] 2020 Constitutional Law of the FANB, art. 30.

[486] 2020 Constitutional Law of the FANB, art. 48.

[487] 2020 Constitutional Law of the FANB, art. 31.9.

[488] 1999 Constitution, art. 329.

[489] Organic Law of the National Bolivarian Armed Forces (hereinafter 2014 Organic Law of the FANB), Presidential Decree No. 1439, 17 November 2014, published in Official Gazette No. 6156, art. 65, available at: https://pandectasdigital.blogspot.com/2016/07/ley-organica-de-la-fuerza-armada.html.

[490] National Constituent Assembly, Constitutional Law on the National Bolivarian Armed Forces, published in the Official Gazette No. 6508, 30 January 2020, available at: https://pandectasdigital.blogspot.com/2020/02/ley-constitucional-de-la-fuerza-armada.html.

FANB's responsibility to maintain public order, including through the GNB,[491] CEOFANB[492] and the commanders of the REDIs and ZODIs.[493]

195. In September 2014, the Minister of Defence enacted resolution No. 6574 "creating and activating" a "shock force" (fuerza de choque) within the FANB, although its precise function was not detailed. In Resolution No. 8610 of January 2015, the Minister of Defence authorized the FANB to intervene in public meetings and demonstrations and to use lethal force "if necessary" in accordance with principles of progressive use of force.[494] The resolution outlines the FANB response to each stage of violence in protests. This includes dissuasive dialogue when there is verbal violence, painless physical control when there is passive violence, the use of non-lethal intermediate weapons when there is active violence, and the use of partially lethal force with firearms or other potentially lethal weapons, when there is a situation of "mortal risk".[495]

196. On 1 April 2015, General Nestor Reverol Torres, at the time General Commander of the National Guard,[496] issued a general order circulating a manual with operational rules and procedures for special administrative police and criminal investigators in matters of public order. The manual describes GNB actions in responding to situations threatening public order. According to the manual, "those individuals, who can be national or foreigners, who are on national territory and maintain positions opposed to those of the Government" are internal enemies (of the State).[497] More on these plans are in Chapter V on Violations in the Context of Protests.

2. *Police*

197. Under the 1999 Constitution,[498] the civilian security forces consist of the uniformed national police corps; the scientific, criminal and criminological investigation corps; a civilian fire department and emergency management corps; and a civil defence and disaster management organization.[499] There are also 24 police forces at the state level and 99 at the municipal level, regulated by the relevant local Government decrees. Proposed reforms to the police system initiated in 2006 and led by a National Commission on Police Reform (CONAREPOL), which aimed to both act more effectively against organized crime and violations committed by police, never took hold.[500]

198. The police respond administratively to the Ministry of Popular Power of Interior Relations, Justice and Peace (hereinafter Ministry of the Interior). The Minister of the Interior acts under the command of the President.[501] Within the period under review, the Ministers of the Interior have been Miguel Rodríguez Torres[502] (April 2013 to October 2014); Carmen Meléndez Teresa Rivas (October 2014 to March 2015); Gustavo González López (March 2015 to August 2016) who at the time of writing is also Director General of SEBIN; and

491 Ibid., art. 73.
492 Ibid., art. 49.
493 Ibid., art. 56.
494 Resolution of the Minister of Popular Power and Defence No. 8610, 26 December 2014, published in Official Gazette No. 40.589, 27 January 2015, available at: https://docs.google.com/file/d/0B8fhBobOcJfUQm9udmV6WlNuMHM/view
495 Ibid., art. 22.
496 Minister of the Interior at the time of writing.
497 Manual de normas y procedimientos operativos del servicio de policía administrativa especial y de investigación penal en apoyo a la administración pública en materia de orden público, MAP GNB CO 07 03 01-1, 1 April 2015, p. 160.
498 Under article 55 of the 1999 Constitution, the State security forces are required to respect human rights and the use of arms is limited by the principles of necessity and proportionality.
499 1999 Constitution, art. 332.
500 See Roberto Briceño-León, La Policía y su Reforma en Venezuela, August 2007, available at: https://revistas.flacsoandes.edu.ec/urvio/article/view/164-172.
501 Organization chart of the Ministry of the Interior: http://www.mpprijp.gob.ve/?page_id=91.
502 Miguel Rodríguez Torres later denounced the Government and was arrested in 2018. See Control Ciudadano, Information, available at: https://www.controlciudadano.org/tag/miguel-rodriguez-torres.

Néstor Reverol Torres (August 2016 to present).[503] Twelve of the last 15 Ministers of the Interior, including all Ministers appointed since President Maduro assumed power, have been military personnel.

199. Overall, there is scant information on the actions and results of State police forces. This includes information related to crime rates and changes over time. The lack of transparency makes it difficult to analyse impacts of citizen security forces in addressing insecurity in the country and to ensure accountability. In light of the security situation, State police forces have taken increasingly heavy-handed approaches that have resulted in human rights violations, as discussed further in Chapter IV on Violations in a Security and Social Control Context.[504]

The National Bolivarian Police (PNB)

200. The National Bolivarian Police (PNB) is the main civil security force at national level, which replaced the Metropolitan Police of Caracas. The 2008 Organic Law on the Police Service and National Police[505] affirms that the police service is "predominantly preventive, intervening in the factors that favour or promote crime".[506] It also states that the police will act in strict compliance with human rights[507] and work under a principle of citizen participation.[508] The revised bylaw of the Organic Law of the Police Service and the National Police was adopted in March 2017.[509] The competencies of the police include in the areas of public order, transit, migration, tourism, close protection, anti-corruption, organized crime, anti-kidnapping, irregular armed groups, among others.[510]

201. The PNB depends on the Ministry of the Interior and its director is appointed by the Minister.[511] The previous five directors were former GNB generals. Within the reporting period, this included Brigade General Manuel Pérez Urdaneta (January 2014 to April 2015); Major General Juan Francisco Romero Figueroa (April 2015 to September 2016); Major General Franklin García Duque (September 2016 to March 2017); Brigade General Carlos Anfredo Pérez Ampueda (March 2017 to May 2019); and Brigade General Elio Estrada Paredes (May 2019 to present).

The Special Action Forces of the PNB (FAES)

202. The Special Action Forces (FAES) were created in April 2016 as an "elite" tactical force within the PNB, coinciding with the phasing out of the Operations for People's Liberation (OLP) and the Operations for People's Humane Liberation (OLHP) (see Chapter

503 In August 2016, General Reverol Torres was indicted in the United States on drug trafficking related crimes allegedly committed while director of Venezuela's Anti-Drug Office. See Former Top Leaders of Venezuela's Anti-Narcotics Agency Indicted For Trafficking Drugs To The United States, 1 August 2016, available at: https://www.justice.gov/usao-edny/pr/former-top-leaders-venezuela-s-anti-narcotics-agency-indicted-trafficking-drugs-united. See indictment at: https://www.justice.gov/doj/page/file/1261891/download.

504 See Acceso a la Justicia, Visión Panoramica del Sistema Policial en Venezuela, 2010-2018, available at: https://www.accesoalajusticia.org/wp-content/uploads/2020/05/Informe-sobre-desempe%C3%B1o-sistema-policial-venezolano-2000-2018-1.pdf.

505 Decree No. 5.895, con Rango, Valor y Fuerza de Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional, published in the Official Gazette No. 5880 (reforms published in Official Gazette No. 5940), available at: https://derechovenezolano.files.wordpress.com/2013/04/ley-orgc3a1nica-del-servicio-de-policc3ada-y-del-cuerpo-de-policc3ada-nacional.pdf. See also webpage of the PNB, available at: http://www.policianacional.gob.ve/index.php/resena/. A proposed reform of the Organic Law has been debated in the National Assembly since 2015. See: https://transparencia.org.ve/project/proyecto-de-la-ley-de-reforma-de-la-ley-organica-del-servicio-de-policia-y-del-cuerpo-de-policia-nacional/.

506 Ibid., art. 5.

507 Ibid., art 12.

508 Ibid., art. 16.

509 Decree No. 2765 of 21 March 2017, available at: https://pandectasdigital.blogspot.com/2017/03/reglamento-general-de-la-ley-organica.html

510 Ibid., art. 37.

511 See police organization chart at http://www.policianacional.gob.ve/index.php/organizacion/.

IV, below). However, there are no publicly available documents on its creation. The first official reference of the FAES was on 14 July 2017, when President Maduro announced that the FAES had been created "combat against crime and terrorism".[512]

203. At national level, the FAES was under the authority of Director Rafael Bastardo until May 2019, after which Miguel Dominguez Ramirez (alias "Miguelito") assumed national responsibility.[513] There are also FAES Directors for different regions. The regions may comprise one or more states. Some have said that the FAES was derived from an elite military force, which was used for special operations.[514]

204. The FAES has been described by several sources as "unprofessional" and lacking training. As one fomer military officer said, the "FAES is a group of uniformed criminals at the disposal of the Government, not a professional police force".[515] The FAES quickly became the most lethal police institution in Venezuela, responsible for 64.5 per cent of the deaths the Mission reviewed in 2019 (see Chapter IV). The Mission has not been able to locate official documents or other publicly available information in relation to FAES, including operation manuals, since its creation.

The Scientific, Criminal and Criminological Investigator Corps (CICPC)

205. The CICPC is Venezuela's largest national police agency and is responsible for criminal investigations and forensic services. It replaced the former Technical Corp of Judicial Police (Cuerpo Técnico de Policia Judicial). The 1999 Constitution specifically calls for the creation of the CICPC.[516] In 2001, the CICPC was established by presidential decree and its organic law was adopted.[517] It depends administratively on the Ministry of the Interior.

206. In 2012, a new regulatory law for the CICPC was adopted.[518] The law spells out procedures for carrying out inspections,[519] searches,[520] and detaining suspects[521] (including in flagrancia[522]). It specifically permits use of force by the CICPC,[523] including use of lethal force if necessary to protect the lives of a police officer or third party.[524] The organizational structure[525] and processes for training, promotion and demotion[526] are also outlined in the 2012 framework law. The CICPC has both forensic and police functions.[527]

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512 See YouTube Video, Luigino Bracci Roa, Maduro en la graduación en la UNES de la Policía Nacional Bolivariana, 14 July 2017, minute 1:32:00, available at: https://www.youtube.com/watch?v=JQ43MSRCeUA.

513 Mission Interview SCHH06 in June 2020. See also Runrun.es, Miguelito el nuevo jefe de las FAES fue miembro de un colectivo y está sancionado por EEUU; 6 May 2019, available at: https://runrun.es/noticias/380036/miguelito-el-nuevo-jefe-de-las-faes-fue-miembro-de-un-colectivo-y-esta-sancionado-por-ee-uu/.

514 Mission Interview SCHH04 in June 2020.

515 Mission Interview SCHH02 in June 2020.

516 1999 Constitution, art. 332.2.

517 Decree No. 1511, de "Ley de los Órganos de Investigaciones Científicas, Penales y Criminalísticas (9 November 2001). Ley del Cuerpo de Investigaciones Científicas, Penales y Criminalísticas para regular la organización, funcionamiento y competencia del Cuerpo de Investigaciones Científicas, Penales y Criminalísticas (entered into force on 5 January 2007), available at: http://www.oas.org/juridico/spanish/mesicic2_ven_anexo_24_sp.pdf.

518 Decree No. 9.045 con Rango, Valor y Fuerza de "Ley Orgánica del Servicio de la Policía de Investigación, el Cuerpo de Investigaciones Científicas, Penales y Criminalísticas y el Instituto Nacional de Medicina Forense", 15 June 2012, available at: https://pandectasdigital.blogspot.com/2017/03/ley-organica-del-servicio-de-la-policia.html.

519 Ibid., art. 41, Inspections are permitted in public places without a judicial order.

520 Ibid., art. 42, Judicial order is required.

521 Ibid., art. 42, Judicial order is required, unless the act is being committed in flagrancia.

522 Ibid., art. 46.

523 Ibid., arts. 84 and 85.

524 Ibid., art. 84.

525 Decree No. 9.045, Title III.

526 Decree No. 9.045, Title IV.

527 For a discussion of this see Keymer Ávila, ¿Policía? de investigación: Reflexiones sobre la naturaleza de su función y órgano de adscripción, available at:

207. Under the Constitution, the Public Prosecutor's Office is in charge of directing criminal investigations.[528] However, under its 2012 regulatory law, as well as in practice, the CICPC maintains a high level of autonomy and discretion in carrying out actions related to criminal investigations.[529] The 2012 reforms to the criminal code also eliminated the disciplinary oversight by the Public Prosecutor's Office of the CICPC, resulting in further autonomy in its actions.[530]

208. The CICPC Director is appointed and can be removed by the Minister of the Interior.[531] Douglas Rico has been director of CICPC since February 2016, having acted as deputy director since 2013. The previous director was José Gregorio Sierralta. In March 2017, CICPC director, Douglas Rico issued a directive prohibiting CICPC officers from covering their faces during acts of service.[532]

3. *State Intelligence Services*

The General Directorate of Military Intelligence and Counter-Intelligence (DGCIM)

209. The General Directorate of Military Counter-Intelligence (DGCIM) reports to the President as commander-in-chief of the FANB and administratively to the Ministry of and Defence.[533] Under its 2015 bylaw, DGCIM has broad powers to "conduct, coordinate and execute activities aimed at the discovery, prevention and shutdown of enemy activity".[534] It is also tasked to "prevent and cut off the intelligence, counter-intelligence and subversive activities of enemies acting against" the FANB[535] and to protect the President.[536] DGCIM has a detention centre in its headquarters in Boleíta Norte. See Chapter III on Targeted Political Repression below for a detailed description of this detention facility.

210. DGCIM comprises a General Directorate, a Sub-Directorate General, Line Directorates, Military Counter-intelligence Regions and "other operational bodies and agencies that are necessary for the full accomplishment of the mission".[537] The DGCIM Director is appointed and can be removed by the President.[538] He or she also acts as an advisor to the President regarding the appointment of key military personnel and the Minister of Defence.[539] Iván Rafael Hernández Dala has been the head of DGCIM since January 2014.[540] He also serves as the head of the presidential Honour Guard. In December 2019, President Maduro promoted 179 of members of DGCIM and the Honour Guard to a superior military rank.[541]

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https://biblioteca.cejamericas.org/bitstream/handle/2015/1281/Policiadeinvestigaciones_Kavila.pdf?sequence=1&isAllowed=y.

528 1999 Constitution, art. 285.

529 Decree No. 9.045, arts. 35-38.

530 For a discussion, see Acceso a la Justicia, Visión panorámica del sistema policial en Venezuela 2000-2018, p. 28, available at: https://www.accesoalajusticia.org/wp-content/uploads/2020/05/Visio%CC%81n-panora%CC%81mica-del-sistema-policial-en-Venezuela-2000-2018-1.pdf.

531 Decree No. 9.045, art. 32.

532 See https://htr.noticierodigital.com/2017/03/prohiben-uso-de-mascaras-en-servicio-a-funcionarios-del-cicpc/.

533 Presidential Decree No. 1605, published in the Official Gazette No. 40.599, 10 February 2015, art. 2, available at: http://www.franciscosantana.net/2016/02/reglamento-organico-de-la-direccion.html, art. 2.

534 Ibid., art. 3.

535 Ibid.

536 Ibid.

537 Presidential Decree No. 1605, published in the Official Gazette No. 40.599, 10 February 2015, art. 4, available at: http://www.franciscosantana.net/2016/02/reglamento-organico-de-la-direccion.html.

538 Ibid., art. 6.

539 Ibid., art. 7.

540 Official Gazette No. 40.333, available at: https://pandectasdigital.blogspot.com/2017/11/gaceta-oficial-de-la-republica_97.html.

541 See YouTube Video, Luigino Bracci Roa, Presidente Maduro en ascensos de la Guardia de Honor y el DGCIM, 10 December 2019, available at: https://www.youtube.com/watch?v=1X_H49xk8dU.

The Bolivarian National Intelligence Service (SEBIN)

211. SEBIN was created in 2010, replacing the National Direction on Intelligence Services and Prevention (Dirección Nacional de los Servicios de Inteligencia y Prevención).[542] In April 2013, President Maduro transferred responsibility of SEBIN from the Ministry of the Interior, Justice and Peace to the Vice-Presidency (a position he held until becoming president).[543] The SEBIN carries out civilian intelligence and counter-intelligence activities to "neutralize potential or real threats" of the State, whether internal or external.[544] Among its functions is to advise the President in matters of security and defence of the Nation.[545]

212. The SEBIN organic law was reformed in November 2016 by Presidential Decree, but in substantive terms is similar to the organic law of 2013.[546] SEBIN has a director level; an administrative support level; a substantive level, composed of the intelligence, counter-intelligence and strategic investigations units; and an operational level, territorially decentralized. Its substantive units include the Directorates of Intelligence; Counter-Intelligence; Strategic Investigations; Immediate Actions and the Centre of Intelligence Studies. It oversees detention centres in El Helicoide and in Plaza Venezuela, which has seven detention cells known as "the Tomb" (La Tumba). See Chapter III on Targeted Political Repression below for a detailed description of these detention facilities.

213. The SEBIN hierarchy consists of the Director General (appointed by the President), the Subdirector General, the Secretary General and the Directors. Officials occupying these positions hold the rank of "Commissioner General".[547] Since 2014, the Director Generals of SEBIN have been the following: Gustavo Enrique González López[548] (February 2014 to October 2018); Cristopher Figuera, formerly of DGCIM (October 2018 to April 2019); and again Gustavo González López (April 2019 to present). González López had reassumed the post of SEBIN Director General following the April 2019 uprising attempt in which Mr. Figuera participated. Between March 2015 and August 2016, General González López concurrently held the position of Minister of the Interior. In 2017, he was promoted to General-in-Chief of the military.[549]

Other Entities within the Ministry of the Interior

214. The Centro Estratégico para la Seguridad y Protección de la Patria (CESSPA), established in January 2014, is a decentralized body within the Ministry of the Interior, which depends on the President.[550] Under its establishing resolution, it has powers to collect, process, integrate and analyse information of strategic interest from security and intelligence agencies.[551] Former SEBIN director Christopher Figuera told the Mission that while the intelligence agencies are obligated to send sensitive information to the CESSPA in practice

[542] Presidential Decree No. 7.453, published in Official Gazette No. 39.436 of 1 June 2010.

[543] Decree No. 2524, Reglamento Orgánico del Servicio Bolivariano de Inteligencia Nacional (SEBIN), published in Official Gazette No. 40.153, 24 April 2013, available at: http://www.franciscosantana.net/2013/04/reglamento-organico-del-servicio.html.

[544] Ibid., art. 3.

[545] Ibid., art. 4.

[546] Presidential Decree No. 2524 of 1 November 2016 published in the Official Gazette No. 41,021 1 November 2016, available at: http://www.franciscosantana.net/2016/11/nueva-reforma-del-reglamento-organico.html.

[547] Ibid., arts. 22-25.

[548] In 2015, the United States issued an executive order imposing sanctions on Mr. González López for human rights violations, noting that he "was associated with the surveillance of Venezuelan Government opposition leaders". Fact sheet: Venezuela Executive Order," The White House, 9 March 2015, available at https://obamawhitehouse.archives.gov/the-press-office/2015/03/09/fact-sheet-venezuela-executive-order.

[549] http://www.minci.gob.ve/presidente-maduro-ascendio-general-jefe-gustavo-González-lopez/.

[550] Ministry of the Interior Resolution No. 007-14 dated 29 January 2014, Published in the Official Gazette No. No. 40,355 dated 13 February 2014, available at: https://pandectasdigital.blogspot.com/2016/06/reglamento-interno-del-centro.html.

[551] Ibid. art. 10.

the Executive "had a clandestine intelligence information processing centre to make its own decisions".[552]

215. On 27 June 2014, President Maduro established a "Special Brigade against the Actions of Groups Generating Violence, within the Ministry of the Interior, but that would respond directly to the President.[553] The brigade had the purpose of "coordinating, analysing, evaluating, organizing, directing, executing and collecting the information […] to neutralize and control the activities of groups that generate violence".[554] It is unclear how this brigade was implemented in practice.

B. Non-State Armed Groups

Colectivos

216. Colectivos are citizen security groups that evolved from the "Bolivarian Circles," groups formed in the time of Hugo Chávez as grass-roots support for defence of the Bolivarian revolution.[555] Since then they have had a complex relationship with the Government and State security forces. While the term colectivo has been used as a catchall to refer to these groups, in practice they operate under parallel command structures. According to an analysis by the investigative organization InSight Crime, some colectivos have morphed into criminal structures.[556]

217. Information indicates links between the State and these armed groups. President Maduro has mentioned his support to the colectivos on several occasions. On 19 March 2019, after a blackout in Venezuela, President Maduro called on Community Councils, local supply committees and colectivos to initiate "active resistance".[557] In other statements, President Maduro has claimed to be "the first defender of the colectivos", because they are made up of "good people, patriotic people, sacrificing people".[558] Government officials have made public statements calling upon colectivos, including in moments of political crisis.[559]

218. According to former Government and military officials interviewed by the Mission, high-level political authorities, including President Maduro, have met with colectivos on various occasions. Cristopher Figuera, former director of SEBIN between 2018 and 2019, told the Mission that "ministers" would meet with heads of colectivos "to give them guidelines". He claimed to have been asked to attend such a meeting, but had decided to discontinue the practice.[560] Another former military official interviewed by the Mission said, "the colectivos have spokespersons and coordinators in constant communication with President Maduro".[561]

219. Four different former military officials with whom the Mission spoke said that the colectivos are hired to administer Government social programs as a way of channelling

[552] Mission Interview SCHH02 in May 2020.

[553] Presidential Decree No. 1014 of 24 June 2014, published in Official Gazette No. 40.440, 24 June 2014; See also: https://www.youtube.com/watch?v=IQlf0zeY7a4&feature=emb_logo.

[554] Ibid.

[555] See InSight Crime, The Devolution of State Power: the Colectivos, 19 May 2018, available at: https://www.insightcrime.org/investigations/devolution-state-power-colectivos/.

[556] Ibid.

[557] See YouTube Video: Luigino Bracci Roa, Situación en Venezuela. Presidente Nicolás Maduro, cadena completa el 11 de marzo 2019 sobre apagón eléctrico en Venezuela, minute 23:45, 11 March 2019, available at: https://www.youtube.com/watch?v=2YZMmPg1eyI.

[558] See YouTube Video: Luigino Bracci Roa, Situación en Venezuela. Nicolás Maduro en contacto telefónico con Diosdado Cabello en Con el Mazo Dando, minute 31:35, 3 April 2019, available at: https://www.youtube.com/watch?v=yTOInr6ViRU.

[559] See YouTube, Luigino Bracci Roa, Diosdado Cabello confirma la muerte de un miembro de colectivos del 23 de Enero y pide calma, 12 February 2014, available at: https://www.youtube.com/watch?v=XL_kI0NZGVQ.

[560] Mission Interview with Christopher Figuera in June 2020.

[561] Mission Interview SCHH05 in June 2020.

money to them as payment for their "services".[562] According to other former State employees interviewed by the Mission, the Government uses the figure of Bolivarian Militia to pay the colectivos in an official way.[563] There is also information that some members of colectivos are also serving in State security forces. In the case of the operation that resulted in the death of Óscar Pérez in January 2018, a member of the FAES who was also killed in the incident, was later revealed to be a member of the Tres Raíces colectivo.[564]

220. The Mission has seen reference to colectivos in official documents, in particular references to their role in maintaining social control in neighbourhoods or acting as Government informants. The Presidential Decree No. 2,323 of 13 May 2016 references the role civil actors in surveillance and activities to maintain public order, granting power for this purpose to the CLAP, the Community Councils and "other grassroots organizations of the People's Power".[565] According to a source consulted by the Mission, these grassroots organizations include the colectivos, which, together with the public forces, carried out actions related to maintaining security.[566]

221. Similarly, the Manual of Operational Norms and Procedures of the Special Administrative Police Service in Support of the Public Administration in Matters of Public Order, issued by the Ministry of Defence, specifically references the colectivos.[567] It states that, "Military officers in charge of law enforcement take advantage of the interaction with the communities and the colectivos […] so that the operations of maintenance of public order go beyond the simple fact of interacting with citizens, but rather go to the investigation of relevant information about possible actions that cause social disorder".[568]

222. Several former military members interviewed by the Mission coincide in identifying Freddy Bernal, National Coordinator of the CLAP programme, as the person in charge of the colectivos in Caracas and the state of Táchira.[569]

223. Colectivos have allegedly been involved in attacks against the political opposition. In July 2017, members of what were allegedly colectivos stormed the federal legislative palace and assaulted opposition members of the National Assembly.[570] In January 2020, media outlets again reported that the National Assembly was blocked by colectivos.[571] A former military general interviewed by the Mission said, "If an opposition activist is protesting and needs to be silenced, Maduro sends the colectivos, they paint on their houses, they intimidate them, them and their families [...] then that person rethinks his way of acting".[572] In March

[562] Mission Interview SCHH05 in June 2020; Mission Interview SCHH06 in June 2020; Mission Interview SCHH10 in July 2020; Mission Interview SCHH07 in July 2020; Mission Interview SCHH08 in July 2020.

[563] Mission Interview SCHH06 in June 2020, Mission Interview SCHH10 in July 2020; Mission Interview SCHH07 in July 2020.

[564] See investigation by Runrun.es into this incident: https://runrun.es/investigacion/336777/lider-de-colectivo-asesinado-en-operacion-contra-oscar-perez-tenia-doble-identidad/.

[565] Decree No. 2.323 published in Official Gazette No. 6.227, art. 1, 13 May 2016, available at: https://www.cpzulia.org/ARCHIVOS/Gaceta_Oficial_Extraordinaria_6227_Decreto_2323_Estado_de_Excepcion_y_Emergencia_Economica_13_05_16.pdf.

[566] Mission Interview SCHH06 in June 2020.

[567] Ibid.

[568] Manual de normas y procedimientos operativos del servicio de policía administrativa especial y de investigación penal en apoyo a la administración pública en materia de orden público, MAP GNB CO 07 03 01-1, 1 April 2015, p. 37.

[569] Mission Interview SCHH06 in June 2020; Mission Interview SCHH08 in July 2020; Mission Interview SCHH09 in June 2020.

[570] See images here: https://www.bbc.com/mundo/noticias-america-latina-40513368.

[571] Mission Interview PCHH01 in May 2020. See also InfoBae, Juan Guaidó y un grupo de diputados lograron quebrar el cerco policial y sesionaron en la Asamblea Nacional: "Fue una hazaña", 7 January 2020, available at: https://www.infobae.com/america/venezuela/2020/01/07/en-vivo-tension-en-venezuela-juan-guaido-intentara-ingresar-a-la-asamblea-nacional-y-el-chavismo-anuncio-que-no-le-permitira-presidir-la-sesion/.

[572] Mission Interview SCHH06 in June 2020.

2020, 16 members of the National Assembly[573] denounced that members of the colectivos had spray-painted their houses with the words "Bolivarian fury".[574]

224. During political protests, the colectivos were in some cases involved in crowd control or violations in coordination with the State armed forces and/or upon the instruction of State political leaders. In several cases investigated by the Mission, the colectivos were identified as those responsible for the killing of demonstrators.

Former Colombian Guerrilla Groups

225. In recent years, and especially after the 2016 peace agreements in Colombia, Colombian guerrilla groups including the National Liberation Army (ELN – the Ejército de Liberación Nacional), the Popular Liberation Army (ELP – the Ejército Popular de Liberación) and former members of the Revolutionary Armed Forces of Colombia (FARC – Fuerzas Armadas Revolucionarias de Colombia), have also expanded their presence in Venezuela. These groups have a presence in Bolívar and Amazonas states, where they compete for control over mining resources.[575] There are numerous allegations of human rights violations of these groups, in coordination Venezuelan State security forces and organized criminal syndicates. The Mission has been unable to explore this issue in depth, and recommends further investigation into this complex and important issue.

C. Security Plans and Policies adopted since 2014

226. The Venezuelan state has organized its security operations since 2014 under a number of high-level security plans. Many of these plans are not publicly available and their terms remain unclear. As well as security plans, the various states of exception and emergency adopted since 2016, detailed above, authorized the President to design and implement public security activities "against destabilizing actions that threaten the peace of the nation".

227. At different moments since 2014, the Government has announced the introduction of different models of responses to the problem of insecurity. A common thread in several of these is the focus on community-based security and informant networks, often working with police, and sometimes military, security forces, under the concept of "civil-military union". Another key security policy during this period, the Operations for People's Liberation (Operaciones de Liberación del Pueblo, OLP) and the Operations for People's Humane Liberation (Operaciones de Liberación Humanista del Pueblo, OLHP), implemented approximately from January 2015 to July 2017, are discussed in detail in Chapter IV on Violations in a Security and Social Control Context.

228. Several of the security plans have a common underlying logic of creating a "theatre of operations" with the aim of restoring order against "internal enemies". Internal enemies are defined to include opposition forces, protesters, political parties, smugglers, and possible imperialist agents, among others. The concept of re-establishing the "internal order" guides the conduct of the internal defence operations described in the plans, which involved both military and police personnel.

229. **Plan Zamora:** Plan Zamora was developed by the CEOFANB and signed by the Minister of Defence Vladimir Padrino López. It was initially said to have been established in 2014, but again activated in April 2017 (the Mission has a copy of the 2017 plan). The

[573] Including Rosa Petit, José Olivares, Bolivia Suárez, Luis Lippa, Larissa González, Sergio Vergara, Luis Silva, María Beatriz Martínez, José Antonio Mendoza, Eliezer Sirit, Karim Vera, Alfonso Marquina, Joaquín Aguilar, Hector Cordero, Carlos Michelangeli and Carlos Andrés González. Informe Especial sobre la situación de parlamentarios venezolanos (2019). Comisión de Justicia y Paz, Sub-Comisión de Atención a las Víctimas. Periodo Legislativo 2016-2021.

[574] See images here: https://www.elmundo.es/internacional/2020/03/30/5e822567fdddffd3468b45c5.html. These attacks come a few days after President Maduro warned "the Colombian oligarchy and the imperialists" that if they messed with Venezuela they would face 'Bolivarian fury'".

[575] See e.g., International Crisis Group, "Gold and Grief in Venezuela's Violent South, 23 February 2019, available at: https://www.crisisgroup.org/latin-america-caribbean/andes/venezuela/073-gold-and-grief-venezuelas-violent-south.

purpose of the plan is to ensure internal order in the country, involving military (including the Bolivarian Militia) and police and intelligence forces.[576] The plan identifies as among the effects to "internal order" in the political sphere the "disloyalty to the ideas and interests of the country" and "the destabilizing actions of the opposition parties".[577] Plan Zamora classifies seven kinds of "enemies" of the State.[578] In addition, it lists 19 categories of groups considered to be "threats to the internal order", including categories of political threats, criminal threats and social and economic threats.[579]

230. With respect to the category of political threats, the plan is implemented under the premise that "in part or throughout the national territory, disaffected and organized groups carry out violent protests that generate serious disturbances to public order".[580] According to the Plan Zamora, such political threats include, media campaigns against the Government,[581] pronouncements by political actors against the Government[582] and promotion of criminality and insecurity as part of "a destabilization strategy" by actors against the Government.[583]

231. Plan Zamora was a matrix plan distributed to the various REDIs and ZODIs to implement. It makes the REDIs responsible for general assessments of the situation in order to foresee and plan action that subordinate units must take.[584] The plan outlines a chain of command, under which the CEOFANB appoints a liaison officer to coordinate with the REDI and the Ministries of the People's Power.[585] The REDI activating the Plan shall designate a senior officer to liaise with the CEOFANB to coordinate support.[586]

232. The Mission was able to access one regional plan developed from the Plan Zamora matrix, the "Fragmentary Order of the Plan Zamora" of the ZODI No. 22, Mérida".[587] The plan was issued in January 2019, indicating that the Plan Zamora continued to be implemented at least through early 2019. The Fragmentary Order outlines the strategy for military and police presence during the February 2019 protests in Mérida state.[588] More on this and other plans implemented in the context of protests are discussed in Chapter V on Violations in the Context of Protests.

233. **The Anti-Coup Commands:** There are few publicly available details on how the Anti-Coup Commands operate. President Maduro has said that the structure is under his responsibility, and commands exist at the regional level within each of the eight REDIs, with

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576 Comando Estratégico Operacional, Fuerzas Armadas Nacionales Bolivarianas, CEOFANB "Plan Estratégico Operacional Zamora", Caracas, D.C., 9 April 2014, on file with the Mission.

577 Ibid., p. 7.

578 Ibid., p. 4. The seven categories are: 1) violent organizations or groups outside the law; 2) individuals or groups of organized crime; 3) criminal organizations that attempt against life and public and private property; 4) organizations and foreign Governments, contrary to the legally constituted system of Government, that assume destabilizing actions in the national territory, in support of violent groups; 5) criminal organizations dedicated to the smuggling of extraction or introduction; 6) unscrupulous persons and organizations dedicated to actions of economic warfare, such as usury, hoarding, speculation or boycott; 7) persons or organizations dedicated to environmental depredation for commercial purposes.

579 Ibid., p. 9.

580 Ibid., p. 6.

581 Ibid., p. 12.

582 Ibid.

583 Ibid.

584 Plan Zamora, p. 6.

585 Plan Zamora, p. 16.

586 Ibid.

587 Orden de fragmentaria de la orden de Operaciones Zamora para el mantenimiento, control y restablecimiento del orden público ZODI No. 22, Mérida, January 2019. Fragmentary orders (FRAGOs) provide "timely changes to existing orders to subordinate and supporting commanders while providing notification to higher and adjacent commands. […] The FRAGO differs from an [Operations Order] only in the degree of detail provided. It refers to previous orders and provides brief and specific instructions." See: US Department of the Army, Field Manual No. 101-5: Staff organization and operations, p. H3, 31 May 1997, available at: https://www.globalsecurity.org/military/library/policy/army/fm/101-5/f540.pdf

588 Ibid., p. 3.

participation of the military and police.[589] He stated that the commandos would "dedicate 24 hours a day to take preventive, legal and corrective measures against all coup supporters and terrorists within the country".[590] The command was set up to put in place preventive strategies "to punish all of the intents to destabilize Venezuela".[591] The Government has activated these commands on various occasions since 2013.[592] In President Maduro's activation of the anti-coup commando in 2017, he referred to the National Assembly as a gang and accused it of promoting a coup d'état.[593]

234. **Plan Patria Segura/Carabobo 2021**: In a January 2017 televised statement, President Maduro relaunched Plan Patria Segura. He described six lines of strategic action to combat insecurity throughout the country.[594] This was specifically described as coordinated action between State military forces and popular (citizen) security groups. The President announced that Vice President Tareck Al Aissami would be spearheading and coordinating these actions.[595] Among the six strategic action lines were[596] the installation of patrols in designated "peace quadrants"[597], which was described as the "heart" of the plan;[598] the strengthening of the System of Protection for Peace;[599] and the reformulation of the Operations of People's Liberation (OLP),[600] into the Operations of People's Humane Liberation (OLHP).

235. **Peace Zones**: The Government established the Peace Zones under the leadership of then-Vice Minister of the Interior, José Vicente Rangel Arévalo in 2013, as part of the Plans of Pacification and Peace to reduce organized crime.[601] Under an informal agreement, criminal gangs agreed to disarm and abandon criminal activities in exchange for social investment and job creation schemes.[602] The Government also agreed, controversially, to keep police from entering the Peace Zone areas.[603] Statistics are unavailable, but many have claimed that the Peace Zones failed to reduce organized crime as criminal elements did not

589 See YouTube Video, VideoNoticias Venezuela, Nicolás Maduro anunció la creación de un Comando Especial Antigolpe, 8 January 2017, available at: https://www.youtube.com/watch?v=2sUrqxfa4dg.

590 Ibid.

591 See YouTube Video, Luigino Bracci Roa, Presidente venezolano juramenta Comando Nacional Antigolpe, acto complete, 10 January 2017, minute 51:00, available at: https://www.youtube.com/watch?v=SDonipmdw4s.

592 See TeleSUR tv, Reactivará Nicolás Maduro Comando Antigolpe contra sectores de derecho, 26 October 2013, available at: https://www.youtube.com/watch?v=YrZ9n3Bvf3g; See also Voice of America, Venezuela: Maduro crea "Comando Antigolpe", 11 January 2017, available at: https://www.youtube.com/watch?v=h5EWqT68i-I&t=2s; La Patilla, Maduro anuncia más represión por parte del Comando Antigolpe, 21 March 2017, available at: https://www.youtube.com/watch?v=SZ-97COkUDE.

593 Ibid.

594 See YouTube Video, Luigino Bracci Roa, Cadena completa: Nicolás Maduro activa seis líneas para combatir la inseguridad, 18 January 2017, minute 20:30, available at: https://www.youtube.com/watch?v=9ZIia4O6X60.

595 Ibid., minute 27:15.

596 Ibid., the expansion of sports and cultural activities (minute 30:00); The presence of all police patrols on the streets, in coordination with the FANB, the REDI and the ZODI, in accordance with the "reactivation of Patria Segura" (minute 41:15); and the development of a communication strategy to describe to the population the nature of these criminal organizations.

597 See news on the peace quadrants here: https://www.vtv.gob.ve/tag/cuadrantes-de-paz/.

598 Ibid., minute 43:20. The President announced that those participating in the central directorate would by the PNB, the SEBIN, the UBCh and the Frente Francisco de Miranda (minute 54.19). The colectivos: were also called on to join the peace quadrants (minute 1:05:00).

599 Ibid., minute 1:13:00.

600 Ibid., minute 1:15.00.

601 See YouTube Video, TeleSURtv, Maduro presenta plan para la pacificación nacional, 14 February 2014, available at: https://www.youtube.com/watch?v=9jaUaFmLK7M.

602 See YouTube Video, Diario Panorama, Rangel Ávalos: Nos hemos reunido con 280 bandas en el estado Miranda, 25 August 2013, available at: https://www.youtube.com/watch?v=vOhEvicOgFo.

603 Some have suggested that the criminal leaders with the Peace Zones agreed that the areas under their control would not participate in protests against the State, including regarding the economic and social situation, thus helping to advance the Government's social control interests. Mission Interview SCHH01 in May 2020.

transition to licit activities, in some cases selling goods the Government provided to buy more sophisticated weapons.[604] It is also claimed that the Peace Zones allowed criminal gangs to operate with impunity and to strengthen, consolidating their power in the area.[605]

236. **The Protection Systems for Peace (SP3)**: The November 2014 Organic Law on Security of the Nation created the System of Protection for Peace (Sistema de Protección para la Paz – SP3), "in order to promote and execute a new criminal policy and citizen security plans against external and internal threats to the security of the nation".[606] The System of Protection for Peace architecture was further drawn out in a special decree published in January 2015.[607] President Maduro described the SP3 as a system of various strategic lines of defence to combat insecurity and "promote peace" in the country as part of the Plan Patria Segura.[608] The strengthening of the System of Protection for Peace, which were described as "popular intelligence" networks to identify criminal groups, in order to announce, alert, warn about threats in different spheres - political, economic, social and cultural.[609]

237. **Security Zones**: The November 2014 Organic Law on Security of the Nation[610] establishes the security zones. The President may declare these as the circumstances require. The law imposes penalties of between five and ten years for anyone who "organizes, sustains or instigates activities within security zones, which are intended to disturb or affect the organization and operation of military installations, public services, basic industries and companies or social and economic life of the country".[611] At the time of writing, according to the NGO Control Ciudadano, over 30 per cent of the country was within a designated security zone.[612] President Maduro issued a further decree during the National Constituent Assembly elections in July 2017 which declared Temporary Protection Zones "for the free exercise of the right to vote" at National Electoral Council facilities across the country.[613] The zones were in force from 21 July to 1 August 2017, with the Ministry of Defence responsible for protecting and safeguarding them. Disruption of the electoral process was made punishable with five to ten years' imprisonment.[614]

238. **Great Mission Peace Quadrants**:[615] According to official documents, the peace quadrants were enacted in July 2018, to address the structural, institutional and situational causes of insecurity and violence. They are imposed on certain areas based on population

[604] Red de activismo e investigación para la convivencia – REACIN, Entrevista con F.S., March 2020. See also RunRun.es, Zonas de paz: Corredores para el libre comercio de la droga, 17 June 2015, available at: https://runrun.es/investigacion/207830/zonas-de-paz-corredores-para-el-libre-comercio-de-la-droga/.

[605] Efecto Cocuyo, Zonas de Paz en Caracas tienen al menos seis corredores de la muerte, 24 March 2016, available at: https://efectococuyo.com/la-humanidad/zonas-de-paz-en-caracas-tienen-al-menos-seis-corredores-de-la-muerte/.

[606] 2014 Organic Security Law, art. 59.

[607] Decree No. 1417 of 19 November 2014, Published in Official Gazette No. 40.582, 16 January 2015, available at: https://dhqrdotme.files.wordpress.com/2015/01/sistema-popular-de-proteccic3b3n-para-la-paz.pdf.

[608] See YouTube Video, Luigino Bracci Roa, Cadena completa: Nicolás Maduro activa seis líneas para combatir la inseguridad, 18 January 2017, available at: https://www.youtube.com/watch?v=9ZIia4O6X60.

[609] Ibid., minute 1:13:00.

[610] Presidential Decree No. 1473, Ley Orgánica de Seguridad de la Nación (hereinafter 2014 Organic Security Law), Published in Official Gazette No. 6156, 19 November 2014, art. 50, available at: http://www.controlciudadano.org/web/wp-content/uploads/Ley-Org%C3%A1nica-de-Seguridad-de-la-Naci%C3%B3n.pdf.

[611] Ibid., art. 56.

[612] See Control Ciudadano, available at: https://www.controlciudadano.org/noticias/que-son-las-zonas-de-seguridad-en-venezuela. See also the case of Gloria Tobon, below.

[613] Presidential Decree No. 2992, 19 July 2017, published in Official Gazette No. 6.317, 19 July 2017, available at: https://app.vlex.com/#search/jurisdiction:VE/2992/WW/vid/698292529/graphical_version

[614] Ibid., art. 8.

[615] See news on the peace quadrants here http://www.mpprijp.gob.ve/wp-content/uploads/2019/07/CUADRANTES_DE_PAZ.pdf and here https://www.vtv.gob.ve/tag/cuadrantes-de-paz/.

density, index of criminality and terrain topography. In total, over 2,000 peace quadrants have been put in place at the time of writing.[616] At the strategic level, they are coordinated by the President, the Vice President and Ministers; at the tactical level, by military structures, through the CEOFANB and a national commissioner of peace quadrants; and at the operational level, by state commanders of the peace quadrants.[617] Within the quadrants, security forces implement citizen security actions involving prevention, risk management and promotion of the civic, military and police actions for the security and defence of the nation.[618] According to the Government, the Peace Quadrant model has helped to reduce crime rates.[619]

239. **Other Localized State Security and Vigilance Groups**: The Government began establishing local community groups before 2014 and has continued since. The groups exert control and vigilance over communities, with both political and security objectives. Presidential Decree No. 2323 of 13 May 2016 authorizes these groups,[620] to carry out vigilance to maintain public order and guarantee security and sovereignty in the country,[621] together with State military and police armed forces.[622] The groups include the Bolívar and Chávez Battle Units (UBCh);[623] the (Redes de Articulación y Acción Sociopolític (RAAS);[624] the Communal Councils;[625] and the Popular Units for Integral Defence (UPDI).[626] Membership appears to overlap among groups, and with the Bolivarian Militia. The National

616 See YouTube Video, Luigino Bracci Roa, Cadena completa: Nicolás Maduro activa seis líneas para combatir la inseguridad, 18 January 2017, available at: https://www.youtube.com/watch?v=9ZIia4O6X60. The President announced that those participating in the central directorate would by the PNB, the SEBIN, the UBCh and the Frente Francisco de Miranda (minute 54.19).

617 Ministry of the Interior, Gran Misión Cuadrantes de Paz, p. 6, available at: http://www.mpprijp.gob.ve/wp-content/uploads/2019/07/CUADRANTES_DE_PAZ.pdf.

618 Ibid., p. 7.

619 See Multimedio VTV, Ministro Reverol: Incidencia delictiva arrojó una disminución de 38,3 por ciento, 13 January 2020, video on file with the Mission.

620 The decree referred specifically to the Comités Locales de Abastecimiento y Distribución (CLAP), a los Consejos Comunales y demás organizaciones de base del Poder Popular (art. 9).

621 Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, art. 2.9, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html.

622 Ibid.

623 These are the base structures of the PSUV at the local level. According to the party website, the UBCh "assume the commitment to visit the country house to house, to form a soldsolidsold network of mobilized Chavista households". See official webpage: http://www.psuv.org.ve/temas/noticias/ubch/#.XPonXGZlLmI.

624 In September 2018, the Government announced the creation of the RAAS (Redes de Articulación y Acción Sociopolítica). The RAAS were tasked with, among others, identifying "the enemy" within the community by mapping the socio-political preferences of its inhabitants, mobilizing the Units of Battle Hugo Chávez (UBCh), local branches of the official party. The stated communication strategy includes, "clearly identifying the historical enemy; strengthening unity to confront the enemy; maximizing the will to fight the enemy; and organizing and acquiring the necessary knowledge to defeat the enemy". See YouTube Video, Aitor Igartua Perosanz, Venezuela (RAAS-Red de Articulación y Acción Sociopolítica), 10 September 2018, available at: https://www.youtube.com/watch?v=MFHk5O4GtJw. See also: https://www.youtube.com/watch?v=4jPetpAjfCkÑ; http://www.psuv.org.ve/portada/psuvred-articulacion-y-accionmodelounidaddefensa-nacion/#.XPot2WZlLmI.

625 The Communal Council are instances of participation, articulation and integration among the diverse citizens and communities organized. Under the 2009 law, these groups permit the population to participate directly in the development of public policies to respond to their needs. "Ley de los Consejos Comunales", https://observatorioplanificacion.cepal.org/es/instituciones/consejos-comunales-de-venezuela; https://www.telesurtv.net/news/venezuela-consejos-comunales-hugo-chavez-20180409-0032.html; https://www.ide.go.jp/library/Japanese/Publish/Download/Report/2013/pdf/B102_ch2.pdf.

626 See Multimedio VTV, Jefe de Estado: UPDI son un instrumento fundamental de la seguridad del país, 27 February 2020, video on file with the Mission; see also Multimedio VTV, Ministro Reverol: Cuadrantes de Paz incorporan masificación de prevención en seguridad ciudadana, 27 February 2020, video on file with the Mission.

Constituent Assembly president, Diosdado Cabello, has referred to information provided by community informants – including details of the meeting schedules and whereabouts of opposition politicians and human rights defenders – during his weekly television programme, "Con el Mazo Dando", which airs on state television.[627]

CHAPTER III: TARGETED POLITICAL REPRESSION

I. Introduction and Trends

240. 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, who attempted forcefully to topple the Government. Facing threats of destabilization, the Venezuelan State apparatus responded with repressive tactics and measures.

241. Analysis of events since 2014 reveals some spikes in targeted measures against dissidents. The periods corresponded with times when the Government faced heightened political pressure, particularly during the protests and political crises of 2014, 2017 and 2019. However, selective repression against certain actors has remained relatively continuous since 2014. At the same time, the Mission noted that the Government has lessened selective repressive tactics against certain public figures at key times.

242. The Mission identified various common elements to violations, with targets sometimes suffering a combination of elements. These included: (1) physical attacks or threats; (2) smear campaigns and stigmatization; (3) administrative retaliation (especially removing politicians, judges and prosecutors or civil servants from posts); (4) criminal prosecutions in judicial procedures not in compliance with due process standards; (5) arbitrary detentions, including in poor conditions and for prolonged periods of pre-trial detention; (6) ill-treatment/torture, including sexual and gender-based violence; (7) detention for periods in which their whereabouts were unknown; and (8) harassment and threats to family members or people close to the principal targets.[628]

A. Victim Profiles

243. The Mission has investigated cases and analyzed broader patterns of repression against principal targets and people associated with them. Principal targets of violations are often Government critics with high public profiles or people who achieved prominence or represented a particular threat due to their actions. The principal targets mainly include social activists and political leaders at the forefront of protests, opposition politicians and military dissidents accused of rebellion, plotting coups or other conspiracies.

244. Intelligence agencies have also targeted other profiles of people seen to challenge official narratives. This includes selected civil servants, judges, prosecutors, defence lawyers, NGO workers, journalists,[629] and bloggers and social media users.[630] In 2020, various health workers and social media users critical of the Government's response to the Covid-19

[627] See "Con el Mazo Dando", ¿Defensores de derechos humanos o del imperio?, 21 October 2015, available at: https://www.conelmazodando.com.ve/defensores-de-derechos-humanos-o-del-imperio/.

[628] Since 2014, the Inter-American Commission of Human Rights has issued 54 precautionary measures calling for the protection of approximately 166 people in Venezuela (none were issued in 2014, 7 in 2015, 7 in 2016, 10 in 2017, 6 in 2018, 19 in 2019 and 5 in 2020 as at the time of writing). http://www.oas.org/es/cidh/decisiones/cautelares.asp#tab2018

[629] According to the non-Governmental organization Espacio Público, 256 journalists have been detained since 2014: 27 in 2014, 12 in 2015, 22 in 2016, 65 in 2017, 57 in 2018 and 73 in 2019. Database on file with the Mission.

[630] According to the non-Governmental organization Espacio Público, 11 bloggers and social media users were detained since 2014, 6 in 2014, 2 in 2017 and 3 in 2018. Database on file with the Mission.

pandemic were also detained.[631] In July 2020, the Minister of the Interior, Néstor Reverol, announced that Venezuelans who had left the country and are returning would be charged under the Organic Law against Organised Crime and Financing of Terrorism, allegedly for bringing Covid-19 into the country.[632]

245. Also selectively targeted were people associated with these actors, including families, friends and colleagues or NGO workers and human rights defenders. The questions authorities asked these people while in detention and under interrogation appear to suggest that they were detained to incriminate, extract information about or apply pressure on the main targets. This includes organizations that may have provided funding to opposition movements or received international funding. The measures used against people associated with principal targets often matched or exceeded the severity of that inflicted upon principal targets.

246. From 1 January 2014 to 15 July 2020, the NGO Foro Penal[633] registered 3,479 cases of politically motivated detention[634] of which 902 (26 per cent) were selective detentions, with the remainder taking place in the context of protests.[635] Foro Penal describes a "revolving door" phenomenon in cases, in which as some people are detained, other people are released, so that the number of detainees remains somewhat fixed over time.[636]

Breakdown by year of selective detentions according to Foro Penal

2014	*2015*	*2016*	*2017*	*2018*	*2019*	*2020*	*Total*
99	38	113	146	260	167	79	902

247. The Mission organized its investigation into two categories: political targets and associates or perceived associates, who were detained by SEBIN, and military targets and associates, who were detained by DGCIM. As the selected cases reveal, military targets and associates have generally been subjected to particularly severe treatment.

631 Espacio Publico documented the detention of at least 16 healthcare workers from 2018 to May 2020 (nine women and eight men) and at least four people (tweeters, bloggers) critical of the Government's response to the pandemic. According to Foro Penal, as at 7 May 2020, 10 people have been detained by "people who have referred to the pandemic", especially health workers. See Tweet of Alfredo Romero: https://twitter.com/ReporteYa/status/1258443879566712834?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed&ref_url=https%3A%2F%2Fwww.dw.com%2Fes%2Fvenezuela-ong-denuncia-detenciones-por-informar-sobre-el-coronavirus%2Fa-53366370)

632 See Efecto Cucoyo, Aplicarán Ley contra la Delincuencia Organizada a los "trocheros", anuncia Reverol, 16 July 2020, available at: https://efectococuyo.com/politica/aplicaran-ley-contra-la-delincuencia-organizada-a-los-trocheros-anuncia-reverol/?fbclid=IwAR1iQ37FWFq6Jnw1D8DRBhie_XH6qtvPvk8L4mefGrLS3jdIogGS2JfHLGs

633 Foro Penal is a non-Governmental organization that collects information through its network of over 100 well-known lawyers and 5,000 human rights activities to document cases of violations of the rights of people detained in Venezuela. See a description of its methodology here: https://foropenal.com/en/nosotros/.

634 According to Foro Penal, "political prisoner" does not cover all those detained or arrested for political purposes. The person arrested or detained is not considered by Foro Penal to be a political prisoner until: (1) a formal decision of the judicial authority unjustly ordering his/her deprivation of liberty (including pretrial detention) is issued; (2) the maximum legal and constitutional time limit (48 hours from his or her arrest) expires without his or her being released or presented to the competent judicial authority; or (3) bail is granted, but seven days have elapsed since the requirements for posting bail have been met and the release has not been executed. 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.

635 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.

636 See, e.g., Foro Penal, La Puerta Giratoria de los Presos Políticos en Venezuela, available at: https://foropenal.com/la-puerta-giratoria-de-los-presos-politicos-en-venezuela/

1. Targets of repression: Political Officials and Associates

248. Starting in 2014, a first wave of targets included people affiliated with the organization of the La Salida protests. This included leaders of opposition parties, in particular those that formed part of the coalition Movimiento de Unidad Democrática (MUD), opposition mayors, human rights activists, social media users, student leaders and people perceived to be on the "front line" of the demonstrations. Cases investigated by the Mission include that of Mr. Antonio Ledezma and Mr. Leopoldo López. The repression extended to political leaders and others taking critical stances against the Government during the 2017 and 2019 political crises.

249. People associated with political and social leaders involved in the protests were also targeted. This included individuals perceived to be their friends or associates or those who were accused of receiving foreign funds or having close ties with political opposition figures.

250. The State apparatus also targeted opposition mayors in municipalities that were seen as anti-Government or that showed a strong participation in the 2014 protests. All of the detentions of mayors took place prior to December 2017, when the elections of municipal mayors took place and in which the opposition parties only won 29 of the 334 seats, amidst allegations of electoral irregularities.[637] Between 2014 and 2017, ten opposition mayors were removed from office by decisions of the Supreme Court of Justice, five of whom were removed in July and August 2017.[638]

251. At least six opposition mayors were detained between April 2014 and December 2017, for periods ranging from 72 hours to over 4 years, under charges including rebellion, conspiracy and omission of acts to prevent public disorder.[639] Several of these related to decisions by the Supreme Court's Constitutional Chamber requiring municipal mayors to prohibit protests that block roads and to "use the necessary material and human resources" to prevent such blockages.[640] Several opposition mayors who did not prevent the road blockades were later declared in contempt of this decision and arrested.[641]

252. Other opposition mayors had arrest orders issued against them, but left the country prior to their arrest, including David Smolanksy (mayor of El Hatillo, Caracas) and Ramón

[637] See National Electoral Council, results of the December 2017 municipal elections, available at: http://www.cne.gob.ve/resultadosMunicipales2017/

[638] Daniel Ceballos (removed by judgment of 10 April 2014); Vicencio "Enzo" Scarano (removed form office 9 April 2014); Alfredo Ramos, Mayor of Iribarren Municipality, Lara state (28 July 2017); Lumay Barreto, Mayor of Paéz Municipality, Apure state (2 June 2015); Carlos Garcia, Mayor of Libertador Municipality, Merida state (28 July 2017); Gustavo Marcano, Mayor of Diego Bautista Urbaneja Municipality, Anzoátegui state (25 July 2017); Carlos Garcia (28 July 2017); David Smolansky (9 August 2017); Ramon Muchacho (9 August 2017); and Gerardo Blyde (9 August 2017).

[639] This includes Daniel Ceballos, Mayor of San Cristóbal del Táchira, Táchira state (between 18 March 2014 and 6 June 2018); Vicencio "Enzo" Scarano, Mayor San Diego Municipality, Carabobo state (between 20 March 2014 and 6 June 2018); Antonio Ledezma, Mayor of Liberator municipality and founder of the Alianza Bravo Pueblo party (19 February 2015 to 19 August 2016); Pedro Loreto, Mayor of Leonardo Infante Municipality, Guaricó (detained on 31 August 2016 for 72 hours); Delson Guárate, Mayor of Mario Briceño Iragorry municipality, Aragua state (26 September 2016 to 3 November 2017); Alfredo Ramos, Mayor of Iribarren municipality, Lara state (28 July 2017 to 22 December 2017).

[640] Judgment No. 135 of 12 March 2014 (with respect to Mayors David Smolansky and Gerardo Blyde), available at: http://historico.tsj.gob.ve/decisiones/scon/marzo/161913-135-12314-2014-14-0194.HTML; Judgment No. 136 of 12 March 2014 (with respect to Mayors Vicencio Scarano Spisso and Salvatore Lucchese Scaletta), available at: https://vlexvenezuela.com/vid/salas-agentes-aduanero-asociados-593338054?_ga=2.184534498.550495912.1594144441-1054173431.1593915400

[641] See Judgment No. 138 of 17 March 2014, available at: https://vlexvenezuela.com/vid/osmer-castillo-representante-legal-593337878; See also Venezolana de Televisión, (Video) TSJ: Alcalde de San Diego y su director de Policía a 10 meses de prisión por permitir violencia, 19 March 2014, available at: https://www.aporrea.org/actualidad/n247407.html. See also Judgement No. 245 of 7 April 2014, available at: http://historico.tsj.gob.ve/decisiones/scon/abril/162860-245-9414-2014-14-0205.HTML; Judgment No. 236 of 10 April 2014, available at: https://www.civilisac.org/civilis/wp-content/uploads/Sentencia-263.pdf.

Muchacho (mayor of El Chacao, Caracas). The families of opposition mayors have also faced threats, as was the case with Juan Pedro Lares, the son of Omar Lares, mayor of Campo Elias Municipality, Mérida state, who was arbitrarily arrested on 30 July 2017 by SEBIN officers.

253. In December 2015, after the opposition won a majority of seats in the National Assembly, opposition parliamentarians (and people affiliated with them) became a focus of repression. Targeting opposition parliamentarians continued 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.

254. Parliamentarians who had their immunity lifted included the following: Rosmit Mantilla, Gilberto Sojo, Renzo Prieto[642] in July 2016; Gilber Caro[643] in May 2017; Germán Ferrer[644] in August 2017; Freddy Guevara[645] in November 2017; Juan Requesens,[646] Julio Borges[647] in August 2018; Juan Guaidó[648] in April 2019; Edgar Zambrano,[649] Henry Ramos Allup, Luis Florido, Marianela Magallanes, José Simon Calzadilla, Americao de Grazia, Richard Blanco,[650] Freddy Superlano, Sergio Vergara, Juan Andrés Mejía, Rafael Guzmán,[651] Carlos Paparoni Ramírez, Miguel Pizarro Rodríguez, Franco Casella Lovaton, Winston Flores Gómez[652] in May 2019; José Guerra, Tomás Guanipa,[653] Juan Pablo García[654] in

[642] Supreme Court of Justice, Judgment, Constitutional Chamber, No. 612 of 15 July 2016 (holding that parliamentary immunity does not apply to alternates).

[643] Supreme Court of Justice, Plenary Judgment, No. 34 of 11 May 2017, available at: historico.tsj.gob.ve/decisiones/tplen/mayo/198873-34-11517-2017-2017-00004.HTML

[644] Supreme Court of Justice, Plenary Judgment, No. 66 of 16 August 2017, available at: http://historico.tsj.gob.ve/decisiones/tplen/agosto/203196-66-16817-2017-2017-000097.HTML (alleged crimes in flagrante delicto, request to NCA to lift immunity)

[645] Supreme Court of Justice, Plenary Judgment No. 69 of 3 November 2017, available at: http://historico.tsj.gob.ve/decisiones/tplen/noviembre/204801-69-31117-2017-2017-000112.HTML (alleged crimes in flagrancy, request to NCA to lift immunity).

[646] Supreme Court of Justice, Plenary Judgment No. 48 of 8 August 2018, available at: http://historico.tsj.gob.ve/decisiones/tplen/agosto/300716-48-8818-2018-2018-0071.HTML (alleged crimes in flagrancy and ordering that he be detained until the NCA lifts his immunity).

[647] Supreme Court of Justice, Plenary Judgment No. 49 of 8 August 2018, available at: https://www.accesoalajusticia.org/wp-content/uploads/2018/08/SP-49-08-08-2018.pdf (alleged crimes in flagrancy and ordered that he be prosecuted in criminal courts).

[648] Judgement was never made public, dated 1 April 2019 (accused of contempt of court for leaving the country, request to the NCA to lift parliamentary immunity).

[649] Supreme Court of Justice, Plenary Judgment No. 17 of 2 May 2019, available at: http://historico.tsj.gob.ve/decisiones/tplen/mayo/304697-17-2519-2019-2019-000026.HTML (accused of committing in flagrancy crimes of treason of the homeland, conspiracy, instigation of insurrection, civil rebellion and hate crimes, request to NCA to lift parliamentary immunity).

[650] Supreme Court of Justice, Plenary Judgment No. 19 of 7 May 2019, Statement by the Supreme Court, available at: http://www.tsj.gob.ve/-/sala-plena-del-tsj-decidio-comprometer-la-responsabilidad-de-henry-ramos-allup-luis-florido-marianela-magallanes-jose-simon-calzadilla-andres-delgado- (accused of crimes of treason of the homeland, request to NCA to lift immunity).

[651] Supreme Court of Justice, Plenary Judgment No. 19 of 8 May 2019 (Accused for crimes of treason of homeland, requests NCA to lift immunity).

[652] Supreme Court of Justice, Plenary Judgment No. 20 of 14 May 2019, Statement by the Supreme Court, available at: http://www.tsj.gob.ve/-/tsj-decidio-comprometer-la-responsabilidad-de-cuatro-diputados-en-la-comision-flagrante-de-delitos (Accused for crimes of treason of homeland, requests NCA to lift immunity).

[653] Supreme Court of Justice, Constitutional Chamber, Judgment No. 55 of 12 August 2019, available at: https://www.accesoalajusticia.org/wp-content/uploads/2019/08/SP-N%C2%BA-55-12-08-2019.pdf (accused for crimes of treason of homeland, requests NCA to lift immunity).

[654] Supreme Court of Justice, Constitutional Chamber, Judgment No. 56 of 12 August 2019, available at: http://historico.tsj.gob.ve/decisiones/tplen/agosto/306956-56-12819-2019-2019-000052.HTML (accused for crimes of treason of homeland, requests NCA to lift immunity).

August 2019; Juan Pablo Guanipa Villalobos[655] in October 2019; and Hernán Claret Alemán, Jorge Millán, Luis Stefanelli, Carlos A. Lozano Parra[656] in December 2019.

255. In 28 of these decisions, the Supreme Court accused parliamentarians of being in a "permanent state" of committing crimes *in flagrante delicto* of treason of the homeland, conspiracy, instigation of insurrection, civil rebellion, contempt of court and hate crimes, among others. Six of the National Assembly members whose parliamentary immunity was lifted were then arrested and detained, with all but one held for over two years.[657] Cases inviestigated in depth by the Mission include those of Gilber Caro[658] and Juan Requesens.[659]

256. People associated with National Assembly members and/or with the opposition parties were also detained and interrogated. During interrogations, these associates were asked questions about deputies, in particular about their involvement in alleged conspiracies or other crimes against the Government. Cases reviewed by the Mission that fall into this category are those of Fernando Albán (a close friend and advisor of deputy Julio Borges), who died while in custody, Roberto Marrero (an advisor to deputy Juan Guaidó) and Steyci Escalona (friend of parliamentarian Gilber Caro).

2. *Targets of repression: Military Officials and Associates*

257. Since 2017, there have been a series of arrests of current and former military officers allegedly involved in attempted coups to oust the Maduro Government. As alleged conspiracies increased, the number of acts of counter-intelligence operations against them also increased. The number of operations or coup d'états alleged by high-level Government officers grew from 3 between 2014 and 2016, to at least 16 between 2017 and 2020. This is in addition to other cases of alleged military conspiracies outside of the framework of a specific operation.

258. The Mission has compiled the following non-exhaustive list of 19 operations that State representatives have alleged have taken place against the Maduro Government since 2014:

Table 4:
Alleged operations and people detained

Date and Name	*Name / Reference*	*Description of alleged operation*	*Number of individuals arrested, number of individuals that are still detained and charges presented*[660]

[655] Supreme Court of Justice, Plenary Judgment No. 58 of 25 October 2019 (Accused of crimes in flagrancy of treason of the homeland, conspiracy, instigation of insurrection, civil rebellion, and hate crimes, and request the NCA to lift immunity).

[656] Supreme Court of Justice, Plenary Judgment No. 65 of 16 December 2019, Statement by the Supreme Court, available at: http://www.tsj.gob.ve/-/tsj-decidio-comprometer-la-responsabilidad-de-cuatro-diputados-en-la-comision-flagrante-de-delit-1 (accused or commission in flagrancy of crimes of treason of the homeland, conspiracy, instigation of insurrection, civil rebellion, and hate crimes, and request the NCA to lift immunity).

[657] Gilber Alexander Caro Alfonso (alternate deputy), detained from January 2017 to June 2018, from April to June 2019, and again from 20 December 2019 to present (see case below); Edgar José Zambrano Ramírez, detained from 5 August 2019 to 18 September 2019; Renzo Prieto, detained from 10 May 2014 to 20 May 2018 and again from 10 March 2020 to present. Two other deputies, Ángel Torres and Zandra Castillo, were arrested with him and then released the same day; Rosmit Mantilla, detained from 2 May 2014 to 18 November 2016; Gilberto Sojo, detained from 26 November 2014 to 13 December 2016; and Juan Requesens, detained 7 August 2018 to 28 August 2020.

[658] On 31 August 2020, Gilber Caro was pardoned by President Maduro and released from detention.

[659] On 28 August 2020, Juan Requesens was released from SEBIN Helicoide and placed under house arrest after spending over two years in detention.

[660] Numbers shared by the Foro Penal on file with the Mission, the numbers do not include individuals with alternative measures to detention.

	Date and Name	*Name / Reference*	*Description of alleged operation*	*Number of individuals arrested, number of individuals that are still detained and charges presented*[660]
1.	March-May 2014	Operation Jerico	Several senior military officers, mostly from the aviation sector, accused of conspiracy[661]	11 arrested, 6 still detained. Charges include instigation to rebellion, breach of military decorum
2.	February 2015	Operation Golpe Azul (Caracas)	Alleged plan to attack Miraflores Palace or other commemorative events in which President Maduro took part[662]	8 arrested, 3 still detained including 2 having served their sentence.[663] Charges include instigation to rebellion, breach of military decorum
3.	November 2015	Golpe Fenix	A group of Captains attended a meeting at the Military Academy theatre, arrested for alleged Conspiracy[664]	3 arrested, 2 still detained under charges of instigation to rebellion
4.	January 2017	Raul Baduel Case (Caracas)	Alleged conspiracy lead by retired General Raúl Baduel to assassinate President Maduro, Diosdado Cabello, Freddy Bernal, the directors of SEBIN and FAES, the Minister of the Interior Néstor Reverol as part of a coup, with the support of the "radical right" in Colombia[665]	10 arrested, 8 still detained. Charges include rebellion, treason and violation of the integrity, independence and freedom of the nation
5.	March 2017	Copei Case/Escudo Zamorano (Caracas)	Alleged coup d'état led by the opposition against the Government of President Maduro, with the support of military officers[666]	3 arrested, 1 still detained, 1 escaped. Charges include instigation to rebellion and treason
6.	March 2017	Movement Espada de Dios (Los Teques, estado Miranda)	Alleged recruitment of junior officers to assassinate President Maduro[667]	12 arrested, 2 still detained, 4 escaped, 1 death in custody Charges include rebellion, instigation to rebellion, treason, misuse of firearms, theft of military effects, attack on the sentry and riot[668]
7.	June 2017	Óscar Pérez case (Caracas)	On 27 June, CICPC police officer Óscar Pérez commandeered a helicopter and flew it over the Supreme Court of Justice, in an	7 arrests, 1 still detained. Charges include outrage to the sentry, terrorism, criminal association, instigation of rebellion

661 Associated Press, Maduro informa arresto de tres generals, available at: https://news.yahoo.com/maduro-informa-arresto-tres-generales-180210228.html.

662 YouTube Video, teleSURtv. Diosdado Cabello difunde pruebas sobre intento de Golpe en Venezuela, 13 February 2015, available at: https://www.youtube.com/watch?v=7mZIaTmUr4o; YouTube Video, Últimas Noticias, Nombres de los militares involucrados en la "Operación Jericó", 12 February 2015, available at: https://www.youtube.com/watch?v=RqxUh12Ctus

663 Case of Luis Hernando Lugo Calderon and Petter Alexander Moreno Guevara.

664 YouTube Video, TVV- lo que dijo la esposa de militar venezolano, acusado de ser cabecilla del golpe fénix, 30 September 2016, available at: https://www.youtube.com/watch?v=1d8aitF28-4

665 YouTube Video, Luigino Bracci Roa - Situación en Venezuela. Néstor Reverol sobre detenciones de Gilber Caro, Raúl Isaías Baduel, Jorge Luis González. 12 January 2017, minute 12:50, available at: https://www.youtube.com/watch?v=M8-VCup18sM

666 YouTube Video, Luigino Bracci Roa – Situación en Venezuela, Plan de golpe de Estado develado en Con el Mazo Dando, 5 April 2017, available at: https://www.youtube.com/watch?v=fvkG1DyEmu8.

667 YouTube Video, Último Momento Venezuela. Hablaron los Tenientes de la Espada de Dios que escaparon de Ramo Verde, 2 December 2017, available at: https://www.youtube.com/watch?v=KnBLBiqYsPA.

668 Others had also been detained but escaped from the Ramo Verde prison.

	Date and Name	*Name / Reference*	*Description of alleged operation*	*Number of individuals arrested, number of individuals that are still detained and charges presented*[660]
			attack. He later spoke out against the Maduro Government[669]	
8.	August 2017	Operation David Paramacay I [670] (Naguanagua, Carabobo)	Former GNB Captain Juan Caguaripano commanded a group of military and civilians in a military offensive on the fort of Paramacay, where the 41st brigade of the Bolivarian Army was stationed to extract weapons"[671]	30 arrests, 15 still detained. Charges include treason, rebellion, theft of effects belonging to the Armed Forces, misuse of decorations, insignia and military titles, usurpation, attack on the sentry and outrage to the sentry, the flag and the National Armed Force
9.	December 2017	Operation Genesis (Laguneta de la Montaña, Miranda)	A group of ex-police officers, led by Óscar Pérez seized weapons from the GNB post in Laguneta de la montaña[672]	26 arrests, 4 still detained. Charges include subtraction of items belonging to the FANB, instigation to rebellion, attack to the sentry Following an investigation by intelligence services, in a police/military operation of January 2018 (entitled Operation Gideon), Oscar Perez was killed[673]
10.	March 2018	Movement "Transición a la dignidad del pueblo" (Caracas)	Alleged coup attempt. Other sources alleged that the military officers were arrested "for not engaging in pro-revolutionary political behaviour"[674]	9 arrests, 7 still detained. Charges include: incitement to rebellion, breach of military decorum
11.	May 2018	Operation Paramacay II (Naguanagua, Carabobo)	Arrests before and during the presidential elections of 20 May 2018	3 arrests, 3 still detained. Charges include incitement to rebellion, breach of military decorum and treason
12.	May 2018	Operation Armageddon (Caracas)	Alleged conspiracy to prevent the national elections and to assassinate President Maduro[675]	33 arrests, 16 still detained. Charges include incitement to rebellion, breach of military decorum
13.	August 2018	Drone attack (Caracas)	Alleged assassination attempt of President Maduro by opposition members and military forces during the 81st anniversary	33 arrests, 16 still detained. Charges include attempted intentional homicide of the

669 YouTube Video, Diario Las Américas. Óscar Pérez Piloto del Helicóptero del CICPC se pronuncia, 27 June 2917, available at: https://www.youtube.com/watch?v=6G11O2652-A

670 YouTube Video, Multimedio VTV. SEBIN: Balance operación de captura de implicados en ataque del Fuerte Paramacay, 13 August 2017, video on file with the Mission.

671 YouTube Video, NoticieroDigitalcom. Aquí el video de los militares sublevados en el Fuerte Paramacay, 6 August 2017, available at: https://www.youtube.com/watch?v=3MX7wuHPRlk.

672 YouTube Video, OscarPerezGV, Operación Génesis, 18 December 2017, available at: https://www.youtube.com/watch?v=YMJyzeyBUFY

673 YouTube Video, Luigino Bracci Roa – Situación en Venezuela. Diosdado Cabello da detalles inéditos sobre operación donde murió Oscar Pérez en El Junquito, 17 January 2018, available at: https://www.youtube.com/watch?v=OyDbcqMlzGo

674 El Cooperante, «Transición de la Dignidad»: Lo que se sabe del temido grupo rebelde del Ejército, 13 March 2018, available at: https://elcooperante.com/movimiento-de-transicion-de-la-dignidad-lo-que-se-sabe-del-grupo-rebelde-del-ejercito/

675 https://elcooperante.com/operacion-armagedon-el-presunto-golpe-militar-contra-el-gobierno-de-maduro/

	Date and Name	*Name / Reference*	*Description of alleged operation*	*Number of individuals arrested, number of individuals that are still detained and charges presented*[660]
			celebration of the GNB[676] allegedly supported by the Colombian "radical right"[677]	President, attempted intentional homicide of several members of the FANB, treason, throwing of explosive devices at public meetings, violent damage to property, terrorism and criminal association, military rebellion, cooperative weapons theft
14.	January 2019	Caso Cotiza (Caracas)	Uprising by member of the GNB in Cotiza, in which they also asked citizens to support their military actions in the streets[678]	32 arrested, 25 still detained. Charges include treason, incitement to rebellion, riot, disobedience, abduction of property belonging to the armed forces, outrage to the armed forces.
15.	January 2019	Operation Constitution (Caracas)	Alleged destabilization activities and an attack against President Maduro, with the alleged support of the United States and Colombia, with links to the drone attack of August 2018[679]	15 arrested 7 still detained. Charges include: treason, conspiracy, criminal association, possession of weapons of war, incitement to rebellion, terrorism
16.	April 2019	Operation "Libertad" (Caracas)	Allged operation seeking to oust President Maduro starting with the takeover the La Carlota air base and a call for military rebellion[680]	17 arrested, 9 still detained. Charges include conspiracy and association to commit crimes, treason, instigation of rebellion
17.	June 2019	Operation "Vuelvan Caras" (Caracas)	Alleged attempt to assassinate President Maduro and take over Miraflores Palace, the La Carlota air base and the vaults of the Central Bank of Venezuela, with the alleged support of the Colombian Government and the Venezuelan "right"[681]	10 arrested, 7 still detained, 1 death in custody. Charges include terrorism, conspiracy, attempted murder, treason and criminal association
18.	December 2019	Operation Aurora/Toma de Batallón 513 in	Alleged assault on GNB detachment in the fort of Santa Elena, and theft of weapons[682]	22 arrested, 21 still detained, 1 escaped.Charges include terrorism, theft of firearms or

[676] YouTube Video, El Pais, Nicolas Maduro | Una explosión interrumpe un discurso del presidente de Venezuela, available at: https://www.youtube.com/watch?v=mJ3udzUCJFk

[677] YouTube Video, Julian R. Nuñez, Presidente Nicolás Maduro Muestra Pruebas del Magnicidio Frustrado, 8 August 2018, available at: https://www.youtube.com/watch?v=3FmSHkq4wTs.

[678] YouTube Video, Caraotadigital.net. Del alzamiento militar a la protesta en Cotiza: así transcurrió la antesala del 23Ene (+Cronología), 21 January 2019, available at: https://www.youtube.com/watch?v=lbA990H1mpg.

[679] Noticero Digital, Dgcim allanó la casa del coronel Jhonny Rafael Mejías Laya, según diputado, 15 February 2019, available at: https://htr.noticierodigital.com/2019/02/dgcim-allano-la-casa-del-coronel-jhonny-rafael-mejias-laya-segun-diputado/. See YouTube Video, NTN24 Venezuela. "Ha pensado incluso en el suicidio": esposa del coronel detenido Johnny Mejías, 11 July 2019, available at: https://www.youtube.com/watch?v=EX4_MTCmLyg

[680] El Nacional, ¿En qué consiste la Operación Libertad que ejecuta Juan Guaidó?, 30 April 2019, available at: https://www.eltiempo.com/mundo/venezuela/operacion-libertad-en-venezuela-que-es-y-como-la-ejecuta-juan-guaido-355392

[681] YouTube Video, Multimedio VTV. Gobierno Nacional revela nuevas evidencias de acciones planificadas por el hampograma nacional, video on file with the Mission.

[682] YouTube Video, Mundo News, Venezuela:3 militares sublevados llaman al Ejército para la "Operación Aurora" y liberar Venezuela available at: https://www.youtube.com/watch?v=7ozPKpZcXPw

	Date and Name	*Name / Reference*	*Description of alleged operation*	*Number of individuals arrested, number of individuals that are still detained and charges presented*[660]
		Bolívar (Gran Sabana, Bolívar)		ammunition from the FANB, conspiracy, association to commit crimes
19.	April 2020	Assault on Puerta Morocha (Los Teques)	Alleged attempt to assault the 441st GNB detachment in Puerta Morocha to steal weapons[683]	18 arrests, 13 still detained[684]

259. As of 2018, civilians linked to the military targets, such as family, friends and associates, also increasingly became victims of repression. This includes those who might know the whereabouts of those accused of involvement and relatives of military members.

B. Patterns

260. The arrests and detentions of political opponents or critics of the Government in Venezuela involve a number of individuals at different hierarchical levels, in which key institutional actors within the executive, law-enforcement/intelligence services and the judiciary play a role.

261. State intelligence services play an integral party in targeted repression of dissidents: SEBIN (in the case of civilians) and DGCIM (in the case of military personnel). The intelligence agencies are responsible for carrying out initial investigations into potential crimes committed by the targeted dissidents, arresting them, interrogating them and detaining them. The detentions take place mainly in the respective headquarters offices of the intelligence services in Caracas, outside the purview of the penitentiary system.

262. 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. The Mission also has reasonable grounds to conclude that these arbitrary detentions did not constitute isolated or random acts.[685] The reiteration of the conduct, the similarities in the *modus operandi* and the involvement of different state institutions at different levels, as illustrated below and reported by the accounts of victims, witnesses and other sources, show that arbitrary detentions of opponents or critics were carried out in a systematic manner.[686] Targeted dissidents were also victims of short term enforced disappearances and acts of torture and cruel, inhuman or degrading treatment at the hands of intelligence agencies.

683 Infobae, Una rebelión encabezada por capitanes de la Guardia Nacional intento un levantamiento militar available at: https://www.infobae.com/america/venezuela/2020/04/21/una-rebelion-encabezada-por-capitanes-de-la-guardia-nacional-intento-un-levantamiento-militar-contra-nicolas-maduro/

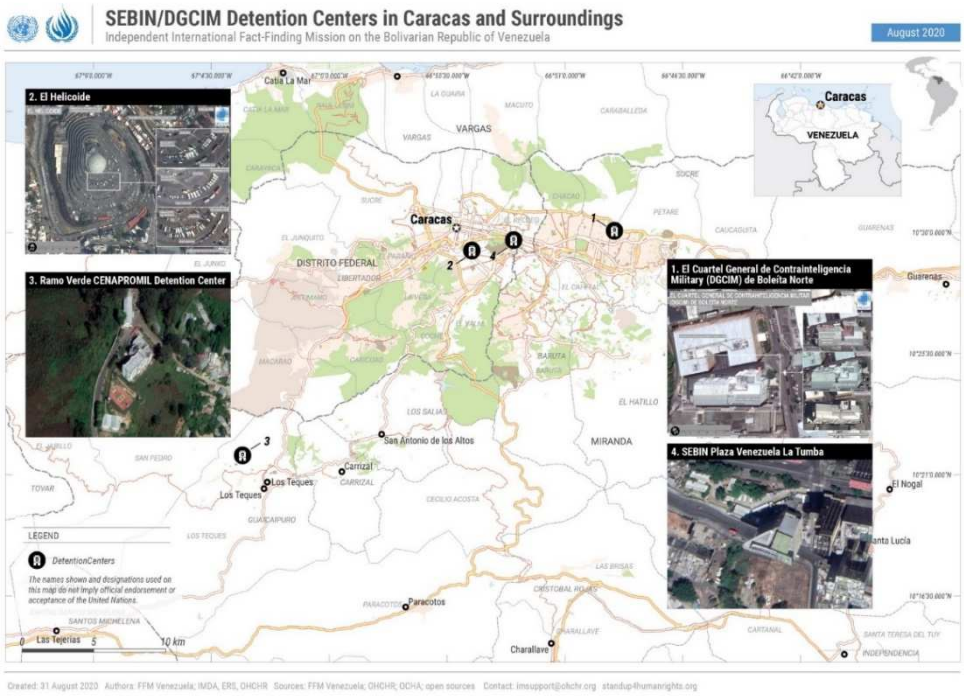
684 The Foro Penal noted that these arrests occurred in the midst of the state of alarm over the COVID pandemic19. The quarantine period has made access to information difficult in courts as well as in detention centres.

685 The organization Foro Penal has documented 3479 case of individuals detained for political reasons from 1 January 2014 to 15 July 2020, of which 902 outside the context of demonstrations.

686 According to well-established jurisprudence, "systematic" refers to the organised nature of the acts and the recurrence of similar criminal conduct on a regular basis, involving a *modus operandi* that follows a regular pattern of crimes. See ICC Trial Chamber II Judgment on Katanga, 7 March 2014, para. 1123. See also: The Prosecutor v. Ahmad Muhammad Harun and Ali Muhammad Ali Abd-Al-Rahman, Pre-Trial Chamber I, Decision on the Prosecution Application under Article 58(7) of the Statute, 27 April 2007, ICC02/05-01/07-1-Corr, para.62. Decision on the confirmation of charges, para. 397. See also ICTY, Kordić and Čerkez Appeal Judgement, para. 94; ICTY, Blaškić Appeal Judgement, para. 101; ICTY, Kunarac et al. Appeal Judgement, para.94; ICTR, Akayesu Trial Judgement, para. 580; ICTR, Prosecutor v. Nahimana et al., Case No.ICTR99-52-A, Appeal Judgement, 28 November 2007, para. 920.

263. On 31 August 2020, President Maduro pardoned 110 people, mainly members of the political opposition, who had been accused of committing criminal acts.[687] Those pardoned included both individuals who had already received a judgment in their cases and individuals awaiting trial, including 23 deputies of the National Assembly and 4 alternates. Among those pardoned and released from detention were Gilber Caro, Roberto Marrero and Antonia Turbay, whose cases were investigated by the Mission. On 28 August 2020, Juan Requesens, whose case was also investigated by the Mission, was released from SEBIN Helicoide and placed under house arrest after spending over two years in detention.[688]

264. While the Mission recongizes this as a positive step, its findings below related to violations carried out prior to the pardons, and described below, remain valid.



1. *Bolivarian National Intelligence Service (SEBIN)*

265. The Mission investigated 33 cases (21 men and 12 women) in which it found reasonable grounds to believe that SEBIN arrested, detained and/or tortured or ill-treated political targets and associates.[689] Of these, 13 are included in the in-depth case studies below. The patterns identified and described in this section are based on direct information received (interviews, legal case files, video footage) and credible information from reliable secondary sources.

Arrests

266. According to the Mission's review of criminal investigation records issued by SEBIN, the intelligence agency carried out most of its arrests against pre-determined individuals,

687 YouTube Video, TeleSurTV, Gobierno de Venezuela emite decreto de indulto a políticos opositores, 31 August 2020, available at: https://www.youtube.com/watch?v=FUzrg5DeJ3U

688 Criminal Procedure Code, art. 242, para. 1.

689 Case 1: Leopoldo López, Case 2: Antonio Ledezma, Lorent Saleh, Gabriel Valles, Rodolfo Pedro González, Daniel Ceballos, Inés González, Lessi Marcano, Rosmit Mantilla, C2EE24 (female), C2EE25 (female), C2EE15 (female), C2EE10 (female), C2CC01, Case 4: Steyci Escalona, Case 8: Angel Zerpa, Catalina Andarcia, Juan Pedro Lares, C2EE01 (female), C2EE22 (female), C2EE23 (male), Case 7: Geraldine Chacon, Case 7: Gregory Hinds, Case 6: Victor Navarro, Case 6: C2EE09 (female), Case 12: Pedro Jaimes Criollo, Case 9: Juan Carlos Requesens, Jesus Medina Ezaine (multiple detentions), Case 10: Fernando Albán, Antonia Turbay, Case 11: Roberto Marrero, Victor Ugas (two detentions), Case 3: Gilber Caro (three detentions).

often following a period of surveillance and investigation. The arrests could take place anywhere - in the arrestee's home, at public places such as restaurants or airports, or while arrestees were driving along the road. In 14 cases, SEBIN searched arrestees' homes and seized items without presenting search warrants.[690]

267. According to a former SEBIN officer interviewed by the Mission, orders determining targets for investigation came from President Maduro and Diosdado Cabello,[691] via the SEBIN Director General.[692] The Director General passed instructions to the operational directorates.[693] The source said that the intelligence activities were carried out "without any type of judicial order" and that SEBIN engaged in both active and passive interception of phones.[694]

268. The Mission has identified a pattern according to which SEBIN officers used *in flagrante delicto*[695] as a basis to make arbitrary arrests and has reasonable ground to believe the practice was systematic. Many political dissidents were purportedly arrested *in flagrante delicto* despite the fact that no crime was actually underway or had just been committed.[696] As noted, the Supreme Court deemed that National Assembly members were in a "permanent state" of flagrancy.[697] In other cases investigated, witnesses alleged that the SEBIN officers planted information, such as arms or contraband, to sustain an arrest *in flagrante delicto*.[698]

269. In several cases investigated, SEBIN officers used force or violence during arrests.[699] The Mission has reasonable grounds to believe that the force used was excessive, as arrestees do not appear to have been violent or to have resisted arrest. SEBIN officers forcibly entered homes, breaking down doors or entering through windows, such as in the cases of Antonio Ledezma and Roberto Marrero. Victims alleged that SEBIN officers assaulted them during arrest and when they during initial detention, such as Victor Navarro, who was beaten at gunpoint.

270. Arrested persons were rarely informed of the reasons for arrest and/or the charges against them, contravening international[700] and national[701] human rights standards. In some cases, SEBIN officers requested that individuals accompany them to their offices to participate in investigative interviews, assuring them they were not under arrest and would shortly return home. Upon arriving at SEBIN offices, they were photographed, fingerprinted,

690 Including in the cases of Rodolfo Pedro González, Case 12: Inés González, Case 12: Lessi Marcano, C2EE24 (female), C2EE25 (female), Juan Pedro Lares, C2EE01 (female), C2EE22 (female), C2EE23 (male), Case 7: Geraldine Chacon, Case 7: Gregory Hinds, Case 6: Victor Navarro, Case 6: C2EE09 (female), Jesus Medina Ezaine.

691 Mission Interview C2HH03 in June 2020.

692 The Director Generals of SEBIN within the relevant period were Gustavo González López (February 2014 to October 2018); Cristopher Figuera, formerly of the DGCIM (October 2018 to April 2019); and again Gustavo González López (April 2019 to present). Between March 2015 and August 2016, General González López concurrently held the position of Minister of the Interior.

693 Mission Interview C2HH03 in June 2020.

694 Ibid.

695 Criminal Procedure Code, art. 234.

696 Including in the cases of Rosmit Mantilla, Case 4: Steyci Escalona, C2EE01 (female), C2EE22 (female), C2EE23 (male), Case 7: Geraldine Chacón, Case 7: Gregory Hinds, Case 6: Victor Navarro, Case 6: C2EE09 (female), Case 12: Pedro Jaimes Criollo, Case 9: Juan Carlos Requesens and Case 11: Roberto Marrero.

697 See Judgment of 3 November 2017, available at: http://historico.tsj.gob.ve/decisiones/tplen/noviembre/204801-69-31117-2017-2017-000112.HTML

698 Incldluing in the cases of Lorent Saleh, Gabriel Valles, Rodolfo Pedro González, Rosmit Mantilla, C2EE15 (female), C2EE10 (female), Case 4: Steyci Escalona, C2EE01 (female), C2EE22 (female), C2EE23 (male), Case 6: Victor Navarro, Case 6: C2EE09 (female), Case 11: Roberto Marrero and Case 3: Gilber Caro.

699 Including in the cases of Case 1: Leopoldo López, Case 2: Antonio Ledezma, Lorent Saleh, Gabriel Valles, Rodolfo Pedro González, Daniel Ceballos, Case 8: Angel Zerpa, Juan Pedro Lares, C2EE01 (female), C2EE22 (female), C2EE23 (male), Case 6: Victor Navarro, Case 12: Pedro Jaimes Criollo, Case 9: Juan Carlos Requesens, Jesus Medina Ezaine.

700 ICCPR, art. 9.1.

701 1999 Constitution, art. 44.

interrogated and prevented from leaving or contacting legal counsel. The Mission secured access to legal files in which, on five occasions, officially recorded dates of detention differed from dates corroborated by victim and witness accounts.

271. In most cases, SEBIN was the sole arresting authority, though SEBIN officers were occasionally accompanied by members of other armed forces, mainly GNB or PNB/FAES.

272. In several cases the Mission investigated, victims or witnesses alleged that SEBIN officers had covered-up or falsified information, including planting items to justify the arrest and incriminate victims, especially firearms.[702] Former SEBIN director Christopher Figuera, meanwhile, said that he had received orders directly from President Maduro to plant weapons in Mr. Marrero's apartment.[703]

273. A common pattern appearing in nearly all the cases investigated was that high-level Government officers, including President Maduro,[704] Diosdado Cabello[705] and Tarek El Aissami,[706] as well as Attorney General Tarek William Saab,[707] made public statements referring to detentions either shortly before or shortly after they took place and commenting on the criminal responsibility of the accused. A former SEBIN officer told the Mission that the information that Diosdado Cabello collects is received from the SEBIN counter-intelligence directorate.[708] The Mission believes that these statements damage the presumption of innocence and could affect judicial independence, in violation of article 14 of the ICCPR.

274. In some cases, Government officers announced detentions as part of the Tun Tun Operation against political dissidents, first announced by Diosdado Cabello in his television programme "Con el Mazo Dando" in reference to detention of political dissidents and associates ("tun tun" mimics the sound of a knock on the door).[709] On 24 June 2017, during a commemorative military event in Carabobo, President Maduro stated that all those detained

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[702] Inclduing in the cases of Lorent Saleh, Gabriel Valles, Rodolfo Pedro González, Rosmit Mantilla, C2EE15 (female), C2EE10 (female), Case 4: Steyci Escalona, C2EE01 (female), C2EE22 (female), C2EE23 (male), Case 6: Victor Navarro, Case 6: C2EE09 (female), Case: 11: Roberto Marrero, Case 3: Gilber Caro (three detentions).

[703] See #DeFrenteConLaPacheco, Acábenlo, ordenó Maduro, 14 Feburary 2020, minute 16:40, available at: https://www.youtube.com/watch?v=A7vNVArAHJU&feature=youtu.be. See also #HablaFiguera Maduro solo levanta el teléfono y ordena torturar - Aló BN EVTV - 06/12/19 SEG 1, 12 July 2019, available at: https://www.youtube.com/watch?time_continue=525&v=L6EqQ8cGaQE&feature=emb_title, minute 3:30 and América Digital Noticias, El exjefe del Servicio Bolivariano de Inteligencia (Sebin), conversó con César Miguel Rondón sobre el poder de Maduro y su círculo, la tortura en el Sebin y su papel (y el de otros funcionarios aún en el gobierno) en la Operación Libertad, 11 July 2019, minute 6:30, available at: https://www.youtube.com/watch?v=GjtuUlQpNoI&feature=youtu.be.

[704] See, for example, Cara de Lente, Presidente Maduro informa de 4 nuevos capturados por asesinato de Robert Serra, 17 October 2014, https://www.youtube.com/watch?v=2VUXPwGvY3Q

[705] See, for example, Noticias Venezuela, Cabello confirma detención de "la negra Hipólita, 16 October 2014, https://www.youtube.com/watch?v=CZv7fnQqMhg&lc=Ugi_HLh_rC5qx3gCoAEC; YouTube Video, Noticias24, Con el Mazo Dando 24/01/2018, 24 January 2018, minute 03:16:10, available at: https://www.youtube.com/watch?v=fXQPAuIhGpU&t=12165s; YouTube Video, Noticias Venezuela, Con El Mazo Dando 17/01/2018, 17 January 2018, minute 03:31:50, available at: https://www.youtube.com/watch?v=bJiiZ6bpdFc&t=3004s

[706] See, for example, YouTube Video Noticierovenevision, El Aissami ofreció detalles sobre la detención de Gilber Caro, available at: https://www.youtube.com/watch?v=BMMIRgTtNtM; other videos on file with the Mission. Link not provided for purposes of confidentiality.

[707] See, for example, Globovision, Tarek William Saab: Escoltas de Guaidó admitieron haber sustraído fusiles 4/5, 17 June 2019, available at: https://www.youtube.com/watch?v=MKjOu39EXtE.

[708] Mission Interview C2HH03 in June 2020.

[709] See https://www.facebook.com/DenseMemesHighlyCarteluo/photos/ya-te-cayo-la-operacion-tun-tun-mmgchavista-sapo/468217607005293/; YouTube Video, NTN24, "Con El Mazo Dando - Programa 301 | 13/05/2020, 13 May 2020, minute 37:15, available at: https://www.youtube.com/watch?v=OQXj-UDpBU4.

during the Tun Tun Operation were being tried under military justice and would be "severely punished".[710]

275. In the case investigated of Fernando Albán, who died while in custody of SEBIN, several Government authorities made televised statements concluding that he had committed suicide before investigations into his death had commenced.[711]

Enforced Disappearances

276. Those arrested were brought either to the SEBIN headquarters in Plaza Venezuela, Caracas or to SEBIN El Helicoide, a former shopping centre in central Caracas. In exceptional cases, detainees were brought to regional detention centres operated by SEBIN, including in Aragua state, Carabobo state and Zulia state. Once there, SEBIN officers interrogated detainees without lawyers and/or refused to allow them to contact lawyers when requested.[712]

277. In seven investigated cases, SEBIN officers and other authorities either denied holding the person or told family members and lawyers that they had no information.[713] In at least two cases, SEBIN officers told detainees' mothers they should check the hospital and the morgue.[714] The detainees' whereabouts remained unknown for periods ranging from a few days (e.g. in the case of Juan Requesens), to several weeks (e.g. in the case of Gilber Caro and Pedro Jaimes Criollo).

278. The Mission has reasonable grounds to believe that some political opponents or dissidents and persons associated with them have been subject to short term enforced disappearance during the period under review. Enforced disappearance involve the deprivation of liberty against the will of the person and the involvement of state agents, whether by commission, tolerance or acquiescence, and the concealment of the fate or whereabouts of the disappeared person.[715] There is no minimum length of time under international human rights standards for which a detainee must be subjected to enforced disappearance in order for the violation to have occurred.[716]

[710] See Bien Dateao, Todos los detenidos en la operación tun-tun están bajo justicia militar, 25 June 2017, available at: http://biendateao.com/todos-los-detenidos-en-la-operacion-tun-tun-estan-bajo-justicia-militar/

[711] See See YouTube Video, Luigini Bracci Roa, Fiscal General sobre presunto suicidio del concejal Fernando Albán, 8 October 2018, available at: https://www.youtube.com/watch?v=K1j1PLu4m7s&t=152s; See also Content published by Minister of People's Power for the Interior and Justice Nestor Reverol in his official Twitter social network account, 8 October 2018, available at: https://twitter.com/VPITV/status/1049387595032158213?s=20

[712] Including in the cases of Lorent Saleh, Gabriel Valles, Rodolfo Pedro González, Case 12: Inés González, Case 12: Lessi Marcano, Rosmit Mantilla, C2EE24 (female), C2EE25 (female), C2EE15 (female), C2EE10 (female), C2CC01, Case 4: Steyci Escalona, Juan Pedro Lares, C2EE01 (female), C2EE22 (female), C2EE23 (male), Case 7: Geraldine Chacón, Case 7: Gregory Hinds, Case 6: Victor Navarro, Case 6: C2EE09 (female), Case 12: Pedro Jaimes Criollo, Case 9: Juan Carlos Requesens, Case 10: Fernando Albán, Case 3: Gilber Caro.

[713] Including in the cases of Catalina Andarcia, Case 3: Gilber Caro, Case 12: Pedro Jaimes Criollo, Victor Ugas, Juan Pedro Lares, Gabriel Valles and Lorent Saleh.

[714] Mission Interview C2EE08 in May 2020; Mission Interview C2EE15 in July 2020.

[715] See articles 2 of ICED and of the Inter-American Convention on Forced Disappearance of Persons.

[716] In the case Yrusta v. Argentina, the CED recalled that "[…] in order to constitute an enforced disappearance, the deprivation of liberty must be followed by a refusal to acknowledge such deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law, regardless of the duration of the said deprivation of liberty or concealment", CED/C/10/D/1/2013, para. 10.3. In this case, the period in question was 'more than seven days'. See paras. 2.3 and 10.4 to 10.6.

Torture and Cruel, Inhuman and Degrading Treatment

279. The Mission investigated 13 cases in which SEBIN agents tortured or subjected detainees to cruel, inhuman and degrading treatment or punishment.[717] The torture and ill-treatment were usually carried out within the first few days of detention, prior to initial court appearances, while the detainee was held incommunicado.

280. Torture is defined as acts causing severe pain or suffering, whether physical or mental. To qualify as torture, these acts must be inflicted intentionally, committed for a specific purpose and involve a public official, either directly or indirectly.[718] The specific purpose could include extracting a confession, obtaining information, punishment, intimidation, humiliation, coercion or any reason based on discrimination.[719] Among the elements taken into account to distinguish torture from cruel, inhuman or degrading treatment are severity, perpetrator intention and the powerlessness of the victim.[720]

281. Former SEBIN director Christopher Figuera told the Mission that, upon taking up his position in October 2018, he found a policy and a "cultural behaviour" of torture in place in SEBIN.[721] He said that the acts might start out as ill-treatment, such as denying food or water, and then became more severe, depending on the victim's reaction and/or the attitude of the officers involved.[722] He told the Mission that President Maduro decided who would be tortured, who would remain detained and who would be released.[723]

282. According to the Mission's investigations, the acts were usually committed during interrogations to extract confessions or information, including phone and social media passwords, or to force an individual to incriminate themselves or others, particularly high-profile opposition leaders.

283. Statements were often audio or video recorded and some were subsequently broadcast on television. In several cases, SEBIN officers made the detainees record a WhatsApp audio or video several times until the agent was satisfied with the statement. In the Juan Requesens case, SEBIN officers allegedly administered psychotropic drugs to induce a confession, a tactic later confirmed by Cristopher Figuera in an interview with the Mission.[724]

284. The Mission documented patterns of conduct in torture methods used by SEBIN officers, both male and female, against political targets and others perceived to be critical of the Government. Cases occurred primarily between 2014 and 2018.

285. The Mission documented the following acts of torture and other ill-treatment against these targets:

- Stress positions called the "crucifixion" (arms spread out and handcuffed to pipes or grilles) and "the octopus"/"el pulpo" (a metal belt with chains attached to immobilize the wrist and ankles)
- Asphyxiation with plastic bags, chemical substances or a bucket of water

[717] Including the cases of Case 1: Leopoldo López, Lorent Saleh, Gabriel Valles, Rodolfo Pedro González, Case 12: Lessi Marcano, Case 8: Angel Zerpa, Catalina Andarcia, C2EE01 (female), Case 6: Victor Navarro, Case 6: C2EE09 (female), Case 12: Pedro Jaimes Criollo, Case 9: Juan Carlos Requesens, Jesus Medina Ezaine.

[718] CAT, art. 1.

[719] Ibid., Under international criminal law, it is not settled whether torture as a crime against humanity requires the act to be committed with a specific purpose.

[720] For a non-exhaustive list of acts that can be considered as amounting to torture, see A/HRC/13/39/Add.5, paras. 50-57. For CIDT, see paras. 186 ff. According to former UN Special Rapporteur on Torture, Manfred Novak, the systematic and historical interpretation of articles 1 and 16 CAT suggest that the decisive criteria for distinguishing CIDT from torture are the purpose of the conduct, the intention of the perpetrator and the powerlessness of the victim – rather than the intensity of the suffering inflicted. See A/HRC/13/39/Add.5, para. 188.

[721] Mission Interview with Christopher Figuera in June 2020.

[722] Ibid.

[723] Ibid.

[724] Mission Interview with Christopher Figuera in June 2020.

- Beatings, sometimes with a stick or other blunt object
- Electric shocks to the genitals or other parts of the body
- Death threats or threats of additional violence
- Threats of rape against the victim and/or their relatives
- Psychological torture including sensorial deprivation, constant lighting and extreme cold
- Forced nudity including in rooms kept at extremely low temperatures

286. In seven cases, SEBIN 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.[725] During interrogation, SEBIN officers threatened to rape both male and female detainees using body parts and objects. They also threatened sexual or other violence against detainees' female family members. In the Brave Heart Foundation detentions, detailed below, officers threatened to rape a detainee's girlfriend to coerce information from him.[726]

287. Many former SEBIN detainees told the Mission they had witnessed other detainees being tortured in SEBIN facilities, including those held for non-political reasons. In some cases, the witnesses described seeing acts of torture at close quarters or sharing cells with visibly injured detainees. Witnesses located in some cells in El Helicoide, particularly the women's cell from 2014 to 2018, consistently described overhearing frequent torture of both men and women during interrogations. The cells on that hallway were located directly beneath the offices of high-ranking officers. Due to particularities in the building's construction, the sound could be heard distinctly.

288. Acts overheard included beatings, asphyxiations, electric shocks and acts of sexual violence including the rape of at least one female non-political detainee in December 2015.[727] Multiple witnesses also described incidents when SEBIN guards in El Helicoide were noticeably under the influence of alcohol and/or other intoxicants.[728] While under the influence of these substances, lower-ranking male and female guards sometimes pointed their weapons into the cells of inmates and threatened to kill or rape them.[729] SEBIN officers threatened to put both male and female detainees in situations "where they could be raped" by other prisoners, either in El Helicoide or in the general population of other prisons.[730] The Mission documented instances where these threats or insults were specifically directed against known members of the LGBTQI community.[731]

289. At least two people died while in SEBIN custody: Mr. Fernando Albán and Mr. Rodolfo González, a retired pilot accused of plotting against the Government.[732] High-level officers deemed Mr. Albán's death a suicide, although forensic information raises doubts about this conclusion, as detailed below.

290. The accounts of former detainees indicate that from 2014 to 2018, SEBIN officers commited torture in the presence or under the supervision of more senior officers, including the Chief of the Strategic Investigations Directorate and other high-ranking commissioners

[725] Including the cases of Case 1: Leopoldo López, Lorent Saleh, Gabriel Valles, Rodolfo Pedro González, C2EE01 (female), Case 6: Victor Navarro, Case 12: Pedro Jaimes Criollo.

[726] Mission Interview C2EE08 in May 2020.

[727] Mission Interview C2EE15 in July 2020; Mission Interview C2EE10 in June 2020; Mission Interview C2EE03 in May 2020; Mission Interview C2EE04 in May 2020; Mission Interview C2EE09 in June 2020; Mission Interview C2EE12 in June 2020; Mission Interview C2EE16 in July 2020.

[728] Mission Interview C2EE10 in June 2020; Mission Interview C2EE15 in July 2020; Mission Interview C2EE04 in May 2020; Mission Interview C2EE08 in May 2020; Mission Interview C2EE05 in May 2020.

[729] Mission Interview C2EE08 in May 2020.

[730] Mission Interview C2EE16 in July 2020; Mission Interview C2EE12 in June 2020.

[731] Mission Interview C2EE16 in July 2020.

[732] Mission Interview C2DD16 in July 2020, Mission Interview C2EE16 in July 2020, Mission Interview C2DD16 in July 2020.

in his unit. SEBIN officers usually tortured detainees in offices and stairwells in El Helicoide, generally in the "strategic investigation" area. Interrogations, including acts of torture, led by the Counter Intelligence Directorate, were carried out on the tenth floor of the Plaza Venezuela building.

SEBIN Detention Conditions

291. Political detainees were held in pre-trial detention. In several cases, SEBIN failed to release detainees awaiting trial, despite court orders approving their release.[733] This was the case, for example, of lawyer and activist Antonia Turbay, who was not released until August 2020, despite a judicial release order issued in June 2019. A former SEBIN employee confirmed the Mission, that, "There were people in El Helicoide with release orders and they wouldn't let them out".[734] Another witness told the Mission that some SEBIN officers would charge non-political detainees a fee to implement their release orders.[735]

292. Political detainees were held in one of two SEBIN buildings, both in Caracas: SEBIN Headquarters at Plaza Venezuela or El Helicoide. The building in Plaza Venezuela has an extensive detention area, referred to as La Tumba (the Tomb). It is a basement located five floors below ground initially designed as offices for the Caracas Metro. La Tumba has approximately seven cells. The Mission did not document any female detainees in this centre. In La Tumba, detainees were subjected to what is known as "cellular isolation" and often held in prolonged solitary confinement.[736]

293. Those previously held in La Tumba told the Mission that they had been kept in cells measuring approximately 2 x 3 metres, located 15 metres underground with no air or natural ventilation. Accounts described cells with cement beds, in which air conditioning maintained very cold temperatures. Artificial light shone 24 hours a day and all walls were painted white. Former detainee Lorent Saleh described it in this way:

I was in a white sarcophagus, like a blind man, for months and months […]. The isolation, it is so strong that you even doubt if you are alive. When they take away your sounds, when you do not see colours and you are in a cold temperature that forces you to tense your body, how do you know that you are alive? I used to hit myself to feel pain. The pain was an affirmation that I was still alive.

294. There were no clocks, which caused detainees to lose the notion of time. Some marked the time by the sound of the metro. Some cells had 24-hour surveillance. At night, detainees had to relieve themselves inside the cell in a plastic container or in a newspaper. Former detainees complained of gastrointestinal problems, fever, infected skin lesions, joint pain due to lack of mobility, painful dryness of the skin due to the cold and suffering panic attacks. At least two individuals interviewed by the Mission tried to commit suicide in La Tumba.

295. El Helicoide is a 1950s-era spiral-shaped building originally built as a shopping centre in central Caracas. It now houses SEBIN administrative offices, dormitories for SEBIN officers and a detention area. It was not built to function as a prison and lacks the basic installations required for adequate hygiene, sanitation and recreation. The detention areas are composed of both formal cells and areas including stairwells and bathrooms adapted to hold additional prisoners. Individuals are segregated by sex, but not on the severity of the crime committed. Women make up around 10 per cent of the detainee population and most are held together in one cell.

296. Former detainees described severe overcrowding. El Helicoide suffered from a lack of water, inadequate plumbing and infestations (rats and cockroaches). The detainees did not have access to clean water for drinking, bathing or cleaning clothes and other items. Detainees' relatives brought them water, or they purchased it on the prison black market. Former detainees have accused guards of withholding of food and medicine delivered by family members.

[733] Including the cases of Antonia Turbay, Case 12: Inez Gonzales, Case 7: Geraldine Chacón.
[734] Mission Interview C2HH03 in June 2020.
[735] Mission Interview C2EE14 in July 2020.
[736] See video 14 Lawyers SEBIN site available at https://www.sebin.site/en/

297. Two of the largest cells are known as "Guantánamo" and its annex, the "Guarimbero Cell". Most of the non-political prisoners were held in "Guantánamo" while those arrested around protests or the opposition were held in the "Guarimbero" cell. Both were overcrowded and in extremely poor condition, without access to a bathroom or water. Former detainees informed the Mission that they had to take turns to sleep on the floor.

298. Another cell used for both political and non-political prisoners is known as "Preventivo I". This cell is under 24-hour surveillance by both cameras and a guard. The Mission's interviews indicate that this cell's capacity should be around six prisoners. In one case investigated, the cell held 16 prisoners, including four minors.

299. Interviewees refer to another detention space as "The Stairs" ("Las Escaleras"), a makeshift cell in a stairwell for both political and non-political prisoners. This cell has no running water or bathroom. Detainees each sleep on one of the stairs. The stairwell has a small window allowing some natural light. Former detainees described it as "infested" with rodents and insects. Officers used this cell to beat and commit other torture against detainees while they were handcuffed to the stair's railings.

300. SEBIN officers use certain cells for punishment. One of these is called the "Little Tiger" ("El Tigrito"[737]), a dark room measuring approximately 4 x 4 metres with no windows or electric lights. The Mission reviewed several cases in which the "octopus" was used here. The only water available is in the toilet bowl. This room has held more than one prisoner, despite its small size.

301. Another punishment cell is the "Little Bathroom" ("El Bañito"). Former detainees have described it to the Mission as a hot and damp tile-covered room, which previously functioned as a bathroom. At some point the toilet bowl and sink were broken leaving only exposed pipes. Witnesses told the Mission that this room was specifically used to torture detainees, either through acts of violence or isolating them for multiple days.[738] Periodically, SEBIN officers would come in to use the toilets while detainees were in the cell, as described by former judge Ángel Zerpa (see case below).

302. Female former detainees described being held together in one single overcrowded cell. In 2014, female detainees were in one small room, but as the female population grew, they were moved into a larger cell. Unlike most male detainees, female political prisoners and non-political prisoners shared the same cell.[739] The female prisoners kept their own plastic containers of water for drinking, bathing, cleaning and using the toilet in their cell. The lack of water disproportionately affected female detainees during menstruation. Despite female guards working within El Helicoide, male officers primarily guarded the female cell.

303. Five female witnesses told the Mission that SEBIN officers engaged female detainees in sexual acts in exchange for goods and privileges.[740] These witnesses told the Mission that guards let female detainees out of their cells to be their "girlfriends", usually during the night.[741] Four witnesses, each interviewed separately, accused SEBIN officers of bringing presumed sex workers into the detention centre, as well as paying female detainees for sex acts. No sexual and reproductive health measures, including medical checks or contraception,

[737] The Mission has documented a cell with this name in several detention centres, including in the Centro Nacional de Procesados Militares (CENAPROMIL) military prison, known as "Ramo Verde", in Miranda state, and DEPROSEMIL (Departamento para Procesados Militares) in La Pica prison, in Monagas state.

[738] Mission Interview C2EE08 in May 2020; Mission Interview C2EE05 in May 2020; Mission Interview C2EE09 in June 2020.

[739] See, for example, Una Ventana a la Libertad, Situacion de los Derechos Humanos de las personas privadas de libertad en los calabozos del Servicio Bolivariano de Inteligencia Nacional (SEBIN) en el Helicoide y Plaza Venezuela, June 2019, available at: http://unaventanaalalibertad.org/wp-content/uploads/2017/01/UVL-Informe-Sebin-22-junio-2017.pdf

[740] Mission Interview C2EE03 in May 2020; Mission Interview C2EE04 in May 2020; Mission Interview C2EE09 in May 2020; Mission Interview C2EE10 in June 2020; Mission Interview C2EE15 in July 2020.

[741] Mission Interview C2EE03 in May 2020; Mission Interview C2EE04 in May 2020; Mission Interview C2EE09 in June 2020; C2EE10 in June 2020; Mission Interview C2EE15 in July 2020.

were provided. Female detainees worried aloud with the other women in their cell, nervous their menstruation might come late.[742]

304. Multiple witnesses told the Mission that SEBIN officers denied them visits and other privileges on the basis of their political prisoner status. When allowed to take place, interviews between detainees and their legal representatives were often conducted in a glass-walled room, known as "la Pecera" (the fish tank). Families and lawyers believe the communications were recorded.[743]

305. From March 2020 until the time of publication of the report, Covid-19 restrictions limited family visits to El Helicoide. Detainee-s relatives and lawyers have expressed concern to the Mission about Covid-19 contagion between detainees.

2. *The General Directorate of Military Intelligence and Counter-Intelligence (DGCIM)*

306. The Mission investigated 77 cases in which DGCIM arrested, detained and tortured current and former military officers and civilians associated with them. Of these, eight are detailed in case studies below. The investigations were based on direct information (interviews, legal case files, video footage) and credible information collected by reliable indirect sources. The Mission has also reviewed information received from Foro Penal about 339 arrests of military personnel and associated civilians.[744] Of these, 187 continue to be detained (2 who are have served their sentences fully), 61 have substitute measures and 41 have been released (the status of the remainder varies). In a few cases, DGCIM arrested, detained and tortured civilians not affiliated with any military operations or personnel.[745]

Arrests

307. Arrests by DGCIM followed similar patterns. They took place in daylight hours, either at the arrestee's workplace or military base or at DGCIM facilities, after the arrestee was summoned for a meeting.[746] DGCIM officers did not identify themselves and often had their faces covered and/or used aliases. Their institutional affiliation was nevertheless apparent by their uniforms or in some cases by the logo on the vehicles.

308. The arrests took place in different places around the country. In the cases reviewed, arrests took place in 13 of the 23 states in Venezuela. The arrestees were brought to DGCIM Boleíta in Caracas, either directly, or via a "safe houses", for a period of hours or days (see below). During transfers, victims were sometimes blindfolded or brought along indirect routes, purportedly to confuse them about their whereabouts.[747]

309. The Mission identified a pattern in which DGCIM officers failed to present arrest warrants and/or failed to explain the reason for the detention at the moment of arrest,[748] in violation of national[749] and international human rights standards.[750] It has reasonable grounds to believe that the practice was commonplace.

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[742] Mission Interview C2EE09 in May 2020; Mission Interview C2EE15 in July 2020.

[743] Mission Interview with Lawyer Emilio Bolivar in June 2020, Mission Interview with Rafaela Requesens in May 2020, Mission Interview with Lawyer Joel Garcia in May 2020, Mission Interview C2DD09 in June 2020.

[744] List of individuals arrested between 2014 and 2020 and relevant information documented by NGO Foro Penal, updated to July 2020, on file with the Mission.

[745] Cases of Case 19: Karen Palacios, C2EE18 (confidential), Carlos Marron Colmenares, Mission Interview C1AA027 in May 2020.

[746] Cases include, for example, Case 13: Luis Humberto la Sotta, Case 14: Mayor Isaias Lenin Falcón, C3DD14, C3DD15, C3DD17, C3DD32, C3DD33.

[747] Including the cases of Case 15: Colonel Oswaldo Valentin Garcia Palomo, Case 15: Colonel Jose Rommel Acevedo Montañez, Case 15: Antonio José Iabichuela, Case 18: Ariana Granadillo, Sorbay Padilla, Mission interview with Jameson Marcial Jimenez Maza in March 2020, Argenis Granadillo, C3EE03, C3EE06, C3EE08.

[748] Including the cases of Case 13: Captain Luis Humberto de la Sotta, Case 14: Major Isaias Lenin Falcón, C3DD14, C3DD15, C3DD17, C3DD32, C3DD33, C3DD34.

[749] 1999 Constitution, art. 44.

[750] ICCPR, art. 9.1.

310. In all but one of the cases investigated, the Mission noted 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.[751] The official record usually placed the date of detention within 48 hours of the initial appearance, purportedly to appear in compliancewith the period established by law for presentation before a court following arrest.[752] For example, Mr. Rafael Acosta Arévalo's whereabouts were unknown on 21 June 2019, as announced by his family on social media, but his official date of detention appeared as 26 June 2019, two days before he was brought for his initial appearance.

311. In each of the cases that the Mission investigated, within hours or days of arrests, high-level Government authorities made public declarations about crimes the arrestee was guilty of and sometimes showed presenting information in support of this, such as video footage collected by informants of meetings in which coup attempts were purportedly planned.

312. The Mission observes that these statements damaged the presumption of innocence while also putting pressure on the judicial actors, in violation of article 14 (1) and (2) of the ICCPR. Government representatives who often made declarations included President Maduro, Diosdado Cabello (in his television show "Con el Mazo Dando");[753] Minister of Communications, Jorge Rodríguez Gómez;[754] Minister of Defence, Vladimir Padrino López;[755] and/or Minister of the Interior, Néstor Reverol.[756]

Enforced Disappearances

313. The Mission has reasonable grounds to believe that some military dissidents and persons associated with them were subjected to short term enforced disappearances during the period under review. Once detained, arrestees were held without any contact with the outside world, for periods ranging from five to seven days, without being permitted to call family members or lawyers to inform them of their whereabouts.

314. Detainees' family members approached DGCIM offices to inquire about their whereabouts. In some cases, they were not provided with information and in others, DGCIM personnel denied knowledge of the detainees' whereabouts. As indicated above, international human rights standards do not provide a minimum length of time for which a detainee must be subjected to enforced disappearance in order for the violation to be have occurred.[757]

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[751] Cases in which a discrepancy was observed included Case 17: Rafael Acosta Arevalo, Case 15: Colonel Oswaldo Valentin Garcia Palomo, Case 15: Colonel Jose Rommel Acevedo Montañez, Case 15: Antonio José Iabichuela and Case 14: Captain Luis de la Sotta.

[752] 1999 Constitution, art. 44.

[753] See e.g., YouTube Video, Luigini Bracci Roa, Diosdado Cabello muestra cronología y antecedentes del golpe intentado por mercenarios en lanchas, 5 May 2020, available at: https://www.youtube.com/watch?v=IxGy5dAxgaw

[754] YouTube Video, Luigino Bracci Roa, Jorge Rodríguez, rueda de prensa sobre Oswaldo García Palomo, 7 febrero 2019, 7 February 2019, available at: https://www.youtube.com/watch?v=Emf7rsZ4yMw&t=2056s; YouTube Video, Luigino Bracci Roa, Detuvieron a García Palomo haciéndole creer que militares iban a alzarse en Caracas, 7 February 2019, available at: https://www.youtube.com/watch?v=M7dGFdxl54s: YouTube Video, Luigini Bracci Roa, ¿Quién era Rafael Acosta Arévalo y por qué fue detenido? Videos mostrados por Jorge Rodríguez, 26 June 2016, available at: https://www.youtube.com/watch?v=QhUPlRf-ElM

[755] Press Release of the FANB, 21 January 2019, available at: http://www.mindefensa.gob.ve/mindefensa/2019/01/21/comunicado-de-la-fuerza-armada-nacional-bolivariana-13/

[756] See e.g., YouTube Video, Luigino Bracci Roa, Néstor Reverol sobre captura de Oswaldo García Palomo, vehículo falso de FAES y sicarios, 31 January 2019, available at: https://www.youtube.com/watch?v=7Wi7PePInGo&t=318s

[757] In the case Yrusta v. Argentina, the CED recalled that "[…] in order to constitute an enforced disappearance, the deprivation of liberty must be followed by a refusal to acknowledge such deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law, regardless of the duration of the said deprivation of liberty or concealment", CED/C/10/D/1/2013, para. 10.3. In this case, the period in question was 'more than seven days'. See paras. 2.3 and 10.4 to 10.6.

315. The Mission's investigation revealed that DGCIM frequently detained people in secret or unofficial detention facilities, especially in the first hours or days of detention. The Mission's review of cases revealed that DGCIM has used these unofficial facilities increasingly since 2018. The first days were spent either in in DGCIM Boleíta or in one of the safehouses (see description below). The Mission is aware of six clandestine or unofficial detention places:

- A site in San Bernardino near Crema Paraíso
- A house in Bello Monte area of Caracas
- A house in the San José development in Fort Tiuna or nearby, in Caracas
- A site in Fort Tiuna where the Ministry of Defence and the Army Command are headquartered
- A site commonly referred to as Sorocaima or La Mariposa in the military zone of San Antonio de Los Altos in Miranda State (see satellite image) and
- A location in the mountainous area in El Hatillo municipality, Miranda state

Torture and Cruel, Inhumane or Degrading Treatment

316. The Mission has reasonable grounds to believe that the treatment inflicted upon military detainees in the investigated cases amounted to torture or cruel, inhuman or degrading treatment or punishment. Torture is defined as acts that cause severe pain or suffering, whether physical or mental.[758] In order to qualify as torture, these acts must be inflicted intentionally, committed for a specific purpose and involve a public official, either directly or indirectly.[759] The specific purpose could include extracting a confession, obtaining information, punishment, intimidation, humiliation, coercion or any reason based on discrimination.[760]

[758] CAT, art. 1. The prohibition of torture is the 1999 Constitution (art. 46). The 2013 Special Law to Prevent and Sanction Torture and other Cruel, Inhuman or Degrading Treatment establishes a penalty between 15 and 25 years of deprivation of liberty for the crime (art. 17).

[759] CAT, art. 1.

[760] Ibid. Under international criminal law, it is not settled whether torture as a crime against humanity requires the act to be committed with a specific purpose.

317. DGCIM agents committed torture against the detainees in each of the case studies. The Mission examined a further 77 cases in which military personnel and associates alleged having been tortured by DGCIM. Foro Penal, meanwhile, has recorded 250 cases of torture of military dissidents and associates between 2014 and 2020.[761] Acts of torture usually occurred during interrogations, shortly after arrest while detainees were held incommunicado and before the initial appearance. Some detainees were also tortured during later periods of detention in Boleíta.

318. Questions put to detainees suggest that the acts were carried out to obtain a confession from the detainee, to get information regarding the participation of others in alleged conspiracies and/or to punish the detainee. The Mission spoke to a former longterm DGCIM officer who confirmed the practice of torture in DGCIM. The source said, "There was torture in detention centres. You knew from colleagues who told you about it. You had to get the information out of the person whatever the cost".[762]

319. The Mission has information regarding patterns of conduct in the torture methods used by DGCIM officers, both male and female, against military personnel and associates. The case review suggests that DGCIM torture methods evolved between 2014 and 2020, with a marked increase in violence since 2017. The Mission documented the following acts of torture and other ill-treatment:

- Heavy beatings with bats and sharp objects, leaving visible marks, broken bones and damaged organs
- Excessively tight handcuffs resulting in cuts to the wrists
- Asphyxiation with toxic substances and water
- Stress positions known as "the octopus" and "crucifixions"
- Conditions including constant lighting, isolation in darkroom for days, no access to toilets, blindfolding
- Sexual and gender-based violence including forced nudity, threats of rape and rape
- Cuts and mutilations including in the bottom of the feet and the nails
- Electric shocks in sensitive parts of the body (including to the genitals)
- Food and water deprivation, eating from the floor, forceful feeding of faeces
- Psychological torture, including death threats to victim and family members

320. Some of these acts resulted in serious and/or permanent physical injury. This included loss of sensory or motor functions, reproductive injuries, blood in urine and broken ribs among others.[763] These acts also resulted in severe psychological trauma and depression. One individual attempted to commit suicide on two occasions while in detention.[764] Former captain Rafael Acosta Arévalo died while in DGCIM's custody, due to torture received during detention (see case below). In one case, a female detainee was beaten despite telling officials she was pregnant; she later had miscarriage.[765]

321. Some military spent long periods in isolation, especially at the beginning of the deprivation of liberty. Prolonged solitary confinement[766] is considered inhuman treatment in

[761] Document on file with the Mission.
[762] Mission Interview C2HH04 in July 2020.
[763] C3DD17, C3DD30, C3DD31, C3DD35, Case 15: Colonel Rommel Acevedo, Case 16: Sargent Luis Bandres Figueroa, First Lieutenant Alberto José Salazar Cabañas.
[764] C3DD20.
[765] C3EE10.
[766] Rule 44 of the Mandela Rules define solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a period in excess of 15 consecutive days.

violation of article 10 (1) of the ICCPR[767] and other relevant standards.[768] It should be used only in exceptional cases as a last resort.[769] Given its severe adverse health effects, solitary confinement itself can amount to torture, depending upon its purpose, duration and effect on the victim.[770]

322. In three of the cases investigated, DGCIM perpetrated acts of sexual or gender-based violence against military detainees during interrogation to degrade, humiliate or punish them. Sexual or gender-based violence may amount to torture or cruel, inhuman or degrading treatment in certain circumstances. This includes rape, threats to rape either an individual or their family members, forced nudity, touching of sexual organs, shocks or beatings to reproductive organs, threats to mutilate genitals, among other conduct.[771]

323. DGCIM female and male officers subjected individuals interviewed to forced nudity including for days.[772] Male custodians threatened to rape male detainees with sticks and bats.[773] Electric shocks and blows were administered, including to the testicles. DGCIM officers subjected detainees to a practice they called "breastfeeding" (*dar la teta*), during which they beat detainees with a bat, with the word "tit" (*teta*) written on it.[774] Female relatives taken to "safe houses" were sexually assaulted and/or tortured with asphyxiation, beatings and electric shocks.[775]

324. In most cases investigated, victims were not brought to a medical professional prior to their initial court appearance.[776] In some cases, medical professionals from SENAMECF evaluated detainees and certified that they were in good physical condition, despite detainees showing visible injuries.[777] One witness told the Mission that SENAMECF doctors forced detainees to sign documents stating that they were in good physical condition. He said, "I was blindfolded and handcuffed. They presented me to the forensic doctor they had called to evaluate my state of health, and the doctor made me sign and fingerprint a document saying that I was in perfect condition. This was the only moment that they took off my blindfold".[778]

325. Witnesses also reported the use of harsh disciplinary measures upon reclusion. This includes in a punishment cell known as "El Tigrito".[779] In some cases reviewed, individuals

[767] ICCPR, article 10 (1). See also 2013 Special Law to Prevent and Sanction Torture and other Cruel, Inhuman or Degrading Treatment, articles 18 and 21.

[768] Basic Principles for the Treatment of Prisoners, principle 7; UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) rules 43(1) and 44-45.

[769] Rule 45 (1) of the Mandela Rules.

[770] See A/66/268, para. 71 and A/63/175, paras. 77 ff.

[771] See General recommendation No. 35 on gender-based violence against women of CEDAW, CEDAW/C/GC/35, 26 July 2017, para. 16; Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), 2004, paras 215-216; Prosecutor v Kvočka et al., ICTY-98-30/1-T, Trial Judgment, 2 November 2001, paras 560-1; Prosecutor v Brđanin, ICTY-99-36-T, Trial Judgment1 September 2004, paras 498-500, 516; Saadi Ali v. Tunisia, para 3.8, U.N. Doc. CAT/C/41/D/291/2006 (Nov. 21, 2008) (finding that a victim who was subjected to rape threats while he was half-naked constituted torture); Al Nashiri v. Poland, Eur. Ct. H.R., App. No. 28761/11, paras 504, 511, 516 (2015) (finding that threats of sodomy, arrests, and rape constituted torture).

[772] Case 15: Colonel Rommel Acevedo, Case 15: José Antonio Iabichuela, Case 15: Colonel Palomo Garcia, Case 16: Sargent Luis Bandres Figueroa, Case 14: Major Isaias Lenin Falcón, C3DD21, C3DD22, C3DD2, C3DD33, C3DD42, C3DD37, C2EE18.

[773] This occurred at least in the following cases: C3DD06, C3DD03, C2EE18. At least one female detainee was also threatened with rape, C3EE10.

[774] C3DD03.

[775] Case 18: Ariana Granadillo, Sorbay Padilla, C3EE04, C3EE07, C3EE08.

[776] Case 14: Major Isaias Lenin Falcón, C3DD14, Case 15: Colonel Rommel Acevedo, Case 15: Antonio José Iabichuela.

[777] Case 13: Captain Luis de la Sotta, Case 16: Sargeant Luis Bandres Figueroa, C3DD01, C3DD31.

[778] Document C3DD01, on file with the Mission.

[779] The Mission has documented a cell with this name in several detention centres, including in the Centro Nacional de Procesados Militares (CENAPROMIL) military prison, known as "Ramo Verde", in Miranda state, and DEPROSEMIL (Departamento para Procesados Militares) in La Pica prison, in Monagas state.

were also subjected to harsh disciplinary regimes and severe punishments while awaiting trial, including reprisals in case of complaints.

326. Detainees held in secret detention facilities were also subject to torture. The FFM identified 24 cases of torture taking place within these facilities between 2018 and 2019. Detainees in secret facilities are particularly vulnerable to toruture, due to lack of oversight.

DGCIM Detention Conditions

327. After initial court appearances, detainees were brought to one of several facilities for pre-trial detention. These include: DGCIM headquarters in Boleíta; The Centro Nacional de Procesados Militares (CENAPROMIL) military prison, known as "Ramo Verde", in Miranda state. At least 79 military officers were detained in Ramo Verde at the time of writing. Pre-trial detainees were also taken to other FANB run detention facilities, including DEPROSEMIL (Departamento para Procesados Militares) in La Pica prison, in Monagas state, or Fort Tiuna in Caracas.

328. Some military officers were also taken to SEBIN buildings for pre-trial detention, for example in the cases of military officers Coronel García Palomo, General Raúl Baduel and Juan Carlos Caguaripano. According to interviewees, this may have been to separate particularly high profile or charismatic military detainees from others.

329. According to one former employee of DGCIM, who worked there for 10 years, "Cases of major importance (political enemies, high-ranking military personnel) are held in Boleíta, intermediate cases are transferred to Fort Tiuna and the simplest cases are transferred to Ramo Verde".[780]

DGCIM Boleíta

330. DGCIM Headquarters in Boleíta is a former textile factory that was transformed into administrative offices with detention cells. In March 2019, the Inter-American Commission on Human Rights issued precautionary measures for all detainees in the DGCIM Boleíta.[781]

331. The cells in DGCIM Boleíta are in the basement, referred to as Basement 1, without natural light or ventilation. Cells are around 2.75 x 2 metres, often with two or three occupants. Former detainees told the Mission that artificial lighting was on 24 hours a day, affecting the notion of time. Cells were without bathrooms and detainees had to relieve themselves in bags.[782]

332. Detainees slept on a cement platform with a very thin mattress. There was no access to drinking water and detainees suffered from stomach illnesses. DGCIM officers also restricted sunlight and showering. Detainees interviewed complained of respiratory diseases and skin diseases due to the lack of sun and extreme weightloss, as well as psychological problems.

333. Detainees described a punishment cell known as "El Cuarto de los Locos" (the Crazy Room). It was lined with padded walls and detainees slept on the floor. As with the regular cells, there was no bathroom access, so detainees had to use a plastic bag, which was changed once a week. Guards provided meals once or twice a day, in small portions, "enough to keep you alive".[783]

334. Former DGCIM officers have corroborated the information provided by victims about Boleíta. One described it as "a 3 x 3 cell that is upholstered with green cushions and has an air conditioning duct on top. This room is used to torture or put pressure on any prisoner by

[780] Mission Interview C3HH04 in July 2020.

[781] Precautionary Measures No. 178-19 Personas (militares y civiles) detenidas en la Dirección General de Contrainteligencia Militar DGCIM, 22 March 2019.

[782] Documents C3DD00, C3DD01, on file with Mission; Mission Interview with Isaias Lenin Falcón in June 2020; Mission Interview C1AA29 in June 2020.

[783] Document C3DD01 on file with Mission.

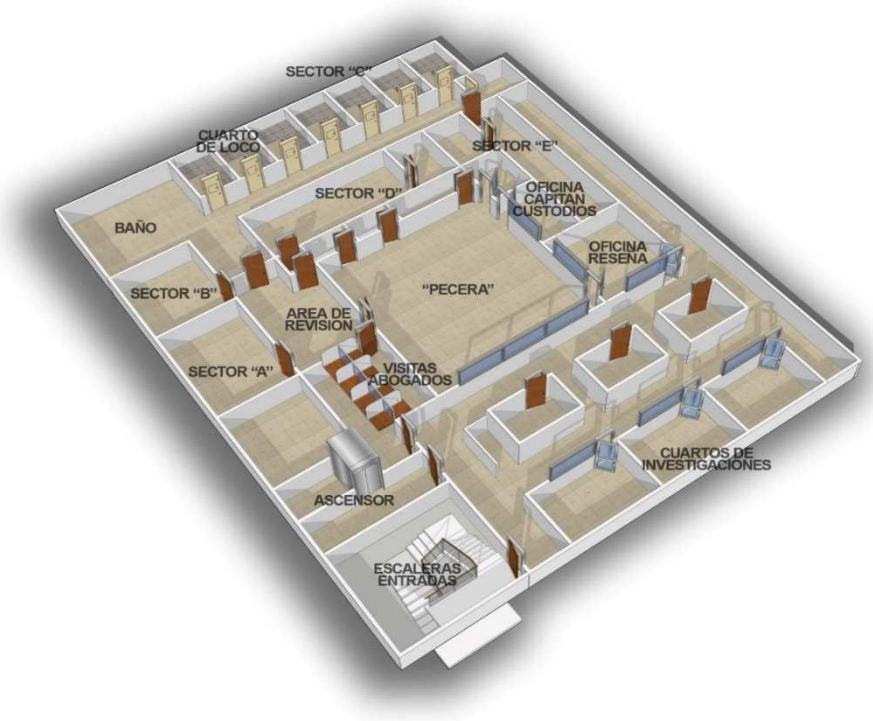
keeping him there for long periods of time […] deprived of basic needs […] to put psychological pressure on the prisoner".[784]

335. Other punishment cells identified include "El Ascensor" (the Elevator), and "El Cuarto de Torturas con Agua" (the Room of Torture with Water), also known as "El Submarino" (The Submarine), where individuals are immersed in water tanks. The Mission does not have further details about these.

336. In early 2020, more space was created in DGCIM Boleíta to house additional detainees.[785] The detainees believed it was located in Basement 2 on the opposite side of the street from Basement 1. Guards referred to this area as "La Casa de los Sueños" (the House of Dreams). It was described as composed of 16 cells in a split-level, with 2 cells below and 14 upstairs. The cells were approximately 2.5 x 2.5 metres each.[786]

337. The cells have space for two people but regularly hold four. The cells have large iron doors with a window in the centre. Some detainees sleep on cushions on the floor. The cells have a shared sink that is so small it is difficult even to wash hands. Detainees reported that the odour in the area is nauseating.[787]

338. Based on the testimonies and sketches received from former detainees, and digital information obtained, the Mission drew up the following diagram of the Basement 1 of DGCIM Boleíta, which represents a possible approximation of the areas described.



339. Relatives of military detainees transferred from Basement 1 to Basement 2 have recounted that detainees were regularly blindfolded or hooded, handcuffed and driven around sometimes for several hours before being taken back to their cells. According to detainees' relatives, "this procedure generates uncertainty, anguish and stress, not knowing where they will be transferred and if they will be tortured, either physically or psychologically, as happened on previous occasions".[788]

784 Mission Interview C2HH04 in July 2020.
785 Mission Interview with Christopher Figuera in June 2020.
786 Mission Interview with Molly de la Sotta in April 2020, Document C3DD44, Document C3DD45, on file with the Mission.
787 Ibid.
788 Mission Interview with Molly de la Sotta in April 2020, Document C3 DD45 on file with the Mission.

340. In both Basement 1 and Basement 2, detainees reported disregard for their medical needs including respiratory illnesses and infections resulting from their conditions of detention. Interviewees suggested that restriction of family visits were used as a tool of punishment, intimidation or coercion against certain detainees. Various lawyers interviewed by the Mission reported that client visits were often hindered or fettered with high surveillance.

341. Families bringing food, medicine, drinkable water and other basic hygienic items report that the receipt of these depends on the discretion of DGCIM officers. It is usually only allowed every 15 to 20 days, but on some occasions DGCIM officers have turned away the delivery of supplies and in certain occasions allegedly stolen items. Those with families living far away depend upon the charity of their cellmates.

342. Detainees were frequently not permitted calls to their relatives, with calls sometimes limited to two minutes every two weeks. At the time of writing, the Covid-19 pandemic meant that detainees have not been authorized to receive family and legal visits in almost six months. At the time of writing, the Office of the High Commissioner for Human Rights had not had access to visit detainees in the DGCIM Boleíta.

Ramo Verde

343. Upon arrival to Ramo Verde, detainees interviewed usually spent around a week in a cell called "El Tigrito", referred to by custodians as an "adaptation" cell. It is also used for punishment purposes. The cell is dirty and dark and infested with rats. It had no bathroom facilities other than a small pot and plastic bottle. Former detainees said they received very little food while in "El Tigrito".[789]

344. Detainees in Ramo Verde were subjected to intrusive, intimidating and at time violent searches by DGCIM officers (despite the fact that Ramo Verde is part of the penitentiary system), former detainees and family members interviewed explained that during these searches, DGCIM officers stole belongings, including food.[790]

345. The Mission has also documented a pattern of sudden transfers by DGCIM of detainees from Ramo Verde to other detention centres including La Pica, DGCIM Boleíta or DGCIM military police unit in Fort Tiuna, among others. Transfers were made without a judicial orders and without notice to lawyers or family members.[791] In these cases following the transfers, the fate and whereabouts of the individuals remained unknown for periods ranging from a few days to a few weeks.[792]

346. Female visitors in Ramo Verde told the Mission they were required to remove all clothing, including underwear, to be searched prior to visits. They were required to squat, bend over or jump while naked, including if they were menstruating. In at least one case, a family member said the search was filmed. Although these searches were generally carried out by guards of the same sex, the Mission was informed that on one occasion male guards attempted to perform the search. When the female family members resisted, they were denied visitation for the following four months. In one case, a detainee requested his mother to stop visiting, due to the humiliating nature of the searches.[793]

347. Starting in March 2020 to the time of publication of the report, due to Covid-19, restrictions to family visits were imposed in Ramo Verde. However, DGCIM officers continued to enter Ramo Verde prison during the lockdown period.

[789] Mission Interview with Major Isaias Falcón in June 2020, Mission Interview with Sandra Hernandez on 24 June 2020, Mission Interview with Jesus Medina Ezaine on 27 July 2020.

[790] Mission Interview with Sandra Hernandez on 24 June 2020, Mission Interview with Jesus Medina Ezaine on 27 July 2020. Written statement made by Luis Bandres on 24 August 2019, during his detention in Ramo Verde, on file with the Mission.

[791] See cases of Major Abraham Suárez, Coronel Acevedo, and Sargeant Luis Bandres Figueroa.

[792] See cases of Major Abraham Suárez, Coronel Rommel Acevedo, Sargeant Luis Bandres Figuera, Coronel García Palomo.

[793] Mission Interview C2EE10 in June 2020; Mission Interview C3DD05; Mission interview with Lilian Tintori, 29 June 2020; Audio C3EE14 received in April 2020 on file with the Mission.

3. The Judicial System

348. The arbitrary detentions documented by the Mission concern elements of the criminal judicial process, often starting before the arrest. The investigation revealed that public prosecutors and judges played an essential role in moving forward with the prosecution of cases that amount to arbitrary detentions. 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 because of pressure, intimidation and/or fear of reprisals.

Foundation for Arrests and Criminal Charges

349. The 1999 Constitution establishes that, "No person may be arrested or detained except by virtue of a court order, unless s/he is caught in the act of committing a crime".[794] In almost all of the cases involving SEBIN, the person was detained without an arrest warrant or without a crime in progress or just committed, as required by law (*in flagrante delicto*).[795] The cases examined revealed no indication that judicial authorities conducted reviews of the legality of these detentions.[796]

350. At various procedural stages, the State did not provide sound evidence to sustain the defendant's participation in the commission of a crime. The cases investigated show various irregularities, several of which sometimes occurred in the same case, for example:

- Investigations were later revealed to be based on false accusations or manipulated evidence. For example, in the case of Roberto Marrero, the SEBIN inspector later testified that no investigation had actually been carried out, but that his supervisor had told him what he should write down as "investigation" results.[797]
- Prosecutors or judges later said that they were pressured to maintain charges against defendants. In the case of Leopoldo López, the prosecutor and control judge later stated that they were pressured by superiors, as well as SEBIN and DGCIM officers, to issue an arrest warrant.
- The evidence presented by prosecutors to prove the crimes alleged was weak. For example, the treason charge against Ángel Zerpa, was sustained during initial court appearance solely on the basis of a photo of his swearing in as a judge following his appointment by the National Assembly.
- Confessions were extracted from the accused or a third party without a lawyer present or under duress, such as in the case of Juan Requesens.[798]

351. Under the Criminal Procedure Code, information will only have value if it has been presented at the relevant procedural stage and obtained through lawful means.[799] Information may not be used if it has been obtained by torture, ill-treatment, coercion, threat, fraud, unlawful interference communications, among others.[800] If the information on which a conviction is based is false, the conviction of the accused must be reviewed.[801]

352. In almost all cases investigated, the accused were charged with serious crimes with significant detention periods. Charged included treason, criminal association, incitement, public intimidation, arson of a public building, damage to public property and concealment of weapons, among others. Most of the crimes charged were from the Crimes against the Independence and Security of the Nation chapter of the Criminal Code, or the Law on Financing Terrorism and Organized Crime.

[794] 1999 Constitution, art. 44.
[795] Criminal Procedure Code, art. 234.
[796] Criminal Procedure Code, arts. 236, 356 and 373.
[797] Written declaration submitted by Joel Garcia, Mr. Marrero's lawyer, to the Mission, 12 May 2020.
[798] Criminal Procedure Code, art. 132.
[799] Criminal Procedure Code art. 181.
[800] Ibid.
[801] Criminal Procedure Code, art. 462.

353. Civilians have also been charged with various crimes usually used for military officers under the Organic Code on Military Justice, including treason against the fatherland,[802] theft of military belongings,[803] rebellion[804] or outrage against the sentinel.[805]

Delays in Judicial Proceedings

354. In all of the cases investigated or reviewed, the Mission verified systematic incompliance with the timeframes established by law for the various procedural steps under the Criminal Procedure Code.[806] Some of these extended beyond the procedural term limits.[807] This includes:

- Failure to present detainees before the judiciary for initial court appearances within the 48-hour period following deprivation of liberty,[808] either due to the suspensions by the court or failure of SEBIN or DGCIM to present the detainees.[809]
- Failure by the Public Prosecutor's Office to present either a formal charge, or to dismiss the case, within the 45 days after the initial court appearance, despite the detainee continuing to be held in pre-trial detention.[810] This also affected the start of the preliminary hearing,[811] which should take place in a period not exceeding 20 days following the presentation of the accusation.[812]
- Deferral of preliminary hearings by courts, due apparent backlogs of cases.[813] In some cases, the accused did not appear before court because SEBIN or DGCIM either failed to transport them. Both agencies at time blamed lack of transport resources, or claimed not to have received the summons to appear. In some cases, family members and/or lawyers told the Mission that they were not provided with an explanation for the suspensions.

355. These delays resulted in extended periods of pre-trial detention. Under the Criminal Procedure Code, if the Public Prosecutor's Office does not present either a formal charge or request dismissal of the case within 45 days of the initial appearance,[814] the detainee should be released or be granted non-custodial measures.[815] According to the Criminal Procedure Code, the measures, whether custodial or non-custodial, should not be imposed for longer than two years, unless an extension is justified and authorized by a judge in exceptional

[802] Organic Code of Military Justice, article 464. Treason is also contemplated in articles 128 ff of the Criminal Code.
[803] Ibid., art. 570.
[804] Ibid., art. 476.
[805] Ibid., arts. 501 ff.
[806] According to article 44 of the Constitution and 236 of the Criminal Procedure Code, a person should be brought before a judicial authority within 48 hours after the deprivation of liberty. Article 236 of the Criminal Procedure Code also provides that if the judge confirms the detention, the prosecutor has a máximum of 45 days to either present a formal accusation or dismiss the case. Article 309 establishes that once the accusation has been presented, the preliminary hearing should take place within a maximum of 20 days.
[807] ICCPR, art. 14(c).
[808] 1999 Constitution, art. 44. Criminal Procedure Code, art. 236 (3).
[809] This included in the cases of Lorent Saleh, Gabriel Valles, Rodolfo Pedro González, Daniel Ceballos, Case 12: Lessi Marcano, C2EE15 (female), C2EE10 (female), Case 3: Gilber Caro, Juan Pedro Lares, C2EE01 (female), C2EE22 (female), C2EE23 (male), Case 7: Geraldine Chacon, Case 7: Gregory Hinds, Case 6: Victor Navarro, Case 6: C2EE09 (female).
[810] Criminal Procedure Code, art. 236 (3). For example in the cases of Case 8: Angel Zerpa, Catalina Andarcia.
[811] According to article 309 of the Criminal Procedure Code, the preliminary hearing is an oral hearing in the intermediary phase of the criminal proceedings.
[812] Criminal Procedure Code, art. 309.
[813] Including in the cases of Gabriel Valles, Lorent Saleh, Case 9: Juan Requesens, Jesus Medina Ezaine, Case 2: Antonio Ledesma, Case 3: Gilber Caro, Case 4: Steyci Escalona.
[814] Criminal Procedure Code, art. 236.
[815] Ibid.

circumstances.[816] Many people in the cases reviewed by the Mission have spent over two years in pre-trial detention.[817]

356. In many cases, the courts failed to respond to habeas corpus or other judicial review requests filed by the detainees or their lawyers questioning these delays. In a number of cases, detainees were kept in detention by SEBIN or DGCIM despite judicial release orders, such as in the case of Antonia Turbay, or completion of sentence, such as in the case of Victor Ugas. At the time of writing, military officers Luis Hernando Lugo Calderon and Peter Alexander Moreno Guevara remained in detention in Ramo Verde, given the relevant tribunals had not issued release orders. They comepleted their sentences in October 2019 and November 2019 respectively.[818]

357. The vast majority of cases reviewed by the Mission remained at the preparatory or intermediary phase. At the time of writing, many appeared to be in limbo.

Access to Legal Defence

358. The cases revealed consistent interference with the right to adequate defence.[819] As noted, the Mission's case review identified a clear pattern in which both SEBIN and DGCIM prevented detainees from contacting legal representatives in the days following the arrest. Even when family or civil society organizations did manage to arrange legal defence, court authorities often failed to inform them of the date and place of the initial appearance. In addition, in many of the cases documented, courts ignored defendants' requests of privately hired representation and assigned public defenders instead.[820]

359. When defendants have been able to secure representation by private lawyers, the lawyer's ability to prepare an adequate defence has been hindered.[821] The Mission documented the following recurring incidents in the cases reviewed:

- Private defence lawyers were not provided with copies of essential documents, including police records, indictments or minutes of hearings or were provided with the case-file just few minutes before the hearing.
- Private defence lawyers were not informed of dates of hearings, impeding the preparation of arguments or filing of briefs.
- Private defence lawyers were often prevented from visiting their clients. When visits did go ahead, lawyers were sometimes unable to speak to clients confidentially.
- Private defence lawyers suffered various forms of harassment and intimidation against them or their families. This includes lawyers Ramón Alfredo Aguilar, Marcelo Crovato,[822] Joel García and Juan Carlos Gutiérrez.

816 Criminal Procedure Code, art. 230.

817 Rosmit Mantilla, C2EE10 (female), C2EE15 (female), Luis Humberto De La Sotta, Juan Pablo Saavedra Mejias, Ruperto Molina Ramirez, Igbert Marin Chaparro, Carlos Eduardo Urbina Velasquez, Juan Carlos Peña Palmentieri, Abraham Americo Suarez Ramos, Adrian Leonardo De Gouveia de Sosa, Carlos Gustavo Macsotay Rauseo, Gustavo Enrique Carrero Angarita and Elias Jose Noriega Manrique.

818 Mission interview with C3DD46, Mission interview with C3DD47 in August 2020, Documents C3DD48, C3DD49, on file with the Mission,

819 ICCPR, art. 14.3(b). See also article 44 (2) of the Constitution and articles 10, 127 (2) and 139 of the Criminal Procedure Code.

820 Case 16: Luis Bandres Figueroa and 24 others of Cotiza uprising, Case 13: Captain Luis de la Sotta, Case 3: Gilber Caro, Case 8: Angel Zerpa, Case 18: Ariana Granadillo.

821 Case 3: Gilber Caro, Case 4: Steyci Escalona, Case 12: Pedro Jaimes Criollo.

822 On 22 April 2014, Mr. Crovato arrived at his client's home, located in the municipality of Chacao in Miranda State, to provide him with legal assistance during a house search conducted by officers of the CICPC. However, while assisting his client, Mr. Crovato was arrested by the CICPC. The officers did not present a warrant or any other decision issued by a public authority. Since 2004, Mr. Crovato has been involved in a number of cases defending political opponents and alleged victims of human rghts violations, including students during the protests in 2014. Mr. Crovato fled Venezuela in 2018 after having spent almost 10 months in Yare prison and about 3 years in house arrest. Mission interview

- Some detainees informed the Mission that they faced reprisals while in detention for being represented by certain organizations or lawyers.

Judicial and Prosecutorial Independence

360. The investigations of the Mission reveal interference with the independence of the judiciary, hindering the right to a fair trial by an independent and impartial tribunal.[823] Lack of judicial independence, particularly apparent in politically sensitive cases, has been confirmed by lawyers and former prosecutors and judges interviewed by the Mission.

361. According to a number of lawyers and former prosecutors and judges, cases should be assigned to prosecutors by superiors based on the subject matter and territorial competence and to judges based on a computerized system to order to ensure an equitable distribution of caseloads and to avoid forum shopping. Nevertheless, several of the cases analysed in this section were investigated by the same prosecutors[824] and tried by the same judges,[825] in what the Mission has reasonable grounds to believe is an effort to help secure certain outcomes in the proceedings.[826]

362. Judges and prosecutors have also said that they have been improperly pressured.[827] Franklin Nieves, public prosecutor in the case of Leopoldo López, has spoken publicly that the trial against Lopez was a sham and that he remained silent out of fear and because of the pressure exerted by his chiefs.[828] He said that President Maduro and Diosdado Cabello[829] give orders directly to the Attorney General about what cases to pursue, noting that the judiciary "kneels" before the executive, which "runs absolutely everything".[830]

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with Marcelo Crovato, 22 July 2020. See NTN Venezuela, Si no hubiera escapado estaría 14 años más preso en Venezuela: Abogado Marcelo Crovato', available at: https://www.youtube.com/watch?v=mokvQhr6Ql0. See also Televisión Pública Noticias Televisión Pública Noticias, Marcelo Crovato: "Los venezolanos han perdido 15 kilos porque no hay comida", available at: https://www.youtube.com/watch?v=e-yBdNjg0J4

823 ICCPR, art. 14 (1).

824 Among the prosecutors that appeared involved in numerous cases documented by the Mission were: Katherine Haringhton (for instance in the case of Antonio Ledezma, Lorent Saleh and Gabriel Valles); Farik Mora and Dinora Bustamante (who acted as prosecutors in the cases of Juan Requesens, Julio Borges, Edgar Zambrano and Roberto Marrero). Katherine Harington was appointed Vice Attorney General on 4 July 2017 and was dismissed on 23 October 2018. According to the information received, she is no longer with the Public Prosecutor's Office. See Efecto Cocuyo, Las 8 imputaciones clave de Katherine Harrington contra opositores, available at: https://efectococuyo.com/politica/las-8-imputaciones-clave-de-katherine-harrington-contra-opositores/; and El Cooperante, Katherine Harrington, la sancionada por EEUU que fue vicefiscal y entró al MP en la maletera de un carro, 23 October 2018, available at: https://elcooperante.com/katherine-harrington-la-sancionada-por-eeuu-que-fue-vicefiscal-y-entro-al-mp-en-la-maletera-de-un-carro/.

825 Although there were four specialised courts dealing with terrorism cases, a high number of cases were assigned to two certain judges within them, notably Carol Padilla (Case 9: Juan Requesens, Julio Borges, Case 10: Fernando Alban and Case 11: Roberto Marrero) and Hilda Villanueva (Case 3: Gilber Caro, Victor Ugas, Edgar Zambrano), of the First and Second Court of Control with competence of terrorism related crimes, respectively. See Perfil, ¿Quién es la juez Carol Padilla? La abogada encargada de condenar a la oposición, available at: https://puntodecorte.com/juez-carol-padilla/; and Carol Padilla, perfil de una jueza por encargo, available at: https://armando.info/Reportajes/Details/2593. These specialized courts were created in the course of the years by different resolutions of the Supreme Court and were not contemplated by the Law on Financing Terrorism and Organized Crime.

826 Mission Interview with Joel Garcia in May 2020; Mission interview with C1HH04 in June 2020; and Juan Carlos Gutiérrez in July 2020.

827 See Inter-American Court of Human Rights, Caso Apitz Barbera y otros vs. Venezuela, 5 August 2008, available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_182_esp.pdf

828 See YouTube Video, La Patilla, Entrevista completa Franklin Nieves Conclusiones 27/10/2015, 28 October 2015, available at: https://www.youtube.com/watch?v=i4-t6NGl1Ec.

829 Former president of the National Assembly and then president of the National Constituent Assembly.

830 YouTube Video, La Patilla, Entrevista completa Franklin Nieves Conclusiones 27/10/2015, 28 October 2015, minute 2:15, available at: https://www.youtube.com/watch?v=i4-t6NGl1Ec.

363. The judge in that case, Ralenis Tovar, has declared that when signing the arrest warrant for Leopoldo López, she was sitting before a large number of officers of the state intelligence services and the Bolivarian National Guard and four national prosecutors, and she was threatened with becoming the "next Judge Afiuni".[831]

Civilians facing Military Justice

364. Under the Constitution, "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.[832] While this does not exclude civilians from the jurisdiction of military courts, crimes of military nature are by definition those related to breaches of military duties and therefore in principle can only be committed by military in service.[833]

365. Traditionally, there has been a restrictive interpretation of military jurisdiction.[834] However, especially since April 2017, the Mission documented an increasingly frequent use of military jurisdiction to prosecute and try civilians.[835] According to the information gathered by the Mission, this increase coincided with the conflict between Luisa Ortega Díaz, former Attorney General, and the executive, starting in March 2017 following her public criticism of the Government.[836]

366. Military judges and prosecutors are active members of the armed forces, subjected to military hierarchy and to the authority of the Minister of Defence and the President.[837] The principle of independence of justice, enshrined in the Constitution of Venezuela,[838] necessarily implies that all tribunals and judges be independent from the executive and legislative powers. Military tribunals are per definition a specialized jurisdiction, hence their use for civilians is a deviation from the principle of "natural judge" as enshrined in article 49(4) of the Constitution.[839] In this respect, international human rights bodies and the Inter-American Court on Human Rights have consistently recommended that military jurisdiction be limited to military crimes committed by military personnel.[840]

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831 Testimony of Ralenis Tovar at the Hearing of the OAS General Secretariat to analyze the possible commission of crimes against humanity in Venezuela, 16 October 2017, minute 13:00, available at: https://www.youtube.com/watch?v=ca5zYBQYcVE.

832 1999 Constitution, art. 261. See also art. 29.

833 See however article 123 of the Organic Code on Military Justice, according to which military criminal jurisdiction includes all military infractions committed by military or civilians, jointly or separately.

834 See, e.g., Judgment of 24 April 2002, Case file No. 01-2721, in which the Constitutional Chamber of the Supreme Court observed that "military justice only applies to crimes of a military nature perpetrated by military personnel on active duty, both for the opportunity they are committed and for the date of his judgment". This has been recently confirmed by the Supreme Court in its judgments 70 and 71 of 30 July 2020. See, TalCual Digital, TSJ de Maduro reconoce que juicio militar a Rubén González viola sus derechos humanos, available at: https://talcualdigital.com/tsj-de-maduro-reconoce-que-juicio-militar-a-ruben-gonzalez-viola-sus-derechos-humanos/.

835 According to information received from Foro Penal, between 2014 and 2020 866 civilians have been tried by military courts, 773 of whom in 2017 only.

836 See Acceso a la Justicia, 7 preguntas sobre la Justicia Militar, February 2018, available at: https://www.accesoalajusticia.org/wp-content/uploads/2018/02/Investigación-sobre-Justicia-Militar.pdf and New York Times, El gobierno venezolano recurre a la justicia militar 'como si estuviera en guerra', 12 May 2017, available at: https://www.nytimes.com/es/2017/05/12/espanol/america-latina/venezuela-tribunales-militares-maduro.html.

837 Organic Code of Military Justice, arts. 28, 49, 54 and 55, available at: https://docs.venezuela.justia.com/federales/codigos/codigo-organico-de-justicia-militar.pdf. See also CCPR/C/VEN/CO/R.4, para. 16 and Inter-American Court of Human Rights, Usón Ramírez Vs. Venezuela, Judgment of 20 November 2009, Series C No. 207, para. 111.

838 Articles 26, 49 and 254.

839 "Everyone has the right to be tried by their natural judges in ordinary or special jurisdictions, with the guarantees established in this Constitution and in the law […]".

840 See United Nations Basic Principles on the Independence of the Judiciary (1985), principle 5; General Comment of the Human Rights Committee no. 32, Article 14, Right to equality before courts and

367. In the cases of military officers tried in military tribunals, the cases investigated by the Mission were mostly divided between the Third Military Court of Control under Judge Captain Mikel Amezquita Pion and the First Military Court of Control under Major Claudia Pérez De Mogollón. Military judge Mariela Acevedo Santafe was involved in a number of cases against protesters and political opposition members (such as Gilber Caro and Steyci Escalona). She later took refuge in Colombia, reportedly for being tired of living in fear and under continuous pressure. [841]

Military Personnel Tried in Civilian Courts

368. The Mission has documented the practice of trying in civilian courts military and former military officers involved in political cases and allegedly responsible of military crimes, notably as of 2018.

369. The Mission documented at least 20 other military and former military officers tried in civilian courts, accused of one or more of the following crimes: treason, terrorism, possession of weapons of war, incitement to rebellion and criminal association. This includes the magnicide case in 2018 (drone attack involving six military and former military officers); Operation Constitution in January 2019 (alleged conspiracy and assassination attempts against the President, involving five military or former military officers); and Operation Freedom, related to the events in April 2019 (involving 9 military officers). The Mission examined the prosecutions against Coronels José Rommel Acevedo Montañez and Oswaldo Valentin García Palomo as case studies.

370. The officers were presented to the First Instance Special Court of Control No. 1 with Jurisdiction at National Level on Terrorism issues, under Judge Carol Padilla. According to the information received by the Mission, the reason for this was twofold: (1) to make sure that they were tried before 'loyal' courts; and (2) to provoke an additional punishment, given that military officers reportedly feel diminished for being prosecuted by civilian judges.[842] As an additional sanction, military officers involved in these proceedings have been expelled from the FANB while their cases are still under investigation.

Failure to Investigate Torture Allegations

371. In all cases investigated related to military officers, judicial authorities refused to order investigations into allegations of torture. This was despite victims either appearing in court with clear marks of mistreatment or expressly stating during hearings that they had been tortured or requested a medical examination. In some cases, medical examinations were ordered, but in the cases investigated, only once the marks of torture were no longer present. In several cases, the judges ordered that the accused be returned to the place where they claimed to have been tortured, usually DGCIM Boleíta.[843]

372. Similarly, when habeas corpus or official complaints of torture or enforced disappearances have been presented to the Public Prosecutor's Office or brought to the

tribunals and to fair trial, CCPR/C/GC/32, para. 22; See also Rodríguez Vera y otros Vs. Colombia, judgmenet of 14 November 2014, para. 442; and United Nations Special Rapporteur on the independence of judges and lawyers report to the General Assembly A/68/285 (2013). See also Inter-American Court of Human Rights, Case Palamara-Iribirarne v. Chile, judgment of 22 November 2005, paras. 256, 257 and 269.14, available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_135_ing.pdf; Inter-American Court of Human Rights, Case Castillo Petruzzi ed Al. judgment of 30 May 1999, paras. 128-124, available at: https://www.refworld.org/pdfid/44e494cb4.pdf; Inter-American Court of Human Rights, Case Cesti-Hurtado v. Peru, judgment of 29 September 1999, para. 148, available at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_56_ing.pdf.

841 See Control Cuidadano, 'Jueza militar pidió perdón a Gilber Caro por procesarlo pese a ser inocente', https://www.controlciudadano.org/noticias/jueza-militar-pidio-perdon-a-gilber-caro-por-procesarlo-pese-a-ser-inocente; and EVTV Miami, Gilbert Caro: "Una cosa es venganza y otra hacer justicia", 2 October 2018, available at: https://evtvmiami.com/gilbert-caro-una-cosa-es-venganza-y-otra-hacer-justicia/

842 Interview with C1HH04 in June 2020.

843 Including Case 13: Captain Luis de la Sotta.

attention of the president of the Martial Court, no investigation was carried out into these allegations.

II. Cases

373. The Mission selected the following cases for detailed analysis. Selection criteria included substantive, security and other considerations (including, inter alia, availability of witnesses, legal case files, digital information). The Mission also verified a number of additional cases that have remained confidential due to security concerns. These cases are representative of similar situations experienced by many others. The inclusion of these cases and not others does not imply that others have not also suffered violations, nor minimizes the experiences of other victims.

A. Cases involving SEBIN

CASE 1: Leopoldo López

374. Leopoldo Eduardo López Mendoza is a Venezuelan economist and politician. In 2000, he co-founded the political party Primero Justicia with Henrique Capriles and Julio Borges. He was elected mayor of Chacao municipality in Caracas in July 2000. He is the National Coordinator of another political party, Voluntad Popular, which he founded in 2009.

375. He has been accused in 23 different criminal cases since 2001, 20 of which were closed by the Office of the Public Prosecutor before reaching the trial stage.[844] He has also been subject to administrative decisions, including disqualification from holding public office from 2008 until 2014 on allegations of nepotism and misappropriation of funds, which the Inter-American Court of Human Rights unanimously ruled on 1 September 2011 to be in violation of a number of articles of the Inter-American Convention on Human Rights.[845] The ruling had not been implemented by Venezuela at the time of writing.

Arrest and Legal Proceedings

376. Leopoldo López promoted the large anti-Government demonstrations that took place on 12 February 2014 in Caracas and was publicly associated with them. He spoke at the beginning of the event in Caracas, accusing the Government of corruption and alleged ties with drug trafficking, while also calling for nonviolence.[846] At around 1.30 p.m., Mr. López left the demonstration and called upon demonstrators, unsuccessfully, to do the same.[847]

377. Around 3.30 p.m., gunshots were fired and two people were killed: Bassil da Costa, a 23-year-old student, and Juan Montoya, coordinator of the "Revolutionary Secretariat of Venezuela", which grouped several "colectivos" of Caracas.[848] Between 4 p.m. and 5 p.m., the police arrested approximately 30 student demonstrators.[849]

378. At around 3.25 p.m. on 12 February 2014, National Assembly President Diosdado Cabello announced that he held Mr. López Mendoza and María Corina Machado, a member

[844] Interview with Juan Carlos Gutiérrez, Leopoldo López's lawyer on 3 July 2020. See also opinion of the Working Group on arbitrary detention, A/HRC/WGAD/2014/26. In the other three cases, two are still under investigation, and in one Mr. Lopez was convicted of misappropriation of funds.

[845] Inter-American Court on Human Rights (IACtHR), Leopoldo López vs Venezuela, Case 12663, available at: http://www.corteidh.or.cr/tablas/fichas/lopezmendoza.pdf

[846] See Big Time Production C.A., Discurso de líder opositor Leopoldo López el 12F previo a marcha estudiantil en Venezuela, available at: https://www.youtube.com/watch?v=zV1Qj4rf3Cg; See also YouTube Video, Tespis TV Latino Events, Palabras de Leopoldo López el 12 de Febrero En Caracas, available at: https://www.youtube.com/watch?v=NuxbRMrlQ68.

[847] Mission interview with Juan Carlos Gutiérrez, Leopoldo López's lawyer in July 2020.

[848] Ibid.

[849] Ibid.

of the Assembly, responsible for the violence in Caracas.[850] That same day, the Sixteenth Caracas Procedural Court issued an arrest warrant for Mr. López, who went into hiding. The arrest was ordered for multiple charges, including criminal association, incitement to commit an offence, public intimidation, arson of a public building, damage to public property, causing bodily harm, homicide and terrorism.

379. Franklin Nieves, the prosecutor who requested the arrest warrant, left Venezuela in 2015. He subsequently gave an interview alleging that Mr. López's arrest had been prepared in advance of events on 12 February and was substantiated with false information.[851] Mr. Nieves also accused Joel Espinoza, Director General of Criminal Proceedings of the Public Prosecutor's Office,[852] of ordering him to travel to Táchira state on 10 February and detain Mr. López "should some offences materialize".[853] When Mr. López did not travel to San Cristóbal, SEBIN officers flew Mr. Nieves back to Caracas in a helicopter.[854]

380. In Caracas, Mr. Nieves was escorted to SEBIN headquarters where the then SEBIN Director, General Manuel Gregorio Bernal Martínez, told him to sign arrest warrants "upon instruction of 'Number 1,' President Maduro".[855]

381. Judge Ralenys Tovar, the Sixteenth Court of Control Judge who issued the arrest warrant, also left Venezuela. In a media interview, she revealed having done so under "huge pressure".[856] On 16 October 2017, she provided testimony at an OAS hearing and reported receiving a call from then Supreme Court President Gladys Gutiérrez on 11 February 2014, telling her to approve a number of arrest warrants that awaited her in the tribunal.

[850] See RTVE, Maduro acusa al opositor Leopoldo López de promover las últimas protestas en Venezuela, 17 February 2014, available at: https://www.rtve.es/alacarta/videos/telediario/maduro-acusa-opositor-leopoldo-lopez-promover-ultimas-protestas-venezuela/2402258/; See also NTN24, Diosdado Cabello responsabiliza a Leopoldo López y María Machado por situación en Venezuela, available at: https://www.youtube.com/watch?v=TWP5l8QCO0I

[851] See La Patilla, Entrevista completa Franklin Nieves Conclusiones 27/10/2015, available at: https://www.youtube.com/watch?v=YPsTNZn2Ldo. See also his testimony during a hearing before a panel of experts appointed by the OAS to analyse possible crimes against humanity in Venezuela: OAS OEA Videos, Audiences to analyze possible crimes against humanity in Venezuela. November 16th, 2017, available at: https://www.youtube.com/watch?v=g6zUBXprxQ4, minute 2:35:00.

[852] Joel Espinoza was thereafter appointed Vice-Attorney General, a position he held until 2016 before joining the Presidential Commission for Integrity to combat Corruption, launched by President Maduro. See ABC, El vicefiscal de Venezuela que procesó a Leopoldo López intenta conseguir asilo en España, 19 Feburary 2018, available at: https://www.abc.es/internacional/abci-vicefiscal-venezuela-proceso-leopoldo-lopez-intenta-conseguir-asilo-espana-201802190154_noticia.html

[853] Testimony of Franklin Nieves during a hearing before a panel of experts appointed by the OAS to analyse possible crimes against humanity in Venezuela: OAS OEA Videos, Audiences to analyze possible crimes against humanity in Venezuela. November 16th, 2017, minute 2:35:00, available at: https://www.youtube.com/watch?v=g6zUBXprxQ4.

[854] See OAS OEA Videos, Audiences to analyze possible crimes against humanity in Venezuela. November 16th, 2017, available at: https://www.youtube.com/watch?v=g6zUBXprxQ4, minute 2:35:00

[855] Ibid.

[856] See Youtube video, naidavideo, NTN24 26F Jueza Tovar presionada para apresar a Leopoldo López, 26 February 2014, available at: https://www.youtube.com/watch?v=AmrbMTMRwX8 See also, El Nacional, Jueza del caso de Leopoldo López huyó del país por miedo al gobierno, 22 November 2017, available at: https://www.elnacional.com/venezuela/politica/jueza-del-caso-leopoldo-lopez-huyo-del-pais-por-miedo-gobierno_212524/. Ms. Tovar left her position as judge at the beginning of July 2015. According to an interview she gave to the Canadian media, she tried to open her own practice, to no avail, before fleeing after the murder of Judge Nelson Moncada. See The Globe and Mail, Phone-tapping, fear and threats: Why an ex-Venezuelan judge is seeking refuge in Canada, 16 November 2017, available at: https://www.theglobeandmail.com/news/politics/phone-tapping-fear-and-threats-why-an-ex-venezuelan-judge-is-seeking-refuge-in-canada/article37000457/

382. There was an unusually large presence of DGCIM and SEBIN officers at the tribunal,[857] along with four prosecutors, including Franklin Nieves and Narda Sanabria.[858] When Judge Tovar hesitated in isuing Leopoldo López's arrest warrant, a DGCIM official asked her whether she wanted to become "the next Afiuni".[859] Judge María Lourdes Afiuni was detained in December 2009, following her decision to release a political prisoner implementing a decision of the UN Working Group on Arbitrary Detention.[860]

383. Former Attorney General Luisa Ortega Díaz also told the Mission that beginning on 12 February 2014 she came under pressure from the Executive to prosecute Mr. López with serious crimes,[861] including by Diosdado Cabello, the then President of the National Assembly, who she said asked her to charge Mr. López with murder.[862]

384. On 16 February 2014, Leopoldo López published a video on Twitter calling for a peaceful march on 18 February 2014 to present a petition to the Ministry of the Interior. He also announced that he would present himself to the authorities should they decide to detain him unlawfully.[863] That same day, an investigative journalist published a documentary identifying those allegedly responsible for Bassil da Costa and Juan Montoya's deaths.[864]

385. In the early hours of 16 February 2014, around 20 armed and uniformed officers searched Mr. López's home. Afterwards, they drove to Mr. López's parents' home, where his mother, father and wife were located. Lilian Tintori, Mr. López's wife, told the Mission that Diosdado Cabello accompanied the DGCIM officers during the search, which lasted from midnight to 6 a.m. Diosdado Cabello returned to Mr. López's parents' house on 18 February between midnight and 3 a.m. to convince them to persuade Mr. López to surrender to the authorities.[865] Mr. Cabello also telephoned them several times.[866]

386. On 18 February 2014, Mr. López briefly addressed the crowd during a protest in Caracas. Thereafter, he made his way to the National Guard security cordon with Ms. Tintori and handed himself over to them. He was arrested and taken to the Francisco de Miranda military airbase, known as "La Carlota".[867] Mr. López's lawyer was present and told the Mission that Justo Noguera Pietri, at the time a National Guard General, escorted Mr. López

[857] The high militarization of the Tribunal when hearings of Mr. Lopez trial were taking place was emphasised too by his lawyer during the interview with the Mission.

[858] Ms. Sanabria was thereafter appointed first as Director of Forensic of the Attorney General Office in September 2017 and then as judge of the Appellate Court of Caracas. Prior to these appointments, Ms. Sanabria was removed in July 2017 for allegedly facilitating the irregular entry of former Vice Attorney General Katherine Harington in the premises of the Public Prosecutor's Office. See El Carabobeño, Destituida fiscal Narda Sanabria por presuntamente ingresar a Katherine Harington al MP, 7 July 2017, available at: https://www.el-carabobeno.com/destituida-fiscal-narda-sanabria-por-presuntamente-ingresar-a-katherine-harington-al-mp/.

[859] See OAS OEA Videos, Audiences to analyze possible crimes against humanity in Venezuela. October 16th, 2017, minute 13:00, available at: https://www.youtube.com/watch?v=ca5zYBQYcVE,

[860] The same Working Group later declared her detention arbitrary in its case 20/2010. Her case has created an atmosphere of fear amongst judges, commonly known as the "Afiuni effect".

[861] Mission interview with Luisa Ortega Díaz in July 2020.

[862] Ibid. See also, EFE, La exfiscal venezolana Ortega admite presión de Cabello en caso Leopoldo López, 16 February 2018, available at: https://www.efe.com/efe/america/politica/la-exfiscal-venezolana-ortega-admite-presion-de-cabello-en-caso-leopoldo-lopez/20000035-3525681; and ABC La fiscal Ortega reconoce que Leopoldo López es inocente y fue condenado por «presiones» de Cabello, 17 Feburary 2018, available at: https://www.abc.es/internacional/abci-fiscal-ortega-reconoce-leopoldo-lopez-inocente-y-condenado-presiones-cabello-201802162103_noticia.html

[863] El País, Opositor venezolano Leopoldo López anuncia que se entregará a las autoridades, 16 February 2014, available at: https://www.elpais.com.co/mundo/opositor-venezolano-leopoldo-lopez-anuncia-que-se-entregara-a-las-autoridades.html

[864] See YouTube Video, Ultimas Noticias, Uniformados y Civiles dispararon en Candelaria el 12F, available at: https://www.youtube.com/watch?v=MmHEEO_MpII

[865] Mission interview with Lilian Tintori in June 2020.

[866] Ibid.

[867] Mission interview with Juan Carlos Gutiérrez, Leopoldo López's lawyer, in July 2020.

in the car, from which he spoke to Diosdado Cabello. Mr. López was transferred by helicopter from "La Carlota" to Fuerte Tiuna military base.[868]

387. On 19 February 2014, Mr. López appeared before temporary judge Ralenys Tovar, president of the Sixteenth Caracas Procedural Court. The hearing took place on a bus outside Ramo Verde, outside Judge Tovar's territorial jurisdiction Mr. Lopez. The charges mentioned in the arrest warrant were confirmed with the exception of those for homicide, terrorism and bodily harm. Judge Tovar ordered Mr. López's detention in Ramo Verde military prison, despite his civilian status.[869]

388. The preliminary hearing began on 3 June 2014 before the Sixteenth Caracas Court of Control, led by Judge Adriana López. Mr. López's case was combined with four students accused in the same incident.[870] According to Mr. López's lawyer, the students did not know Mr. López and were not associated with his political party.[871] The students described CICPC officers torturing them in at CICPC headquarters at Plaza Parque Carabobo, pointing guns at their heads and forcing them to sign both confessions and declarations against Mr. López.[872] According to Mr. López's lawyer, 138 evidentiary submissions presented against Mr. López were accepted, while all but one put forward by the defence in his favour were rejected, including technical and direct witness information.[873]

389. On 23 July 2014, Mr. López's trial began before the Twenty-Eighth Tribunal, led by Judge Susana Barreiros. The trial continued for 13 months, with many hearings deferred. Prior to the trial, on 3 November 2014, the UN Working Group on arbitrary detention published opinion 26/2014, requesting the Government to free Mr. López given the arbitrary nature of his detention.[874] Judge Barreiros rejected it as external interference in sovereign matters.[875] One of the students, Christian Holdach, identified his alleged torturer in court, having recognized him during the hearing. According to Mr. López's lawyer, the judge responded by saying it was the prosecutor's responsibility to investigate the allegation.[876]

390. On 10 September 2015, Judge Barreiros found Mr. López guilty of all charges and sentenced him to 13 years and nine months' imprisonment.[877] The students were also convicted but granted conditional release.[878] The judgement was published on 2 October 2015. On 23 October 2015, Franklin Nieves, the prosecutor in Mr. López's case, released a

[868] Ibid.

[869] Ibid.

[870] Ángel González Sánchez (19); Demian Martín García (18); Christian Holdack (34); and Marco Aurelio Coello (18). See Case 35: Marches and deaths in protest (12 February 2014).

[871] Mission interview with Juan Carlos Gutiérrez, Leopoldo López's lawyer, in July 2020.

[872] See TalCual digigal, Entrevista completa a Marco Coello en CNN en Español, 16 September 2015, available at https://www.youtube.com/watch?v=hGO1zHMzJZ4

[873] Mission interview with Juan Carlos Gutiérrez, Leopoldo López's lawyer, on 3 July 2020. See also: Acceso a la Justicia, Cronología del caso Leopoldo López, 25 August 2016, available at: https://www.accesoalajusticia.org/cronologia-del-caso-leopoldo-lopez/

[874] A/HRC/WGAD/2014/26.

[875] América Económica, Continúa el juicio, 14 November 2014, available at: https://americaeconomica.com/noticia/19426/reportaje/continua-el-juicio.html. In December 2015, Judge Barreiros was appointed General Public Defender by the National Assembly, whose President at the time was Diosdado Cabello. See EFE, La jueza que condenó a López es designada defensora pública general de Venezuela, 10 December 2015, available at: https://www.efe.com/efe/america/politica/la-jueza-que-condeno-a-lopez-es-designada-defensora-publica-general-de-venezuela/20000035-2786917

[876] Mission interview with Juan Carlos Gutiérrez, Leopoldo López's lawyer, in July 2020.

[877] Mr. Lopez was found guilty of: public incitement to violence (article 285 of the Criminal Code); damage to public property (articles 473 and 474 together with 83 of the Criminal Code); arson (article 343 of the Criminal Code) and criminal association (article 37 of the Criminal Code together with article 27 and 29 [3 and 7] of the Organic Law against Organized Crime and Financing of Terrorism.

[878] Christian Holdack was convicted to 10 years and 6 months for arson, damages, public incitement and criminal association, while Demian Martín García and Ángel de Jesús González were convicted to 4 years and 6 months for public incitement.

video accusing his superiors and the Executive of pressuring him to accuse Leopoldo López falsely.[879]

391. In her judgment, Judge Barreiros relied upon the expert analysis of a semiologist to find that the language used by Mr. López in speeches between 23 January and 12 February 2014 intended to incite violence.[880] The semiologist, Ms. Rosa Amelia Azuaje, told the Mission that she submitted a 113-page report to the Public Prosecutor's Office in April 2014. When she saw the court's judgment, she realised that her report had been altered and not presented in full.[881]

392. Shortly after the trial, Ms. Azuaje told the press that her assessment had been distorted and that Mr. López's language did not incite violence.[882] Ms. Azuaje told the Mission that she left Venezuela in June 2017 as she felt increasingly threatened both by opposition supporters, who blamed her for Mr. López's conviction, and by Government supporters who considered her a traitor.[883]

393. On 2 June 2016, Leopoldo López's defence team presented an appeal against the judgment, which began on 12 August 2016 before the First Chamber of Caracas Court of Appeal, with Judges Yimi Montiel, Dayana Mendoza and Nelson Moncada presiding.[884] The court of appeal upheld the convictions and the sentence imposed by the court of first instance.[885]

394. On 18 August 2016, Mr. López's lawyers filed an appeal to the Criminal Chamber of the Supreme Court, which, on 16 February 2017, declared it manifestly unfounded, in agreement with the Court of Appeal verdict. On 7 July 2017, the Criminal Chamber of the Supreme Court granted house arrest to Leopoldo López for health reasons. On 25 July 2017, Leopoldo López released a video calling for protests against the National Constituent Assembly elections.[886] The Fifth Tribunal of Execution in Caracas revoked his house arrest

[879] YouTube Video, Lapatilla Patillavideo, Primeras declaraciones del fiscal Franklin Nieves -CASO LEOPOLDO LÓPEZ- a su salida de Venezuela, 23 October 2015, available at https://www.youtube.com/watch?v=gfbJ8CUOiuo

[880] There was another technical analysis on the tweets carried out by another expert.

[881] Mission interview with Rosa Amelia Azuaje, 9 July 2020. According to Franklin Nieves' declaration before the OAS, Nelson Mejias, Director of Common Crimes Department of the Attorney General Office, was modifying the expert reports in order to render them more favourable for the prosecution's arguments. See YouTube Video, OAS OEA Videos, Hearings to analyze possible crimes against humanity in Venezuela. November 16th, 2017, minute 03:02:40, available at: https://www.youtube.com/watch?v=g6zUBXprxQ4

[882] Mission interview with Rosa Maria Azuaje on 9 July 2020. See also, El País, La principal perito del juicio contra López se desmarca de la condena, 5 November 2015, available at: https://elpais.com/internacional/2015/11/04/actualidad/1446675663_328553.html; Clarin, Se cae la causa contra López: ahora una testigo del chavismo revela más manipulaciones 5 November 2015, available at: https://www.clarin.com/mundo/lopez-testigo-chavismo-revela-manipulaciones_0_ry8-ngYD7e.html; and InfoBae, La principal testigo que usó la Justicia chavista contra Leopoldo López asegura que "no hay nada que demuestre" su culpabilidad, 19 February 2017, available at: https://www.infobae.com/america/venezuela/2017/02/19/la-principal-testigo-que-uso-la-justicia-chavista-contra-leopoldo-lopez-asegura-que-no-hay-nada-que-demuestre-su-cupabilidad/

[883] Mission interview with Rosa Maria Azuaj on 9 July 2020. See also YouTube Video, ULAtv Oficial, Rosa Amelia Azuaje: "Para el gobierno soy una traidora", 19 April 2017, available at: https://www.youtube.com/watch?v=9tKsFZ3MGxI;

[884] Judge Moncada was murdered in June 2017. See El País, Asesinado el juez que ratificó la condena del opositor venezolano Leopoldo López, 3 June 2017, available at: https://elpais.com/internacional/2017/06/02/america/1496421375_204566.html

[885] Cristian Holdack was convicted to 10 years of deprivation of liberty though was granted a measure alternative to detention for health reasons. The same applied to Ángel González and Demián Martín who were convicted to 4 years and 6 months.

[886] YouTube Video, Leopoldo López, ¡Sigamos en las calles hasta alcanzar nuestra libertad!, available at: https://www.youtube.com/watch?v=K3zG_SqpFOk&feature=youtu.be

on 31 July 2017 and on 1 August 2017, SEBIN officers took Mr. Lopez back to Ramo Verde.[887] On 5 August 2017, Mr. López returned to house arrest.

395. In the early morning of 30 April 2019, Juan Guaidó – the leader of the Venezuelan National Assembly, who declared himself interim president in January 2019 – called supporters to take the streets against President Maduro's Government, as shown in a video posted on social media.[888]

396. Mr. López stood alongside Guaidó and deserting soldiers, having been freed by officers loyal to Guaidó. On 1 May 2019, Mr. López took refuge in the Spanish Embassy in Caracas, where he remained at the time of writing.[889]

397. On 2 May 2019, the Fifth Tribunal of Execution in Caracas revoked Mr. López's house arrest and ordered SEBIN to arrest him.[890] At the time of writing, SEBIN officers were stationed outside the Spanish Embassy.[891]

Detention

398. For most of the almost 41 months he spent in detention in Ramo Verde, Mr. López was the only inmate in the tower where he was held. He was subjected to around-the-clock surveillance and stripped naked several times a day, each time he left his cell. His defence team presented a number of complaints both to the Public Prosecutor's Office and the Ministry of Defence about the human rights violations allegedly suffered by Mr. López in detention.

399. These allegations included, *inter alia*: incommunicado detention; long periods of isolation; continued psychological harassment and intimidation by prison officers; violent night searches; violation of the right to defence; violation of the right to receive visits; and seizure of personal belongings.[892] On at least one occasion, prison officers allegedly threw excrement and urine into Mr. López's cell.[893] None of these complaints were acted upon by the different authorities.[894]

400. Mr. López's wife and mother were also stripped naked each time they visited him, including in front of their children, who had also their clothes removed. On 12 October 2015, the Inter-American Commission on Human Rights issued precautionary measures No. 335-14 in favour of Mr. López's relatives in relation to this issue. On 30 November 2015, the Fifty-Second Court of Control issued precautionary measures in favour of Mr. López's wife, Lilian Tintori, and their children.

401. Ms. Tintori told the Mission that when she visited Mr. López, female officers would tell her to jump naked, bend on her knees and open her legs so they could inspect her intimate parts. On one occasion, the female officers removed her sanitary pad.[895] Weekly conjugal visits took place in a room with a hidden camera. Mr. López's lawyers filed a complaint before the Public Prosecutor's Office on 18 January 2016.

[887] A message that appeared on the Facebook page of the Supreme Court, dated 1 August 2017, mentioned a purported escape plan organized by Leopoldo López jointly with Antonio Ledezma. It also indicated that one of the conditions for the house arrest imposed to Mr. López was the prohibition to issue public statements. https://www.facebook.com/TSJVenezuela/photos/a.1431172463657220.1073741828.1390972677677199/1454139021360564/?type=3&theater

[888] YouTube Video, El Pais, Leopoldo López es Liberado y Guaidó comparece junto a él en Venezuela, 30 April 2019, available at https://www.youtube.com/watch?v=FmvuoGr5grU

[889] YouTube Video, NTN24, Leopoldo López: "Yo espero que sean semanas para el cese de la usurpación", 2 May 2019, available at: https://www.youtube.com/watch?v=347WSORbaHA

[890] YouTube Video, Agencia EFE, Tribunal de Venezuela ordena capturar al opositor Leopoldo López, 2 May 2019, available at: https://www.youtube.com/watch?v=_qhGtX9mn5Y

[891] Mission interview with Juan Carlos Gutierrez, Leopoldo López's lawyer in July 2020.

[892] List of complaints filed by Mr. López's defence team on file with the Mission.

[893] Mission interview with Juan Carlos Gutiérrez, Leopoldo López's lawyer on 3 July 2020.

[894] Ibid.

[895] Mission interview with Lilian Tintori in June 2020.

402. On 21 January 2016, the Eighty-Second Public Prosecutor's Office with competence on women rights granted protection measures[896] to Lilian Tintori and Antonieta Mendoza De López, Mr. López's mother, prohibiting the Ramo Verde Director from approaching or harassing the women, pursuant to article 90 of the Organic Law on the Rights of Women to a Life free from Violence.[897]

403. On 25 April 2016, Mr. Juan Carlos Gutiérrez, Leopoldo López's lawyer, also filed a formal complaint before the Public Prosecutor's Office stating he was a victim of several humiliating practices carried out by the military authorities at Ramo Verde prison. These included invasive body searches, verbal and physical attacks, strip searches, intrusive and inappropriate touching, and deprivation of personal belongings. He also reported having been prevented access to his client, sometimes for weeks at a time. The International Bar Association also expressed concern in May 2016 about the harassment suffered by Mr. Gutiérrez.[898]

404. On 1 August 2016, the Inter-American Commission on Human Rights adopted precautionary measures No 335-14 on behalf of Mr. López's lawyer as a result of the threats, intimidations and aggressive and invasive searches by the military authorities when visiting their client.[899] Mr. Gutiérrez left Venezuela in 2017.

Findings

405. Based on the facts above, the Mission has reasonable grounds to believe that Leopoldo López was victim of arbitrary detention. Both SEBIN and DGCIM were involved in different ways. SEBIN Director at the time, General Manuel Gregorio Bernal Martínez, pressured the prosecutor to sign the arrest warrant for Mr. Lopez. DGCIM officers were involved in the search of both Mr. Lopez's and his parents' house as well as in the violent night searches while he was in detention in Ramo Verde.

406. The Mission considers that Leopoldo López's treatment and conditions in Ramo Verde may amount to torture and cruel, inhuman or degrading treatment or punishment. National Guard Colonel Jose Viloria Sosa was the Director of Ramo Verde at the time of these events.

CASE 2: Antonio Ledezma

407. Antonio Ledezma is a lawyer and politician. He is a member of the Democratic Alliance party and was founder of the Alianza Bravo Pueblo party. In a long political career, he has been a National Assembly deputy, a senator (of the former Senate), federal district governor, and mayor of both Libertador municipality and Caracas Metropolitan District, a position that he held from 2008 until his arrest on 19 February 2015.

Arrest and Detention

408. On 19 February 2015, around 5.30 p.m., Mr. Ledezma was arrested at his office on Avenida Libertador, Chacao Municipality, Caracas. Several police cars and Humvee-style vehicles were deployed for the arrest. Around 20 law enforcement officers wearing balaclavas (later revealed to be SEBIN) entered the building and appeared at the entrance of his office. Mr. Ledezma did not open the door and instead requested a search or arrest warrant.[900]

[896] Document on file with the Mission.

[897] Official Gazette of the Bolivarian Republic of Venezuela, No. 38.668, 23 April 2007.

[898] International Bar Assocation, IBAHRI concerned by harassment of lawyer Juan Carlos Gutiérrez in Venezuela, 5 May 2016, available at: https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=6127D428-FF18-4765-9767-2DE1A17B7CF5

[899] See Inter-American Commission on Human Rights, Resolution 18/2016, 1 April 2016, available at: https://www.oas.org/es/cidh/decisiones/pdf/2016/MC335-14-Es-ampliacion.pdf

[900] Written information submitted by Mr. Ledezma to the Mission on 26 May 2020.

409. The SEBIN officers did not present a warrant and did not inform Mr. Ledezma of the reasons for his arrest. The SEBIN officers broke down the office door and removed Mr. Ledezma by force.[901] The Mission verified and geo-located a video of the arrest that was available on the internet at the time of writing.[902] Mr. Ledezma's lawyers and family did not know his whereabouts for approximately ten hours following his arrest.[903]

410. On the day of the arrest, President Maduro announced that Mr. Ledezma "will be tried for the crimes he committed against national peace, security and the Constitution".[904] The following day, the Ministry of Popular Power for Communication and Information issued a press release saying that Mr. Ledezma's arrest was "linked to the case of Lorent Gómez Saleh, Gabriel Valles, Ronny Navarro, Gerardo Carrero and Renzo Prieto, who are currently charged with involvement in conspiracy schemes".[905] The Ministry referred to videos in which Mr. Saleh, Mr. Valles and Mr. Navarro talk about attacking public and private buildings.[906] Mr. Ledezma was arrested following a warrant requested by prosecutors Katherine Haringhton[907] and Yeison Moreno and issued by Judge Miguel Graterol, of the Sixth Criminal Court of Caracas.

411. Despite being a civilian, Mr. Ledezma was taken to Ramo Verde military prison in Los Teques, Miranda State. He was placed in solitary confinement, in the same section as Leopoldo López and Daniel Ceballos, and was not permitted visitors for two weeks.[908]

412. On 7 April 2015, the Sixteenth Prosecutor of Caracas Metropolitan Area, José Luis Orta, formally accused Mr. Ledezma of conspiring to destroy the republican political form of the nation[909] and criminal association.[910] These offences jointly carry a maximum penalty of 26 years' imprisonment. The prosecutor also requested that Mr. Ledezma remain in detention before trial. On 24 April 2015, Mr. Ledezma's health deteriorated due to an inguinal hernia. The prosecutor requested house arrest, which allowed Mr. Ledezma to undergo surgery and recover at home from 25 April 2015.

413. Following a series of deferrals, Mr. Ledezma's preliminary hearing took place on 15 February 2016, almost a full year since his arrest and detention. Preliminary hearings should

[901] Ibid.

[902] YouTube Video, La Opinión Cúcuta, Así quedó registrada la captura del alcalde de Caracas, Antonio Ledezma, 20 February 2015, available at: https://www.youtube.com/watch?v=TVnw5-h9Tbk

[903] Document submitted by Ledezma's lawyers to the judge of the Sixth Control Court of Caracas on 27 April 2015, Solicitud de nulidades y Promoción de pruebas, p. 23. Document on file with the Mission.

[904] YouTube Video, Noticias 24, Maduro confirma la detención de Antonio Ledezma: "Será procesado por la justicia", 19 February 2015, available at: https://www.youtube.com/watch?v=Ehbrj2Je92s

[905] Ministry of Popular Power for Communication and Information, Ministerio Público imputará a Alcalde Metropolitano de Caracas, 20 February 2015, available at: http://190.9.128.241/article/ministerio-público-imputará-alcalde-metropolitano-de-caracas.

[906] Ibid.

[907] Katherine Haringhton has been involved as a prosecutor in a number of cases against political opponents. See, for instance, Efecto Cocuyo, Las 8 imputaciones clave de Katherine Harrington contra opositores, 4 July 2017, available at: https://efectococuyo.com/politica/las-8-imputaciones-clave-de-katherine-harrington-contra-opositores/. She was appointed Vice Attorney General on 4 July 2017 and was dismissed on 23 October 2018. According to the information received, she is no longer with the Attorney General Office. Ms. Haringhton is reportedly the spouse of Gustavo González López, SEBIN Director. See also El Cooperante, Katherine Harrington, la sancionada por EEUU que fue vicefiscal y entró al MP en la maletera de un carro, 23 October 2018, available at: https://elcooperante.com/katherine-harrington-la-sancionada-por-eeuu-que-fue-vicefiscal-y-entro-al-mp-en-la-maletera-de-un-carro/; El Nacional, Gustavo González López, el represor perdonado, 2 May 2019, available at: https://www.elnacional.com/venezuela/politica/gustavo-González-lopez-represor-perdonado_281196/

[908] Written information submitted by Mr. Ledezma to the Mission on 26 May 2020.

[909] Criminal Code, art. 132.

[910] Under the Law against Organized Crime and Terrorism Financing, art. 37. See also YouTube Video, NTN24, Tribunal dicta privativa de libertad al alcalde Antonio Ledezma y lo envía a cárcel de Ramo Verde, 21 February 2015, available at: https://www.youtube.com/watch?v=kdbkumhvWIw

take place within a maximum 20 days from the date of formal accusation.[911] During the hearing, before the Sixth Court of Control,[912] the prosecutor confirmed the charges and requested a penalty of 16 years' imprisonment. The Court sent the case to trial, with Mr. Ledezma remaining under house arrest. The court refused to allow Mr. Ledezma's wife to attend the preliminary hearing.[913]

414. On 30 July 2017, Mr. Ledezma released a video on Facebook criticizing the National Constituent Assembly elections.[914] Two days later, before dawn on 1 August 2017, more than 60 SEBIN officers surrounded his building and took him back to Ramo Verde. Mr. Ledezma informed the Mission that they injured his foot while pulling him away.[915]

415. The detention was ordered by the Sixth Court of Control, which revoked house arrest, alleging that Mr. Ledezma was planning to escape.[916] Mr. Ledezma was taken back to Ramo Verde and held again with Leopoldo López. He was detained for three days in the cell known as "El Tigrito", a narrow space with no toilet or light.[917] On 4 August 2017, he returned to house arrest.

416. On 17 November 2017, Mr. Ledezma managed to escape and fled to Colombia before leaving for Spain where he remained at the time of writing.[918]

The Charges

417. According to Mr. Ledezma and his lawyers, his detention was arbitrary and politically motivated. They told the Mission that the charges were based on false accusations, manipulated information and unfounded legal arguments.[919] Mr. Ledezma believes his arrest resulted from a publication he made jointly with Maria Corina Machado and Leopoldo López on 12 February 2015 calling for a transitional Government.[920]

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911 Criminal Procedure Code, art. 309. YouTube Video, VerTV Noticias. Defensa de Ledezma demostrará "montaje probatorio" de volverse a diferir audiencia, available at: https://www.youtube.com/watch?v=284s5mSylmU

912 El Estímulo, Ledezma pasa a juicio y continúa bajo medida cautelar de casa por cárcel, 15 February 2016, available at: https://elestimulo.com/trasladan-a-antonio-ledezma-al-sebin-el-dia-de-su-primera-audiencia/. See also YouTube Video, TVV, Ledezma pasa a juicio y continuará bajo la medida cautelar de casa por cárcel, 15 February 2016, available at https://www.youtube.com/watch?v=euCl0H8kT10

913 Maduradas, ¡NO CESAN LOS ABUSOS! Niegan el acceso a Mitzy de Capriles a la audiencia de Antonio Ledezma, 15 February 2016, available at: https://maduradas.com/no-cesan-los-abusos-niegan-el-acceso-a-mitzy-de-capriles-a-la-audiencia-de-antonio-ledezma/

914 Written information submitted by Mr. Ledezma to the Mission on 26 May 2020.

915 Ibid.

916 A message appeared on the Facebook page of the Supreme Court dated 1 August 2017 regarding a purported escape plan organized by Antonio Ledezma jointly with Leopoldo López. It also indicated that one of the conditions for the house arrest imposed to Mr. Ledezma was the prohibition to issue public statements. https://www.facebook.com/TSJVenezuela/photos/a.1431172463657220.1073741828.1390972677677199/1454139021360564/?type=3&theater See also, BBC, Venezuela: excarcelan al opositor Antonio Ledezma, quien vuelve al arresto domiciliario, 4 August 2017, available at: https://www.bbc.com/mundo/noticias-america-latina-40826267

917 See Panam Post, Así es vivir en Ramo Verde, la cárcel preferida de Nicolás Maduro para sus más incómodos presos políticos, 24 August 2017, available at: https://es.panampost.com/sabrina-martin/2017/08/23/asi-es-vivir-en-ramo-verde-la-carcel-preferida-de-nicolas-maduro-para-sus-mas-incomodos-presos-politicos/

918 El Mundo, Antonio Ledezma vuela a Madrid tras huir de Caracas, 17 November 2017, available at: https://www.elmundo.es/internacional/2017/11/17/5a0ef061268e3e3a558b4623.html

919 Written information submitted by Mr. Ledezma to the Mission on 26 May 2020.

920 Alba Ciudad, Este es el documento que María Corina Machado, Ledezma y López iban a usar como «señal» para iniciar el ataque, 12 February 2015, available at: https://albaciudad.org/2015/02/este-es-el-documento-que-maria-corina-machado-ledezma-y-lopez-iban-a-usar-como-senal-para-iniciar-el-ataque/; Alba Ciudad, El «Acuerdo para la Transición» de Machado, Ledezma y López: Lo que dice, y lo que no dice, 19 February 2015, available at: https://albaciudad.org/2015/02/lo-que-realmente-dice-el-acuerdo-para-la-transicion-de-maria-corina-machado-ledezma-y-lopez/; See also, 2001

418. Other political detainees have given statements that prosecutors offered them incentives for implicating Mr. Ledezma in the crimes for which he stands accused. Rodolfo González's lawyer told the Mission that prosecutor Katherine Haringhton had offered his client procedural benefits in exchange for a statement against Mr. Ledezma.[921] Two other former detainees, student leader Lorent Saleh and retired lieutenant colonel José Francisco Arocha, provided similar statements when testifying before the OAS. Lorent Saleh also accused Katherine Haringhton of pressuring him to implicate Mr. Ledezma,[922] while José Francisco Arocha claimed that SEBIN Director Gustavo González López had offered a conditional discharge in return for a statement accusing him.[923]

419. Mr. Ledezma remained either in detention or subject to house arrest during two years and nine months until the time he left the country in November 2017.

Findings

420. Based on the facts above, the Mission has reasonable grounds to believe that Antonio Ledezma was victim of arbitrary detention. Several Caracas based SEBIN officers were involved.

CASE 3: Gilber Caro

421. Gilber Caro is a Venezuelan politician and National Assembly member with the Voluntad Popular party. In 1994, Mr. Caro was sentenced to 20 years' imprisonment for a crime he denies having committed. He was on parole for the last ten years of the sentence. During that time, he took part in rehabilitation and social reintegration programmes. In 2014, he completed his sentence and was eligible for public office. In December 2015, he was elected alternate deputy to the National Assembly in the fourth electoral district of Miranda State.[924]

Arrest and detention in January 2017

422. On 11 January 2017, Mr. Caro was arrested by SEBIN in Carabobo State, together with Steyci Escalona, also Voluntad Popular Party member. They were arrested at around 11.20 a.m. at La Entrada toll road, a few kilometres before the municipality of Naguanagua, Carabobo state.[925] The SEBIN officers did not produce a search or arrest warrant yet proceeded to search the vehicle.[926]

423. According to SEBIN's investigation record of 11 January 2017, SEBIN officers obtained information that a number of vehicles were travelling towards Caracas with

Online, Denuncian que comunicado de la oposición está vinculado con plan golpista, 19 February 2015, available at: https://www.2001online.com/en-la-agenda/90707/denuncian-que-comunicado-de-la-oposicion-esta-vinculado-con-plan-golpista.html

921 Mission interview with Joel Garcia on 20 June 2020. On 12 March 2015, Mr. González was found dead in his cell in SEBIN Helicoide, apparently from suicide.

922 See Report of the General Secretariat of the Organization of American States and the Panel of Independent International Experts on the Possible Commission of Crimes against Humanity in Venezuela, May 2018, p. 133.

923 Mr. Arocha was detained on 2 May 2014 for allegedly financing terrorism and held in SEBIN La Tumba. He provided testimony at an OAS General Secretariat hearing. YouTube Video, OAS OEA Videos, Audiences to analyze possible crimes against humanity in Venezuela. September 15th, 2017, 15 September 2017, available at: 2017, https://www.youtube.com/watch?v=cKmTJ79prKE beginning at 58:00. See also, YouTube Video, VerTV Noticias, Declaración de militar bajo tortura sería la prueba contra Ledezma, 23 February 2015, available at https://www.youtube.com/watch?v=8K4zBJif3Os

924 See opinion of the Working Group on Arbitrary Detention, Opinion 52/2017 (Venezuela), A/HRC/WGAD/2017/52, 23 October 2017, paragraph 5.

925 Mission interviews with Mr. Caro's sister and lawyer, on 21 and 19 May 2020 respectively.

926 Mission interview with Ms. Escalona on 17 June 2020.

weapons of war ("diferentes materiales bélicos") in a possible attempt to bring about a violent change of Government.[927]

424. The officers had set up a search and inspection operation at La Entrada toll station and stopped Mr. Caro's vehicle. The investigation record indicates that Mr. Caro was nervous, initially refusing to leave his vehicle because he was a parliamentarian. The SEBIN officers also reported having found a rifle, cartridges and explosives in the car. Ms. Escalona later released a statement accusing SEBIN officers of planting these items to incriminate them.[928] Ms. Escalona confirmed this to the Mission (see her case below).

425. On the day of his arrest, Mr. Caro was taken to SEBIN headquarters in Naguanagua, Carabobo State and was then transferred to barracks belonging to FANB's armoured brigade No. 21. He spent approximately ten days in the military barracks, during which his family and lawyer were unaware of his whereabouts.[929] On 21 January 2017, he was transferred to the "26 July" prison in San Juan de los Morros, Guárico State, 116 kilometres away.[930]

426. On 13 January 2017, the Military Attorney General, Captain Siria Venero de Guerrero, presented case file DT-001-2017 related to Mr. Caro and Ms. Escalona to the Supreme Court. She told the court she had received the file from SEBIN' strategic investigations section in Carabobo, the unit responsible for military crimes. [931]

427. High-level Government representatives made a number of statements following Mr. Caro's arrest and detention. On 11 January 2017, on the television programme "Con el Mazo Dando", Diosdado Cabello accused Mr. Caro of a coup attempt.[932] On 12 January 2017, the then Vice President Tareck El Aissami publicly accused Mr. Caro of organizing killings of opposition members to accuse the Government of these crimes thereafter.[933] On 22 January 2017, the then Human Rights Ombudsman Tarek William Saab, tweeted that Mr. Caro was detained in Guárico state's "26 July" prison.[934] The Minister for Penitentiary Services, Iris Varela, then published pictures of Gilber Caro with the comment "fascists believe that we would act as they do. Irrespective of the crime, the treatment is dignified".[935]

[927] Criminal Investigation record on file with the Mission.

[928] Ibid. See also, EuroNews, Venezuela, parla Steyci Escalona: "Così mi hanno arrestato e rinchiuso per 10 mesi", 12 December 2017, available at: https://it.euronews.com/2017/12/12/venezuela-intervista-steyci-escalona-dissidente-prigioniera-politica

[929] Interviews with Mr. Caro's sister and lawyer on 21 and 19 May 2020 respectively.

[930] Europapress, Trasladan al opositor Caro a una cárcel en el estado de Guárico, 21 January 2017, available at: https://www.europapress.es/internacional/noticia-trasladan-opositor-caro-carcel-estado-guarico-20170122015406.html

[931] See Supreme Court of Justice, Decision on Criminal Case File DT-001-2017, 29 March 2017, available at: http://historico.tsj.gob.ve/decisiones/tplen/mayo/198873-34-11517-2017-2017-00004.HTML

[932] YouTube Video, teleSUR, El primer vicepresidente del Partido Socialista Unido de Venezuela (PSUV), Diosdado Cabello, condenó las intenciones golpistas del diputado de Voluntad Popular, Gilber Caro, 11 January 2017, available at: https://www.youtube.com/watch?v=U-QcBVRb52E

[933] YouTube Video, Noticierovenevision, Vicepresidente El Aissami ofreció detalles sobre la detención de Gilber Caro, 12 January 2017, available at: https://www.youtube.com/watch?v=BMMIRgTtNtM; Control Ciudadano, Tareck El Aissami sobre Diputado Gilbert Caro: Fue detenido en flagrancia y portaba material de guerra de uso exclusivo de la FANB, 11 January 2017, available at: https://www.controlciudadano.org/noticias/tareck-el-aissami-sobre-diputado-gilbert-caro-fue-detenido-en-flagrancia-y-portaba-material-de-guerra-de-uso-exclusivo-de-la-fanb

[934] Interview with Mr. Caro's lawyer on 19 May 2020. See also, 2001 Online, Confirman traslado de Gilber Caro a la cárcel 26 de julio en Guárico, 22 January 2017, available at: http://www.2001online.com/en-la-agenda/150425/confirman-traslado-de-gilber-caro-a-la-carcel-26-de-julio-en-guarico.html

[935] See RunRun.es, Iris Varela difundió imágenes de Gilbert Caro en prisión, 27 January 2017, available at: https://runrun.es/nacional/venezuela-2/294173/iris-varela-dinfundio-imagenes-de-gilbert-caro-en-prision/

428. On 17 January 2017, Mr. Caro's lawyers filed complaints requesting the annulment of the proceedings based on the military tribunal's lack of jurisdiction, given that Mr. Caro was a civilian and had parliamentarian immunity.[936]

429. The Supreme Court decided that Mr. Caro did not enjoy parliamentary immunity given that he was an alternate deputy.[937] It subsequently determined that the Sixth Military Court of Control was the competent court to decide the jurisdiction issue.[938]

430. Mr. Caro's initial court appearance took place on 1 June 2017, almost five months after his detention, instead of the 48 hours provided by the law. Judge Mariela Acevedo Santafe of the Sixth Military Court of Control ordered Mr. Caro's continued detention on charges of treason[939] and theft of goods belonging to the FANB.[940] The judge did not accept a rebellion charge made by Prosecutor Mamuh Ibrischs Nidal.[941] Without explanation, the judge transfered Mr. Caro to the Centro de Formación del Hombre Nuevo, in Tocuyito, Libertador Municipality, Carabobo state, a prison for common criminals.[942]

431. In early October 2017, eight months after his arrest, the preliminary hearing was suspended for the sixth time for "administrative reasons". Mr. Caro remained in detention in Tocuyito.[943]

432. On 2 March 2018, Mr. Caro was transferred to Fenix prison, a high security facility in Lara State, having been accused of an escape attempt from Tocuyito. Fenix is around 200 kilometres from Tocuyito. Neither Mr. Caro's relatives nor his lawyers were informed about the transfer.[944] A few days before the transfer, Mr. Caro's sister received a call from an unknown number about a flight ticket to Chile that the caller said she had under Mr. Caro's name.[945]

433. Mr. Caro was held in the so-called "corridor of oblivion" within Fenix prison, where he was given a single pot of water to drink, wash and clean his clothes. He spent his entire period of detention, from 2 March until 2 June 2018, in isolation and incommunicado. According to his lawyer, Mr. Caro suffered from amoebic dysentery due to contaminated food and water.[946]

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936 Exception for incompetence, 17 January 2017, on file with the Mission.

937 Plenary Chamber of the Supreme Court, Judgment 34/2017 of 11 May 2017. Judge Danilo Mojica dissented, and used Twitter to explain that he had dissented because Mr. Caro indeed enjoyed parliamentary immunity. https://twitter.com/danilomojica/status/847658307128918016 See also, Efecto Cocuyo, TSJ busca juzgar en tribunal militar a Gilber Caro, afirman desde Voluntad Popular, 31 March 2017, available at: https://efectococuyo.com/politica/tsj-busca-juzgar-en-tribunal-militar-a-gilber-caro-afirman-desde-voluntad-popular/

938 Plenary Chamber of the Supreme Court, Judgment 52/2017 of 4 July 2017. There were two dissenting opinions by two judges.

939 The crime of treason is contemplated in article 464 of the Organic Code of Military Justice and also in article 128 of Criminal Code.

940 Organic Code of Military Justice, art. 570(1).

941 Venezuela al Día, Tribunal Militar priva de libertad al diputado Gilber Caro, 1 June 2017, available at: https://venezuelaaldia.com/2017/06/01/tribunal-militar-priva-de-libertad-al-diputado-gilber-caro/; El Carabobeño, Juez militar ratificó privativa de libertad a Gilber Caro, 1 June 2017, available at: https://www.el-carabobeno.com/juez-militar-privo-libertad-gilber-caro/

942 Ibid. See also, 2001 Online, Ratifican privativa de libertad a Gilber Caro y lo trasladan a Tocuyito, 1 June 2017, available at: http://www.2001online.com/en-la-agenda/160990/ratifican-privativa-de-libertad-a-gilber-caro-y-lo-trasladan-a-tocuyito.html

943 See the tag for information on Gilber Caro at Accesso a la Justicia, https://www.accesoalajusticia.org/tag/caro-gilber/

944 Transparencia Venezuela, Denuncian traslado irregular del diputado Gilber Caro, no date, available at: https://transparencia.org.ve/denuncian-traslado-irregular-del-diputado-gilber-caro-2/

945 Interview with Mr. Caro's sister on 21 May 2020.

946 Interview with Mr. Caro's lawyer on 19 May 2020. See also Control Ciudadano, Defensa de Gilber Caro exige traslado a Ramo Verde ordenado por tribunal militar, 15 May 2018, available at: https://www.controlciudadano.org/noticias/defensa-de-gilber-caro-exige-traslado-a-ramo-verde-ordenado-por-tribunal-militar

434. On 2 June 2018, the Sixth Military Court of Control granted provisional, non-custodial measures instead of detention, which prohibited him from leaving the country and required him to present himself periodically before the court.[947] On the same day, Gilber Caro was taken to the "Casa Amarilla", headquarters of the Ministry of Foreign Affairs, where he was released together with other political prisoners.[948]

435. On 5 June 2018, Mr. Caro resumed his duties as a National Assembly member, having had his credentials renewed. He had spent 17 months in detention.[949]

Arrest and Detention in April 2019

436. At around 2 a.m. on 26 April 2019, SEBIN officers[950] arrested Mr. Caro at Los Pilones restaurant in "Las Mercedes" areas of Caracas. The arresting officers did not take his parliamentary status and immunity into account.[951]

437. Three days earlier, on 23 April 2019, the Sixth Military Court of Control had revoked the precautionary measures granted on 2 June 2018 and ordered Mr. Caro's arrest and detention,[952] as he had allegedly failed to present himself before the tribunal, as required.

438. Mr. Caro's lawyer went to SEBIN El Helicoide on 26, 27 and 29 April 2019 to request information about him, to no avail. The lawyer presented a *habeas corpus* request to the Sixth Military Court of Control on 2 May 2019.[953] On 26 May 2019, one month after his arrest, authorities had still not disclosed Mr. Caro's whereabouts.[954] According to Mr. Caro's lawyer, it was not until 27 May 2019 that authorities confirmed Mr. Caro's presence in SEBIN El Helicoide.[955] On 17 June 2019, Mr. Caro was released, reportedly through the mediation of the Boston Group.[956]

Arrest and Detention in December 2019

439. On 20 December 2019, at approximately 5.15 p.m., Gilber Caro was arrested and detained together with his assistant, Victor Ugas, near plaza Madariaga, in El Paraíso, Caracas, during a joint operation conducted by FAES, PNB, SEBIN and GNB officers.[957]

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947 Criminal Procedure Code, art. 242. Interview with Mr. Caro's lawyer on 19 May 2020.

948 El Impulso, Gilber Caro fue trasladado a la Casa Amarilla para su posible liberación #02Jun, 2 June 2018, available at: https://www.elimpulso.com/2018/06/02/gilber-caro-fue-trasladado-a-la-casa-amarilla-para-su-posible-liberacion-02jun/. See also Globovisión Videos, Los diputados Gilber Caro y Renzo Prieto son liberados del Helicoide, 2 June 2018, available at: https://www.youtube.com/watch?v=b0whtnz5KUM.

949 Los Tubazos, Asamblea Nacional juramentó a los diputados Gilber Caro y Renzo Prieto, 5 June 2018, available at: https://lostubazos.com/asamblea-nacional-juramento-a-los-diputados-gilber-caro-y-renzo-prieto/

950 According to the information received, these officers reportedly deserted shortly after the arrest.

951 Mission Interview with Mr. Caro's lawyer on 19 May 2020.

952 Ibid. Criminal Procedure Code, art. 248.

953 Interview with Mr. Caro's lawyer on 19 May 2020. See also, Inter-American Commission on Human Rights, Resolution 26/2019, 15 May 2019, available at: http://www.oas.org/es/cidh/decisiones/pdf/2019/26-19MC426-19-VE.pdf

954 YouTube Video, CNN en Español, Esto dijo Tarek William Saab sobre el paradero de Gilber Caro, 22 May 2019, available at: https://www.youtube.com/watch?v=Og61NMEPtM0

955 Interview with Mr. Caro's lawyer on 19 May 2020. See YouTube Video, VPItv, La abogada Theresly Malave ofreció detalles sobre la detención de Gilber Caro, 31 May 2019, available at: https://www.youtube.com/watch?v=lx2oySq9zaw

956 The Boston Group is a U.S.-Venezuela inter-parliamentary forum. See América Digital, Liberado el diputado Gilber Caro, 18 June 2019, available at: https://www.americadigital.com/informate/liberado-el-diputado-gilber-caro-22023; The National, Venezuela frees opposition politician before UN rights chief visit, 18 June 2019, available at: https://www.thenational.ae/world/the-americas/venezuela-frees-opposition-politician-before-un-rights-chief-visit-1.875734; See also, VOA Noticias, Venezuela: Liberan al diputado opositor Gilber Caro, 17 June 2019, available at: https://www.voanoticias.com/venezuela/venezuela-liberan-al-diputado-opositor-gilbert-caro

957 Mr. Ugas was also detained in 2014. See below, Case: Detentions of private citizens for statements on social media perceived as critical of the Government.

Both Mr. Caro and Mr. Ugas reported having been followed by SEBIN officers days prior to the arrest.[958]

440. The case was assigned to Judge Hilda Rosa Villanueva Beralda of the Second Court of Control on terrorism-related crimes. The prosecutor assigned to the case was Farik Karin Mora Salcedo. A public defender was assigned to Mr. Caro during an initial court appearance hearing on 22 December 2019, even though his private lawyer was present and wished to represent him.[959] During this hearing, Judge Villanueva ordered Mr. Caro's continued detention while awaiting trial on the charges of conspiracy against republican political form under article 132 of the Criminal Code.[960]

441. Between 20 December 2019 and 10 January 2020, Mr. Caro's lawyer visited SEBIN headquarters on a number of occasions to discover his whereabouts, but officers denied having Mr. Caro in custody.[961] On 8 January 2020, the lawyer visited FAES premises in Quebradita, la Yaguara and Caricuao, but was told Mr. Caro was not there.[962] On 8 January 2020, nearly 20 days after the arrest, Mr. Caro's lawyer told the media that both Mr. Caro and Victor Ugas' whereabouts remained unknown.[963]

442. On 10 January 2020, Attorney General Tarek William Saab told the media that Mr. Caro was in PNB detention, but did not specify where.[964] On the same day, Mr. Caro's lawyer submitted a *habeas corpus* request to Judge Villanueva.[965] Also that day, Mr. Caro's sister received a call from him informing her she could visit him at FAES headquarters in Caricuao. Mr. Caro's lawyer was able to visit him on 21 January 2020.[966]

443. On 27 July 2020, Mr. Caro's lawyer submitted a complaint to the Public Prosecutor's Office of Fundamental Rights in relation to Mr. Caro's deteriorating health.[967] Given his delicate condition, the spread of Covid-19 in detention facilities was further casue for concern. The complaint contained details of an alleged sexual assault committed by FAES officers against Mr. Caro's sister during a visit on 21 July 2020, when they touched her breast after forcing to remove her clothes.[968]

444. On 1 August 2020, Mr. Caro's lawyer released a video announcing that both she and a representative of the Public Prosecutor's Office had visited Mr. Caro. The lawyer reiterated

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[958] Mission interview with Victor Ugas on 29 July 2020.

[959] Interview with Mr. Caro's lawyer on 19 May 2020. See also, Diario las Américas, Audiencia de presentación del diputado Caro estuvo plagada de irregularidades, 22 December 2019, available at: https://www.diariolasamericas.com/america-latina/audiencia-presentacion-del-diputado-caro-estuvo-plagada-irregularidades-n4189792

[960] Criminal Procedure Code, art. 132.

[961] Interview with Mr. Caro's lawyer on 25 May 2020.

[962] Ibid. See also Efecto Cocuyo, Defensa del diputado Caro desconoce su paradero a 19 días de su detención, 8 January 2020, available at: https://efectococuyo.com/politica/defensa-del-diputado-caro-desconoce-su-paradero-a-19-dias-de-su-detencion/

[963] El Nacional, Defensa de Gilber Caro desconoce su paradero, 8 January 2020, available at: https://www.elnacional.com/venezuela/denuncian-que-se-desconoce-paradero-del-diputado-gilber-caro/

[964] Telam, Fiscal dice que diputado opositor Caro está detenido y no desaparecido, 11 January 2020, available at: https://www.telam.com.ar/notas/202001/423108-fiscal-diputado-venezuela-caro-desaparecido.html

[965] Interview with Mr. Caro's lawyer, on 25 May 2020.

[966] Interviews with Caro's sister and lawyer, 21 and 19 May 2020 respectively; El Impulso, Theresly Malave: Gilber Caro se encuentra bien de salud y firme en sus convicciones, 21 January 2020, aviailable at: https://www.elimpulso.com/2020/01/21/theresly-malave-gilber-caro-se-encuentra-bien-de-salud-y-firme-en-sus-convicciones/. In the meantime, Victor Ugas was released on 17 January 2020. Efecto Cucuyo, Liberan al periodista Víctor Ugas tras un mes detenido, 17 January 2020, available at: https://efectococuyo.com/politica/excarcelan-al-periodista-victor-ugas-tras-un-mes-detenido/

[967] https://www.facebook.com/LaVozdeAmerica/videos/319725335735667/?vh=e&extid=Qd5TgwSN2ZpoG1AS&d=n

[968] Information received from Mr. Caro's lawyer.

her request to Judge Villanueva to be accepted as Mr. Caro's lawyer in accordance with his wishes.[969]

445. On 31 August 2020, President Maduro pardoned Mr. Caro, along with 109 others, and he was released from detention.

Findings

446. Based on the facts above, the Mission has reasonable grounds to believe that Gilber Caro was victim of arbitrary detention and short term enforced disappearance on three occasions between 2017 and 2020. Officers from the SEBIN headquarters in Naguanagua, Carabobo, were involved in the first arrest and detention in 2017; SEBIN officers were also involved in the second arrest and detention in April 2019 in the Las Mercedes area of Caracas. The third detention was a joint operation conducted by SEBIN, FAES, GNB and PNB officers operating in coordination with one another.

447. Involved in the first short term enforced disappearance of Mr. Caro was the FANB's armoured brigade No. 21. Officers at SEBIN El Helicoide were involved in the second short term enforced disappearance and officers at FAES headquarters in Cuaricuao were involved in third short term enforced disappearance in December 2019.

448. The Mission considers that the repeated deprivation of liberty and periods of short term enforced disappearances suffered by Mr. Caro, coupled with the precarious conditions of detention – notably in the so-called "corridor of oblivion" within Fenix prison – and the long period of isolation and incommunicado detention amount to torture and cruel, inhuman or degrading treatment or punishment.

CASE 4: Steyci Escalona

449. Steyci Escalona is a Venezuelan who has lived in Switzerland since 2010. Ms. Escalona has been associated with the Voluntad Popular party since 2014, acting as the party's representative in Switzerland. She joined the Voluntad Popular party following her friendship with Gilber Caro. Ms. Escalona travelled regularly to Venezuela from Switzerland. During a visit in December 2016, she met Gilber Caro, who had been a National Assembly deputy since 2015.

The Arrest

450. In January 2017, Ms. Escalona accompanied Gilber Caro and others, including her brother, on a trip to Cúcuta in Colombia. Ms. Escalona told the Mission that she had wanted to see how the humanitarian corridor was operating at the border. The group left Caracas on 5 January 2017 in a four-car convoy.[970]

451. According to Ms. Escalona, a few days into the trip, Mr. Caro's colleagues informed him that SEBIN was looking for him.[971] On one occasion, during a stop between Mérida and Caracas, Ms. Escalona noticed a police patrol car filming the group. The group took a wrong turn while returning to Caracas via Valencia on 10 January 2017, so Ms. Escalona and Mr. Caro spent the night in Puerto Cabello.

452. The following day, 11 January 2017, Ms. Escalona and Mr. Caro left their hotel at about 9 a.m. At around 11 a.m., they arrived at La Entrada toll road, a few kilometres before Naguanagua municipality, Carabobo state. Mr. Caro took the truck lane, as the other lanes were blocked by a police checkpoint.[972]

453. While approaching the checkpoint, Ms. Escalona telephoned a lawyer with the Voluntad Popular party. At the checkpoint, about 10 officers (later identified as SEBIN officers from Naguanagua) approached the car. Some were wearing balaclavas. An officer in

[969] Ibid. See also https://twitter.com/theresly/status/1289321621329608704?s=09

[970] Mission interview with Ms. Escalona on 17 June 2020.

[971] Ibid.

[972] According to the police report mentioned in the accusation, Mr. Caro's car was stopped and checked because he was driving in the heavy vehicle lane. Document on file with the Mission.

a black uniform informed Mr. Caro that had to search the car, saying that they had information about a suspicious car with similar characteristics.

454. The lawyer recommended that Mr. Caro stay in the car as he had parliamentarian immunity, but under pressure from the SEBIN officers, Mr. Caro alighted. The officers instructed Ms. Escalona to roll down the car windows, before letting her leave the vehicle.[973]

455. Ms. Escalona was about five metres away from the car when she noticed a man dressed in white tinkering near the passenger's door. She believes that this is when the SEBIN officers planted explosives in the car. Shortly afterwards, the officers announced that they had found a box of explosives on the passenger seat. Ms. Escalona told Mr. Caro not to touch the box, so as not to leave fingerprints on it. The formal accusation later said that an automatic rifle was also found, but Ms. Escalona does not recall the officers saying anything about this at the time.[974]

456. The SEBIN officers then arrested Ms. Escalona and Mr. Caro and put them into a car. During the arrest, an officer told Ms. Escalona there were three cars from Caracas supervising the operation. They drove to the SEBIN base in Naguanagua. Upon arrival, they overheard two SEBIN officers discussed the case and expressing disagreement with "political arrests".[975]

457. At the SEBIN premises, officers told both Ms. Escalona and Mr. Caro to sign a document saying that her rights had been respected. Ms. Escalona refused to sign without a lawyer present. When Ms. Escalona required the bathroom, a female SEBIN officer forced her to undress completely, insisting that was protocol. Ms. Escalona and Mr. Caro were separated for interrogation.[976]

Detention at SEBIN Naguanagua

458. Ms. Escalona was detained in the SEBIN base in Naguanagua for over 10 months until her conditional release on 26 November 2017. Her cell was poorly equipped with bloodstains on the walls. Initially she shared the cell with another female detainee but there was only one mattress so Ms. Escalona slept with a towel on the floor for almost three weeks, before being given a cushion.

459. Ms. Escalona told the Mission that SEBIN officers abused her verbally and made sexist insults, notably the Chief Commissioner of the SEBIN central region, who was often present. On two occasions, he called her a "prostitute", once in front of a group of laughing officers. SEBIN officers threatened to send her to El Helicoide should she complain about her treatment. On 6 August 2017, a former soldier led an attack on a fort in Naguanagua.[977] After this, Ms. Escalona was not permitted to leave the cell or receive visits for two months. She developed a skin condition but was denied medical care.[978]

460. SEBIN officers interrogated Ms. Escalona on several occasions. The questions mainly concerned the weapons they claimed to have found in the car. The officers often sought to compel Ms. Escalona to testify against Mr. Caro. They told her that Mr. Caro had accused her of putting the weapons in the car.[979]

[973] In one picture taken by Ms. Escalona during the arrest, the fact that both windows of the car were completely open is visible. The picture is on file with the Mission.

[974] Mission interview with Ms. Escalona on 17 June 2020.

[975] According to Ms. Escalona, one of them resigned from his post after two months.

[976] Mission interview with Ms. Escalona on 17 June 2020.

[977] The attack on Fort Paramacay, code name Operation David, was a military assault carried out on the morning of Sunday, August 6, 2017, between 3.50 a.m. and 8 a.m. in Naguanagua, Carabobo State. The assault began when a group of 20 civilian dissidents commanded by Juan Caguaripano, a former captain (deserter since 2014) of the National Guard, stormed the Fort to steal weapons.

[978] Mission interview with Ms. Escalona on 17 June 2020.

[979] Ibid.

Legal Proceedings

461. Two days after her arrest, on 13 January 2017, Ms. Escalona was brought to the Sixth Military Court of Control, presided by Judge Mariela Acevedo Santafe, for an initial court appearance.[980]

462. Ms. Escalona was charged with rebellion[981] and theft of goods belonging to the FANB.[982] Judge Acevedo Santafe found that Ms. Escalona should remain in pre-trial detention. During the initial appearance, Ms. Escalona met with her private lawyers for the first time. The judge permitted them access to the casefile ten minutes before the initial appearance.[983]

463. On 16 January 2017, Ms. Escalona's lawyers filed a complaint requesting annulment of the proceedings, based on the military tribunal's lack of jurisdiction. Her lawyers argued that the crimes for which Ms. Escalona stood accused are covered under ordinary legislation,[984] and that, as a civilian, Ms. Escalona should be tried by an ordinary court.[985] The request was dismissed on 26 January 2017. Ms. Escalona's lawyers appealed the decision before the Military Court of Appeal on 2 February 2017 and did not receive a response.[986]

464. On 27 February 2017, prosecutors presented a formal accusation against Ms. Escalona for the same charges presented during the initial appearance.

465. On 16 March 2017, Ms. Escalona's lawyer presented exceptions to the accusation in accordance with article 311 (1) of the Criminal Procedure Code,[987] reiterating the request to consider the proceedings invalid due to lack of jurisdiction of the military tribunal. They also argued that the evidence presented was insufficient to demonstrate the elements of the crimes. The lawyers argued that the chain of custody for the automatic rifle allegedly found in the car had been broken in violation of article 187 of the Criminal Procedure Code, as the pictures of the rifle presented as evidence were taken at the SEBIN premises in Naguanagua, rather than at the moment it was supposedly found.[988] The defence lawyers also argued that they had not been able to prepare an adequate defence.

466. The preliminary hearing was deferred several times. With each deferral, Judge Acevedo Santafe ordered the continued pre-trial detention of Ms. Escalona. Ms. Escalona told the Mission that, on a couple of occasions, Judge Acevedo Santafe suspended the hearing after making a phone call to someone she referred to as "my boss". On two occasions, the judge announced that she was calling Tareck el Aissami, then-Vice-President.[989] Ms. Escalona also reported having seen Judge Acevedo Santafe at the SEBIN in Naganagua on at least two occasions.[990]

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980 Judge Acevedo Santafe is the same judge who adjudicated the case of Gilber Caro. In October 2018, Judge Acevedo fled to Colombia apologizing to Mr. Caro for his unfair deprivation of liberty. See Control Ciudadano, Jueza militar pidió perdón a Gilber Caro por procesarlo pese a ser inocente, 3 October 2018, available at: https://www.controlciudadano.org/noticias/jueza-militar-pidio-perdon-a-gilber-caro-por-procesarlo-pese-a-ser-inocente; EVTV Miami, Jueza militar pidió perdón a Gilber Caro por procesarlo pese a ser inocente, 3 October 2018, available at: https://evtvmiami.com/gilbert-caro-una-cosa-es-venganza-y-otra-hacer-justicia/

981 Organic Code of Military Justice, art. 476.1.

982 Organic Code of Military Justice, art. 570.1.

983 Information received from Ms. Escalona's lawyer.

984 Criminal Code, art. 143 and Law for the Disarmament and Control of Weapons and Ammunitions.

985 Exception for incompetence, 16 January 2017, on file with the Mission.

986 Information received from Ms. Escalona's lawyer.

987 Article 311, Powers and burdens of the parties: "Up to five days before the expiration of the period set for the preliminary hearing, the Prosecutor, the victim, provided that they have sued or have presented their own private accusation, and the accused, may carry out the following acts in writing: 1. Oppose the exceptions provided for in this Code, when they have not been raised previously or are based on new facts".

988 Exceptions against the prosecutor's accusation, 16 March 2017, on file with the Mission.

989 Mission interview with Ms. Escalona, 17 June 2020. SEBIN is a decentralised body of the Vice-Presidency of the Republic. SEBIN organic law, Gaceta Oficial No. 41.021, 1 November 2016, art. 3.

990 Mission interview with Ms. Escalona on 17 June 2020.

467. On 26 November 2017, Ms. Escalona was summoned to court and informed she had been granted house arrest. Ms. Escalona told the Mission that the SEBIN officers who accompanied her to court expressed their surprise at this, as it was their understanding that she was supposed to be conditionally released. The judge explained that she did not have orders from Caracas to free her. Later that day, the judge announced that she had received a phone call from Caracas and Ms. Escalona could be freed.[991]

468. Ms. Escalona was released on condition that she remained in Venezuela and presented herself to the court every 15 days. On those occasions, Judge Acevedo Santafe told her that if she left the country, Mr. Caro would never be freed. After Mr. Caro's first release, the judge began telling Ms. Escalona that Mr. Caro would be rearrested should she abscond.[992] Mr. Caro was detained again and Ms. Escalona left Venezuela in March 2019.

Findings

469. Based on the facts above, the Mission has reasonable grounds to believe that Steyci Escalona was victim of arbitrary detention. Officers from the SEBIN headquarters in Naguanagua, Carabobo, were involved. Ms. Escalona was held at the SEBIN headquarters in Naguanagua, under the authority of the Chief Commissioner of SEBIN Central Region.

CASE 5: Detention of Three Individuals – "Operation Tun Tun"[993]

470. On 17 May 2017, during his programme "Con el Mazo Dando," Diosdado Cabello announced "Operation Tun Tun" against individuals he accused of supporting terrorism.[994] "Tun tun", according to Mr. Cabello, was the sound of officers knocking on a suspect's door before arrest. Mr. Cabello also presented items apparently seized at customs including gas masks, first aid kits, golf balls, tubing and pellets.[995] These items were not illegal in Venezuela, but Mr. Cabello alleged that terrorists used them in violence.

471. Mr. Cabello announced those importing the items could also be prosecuted under the anti-terrorism law, stating, "they'll get more stick than a thieving cat" ("Van a llevar más palo que un gato ladrón"), a phrase subsequently quoted widely in media and social networks.[996] Mr. Cabello promoted #OperacionTunTunxLaPaz as his hashtag of the week during the following programme, which aired on 24 May 2017.[997]

472. Operation Tun Tun became an informal moniker for SEBIN arrest operations targeting people supporting protests or the opposition more generally.[998] On 30 March 2020, President Maduro stated in a press conference, "Justice will come for you, Operation Tun Tun, to all the terrorists, the violent ones, the conspirators, and all the plotters. To all of them.

991 Ibid.
992 Ibid.
993 Names, dates and identifying details of this case have been anonymised.
994 YouTube Video, Noticias 24, Con el Mazo Dando 17/05/2017, live streamed 17 May 2017, minute 22:00, available at: https://www.youtube.com/watch?v=p9uBb8fPyQI
995 Ibid.
996 See, for example, El Nacional, Diosdado Cabello: Comenzó la operación «Tun tun» contra los terroristas, 17 May 2017, available at: https://www.elnacional.com/gobierno/diosdado-cabello-comenzo-operacion-tun-tun-contra-los-terroristas_182847/; Efecto Cocuyo, Cabello amenaza con allanamientos a través de la "Operación tun tun", 17 May 2017, available at: https://efectococuyo.com/politica/cabello-amenaza-con-allanamientos-a-traves-de-la-operacion-tun-tun/; BBC, Cómo es el programa de Diosdado Cabello "Con el mazo dando", el show más polémico de la televisión venezolana, 31 May 2019, available at: https://www.bbc.com/mundo/noticias-america-latina-48473819; https://twitter.com/ReporteYa/status/865002986149265408.
997 YouTube Video, Noticias24, Con el Mazo Dando 24/05/2017, 24 May 2017, available at: https://www.youtube.com/watch?v=1fZ6Brhy9Dk
998 "Operation Tun Tun" is used by both officers and in social media alike. See for example, https://www.facebook.com/DenseMemesHighlyCarteluo/photos/ya-te-cayo-la-operacion-tun-tun-mmgchavista-sapo/468217607005293/; in May 2020, Diosdado Cabello threatened that Operation Tun Tun would come for academics who created fear around the Covid-19 pandemic: YouTube Video, NTN24, "Con El Mazo Dando - Programa 301 | 13/05/2020, 13 May 2020, minute 37:15, available at: https://www.youtube.com/watch?v=OQXj-UDpBU4

[…] Even to you, you who are watching me, it will come for you. You don't think it will get you? Justice will come for you, when they knock on your door. Tun Tun. Don't go crying on social media."[999]

473. On 24 June 2017, during a commemorative military event in Carabobo, Nicolás Maduro stated that military courts would try and severely punish those detained in Tun Tun operations.[1000]

The Arrest

474. SEBIN officers launched an operation to detain a well-known opposition figure on a date that the Mission cannot reveal.[1001] The figure in question had recently attended an anti-Government demonstration. The Mission verified information shared on social media, showing around 40 SEBIN officers on motorcycles and in trucks conducting door-to-door searches in a residential area. They did not present search or arrest warrants and were accompanied by high-ranking officers.[1002] The operation lasted around 12 hours.[1003]

475. Around midnight, SEBIN officers broke into a residence in which three people, C2EE01, C2EE22 and C2EE23 (two women and one man) were arranging gas masks, clothing and medical supplies for protesters. The officers did not present arrest or search warrants. The officers seized the supplies, beat the two of the three people and broke furniture, saying they were looking for weapons.[1004] They arrested the three individuals, then claimed to have found a weapon in the building, which the arrestees allege was planted.[1005]

476. A high-ranking Government official later presented a video of the search and seizures on television. He also mentioned the detainees by name.[1006]

477. The Mission reviewed the arrest record. The date of the operation and the number of officers and vehicles deployed stands in contrast to witness accounts and social media posts that captured the operation.[1007]

Interrogation

478. C2EE01, C2EE22 and C2EE23 were taken to El Helicoide around daybreak, where they were interrogated separately for the rest of the day and into the night. They were not permitted phoncalls or access to lawyers. They were videoed responding to questions about weapons, political affiliations, receipt of foreign funds and their relationship to the opposition figure sought in the operation.[1008]

479. Officers took C2EE01 to an office and blindfolded her. A female official grabbed her by the face and pulled her hair, insisting she talk and calling her a spy. Someone administered a series of electric shocks to her arms and ankles.[1009] Male officers told C2EE01 that a group of them would rape her if she did not provide information. They threatened to rape her anally

[999] YouTube Video, Multimedio VTV, Justicia y Operación Tun Tun le llegará a los intentos terroristas contra Venezuela, 30 March 2020, video on file with the Mission.

[1000] Statement made at ceremony commemorating the 196th anniversary of the Battle of Carabobo, in which he also announced new military promotions. See, Bien Dateao, Todos los detenidos en la operación tun-tun están bajo justicia militar, 25 June 2017, available at: http://biendateao.com/todos-los-detenidos-en-la-operacion-tun-tun-estan-bajo-justicia-militar/

[1001] Protection concerns in this case prevent the Mission from revealing the names of the arrestees and the date of arrest.

[1002] Mission Interview C2EE01 in May 2020; social media posts on file with the Mission.

[1003] Ibid.

[1004] Mission Interview C2EE03 in May 2020,

[1005] Mission Interview C2EE03 in May 2020; Mission Interview C2EE02 in May 2020.

[1006] Video on file with the Mission.

[1007] Document C2EE01 on file with the Mission; social media posts including photos on file with the Mission.

[1008] Mission Interview C2EE03 in May 2020.

[1009] Ibid.

and with objects. The officers called her a traitor, a bitch and her mother's cunt (*coño de su madre*).[1010]

Judicial Process

480. Despite being civilians, C2EE01, C2EE22 and C2EE23 were presented before a military tribunal within 48 hours of arrest. They were unable to meet with their lawyer prior to the hearing but a private defence lawyer at the courthouse stepped in to represent them. The lawyer had a few minutes to review the case file prior to the hearing, before the judge ordered its removal.[1011]

481. The prosecutor alleged the arrestees had been apprehended *in flagrancia* while perpetrating military crimes.[1012] After the court appearance, defence counsel filed a motion contesting the military tribunal's jurisdiction but the motion was denied.[1013] Prosecutors later dropped all charges except a weapons charge related to the weapon allegedly seized during the search.[1014]

482. The preliminary hearing was deferred more than 20 times. SEBIN officers blamed bureaucratic inefficiencies and shortage of staff for not transferring the defendants to court.[1015] The officers informed detainees to prepare for court in advance of the scheduled hearings and the detainees would wait for hours before realizing that the transfers would not occur.[1016] A SEBIN commissioner told a detainee, "These are orders from above. I just receive the orders" or "The man above hasn't authorized it".[1017]

483. Friends filed a request with the Human Rights Ombudsperson's Office to verify the detainee's physical and psychological condition and ensure due process rights.[1018] Prosecutors visited them in detention but did not perform medical examinations. C2EE01 did not report the treatment she had received for fear of repercussions.[1019]

484. The individuals were not permitted visitors in the first few months of detention. One of them was not allowed to meet a lawyer over the course of a year spent in detention.[1020] Officers withheld medication, despite prescriptions from SEBIN doctors. [1021]

485. One of the women was also accused of being sexually promiscuous and not behaving as a woman should because she was seen talking to inmates of the opposite sex during visitation hours. Officers removed her visitation rights as punishment.[1022]

486. The individuals were released with non-custodial precautionary measures after more than one year of pre-trial detention. At the time of writing, they were still awaiting their preliminary hearing.

Findings

487. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment, were committed against C2EE01, C2EE22 and C2EE23. The Mission also has reasonable grounds

[1010] Mission Interview C2EE03 in May 2020.
[1011] Mission Interview C2EE02 in May 2020; Mission Interview C2EE03 in May 2020.
[1012] Document C2EE02 on file with the Mission. The Mission has omitted the alleged crimes for the sake of confidentiality.
[1013] Document C2EE04 on file with the Mission.
[1014] Document C2EE02 on file with the Mission.
[1015] Mission Interview C2EE01 in May 2020; Mission Interview C2EE02 in May 2020.
[1016] Mission Interview C2EE01 and C2EE03 in May 2020.
[1017] Mission Interview C2EE03 in May 2020.
[1018] Document C2EE03 on file with the Mission.
[1019] Mission Interview C2EE03 in May 2020.
[1020] Mission Interview C2EE01 and C2EE02 in May 2020.
[1021] Mission Interview C2EE03 in May 2020.
[1022] Ibid.

to believe that sexual violence was committed in the form of threats to rape C2EE01 as part of the torture.

488. SEBIN officers from the Strategic Investigations Directorate, under the leadership of Commissioner Carlos Calderón Chirinos, were involved in the arbitrary arrests and detentions, and in the torture and cruel, inhuman or degrading treatment.

489. The Mission also has reasonable grounds to believe that the conditions of detention in El Helicoide facilities, where C2EE01, C2EE22 and C2EE23 were held, amount to a violation of the prohibition of torture and cruel, inhuman or degrading treatment.

CASE 6: Víctor Navarro, C2EE09[1023] and eight others

490. Víctor Navarro grew up in a marginalized Caracas neighbourhood in front of El Helicoide. As a teenager, he received support from an educational NGO called the Community Ambassadors Foundation (FEC) that sponsored his travel to the United States to participate in model United Nations competitions.[1024] When arrested in January 2018, Mr. Navarro a final year university student in Caracas.[1025]

491. In 2017, Mr. Navarro won a U.S. State Department scholarship for a summer study programme in the United States. As part of the programme, Mr. Navarro designed a social project to launch an organization called Brave Heart Foundation (Fundación Corazón Valiente) with a female friend of his to assist homeless youth in Venezuela. Mr. Navarro requested a grant from the United States Government, which he did not receive. Mr. Navarro told the Mission that he did receive some personal donations from people at the US embassy.[1026]

492. C2EE09 also grew up in Caracas in similar socio-economic circumstances. She began participating in demonstrations in 2014 and was detained when security forces evicted protest camps on 8 May 2014, and again on 23 June 2017, when FAES officers broke into an apartment she shared with friends demanding to know where hidden weapons were. The FAES officers did not present arrest or search warrants.[1027]

493. According to C2EE09, FAES officers planted evidence in the apartment after their arrest and photographed her and her friends with weapons that did not belong to them, including some kind of a grenade.[1028] C2EE09 told the Mission that FAES officers had taken a kitchen knife from the apartment, which later appeared in photographs on the Interior Ministry webpage, as items seized from people committing acts of terrorism.[1029]

494. The detainees spent around five days in a FAES detention centre in Maripérez neighbourhood, Caracas, after which they were presented before a military tribunal, and then

[1023] Name has been changed by the Mission.

[1024] See Case of Geraldine Chacón and Gregory Hinds (Community Ambassadors Foundation), below. Mission Interview C2EE08, C2EE04 and C2EE05 in May 2020; NotiRSE, Embajadores Comunitarios Galardonados En Modelo De Las Naciones Unidas, 26 March 2013, available at: https://noti-rse.com/noti-rse/comunidades/embajadores-comunitarios-galardonados-en-modelo-de-las-naciones-unidas/.

[1025] Mission Interview with Victor Navarro on 29 May 2020.

[1026] Ibid.

[1027] Mission Interview with C2EE09 in June 2020.

[1028] News of the arrest was published on the website of the Ministry of Internal Relations, Justice and Peace. Though the news item has since been deleted, photographs of the detainees can still be found on the site's archives. See, for example, http://www.mpprijp.gob.ve/wp-content/uploads/2017/06/FAES-detuvo-a-siete-personas-por-actos-terroristas-en-Los-Palos-Grandes-5.jpg The Minister of Internal Relations, Justice and Peace, Néstor Reverol, also tweeted images of the group from his personal account, available here: https://twitter.com/NestorLReverol/status/878933289167343616/photo/1

[1029] Ministry of Internal Relations, Justice and Peace, http://www.mpprijp.gob.ve/wp-content/uploads/2017/06/FAES-detuvo-a-siete-personas-por-actos-terroristas-en-Los-Palos-Grandes-4-600x300.jpg

sent to Ramo Verde Military Prison. CCEE09 spent 45 days in Ramo Verde, before her release with non-custodial measures.[1030]

495. In late 2017, she joined Mr. Navarro to work with Brave Heart, organizing events and supporting Mr. Navarro's activities, while continuing to appear monthly at the military tribunal, awaiting her preliminary hearing.[1031]

"Resistencia Altamira" Detentions

496. On 22 and 23 January 2018, Plaza Tres Gracias in Caracas was the scene of protests during which some demonstrators clashed with police, throwing stones and Molotov cocktails.[1032] On 23 January 2018, FAES detained five young men, including one known as "El Tigre",[1033] who had been filmed shouting obscenities and threatening to rape a female officer with her weapon.[1034] SEBIN had previsouly detained El Tigre for his role in protests in June 2017.[1035]

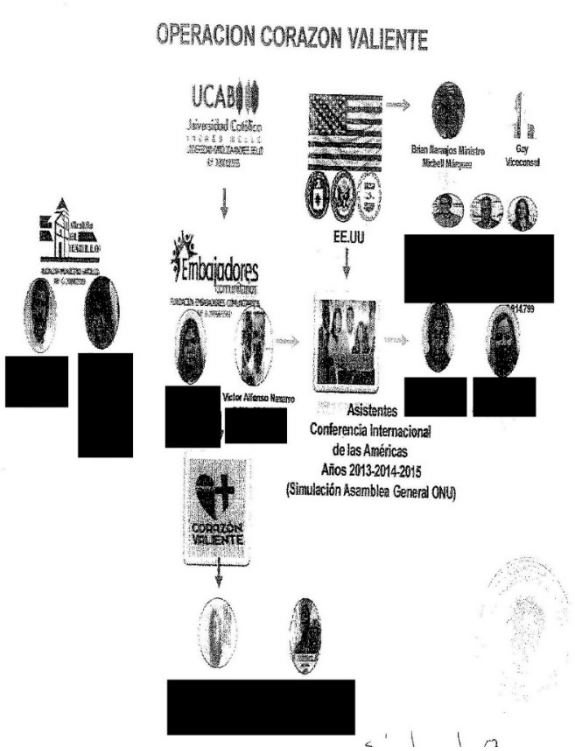
497. El Tigre had participated in Brave Heart projects to improve his employability.[1036] Reasons for arrest were disturbing the peace, resisting authority and hate speech, and transferred to SEBIN custody in El Helicoide.[1037] The arrest report states officers seized a pistol from El Tigre, as well as glass bottles filled with gasoline.[1038] El Tigre later told a witness that officers had planted the gun.[1039] Diosdado Cabello's website and TV programme publicized El Tigre's detention.[1040]

498. The Mission secured access to a SEBIN's Strategic Investigations report filed that day about a terrorist cell called Resistencia Altamira, consisting of homeless youths and financed by opposition leaders and the US embassy.[1041] SEBIN alleged that opposition leaders used Brave Heart to recruit youth to destabilize the Government. C2EE09, El Tigre and others named as recruits.[1042] The intelligence report claimed to have received information from an anonymous source that the political opposition planned to pay Resistencia Altamira to burn public transportation vehicles.

499. The report included an organigram titled "Operation Brave Heart" linking Catholic University Andres Bello, the US Embassy, participants in United Nations events, and the FEC, with Brave Heart and opposition leaders. It named Mr. Navarro, C2EE09 and El Tigre[1043] and included personal details, immigration data, and Facebook profiles of persons

1030 Mission Interview with CCEE08 in May 2020.
1031 Mission Interview with C2EE09 in June 2020.
1032 See, for example, video at: La Iguana TV, Bombas molotov y piedras: Encapuchados prendieron las guarimbas así en Plaza las Tres Gracias, 22 January 2018, available at: https://www.laiguana.tv/articulos/80354-tres-gracias-plaza-piedras-molotov-guarimbas/; El Cooperante, Manifestantes protestaron en alrededores de la plaza Las Tres Gracias: 'Por un nuevo país', 23 January 2018, available at: https://elcooperante.com/por-un-nuevo-pais-manifestantes-protestaron-en-los-alrededores-de-la-plaza-las-tres-gracias/?platform=hootsuite; El Dia, Unión Europea sanciona funcionarios de Maduro, 23 January 2018, available at: https://eldia.com.do/union-europea-sanciona-funcionarios-de-maduro/; https://twitter.com/ElPitazoTV/status/955792262394449920;
1033 Alias has been changed by the Mission.
1034 https://twitter.com/madeleintlSUR/status/956150586881306625.
1035 Con el Mazo Dando, Al descubierto! Ex guarimbero se entrega y canta clarito (+Operación Tun Tun), 7 June 2017, available at: https://www.conelmazodando.com.ve/al-descubierto-ex-guarimbero-se-entrega-y-canta-clarito-operacion-tun-tun
1036 Mission Interview C2EE08 in May 2020; https://twitter.com/111Yeicon/status/955951570243457025
1037 Document C2EE11 on file with the Mission.
1038 Document C2EE12 on file with the Mission.
1039 Mission Interview C2EE08 in May 2020.
1040 Con el Mazo Dando, "Capturado guarimbero que saco sus genitales a funcionarios de la PNB," 24 January 2018, available at: https://www.conelmazodando.com.ve/capturado-guarimbero-que-saco-sus-genitales-a-funcionarios-de-la-pnb
1041 Document C2EE14 on file with the Mission.
1042 Document C2EE13 on file with the Mission.
1043 "Operacion Corazon Valiente", Document C2EE13 on file with the Mission.

of interest.[1044] It recommended continued surveillance of Brave Heart members and opposition leader María Corina Machado, and that surveillance begin on members of the FEC. The Brave Heart intelligence report was ordered by SEBIN Commissioner Ronny González.[1045]

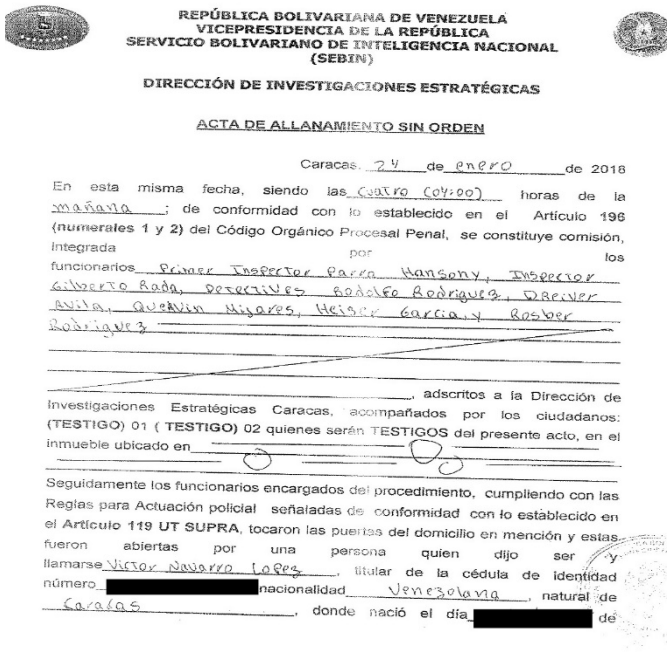


Detentions of Víctor Navarro, C2EE09 and three others connected to Brave Heart Foundation

500. At around 4.30 a.m. on 24 January 2018, around 30 armed men and women with covered faces wearing SEBIN uniforms raided Mr. Navarro's apartment. Three Brave Heart beneficiaries were sleeping there at the time. Mr. Navarro told the Mission that an officer kicked him, held a gun to his neck and failed to present a search or arrest warrant. The officers beat Mr. Navarro and the other men in his apartment and seized his laptop and cell phone, before taking the four men to El Helicoide.[1046]

SEBIN later filed a "record of search without warrant", stating they were unable to locate two citizens to witness the search, as required by law, but they proceeded in any case, without witnesses or a warrant.[1047]

1044 Ibid.
1045 Document C2EE14 on file with the Mission.
1046 Mission Interview with Victor Navarro on 29 May 2020.
1047 SEBIN recorded this fact both in the Criminal Investigation Record and the "Record of Search without Warrant", 24 January 2018, on file with the Mission.



REPÚBLICA BOLIVARIANA DE VENEZUELA
VICEPRESIDENCIA DE LA REPÚBLICA
SERVICIO BOLIVARIANO DE INTELIGENCIA NACIONAL
(SEBIN)

DIRECCIÓN DE INVESTIGACIONES ESTRATÉGICAS

ACTA DE ALLANAMIENTO SIN ORDEN

Caracas, 24 de enero de 2018

En esta misma fecha, siendo las Cuatro (04:00) horas de la mañana ; de conformidad con lo establecido en el Artículo 196 (numerales 1 y 2) del Código Orgánico Procesal Penal, se constituye comisión, integrada por los funcionarios Primer Inspector Parra Hansony, Inspector Gilberto Rada, detectives Rosales Rodrigues, Dreiver Avila, Quevin Nigares, Heiser Garcia, y Rosber Rodrigues, adscritos a la Dirección de Investigaciones Estratégicas Caracas, acompañados por los ciudadanos: (TESTIGO) 01 (TESTIGO) 02 quienes serán TESTIGOS del presente acto, en el inmueble ubicado en

Seguidamente los funcionarios encargados del procedimiento, cumpliendo con las Reglas para Actuación policial señaladas de conformidad con lo establecido en el Artículo 119 UT SUPRA, tocaron las puertas del domicilio en mención y estas fueron abiertas por una persona quien dijo ser y llamarse Victor Navarro Lopez, titular de la cédula de identidad número [redacted] nacionalidad Venezolana, natural de Caracas, donde nació el día [redacted] de

501. In the investigation report, SEBIN stated they found metal shields and bulletproof vests in Mr. Navarro's apartment, as well as materials bearing the Brave Heart logo and a few hundred US dollars.[1048] Mr. Navarro insisted the shields and vests were planted and that he did not have such materials in his apartment.[1049] SEBIN officers analysed Mr. Navarro's laptop and found his use of an international bank account as evidence of criminal conspiracy. The report did not present additional information to substantiate the claim.[1050]

502. When they arrived at El Helicoide, SEBIN officers separated Mr. Navarro from the group, claiming that he was the leader. They covered his head and interrogated him about his source of funding, as well as the identities and locations of other people linked to Brave Heart.[1051]

503. Mr. Navarro told the Mission that multiple SEBIN officers beat him during interrogation, mainly on his back but also slapping his face. The officers seemed to take care not to leave marks. The officers insulted Mr. Navarro, calling him a "damned faggot" (*maldito maricón* and *mariquita*) and threatened to rape him and kill him. They told him to confess or they would bring a black man called "Negro" to rape him, because he "had a large penis".[1052] They unlocked his telephone and found pictures of his girlfriend, then threatened to rape her as well.[1053] They showed him the organigram (above), asked about his trips abroad and his relationship with the US Embassy, before putting a gun in his mouth and mocking him for being afraid.[1054]

504. On 24 January 2018, at around 9 a.m., the same day of Mr. Navarro's detention, approximately ten armed SEBIN officers arrived at C2EE09's home.[1055] They searched her home without presenting a search or arrest warrant and asked her to accompany them to El Helicoide for an interview, refusing to tell her what it was about. SEBIN's record said they apprehended her and read her rights, though C2EE09 disputes this claim.[1056] Upon arrival,

1048 Document C2EE16 on file with the Mission.
1049 Mission Interview with Victor Navarro on 29 May 2020.
1050 Document C2EE15 on file with the Mission.
1051 Ibid.
1052 Ibid.
1053 Ibid.
1054 Ibid.
1055 Document C2EE17; Mission Interview C2EE09 in June 2020.
1056 Ibid.

they detained her in an office with Brave Heart detainees for two days. She was the only woman, detained with a group of men, some of whom she did not know.[1057]

Public Declarations

505. That evening Diosdado Cabello presented a segment about "Operacion Tun Tun" on his television show. He presented what he called a confession video featuring El Tigre, apparently filmed on 23 January 2018. In the video, El Tigre claimed he and member of "Resistencia Altamira" attacked a group of PNB officers. He also said he witnessed a conversation in which María Corina Machado offered a group member 200,000 bolivars for each car they set on fire.[1058] A witness told the Mission that El Tigre had been tortured and was forced to make these statements.[1059]

506. Mr. Cabello presented photographs of nine young men, including Mr. Navarro, taken in El Helicoide, under the heading "Terrorist Cell – Brave Heart" with the word "Captured" superimposed.[1060] Mr. Cabello stated that Operation Tun Tun would continue to dismantle the terrorist cell. The following week, SEBIN officers arrested Gregory Hinds and Geraldine Chacón of the Community Ambassadors Foundation (FEC) in connection with this operation.[1061]

507. Mr. Navarro's family learned of his detention by watching this television programme.[1062] His mother went to look for him at El Helicoide, but officers told her to check the morgue instead.[1063]

Initial Court Appearance

508. On 26 January 2018, Mr. Navarro, C2EE09, and the eight others were presented at the Thirty-First Court of First Instance of Caracas for initial appearance. They were all charged with public incitement[1064] and conspiracy.[1065] El Tigre was additionally charged with illicit possession of a firearm, and two others were charged with the detonation of incendiary objects.[1066] Neither Mr. Navarro nor C2EE09 made statements during the initial appearance.[1067]

509. C2EE09's private defence counsel argued that her arrest *in flagrante delicto* had been arbitrary, as information on her Facebook connections was insufficient to allege a conspiracy and no evidence had been presented about illegal activities at Brave Heart. Mr. Navarro's public defender argued that he too had been arbitrarily detained, with excessive use of force. Public defenders also challenged the detonation of incendiary objects charge, as the objects presented in information had not been detonated.[1068]

1057 Mission Interview C2EE09 in May 2020.
1058 Ibid., minute 03:16:58.
1059 Mission Interview with CCEE08 in May 2020.
1060 YouTube Video, Noticias24, Con el Mazo Dando 24/01/2018, 24 January 2018, minute 03:18:10, available at: https://www.youtube.com/watch?v=fXQPAuIhGpU&t=12165s
1061 See below, Case: Geraldine Chacón and Gregory Hinds (Community Ambassadors Foundation)
1062 Mission Interview with Victor Navarro on 29 May 2020. Mission Interview C2EE06, C2EE07, C2EE04 in May 2020.
1063 Mission Interview with Victor Navarro on 29 May 2020.
1064 Article 285 of the Venezuelan Criminal Code states: "He who publicly incites disobedience to the law, or incites hatred between its inhabitants, or acts as apologist for a criminal act, endangering the peace, shall be punished with three to six years in prison".
1065 Article 286 of the Venezuelan Criminal Code states: "When two or more persons associate in order to commit a crime, both will be punished, for the sole act of association, with two to five years in prison"; Act of Initial Appearance, 26 January 2018, on file with the Mission.
1066 Article 112 of the Law on the Control and Disarmament of Weapons and Munitions, and article 296 of the Criminal Code.
1067 Act of Initial Appearance, 26 January 2018, on file with the Mission.
1068 Ibid.

510. Judge Pérez Alvarado ruled that the search of Mr. Navarro's apartment was valid, as SEBIN officers had filed a post facto record of search without warrant.[1069] She decided that investigations should continue, but found the detention of Mr. Navarro, C2EE09 and others in violation of their personal liberties, yet ordered the continued pre-trial detention of C2EE09, El Tigre and four others, to safeguard the investigation.[1070] Mr. Navarro and the three others were granted conditional release with precautionary measures, upon confirmation of bail.[1071]

511. Mr. Navarro told the Mission that he and the other three detainees granted conditional release filed the required documents for bail, but bail was not confirmed. As a result, they remained in El Helicoide, despite a request by the judge to verify the status on 19 March 2018.[1072]

El Helicoide

512. After the initial appearance, C2EE09 spent a night in a crowded women's cell, before being taken to "El Bañito," where she was held alone in darkness. She could not tell night from day, but believes she remained there for four or five days. The cell had no running water. She had to use a plastic container as a toilet, and pass it to the guards when they opened the door to provide her food.[1073]

513. None of the Brave Heart detainees were allowed visits from family members or lawyers during their four months in El Helicoide. SEBIN officers and the other female detainees told C2EE09 that visits were only allowed after around six months. One commissioner told her, "You have to earn it". Another official told her that political prisoners did not receive such privileges. She was not transferred to court, despite scheduled hearings. Officers provided reasons including flat tyres and undelivered transfer orders. The other detainees, including Mr. Navarro, suffered similar disappointments.[1074]

514. Mr. Navarro and the other men were held in a cell called "Preventivo I". Sixteen detainees, both political and non-political, were held together in a small space, without mattresses or regular access to water. The cell was monitored by a camera 24 hours per day and sometimes an officer sat in the cell. Mr. Navarro told the Mission that there were four minors in the cell with him. He suffered fever, diarrhoea and vomiting, but did not receive medical attention.[1075]

515. Mr. Navarro said that at one point a group of guards came to the cell, appearing to be inebriated or drugged. They pointed their weapons at the inmates saying, "We're going to kill you, you damned faggots (*marisquitas*)". The minors were present at this time.[1076]

Legal Proceedings

516. On 12 March 2018, the Eighthy-Seventh Provisional Prosecutor, Sahir Yanira Cortez Bastidas, filed a formal accusation against 10 Brave Heart related accused on behalf of the Fifty-Seventh Prosecutor's Office, for charges pre-qualified by the presiding judge.[1077] Defence counsel filed objections, claiming insufficient evidence and the lack specific information related to the public incitement and conspiracy charges.[1078] Judge Pérez scheduled a preliminary hearing for 12 April 2018,[1079] and notified SEBIN that the accused

1069 Ibid.
1070 Ibid.
1071 Ibid.
1072 Letter No. 296-18 directed to the Coordinator of Bail Services from Judge Perez Alvarado, 19 March 2018, on file with the Mission.
1073 Mission Interview with C2EE09 in June 2020.
1074 Mission Interview with Victor Navarro on 29 May 2020; Mission Interview with C2EE09 in June 2020.
1075 Mission Interview with Victor Navarro on 29 May 2020.
1076 Ibid.
1077 Act No. AMC-F57-0411-2018, 12 March 2018, on file with the Mission.
1078 Filing, [no date], Criminal Case File (III), Folios 50-67, on file with the Mission.
1079 Judicial Order, 13 March 2018, Criminal Case File (II), Folio 172, on file with the Mission.

must be transferred to court on that date.[1080] The accused were not transferred and the hearing was deferred and rescheduled for 14 May 2018[1081] with SEBIN again notified that the accused must be brought to court on that date.[1082] SEBIN did not do so, and the hearing was again deferred,[1083] this time until 12 June 2018.[1084]

517. Throughout this time, Judge Pérez Alvarado requested SEBIN Director to provide information to the court regarding the incommunicado status of the detainees on four occasions.[1085] SEBIN refused to comply, first claiming a system outage and then that officers were not authorized to receive communications without an order from the Director. The Bailiff Service communicated these refusals to the Judge.[1086]

Release under Non-Custodial Measures

518. On 1 June 2018 President Maduro announced the release of "leaders and militants from the opposition who had committed violent political crimes" from 2014 to 2017 in a televised statement.[1087] Thirty-nine people were released on 1 June and 40 more were released on 2 June 2018.[1088] C2EE09, Mr. Navarro and the others were released on 2 June with precautionary measures.[1089] The charges against Mr. Navarro, C2EE09 and the others remained pending at the time of writing, with precautionary measures in place over two years later. The preliminary hearing had not been held as of writing.

519. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

520. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment were committed against Victor Navarro and C2EE09. There are also reasonable grounds to believe that other male detainees were also victims of arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment during their arrest and detention along with Victor Navarro and C2EE09. The Mission has reasonable grounds to believe that sexual violence was committed in the form of threats to rape Victor Navarro and his loved ones as part of the acts of torture.

521. SEBIN officers from the Strategic Investigations Directorate, under the leadership of Commissioner Carlos Caldern Chirinos, were involved in the arbitrary arrests and detentions of Victor Navarro, C2EE09 and four others. FAES officers were involved in the arrests of five other male detainees, who were then handed to SEBIN officers in El Helicoide for

1080 Notice of Transfer, 13 March 2018, Criminal Case File (II), on file with the Mission.
1081 Act of Deferral, 12 April 2018, Criminal Case File (II), Folio 249, on file with the Mission.
1082 Notice of Transfer, 12 April 2018, Criminal Case File (II), Folio 176, on file with the Mission.
1083 Act of Deferral, 14 May 2018, Criminal Case File (III), Folio 85, on file with the Mission.
1084 Notice of Transfer, 14 April 2018, Criminal Case File (III), Folio 87, on file with the Mission.
1085 On 4 April, 16 April, 25 April and 14 May 2018.
1086 Order No. 343-18, 4 April 2018, Criminal Case File (II), Folio 210; Document from Judge Perez Alvarado, 16 April 2018, Criminal Case File (II, Folio 262; Order No. 408-18, 16 April 2018, Criminal Case File (II), Folio 263; Document without number, from Bailiff Service to the 31st Circuit Control Court, 23 April 2018, Criminal Case File (III), Folio 7; Order No. 448-18, 25 April 2018, Criminal Case File (III), Folio 18; Document without number, from Bailiff Service to the 31st Circuit Control Court, 30 April 2018, Criminal Case File (III), Folio 25; Order No. 544-18, 14 May 2018, Criminal Case File (III), Folio 84, on file with the Mission.
1087 YouTube Video, Luigioi Bracci Roa, Situación en Venezuela, Reunion complete de Nicolas Maduro con el Frente amplio de la Patria en Miraflores 1 Junio 2018, 1 June 2018, from minute 00:35:50, available at: https://www.youtube.com/watch?v=thoxs2PugHk
1088 La Opinion, Tres diputados entre segundo grupo de presos políticos liberados en Venezuela, 2 June 2018, available at: https://www.laopinion.com.co/venezuela/tres-diputados-entre-segundo-grupo-de-presos-politicos-liberados-en-venezuela-155651?f#OP
1089 Release Orders, 2 June 2018, Criminal Case File (III), Folios 115-135; Mission Interview C2EE08 and C2EE09 held in May 2020.

interrogation. SEBIN officers from the Strategic Investigations Directorate were involved in the torture and cruel, inhuman or degrading treatment of the individuals.

522. The Mission also has reasonable grounds to believe that the conditions of detention in El Helicoide facilities, where Mr. Navarro, C2EE09 and the other detainees were held, amount to a violation of the prohibition of torture and cruel, inhuman or degrading treatment.

CASE 7: Geraldine Chacón and Gregory Hinds (Community Ambassadors Foundation)

523. The Community Ambassadors Foundation (FEC) is a voluntarily staffed educational NGO founded in Venezuela in 2008, working on youth empowerment with marginalized communities.[1090] The organization is unaffiliated with any political party. In previous years, the organization participated in Model United Nation competitions, including in New York.[1091]

524. Geraldine Chacón is a Venezuelan lawyer who at the time of her arrest worked for the Venezuelan Central Bank as a legal adviser. She had volunteered with FEC since 2015, and assumed the role of Director of the Ambassador's Program in 2017.[1092] Gregory Hinds is a Venezuelan-Barbadian dual national lawyer who, at the time of his arrest, worked as a professor at a private school in Caracas. He was Director General of FEC in 2017.

Public Statements

525. On the 17 January 2018 edition of "Con el Mazo Dando", Diosdado Cabello accused various NGOs of raising funds for nefarious purposes. He erroneously named a woman as the director of FEC, claiming she was responsible for indoctrinating Venezuelan youth with capitalism.[1093] He associated FEC with opposition members David Smolansky and Francisco Márquez and the NGO Humanitarian Action for Venezuela, a charity Mr. Cabello accused of supporting the political opposition.[1094]

526. On 24 January 2018, Mr. Cabello claimed SEBIN had dismantled an NGO called "Brave Heart" (Corazón Valiente) accused of being a terrorist cell funded by opposition leader Maria Corina Machado. He showed a video and photos of the detainees, and stated "Operation Tun Tun" was underway to capture additional members of Brave Heart.[1095]

Intelligence Report

527. A SEBIN intelligence report dated 30 January 2018 links Brave Heart to FEC via Víctor Navarro, who had been a beneficiary and volunteer with FEC until approximately

1090 Mission Interview with Geraldine Chacón, 13 May 2020; Mission Interview with Gregory Hinds, 19 May 2020; According to its mission statement, "The Community Ambassadors Foundation, led by a team of more than 50 socially-conscious university students and professionals, has a mission to instill leadership skills through the Model United Nations methodology to talented adolescents in marginalized contexts". See archived website here: http://web.archive.org/web/20180812064734/http://embajadorescomunitarios.org.ve/

1091 Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview with Gregory Hinds on 19 May 2020; Mission Interview C2EE08 in May 2020.

1092 Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview with Gregory Hinds on 19 May 2020.

1093 Con el Mazo Dando, ONG y prófugos de la justicia venezolana piden dinero dizque para supuestas ayudas, 17 January 2018, available at: https://www.conelmazodando.com.ve/ong-y-profugos-de-la-justicia-venezolana-piden-dinero-dizque-para-supuestas-ayudas

1094 YouTube Video, Noticias Venezuela, "Con El Mazo Dando 17/01/2018," 17 January 2018, minute 03:31:50, available at: https://www.youtube.com/watch?v=bJiiZ6bpdFc&t=3004s

1095 YouTube Video, Noticias24, Con el Mazo Dando 24/01/2018, 24 January 2018, minute 02:3700, available at: https://www.youtube.com/watch?v=fXQPAuIhGpU; Humanitarian Action for Venezuela's vision statement indicates the NGO aims "To be officers of change for the generations that have suffered the humanitarian crisis in Venezuela, and help reduce the social impact caused by shortages in medications, supplies, food commodities and education offering integrated solutions", available at: https://accionhumanitariaporvenezuela.com/en/

2014.[1096] According to Mr. Navarro, SEBIN officers redirected their questioning away from Brave Heart and onto FEC after they saw FEC on his Facebook page during his interrogation. He alerted his lawyer before his initial court appearance that SEBIN would likely pursue FEC directors in the following days.[1097]

528. The intelligence report stated that FEC "captures youth to take advantage of their lack of resources, paying them in cash (US dollars and Bolivars), food, housing, clothing and other benefits, from political opposition leaders, NGOs and transnational businesses opposed to the Government of Nicolás Maduro, with the objective to create violent flashpoints in different parts of the country".[1098]

529. The report alleged individuals and NGOs were linked to opposition politicians and the United States Government, and that they collaborated to commit terrorist acts. The report mentioned an FEC funded trip to the United States for a United Nations competition. It illustrated various social and employment connections to opposition members including María Corina Machado and David Smolanksy. The report also mentioned FEC's receipt of funding from a Belgian NGO.[1099] The report did not provide any details about criminal activity, but recommended surveillance on FEC members.[1100]

The Arrest of Gregory Hinds

530. The official record on these detentions differs from witness accounts gathered by the Mission. SEBIN's arrest record states that officers arrived at the FEC offices on Thursday, 1 February 2018.[1101] According to witnesses the operation occured on Wednesday, 31 January 2018.[1102] According to Mr. Hinds, he arrived at his office having been summoned by employees to find armed officers wearing SEBIN uniforms were searching the office. They had not presented a search warrant, but members of the organization had granted them entrance to the premises, fearing escalation.[1103]

531. SEBIN's report states they searched Mr. Hinds, seized his cell phone, arrested him and read his rights as a detainee.[1104] Mr. Hinds and other witnesses remember Mr. Hinds voluntarily accompanying officers to El Helicoide for an interview, to which another FEC member drove him in her private vehicle.[1105]

532. Upon arrival at El Helicoide, SEBIN officers took Mr. Hinds' photograph and fingerprints, telling him that it was standard procedure for anyone coming for questioning. After this Mr. Hinds was never permitted to leave.[1106] A SEBIN commissioner interrogated Mr. Hinds about his relationship with opposition leaders, political parties and international

[1096] Document C2EE06 on file with the Mission; Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview with Gregory Hinds on 19 May 2020; Mission Interview C2EE08 in May 2020.

[1097] Mission Interview with Victor Navarro on 29 May 2020; Mission Interview C2EE06 in May 2020.

[1098] Document C2EE06 on file with the Mission.

[1099] The report claims that FEC received funding from a Belgian NGO called Southday. Indeed, in 2012 FEC received a small grant from Zuiddag ("South Day"), a Belgian NGO registered in 2006 and now known as Youth for Change and Action (YOUCA). This organization regularly provides small grants to projects run by NGOs in the Global South; it provided funding to FEC only once, for an educational project aimed at youth residing in low-resource areas to learn personal and professional skills. A brief description of the project is available on YOUCA's website: https://youca.be/venezuela. Mission Interviews with C2EE04 and C2EE05 in May 2020 indicated that the FEC only received funding once from that source.

[1100] Document C2EE06 on file with the Mission.

[1101] Document C2EE07 on file with the Mission.

[1102] Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview with Gregory Hinds on 19 May 2020; Mission Interview C2EE07 in June 2020.

[1103] Mission Interview with Geraldine Chacón, 13 May 2020; Mission Interview with Gregory Hinds, 19 May 2020; Mission Interview C2EE06 and C2EE07 held in May and June 2020.

[1104] Document C2EE08 on file with the Mission.

[1105] Mission Interview with Gregory Hinds on 19 May 2020; Mission Interview C2EE07 in May 2020.

[1106] Ibid.

funding. The commissioner told him they had arrested Víctor Navarro; Mr. Hinds insisted they no longer worked together.[1107]

533. SEBIN officers ordered Mr. Hinds to say that he had received foreign funding, knew opposition leaders and had contact with the US Embassy, in a videod statement. The officers sent a series of WhatsApp messages containing the recording. After several hours of questioning, Mr. Hinds attempted to leave El Helicoide. The officers laughed and suggested he stay the night for safety reasons. He was not told that he was under arrest.[1108]

534. The guards took Mr. Hinds to a small, damp cell known as "El Bañito".[1109] According to former detainees, SEBIN officers used "El Bañito" as a place to torture detainees.[1110] Mr. Hinds told the Mission that one of his two cellmates had visible bruises. Later that day Mr. Hinds witnessed guards known as "El Wayuu" and "La Malandra" beat his cellmate. The cellmate told Mr. Hinds that they did this frequently. He claimed to not to have appeared before a judge.[1111]

535. The following day, 1 February 2018, officers transferred Mr. Hinds to an even smaller cell, known as El Tigrito, measuring slightly under two square metres. There he was held in complete darkness with another prisoner and no furniture. Mr. Hinds' cellmate was restrained by an apparatus called The Octopus ("El Pulpo"), which immobilized him with a belt and chains. At night, SEBIN took the other detainee from the cell and returned him in the morning, visibly injured and sticky with sweat and blood. His cellmate told him that officers would hang him by his arms from a pipe and beat him.[1112]

536. Neither prisoner had access to clean drinking water so they drank from the toilet bowl. Mr. Hinds fell ill with digestive problems, but did not receive official medical attention. Another prisoner with medical experience attended to him.[1113]

The Arrest of Geraldine Chacón

537. As in Mr. Hinds' case, there are inconsistencies between the date of detention contained in SEBIN's criminal investigation report and the recollections of witnesses contacted by the Mission. According to the SEBIN record, Geraldine Chacón was arrested during the night of 2 February 2018,[1114] though witnesses and other official SEBIN documents place the detention at around 1.30 a.m. on 1 February 2018, which was eight hours after Mr. Hinds' detention.[1115]

538. According to Ms. Chacón and her mother, around 1.30 or 2 a.m., approximately five SEBIN officers dressed in black with their faces covered and carrying long weapons knocked on the door to their house. Ms. Chacón was asleep and her mother initially answered the door. The officers demanded to know Ms. Chacón's whereabouts. They did not present a search or arrest warrant, but proceeded to search and photograph the house.[1116]

539. The SEBIN officers asked Ms. Chacón to accompany them to El Helicoide for an interview. They told her mother that they would return Ms. Chacón within two to three hours.[1117] Upon arriving at El Helicoide, the officers demanded Ms. Chacón's cellular

[1107] Mission Interview with Gregory Hinds on 19 May 2020.
[1108] Ibid.
[1109] Mission Interview with Gregory Hinds, 19 May 2020; Mission Interview C2EE08 in May 2020; Mission Interview C2EE09 in June 2020.
[1110] See section on El Helicoide, above. Mission Interview C2EE08 in May 2020; Mission Interview C2EE05 in May 2020; Mission Interview C2EE09 in June 2020.
[1111] Mission Interview with Gregory Hinds on 19 May 2020.
[1112] Mission Interview with Gregory Hinds on 19 May 2020.
[1113] Mission Interview C2EE05 and C2EE07 in May 2020.
[1114] Document C2EE09 on file with the Mission.
[1115] Mission Interview C2EE04 in May 2020; Complaint filed 12 March 2018, Criminal File 31oC-20.426-18; Document C2EE10.
[1116] Mission Interview with Geraldine Chacón on 13 May 2020.
[1117] Complaint filed 12 March 2018, Criminal File 31oC-20.426-18; Mission Interview C2EE04 in May 2020.

telephone for safekeeping.[1118] The SEBIN record differs somewhat from this version. Most significantly, it claims that officers read Ms. Chacón her rights at the house, suggesting they had arrested her there.[1119]

540. The officers took Ms. Chacón's photograph and fingerprints, telling her that it was standard procedure for anyone coming for questioning. She was not permitted to leave after this point. She was videoed speaking about Brave Heart, FEC, opposition leaders and international funding,[1120] as Mr. Hinds had been.[1121] Once they had sent the clips on WhatsApp, the officers left Mr. Chacón alone in the room for around 24 hours, although it was difficult to keep track of time.[1122]

541. A female doctor arrived and performed a basic medical check. The doctor asked Ms. Chacón to sign the form on the line indicating "detainee". Ms. Chacón refused, insisting she had not been arrested and expected to go home.[1123] Shortly thereafter, a SEBIN commissioner informed her that she was being detained, without providing a reason.[1124] He brought a sheet of paper listing her rights.[1125] However, he would not tell her the reason for her detention.

542. The morning of Ms. Chacón's detention, 1 February 2018, her mother went to El Helicoide, but was not provided information about her daughter. On 2 February 2018, she presented a complaint for arbitrary detention to the Public Prosecutor's Office on Fundamental Rights.[1126]

Initial Court Appearance

543. On Friday, 2 February 2018, SEBIN officers transferred Ms. Chacón and Mr. Hinds to the Palace of Justice for their initial appearance. They were able to speak very briefly to family members and their lawyers.[1127] The Twenty-Second Court of First Instance declined to hear the case, transferring it to the judge responsible for the Brave Heart case and postponing the initial appearance until Monday, 5 February 2018.[1128]

544. On 5 February 2018 at 3.30 p.m., interim assistant prosecutor Alexander Martínez of the "Sala de Flagrancia" presented Ms. Chacón and Mr. Hinds before the Thirty-First Court of First Instance of the Criminal Judicial Circuit for the Caracas Metropolitan Area, with Judge Geryoli Venezuela Cabrera Bello presiding as a provisional judge.[1129]

545. The prosecutor charged Ms. Chacón and Mr. Hinds with public incitement and conspiracy.[1130] As evidence, the prosecutor presented photographs of the defendants' cellular telephones, the intelligence report dated 30 January 2018 and the reports of their arrests.[1131] No criminal actions related to charges were detailed.

546. Both Ms. Chacón and Mr. Hinds gave statements before the court, alleging violations of their rights.[1132] Legal counsel argued that the detentions were illegal, and that SEBIN officers had tricked the defendants into accompanying them to El Helicoide. They noted the incorrect dates on the arrest reports and the lack of any information linking Ms. Chacón or

[1118] Mission Interview with Geraldine Chacón on 13 May 2020.
[1119] Document C2EE09 on file with the Mission.
[1120] Record of Initial Appearance, 6 February 2018, p. 6; Mission Interview C2EE04 in May 2020.
[1121] Mission Interview with Geraldine Chacón on 13 May 2020.
[1122] Ibid.
[1123] Ibid.
[1124] Mission Interview with Geraldine Chacón on 13 May 2020.
[1125] Rights of the accused, SEBIN, 1 February 2018.
[1126] Complaint filed 2 February 2018, File No MP-45829-18, Fiscalia 81 AMC.
[1127] Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview with Gregory Hinds on 19 May 2020; Mission Interview C2EE07 in May 2020.
[1128] Record of Initial Appearance, File No. 22o C-19.725-18, 6 February 2018, Folio 53-56.
[1129] Record of Initial Appearance, 6 February 2018, Criminal File, Folio 67.
[1130] As foreseen in Criminal Code of Venezuela, arts. 285 and 286.
[1131] Record of Initial Appearance, 6 February 2018, Criminal File, Folio 64.
[1132] Record of Initial Appearance, 6 February 2018, Folios 65-70.

Mr. Hinds to a crime, or indeed any details about a crime having been committed. They alleged due process violations and cruel or inhuman treatment.[1133]

547. The judge ruled that the arrests had been illegal as Ms. Chacón and Mr. Hinds had been not apprehended *in flagrante delicto*, nor were they presented with arrest warrants.[1134] Judge Bello cited a Supreme Court decision that, as the illegalities occurred in the past, they were no longer considered ongoing violations, meaning she could proceed and impose any measures necessary to ensure the integrity of the ongoing investigation.[1135] She ordered the prosecutor to continue the investigation, accepting the prequalification of the public incitement and conspiracy charges and ordered defendants' release on bail.[1136]

548. SEBIN officers took Ms. Chacón and Mr. Hinds to El Helicoide pending certification of bail. Defence counsel presented the required documentation to the tribunal on 7 February and 9 February 2018,[1137] but tribunal staff did not complete the documentation and bail was not processed.[1138] Ms. Chacón and Mr. Hinds were held for a further 112 days.[1139] A lawyer told the Mission that beginning in 2017, confirmation of bail would generally be delayed for 30 days and for longer in political case.[1140]

Detention in El Helicoide

549. Mr. Hinds was transferred the "La Escalera" cell in the stairwell, where he would remain for the following months.[1141] This cell held people detained for both political and non-political reasons. Each person slept on a stair. This cell was infested with rodents and insects.

550. SEBIN officers also used this cell to commit violence against the detainees. Mr. Hinds witnessed SEBIN officers handcuff detainees to the stair rail and beat them. Mr. Hinds witnessed this on no fewer than six occasions. On one occasion, he witnessed male guards severely beat three teenagers that he suspects were minors. Officers beat one of the teenagers so badly he feared he would lose an eye.[1142] The officers were very careful about leaving marks on detainees in advance of court appearances, when they slapped detainees with open hands or covered sticks or bats with cloths to reduce the chance of causing visible injuries.[1143]

551. One SEBIN official preferred to beat detainees with a bat marked with numbers. He would throw the bat to a detainee, and wherever the detainee's hands caught the bat, he would beat him that number of times, generally on the head, buttocks and torso. If the detainee resisted, the official would beat him in the face, eyes, and genitals.[1144]

552. The detainees in the stairwell had placed a cup to catch dirty water that smelled of sewage leaking from one of the walls. Mr. Hinds witnessed a female guard force one of the political detainees to drink that water. The official appeared drunk at the time and smelled of alcohol.[1145]

553. Ms. Chacón was held in the sole cell for women, an overcrowded space with little access to water for drinking, cleaning or bathing. Some of the women told Ms. Chacón they had been detained in El Helicoide for up to four years, but only one had been sentenced. Almost all were awaiting their preliminary hearing.[1146]

1133 Record of Initial Appearance, 6 February 2018, Folios 70-76.
1134 Judgement No. 526 of 9 April 2001, of the Constitutional Chamber of the Supreme Court of Justice.
1135 Record of Initial Appearance, 6 February 2018, Folio 77 of Criminal File.
1136 Record of Initial Appearance, 6 February 2018, Folio 78 of Criminal File.
1137 Folios 142 and 148, Criminal File; Interview C2EE06 and C2EE07 in May 2020.
1138 Complaint filed 12 March 2018, Criminal File 31oC-20.426-18, p. 3.
1139 Mr. Hinds and Ms. Chacón were released on 1 June 2018. Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview with Gregory Hinds on 19 May 2020.
1140 Mission Interview C2EE08 in May 2020.
1141 See section on El Helicoide above.
1142 Ibid.
1143 Mission Interview with Gregory Hinds on 19 May 2020.
1144 Ibid.
1145 Ibid.
1146 Mission Interview with Geraldine Chacón on 13 May 2020.

554. Ms. Chacón told the Mission that the majority of the women in El Helicoide decribed being tortured during the first days of detention. According to the accounts she received, the most common practice involved hanging the women by their hands, blindfolding them and beating them all over their bodies, while calling them bitches and other insults. Others received electric shocks. Ms. Chacón was aware that at least one woman attempted suicide in El Helicoide.[1147]

555. Ms. Chacón and other witnesses heard officers heavily beating a group of women late one night, in the room above the women's cell. This persisted for many hours. Later, officers brought the battered women to the cell. One was approximately 50 years old and another over the age of 60.[1148]

556. Ms. Chacón witnessed the daily verbal sexual harassment and objectification of female detainees. Certain officers would make sexual comments when they passed the women's cell, for example asking them to turn around to see their buttocks. Some officers engaged in what they described as relationships with female detainees in exchange for privileges. Ms. Chacón witnessed male guards unlocking the female cell during the night. Some of the women would leave with the guards, who would then return them to the cell hours later.[1149]

557. SEBIN officers did not permit Ms. Chacón or Mr. Hinds visits or calls with family members or legal counsel. They were able to make phone calls using hidden phones belonging to other detainees, or with phones belonging to sympathetic guards.[1150]

558. Ms. Chacón asked repeatedly why she could not receive visitors; guards told her that the Commissioners-in-Chief made those decisions. Once she asked another commissioner if she could receive a visit, and he responded, "You don't get visits because you're a political prisoner, and political prisoners don't get anything".[1151]

Legal Proceedings

559. On 2 April 2018 Judge Freddy J. Pérez Alvarado, the presiding judge of the Thirty-First Court of First Instance of the Criminal Judicial Circuit for the Caracas Metropolitan Area, agreed with defence counsel that prosecutors had not presented an accusation within the 45-day time limit established by the Criminal Procedure Code.[1152] He ordered the immediate conditional release of Ms. Chacón and Mr. Hinds, with precautionary measures of presentation before the court every 15 days.[1153]

560. SEBIN refused to receive the order, as indicated in the bailiff's reports to the judge. One such report stated, "the correspondence personnel is indicating to me that they do not have authorization from the immediate superior of that office to receive this letter, and that they need to wait for authorization from the director. I then proceeded to request identification or personal details, but he refused and I could not recognize him due to the tinted glass at the reception window."[1154]

561. Judge Pérez Alvarado continued to demand the release, issuing five additional notifications to SEBIN between 2 April 2018 and 14 May 2018, ordering the detainees'

[1147] Ibid.

[1148] Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview C2EE03 in May 2020; Mission Interview C2EE09 in June 2020.

[1149] Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview C2EE09 in June 2020.

[1150] Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview with Gregory Hinds on 19 May 2020.

[1151] Mission Interview with Geraldine Chacón on 13 May 2020.

[1152] Criminal Procedure Code, art. 236.3.

[1153] As detailed in Habeas corpus motion, 16 April 2018, Criminal File No. 31C-20.426-18, pp. 3-4.

[1154] Bailiff's Service Acts dated 18 April 2018, 20 April 2018, 23 April 2018, 27 April 2018, 30 April 2018, and 11 May 2018, on file with the Mission. Information about the reception or rejection of notifications and orders was also confirmed in Mission Interview C2EE07 in May 2020.

immediate release.[1155] SEBIN returned each of the notifications to the tribunal, first claiming the letters had been directed to the wrong recipient, then that their system was not operational, as documented by the bailiff and the judge.[1156] One defence lawyer approached a SEBIN official at El Helicoide to inquire about the release and claims to have been told, "We are like a parallel court here. The orders that come from the tribunal first have to go to Plaza Venezuela, and that's where they decide if they are released or not. Headquarters will call the El Helicoide Director."[1157]

562. On 11 and 16 April 2018, defence counsel filed *habeas corpus* motions in response to the non-execution of the release orders.[1158] The Fortieth Court of Control of the Criminal Judicial Circuit of the Caracas Metropolitan Area admitted the motion and ordered SEBIN to provide the court information about the release of Mr. Hinds and Ms. Chacón within 24 hours. SEBIN refused to receive these orders as well. The Eleventh Court of Control requested information from the presiding judge of the case. Judge Pérez responded, detailing SEBIN's refusal to accept his release orders.[1159]

563. On 11 May 2018, the bailiff service coordinator filed a letter before the judge stating that he had attempted to deliver the latest release order to SEBIN, but the official refused to receive it. He stated, "He did not have authorization from his immediate superior to receive any communications, until he received orders from the director of that national security body".[1160] The judge again ratified his order and still SEBIN did not release Mr. Hinds and Ms. Chacón.[1161]

564. On 11 May 2018 rights organizations raised the case of Ms. Chacón and Mr. Hinds during the 168th session of the Inter-American Commission on Human Rights. Representatives of the IACHR requested further information from Venezuelan authorities.[1162]

565. On 23 May 2018, Attorney General Tarek William Saab appeared in a televised interview with journalist Vladimir Villegas. Mr. Villegas questioned Mr. Saab about SEBIN's refusal to release Ms. Chacón, Mr. Hinds and others. Mr. Saab did not address the issue directly, but committed to resolving irregularities.[1163] Mr. Saab conceded that incommunicado detention was unacceptable and recommended that a complaints be raised with the Public Prosecutor's Office.[1164]

1155 Acts numbered 327-18, 344-18, 389-18, 454-18, 481-18 and 543-18, dated 02 April 2018, 05 April 2018, 13 April 2018, 26 April 2018, 3 May 2018 and 14 May 2018, Criminal File No. 31C-20.426-18, on file with Mission.

1156 Mission Interviews C2EE06 and C2EE07 in May 2020; Oficio 0074-18, Servicio de Alguacilazgo, 11 April 2018, on file with the Mission; Oficio 392-18 from Judge Perez to Eleventh Tribunal, 13 April 2018, responding to request for information related to Mr. Hinds habeas corpus filing, on file with Mission.

1157 Mission Interview C2EE07 in May 2020.

1158 Habeas corpus motion, 16 April 2018, Criminal File No. 31C-20.426-18

1159 Act 392-18 from Judge Perez to Eleventh Tribunal, 13 April 2018, responding to request for information related to Mr. Hinds habeas corpus filing, on file with Mission.

1160 Act No S/N, Bailiff Service, 11 May 2018, on file with the Mission.

1161 Act 453-18 from Judge Perez to the Director of SEBIN, 14 May 2018, on file with the Mission.

1162 YouTube Video, CIDH, Venezuela periodistas y medios de comunicación, 11 May 2018, available at: https://www.youtube.com/watch?v=aTnVO2Pm_-Q&feature=youtu.be

1163 Efecto Cucuyo, Saab promete resolver casos de detenidos en El Helicoide con boletas de excarcelación, 23 May 2020, available at: https://efectococuyo.com/sucesos/saab-promete-resolver-casos-de-detenidos-en-el-helicoide-con-boletas-de-excarcelacion/; YouTube Video, Sucreranda Hugo Chavez Venezuela, Tarek William Saab en Vladimir a la 1. Banesco y victoria de Maduro en Elecciones 2018. Venezuela, 23 May 2018, minute 00:10:03, available at: https://www.youtube.com/watch?v=PlIqBep5toU&feature=youtu.be

1164 YouTube Video, Sucreranda Hugo Chávez Venezuela, Tarek William Saab en Vladimir a la 1. Banesco y victoria de Maduro en Elecciones 2018. Venezuela, 23 May 2018, minute 13:00, available at: https://www.youtube.com/watch?v=PlIqBep5toU&feature=youtu.be

566. On 31 May 2018, the Observatory for the Protection of Human Rights Defenders and COFAVIC presented Ms. Chacón and Mr. Hinds' case to the UN Working Group on Arbitrary Detention.[1165]

567. Due to Mr. Hinds' dual nationality, SEBIN permitted Barbadian ambassador Her Excellency Ms. Sandra Phillips, to visit him on one occasion. Mr. Hinds met the ambassador at the entrance; she did not see the conditions of his cell. Only after this visit did Mr. Hinds begin receiving the items his mother had been taking to El Helicoide.[1166]

Release

568. On 1 June 2018, President Maduro announced the release of "leaders and militants from the opposition who had committed violent political crimes" from 2014 to 2017 in a televised statement.[1167] The Truth, Justice, Peace and Public Tranquillity Commission of the National Constituent Assembly,[1168] headed by Delcy Rodríguez, recommended that 39 individuals accused of political violence be conditionally or fully released from detention. The Public Prosecutor's Office and the Supreme Court of Justice ordered the corresponding measures.

569. Ms. Chacón and Mr. Hinds were both released on 1 June 2018, with precautionary measures requiring the defendants to present themselves monthly. Ms. Chacón was also prohibited from leaving the country. In August 2019, Judge Aquiles Ignacio Vera granted Ms. Chacón permission for international travel in order to pursue a graduate degree outside of Venezuela.[1169]

570. At the time of writing, Ms. Chacón and Mr. Hinds were still awaiting their preliminary hearing and the prosecutor has not yet presented formal charges, in violation of the timeframe established by law.

571. Most FEC leaders fled the country in the days following the detention of Ms. Chacón and Mr. Hinds for fear of arrest, effectively dismantling an organization that had taken years to build. One of the lawyers providing legal counsel in this case also left the country due to fear of persecution for his involvement with FEC and members of Corazón Valiente.[1170]

Judicial Process

572. Ms. Chacón and Mr. Hinds' family members filed numerous reports, beginning on 2 February 2018, to the Attorney General, the Attorney General's Fundamental Rights Office, the Human Rights Ombudsperson, the Vice President, and the Inter-American Commission on Human Rights. These reports detailed allegations of arbitrary detention, incommunicado detention, cruel and inhuman treatment, and the non-execution of judicial orders.[1171]

1165 OMCT and COFAVIC, Venezuela: Joint Press Release: Cases of arbitrary detention of Gregory Hinds and Geraldine Chacón presented to the UN, 31 May 2018, available at: https://www.omct.org/human-rights-defenders/urgent-interventions/venezuela/2018/05/d24903/

1166 See, for example: Curacao Chronicle, Family distraught as Barbadian citizen detained in Venezuela since January, 3 April 2018, available at: https://curacaochronicle.com/region/family-distraught-as-barbadian-citizen-detained-in-venezuela-since-january/; La Patilla, Escalan caso de preso político Gregory Hinds a instancias gubernamentales de Barbados, 17 April 2018, available at: https://www.lapatilla.com/2018/04/17/escalan-caso-de-preso-politico-gregory-hinds-a-instancias-gubernamentales-de-barbados/.

1167 YouTube Video, Luigini Bracci Roa – Situación en Venezuela, Reunión completa de Nicolas Maduro con el Frente amplio de la Patria en Miraflores 1 Junio 2018, 1 June 2018, from minute 00:35:50, available at https://www.youtube.com/watch?v=thoxs2PugHk

1168 The Truth, Justice, Peace and Public Tranquillity Commission was created by the National Constituent Assembly on 8 August 2017.

1169 Thirty-First Court of Control of the Caracas Metropolitan Area, Act No. 31C-1170-19, 21 August 2019, on file with the Mission.

1170 Mission Interview C2EE06 in May 2020.

1171 Complaints and requests filed included, inter alia: 2 February 2018 to Attorney General's Fundamental Rights Office; 8 March 2020 to Attorney General's Fundamental Rights Office; 12 March 2018 to presiding judge of Thirty-First Control Tribunal, 9 April, 25 April and 26 April 2018

573. On 11 February 2018, Armando Saavedra Castillo, acting on behalf of the Eighty-First District Attorney's Office of the Caracas Metropolitan Area, opened an investigation into the complaint filed by Ms. Chacón's family on 2 February 2018.[1172] On 2 March 2018, the prosecuting attorney nterviewed Ms. Chacón's mother.[1173] In August 2019, Ms. Chacón's mother received the first and only phone call from the Public Prosecutor's Office following up on the complaints and requests presented during Chacón's detention.[1174] Neither family had received updates regarding the investigation at the time of writing.[1175]

574. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

575. Based on the facts above, the Mission has reasonable grounds to believe that Geraldine Chacón and Gregory Hinds were subject to arbitrary arrest and detention.

576. SEBIN officers from the Directorate of Strategic Investigations, under the leadership of Commissioner Carlos Calderón Chirinos, were involved in the arbitrary arrests and detentions. The Mission also has reasonable grounds to believe that the conditions of detention in El Helicoide facilities, where Ms. Chacón and Mr. Hinds were held, amount to a violation of the prohibition of torture and cruel, inhuman or degrading treatment.

CASE 8: Angel Zerpa

577. Ángel Zerpa Aponte is a lawyer, academic and career judge. He was a Caracas Appeal Court judge, until the Supreme Court's judicial commission suspended him on 21 July 2010.[1176] The reasons for his suspension were not made clear, but Mr. Zerpa believes it was related to a decision involving former Defence Minister Italo Alliegro.[1177]

578. After the suspension, Mr. Zerpa worked as an academic. On 11 July 2012, he submitted a complaint to the Supreme Court questioning the constitutionality of the Criminal Procedure Code.[1178]

579. In May 2017, together with other jurists, Mr. Zerpa requested that the Public Prosecutor's Office open a criminal investigation against the Supreme Court judges who had issued judgments No. 155 and 156 in March 2017. The complaint alleged that the judges broke constitutional order and committed the crime of conspiracy.[1179]

580. In June 2017, together with other jurists, Mr. Zerpa presented a complaint to the Public Prosecutor's Office about National Electoral Council conduct and requested an investigation

to Attorney General and Attorney General's Fundamental Rights Office; 27 April 2018 to Vice President; 8 May 2018 to 81st District Attorney's Office; 9 May 2018 to Vice President; 16 May 2018 to Attorney General; 17 May 2018 to Attorney General; 17 May to Human Rights Ombudsperson's Office; 17 May 2018 to 81st District Attorney's Office; 21 May 2018 to Inter-American Commission on Human Rights; 31 May 2018 to UN Working Group on Arbitrary Detention.

1172 Order to open criminal investigation, MP-45829-2018, 11 February 2018.

1173 Extension of Interview, MP-45829-2018, 2 March 2018.

1174 Mission Interview with Geraldine Chacón on 13 May 2020.

1175 Mission Interview with Geraldine Chacón on 13 May 2020; Mission Interview C2EE06 and C2EE07 in May 2020.

1176 Supreme Court Judicial Commission, Resolution No. 2010-0077, 21 July 2010, available at: http://www.tsj.gob.ve/es/web/tsj/resoluciones

1177 Mission interview with Judge Zerpa, 27 May 2020. See Supreme Court, Judgment No, 1673 of 4 November 2011, available at: https://vlexvenezuela.com/vid/italo-valle-augusto-alliegro-331349874

1178 Recurso de Nulidad Parcial del COPP 2012 con Medida Cautelar intentado por el Prof. Ángel Zerpa Aponte, ante la Sala Constitucional (Parte I), 5 July 2012, available at: http://www.franciscosantana.net/2012/07/recurso-de-nulidad-parcial-del-copp.html

1179 Resumen Digital, Abogados piden a Fiscalía enjuiciar a magistrados de la Sala Constitucional, 26 May 2017, available at: http://resumendigital.com/abogados-piden-a-fiscalia-enjuiciar-a-magistrados-de-la-sala-constitucional

into the holding of National Constituent Assembly elections without a prior consultative referendum.[1180]

581. Also in 2017, Ángel Zerpa acted as defence lawyer for former Attorney General Luisa Ortega Díaz during preliminary hearings in a case National Assembly deputy Pedro Carreño brought against her.[1181]

582. On 14 July 2017, the opposition-led National Assembly announced the creation of a judicial appointment commission to select 33 judges for the Supreme Court. The newly selected judges would replace those appointed in December 2015, whose selection the National Assembly considered illegitimate.[1182]

583. Mr. Zerpa applied for a position as Supreme Court judge. The National Assembly selected him a judge in the Supreme Court's Administrative Division. On 21 July 2017, he was sworn in with other appointed judges during a National Assembly session.[1183]

584. The previous day, 20 July 2017, the Constitutional Division of the Supreme Court had issued judgment No. 545[1184] annulling the National Assembly's appointment of judges on constitutionality grounds. The Constitutional Division warned the newly appointed judges that they could face criminal responsibility for usurpation of functions.[1185]

The Arrest

585. Mr. Zerpa was driving with his sister to La California Norte, Caracas on 22 July 2017, they realised two cars were persuing them.[1186] They heard shots fired and stopped the car.[1187] Persons later revealed to be SEBIN officers exited the cars and approached Mr. Zerpa's vehicle, pointing firearms. They wore civilian clothes and did not identify themselves, but were wearing bulletproof vests. When Mr. Zerpa asked what was happening they replied, "Didn't you see the TV? Maduro ordered your detention".[1188]

[1180] La Voce d'Italia, Solicitan antejuicio de mérito contra rectores del Cne, 22 June 2017, available at: https://voce.com.ve/2017/06/22/248444/solicitan-antejuicio-de-merito-contra-rectores-del-cne/

[1181] El Estímulo, Pedro Carreño solicita al TSJ estudiar antejuicio de mérito contra Luisa Ortega Díaz, 16 June 2017, available at: https://elestimulo.com/pedro-carreno-solicita-al-tsj-estudiar-antejuicio-de-merito-contra-luisa-ortega-diaz. Later, while Mr. Zerpa was in detention, high-level Government representatives twice mentioned his role defending Ms. Ortega during television programmes. The Minister of the Penitentiary System, Iris Varela, mentioned him on State television on 25 July 2017, and Diosdado Cabello mentioned him on his show "Con el Mazo Dando" on 26 July 2017. On this programme, Mr. Cabello showed videos and images of Mr. Zerpa's detention, referring to his arrest in the context of the "tun-tun" operations. See: YouTube Video, Multimedio VTV, La Hojilla: Jesús Rojas denuncia ser nombrado "magistrado" del TSJ por Borges usurpando su identidad, 25 July 2017, video on file with the Mission; and YouTube Video, Durrutino, Con el Mazo Dando 2017.07.26 con Diosdado Cabello, 27 July 2017, minute 2:29:10, available at: https://www.youtube.com/watch?v=4t-IeXbyIpc

[1182] See National Assembly, Special Commission to Rescue the Institutionality of the Supreme Court of Justice, Final Report, available at: https://supremainjusticia.org/wp-content/uploads/2016/07/INFORME-FINAL-COMISION-ESPECIAL-PARA-EL-RESCATE-DEL-TSJ.pdf

[1183] Written statement submitted by Angel Zerpa to the Mission, 7 June 2020.

[1184] Supreme Court of Justice, Decision No. 545, 20 July 2017, available at: http://historico.tsj.gob.ve/decisiones/scon/julio/201349-545-20717-2017-2017-0799.HTML

[1185] Criminal Code, art. 213.

[1186] Mission interview with Angel Zerpa, 27 May 2020.

[1187] Ibid.

[1188] Written statement submitted by Angel Zerpa to the Mission, 7 June 2020. See videos at: TeleMadrid, Maduro amenaza con meter en la cárcel a todos los jueces nombrados por el Parlamento, 24 July 2017, available at: http://www.telemadrid.es/noticias/internacional/Maduro-amenaza-carcel-nombrados-Parlamento-0-1924007605--20170724030235.html; El País, Maduro anuncia que detendrá "uno a uno" a los 33 magistrados de la oposición, 24 July 2017, available at: https://elpais.com/internacional/2017/07/23/america/1500838660_930864.html

586. The SEBIN officers took Mr. Zerpa to SEBIN headquarters in Plaza Venezuela and thereafter to El Helicoide where he was inspected and photographed. He told the officers that he was a judge and they were acting illegally.[1189]

587. The following day, on 23 July, a SEBIN officer brought Mr. Zerpa a warrant for his arrest while in the cell. On 24 July, he appeared before Judge Claudia Pérez de Mogollón at the First Military Court of Control of Caracas in Fort Tiuna. The judge denied him the chance to appoint his own lawyer, so Mr. Zerpa opted to defend himself. Despite this, the court assigned him a military public defender, but also allowed him to present his own arguments in court. [1190]

588. Mr. Zerpa argued that he should not be in pre-trial detention, since he initially stood accused of usurpation of functions, which is an offence with a lesser sentence not subject to custodial coercive measures.[1191] Mr. Zerpa also argued that the only prosecution evidence presented was a picture of him swearing an oath, which appeared in *El Nacional* newspaper, as well as a similar picture SEBIN had retrieved from his mobile phone. The tribunal ordered Mr. Zerpa-s pre-trial detention at El Helicoide on treason charges.[1192]

589. On 27 July 2017, Mr. Zerpa was taken to Fort Tiuna to sign the record of the initial appearance hearing. Mr. Zerpa refused to sign because the arguments he had made were not reflected in the document. He produced an alternate document for submission to the tribunal.[1193]

590. On 31 July 2017, the Martial Court confirmed the decision of the First Military Tribunal. On 9 August 2017, the Eighty-Fifth section of the Public Prosecutor's Office with competence over human rights protection submitted a complaint against the Martial Court's 31 July 2017 decision. The Constitutional Chamber of the Supreme Court later dismissed the complaint.[1194]

591. On 23 August 2017, after a month in detention, Mr. Zerpa was brought before a military tribunal, which released him on condition that he comply with alternative measures, including not leaving the country and presenting himself periodically before the tribunal. His bank assets were frozen.

592. On 23 October 2017, the Criminal Chamber of the Supreme Court assumed jurisdiction over the case, following a change of venue request filed by Mr. Zerpa's sister.[1195] The Court held that the proceedings before the military tribunal were null and void because Mr. Zerpa was a civilian[1196] and that the crimes of which he was accused, treason and usurpation, were both provided in the Criminal Code.[1197]

593. The case was referred to the Twenty-Seventh Court of Control in Caracas, a civilian court, which on 21 December 2017 extended the alternative measures.[1198] At the time of writing, Mr. Zerpa continued to present himself periodically before the tribunal, cannot leave Venezuela and his assets remain frozen. The Criminal Procedure Code requires that alternative measures be lifted after two years but they remained in place at the time of

1189 Written statement submitted by Angel Zerpa to the Mission, 7 June 2020.
1190 Ibid.
1191 Criminal Procedure Code, art. 355.
1192 Written statement submitted by Angel Zerpa to the Mission, 7 June 2020.
1193 Mission interview with Angel Zerpa, 27 May 2020.
1194 Supreme Court of Justice, Decision, 27 October 2017, available at: http://historico.tsj.gob.ve/decisiones/scon/octubre/204649-857-271017-2017-17-861.html
1195 Organic Law of the Supreme Court, art. 107, which provides that the Supreme Court's assumption of jurisdiction ('avocamiento) will be exercised with great prudence and only in the event of serious procedural disorders or evident violations of the legal system that ostensibly damage the image of the Judiciary, public peace or democratic institutions".
1196 Supreme Court of Justice, Decision, 23 October 2017, available at: http://historico.tsj.gob.ve/decisiones/scp/octubre/204502-363-231017-2017-A17-253.HTML
1197 Criminal Code, arts. 132 and 213.
1198 Criminal Procedure Code, art. 72(1).

writing[1199] and despite Mr. Zerpa's requests.[1200] At the time of writing, the prosecutors had neither charged Mr. Zerpa with a crime, nor dismissed his case.[1201]

Detention in El Helicoide

594. From 22 July to 23 August 2017, Mr. Zerpa was held in El Helicoide. He was detained in "El Bañito", a bathroom with bars in the doorway, for around three weeks.[1202] There were three toilets full of human waste, one sink and a defective shower. The cell was full of insects. SEBIN officers sometimes entered the cell to use the toilets. Mr. Zerpa slept on the floor for a few days until he was given a mattress. There was no natural light, artificial light shone around the clock.[1203]

595. He shared El Bañito for a few days Mr. Jesús Rojas, who had also been appointed as Supreme Court judge by the National Assembly. Subsequently, he shared the cell for two days with 23-year-old Juan Pedro Lares, son of Omar Lares, the then mayor of Campo Elías, in Mérida State[1204] and later with engineer Roberto Picón, accused of planning a cyberattack against the National Electoral Council.[1205] After three weeks in El Bañito, Mr. Zerpa spent another ten days in a regular cell, before being released on 24 August 2017.[1206]

596. Relatives attempted to visit Mr. Zerpa at El Helicoide on a daily basis. They later told Mr. Zerpa that SEBIN officers denied them access on each occasion because of "superior orders".[1207] Relatives were finally allowed to visit Mr. Zerpa on 19 August 2017, after 26 days in incommunicado detention. The three visits he received lasted around 15 minutes and were video recorded by SEBIN officers.[1208]

597. Mr. Zerpa suffered from hypertension and ulcer disease prior to his detention and believes that the 31 days in detention at El Helicoide in the conditions described above took a heavy toll upon his health. Mr. Zerpa was diagnosed with prostate cancer in June 2019. The prohibition on leaving the country means he cannot seek treatment abroad.[1209]

Findings

598. Based on the facts above, the Mission has reasonable grounds to believe that Angel Zerpa was victim of arbitrary detention. Officers from SEBIN Counter-Intelligence Direction were involved. The Mission considers that the detention conditions suffered by Mr. Zerpa in "El Bañito" at El Helicoide amount to cruel, inhuman or degrading treatment or punishment.

1199 Criminal Procedure Code, art. 230.

1200 According to the information received by Mr. Zerpa, the response he usually receives is that "the present case is in the investigation stage and, until this date, the circumstances on the basis of which the measures were issued have, in principle, not changed". Written statement submitted by Angel Zerpa to the Mission, 7 June 2020.

1201 Article 236 (3) of the Criminal Procedure Code provides that the prosecutor has a maximum of 45 days to present the accusation after the decision of the judge to keep the person deprived of liberty.

1202 Mission interview and written statement from Mr. Zerpa, 27 May and 7 June 2020, respectively.

1203 Written statement submitted by Angel Zerpa to the Mission, 7 June 2020.

1204 El Carabobeño, Funcionarios del Sebin detuvieron al hijo del alcalde de Campo Elías en Mérida, 30 July 2017, available at: https://www.el-carabobeno.com/funcionarios-del-sebin-detuvieron-al-hijo-del-alcalde-campo-elias-merida/

1205 Gentiuno, Roberto Picón y Ángel Zerpa recluidos juntos en un baño del Sebin, 19 August 2017, available at: http://www.gentiuno.com/19/08/2017/roberto-picon-y-angel-zerpa-recluidos-juntos-en-un-bano-del-sebin/

1206 Written statement submitted by Angel Zerpa to the Mission, 7 June 2020.

1207 YouTube Video, NTN24, "Van 26 días que no sabemos de su paradero ni de su estado de salud": Carmina Zerpa, 17 August 2017, available at: https://www.youtube.com/watch?v=eLKeBbKTBYE

1208 Written statement by Angel Zerpa to the Mission, 7 June 2020.

1209 Written statement submitted by Angel Zerpa to the Mission, 7 June 2020.

CASE 9: Juan Carlos Requesens

599. Juan Requesens is a National Assembly member, elected in December 2015 and sworn in on 5 January 2016. Prior to his election he was a student leader at the Central University of Venezuela (UCV) where he played a prominent role in the 2014 protests.

600. On 4 August 2018 at around 5.45 p.m., President Maduro's speech to mark the 81st anniversary of the Bolivarian National Guard was interrupted by two overhead explosions.[1210] Later that day, the Minister of Information and Communication, Jorge Rodríguez Gómez, announced publicly that the two drones loaded with explosives had attempted to assassinate President Maduro.[1211] At a separate press conference, President Maduro said that investigations into the incident were in progress and that the suspects would be arrested.[1212]

Arrest

601. On 7 August 2018 at 1.30 p.m., Juan Requesens gave a speech in the National Assembly blaming President Maduro for the crisis the country and describing the Government as corrupt and criminals. He stated, "We will keep doing everything we can to remove Nicolás Maduro from power. I refuse to give up. I refuse to kneel in front of those who want to break our morale. Today I can speak from here, tomorrow I do not know".[1213]

602. On the same day, President Maduro made a statement at a press conference, in which he accused Juan Requesens and former National Assembly president, Julio Borges, of involvement in the drone attack.[1214] President Maduro presented a video in which an alleged co-conspirator, Juan Carlos MonasterioVanegas, said he had recived a text message from Juan Requesens offering assistance to cross the Venezuela/Colombia border. Mr. Monasterios' face was blurred in the video and he appeared to be handcuffed.[1215]

603. At around 8 p.m on 7 August 2018, over ten SEBIN officers entered Juan Requesens' residence, east of Caracas. They were heavily armed, most of them with their faces covered. They did not identify themselves or present any warrant. Despite having parliamentary immunity, Juan Requesens was arrested with his sister Rafaela Requesens. SEBIN officers immobilized them and removed them from the building by force. The arrest was recorded on security camera footage made public two days later.[1216]

604. The SEBIN officers took Juan and Rafaela Requesens to SEBIN headquarters in El Helicoide. They separated them and confiscated their phones.[1217] SEBIN officers took photos of them and demanded their smartphone passwords. Rafaela was released at 11 p.m., three hours after her arrest. A SEBIN officer threatened her saying that, should she file a complaint, he would bring her back again.[1218]

[1210] YouTube Video, VPItv, Venezuela Imagenes del Atentado a Nicolas Maduro available at: https://www.youtube.com/watch?v=BYjhoy3XrHk

[1211] YouTube Video, Luigini Bracci Roa, Jorge Rodríguez: Intentaron atentado con DRONES contra Nicolás Maduro, 7 efectivos resultan heridos, 4 August 2018, available at: https://www.youtube.com/watch?v=ZHP7bOu9jHo&t=84s

[1212] YouTube Video, Luigini Bracci Roa Palabras completa de Nicolás Maduro tras el atentado con drones en su contra el 4 agosto 2018, available at: https://www.youtube.com/watch?v=Kn1hbllJLX0

[1213] YouTube Video, VTI TV, Venezuela - AN condenó enfáticamente persecución a José Manuel Olivares – VPItv, 7 August 2018, minute 7.19, available at: https://www.youtube.com/watch?v=KWunHOk-rVU

[1214] YouTube Video, El Pistazo, Maduro responsabiliza a los diputados Borges y Requesens por atentar contra su vida, 7 August 2018, available at: https://www.youtube.com/watch?v=l9z2qsaBPKE

[1215] YouTubeVideo, Luigini Bracci Roa, Testimonio de Juan Carlos Monasterios, presunto involucrado en atentado con drones contra Maduro, available at https://www.youtube.com/watch?v=-RjRVirP91k

[1216] YouTube Video, Jose Molina, Juan Requesens y su hermana Rafaela detenidos por el sebin, 9 August 2018, available at: https://www.youtube.com/watch?v=BCcsSYP4UhM

[1217] Mission Interview with Rafaela Requesens on 18 May 2020.

[1218] Ibid.

605. Mr. Requesens´s fate and whereabouts were unknown for over 100 hours between 7 and 12 August 2018. Family members visited El Helicoide on numerous occasions but SEBIN officers denied any information on Mr. Requesens.[1219]

606. On 7 August 2018, National Constituent Assembly president Diosdado Cabello tweeted that, "tomorrow at 11 a.m., we will be having a session at the sovereign National Constituent Assembly. The only point on the agenda: lifting parliamentary immunity from deputies involved in the assassination of President Maduro. Justice is coming and it is coming with everything".[1220]

607. On 8 August 2018, Mr. Requesens' family filed a complaint with the Public Prosecutor's Office of the Metropolitan Area of Caracas, claiming among other things that Mr. Requesens had been enforcibly disappeared. They did not receive any response to the complaint.[1221]

608. That same day, Attorney General Tarek William Saab, confirmed publicly that he had requested removal of Mr. Requesens' parliamentary immunity.[1222] He said that Mr. Requesens was arrested *in flagrante delicto* for allegedly committing crimes of a permanent nature.[1223]

609. On 8 August 2018, the Attorney General notified the Supreme Court of Mr. Requesens' arrest.[1224] That same day, the Plenary Chamber of the Supreme Court presided by Chief Justice Maikel Moreno, accepted prosecutor's preliminary accusations against Mr. Requesens. In the court's opinion, Mr. Requesens had allegedly committed crimes of a permanent nature, therefore he is in a situation of flagrancy. The court ordered Mr. Requesens' continued custody, until the National Constituent Assembly could decide on removal of parliamentary immunity.[1225] Mr. Requesens remained in El Helicoide, despite constitutional provisions stating that deputies should be held under house arrest while the lifting of their parliamentary immunity is being considered.[1226] That same day, the National Constituent Assembly, presided by Diosdado Cabello, lifted Mr. Requesens' parliamentary immunity.[1227] Under article 200 of the Constitution, only the National Assembly may lift parliamentary immunity.[1228]

[1219] Ibid.

[1220] https://twitter.com/dcabellor/status/1027006029391966208?s=20

[1221] Informe sobre la detención de Juan Requesens MEP/335/2018, p. 6, available at: https://www.parlamentomercosur.org/innovaportal/file/15620/1/mep-335-2018.pdf

[1222] YouTube Video, Luigini Bracci Roa, Rueda de prensa del Fiscal Tarek William Saab: 19 vinculados en atentado contra Maduro, 8 August 2018, available at: https://www.youtube.com/watch?v=Il78lgpVhnA

[1223] Constitution of the Bolivarian Republic of Venezuela art .44, Criminal Procedure Code art.234.

[1224] YouTube Video, sucreranda Hugo Chávez Venezuela, Vladimir a la 1. Fiscal Tarek William Saab. Tania Díaz. Magnicidio frustrado en Venezuela. GV, 8 August 2018, available at: https://www.youtube.com/watch?v=oyZ1DQelfvE

[1225] Supreme Court Judgment No. 2018-0071 on 8 August 2018, available at: https://vlexvenezuela.com/vid/sentencia-n-48-tribunal-825476969

[1226] 1999 Constitution, art. 200.

[1227] YouTube Video, Luigini Bracci Roa, Asamblea Nacional Constituyente, allanan inmunidad a Julio Borges y Juan Requesens, 8 August 2018, available at: https://www.youtube.com/watch?v=CeX_HeNBTrs

[1228] 1999 Constitution, art. 200: Deputies to the National Assembly shall enjoy immunity in the exercise of their duties from the time of their proclamation until the end of their term of office or their resignation. The Supreme Court of Justice shall have exclusive jurisdiction over the alleged crimes committed by members of the National Assembly, and shall be the only authority that can order, with the prior authorization of the National Assembly, their arrest and continue their prosecution. In the event of a flagrant offence committed by a member of parliament, the competent authority shall take him or her into custody at his or her residence and shall immediately notify the Supreme Court of Justice. Public officers who violate the immunity of members of the National Assembly shall incur criminal responsibility and shall be punished in accordance with the law.

610. On 9 August 2018, SEBIN officers searched the home of Mr. Requesens' family,[1229] as well as the home of then National Assembly president Julio Borges,[1230] without a search warrant and without families or lawyers present.[1231] The Requesens family reported that valuables were stolen.[1232]

611. Mr. Requesens was held in solitary confinement, without family visits, until 20 September 2018 when his parents were authorized to see him. Two SEBIN officers accompanied them during the visits and recorded everything that was said.[1233]

612. Between 20 August 2018 and 1 October 2018, Juan Requesens' lawyer Joel Garcia made 13 unsuccessful attempts to access his client in El Helicoide. When he was finally permitted, meetings were held in the "fish tank" room ("la pecera"), named for its glass windows where conversations could be overheard. Guards prevented the lawyer from entering the facility with pens, papers or legal material, citing superior orders.[1234] The lawyer was later named on Diosdado Cabello's television show, "Con El Mazo Dando".[1235]

Videos in Detention

613. On 10 August 2018, the Minister of Communication and Information, Jorge Rodríguez Gómez, called Mr. Requesens a criminal and released a video of him making what the Minister described as a confession. In the video Mr. Requesens said, "Several weeks ago I was contacted by Julio Borges, who asked me the favour of transferring a person from Venezuela to Colombia. It was Juan Monasterios. I contacted him through the messenger service. I was in San Cristóbal". The video statement contained no details of an attack against the President.[1236]

614. Under the Criminal Procedure Code, statements by detainees may only be considered as evidence if made in the presence of a lawyer.[1237] It is unclear when and where the video released by the Communications Minister was recorded. However, Mr. Requesens had been in SEBIN detention from the time of his arrest on 8 August until the video's release on 10 August 2018. There is nothing in the video to suggest that he had legal assistance or was anywhere other than in the SEBIN detention facility.

615. On 10 August 2018, Mr. Requesens appeared in another video published on social media. He appeared confused, in a room similar to a bathroom. He was dressed only in underwear, which appeared stained.[1238] The National Assembly denounced the leaked recording as seeking to humiliate the deputy and possibly constituting cruel treatment.[1239]

616. On 11 August 2018, a meeting between President Maduro and FANB generals was broadcasted on Government news network, VTV.[1240] The President shared information on the criminal investigation process against Mr. Requesens. He referred to the leaked video,

[1229] https://twitter.com/RRequesens/status/1027753816865824768?s=20
[1230] https://twitter.com/JulioBorges/status/1027771493365768194?s=20; https://twitter.com/JulioBorges/status/1027804591797272576?s=20
[1231] Mission Interview with Rafaela Requesens on 18 May 2020.
[1232] Ibid.
[1233] Ibid.
[1234] Mission Interview with Joel Garcia on 11 May 2020.
[1235] YouTube Video, Noticias 24, Con el Mazo Dando | 03/07/2019, 7 July 2019, available at: https://www.youtube.com/watch?v=TKGI56Ez-0c
[1236] YouTube Video, Luigini Bracci Roa, ueda de prensa de Jorge Rodríguez, 10 agosto 2018, donde da a conocer confesión de Juan Requesens, 10 August 2018, available at: https://www.youtube.com/watch?v=nE24po4N2t8, minute 19:00.
[1237] Criminal Procedure Code, art. 132.
[1238] YouTube Video, La Patilla, Este es el verdadero VIDEO de Requesens, con signos de tortura, que no mostró Jorge Rodríguez, 10 August 2018, available at: https://www.youtube.com/watch?v=CVk1utnD_6I
[1239] YouTube Video, VIVO Play, Asamblea Nacional rechazó "tratos crueles" en contra de Requesens, 14 August 2018, available at: https://www.youtube.com/watch?v=R5XP9R--ZW4
[1240] YouTube Video, Luigini Bracci Roa, Maduro informa cuál fue el origen del video de Juan Requesens en interiors, 11 August 2018, available at: https://www.youtube.com/watch?v=47ZTK3-t6Vc

explaining that Mr. Requesens had been undergoing a medical check with SEBIN officers, "and got nervous".

617. On 14 August 2018, during his television show "El Mazo Dando", Diosdado Cabello called Mr. Requesens a terrorist. He stated that the deputy had confessed voluntarily and accused him of pretending not to remember making the confession. He also referred to the second video by saying "each person expresses their nervousness in the way their body tells them".[1241]

Initial Appearance

618. Following the Supreme Court ruling requesting that his immunity be lifted, Mr. Requesens' initial court appearance was set for 11 August 2018 but was deferred without explanation. The appearance took place before the First Special Control Court of First Instance with competence for terrorism cases, presided by Judge Carol Padilla, on 13 August 2018.

619. Mr. Requesens and 17 other individuals accused of involvement in the drone attack were presented in court together. Mr. Requesens' lawyer spoke to him for the first time since his arrest five minutes prior to the hearing. He asked Juan Requesens about the video confession and Mr. Requesens did not recall having filmed anything.[1242]

620. Mr. Requesens' family and lawyers suspect Mr. Requesens had been drugged prior to being filmed for the first time, possibly with scopolamine or a derivative to induce a testimony.[1243] Mr. Requesens remembered making the second video. He told his lawyer that SEBIN officers had made him wear shorts soiled with excrement as they filmed him.[1244]

621. On 14 August 2018, the Public Prosecutor's Office announced that Mr. Requesens would be charged with the following crimes: treason;[1245] terrorism;[1246] frustrated intentional homicide against the President;[1247] attempted pre-meditated homicide against seven military officers;[1248] association to commit crimes;[1249] continuous public instigation;[1250] and illegal possession of arms and ammunition.[1251]

622. The prosecution did not present the video containing the purported confession in court as evidence against Mr. Requesens. The defence requested that the videos be included in the case, but the judge deferred the decision to the Public Prosecutor's Office. The judge adjourned the hearing, saying that she would announce her decision the following day.[1252]

623. At around 11 a.m. on 14 August 2018, Attorney General Tarek William Saab, gave a press conference stating that Mr. Requesens would remain in pre-trial detention. He also said that a toxicology exam and a medical and psychological examination would be ordered.[1253] The judge had still not announced her decision.

1241 YouTube Video, Sucreranda, Diosdado Cabello Con El Mazo Dando a los terroristas Juan Requesens y Julio Borges. Ismael García, 16 August 2018, minute 40.00, available at: https://www.youtube.com/watch?v=xk2JZqT0tC0

1242 Mission Interview with Joel Garcia on 11 May 2020.

1243 Mission Interview with Joel Garcia on 11 May 2020; Mission Interview with Rafaela Requesens on 18 May 2020.

1244 Mission Interview with Joel Garcia on 11 May 2020.

1245 Criminal Code, art. 128.

1246 Organic Law against Organized Crime and the Financing of Terrorism, art. 52.

1247 Criminal Code, art. 405 and 406 numeral 3 a.

1248 Criminal Code, art. 405 and 406 numeral 2.

1249 Organic law against organized crime and financing of terrorism art. 37.

1250 Criminal Code, art. 285.

1251 Law for the disarmament and control of weapons art. 111.

1252 Mission Interview with Joel Garcia on 11 May 2020.

1253 YouTube Video, Luigini Bracci Roa, Fiscal General Tarek William Saab, 14 agosto 2018, sobre atentado contra Maduro, 14 August 2018, available at: https://www.youtube.com/watch?v=Kdlxrn0Olg4

624. Hours later, the judge confirmed that Mr. Requesens would remain in SEBIN headquarters. She ordered the confiscation of Mr. Requesens' movable and immovable assets and froze his bank accounts. She placed the assets under the control of the National Office against Organized Crime.[1254]

Medical Examination

625. On 21 August 2018, Mr. Requesens was examined by SENAMECF.[1255] A certificate dated 29 August 2018 confirmed that blood and urine tests were made to find traces of alcohol, marijuana or cocaine. The test, made 14 days after the arrest, was negative. SENAMECF did not test for substances of scopolamine and derivative products, despite allegations from family members, defence lawyers and other opposition members[1256] that such drugs had been used to induce the statement that Mr. Requesens said he could not remember making.[1257]

626. The Mission consulted an independent toxicologist and medical doctor who explained that clinical effects of scopolamine include retrograde amnesia, submission and pupil dilation, among other symptoms. Identifying scopolamine residues requires a specific test known as a chromatography HPLC test or spectrometry (GC-MS or LC-MS), available at specialized laboratories. The body metabolizes scopolamine quickly; traces can disappear after two days in the blood and five days in the urine.[1258]

627. After the initial court appearance, Mr. Requesens' lawyer was denied access to the trial record until 17 September 2018.[1259] No information regarding the arrest of Rafaela Requesens appeared in the case file of the Public Prosecutor's Office.[1260]

Judicial Process

628. The preliminary hearing was deferred eight times and suspended 11 times, either at the court's request, or because SEBIN failed to bring Mr. Requesens to the court to comply with the summons.[1261]

629. Mr. Requesens had been detained for 328 days when the preliminary hearing was held on 1 July 2019, exceeding the 65 days legal limit.[1262] Judge Carol Padilla declared the defence arguments inadmissible. She approved the charges and sent the case to trial. She ordered that Mr. Requesens remain in detention.

630. On 2 December 2019, the trial of Mr. Requesens and 17 co-defendants began at the First of First Instance for Trial with jurisdiction over terrorism-related crimes with Judge Henith Carolina López presiding. According to the Constitution, Mr. Requesens should have

1254 Tribunal ordena congelar cuentas y confiscar bienes del diputado Requesens available at: https://www.descifrado.com/2018/08/15/tribunal-ordena-congelar-cuentas-y-confiscar-bienes-del-diputado-requesens/.

1255 CIDH Resolution 79-2018, Medida Cautelar No.1039-18, Government Response, para. 8.

1256 NTN24, Expertos coinciden en que Requesens pudo haber sido dopado, 10 August 2018, available at: https://www.ntn24.com/america-latina/venezuela/expertos-coinciden-en-que-requesens-pudo-haber-sido-dopado-95362; https://twitter.com/joseolivaresm/status/1028053319703580674?s=20.

1257 Mission Interview with Joel Garcia in May 2020; Mission Interview with Rafaela Requesens on 18 May 2020.

1258 Mission Interview with Dr E.Harmoush, US board-certified doctor of emergency medicine, eligible in toxicology, on 14 May 2020.

1259 Mission Interview with Joel García on 11 May 2020.

1260 Mission Interview with Rafaela Requesens on 18 May 2020; Mission Interview with Joel Garcia on 11 May 2020; See also YouTube Video, *El Pitazo*, "Abogado de Requesens informó que tuvo acceso al expediente del caso, después de 30 días", 17 September 2018, available at: https://www.youtube.com/watch?v=O0vaROUzSjw.

1261 Mission Interview with Joel Garcia on 11 May 2020.

1262 Article 236 of the Criminal Procedure Code foresees a period of 45 days following judicial deprivation of liberty during which the prosecution may present its accusation. Article 309 establishes that once the accusation has been presented, the preliminary hearing should take place within 20 days.

been tried by the Full Chamber of the Supreme Court.[1263] The trial was ongoing at the time of writing.

631. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

632. On 28 August 2020, Mr. Requesens was released from SEBIN Helicoide and placed under house arrest.[1264] Mr. Requesens' lawyer informed the Mission that, at the time of writing, the defence team had not receivd written notification of this decision. The lawyer explained that Mr. Requesens will wear a GPS tracking device and be under 24 hour police surveillance.[1265]

Findings

633. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention were committed against Mr. Requesens. The Mission has also reasonable grounds to believe that the conditions of detention in El Helicoide and the treatment Mr. Requesens was subjected to in detention amount to a violation of the prohibition of torture and other cruel inhuman or degrading treatment or punishment.

634. SEBIN officers belonging to the strategic research and immediate action units and under the command of SEBIN Director Gustavo Enrique González López were involved in the arrest and detention of Mr. Requesens.

CASE 10: Fernando Alberto Albán

635. Fernando Alberto Albán was a council representative for Libertador Municipality of Capital District, elected on 8 December 2013. He was also a Primero Justicia party board member and participated in the protests of 2014, 2017 and 2019 as coordinator of the "PJ Gremial Nacional" organisation. He campaigned for opposition candidates for the National Assembly during the December 2015 election.

636. After National Assembly elections in 2015, Councillor Albán and his family received a series of anonymous telephone threats. In September 2015, his son left Venezuela after receiving death threats and at the time of writing was seeking asylum in the United States.[1266] In June 2017, his wife and his daughter also left the country following threats. Both were granted asylum in the United States in July 2018.[1267]

637. In mid-August 2018, Mr. Albán traveled to New York, where he visited his family and met with Primero Justicia party leaders, including opposition leader Julio Borges and former mayor Gustavo Marcano. Mr. Albán also participated in side events at the United Nations General Assembly in September 2018.[1268]

The Arrest

638. On 5 October 2018, Mr. Albán returned to Venezuela, arriving at Simón Bolívar International Airport near Caracas, where he informed his wife that he had landed. SEBIN officers detained him without an arrest warrant shortly after he passed through immigration. He managed to inform a family member via text message that SEBIN officers were detaining him.[1269]

1263 Mission Interview with Joel Garcia on 11 May 2020.
1264 Criminal Procedure Code, art. 242, para. 1.
1265 Mission Interview with Joel Garcia 29 August 2020, see also CNN Español, Venezuela: excarcelan al diputado opositor Juan Requesens, available at https://www.youtube.com/watch?v=uXbSo9ezx1g, see also https://twitter.com/RRequesens/status/1299493567329636352?s=20, https://twitter.com/TVVnoticias/status/1299478402035077120?s=20
1266 Asylum request form of Fernando Albán Osio, on file with the Mission.
1267 Asylum certificate of Meudy Osio and Fernanda Albán, on file with the Mission.
1268 Mission Interview with Meudy Osio de Albán on 26 May 2020.
1269 Ibid.

639. The family member, who prefers to remain unnamed, together with a lawyer and a Primero Justicia party representative went to the airport. They inquired about Mr. Albán at the SEBIN office, but received no information. They made similar inquiries at SEBIN headquarters in Plaza Venezuela and in El Helicoide, but officers denied having Mr. Albán in custody.[1270]

640. On the morning of 6 October 2018, the family filed a formal complaint that Mr. Albán was missing to the Public Prosecutor's Office for Fundamental Rights.[1271] Several prominent people, including religious leaders, made public demands about Fernando Albán's whereabouts and detention status.[1272]

641. Later that afternoon, Mr. Albán was permitted a telephone call with his wife, more than 24 hours since his arrest. He informed her he was in detention on the tenth floor of SEBIN's Plaza Venezuela building, home to the counter-intelligence section. He said he had not been mistreated, but was under pressure to incriminate National Assembly deputy Julio Borges, who had been accused a few months earlier of involvement in the drone attack near President Maduro on 4 August 2018.[1273]

642. On 7 October 2018, SEBIN officers took Mr. Albán to Caracas Palace of Justice, where he was presented to the Sixth First Instance Court of Control of Caracas Metropolitan Area. The court declined jurisdiction and referred the case to the Court of Control on Terrorism-Related Crimes, presided by Judge Carol Padilla, as this court had ordered the arrest.[1274] The terrorism court was closed, so no hearing took place.

643. The Sixth Court allowed Mr. Albán to appoint a defence team, but the lawyers were denied access to the case file. The defence team was provided with the arrest warrant, which had not been presented to Mr. Albán. Arrest warrant number 1CT-S-006-18, dated 4 October 2018, had been issued by Judge Carol Padilla of the Court of Control on Terrorism-Related crimes.[1275] The warrant did not provide evidentiary support for the arrest required by the Criminal Procedure Code.[1276] Mr. Albán was accused of terrorism,[1277] attempting to murder the President and the military high command,[1278] treason[1279] and association to commit crimes.[1280]

Death in SEBIN Custody

644. At around 3.35 p.m. on 8 October 2018, Attorney General Tarek William Saab announced via telephone during a VTV broadcast that Fernando Albán had committed suicide. The Attorney General said Mr. Albán "was being investigated for the attempted

1270 Mission Interview with Meudy Osio de Albán on 26 May 2020, Mission Interview with Ramon Alfredo Aguilar on 27 May 2020.

1271 Complaint of enforced disappearance of Councillor Fernando Albán, before Public Prosecutor's Office on Fundamental Rights, 6 October 2018, on file with the Mission.

1272 https://twitter.com/FernanAlban/status/1048438265592926208?s=20; https://twitter.com/vivoplaynet/status/1048607036697505792?s=20; https://twitter.com/aneleymar/status/1048626773251039232?s=20; https://twitter.com/Albanfernando/status/1048674858454962183?s=20.

1273 Mission Interview with Meudy Osio de Albán on 26 May 2020.

1274 Mission Interview with Ramon Alfredo Aguilar on 27 May 2020, corroborated by statement of Attorney General; See also, YouTube Video, Luigino Bracci Roa, Nueva rueda de prensa del Fiscal Tarek William Saab sobre muerte de Fernando Albán, 10 octubre 2018, 10 October 2018, available at: https://www.youtube.com/watch?v=5TsGLC3n88Q

1275 Mission Interview with Ramon Aguilar on 27 May 2020. See document on profile of Karol Padilla, Armando Info, Carol Padilla, perfil de una jueza por encargo, 18 August 2019, available at: https://armando.info/Reportajes/Details/2593. See also YouTube Video, El Pitazo, Abogado de Fernando Albán: "Recusamos al ciudadano Tarek Williams Saab", 4 December 2018, available at: https://www.youtube.com/watch?v=Hc2LONBAWFM

1276 Criminal Procedure Code, arts. 232 and 236.

1277 Organic Law against Organized Crime and the Financing of Terrorism, art. 52.

1278 Criminal code art. 405 and 406 numeral 3 'a'.

1279 Criminal code art. 128.

1280 Organic Law against Organized Crime and the Financing of Terrorism, art. 37.

assassination of President Nicolás Maduro [...]. The councilman asked to go to the bathroom and, while there, threw himself into the void from the tenth floor".[1281] Mr. Albán's initial court appearance had been scheduled for that day.

645. Later that day, Interior Minister Néstor Reverol made a statement with a slightly different version of events, saying that Mr. Albán had been in the waiting room at SEBIN Plaza Venezuela for transfer to court, when he threw himself out of a window falling to his death. The Minister of the Interior announced that the CICPC Deputy Director and a multidisciplinary team, along with the Public Prosecutor's Office, had been instructed to investigate the case.[1282]

646. Both the Attorney General and the Minsiter of the Interior announced that cause of death was suicide even though an investigation had not been completed.

647. Following the announcement, relatives, lawyers, political activists and friends of Mr. Albán headed to SEBIN headquarters in Plaza Venezuela seeking information, which SEBIN officers refused to provide.[1283] On the afternoon of 8 October, Mr. Albán's body was transferred to the CICPC's forensic medicine unit in Bello Monte for an autopsy. A family member was allowed access to the morgue to identify the body. At around 8.35 p.m. the body was delivered to the family for burial.[1284]

648. The forensic medicine unit issued a death certificate to the family on the same day. Cause of death was recorded as "severe cranial encephalic trauma; secondary hypovolemic shock; abdominal pelvic thoracic trauma from a fall from height".[1285] The certificate was not dated.

649. When the family requested a dated certificate on 9 October 2018, authorities issued a new death certificate. The cause of death had been amended to "severe craniofacial trauma" (rather than severe cranial encephalic trauma) and was signed by a different doctor.[1286] The first doctor was registered as a community doctor (general practitioner) and did not appear to have expertise in anatomical pathology, in contravention to the Criminal Procedure Code.[1287] The second doctor identified himself in the death certificate with an identity card number that, according to the website of the National Electoral Council, corresponds to another person.

650. On 10 October 2018, Attorney General Tarek William Saab made a second statement about Mr. Albán's death, based on the autopsy.[1288] He revealed that five tests had been ordered and an audit of security footage and planimetric survey (to collect metric information from the crime scene) were being carried out. According to the Attorney General, the autopsy confirmed that Mr. Albán had fallen to his death and that he had been alive on impact.[1289] He

[1281] See YouTube Video, Luigini Bracci Roa, Fiscal General sobre presunto suicidio del concejal Fernando Albán, 8 October 2018, available at: https://www.youtube.com/watch?v=K1j1PLu4m7s&t=152s

[1282] https://twitter.com/VPITV/status/1049387595032158213?s=20

[1283] YouTube Video, NTN24 Venezuela, Abogado del concejal Fernando Albán duda que el edil se haya suicidado, 8 October 2018, available at: https://www.youtube.com/watch?v=jQ6rpRa8Xjs; YouTube Video, Viva Play Diputados y representantes de la oposición venezolana se encuentran en las afueras del Sebin de Plaza Venezuela para intentar obtener información sobre la muerte del concejal Fernando Albán, 8 October 2018, available at: https://www.youtube.com/watch?v=2DIEkiDthxE

[1284] YouTube Video, VPITV, EN VIVO - Entregan Cuerpo del Concejal de Primero Justicia, 8 October 2018, available at: https://www.youtube.com/watch?v=ozucDPMjVWs

[1285] Death certificate, issued by the Medicatura Forense de Bello Monte, Municipality Libertador of the Capital District, on file with the Mission.

[1286] Death Certificate No. 3790 issued by the Civil Registrar of San Pedro Parish, Libertador Municipality, Capital District, October 9, 2018 and Death Certificate EV14 No. 90100289, issued by the Forensic Medicine Office of Bello Monte, Libertador Municipality, Capital District, 9 October 2018 on file with the Mission.

[1287] Criminal Procedure Code, art. 200.

[1288] YouTube Video, Luigino Bracci Roa, Nueva rueda de prensa del Fiscal Tarek William Saab sobre muerte de Fernando Albán, 10 octubre 2018, 10 October 2018, available at: https://www.youtube.com/watch?v=5TsGLC3n88Q

[1289] Ibid.

said that the autopsy provided no indications that Mr. Albán had been tortured or physically abused.[1290]

651. Contradicting his previous statement, the Attorney General added, "It has never been said that Fernando Albán threw himself out of the bathroom window. When he said he wanted to go to the bathroom, he took advantage of the circumstance and ran to throw himself out from a panoramic window on the tenth floor corridor".[1291]

652. National Constituent Assembly president Diosdado Cabello also made statements in relation to the case on 10 October 2017. On his show "Con el Mazo Dando", he told the audience that, "It is very sad that the opposition continues doing politics with death and doesn't even respect a person's decision to end their own life".[1292]

653. On 31 October 2018, a journalist asked Attorney General Tarek William Saab during a television interview whether Mr. Albán had been handcuffed at the time of his death. He responded that there was no indication of that.[1293] The Attorney General added that anyone claiming without proof that Mr. Albán did not commit suicide would be committing a felony. He denied the existence of security footage from the corridor in Plaza Venezuela, but made reference to footage from cameras in adjacent buildings.[1294]

Criminal Investigation

654. The Public Prosecutor's Office opened an investigation into Mr. Albán's death on 8 October 2018, the day he died.[1295] On 4 January 2019, the provisional prosecutor of the 59th Prosecutor´s office with National competence, presented an accusation against two SEBIN officers,[1296] who were charged with breach of custodial obligations.[1297] The Mission understands that this crime usually applies in detainee escape cases.

655. The Thirty-First Tribunal of the Criminal Judicial Circuit for Caracas Metropolitan Area did not allow Mr. Albán's attorneys to participate in the proceedings against SEBIN officers, despite requests to join as parties to the case.[1298] On 2 September 2019, the prosecution presented charges for violation of custody.[1299] The Mission has been unable to establish which verdict was reached in the case. There is no information about further investigations into other potential crimes committed against Mr. Albán, despite complaints filed by this legal team.[1300]

1290 Ibid.
1291 Ibid.
1292 YouTube Video, Luigino Bracci Roa, Lo que dijo Diosdado Cabello sobre la muerte del concejal Fernando Albán, 10 October 2018, minute 1:49, available at: https://www.youtube.com/watch?v=pMJd-VHJZF4.
1293 Ibid.
1294 YouTube Video, Globovisión, Fiscal General: Albán murió tras el impacto, sin evidencias de tortura (2/6), 1 November 2018, minute 2:14, available at: https://www.youtube.com/watch?v=RBNGy8lv64k
1295 Accusation presented by the provisional prosecutor of the Fifty-Ninth Public Prosecutor's Office with National Jurisdiction before Judge Thirty-One of the First Instance Court of Control of the Criminal Judicial District of the Metropolitan Area of Caracas, file No. MP-245888-2018, on 4 January 2019, on file with the Mission.
1296 File No. 31C-S-1302-18, on file with the Mission.
1297 Accusation presented by the provisional prosecutor of the Fifty-Ninth Public Prosecutor's Office with National Jurisdiction before Judge Thirty-One of the First Instance in Control of the Criminal Judicial District of the Metropolitan Area of Caracas, file No. MP-245888-2018, 4 January 2019, on file with the Mission.
1298 Complaint submitted to the Inspectorate of Courts, 27 November 2018, on file with the Mission.
1299 Criminal Code art. 267.
1300 Complaints filed with the Fifty-Ninth Prosecutor's Office; Complaint filed with the Inspectorate of Courts, both dated 27 December 2018, on file with the Mission.

656. Between December 2018 and July 2019, Mr. Albán's lawyers made over 30 official requests to different authorities requesting access to the investigation into Mr. Albán's death.[1301] The requests had not been answered at the time of writing.

657. The legal team filed a complaint with the Public Prosecutor's Office for unlawful deprivation of liberty; enforced disappearance; concealment of enforced disappearance; torture, cruel, inhuman, and degrading treatment; aggravated homicide (extrajudicial execution); concealment of all the above-mentioned crimes; and conspiracy to commit a crime on 4 December 2018.[1302] They requested exhumation to ensure that an autopsy compliant with the Minnesota Protocol and Istanbul Protocols could be conducted and requested the Public Prosecutor's recusal from the case.[1303]

658. On 6 February 2019, Mr. Alban's legal team filed a complaint with the Office of the Human Rights Ombudsperson, requesting that it investigate the Attorney General's failure to investigate the death. The legal team again requested exhumation and transfer of the body to the United States where the family resides.[1304] Mr. Albán's widow later made the same request before the Inter-American Commission on Human Rights.[1305]

Case File Review

659. The Mission formally requested access to the investigation report into Mr. Albán's death, the case file on his arrest from the Venezuelan Government on 2 June 2020, as well as the official autopsy and pictures for an independent assessment.[1306] At the time of writing, it had not received a response.

660. The Mission was able to review details from the proceedings against the accused SEBIN officers, which included information about the investigation into Mr. Albán's death by the Public Prosecutor's Officer and the CICPC.[1307] Two prosecutors assigned to oversee the investigation and assist in the autopsy[1308] were the prosecuting attorneys in the drone attack case, for which Mr. Albán had been under investigation at the time of his death.

661. The information received included witness interviews and the autopsy report. Among issues the Mission identified are the following:

- According to former detainees and others who had been on the tenth floor of Plaza Venezuela, detainees are handcuffed and accompanied by SEBIN officers at all times, including visits to the bathroom.[1309]
- According to two SEBIN officers interviewed by the Public Prosecutor's Office, Mr. Albán's hands were cuffed in front of him when he requested bathroom access. The same witnesses stated that Mr. Albán had been wearing shoes. The body was found without handcuffs and without shoes.[1310]

1301 The 30 requests are on file with the Mission.

1302 Formal complaint filed on behalf of Mrs. Meudy Osio De Albán, before the Public Prosecutor´s Office on 4 December 2018, on file with Mission.

1303 Ibid. See also press statements by lawyer Ramon Alfredo Aguilar Camero, December 4, 2018, available at: https://twitter.com/pr1merojusticia/status/1069995061943902208?s=12 https://twitter.com/tvvnoticias/status/1069969121708830720?s=12, https://www.youtube.com/watch?v=Hc2LONBAWFM

1304 Exhumation request presented to the Public Prosecutor's Office, on file with the Mission.

1305 YouTube Video, El Pistazo, Viuda de Albán solicitó a la CIDH que "trasladen el cuerpo para darle cristiana sepultura", 5 December 2018, available at: https://www.youtube.com/watch?v=dEAQPLV_pO8

1306 REF: MissionV/CG/002, on file with the Mission.

1307 Document C2DD26, on file with the Mission.

1308 Farik Karim Mora Salcedo and Dinora Bustamante Puerta.

1309 https://twitter.com/RosmitMantilla/status/1049439670931808256?s=20 y https://twitter.com/SContrerasB/status/1049400642425540613?s=20

1310 Images of Mr. Albán's body on file with the Mission, planimetric lifting No. 1378 and 1378 b, Technical Inspection No. 2.219 File: K-18-0017-00631 Chart No. 31, 8 October 2018, on file with the Mission.

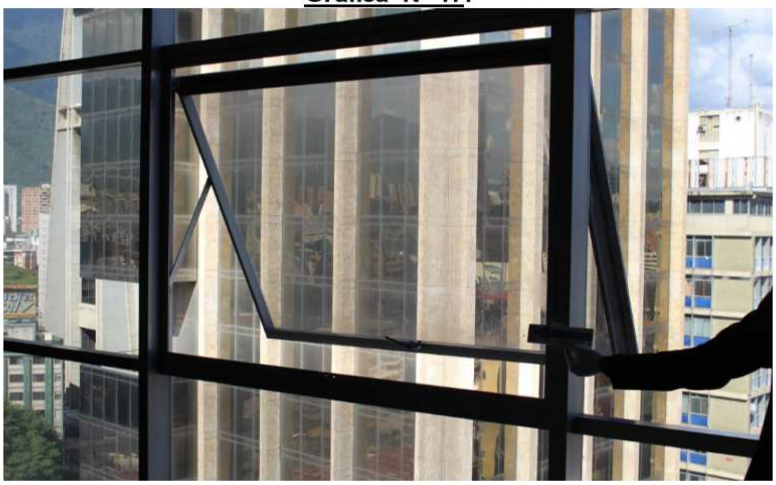
- Attorney General Tarek William Saab said that security cameras footage from the tenth floor did not exist.[1311] The Mission has been informed that the Information Technology System Analysis Division of the Public Prosecutor's Office collected and stored footage.[1312]
- The fingerprints found by the CICPC on the window from which Mr. Albán allegedly jumped belonged to a SEBIN officer, according to an analysis by the Public Prosecutor's Office. Given that the window only opened to 30 degrees[1313] and Mr. Albán was 1.73 metres tall, he would likely have touched it while climbing through.
- The Public Prosecutor's Office indicated that Mr. Albán's body had landed on a ventilation unit of the Caracas metro and that there was considerable loss of blood. The case file contains photographic evidence of the body placed on a stretcher, as opposed to the body on the ventilation unit.
- The Attorney General indicated that the body presented fractures in the extremities, including the arms[1314] but this was not recorded in the first death certificate issued by the forensic doctor.

DIVISIÓN DE INSPECCIÓN TÉCNICA

JUSTICIA SOCIALISTA

Inspección Técnica Nº 2.219 Fecha: 08-10-2018 Expediente: **K-18-0017-00631**

Grafica Nº 17:



Autopsy Review

662. The Mission interviewed a former Chief of Forensic Medicine who had worked for the CICPC team at Bello Monte Morgue, Dr. Valenilla. He had left Venezuela by the time the Bello Monte Morgue received Mr. Albán's body, but he was able to explain appropriate procedures to the Mission.[1315] The Mission also consulted an independent international forensic expert specialised in the Istanbul and Minnesota Protocols, Dr. Ozkalipci.[1316]

1311 See YouTube Video, Globovision Videos, Fiscal General: Albán murió tras el impacto, sin evidencias de tortura (2/6), 1 November 2018, minute 2:14, available at: https://www.youtube.com/watch?v=RBNGy8lv64k

1312 Document C2DD26, on file with the Mission.

1313 Version Final, Difunden plano del piso 10 del Sebin, "no hay ventana en los baños", 10 October 2018, available at: https://versionfinal.com.ve/politica-dinero/difunden-plano-del-piso-10-del-sebin-no-hay-ventana-en-los-banos/

1314 YouTube Video, Globovisión, Fiscal General: Albán murió tras el impacto, sin evidencias de tortura (2/6), 1 November 2018, available at: https://www.youtube.com/watch?v=RBNGy8lv64k, minute 5.28.

1315 Mission Interview with Dr Joel Vallenilla in April 2020.

1316 Mission Interview with Dr Onder Ozkalipci in May 2020.

663. Both experts told the Mission that an autopsy consistent with existing international protocols in the investigations of potentially unlawful deaths, namely the Minnesota one, would have provided accurate information on the cause of death and conditions surrounding the death.

664. According to Dr. Ozkalipci, the photographs and information revealed that the professional quality of the autopsy was far behind international standards. Dr. Ozkalipci found no indication that those performing the autopsy searched for evidence of torture or ill-treatment, sexual violence, asphyxiation, hallucinogen drugs or sedatives. He noted that no one representing the family was present during the autopsy. Overall, he described it as having been performed to a very low standard.[1317]

665. Dr. Valenilla's opinion was that forensic anatomical pathologists are trained to perform external and internal analysis of the corpse, as well as to make cuts to tissue (histological cuts). When studied microscopically, the cuts provide important information about the cause of death, and this information was missing. He also cast doubt upon the Attorney General's claim that the final autopsy results were ready in 24 hours, explaining that this would not have been materially possible however advanced the technology.[1318]

Harassment

666. On 7 February 2019, the Venezuelan Minister of Communications, Jorge Rodríguez Gómez held a press conference in which he accused Mr. Albán of participating in conspiracy acts. In the same speech, he claimed that Mr. Albán's wife was linked to a lieutenant colonel who has been accused of involvement in the drone attack of 4 August 2018.[1319]

667. On 7 March 2019, Mr. Albán's lawyer. Mr. Ramon Alfredo Aguilar, requested precautionary measures from the Inter-American Commission on Human Rights for himself, other members of the legal team and his family members, after feeling intimidated by the close attention of DGCIM officers, following his involvement in the case.[1320] He eventually sought asylum in Colombia.[1321]

668. The Mission contacted the Government requesting a status update in this case on 2 June 2020. At the time of writing, it had not received a response.

Findings

669. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention were committed against Mr. Albán. Furthermore, Mr. Albán died while in custody of the SEBIN authorities, which also involves a presumption of state responsibility.[1322]

670. Based on the investigation conducted on the case, the Mission has strong reservations about the qualification of suicide in relation to the death of Mr. Albán and has reasonable grounds to believe that public officers were involved in his death, amounting to an arbitrary deprivation of life.

671. Mr. Albán was detained by SEBIN officers and was in the custody of the Coordination of Special Operations, dependent on the Counter-Intelligence Directorate of SEBIN when he died.

1317 Ibid

1318 Mission Interview with Dr Joel Vallenilla in April 2020.

1319 Mission Interview with Meudy Osio in May 2020; See also, YouTube Video, Luigino Bracci Roa, Jorge Rodríguez, rueda de prensa sobre sucesos en frontera Venezuela-Colombia, 24/02/2019, 24 February 2019, available at: https://www.youtube.com/watch?v=ZeNLBSxozGA&feature=youtu.be

1320 Measure MC-236-19, Request to the Inter-American Commission on Human Rights for precautionary measures in favor of the lawyers of Fernando Albán's family, 7 March 2019.

1321 Mission Interview with Ramon Alfredo Aguilar in May 2020.

1322 CCPR/C/GC/36. "Loss of life occurring in custody, in unnatural circumstances, creates a presumption of arbitrary deprivation of life by State authorities, which can only be rebutted on the basis of a proper investigation which establishes the State's compliance with its obligations under article 6".

CASE 11: Roberto Marrero

672. Roberto Marrero is a Venezuelan lawyer, and founder member of political party National Voluntad Popular. He was the director (2008-2012) and then counsellor (2013-2015) of the townhall (alcaldía) of Baruta municipality, part of the Caracas Metropolitan District. In 2016 and 2017, he acted as Secretary for the National Assembly. In 2014 and 2015, he worked as a defence lawyer for Leopoldo López.

673. On 8 February 2019, Mr. Marrero became Juan Guaidó's Chief of Staff. He travelled with Mr. Guaidó to Cúcuta, Colombia, in February 2019, for what they described as a humanitarian aid project.

Arrest

674. On 15 March 2019, a SEBIN inspector drafted a criminal investigation report alleging that Roberto Marrero was between Táchira (Venezuela) and Cúcuta (Colombia) to smuggle weapons and to recruit foreign individuals to overthrow the Maduro Government. SEBIN requested that the Public Prosecutor's Office open a criminal investigation against Mr. Marrero and grant search and arrest warrants.[1323]

675. On the same day, 15 March 2019, provisional prosecutors with the Public Prosecutor's Office, Farik Karim Mora Salcedo[1324] and Dinora Bustamante Puerta[1325] opened an investigation against Mr. Marrero. They requested search and arrest warrants from the First Court of Control on Terrorism-Related Crimes.[1326] On 20 March 2019, Judge Carol Padilla granted both requests.[1327]

676. Sergio Vergara, a National Assembly member who lived in the same apartment building as Mr. Marrero,[1328] told the Mission that armed men with covered faces entered his apartment through an open window at around 2.30 a.m. on 21 March 2019.[1329] The men, later revealed as SEBIN officers, pointed a gun at Mr. Vergara and forced him to the ground with a knee on his back. Another group broke down the door and around 30 more officers entered searching the apartment. They did not present a search warrant.[1330]

677. After about 20-25 minutes, prosecutors Mr. Mora Salcedo and Ms. Bustamante Puerta entered the apartment, staying few minutes. Approximately an hour into the search, a senior SEBIN official entered the apartment with his face covered. He said he was in charge of the operation, but did not provide his name. An hour later prosecutor Mora Salcedo returned and said there had been a mistake and that they would respect Mr. Vergara's immunity and pay for the damage they had caused. When they left the apartment at around 5 a.m., Mr. Vergara saw them enter Mr. Marrero's apartment.[1331]

678. After entering Mr. Marrero's apartment, SEBIN officers reported finding two automatic rifles and one grenade. Mr. Marrero accused the officers of planting the weapons

[1323] Extracts of Police record of 15 March 2019, on file with the Mission.
[1324] Sixty-seventh National Provisional Prosecutor against corruption.
[1325] Eighty-third National Provisional Prosecutor against corruption, money laundering and financial and economic crimes.
[1326] Formal accusation of the Twentieth National Prosecutor's Office (Fiscalía Vigésima 20° A Nivel Nacional) to the Court of Control on Terrorism-Related Crimes (Tribunal Especial Primero de Primera Instancia en Funciones de Control con Competencia en Casos vinculados con delitos asociados al Terrorismo con jurisdicción a nivel nacional), MP-81818-2019 01-CT-014-19, 12 May 2019. See also, opinion of the Working Group on Arbitrary Detention, A/HRC/WGAD/2019/75.
[1327] Ibid.
[1328] Mission Interview with Sergio Vergara on 11 May 2020.
[1329] Ibid.
[1330] Ibid.
[1331] Ibid. Mr. Vergara also reported that on 8 May 2019, the Supreme Court requested his prosecution for the events of 30 April 2019 (when, in what was referred to as "Operation Freedom", Juan Guaidó attempted to launch a military-backed effort to oust President Maduro) and that on 14 May 2019 the National Constituent Assembly revoked his parliamentarian immunity. Thus, Mr. Vergara sought refuge in a foreign Embassy before leaving the country.

in his apartment.[1332] From next door, Mr. Vergara heard Mr. Marrero shouting, "They sneaked two rifles and a grenade into my house!"[1333] Mr. Marrero later confirmed this to his lawyer.[1334] One of Mr. Marrero's lawyers came to his residence during the search but SEBIN officers prevented him from entering.[1335]

679. Christopher Figuera, SEBIN Director at the time of Marrero's arrest and detention, confirmed in a number of interviews that he received the order to place weapons in Mr. Marrero's house directly from President Maduro. According to Mr. Figuera, DGCIM Director, Iván Hernández Dala procured and supplied the weapons.[1336]

680. The SEBIN officers took Mr. Marrero to SEBIN El Helicoide.[1337] Roberto Marrero was detained in a 2 x 2 metres cell with no window or ventilation. He spent the first month in solitary confinement and was detained incommunicado until 13 May 2019, when he was allowed to contact both his relatives and lawyers. Mr. Marrero briefly met the lawyers in Court during the hearings.[1338]

681. Mr. Marrero's lawyer explained that he was permitted to visits his client on a weekly basis, as per normal visiting rules, apparently of orders from above.[1339] When lawyers and relatives were allowed to meet with Mr. Marrero, the visits often took place away from the main visiting room, in a separate secluded space that the lawyers assumed was bugged.[1340]

682. High-level Goivernment respresentatives made a series of statements in the days following Mr. Marrero's arrest and detention. On 21 March 2019, Interior Minister Néstor Reverol said that Mr. Marrero was part of a terrorist cell.[1341] On the same day, President Maduro spoke of dismantling a terrorist group including Mr. Marrero.[1342] Two days later, Jorge Rodríguez Gómez, Vice-President of Communications, Culture and Tourism and

[1332] See A/HRC/WGAD/2019/75, para. 13. See YouTube Video, TVV, Allanan residencias del diputado Sergio Vergara y el abogado Roberto Marrero, cercanos a Juan Guaidó, 21 March 2019, available at: https://www.youtube.com/watch?v=MQqmcQxJj8E

[1333] El Nacional, El mensaje de Marrero antes de ser secuestrado por funcionarios del Sebin, 21 March 2019, available at: https://www.elnacional.com/venezuela/politica/mensaje-marrero-antes-ser-secuestrado-por-funcionarios-del-sebin_275626/; See also, Efecto Cocuyo, Detenido Roberto Marrero durante la madrugada de este #21Mar tras allanar su residencia, 21 March 2019, available at: https://efectococuyo.com/politica/detenido-diputado-roberto-marrero-durante-la-madrugada-de-este-21mar/

[1334] Mission interview with Joel Garcia, Mr. Marrero's lawyer on 1 May 2020.

[1335] Interview with relatives on 8 May 2020.

[1336] See YouTube Video, #DeFrenteConLaPacheco. Acábenlo, ordenó Maduro, 14 Feburary 2020, minute 16:40, available at: https://www.youtube.com/watch?v=A7vNVArAHJU&feature=youtu.be. See also #HablaFiguera Maduro solo levanta el teléfono y ordena torturar - Aló BN EVTV - 06/12/19 SEG 1, 12 July 2019, available at https://www.youtube.com/watch?time_continue=525&v=L6EqQ8cGaQE&feature=emb_title, from minute 3.30 and América Digital Noticias, El exjefe del Servicio Bolivariano de Inteligencia (Sebin), conversó con César Miguel Rondón sobre el poder de Maduro y su círculo, la tortura en el Sebin y su papel (y el de otros funcionarios aún en el gobierno) en la Operación Libertad, 11 July 2019, minute 6:30, available at: https://www.youtube.com/watch?v=GjtuUlQpNoI&feature=youtu.be.

[1337] According to information received from the lawyer, Luis Paez Salazar, Mr. Marrero's driver, was detained with him and charged with the crime of concealement of conspiracy. He is currently under house arrest even if was never formally accused. Two days after lawyer Juan Planchart was also detained as he was considered to be linked to the same alleged conspiracy.

[1338] Mission interview with Joel Garcia, Mr. Marrero's lawyer on 1 May 2020.

[1339] Ibid.

[1340] Interviews with lawyers and relatives on 1 and 8 May 2020, respectively.

[1341] YouTube Video, VIVO play, Reverol sobre Marrero: "Es responsable directo de la organización de estos grupos criminales," 21 March 2019, available at: https://www.youtube.com/watch?v=svr9viZ4S3o

[1342] Youtube Video, Lapatilla Patillavideo, Lo que dijo Maduro sobre la detención de Roberto Marrero, 21 March 2019, available at: https://www.youtube.com/watch?v=WwR-Qyf1Yf0

Minister of Information and Communication used press conference to refer to those arrested as a group of terrorists.[1343]

The Judicial Process

683. On 23 March 2019, Mr. Marrero appeared before the Thirty-Sixth Court of Control for his initial appearance. The court declared that it did not have jurisdiction on terrorism-related offences and transmitted the case to the First Court of Control on Terrorism-Related Crimes.[1344]

684. On 25 and 26 March 2019, the initial appearance hearing was adjourned due to a national electricity shutdown. The hearing took place on 28 March 2019, a week after Mr. Marrero's arrest.[1345] Judge Carol Padilla decided that charges of conspiracy, concealment of weapons of war and explosives, money laundering and association to commit a crime[1346] against Mr. Marrero could proceed. The judge did not accept the prosecutors' request to charge Mr. Marrero with treason and usurpation of functions.[1347] She ordered that Mr. Marrero remain in pre-trial detention, although his lawyers were not notified of this until 14 June 2019.

685. On 12 May 2019, the Thirty-Ninth Provisional Prosecutor of the Metropolitan Area of Caracas, Ana Karina García Carmona, and Seventy-Third Auxiliary Prosecutor Jean Karin López presented formal charges against Roberto Marrero. Mr. Marrero's lawyers opposed the request on 6 June 2019. On 18 June 2019, the Court of Control of Caracas decided to send Mr. Marrero to trial and ordered him to remain in pre-trial detention. On 25 November 2019, the trial against Roberto Marrero began, at which point Mr. Marrero had spent five months in pre-trial detention.

686. On 12 December 2019, the SEBIN inspector who drafted the police report on 15 March 2019 appeared to testify before the Second Court of Control on Terrorism-Related Crimes. He indicated that while investigating, he came to know that Mr. Marrero was in the border area between Táchira and Cúcuta acquiring weapons to smuggle them from Colombia to Venezuela.

687. Responding questioning from the defence, the inspector declared that he had never been to Colombia and that he did not directly carry out the investigation. He said he simply transcribed into the criminal record what his immediate supervisor, General Jesús Alberto García Hernández, dictated to him.[1348]

[1343] Mr. Rodriguez Gomez also showed images of conversations from the mobile phone of Marrero, reportedly with the agreement of the Attorney General. See YouTube Video, Luigino Bracci Roa, Rueda de prensa de Jorge Rodríguez sobre Roberto Marrero y paramilitares, 23 March 2019, available at: https://www.youtube.com/watch?v=qf7iNRpNkxA

[1344] According to the information received from lawyer Joel Garcia, even though there are four courts of control that have jurisdiction for terrorism-related offences, two of them receive the vast majority of the cases involving political opponents, i.e. those led by Judges Carol Padilla and Hilda Villanueva, reportedly both very loyal and close to the Government.

[1345] See information provided by the Government to the Working Group on Arbitrary Detention, A/HRC/WGAD/2019/75, paras. 43 to 47. This is in contravention with article 44 of the Constitution and 236 of the Criminal Procedure Code providing that a person deprived of liberty should appear before a judicial authority not beyond 48 hours after the detention.

[1346] Crimes foreseen and sanctioned in articles 132 of the Criminal Code and 35, 37 and 38 of the Organic Law against Organized Crime and Financing of Terrorism (Ley Orgánica contra la Delincuencia Organizada y Financiamiento al Terrorismo).

[1347] Foreseen and sanctioned in articles 128 and 213 of the Criminal Code.

[1348] Written declaration submitted by Joel Garcia, Mr. Marrero's lawyer, to the Mission, 12 May 2020. Mr. Garcia Hernandez was found dead in a hotel on 16 May 2019. The authorities have catalogued his dead as a suicide though several doubts have been put forward, including by former SEBIN Director Christopher Figuera, with whom GC Garcia Hernandez worked very closely. See, for instance, El Universal, Cristopher Figuera: Asesinato del mayor Jesús Alberto García Hernández "fue por encargo", available at: https://www.eluniversal.com/politica/40300/ex-director-del-sebin-el-asesinato-del-mayor-jesus-alberto-garcia-hernandez-fue-por-encargo. See also América Digital Noticias El exjefe del Servicio Bolivariano de Inteligencia (SEBIN), conversó con César Miguel

688. On 20 December 2019, the judge assigned to the case, Judge Yixis Gutiérrez, was dismissed. According to Mr. Marrero's lawyers, the judge was removed because she was acting independently.[1349] She a provisionally appointed judge and her dismissal did not follow constitutional procedures for the removal of judges.[1350]

689. On 31 August 2020, Mr. Marrero was pardoned by President Maduro, together with 109 others, and was released from detention. Mr. Marrero's immediate family left Venezuela.[1351] His brothers remain in the country and reported being followed by plainclothed security officers every time they travelled to Caracas to visit their brother in El Helicoide.[1352]

Findings

690. Based on the facts above, the Mission has reasonable grounds to believe that Roberto Marrero was victim of arbitrary detention. SEBIN Counter-Intelligence Direction was involved. DGCIM Director, Iván Hernández Dala, may have been involved in the procurement of the weapons that were placed in Mr. Marrero's apartment.

CASE 12: Detentions of private citizens for statements on social media perceived as critical of the Government

691. Between 2014 and 2019, at least 18 private citizens were detained for statements they published on Twitter. Many were detained in SEBIN and DGCIM facilities for long periods despite being charged with relatively minor offences. The detainees alleged suffering torture and cruel, inhuman and degrading treatment, poor conditions of detention, and due process violations including being held incommunicado or after judicial release orders were issued. The Mission documented three of these cases in detail. An additional case is included in the section on DGCIM, below.[1353]

692. On 12 June 2014, the National Commission on Telecommunications (CONATEL) sent a dossier to SEBIN Director Gustavo González López with detailed information about prominent Twitter users, including their IP addresses and server locations. The report focused on @williamsDPV123 and @AnonymusWar, according to documents leaked to journalists.[1354] These documents indicate that CONATEL collaborated with law enforcement and intelligence officers to identify and locate social media users and surveil their private messages.[1355]

Rondón sobre el poder de Maduro y su círculo, la tortura en el SEBIN y su papel (y el de otros funcionarios aún en el gobierno) en la Operación Libertad, available at: https://www.youtube.com/watch?v=GjtuUlQpNoI&feature=youtu.be, minute 3:25.

1349 Ibid. See also, YouTube Video, Voluntad Popular, Régimen destituyó a la jueza del caso de Roberto Marrero e interrumpe juicio indefinidamente, 8 January 2020, available at: https://www.youtube.com/watch?v=DzH7VcmXsFs

1350 1999 Constitution, art. 255, which provides that judges can only be removed or suspended through the procedures expressly provided by the law.

1351 Interview with Romy Moreno on 8 May 2020.

1352 Ibid.

1353 See below, Case 19: Karen Palacios (2019).

1354 RunRunes, @Conatel elaboróelaboreelabore informes para el @SEBIN_OFICIAL sobre tuiteros detenidos, 3 July 2015, available at: http://bit.ly/1GXrDwA.

1355 On 21 August 2014, Twitter user @AnonymusWar, was detained by SEBIN and charged with incitement to hate, conspiracy, outrages and improper access for allegedly hacking a number of accounts belonging to politicians. His detention was announced by Diosdado Cabello on his program "Con El Mazo Dando" on 21 August 2014. Mr. Cabello read the names of the detainees' contacts aloud on television, alleging his connection with Leopoldo López. See YouTube Video, Noticias Venezuela, Diosdado Cabello anuncia la detencion de Leonel Sanchez Camero (@anonymuswar), available at: https://www.youtube.com/watch?time_continue=12&v=jJH2DGIDEro&feature=emb_logo

"Tweeters of Terror"

693. Late 2014 saw an increase in arrests of social media users critical of the Government compared to previous years. From August to October 2014, SEBIN officers detained at least eight people tweeting about social or political topics. Most arrests occurred shortly after 1 October 2014, when unknown persons murdered Robert Serra and his assistant Maria Herrera.[1356] Mr. Serra was a prominent PSUV congressional representative. High-ranking Government officers made public declarations linking Twitter users to the murder, although none faced charges in connection to the crime.[1357]

694. Following Mr. Serra's death, Twitter users tweeted derogatory statements about Mr. Serra, and on 10 October 2014, one user published leaked autopsy photographs of Mr. Serra's body. Over the following days, SEBIN officers arrested seven Twitter users in connection with Mr. Serra's death. CONATEL also blocked the news portal Infobae.com, which published material related to Mr. Serra's murder, including the leaked photos of his body.[1358]

The seven individuals detained were:

- Inés González (Twitter: @inesitaterrible), a chemist and professor, was detained without a warrant by SEBIN in Maracaibo on 4 October 2014, for publishing derogatory comments about Mr. Serra after his death.[1359]
- Abraham David Muñoz (Twitter: @abrahamdz), an 18-year-old Twitter user, was detained without a warrant in Morón, Carabobo by SEBIN on 4 October 2014 for tweeting, "Robert Serra is dead, aha. When will it be Diosdado and Jorge Rodríguez?" Muñoz was transferred to SEBIN El Helicoide in Caracas on 4 October, and was released with precautionary measures on 5 February 2015.[1360]
- Lessi Marcano (Twitter: @Hiipolita and @LessiMarcano), an architect who published psychic predictions and religious messages, was detained by SEBIN in Caracas on 14 October 2014, after having tweeted predictions that the National Assembly would be in mourning one week prior to Mr. Serra's death.
- Ginette Hernández (administrator at Twitter: @Hiipolita), Mr. Marcano's niece and an E! Entertainment Television employee, was detained from her office without a warrant by SEBIN on the same day as her uncle.[1361] She also pleaded guilty to lesser charges, receiving a one year and three month sentence.[1362]
- Daniely Benítez (Twitter: @pretinha76), a musician and classmate of Ginette Hernandez, was detained on suspicion of being la "Negra Hipólita". She was arrested on 14 October 2014 when, according to media reports, around 50 SEBIN officers raided her home, without presenting search or arrest warrants.[1363] She was released

[1356] Mr. Serra and Ms. Herrera's murders were widely covered by the press, and multiple theories circulated about the material and intellectual authorship of the crimes. See, for example: BBC, Venezuela lawmaker Serra's murder blamed on far right, 3 October 2014, available at: https://www.bbc.com/news/world-latin-america-29472975; Notimerica, ¿Quién asesinó a Robert Serra?, 1 October 2014, available at: https://www.notimerica.com/politica/noticia-quien-asesino-robert-serra-20171001072000.html; ABC, El macabro asesinato del diputado chavista Robert Serra en Venezuela, 7 Octgober 2014, available at: https://www.abc.es/internacional/20141006/abci-macabro-asesinato-diputado-chavista-201410061635.html.

[1357] Mission Interview with Inés González on 26 June 2020; Mission Interview with Lessi Marcano on 30 June 2020; Interview with Víctor Ugas on 30 July 2020.

[1358] https://twitter.com/planwac/status/520642853954125824

[1359] Mission Interview with Inés González in June 2020. These crimes are foreseen in Criminal Code, arts. 222, 223, and 285.

[1360] Information provided by Espacio Publico in August 2020.

[1361] Mission Interview with Lessi Marcano on 30 June 2020; La Patilla, SEBIN detiene a "vidente" que predijo luto en la AN, 16 October 2014, available at: https://www.lapatilla.com/2014/10/16/sebin-detiene-a-vidente-que-predijo-luto-en-la-an/.

[1362] Mission Interview C2EE25 in August 2020.

[1363] Global Voices, Venezuela: 140 caracteres que llevan a la cárcel, 6 October 2015, available at: https://es.globalvoices.org/2015/10/06/venezuela-140-caracteres-que-llevan-a-la-carcel/.

with precautionary measures at her initial appearance on 17 October 2014. The case was dismissed in June 2015 and all charges dropped.[1364]

- Víctor Ugas (Twitter: @VictorUgas) was detained on 13 October 2014 by SEBIN in Carupano, Sucre.[1365] He was charged with improper disclosure of data and digital espionage[1366] after publishing leaked photographs of Mr. Serra's body in the mortuary.[1367] He was not released until 23 December 2017, despite having served his sentence by 9 July 2015 when his release was ordered. It was ordered again in April 2017.[1368]
- María Magaly Contreras (Twitter: @marletmaga) was detained by SEBIN in Maracaibo on 30 October 2014.[1369] She was a 55-year-old spiritual guide who published psychic predictions and prayers on Twitter, and offered consultations online. She was charged with public incitement and intimidation after tweeting a number of posts about upcoming storms, illnesses and power outages, among other messages.[1370]

695. The Twitter users, with the exception of Ms. Benítez, against whom charges were dropped, had been critical of the Government in their social media posts, either before or during the period surrounding Mr. Serra's death.

Public Declarations

696. Although none of the Twitter users were charged with participating in Mr. Serra's homicide, public declarations by both President Maduro and Diosdado Cabello publicly linked them to the murder.

697. On 15 October 2015, President Maduro described a terrorist conspiracy to commit the murder during a two-hour press conference. He presented a video explaining the conspiracy

[1364] The witnesses interviewed by the Mission stated that officers believed Daniely Benítez to be involved because she is an Afro-descendent woman, and the Negra Hipólita Twitter account featured the image of a black woman as its profile. She was the only Afro-descendent woman arrested; however, Ms. Benítez was later released and all charges against her dismissed. Mission Interview C2EE12 in June 2020; Mission Interview C2EE08 in May 2020; RunRun.es, @Conatel elaboró informes para el @SEBIN_OFICIAL sobre tuiteros detenidos, 3 July 2015, available at: https://runrun.es/investigacion/210909/conatel-elaboro-informes-para-el-sebin_oficial-sobre-tuiteros-detenidos/.

[1365] The Hundred Fifty-Third Prosecutor and the Ninth Prosecutor's Offices in Caracas led this case, according to information shared in the media. Runrun.es, Liberan al tuitero Victor Ugas, acusado por publicar foto del cadáver del diputado Robert Serra, 9 July 2015, available at: https://runrun.es/nacional/211951/liberan-al-tuitero-victor-ugas-acusado-por-publicar-foto-del-cadaver-del-diputado-robert-serra/.

[1366] Special Law on Cyber Crimes, published in Official Gazette No. 37,313, 30 October 2001, arts. 11 and 22.

[1367] Infobae, Por esta nota, el gobierno de Venezuela censuró a Infobae, 10 October 2014, available at: https://www.infobae.com/2014/10/10/1600825-escandalo-venezuela-filtran-fotos-del-cadaver-robert-serra/

[1368] Mission interview with Victor Ugas on 30 July 2020. See also La Patilla, Madre de Victor Ugas pide entre lágrimas a Saab que la ayude a sacar a su hijo de la cárcel, 17 November 2017, available at: https://www.lapatilla.com/2017/11/24/madre-de-victor-ugas-pide-entre-lagrimas-a-saab-que-la-ayude-a-sacar-a-su-hijo-de-la-carcel/; https://twitter.com/VictorUgas_/status/947174687750131713; Espacio Publico, Los tuiteros Leonel Sánchez y Víctor Ugas fueron liberados, 12 January 2018, available at: http://espaciopublico.ong/los-tuiteros-leonel-sanchez-victor-ugas-fueron-liberados/.

[1369] https://twitter.com/ForoPenal/status/527946157973340160; https://twitter.com/VTVcanal8/status/528033240503054336.

[1370] Venezuela Awareness, 1 Nov Vidente zuliana es la séptima tuitera detenida por opinar, 2 November 2014, available at: http://www.venezuelaawareness.com/2014/11/1-nov-vidente-zuliana-es-la-septima-tuitera-detenida-por-opinar/; https://twitter.com/ForoPenal/status/527946157973340160; Infobae, Venezuela: Ya son siete los tuiteros detenidos por 'opiniones inadecuadas', 1 November 2014, available at: https://www.infobae.com/2014/11/01/1605875-venezuela-ya-son-siete-los-tuiteros-detenidos-opiniones-inadecuadas/

featuring tweets from the Twitter profile of the psychic known as the "Negra Hipólita", which predicted that the National Assembly would soon be in mourning.[1371]

698. The following day, Diosdado Cabello discussed the detention of Twitter users on his television programme "Con El Mazo Dando". He provided their full names and profiles[1372] and said they had been arrested because of threats and insults they had published regarding Mr. Serra's murder. Mr. Cabello claimed that the psychics and the other Twitter users were part of a psychological warfare campaign to sow panic in the population.[1373]

699. The following day, President Maduro coined the expression "tweeters of terror" ("tuiteros de terror") while speaking on televison. President Maduro again linked Twitter users to Mr. Serra's homicide. He told Venezuelans, "All the tweeters of terror are in jail. They are all confessing. Because they did it. All of them. I want to congratulate our investigative agencies for the professional and scientific work they have done."[1374]

700. Four of the eight Twitter users pleaded guilty to charges against them. Those who spoke with the Mission explained that they had pleaded guilty to crimes they had not committed out of pressure, fear of delays and unfair trials, and wanting to be released as quickly as possible from El Helicoide.[1375]

"La Negra Hipólita"

701. Lessi Marcano is a Venezuelan architect. In 2010, he suffered an accident, which left him partially disabled. He began experiencing visions and believed he had the ability to predict future events. Mr. Marcano began sharing his predictions on Twitter via the handle the "Negra Hipólita" (@HiiPolita), gaining increasing followers. In 2014, Mr. Marcano hired his niece to help him with his social media accounts and to arrange personalized consultations and readings for his clients. He had also been openly critical of the Government.[1376]

702. On 24 September 2014, Mr. Marcano published tweets on both his personal account and the Negra Hipólita account that the National Assembly would soon find itself in mourning.[1377] On 1 October 2014, PSUV congressional representative Robert Serra and his assistant María Herrera were murdered.[1378]

703. On 14 October 2014, SEBIN officers detained Mr. Marcano's niece at her office in Las Mercedes, Caracas, before searching Mr. Marcano's home, seizing electronics, and detaining him. According to Mr. Marcano, they did not present arrest or search warrants. SEBIN officers interrogated Mr. Marcano in Plaza Venezuela, asking him about his tweets.[1379]

Initial Court Appearance and Preliminary Hearing

704. The initial court appearance was held on 17 October 2014 at the Thirty-Third Court of Control, with Judge Solchy Delgado Paredes presiding. The Twentieth Prosecutor's Office, under the leadership of Katherine Haringhton Padrón, brought charges of public incitement, incitement to hate and conspiracy, as well as cyber fraud and false advertising

[1371] YouTube Video, Cara de Lentes, COMPLETO: Nicolás Maduro da información sobre asesinato de Robert Serra, 15 October 2014, minute 00:24:00, available at: https://www.youtube.com/watch?v=r-B_fMQ9r34

[1372] YouTube Video, Noticias Venezuela, Cabello confirma detención de "la negra Hipólita, 16 October 2014, https://www.youtube.com/watch?v=CZv7fnQqMhg&lc=Ugi_HLh_rC5qx3gCoAEC

[1373] Ibid., minute 02:55.

[1374] YouTube Video, Cara de Lente, "Presidente Maduro informa de 4 nuevos capturados por asesinato de Robert Serra," 17 October 2014, https://www.youtube.com/watch?v=2VUXPwGvY3Q.

[1375] Mission Interview with Inés González on 26 June 2020; Mission Interview held with Lessi Marcano held on 30 June 2020; Mission Interview C2EE25 in August 2020.

[1376] Mission Interview with Lessi Marcano on 30 June 2020.

[1377] https://twitter.com/LessiMarcano/status/514937909728641024

[1378] Information about the murder is included above.

[1379] Mission Interview with Lessi Marcano on 30 June 2020.

against Mr. Marcano. Mr. Marcano and his niece were remanded to El Helicoide for preventive detention.[1380]

705. The preliminary hearing was held on 29 January 2015. When asked, Mr. Marcano told the judge he did not know any of the people accused of Mr. Serra's murder. He and his niece were offered plea bargains. Mr. Marcano was sentenced to one year and nine months, his niece to one year and three months.[1381] In exchange for accepting the lesser and unrelated charges of fraudulent offers and conspiracy, they would be released within 15 days with a non-custodial sentence.[1382]

706. According to Mr. Marcano and his lawyer, the prosecutor then changed the deal. Instead of processing their non-custodial sentence within two weeks, the prosecution asked the court to keep Mr. Marcano and his niece in pre-trial detention until a psychological exam could be performed. The Ministry of Penitentiary Services performed the exam on 18 March 2015. However, the results were not transferred to the Court until eight months later. Mr. Marcano and his niece remained in El Helicoide during this time.[1383]

707. On 17 August 2015, Mr. Marcano's defence attorney filed a writ of amparo on behalf of Mr. Marcano and his niece at the Constitutional Chamber of the Supreme Court, alleging due process violations.[1384] According to Mr. Marcano's defence counsel, the Constitutional Chamber did not take action on the amparo.[1385]

El Helicoide

708. Mr. Marcano was held in Preventive I, a cell near the women's cell, and could hear violence against detainees during interrogations in the offices overhead. He could hear screams, punches and other sounds. He saw many of the detainees who were brought to the cells afterwards, and they told him that they had been tortured through beatings, asphyxiations and electric shocks.[1386]

709. In August 2015, Mr. Marcano suffered a psychological breakdown, and began screaming. Mr. Marcano told the Mission that this caused SEBIN officers to hit him, tie him up and hang him by the wrists near the entrance to a bathroom. In mid-August, he was transferred to the psychiatric ward of a military hospital. He suffered panic attacks and had problems with his hearing.[1387]

Irregularities in Release

710. Mr. Marcano's niece was released on 19 November 2015, after the psychological report was submitted to the court.[1388] On 26 November 2015, Judge Silvia Fernández Escalona issued orders for the conditional suspension of Mr. Marcano's custodial sentence to the SEBIN Director.[1389] The then Human Rights Ombudsman Tarek William Saab tweeted that he had intervened with the Ministry of Penitentiary Services in order for the release order to be issued.[1390]

1380 Ibid.
1381 Ibid.
1382 Mission Interview C2EE25 in August 2020; Mission Interview with Lessi Marcano on 30 June 2020.
1383 Ibid.; Complaint filed to the Inter-American Commission on Human Rights on behalf of Lessi Marcano on 10 November 2015, on file with the Mission.
1384 Filing No. 2015-1018, referenced in Complaint filed to the Inter-American Commission on Human Rights on behalf of Lessi Marcano on 10 November 2015, on file with the Mission.
1385 Mission Interview C2EE25 in August 2020.
1386 Mission Interview with Lessi Marcano on 30 June 2020.
1387 Ibid.; Mission Interview C2EE25 in August 2020.
1388 Mission Interview C2EE25 in August 2020; El Nacional, Liberaron a Ginette Hernández, tuitera retenida hace un año por el Sebin, 20 November 2015, available at: https://www.elnacional.com/historico/liberaron-ginette-hernandez-tuitera-retenida-hace-ano-por-sebin_41875/
1389 Record No. 6178-25, Fifth Court of First Instance of Caracas Metropolitan Area, 26 November 2015, on file with the Mission.
1390 https://twitter.com/TarekWiliamSaab/status/670325879814377472.

711. Mr. Marcano wanted to leave the military hospital, but he remained there under SEBIN guard until his release on 26 February 2016.[1391] Mr. Saab stated on Twitter that Mr. Marcano's conditional release was due to a filing by the National Human Rights Institute to the Criminal Chamber of the Supreme Court to implement the judicial order on medical grounds.[1392]After completing his parole, Mr. Marcano left Venezuela.

Inés González

712. Inés González is a dual Venezuelan-Spanish national. She is a chemist and professor. At the time of her arrest, she had a Twitter account (@inesitaterrible) with approximately 53,000 followers. She was openly critical of the Government, and shared information, photos and videos about the 2014 protests. She told the Mission that she had shared videos of the killing of Mr. Bassil Da Costa in Caracas in February 2014.

713. When PSUV National Assembly member Robert Serra was murdered on 1 October 2014, Ms. González tweeted critical messages, including the following: "They have Venezuela enslaved with no medicine, no future, and there are still those who would lament the murder of a communist", and "Robert Serra was not a human being, he was a criminal who commanded colectivos of terror and armed children, so widows, leave the mess!"[1393] Ms. González had also issued sarcastic tweets about high-ranking Government officials, including Diosdado Cabello, Tarek William Saab and Delcy Rodríguez.[1394]

Arrest

714. At around 6 p.m. on 3 October 2014, two plainclothes SEBIN officers went to Ms. González's home with printed copies of her tweets about Robert Serra. They presented her with a citation to appear at SEBIN Strategic Investigations Offices in Maracaibo. Ms. González refused, as the citation was improperly dated. Instead, she published the citation on her Instagram account[1395] and tweeted that SEBIN officers had visited her residence.[1396]

715. The following day, 4 October 2014, uniformed SEBIN officers went to Ms. González's elderly father's business and threatened to break down their door unless he compelled his daughter to go with them.[1397] Out of concern for her parents, Ms. González accompanied the officers to the SEBIN office in Maracaibo. They seized her computer without a search warrant and spent two hours questioning her about her political affiliations, her tweets and her relationships with recently detained opposition leaders.[1398]

716. Around midnight, officers told her she was under arrest for her tweets. She was held in SEBIN Maracaibo for four days, sleeping in a small waiting room.

[1391] Interview with Lessi Marcano in June 2020.

[1392] https://twitter.com/TarekWiliamSaab/status/703394885206933504; https://twitter.com/TarekWiliamSaab/status/703395384735956992; https://twitter.com/TarekWiliamSaab/status/703396772421443585.

[1393] Diario Las Americas, Maduro encarcela a tuiteros por mensajes políticos, 26 November 2014, available at: https://www.diariolasamericas.com/maduro-encarcela-tuiteros-mensajes-politicos-n2811334. In 2012, Ms. González had also circulated a photo of Mr. Serra allegedly in the company of a member of one of the collectives, who was later arrested: https://fuerachavez.wordpress.com/2012/03/14/el-dato-difunden-fotografia-de-diputado-serra-junto-a-miembro-de-la-piedrita-detenido/.

[1394] Armando Info, Inesita Terrible y su fórmula para terminar en la cárcel, 1 August 2015, https://armando.info/Reportajes/Details/295.

[1395] https://www.instagram.com/p/ttivKJAIWv/.

[1396] Ms. González's Twitter account (@inesitaterrible) has since been suspended due to violating Twitter's terms of service. Her Tweets were published in other media, however. See, for example: http://atodomomento.com/nacionales/ella-es-inesitalaterrible-presa-por-pensar-distinto/.

[1397] Mission Interview with Inés González in June 2020.

[1398] Ibid.

Initial Court Appearance

717. On 7 October 2014, Ms. González was presented before Judge Naemi Pompa Rendón, of the Thirteenth Maracaibo Court of Control, and charged with public incitement, outrage against a public official and violent outrage.[1399] Ms. González apologized for the contents of her tweets and requested non-custodial precautionary measures, but the judge ordered pre-trial detention.[1400] Ms. González told the Mission that the prosecutor requested her transfer to Caracas, but the judge agreed to detain her in Maracaibo so she could continue medical treatment there.[1401] She again spent the night in the SEBIN Maracaibo offices.

718. On 8 October 2014, a SEBIN commissioner told her the Government wanted her transferred. Three officers drove Ms. González to Caracas where she was processed in El Helicoide by Commissioner "Pachuco". The commissioner asked her if she was "sexually diverse" and told her they would put her in a cell with lesbians. Ms. González took this comment as a joke but also as a tactic to challenge her psychologically.[1402] Ms. González was held in a small cell with four other women, before all the women were transferred to a larger cell as the number of women detained in El Helicoide increased.

719. In 16 October 2014, on his television show Diosdado Cabello alleged that Ms. González was connected to the murder of Mr. Serra and had links to opposition leader Lorent Saleh.[1403]

Judicial Process

720. According to domestic law, prosecutors have 45 days to present a formal accusation once an accused person goes into pre-trial detention. Failure to comply with the time limit requires the judge to order the detainee's release with precautionary measures, barring demonstrated reason to believe that once released, they would not comply.[1404] On 20 November 2014, after 44 days of pre-trial detention, the Thirteenth Maracaibo Court of Control ordered Ms. González's release with precautionary measures.[1405] According to Ms. González, a SEBIN commissioner told her that she would not be released, as SEBIN would not comply with her release notice.[1406]

721. Five days later, the judge who ordered Ms. González' release was replaced. A new judge, Judge Ernesto Rojas Hidalgo, revoked the release order and reinstituted preventive custody, at the request of the prosecutor who alleged Ms. González posed a flight risk and

[1399] Criminal Code, arts 223, 224 and 285 (" 223: "S/he who offends, through words or acts, the honor, reputation or decorum of a member of the National Assembly, or a public official, will be punished in the following manner, if the act has taken place in his or her presence and due to his or her functions: […] 2. If the offense was directed against a member of the National Assembly or a public official, a sentence of one month to one year, according to the category of the aforementioned persons". Article 224: "If the act foreseen in the preceding article has been accompanied with violence or threats, it will be punished with prison between three and 18 months". Article 285: "S/he who publicly encourages disobedience to the laws or hate between inhabitants, or commits an apology for an act that the law considers a crime, in a manner that endangers public tranquility, shall be punished with prison between three and six years".

[1400] YouTube Video, NTN24, Madre de tuitera venezolana detenida por hablar de Robert Serra pide perdón para su hija, 31 October 2014, available at: https://www.youtube.com/watch?v=VEGd5JrpQAo.

[1401] Mission Interview with Inés González on 26 June 2020.

[1402] Ibid.

[1403] YouTube Video, Noticias Venezuela, Cabello confirma detención de "la negra Hipólita", 14 October 2014, available at: https://www.youtube.com/watch?v=CZv7fnQqMhg&lc=Ugi_HLh_rC5qx3gCoAEC.

[1404] This timeframe is established in Criminal Procedure Code, art. 236.

[1405] Order 1488-2014, referred to in Decision No. 1512-14, 25 November 2014, Criminal Case File No. 13C-23.545-14, on file with the Mission.

[1406] Mission Interview C2EE12 in June 2020.

danger to public order.[1407] The judge issued an arrest warrant[1408] and an order to SEBIN revoking the release order.[1409]

722. Ms. González' lawyer challenged the two outrage charges, pointing out that the public official concerned – Robert Serra – was deceased when Ms González tweeted about him and the other potential victims, Mr. Serra's family, had not made a complaint. The prosecutor dropped the outrage charges before the preliminary hearing.[1410]

723. The preliminary hearing was deferred at least twice. On 24 February 2015, SEBIN transferred Ms. González to Maracaibo, where she pleaded guilty to public incitement. According to Ms. González, she pleaded guilty to shorten the process. The judge sentenced her to three years' imprisonment and she was returned to El Helicoide.

724. Over the following months, Ms. González suffered health problems related to previously diagnosed endometriosis. Ms. González told the Mission that during her transfer to the military hospital for exams, six female SEBIN officers beat her.[1411] On 26 August 2015, Brigade General José Leonardo Noroño Torres, Director General of Dr. Carlos Arvelo Military Hospital, issued a report to the Judge Milangela Salom Perozo of the Fourth Executing Court recommending that Ms. González be transferred to the hospital on 23 September 2015 for surgery and recovery.[1412]

725. On 22 September 2015, the Human Rights Ombudsman, Tarek William Saab, published a string of tweets about Ms. González's reproductive health, revealing that she suffered from endometriosis and saying that she required a hysterectomy. He then engaged in public discussion about her reproductive health with social media users.[1413] On 16 November 2015, Mr. Saab announced via Twitter Ms. González' release on humanitarian grounds.[1414] She was released with precautionary measures later that day.

726. In 2017, as demonstrations were increasing, Ms. González began receiving threats on Twitter from anonymous accounts saying she would be detained again. She left Venezuela and resettled in Spain.

Pedro Jaimes Criollo (2018)

727. Pedro Jaimes Criollo, born in 1965, is a flight enthusiast who as a child wanted to be a pilot. He administered the Twitter accounts @AereoMeteo and @AereoMeteo2, from which he disseminated open source meteorological and aeronautical information as a hobby. Mr. Jaimes also posted information about protests and demonstrations.

[1407] Decision No. 1512-14, 25 November 2014, Criminal Case File No. 13C-23.545-14, on file with the Mission.

[1408] Arrest warrant, 25 November 2014, Criminal Case File No. 13C-23.545-14, on file with the Mission.

[1409] Record No. 7693-14, 25 November 2014, Criminal Case File No. 13C-23.545-14, on file with the Mission.

[1410] Mission Interview with Inés González on 26 June 2020.

[1411] Ibid.

[1412] Record No. 2796-15, 26 August 2015, Ministry of Defence, on file with the Mission.

[1413] https://twitter.com/TarekWiliamSaab/status/646353258055888897; https://twitter.com/TarekWiliamSaab/status/646354331164348416; https://twitter.com/TarekWiliamSaab/status/646355737715830784; https://twitter.com/TarekWiliamSaab/status/646356618700062721; https://twitter.com/TarekWiliamSaab/status/646357181818929153; https://twitter.com/TarekWiliamSaab/status/646398161964138496; https://twitter.com/TarekWiliamSaab/status/646362008716201985.

[1414] https://twitter.com/TarekWiliamSaab/status/666350308692500480; https://twitter.com/TarekWiliamSaab/status/666350688646119424; https://twitter.com/TarekWiliamSaab/status/666352082363006976.

728. On 3 May 2018, Mr. Jaimes tweeted[1415] the flight path of one of the presidential aircrafts, FAV0001,[1416] taking President Maduro to a ceremony in Aragua.[1417] Mr. Jaimes screenshot the flight path of the aircraft and published it on Twitter with text indicating the date and time.[1418]

729. Information about the models of the Venezuelan presidential airplanes was publicly available on Wikipedia.[1419] With that information, Mr. Jaimes regularly tracked flights using FlightRadar24, a publicly available website providing real time access to aircraft locations and flight paths.[1420] There is no law in Venezuela that establishes that flight information is confidential.

730. On 10 May 2018, seven days after the tweets, SEBIN officers arrested Mr. Jaimes without a warrant as he was driving. They intercepted him as he exited his car in front of his house. Mr. Jaimes initially refused to comply, fearing a kidnap. An officer explained they were SEBIN and need not show orders or identification, before beating him and his sister when she tried to intervene.[1421]

731. They continued to beat Mr. Jamies as they drove him to SEBIN Plaza Venezuela. Having witnessed the arrest, that afternoon Mr. Jaimes' sister sought information at both Plaza Venezuela and El Helicoide, but SEBIN officers denied detaining her brother.[1422]

732. At around 2 p.m. on 15 May 2018, SEBIN officers returned to Mr. Jaimes' home in Los Teques, Miranda with a search warrant. Officers found a Pro-94 RadioShack device and a small antenna attached to his roof, which prosecutors later claimed was used to interfere in

[1415] Screenshot of tweet available here, as posted by TeleSur international correspondent on 13 May 2018: https://twitter.com/madeleintlSUR/status/995664028130332678/photo/3.

[1416] Information about this aircraft is publicly available on Wikipedia: https://es.wikipedia.org/wiki/Archivo:Airbus_A319-100CJ_Venezuela_Government_0001_-_MSN_1468_(8128587420).jpg

[1417] Ministry of Economy and Finance, "Maduro declara 1 millón de jóvenes incorporados al Plan Chamba Juvenil", 3 May 2018, http://www.mppef.gob.ve/maduro-declara-1-millon-de-jovenes-incorporados-al-plan-chamba-juvenil/.

[1418] The screenshots are consistent with FlightRadar24's format when set to "Radar (blue)" mode.

[1419] https://es.wikipedia.org/wiki/Transporte_aéreo_de_jefes_de_Estado#Venezuela.

[1420] FlightRadar24 and other similar websites are populated with automatic dependent surveillance-broadcast (ADS-B) data transmitted from aircraft equipped with ADS-B transponders. ADS-B-equipped aircraft automatically broadcast unencrypted data, increasing the visibility and traceability of aircrafts to improve safety. ADS-B technology is different from radar, as it does not require active interrogation from or communication with another unit. Government, commercial and military aircraft around the world transmit ADS-B data, which is published online. In March 2020, for example, FlightRadar24 published real time flightpaths of approximately 180,000 aircraft per day. Pilots may disable this data transmission if required for secret or sensitive flights. However, it generally remains functional during normal operations (including military operations), and as such, flights are regularly tracked and flight paths are posted online. For example, Air Force One, the aircraft that carries the President of the United States, transmits this data, which is regularly tracked and published. Flight enthusiasts and journalists use this publicly available information and post flight paths of official aircraft worldwide. FlightRadar24 and other commercial sites will block the publishing of information about specific aircrafts on request. A Government or other aircraft owner could submit a request to the website to cease publication of its movements; the aircraft and its movement would then not appear. See, for example, the following Twitter accounts that post the flight paths of commercial, Government and military aircraft to tens or hundreds of thousands of followers: https://twitter.com/CivMilAir, https://twitter.com/Intel_Sky, https://twitter.com/flightradar24, https://twitter.com/AircraftSpots. Another website, ADS-B Exchange, will not remove such publicly available, unencrypted data unless compelled by a court order. https://www.adsbexchange.com/.

[1421] The Mission confirmed this with Mr. Jaimes. The original statement was provided to El Diario, 22 November 2019, complete footage verified by and on file with the Mission. Excerpts available at: El Diario, Pedro Jaimes: La tortura detrás de un tuit, 28 January 2020, available at: https://www.youtube.com/watch?time_continue=103&v=aHyG_OFvs4o&feature=emb_logo.

[1422] Mission Interview with Pedro Jaimes Criollo in July 2020.

the radio communications of aircrafts and airports to then reveal national secrets via Twitter.[1423]

733. The Mission reviewed the device manual, confirming that it was a receiver/scanner and could not transmit information or engage in radio communication, as prosecutors asserted.[1424] The antenna had been attached to his roof, like many other houses in his neighbourhood, to receive TV signals and listen to AM/FM radio from Caracas, but he had not used it for years.[1425] SEBIN officers also seized all the telephones in the house, a laptop, a camera, and personal items.[1426]

Interrogation

734. SEBIN officers took Mr. Jaimes to the Counter-Intelligence Division, on the tenth floor of Plaza Venezuela, where a team of around 30-40 young officers were looking at computer screens open to social media sites.[1427] Counter-Intelligence officers interrogated Mr. Jaimes, asking him about his Twitter account and forcing him to provide his password. They pressured Mr. Jaimes to implicate other Twitter users, including journalists and videoed him making a statement.[1428]

735. During the interrogation, officers beat him with sticks or bats wrapped in plastic or cloth, which did not leave marks. They placed a bag over his head and sprayed insecticide inside, asphyxiating him. They also administered electric shocks. The beating injured his ribs. SEBIN officers brought a doctor, who administered an analgesic injection. Mr. Jaimes requested to speak to the doctor alone, but was denied.[1429] Mr. Jaimes was held for between 24 and 36 hours on the tenth floor at Plaza Venezuela. An officer told him they planned to take him to the Tumba, but there were no available cells so they transferred him to El Helicoide.[1430]

736. Upon arriving at El Helicoide, Mr. Jaimes overheard a commissioner tell his custodian to place him in a solitary cell rather than with other detainees.[1431] Mr. Jaimes told the Mission that he was again tortured in El Helicoide. Knowing his ribs were injured, an officer took a large branch of plantains and beat him directly on his injured side, causing him to fall to his knees in pain. Another officer then hit him on the side of his head, causing a partial loss of hearing. Officers also threatened to rape him with a broomstick they had on hand. They threatened to capture his loved ones and bring them to El Helicoide.[1432]

Initial Court Appearance

737. On 12 May 2018, Provisional Prosecutor Marlon Mora presented charges against Mr. Jaimes at the Third Court of Control in Miranda, with Judge Rumely Rojas Muro presiding.

1423 Formal Accusation, MP-16303-18, p. 3, on file with the Mission.

1424 Owners Manual for RadioShack Pro-94 1000-Channel Handheld Trunking Scanner, available at: www.repeater-builder.com/radio-shack/misc-pdfs/pro-94-manual.pdf.

1425 Mission Interview with Pedro Jaimes Criollo in July 2020.

1426 The Mission confirmed this with Mr. Jaimes. The original statement was provided to *El Diario*, 22 November 2019, complete footage verified by and on file with the Mission; *Espacio Público*, "El cuarto de Pedro lo dejaron vacío", 20 July 2018, available at: https://www.youtube.com/watch?time_continue=57&v=5xqBj3Ll_FQ&feature=emb_logo.

1427 Interview conducted by *El Diario*, 22 November 2019, verified by and on file with the Mission.

1428 Ibid.

1429 Ibid. A deformation to Mr. Jaimes' ribs is visible in videos and photographs shared subsequent to his release.

1430 Mission Interview with Pedro Jaimes Criollo in July 2020.

1431 Ibid.

1432 The Mission confirmed this with Mr. Jaimes. The original statement was provided to El Diario, 22 November 2019, complete footage verified by and on file with the Mission; Es Caracas, "Torturas, maltratos y amenazas de violación": Lo que denunció Pedro Jaimes sobre El Helicoide", 18 October 2019, available at: https://escaracas.com/ccsnews/2019/10/18/torturas-maltratos-y-amenazas-de-violacion-lo-que-denuncio-pedro-jaimes-sobre-el-helicoide/.

He was charged with interference with operational security,[1433] revealing state secrets,[1434] and digital espionage.[1435] The prosecutor claimed that Mr. Jaimes had been apprehended *in flagrante delicto*. Mr. Jaimes was assigned a public defender, against his wishes.[1436]

738. According to the act of initial appearance, the judge ordered preventative custody at "Yare" Metropolitan Penitentiary Centre However, Mr. Jaimes was not brought to that facility. When his family continued to search for him at El Helicoide, SEBIN officers twice told them he was not there.[1437] According to Mr. Jaimes' family members, they did not know his whereabouts for 33 days.[1438] The State, however, reported to the Inter-American Commission on Human Rights that Mr. Jaimes had been remanded to SEBIN, and his family had been duly informed.[1439]

739. Lawyers from the NGO Espacio Público accompanied Mr. Jaimes' family to SEBIN offices at El Helicoide on 12, 22 and 27 May 2018 to inquire about his whereabouts. They were not provided any information. On 29 May 2018, Mr. Jaimes' family filed a writ of *habeas corpus* with the presiding judge. They also filed complaints with the Public Prosecutor's Office and the Human Rights Ombudsperson's Office.[1440]

740. On 7 June 2018, when Mr. Jaimes was not transferred to the court for the swearing in of his defence counsel,[1441] his family filed a complaint of disappearance to the Public Prosecutor's Office in Los Teques, Miranda. As the court refused to register his private defence, they were also denied access to his criminal case file.[1442] Concerns about Mr. Jaimes' disappearance circulated widely in the press and on social media.[1443]

741. On 15 June 2018, the tribunal constituted a special commission to visit Mr. Jaimes and verify his location and conditions in El Helicoide, and to appoint his defence counsel. However, according to Mr. Jaimes' defence, the judge failed to arrive and the appointment could not be made.[1444]

1433 Law on Civil Aeronautics, published in Official Gazette No. 38,226, 12 June 2005, art. 140: "Anyone who illicitly interferes through any act or deed with the operational security or civil aviation shall be punished with six to eight years in prison".

1434 Criminal Code, published in Official Gazette No. 5,768, 13 April 2005, article 134: "Anyone who improperly and to the detriment of the Republic, reveals political or military secrets concerning the security of Venezuela, be it communicated or published either through documents, data, drawings, plans or other information relative to materials, installations or military operations, or any other manner, shall be punished with seven to ten years in prison".

1435 Special Law on Cyber Crimes, published in Official Gazette No. 37,313, 30 October 2001, article 11: "Anyone who improperly obtains, reveals or disseminates data or information contained in a system that uses information technology or any of its components, shall be punished with three to six years in prison and a fine of 300 to 600 tributary units […]".

1436 Interview conducted by *El Diario*, 22 November 2019, verified by and on file with the Mission.

1437 Resolution 78/2018, Cautionary Measure 688-18 on behalf of Pedro Patricio Jaimes Criollo, Inter-American Court on Human Rights, 4 October 2018.

1438 Ibid.

1439 Ibid.

1440 Letters dated 29 May 2018 and 05 June 2018, on file with the Mission.

1441 https://twitter.com/espaciopublico/status/1004840982670606338.

1442 Statement by Mr. Jaimes' defence counsel from Espacio Público, available at: https://twitter.com/espaciopublico/status/1004845897149288449.

1443 See, for example, Human Rights Watch, "Held Incommunicado for Tweeting in Venezuela", 11 June 2018, https://www.hrw.org/news/2018/06/11/held-incommunicado-tweeting-venezuela; Radio Caracas, "En vivo por rcr.tv #YAsíNosVa con Nehomar Hernández y Daniel Lara", 12 June 2018, https://www.pscp.tv/w/1YqJDQPovkLxV; Efecto Cocuyo, "Creador de @AereoMeteo tiene 25 días desaparecido tras ser presentado en tribunales", 6 June 2018, https://efectococuyo.com/sucesos/creador-de-aereometeo-tiene-25-dias-desaparecido-tras-ser-presentado-en-tribunales/.

1444 Working Group on Arbitrary Detentions, Opinión núm. 39/2019, relativa a Pedro Jaimes Criollo (República Bolivariana de Venezuela), A/HRC/WGAD/2019/39, 19 September 2019, available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session85/A_HRC_WGAD_2019_39.pdf

742. That night, a guard lent Mr. Jaimes a phone to call his sister. He told her he was in El Helicoide, that he had been badly beaten, and was suffering what he believed to be a broken rib, severe bruising, fainting spells and asthma attacks.[1445]

743. On 26 June 2018, the prosecutor presented formal charges against Mr. Jaimes, confirming the pre-qualified charges. As Mr. Jaimes had been unable to appoint counsel, his lawyers were denied access to his criminal file. The presiding judge accepted the prosecutor's accusation, and ordered Mr. Jaimes to remain in preventive custody.[1446]

744. The formal accusation presented by the prosecution included limited information, including the arrest record, search record, interviews with the SEBIN officers who conducted the arrest and search, and reference to technical reports carried out on Mr. Jaimes' devices and bank accounts, without revealing their contents or the specific relation of those contents to the charges.

745. The prosecution asserted that Mr. Jaimes had interfered with aircraft and airport radio communications, and that the information he had published about the President's movements was illicitly obtained and unlawfully published. [1447] The Mission confirmed that the information Mr. Jaimes published about the routes of the presidential aircrafts was publicly available and that the scanner, erroneously identified as a radio, was not an information transmitter.

746. The Government claimed to the Working Group on Arbitrary Detentions that information presented by the prosecutor indicated Mr. Jaimes had used technological tools to interfere with aircraft and airport radio communications.[1448]

Plaza Venezuela and El Helicoide

747. Mr. Jaimes was held alone in a small, dimly lit office in El Helicoide for approximately one month. He slept on a metal table. He did not have access to a bathroom and was forced to relieve himself using a newspaper".[1449]

748. He was then transferred to the "Fishtank" (La Pecera), a cramped cell with 11 other prisoners. They did not have access to running water or bathroom facilities. During a citywide blackout in 2019, Mr. Jaimes and the other prisoners in his cell were held in complete darkness for six days.[1450]

749. After around one year in the "Fishtank", Mr. Jaimes was moved to "Hall A" with better physical conditions, though the cells still lacked access to water and light.[1451]

750. Mr. Jaimes was routinely denied adequate medical care. He was examined by doctors, but in the presence of SEBIN officers. One doctor administered an analgesic via injection to his buttocks in front of officers. According to Mr. Jaimes, at one point a doctor diagnosed him with intercostal neuritis due to the injury to his rib but did not proscribe medicine. Authorities later stated that Mr. Jaimes had been medically evaluated on the day of his arrest,

[1445] Interview conducted by *El Diario*, 22 November 2019, verified by and on file with the Mission; Espacio Público, "Tras un mes desaparecido, Pedro Jaimes se comunicó con su familia", 16 June 2018, http://espaciopublico.ong/tras-un-mes-desaparecido-pedro-jaimes-se-comunico-con-su-familia/.

[1446] Prosecutor's request for continued pre-trial detention indicated in Formal Accusation, MP-16303-18, p. 12, on file with the Mission.

[1447] Formal Accusation, MP-16303-18, pp. 9-11, on file with the Mission.

[1448] Working Group on Arbitrary Detentions, No. 39/2019, A/HRC/WGAD/2019/39, 19 September 2019, available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session85/A_HRC_WGAD_2019_39.pdf.

[1449] The Mission confirmed this with Mr. Jaimes. The original statement was provided to *El Diario*, 22 November 2019, complete footage verified by and on file with the Mission.

[1450] Ibid.

[1451] Ibid.

and that his injury pre-dated his detention.[1452] Mr. Jaimes told the Mission he had been in good health prior to his arrest.

Judicial Process

751. The preliminary hearing was held on 31 January 2019, more than eight months after Mr. Jaimes' arrest and after at least five postponments.[1453] The judge upheld the charges and ordered the case to proceed to trial.

752. From January 2019 until the time of writing, the trial had been deferred at least 12 times.[1454] Mr. Jaimes' defence counsel accuses SEBIN of refusing to receive and execute transfer orders to bring him to court on the appropriate dates. On one occasion, SEBIN officers told the bailiff that the address was written incorrectly and therefore SEBIN could not receive the order. Another time, SEBIN told the bailiff they had received orders from above that judicial orders must be addressed specifically to the SEBIN Director.[1455]

753. On 17 October 2019, Mr. Jaimes was conditionally released from El Helicoide, as he continued to await trial. According to its head, Mr. William Saab, the National Consituent Assembly's Justice, Peace, Truth and Public Tranquillity Commission brokered the release.[1456] The Commission authorized the release of 24 persons accused of acts of violence during political unrest.[1457]

754. As of the time of writing, Mr. Jaimes continued to await trial, with precautionary measures including monthly presentation at court and a prohibition on leaving the country. He continued to suffer from psychological symptoms of post-traumatic stress disorder and physical trauma.

755. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

756. Based on the facts above, the Mission has reasonable grounds to believe that Inés González, Lessi Marcano, Ginette Hernández, and Pedro Jaimes Criollo were subject to arbitrary arrest and detention.

757. In addition, the Mission has reasonable grounds to believe that acts of torture and cruel, inhuman or degrading treatment were committed against Mr. Marcano and Mr. Jaimes Criollo. In the case of Mr. Jaimes Criollo, the Mission has reasonable grounds to believe that acts of sexual violence in the form of threats of rape were also committed as part of the acts of torture.

[1452] Working Group on Arbitrary Detentions, No. 39/2019, A/HRC/WGAD/2019/39, 19 September 2019, available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session85/A_HRC_WGAD_2019_39.pdf

[1453] The preliminary hearing was scheduled on 25 July, 20 September, 24 October, 22 November, and 29 November 2018, according to information presented by the Working Group on Arbitrary Detentions, No. 39/2019, A/HRC/WGAD/2019/39, 19 September 2019, available at: https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session85/A_HRC_WGAD_2019_39.pdf

[1454] Information provided by Mr. Jaimes' defense counsel indicates that hearings were deferred on 28 February, 20 March, 11 April, 9 May, 30 May, 26 June, 25 July and 13 August 2019.

[1455] Espacio Público, "El Sebin niega derecho a juicio al tuitero Pedro Jaimes", 6 September 2019, available at: http://espaciopublico.ong/el-sebin-niega-derecho-a-juicio-al-tuitero-pedro-jaimes/

[1456] YouTube Video, Multimedio VTV, "Comisión de la Verdad otorga libera a 24 personas como parte de los acuerdos del diálogo nacional", 17 October 2019, video on file with the Mission.

[1457] United Socialist Party of Venezuela (PSUV), "Comisión de la Verdad otorga libertad a 24 personas como parte de la Mesa Nacional de Diálogo", 17 October 2019, http://www.psuv.org.ve/temas/noticias/comision-verdad-otorga-libertad-a-24-personas-como-parte-mesa-nacional-dialogo/#.XwcWg3dFw2x.

758. SEBIN officers were involved in the arbitrary arrests, detentions, and in the torture and cruel, inhuman or degrading treatment. In the case of Ms. González, SEBIN's Strategic Investigations section in Maracaibo coordinated with the Strategic Investigation division in Caracas for her arrest and detention. In the case of Mr. Jaimes Criollo, the Counter-Intelligence Directorate of SEBIN was involved in his arbitrary arrest, detention and acts of torture.

759. The Mission also has reasonable grounds to believe that the conditions of detention in El Helicoide facilities, where these individuals were held, amount to a violation of the prohibition of torture and cruel, inhuman or degrading treatment.

B. Cases involving DGCIM

CASE 13: Captain Luis de la Sotta and others

760. Captain Luis de la Sotta was a Second Commander of the Eighth Marine Command Brigade (BRICOMAR), Special Operations Unit of the Navy (UOPE). This unit is an elite FANB group, located in Bahía de Turiamo, Aragua State.

761. In a 16 May 2018 an intelligence report,[1458] DGCIM alleged that commanders from Special Forces units were planning Operation Armageddon, a coup to prevent President Maduro's re-election on 20 May 2018. Throughout May 2018, DGCIM arrested 30 military officers and 2 civilians for allegedly conspiring against the Government.

762. Most of the targeted military officers belonged to Special Operations Command groups of the Navy, Air Force and National Guard. On 5 May 2020, Diosdado Cabello referred to the arrests along with other alleged conspiracies and coup attempts on his television show "Con el Mazo Dando".[1459]

763. Detailed below are the cases of Captain Luis de la Sotta and Major Isaías Lenin Falcón, which illustrate a wider pattern of violations. The Mission has examined the cases of: Lieutenant Colonel Ruperto Molina Ramírez; Colonel Juan Pablo Saavedra Mejías; Major Abraham Américo Suárez Ramos; Major Adrián Leonardo De Gouveia de Sosa; Major Ricardo Efraín González Torres; Corvette Captain Carlos Gustavo Macsotay Rauseo; Frigate Lieutenants Elías José Noriega Manrique; Gustavo Enrique Carrero Angarita. The Mission also reviewed the associated case of civilian Dr. Alberto Marulanda. These cases fall within the same pattern.

The Arrest

764. On the morning of 18 May 2018, Captain Luis de la Sotta was at Bahía de Turiamo navy station, his place of work. His immediate supervisor, Rear Admiral Edward Ojeda Sojo, informed him that a commission from DGCIM would be arriving from Caracas to question him.[1460]

765. Later that day, eight men in black DGCIM uniforms arrived by helicopter, carring long firearms. They threatened Captain de la Sotta with their weapons, forcing him into the helicopter. They did not present an arrest warrant. The Rear Admiral also flew in the helicopter to accompany the DGCIM officers as they delivered Captain de la Sotta to DGCIM headquarters in Boleíta, Caracas.[1461]

[1458] Report Number DGCIM-DEIPC- IC-002-2018, on file with the Mission

[1459] YouTube Video, Luigini Bracci Roa, Diosdado Cabello muestra cronología y antecedentes del golpe intentado por mercenarios en lanchas, 5 May 2020, available at: https://www.youtube.com/watch?v=IxGy5dAxgaw.

[1460] Mission Interview with Molly de la Sotta in May 2020; Urgent Appeal UA VEN 2/2020 by United Nations Special Rapporteur on torture and United Nations Working Group on Arbitrary Detention on 5 March 2020, on file with the Mission.

[1461] Ibid.

766. Once at DGCIM headquarters, officers began to question Captain de la Sotta regarding the Operation Armageddon. The DGCIM officers did not allow Captain de la Sotta to call his family or lawyers to inform them of his arrest and whereabouts.[1462]

767. On 19 May 2018, Captain de la Sotta's relatives began to look for him in various detention centres, including DGCIM Boleíta. They were unable to obtain official information, with most detention centres closed to the public on 19 May 2018 for election weekend.[1463]

768. On 19 May 2018, DGCIM sent the Military Prosecutor's Office a communication, signed by DGCIM Director of Investigations, Rafael Antonio Franco Quintero,[1464] transmitting the 16 May 2018 intelligence report and requesting that the office open a criminal investigation against Captain de la Sotta.

769. On the same day, the Ninth National Military Prosecutor's Office requested an arrest warrant for Captain de la Sotta and three other officers. Military prosecutors First Lieutenant Keyla Emilse Ríos Lara and First Lieutenant Israel Alfredo Echenique López filed the request to the First Military Court of Control. The prosecutors also requested that Captain de la Sotta be held in pre-trial detention.[1465] The men were charged with the military crimes of treason, instigation of military rebellion, mutiny, crimes against decorum.[1466]

770. On 20 May 2018, the judge of the First Military Court of Control, Major Claudia Pérez de Mogollón issued the arrest warrant.[1467] At 10 p.m. that day, a DGCIM investigator recorded in a criminal investigation report informing that he had implemented arrest warrant 143-18 against Captain de la Sotta "as instructed by Colonel Rafael Antonio Franco Quintero".[1468] On this basis, the Government implied that the day of detention was 20 May, rather than 18 May 2018.

Interrogation in DGCIM Boleíta

771. According to his sister, Molly de la Sotta, from 18 to 21 May 2018, Captain de la Sotta was detained in DGCIM headquarters. His relatives continued to inquire about him, but no official information was revealed about his whereabouts. Ms. de la Sotta told the Mission that from 18 to 20 May, Captain de la Sotta was locked in a 2 x 2 metre room and interrogated while handcuffed, blindfolded and hooded. Four DGCIM officers beat him with sticks and suffocated him with a plastic bag filled with tear gas. He was not given any food and had no access to the bathroom.[1469]

772. During the night of 20 to 21 May 2018, the DGCIM officers removed his hood and cuffed his hands in front of him as opposed to behind his back. They read him his rights and made him sign a certificate stating that he had just been detained.[1470] Captain de la Sotta told family members that DGCIM officers had attempted to induce a confession that he had been involved in planning a coup d'état, together with opposition political leader María Corina Machado.[1471]

773. On 21 May 2018, Captain de la Sotta was examined by a forensic doctor from the National Service of Medicine and Forensic Sciences (SENAMECF) of the Ministry of the Interior. The report certified that Captain de la Sotta did not have external injuries and was

[1462] Ibid.
[1463] Document C3DD02, on file with the Mission.
[1464] Comunicación DGCIM 826-1-2018, on file with the Mission.
[1465] Apprehension Order request based on report DGCIM -DIIPC-IC-002-2018, on file with the Mission.
[1466] Organic Code of Military Justice, art. 464, num. 25, art. 476, num.1, sanctioned 481, arts. 488-489, num. 4, art. 570, num 1 and art. 565.
[1467] Approval of arrest warrant 207 and 158, signed by Judge Claudia Pérez de Mogollón, on file with the Mission.
[1468] DGCIM-DEIPC-AIP 335-2018, on file with the Mission.
[1469] Mission Interview with Molly de la Sotta in May 2020.
[1470] Act of initial appearance, criminal case file CJPM-TM1C-011-2018, on file with the Mission.
[1471] Mission Interview with Molly de la Sotta in May 2020.

in good health.[1472] According to Captain de la Sotta, he had visible signs of torture when the doctor evaluated him.[1473]

Initial Court Appearance

774. On 22 May 2018, at 8 a.m., four days after his detention, the DGCIM officers presented Luis de la Sotta and seven other individual before judge Claudia Carolina Pérez de Mogollón at the First Military Court of Control in Caracas. Captain de la Sotta requested a defence lawyer of his own choosing, but the court appointed a military public defender.[1474]

775. Captain de la Sotta appeared in court in the same clothing he had been wearing when arrested. His clothes were stained with blood and body fluids.[1475] Captain de la Sotta pointed to the marks on his hands from the tight handcuffs and told the court, "I was tortured, abused and suffocated by DGCIM officers". He declared his innocence.[1476] The military defence attorney requested Captain de la Sotta undergo a medical examination. Neither the military prosecutor nor the judge responded to the torture allegations raised in court.

776. The judge ordered Captain de la Sotta's pre-trial detention in DGCIM Boleíta. Captain de la Sotta's family was not informed that he had been brought to a hearing.[1477] Throughout his time in detention, he was denied contact with anyone outside the facility.

Pre-trial detention in DGCIM Boleíta

777. After his initial court appearance on 22 May 2018, Captain de la Sotta was brought to DGCIM Boleíta for pre-trial detention. He spent 33 days incommunicado in a room that custodians called the "Crazy Room" (el Cuarto de los Locos) (see description above).[1478] Captain de la Sotta's relatives made several attempts to visit him, but DGCIM officers informed them that detainees had to spend 30 days incommunicado as an "adaptation period".[1479]

778. Captain de la Sotta was detained in solitary confinement. The custodians did not allow him to use the bathroom regularly, so he often slept in his own bodily waste. He was beaten and suffocated with a plastic bag. DGCIM officers made threats against his family.[1480]

779. On 23 June 2018, Captain de la Sotta was permitted a family visit. According to family members interviewed, his head had been shaved and he was wearing clothes that smelled badly. He could not stand up straight because his ribs were broken. He was pale and thin and had scars on his wrists. He appeared disoriented and did not know what time it was. He was desperate to know where his children were.[1481]

780. After the first month of detention, Captain de la Sotta was transferred to another cell in Basement 1, also in the DGCIM Boleíta building, where he remained for over 18 months, from June 2018 until January 2020.

781. The cell had artificial light on day and night, affecting the notion of time. It was around 2.75 x 2 metres. Captain de la Sotta sometimes shared the space with two or three other people. There was no bathroom, so he and the other detainees used a bag. There were strong odours, without ventilation or exhaust fans, which affected the breathing, eyes and skin of

[1472] Report N 129 DET 3109-2018, on file with the Mission.
[1473] Mission Interview with Molly de la Sotta in May 2020.
[1474] Mission interview with Molly de la Sotta in May 2020.
[1475] Document C3DD02, on file with the Mission.
[1476] Act of initial appearance, criminal case file CJPM-TM1C-011-2018, on file with the Mission.
[1477] Mission interview with Molly de la Sotta in May 2020; Document C3DD02, on file with the Mission.
[1478] Mission Interview with Molly de la Sotta in May 2020.
[1479] Mission Interview with Molly de la Sotta in May 2020 and document C3DD02, on file with the Mission. See also, YouTube Video, Resistencia Caracas Oficial, Sara de la Sotta, madre del Capitán de Navío Luis Humberto de la Sotta, militar detenido, 3 July 2019, available at: https://www.youtube.com/watch?v=9tAdqHHRORY.
[1480] Mission Interview with Molly de la Sotta in May 2020.
[1481] Mission Interview with Molly de la Sotta in May 2020 and document C3DD02, on file with the Mission.

Captain de la Sotta and several prisoners.[1482] There was no access to drinking water. Captain de la Sotta requires permanent medication for high blood pressure, which DGCIM officers did not provide, exacerbating his condition.[1483]

782. On 3 October 2018, the Inter-American Commission on Human Rights issued precautionary measures in favour of Captain de la Sotta.[1484] It urged the State to adopt the necessary measures to protect the life, health and personal integrity of the captain, guaranteeing that he has access to pharmacological and non-pharmacological care. On repeated occasions, his family[1485] and his legal counsel[1486] submitted complaints on the conditions of detention of Captain de la Sotta, to no avail.

Preliminary Hearing

783. The preliminary hearing was held at the First Military Court of Control from 12 to 20 December 2018. This hearing occurred seven months after the initial appearance, despite the fact tha the under the Criminal Procedure Code, no more than 65 days should pass between the two hearings.[1487] The State presented statement against Captain de la Sotta made by a lieutenant who had been detained in the same operation and had incriminated him and others.[1488] The lieutenant was released shortly after making the incriminating statement. He deserted the military a month later.[1489]

784. At the preliminary hearing, Captain de la Sotta reiterated that he was a victim of torture. He gave the names of the alleged perpetrators, saying: I have been detained for seven months. I would like to know where it is allowed for a Navy Capitan, to be tortured and beaten by a major named Major Hurtado and TN Abel Angola. The day I was detained, I was taken to DGCIM supposedly to testify. I was beaten and it was two days before they read me my rights. They made me sign documents with my face covered. Today, before coming here, I was beaten by Major [Hurtado]. I fear for my life over there in DGCIM.[1490]

785. After the initial appearance, the defence filed several briefs requesting Captain de la Sotta's transfer from DGCIM Boleíta to Ramo Verde, to which it received no response. Most of the other accused in Mr. de la Sotta's case had been transferred to Ramo Verde.[1491] During the preliminary hearing, the judge affirmed that Mr. de la Sotta would remain at DGCIM Boleíta.

786. The court did not accept the appointment of Captain de la Sotta's chosen legal representative until November 2018, approximately one month before the preliminary hearing. Further, it did not share the complete case file with the defence for the preliminary hearing, as required by law, hindering the preparation of defence arguments. On 20 December 2018, the control court judge presented her ruling on the preliminary hearing orally.

787. It was not until after the defence filed an injunction appeal on 15 February 2019 that the court martial ordered the court of control to release the certified copies of the hearing

[1482] Document C3DD00 and Document C3DD01, on file with Mission.
[1483] Medical evaluations on file with the Mission, Mission Interview with Molly de la Sotta in May 2020. See also: https://twitter.com/Almagro_OEA2015/status/1018284879694491648
[1484] CIDH Resolution No. 75/201, M.C. No. 862-18.
[1485] Complaint filed by Sara Quiroga to Human Rights Ombudsperson's Office in July 2018, Complaint by Molly de la Sotta to Public Prosecutor's Office in January 2019, on file with the Mission.
[1486] Complaint filed by lawyer Carlos Bellos to the First Military Court of Control in January 2019, on file with the Mission.
[1487] Article 236 of the Criminal Procedure Code foresees a period of 45 days following judicial deprivation of liberty during which the prosecution may present its accusation. Article 309 establishes that once the accusation has been presented, the preliminary hearing should take place within 20 days.
[1488] Statement on file with the Mission.
[1489] Naval Message, list of officers absent from units without authoirzation, on file with the Mission.
[1490] Act of initial appearance, criminal case file CJPM-TM1C-011-2018, statementy by Luis de la Sotta, 12 December 2018 at 14:30, on file with the Mission.
[1491] Decision dated 25 February 2019, on file with the Mission.

transcripts.[1492] On 25 February 2019, the judge signed the conclusive act of the preliminary hearing.

788. At the time of writing, Captain de la Sotta remained detained and awaiting trial in DGCIM Boleíta.

Detention in the "House of Dreams"

789. On 1 January 2020, at 4 p.m., Captain de la Sotta, Colonel Johnny Mejías Laya, Lieutenant Colonel Ruperto Molina and Lieutenant Colonel Igbert Marín Chaparro were moved from Basement 1. They were not informed of their destination and were only allowed to take some of their belongings.[1493]

790. DGCIM custodians handcuffed them, put hoods on them and placed them in a car. They were driven for a long time. Some of detainees assumed the long drives were to give them the false impression that they were far from the main headquarters. One of the detainee's relative told the Mission, "This procedure generates uncertainty, anguish and stress, not knowing where they will be transferred and if they will be tortured, either physically or psychologically, as has happened on previous occasions".[1494]

791. DGCIM officers took the five men to a basement they referred to as the "House of Dreams".[1495] DGCIM staff told the family members that the detainees were transferred as the other facilitiy was under fumigation. Relatives were sceptical about this explanation and felt concerned.[1496] Since his transfer in January 2020 until the time of writing, Captain de la Sotta has spoken by phone to his family on limited occasions, with each call monitered. Captain de la Sotta's health has deteriorated further.[1497]

792. Family visits stopped completely with the Covid-19 outbreak. On 21 July 2020, Captain de la Sotta's mother filed a complaint to the Public Prosecutor's Office regarding her son's detention conditions.[1498]

793. Captain de la Sotta holds joint Venezuelan and Peruvian citizenship. However, DGCIM did not allowed him to access the consular protection despite the numerous requests made by the Peruvian Embassy.[1499]

794. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

795. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, short term enforced disappearance, torture and other cruel, inhuman or degrading treatment or punishment were committed against Captain Luis de la Sotta.

796. DGCIM personnel from the Special Directorate of Penal and Criminalistic Investigations under the direction of Colonel Rafael Franco Quintero were involved in the

[1492] See request of the President of the Martial Court to Judge of First Court of Control, 19 February 2019, on file with the Mission.

[1493] Document C3DD45, on file with the Mission.

[1494] Document C3DD45, on file with the Mission.

[1495] Mission interview with Molly de la Sotta in May 2020, Complaint letter sent by Lawyer Carlos Bello to the First Criminal Court on 21 January 2020, complaint letter sent by Molly de la Sotta to the Office of the Ombudsman on 17 February 2020, on file with the Mission.

[1496] Document C3DD45 of January 2020, on file with the Mission.

[1497] Complaint letter sent by Lawyer Carlos Bello to the First Criminal court on 21 January 2020,complaint letter sent by Molly de la Sotta to the Human Rights Ombudsperson's Office, on 17 february 2020 on file with the Mission.

[1498] Complaint filed by Sara María Quiroga de la Sotta, on 21July 2020 to the Director General of Procedural Action of the Public Prosecutor's Office, Deputy Director of Execution of Human Rights Sentences, on file with the Mission.

[1499] Correspondence between de la Sotta family and the consulate, the consulate refers to six notes 062-2020, 605-2020,111-2019,103-2019,48-2019,19-20,11-2019, sent from the embassy of Peru soliciting consular visits to Luis de la Sotta, on file with the Mission.

arrest of Captain de la Sotta. Officers working for the investigations division under Colonel Franco Quintero and afterwards under Colonel Hannover Guerrero were involved in the acts of torture and other cruel, inhuman or degrading treatment or punishment at the moment of interrogation and during the detention.

797. Furthermore, the Mission has also reasonable grounds to believe that conditions in DGCIM Boleíta during Mr. de la Sotta's detention amount to a violation of the prohibition of torture and cruel inhuman degrading treatment and punishment. DGCIM Coronel Terán Hurtado and the Director Iván Hernández Dala are responsible for the facility.

CASE 14: Major Isaias Lenin Falcón Juárez

798. Major Isaias Falcón was an air force officer and specially trained commando who commanded Special Forces Squadron 201, in El Libertador Palo Negro air base in Maracay, Aragua state. His immediate superior was Lieutenant Colonel Ruperto Molina Ramírez.

799. On 17 May 2018, the CEOFANB Remigio Ceballos ordered Major Falcón to join other units in Caracas in preparation for Plan República.[1500] Plan República was a deployment of FANB officers to ensure order and provide security during the presidential elections on 20 May 2018.[1501] Major Falcón explained to the Mission, "They took all of us to Caracas because Plan República was beginning; they had us in military units in the Caracas area, all the commanders of the special groups, including Major Suárez who was in Fort Tiuna, Macsotay in La Guaira, and myself in La Carlota".

The Arrest

800. On 19 May 2018, eight armed DGCIM officers entered the General Commander of Aviation's office in la Carlota airforce base where Major Falcón was stationed. They disarmed Major Falcón (he was carrying the light weaponry requested for these operations), arrested him, confiscated his belongings and handcuffed him. They then put a hood over his head, brought him to a car and drove him to the DGCIM Boleíta. They did not present an arrest warrant.

801. Major Falcón's arrest was part of the string of arrests targeting military officers between 17 and 21 May 2018, including the arrest and detention of Luis Humberto de la Sotta, detailed above.

802. DGCIM's investigation reported the date of arrest as 25 May 2018, based on an arrest warrant dated 20 May 2018. The warrant was issued by the First Instance Military Court of Control of Caracas and signed by Judge Claudia Perez de Mogollón.[1502]

Detention in DGCIM Boleíta

803. Major Falcón was initially held in isolation in DGCIM Boleíta. He told the Mission that DGCIM officers removed all his clothes, beat his face and body with a stick; threatened to rape him, and tied him to a pipe, before partially asphyxiating him with a plastic bag and with water. According to his account, he suffered bruising to his face and a dislocated shoulder. [1503]

804. The Mission has received credible information about the detention and treatment of the other detainees arrested between 17 and 21 May, as part of the same operation. DGCIM officers took some detainees to the "water torture room" (or "the submarine") where they were submerged in water tanks. Others, were taken to a room in which they were

[1500] Mission Interview with Isaias Lenin Falcón in July 2020.

[1501] Correo del Orinoco, Arranca el Plan República 2018 por todo el Territorio Nacional, available at:http://www.correodelorinoco.gob.ve/arranca-el-plan-republica-2018-por-todo-el-territorio-nacional/

[1502] Acta de Investigación Penal DGCIM DEIPC-AIP-357-2018, Orden de aprehensión 156-18 on file with the Mission.

[1503] Mission Interview with Isaias Lenin Falcón in July 2020.

electrocuted.[1504] The detainees were kept naked for days, not given food and denied access to toilets. They also suffered electrocution including in the genitals and suffocation with plastic bags or submersion in water.[1505]

805. Major Falcón's family did not know his whereabouts from 19 May 2018 until 23 May 2018. His wife searched for him in his base in El Libertador and in different military bases in Maracay. On 23 May 2018, Major Falcón's wife went to DGCIM Boleíta to inquire about him, where a DGCIM officer confirmed unofficially that Major Falcón was detained there. She was not provided futher information or allowed to communicate with him. On 24 May 2018, Major Falcón was able to telephone his wife to inform her that he would be presented to the Second Military Court of Control in Caracas the following day. The family attended to court that day. When Major Falcón did not appear, they continued to visit the court every day thereafter. He was presented in court three days later on 28 May 2019.

806. The Mission secured access to a medical examination undertaken by SENAMECF dated 25 May 2018 and presented as part of Major Falcón's court file. The report contained only Major Falcón's personal details and had otherwise been left blank.[1506] It had not been signed by a doctor. Major Falcón explained to the Mission that he did not undergo a medical examination by SENAMECF.

Initial Court Appearance

807. On 28 May 2019, Major Falcón was presented to the Second Military Court of Control in Caracas where he was charged with treason, instigation of rebellion, mutiny and against military decorum.[1507] He appeared in court with visible injuries. He told the Mission, "My face was swollen, my hands and my wrists were purple. I also had marks on my shoulder and ribs". Major Suárez who was also presented with him had a broken nose and fractured ribs.

808. The NGO lawyer representing both Major Falcón and Major Suárez referred to domestic anti-torture legislation and requested the court to take formal note of their injuries and to order a medical examination. The lawyer also told the court that, "pretending that the defendants were detained on 25 May 2018 makes a mockery of this tribunal, when they have been detained for over seven days".[1508]

809. The Judge ordered Major Falcón's detention at CENAPROMIL (RamoVerde). Major Suárez was also sent there.

Ramo Verde

810. Upon arrival to Ramo Verde, Majors Falcón and Suárez spent sixteen days in an overcrowded cell called El Tigríto. They were incommunicado during this time. On 12 July 2018, Major Falcón was released on remand with precautionary measures. The court forbade him from leaving the country or speaking to the media and required him to present himself at the First Military Court of Control every 30 days.

811. Major Suárez remained in Ramo Verde until April 2020, when he was transferred to DGCIM Boleíta (along with Colonel Rommel Acevedo, detailed below). According to accounts received by the Mission, Major Suárez has suffered from severe trauma and tried to commit suicide twice.[1509]

Second Arrest

812. In May 2019, DGCIM officers arrested Major Falcón for a second time, as he was attending an event at the Ministry of Defence, and took him to DGCIM Boleíta. He told the

[1504] Mission Interview with Isaias Lenin Falcón July 2020.
[1505] Document C3DD14, C3DD15, C3DD16, C3DD17, on file with the Mission.
[1506] Reseñas dactilares CICPC, Examen médico SENAMECF on file with the Mission.
[1507] Organic Code of Military Justice arts. 464, 476, 481, 488, 489, 565 and 570.
[1508] Acta audiencia de presentación, declaración abogado Alonso Medina on file with the Mission.
[1509] Mission Interview with Isaias Lenin Falcón in July 2020, Document C3DD20 on file with the Mission.

Mission that DGCIM officers handcuffed him to a chair, beat his ribs and asphyxiated him with a plastic bag, while interrogating him about his relationship with opposition leader Guaidó. He was released the next day, but not before DGCIM officers threatened to kill his family".[1510]

813. On 21 June 2019, Major Falcón left Venezuela and sought asylum abroad.[1511]

Findings

814. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, short term enforced dissapearence, torture and other cruel, inhuman or degrading treatment or punishment was committed against Major Falcón. The Mission has also reasonable grounds to believe that sexual violence was committed in the form of threats of rape.

815. The DGCIM officers involved in the arrest and detention belonged to the Special Directorate of Penal and Criminalistic Investigations and the Special affairs unit under the leadership of Colonel Franco Quintero and Mayor Granko Arteaga.

816. Other officers involved in the acts of torture during Major Falcón's detention in Boleíta included Lieutenant Saul Mendez (alias Severio), Capitan Nestor Neptali Blanco Hurtado (alias Ezequiel), Lieutenant Abel Reinaldo Angola Garcia (alias Aureliano), Captain Jonathan Becerra (alias Piraña), Major Sanchez Castro and Captain Keyler Chacón (Alias Gaviota).

CASE 15: Operation Constitution: illustrated by cases of Colonel Oswaldo Valentín García Palomo, Colonel José Rommel Acevedo Montañez, and Antonio José Iabichuela

817. The Mission has reviewed six cases of individuals arrested and detained between January and February 2019, accused of involvement in Operation Constitution, a plot to assassinate President Maduro and other political authorities. Among those arrested and detained were Colonels Oswaldo Valentín García Palomo and José Rommel Acevedo Montañez, as well as an associated civilian, Antonio José Iabichuela whose cases are detailed here and are illustrative of wider patterns of violations. Other detainees included First Lieutenants Alberto José Salazar Cabañas and Colonel Johny Mejias Laya.[1512]

818. Colonel Oswaldo Valentín García Palomo is a former Venezuelan National Guard Colonel who retired in 2014.[1513] While in service, Colonel Palomo was summoned on three occasions between 2001 and 2014 by DGCIM (and its predecessor) for interviews and interrogations.[1514]

819. Since 2018, the Government has accused Colonel Palomo of planning military operations to disturb the elections of May 2018;[1515] participating in the drone attack of 4 August 2018; and recruiting active or reserve members of the military to assassinate President Maduro and other political authorites in the alleged Operation Constitution.[1516]

820. Military tribunals issued warrants for Colonel Palomo's arrest on two occasions in 2018, in relation to alleged attempts to destabilize and to organize coups against the Government.[1517] A civilian court with specialized jurisdiction over terrorism offences issued

[1510] Mission Interview with Isaias Lenin Falcón in July 2020.
[1511] Asylum statement on file with the Mission.
[1512] Protection concerns prevent the Mission from revealing the names of the other detainee.
[1513] Resolution 004437, retiro por solicitud propia del Coronel Oswaldo García Palomo.
[1514] Document CG-IG-0948 of the General Inspectorate of the GNB on 15 April 2014, Summons number 122 made by the DIM on 22 may 2002, Subpoena DGCSIM-005-068.02 on 2 May 200, on file with the Mission.
[1515] YouTube Video, TeleSurTV, "Presidente Nicolás Maduro denuncia a autores de intento de magnicidio", 18 September 2018, available at: https://www.youtube.com/watch?v=klwVMfMbnwk.
[1516] Act of Accusation, MP-35567-2019.
[1517] Order number 330-18 from the First Military Tribunal of Control on 14 November 2018, and order TM2-047-19 from the Second Military Tribunal of Control on 25 January 2018, on file with the Mission.

a third arrest warrant in connection with an assassination attempt against President Maduro.[1518] In an August 2018 interview, Colonel García Palomo admitted to participating in an operation aimed at overthrowing the Maduro Government, but denied involvement in any attempt to assassinate the President.[1519]

821. In February 2018, DGCIM officers without warrants searched Colonel Palomo's house, seized personal belongings, and proceeded to handcuff and hood his son and wife, who were taken to unofficial safehouses where they were interrogated about Colonel Palomo's whereabouts (see Ariana Granadillo case, detailed below). Colonel Palomo's family subsequently left the country.[1520]

822. Colonel José Rommel Acevedo Montañez was a former Venezuelan National Guard Colonel who retired in 2015. Mr. Antonio José Iabichuela is a Venezuelan merchant. Colonel Acevedo and Mr. Iabichuela had not previously been accused of or investigated for any insurgency activity.[1521]

The Arrest

823. On 27 January 2019, Colonel Palomo and Colonel Acevedo were traveling in Colonel Acevedo's car from Táchira State to Caracas. The Mission has interviewed their family members and lawyers,[1522] reviewed statements on social media,[1523] and contacted other reliable sources close to the case.[1524] All sources indicate that the families lost contact with the three men during the afternoon of 27 January 2019.[1525]

824. Family members denounced the disappearance of the three individuals via Twitter. On 30 January 2019, Colonel Palomo's wife made a post on Twitter denouncing his disappearance and demanding proof of life.[1526] On 1 February 2019, Colonel Acevedo's wife announced on Twitter that she had not known her husband's whereabouts since 27 January 2019 and that she held the Government responsible for his physical and mental integrity.[1527] Mr. Iabichuela's wife tweeted on 1 February 2019 that her husband had left his house on 26 January 2019 and she had not heard anything from him since. She asked the authorities for proof of life.[1528]

825. Lawyers representing Colonel Palomo visited the military tribunal on 30 January 2019 and requested information about Colonel Palomo's whereabouts, but were not provided with informaiton.[1529]

826. On 31 January 2019, Minister of the Interior Néstor Reverol made a televised statement announcing that intelligence agencies had discovered a coup conspiracy by

[1518] Act of Accusation, referencia a Orden 014-2018 investigación MP-268957-2018 dated 5 August 2018, on file with the Mission.

[1519] See El Nuevo Herald, El ejército tiene que sacar a Maduro del poder, dice coronel venezolano buscado por el régimen, 31 August 2018, available at: https://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article217635965.html.

[1520] Mission Interview with C3DD09 in June 2020.

[1521] Act of Accusation, MP-35567-2019, on file with the Mission.

[1522] Document C3DD07, on file with Mission, Mission Interview C3DD09 in June 2020, Mission Interview C3DD05 in June 2020.

[1523] https://twitter.com/carlosramirezl3/status/1090300998659248128?s=20

[1524] Documents C3DD04 and C3DD07, on file with the Mission.

[1525] See YouTube Video, Christian Johnson Television, SECUESTRO del CNEL. Oswaldo García Palomo en VENEZUELA, 2 March 2019, available at: https://www.youtube.com/watch?v=vomDjGnF9zM; YouTube Video, La Patilla, Esposa del coronel (r) García Palomo: Mi esposo quiere a Nicolás Maduro vivo y preso, 31 January 2019, available at: https://www.youtube.com/watch?v=2Tp6dugGQt0.

[1526] https://twitter.com/TAMARA_SUJU/status/1090544221738749952?s=20.

[1527] https://twitter.com/VPITV/status/1092620675846676480?s=20.

[1528] https://twitter.com/ElyangelicaNews/status/1092920026108186624?s=20.

[1529] Mission Interview with Lawyer Emilio Bolívar in June 2020.

mercenaries and terrorists.[1530] He said that Colonel Palomo had been captured early in the morning of 31 January 2019, near the José Antonio Páez highway, in the company of Colonel Acevedo and Mr. José Iabichuela Barrios.

827. The Minister of the Interior stated that the detainees had been carrying two AK-103 rifles, two satellite phones, 500 wristbands with "OC" initials (which he said referred to Operation Constitution).[1531] Minister Reverol displayed these items, but did not present other information linking them with the arrested men.

828. The Mission reviewed the DGCIM investigation file, which recorded that at 4 p.m. on 31 January 2019, DGCIM tried to intercept a car near the José Antonio Páez highway, which they suspected contained Garcia Palomo. The car attempted to escape and a ten-minute chase ensued. The DGCIM unit then managed to detain him along with two passengers, Colonel Rommel Acevedo and Jose Iabichuela.[1532]

829. The DGCIM record stated that Colonel Acevedo and Mr. Iabichuela were detained in *flagrante delicto*. It also said that the serial number of the AK-103 weapons coincided with that of two guns that had been illegally taken on 21 January 2019 in an assault on a military unit in DESUR Petare. The document linked that operation to Colonel Palomo.[1533]

830. The accounts gathered by the Mission dispute this.[1534] According to these accounts, the men were arrested on 27 January 2019, at approximately 3 p.m. At the moment of the arrest, they were unarmed and only Colonel Palomo and Colonel Acevedo were traveling in Colonel Acevedo's car, having previously dropped Mr. Iabichuela off at Razetti Hospital in Barinas.

831. The arrestees claim to have been followed by a DGCIM vehicle along the José Antonio Páez highway and that shots were fired from the vehicle in their direction. After a brief chase, Colonel Palomo and Colonel Acevedo stopped the car and DGCIM officers arrested them. The officers were identified with DGCIM vests.[1535] Meanwhile, DGCIM officers intercepted an ambulance in which Mr. Iabichuela had been travelling. They seized him and put him in the same car as Colonel Acevedo and Colonel Palomo.[1536]

832. The families and legal representative of all three men did not received official information regarding their whereabouts until their appearance in court on 5 February 2019.[1537]

833. On 2 February 2019, Colonel Acevedo's wife, Ms. Jiménez de Acevedo, filed a complaint about her husband's disappearance with the Public Prosecutor's Office in Carabobo.[1538] On the same day, she travelled to Caracas where she made a series of visits to DGCIM headquarters in Boleíta to inquire about her husband. She received no confirmation about his whereabouts.

The Interrogation

834. After arrest, the three men were forced into a truck, and Colonel Acevedo and Colonel Palomo were tied up. Mr. Iabichuela fell and injured his knee while trying to escape. DGCIM officers beat him and tied him up. The men were unable to see where they were taken as DGCIM officers forced them to close their eyes. Upon arrival, the men were forced to strip.

1530 YouTube Video, Luigino Bracci Roa, Néstor Reverol sobre captura de Oswaldo García Palomo, vehículo falso de FAES y sicarios, 31 January 2019, available at: https://www.youtube.com/watch?v=7Wi7PePInGo&t=318s.

1531 Ibid.

1532 Act of Accusation, MP-35567-2019, on file with the Mission.

1533 Ibid.

1534 Mission Interview C3DD09 in June 2020, Document C3DD04 and C3DD07 on file with the Mission.

1535 Major Granko Arteaga of the Special Issues Unit of DGCIM.

1536 Documents C3DD04 and C3DD07, on file with the Mission.

1537 Mission Interview C3 DD09, Mission Interview C3DD05 in June 2020.

1538 Complaint presented by Mónica Jiménez to Carabobo District Prosecutor on 2 February 2020, on file with the Mission.

They were blindfolded and hoods were placed over their heads. DGCIM officers beat, insulted and threatened them.[1539]

835. Colonel Acevedo, Colonel Palomo and Mr. Iabichuela were separated. According to the accounts the Mission received, DGCIM officers hit them with a hard cylindrical object, or a board, all over their bodies, DGCIM officers also asphyxiated them repeatedly, using plastic bags, gave them electric shocks and kept them in stress positions for hours. DGCIM officers took them outside into the cold and suspended them from a tree from their handcuffs for hours. They were interrogated and insulted.[1540]

836. The men do not know how much time passed before DGCIM officers drove them to a mountainous region, where they forced them to walk for hours while blindfolded, barefoot and naked. The men were handcuffed, tied together at the waist and led through bushes and thorns.[1541]

837. According to reliable information received by the Mission, the three men were later moved to another area, doused with something oily and placed near a fire, making them believe they would be burned. Their captors had machetes and threatened to dismember them. They were deprived of food for many days. Their handcuffs were so tight they cut their wrists. The men felt under the influence of drugs and lost notion of time and space.[1542]

838. After a few days, the men were taken back to the house in which they were first detained.[1543] Officers removed their hoods and took them to shave and change their clothes, before taking them into a room with video cameras. Interrogators, who had their faces covered, told them to film video statements.

839. The Mission verified a video posted to YouTube showing the three men in the DGCIM facility. According to the CASLA Institute, the video was filmed by a former DGCIM official.[1544] The Mission has confirmed with the men's families that the footage purporting to show Colonel Palomo, Colonel Acevedo and Mr. Iabichuela handcuffed, guarded and lying on the floor, does indeed depict the three men.

840. Mr. Iabichuela can be seen with a bandage on his injured knee, Colonel Acevedo can be seen in the video showing his wounded wrists to an officer who says, "it is infected". Another guard later comments, "It is ugly, I saw it, you can see his bones".[1545] In another video reviewed by the Mission, Colonel Acevedo appears sitting on a chair while a person is examining his wrists.[1546]

841. On 7 February 2019, the Minister of Communications and Information, Jorge Rodríguez made a public statement about the arrests and shared Colonel Palomo's videotaped confession.[1547] The Mission interviewed his wife and legal team, all of whom felt that his altered demeanour was caused by the influence of an unknown substance. Colonel Palomo later told his wife he did not recall making a confession.

842. In a 2019 interview broadcast on VPItv, Christopher Figuera, the former SEBIN Director, said that Captain Blanco brought Major Palomo from DGCIM to SEBIN. Mr.

1539 Documents C3DD04 and C3DD07, on file with the Mission.

1540 Mission Interview C3DD09 in June 2020, Mission Interview with C3DD05 in June 2020. Mission Interview with lawyer Emilio Bolívar in June 2020, Documents C3DD04 and C3DD07, on file with the Mission.

1541 Documents C3DD04 and C3DD07, on file with the Mission.

1542 Ibid.

1543 The gate had a distinctive sound, which a detainee explained he had recognized.

1544 Ronald Dugarte presented these images through CASLA Institute to the OAS.

1545 YouTube Video, CASLA, DGCIM Tortura, 21 March 2019, minute 5:14, available at: https://www.youtube.com/watch?v=Lqis30ri5P4&t=395s.

1546 https://twitter.com/TAMARA_SUJU/status/1135904843183329286?s=20,

1547 YouTube Video, Luigino Bracci Roa, Jorge Rodríguez, rueda de prensa sobre Oswaldo García Palomo, 7 February 2019, available at: https://www.youtube.com/watch?v=Emf7rsZ4yMw&t=2056s; YouTube Video, Luigino Bracci Roa, Detuvieron a García Palomo haciéndole creer que militares iban a alzarse en Caracas, 7 February 2019, available at: https://www.youtube.com/watch?v=M7dGFdxl54s.

Figuera said, "the commissioner who received him informed me he had arrived very mistreated […]. I ordered him to call the doctor to undertake a medical revision before Captain Blanco left, to keep it on record". He noted that Major Palomo's assistant (Alberto José Salazar Cabañas) "was very mistreated […]. When they caught him they beat him so hard [that the tissue around his…] prosthetic eye became infected due to the blows".[1548]

843. In a subsequent interview broadcast on 11 June 2020, General Figuera again mentioned the condition in which Colonel García Palomo had been brought to SEBIN. He said, "When [DGCIM]] brought García Palomo to SEBIN, he was brought tortured, in dilapidated conditions, I didn't want to receive him, he was urinating blood. I told the doctor and the commissioner in charge not to receive him. He responded it is an order of "my commander". You have to receive him. So I ordered a video recording […] to have proof, if the person died here, that that is how they sent him to me".[1549]

844. On 3 February 2019, the CASLA Institute filed a petition for precautionary measures with the Inter-American Commission on Human Rights on behalf of Colonel Acevedo, Colonel Palomo, Lieutenant Salazar Cabañas, Mr. Iabichuela, and another individual detained with them.[1550]

Initial Court Appearance

845. On 5 February 2019, Colonel Acevedo, Colonel García Palomo and Mr. Iabichuela were presented before the First Court of Control on Terrorism-Related Crimes, under the Judge Carol Padilla. The detainees appeared late at night, outside normal working hours. They were only allowed 30 minutes to talk to their legal representative before the hearing. Colonel Acevedo's wife and lawyer were not informed about the hearing, despite having waited in the court all day.[1551]

846. Lawyers representing the three men told the court that their clients had been presented with clear torture marks and noted the short 30-minute preparation time. One lawyer told the Mission, "Iabichuela was so hurt that his cut was infested and smelled bad. His knee was so swollen, he had to cut part of his trousers to get into them".[1552] During the hearing, the lawyers requested a toxicology exam and forensic examinations of the defendants. The toxicology exam and a medical examination were undertaken ten days later and the results were not disclosed.[1553] The lawyers requested that the Public Prosecutor´s Office open investigations into the torture, but at the time of writing there is no indication that this occurred.[1554]

847. Colonel Acevedo, Colonel Palomo and Mr. Iabichuela were charged with association to commit a crime, terrorism, and illicit possession of weapons of war, conspiracy and treason.[1555] The court ordered the detention of Colonel Acevedo and Mr. Iabichuela at Ramo Verde. Colonel Palomo was ordered pre-trial detention in SEBIN El Helicoide.

[1548] YouTube Video, VPITV, Habla Cristopher Figuera - Ex. Dir. del Sebin - Entrevista Ibéyise Pacheco, 10 July 2019, minute 44:00, available at: https://www.youtube.com/watch?v=IXTN-X8Z5cU.

[1549] YouTube Video, Alejandro Marcano Santelli, El torturador de la DGCIM Marcano en vivo con Christopher Figuera 11 June 2020, minute 48:00, available at: https://www.youtube.com/watch?v=v_mcJSwC_ws.

[1550] Inter-American Commission on Human Rights, Resolution 3/2019, Precautionary measures No. 115-19, 19 February 2019, para. 1, available at: http://www.oas.org/es/cidh/decisiones/pdf/2019/3-19MC115-19-VE.pdf.

[1551] Mission Interview C3DD05 in June 2020, Mission Interview with NGO Foro Penal in June 2020.

[1552] https://twitter.com/medinaroaalonso/status/1093564793510875137?s=20; Mission Interview with Emilio Bolivar in June 2020; Mission Interview C3DD05 in June 2020.

[1553] Mission Interview with lawyer Emilio Bolivar in June 2020.

[1554] Ibid.

[1555] Organic Law against Organized Crime, art. 32 and 52, Criminal Code, arts. 111, 132 and 128.

848. On 19 February 2019, the Inter-American Commission on Human Rights issued precautionary measures in favour of Colonel Palomo, Colonel Acevedo and Mr. Iabichuela.[1556]

849. On 18 March 2019, Colonel Acevedo's wife filed a complaint with the Public Prosecutor's Office alleging due process irregularities and requesting an investigation into torture. She also requested a forensic and toxicological examination and verification of her husband's physical and mental state, but received no response.[1557]

850. The preliminary hearing took place on 2 July 2019, almost six months after the initial appearance and after two postponements. A lawyer had visited Colonel Palomo in SEBIN prior to the trial, but had felt unable to discuss the case as the visit was monitored.[1558] The lawyers were present at the preliminary hearing, but the defendants were not able to speak to them until 30 minutes before proceedings began. Colonel Acevedo's legal team told the Mission that they had been provided access to the file one hour before the hearing.[1559]

851. The defendants told the court that they had been tortured.[1560] Neither the prosecution nor the judge responded to the allegation. The court ordered that the case proceed to trial. The defendants remained in detention at the time of writing, with no date set for trial.

852. On 27 February 2020, Colonel Acevedo's lawyers requested the court to order a medical examination as their client continued to complain of pain and numbness in his hands and feet as a result of the blows received, referring to the precautionary measures issued by the Inter-American Commission.[1561] No response was received.

Detention in Ramo Verde and transfer of Colonel Acevedo to DGCIM Boleíta

853. After the initial court appearance, Mr. Iabichuela was taken to a military hospital because he was at risk of losing his leg. He was later transferred to Ramo Verde.[1562]

854. Colonel Acevedo was transferred to DGCIM Boleíta, where he remained for a month, during which time his family and lawyers were unable to access him. DGCIM officers did allow his family to bring him water and food, and they asked them to bring plasters and antibiotics for a "minor" injury, which the family presumed to be the infected cuts on his wrists.[1563]

855. After around one month, Colonel Acevedo was transferred to Ramo Verde as ordered by the court. He spent a week in the "Tigrito" cell, used for punishment and "adaptation". Multiple accounts received by the Mission confirm that the Tigrito cell is dark, dirty and infested with rats. The cell contained up to eight detainees and did not have toilet facilities. The detainees relieved themselves in small pots or plastic bottles.[1564]

856. On 20 April 2020, DGCIM officers transferred Colonel Acevedo to DGCIM Boleíta, along with Major Abraham Suárez Ramos and two other military officers.[1565] Colonel Acevedo's family and lawyers were not informed about the transfer and were left wondering about his whereabouts. Colonel Acevedo's wife, Mónica Jiménez, made a public appearance

[1556] Inter-American Commission on Human Rights, Resolution 3/2019, Precautionary measures No. 115-19, 19 February 2019, para. 1, available at: http://www.oas.org/es/cidh/decisiones/pdf/2019/3-19MC115-19-VE.pdf.

[1557] Complaint filed by Monica Jimenez with the Prosecutor competent in Human Rights issues of the Caracas Metropolitan Area, Document 000360, on file with the Mission.

[1558] Mission Interview with lawyer Emilio Bolivar in June 2020.

[1559] Information submitted to the Mission by Foro Penal in June 2020.

[1560] https://twitter.com/medinaroaalonso/status/1146270416136261632?s=20.

[1561] Information submitted to the Mission by Foro Penal in June 2020.

[1562] Mission Interview with Emilio Bolivar in June 2020.

[1563] Mission Interview C3DD05 in June 2020.

[1564] Mission Interview with Jesús Medina Ezaine on 27 July 2020, Mission Interview with Sandra Hernandez on 24 June 2020, Mission Interview C3DD05 in June 2020, Mission Interview with Isaias Lenin Falcón in July 2020, Inter-American Commission on Human Rights, Precautionary measures for prisoners in Ramo Verde, Resolution 5/2020.

[1565] https://twitter.com/alfredoromero/status/1252718188544081920?s=20

with journalist Carla Angola explaining that she did not have any information about the whereabouts of her husband.[1566]

857. Since he entered DGCIM Boleíta until the time of writing, Colonel Acevedo's family and lawyer had not been able to visit him. Their last visit was 15 March 2020. The family was allowed to bring five litres of water, two cans of tuna fish, juice, milk, and cereals once every 15 to 20 days.[1567] Colonel Acevedo had been allowed to call their family by phone for two minutes, on loudspeaker and in the presence of a guard. "These two minutes are not a conversation, they are just a proof of life […] Other than that we know nothing", a family member told the Mission.

Detention of Colonel Palomo in SEBIN and transfers to Fuerte Tiuna and DGCIM

858. In SEBIN's El Helicoide facility, Colonel García Palomo was isolated from the rest of the prisoners and was not allowed any visits for an initial 30-day "adaptation" period. After that, all conversations between Colonel Palomo and his legal representatives took place in a room known as "la Pecera", or the fish tank, with glass walls, microphones and cameras.[1568] DGCIM officers visited Colonel Palomo three times a day, at 6 a.m., 12 p.m. and 8 p.m., to take a picture of him and leave.[1569]

859. On 12 December 2019, Colonel Palomo was transferred from SEBIN El Helicoide. His family were unaware of his whereabouts for three weeks.[1570] On 29 January 2020, his lawyers were able to visit Colonel Palomo at the Military Police Headquarters in Fort Tiuna. The visit took place in a glass cubicle and guards warned the lawyers in advance that the conversation would be recorded.[1571]

860. On 14 February 2020, DGCIM officers moved Colonel Palomo again, without notifying his family or lawyers, who were again unaware of his whereabouts, this time for two weeks.[1572] On 26 February 2020, his legal team managed to visit him in DGCIM Boleíta, but the lawyers explained to the Mission that the conversations were not confidential. The family was informed that Colonel Palomo was being held in Basement 2 of DGCIM, commonly known as the "House of Dreams". This is where he remained at the time of writing.

861. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

862. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, short term enforced disappearance, torture and other cruel, inhuman or degrading treatment or punishment were committed against Colonel Rommel Acevedo, Colonel Oswaldo Garcia Palomo and Mr. Antonio José Iabichuela.

863. DGCIM officers from the Special Directorate of Penal and Criminalistic Investigations under Colonel Hannover Guerrero, along with officers from the Special Affairs unit under Major Granko Arteaga, were involved in the arrest and detention. The torture was perpetrated by DGCIM officers under Major Granko Arteaga and another officer referred to as "Captain Santiago".

864. Furthermore, the Mission has also reasonable grounds to believe conditions in DGCIM Boleíta during both Colonel Rommel Acevedo and Garcia Palomo's detention amount to a violation of the prohibition of torture and cruel inhuman degrading treatment and

[1566] Video on Instagram account: carlaangola, in live transmission, on file with the Mission.
[1567] Mission interview with C3DD05 in June 2020.
[1568] Mission Interview with Emilio Bolivar in June 2020, Mission Interview C3DD09 in June 2020.
[1569] Mission Interview C3DD09 in June 2020.
[1570] https://twitter.com/Oswaldo_GP/status/1214381535014596610?s=20.
[1571] Mission Interview with Emilio Bolivar in June 2020.
[1572] Communication sent to Mission on 16 February 2020 by CASLA Institute informing about the dissapearence of Colonel Palomo, Mission Interview C3DD09 in June 2020.

punishment. DGCIM Coronel Terán Hurtado and the Director Iván Hernández Dala are responsible for the facility.

CASE 16: Cotiza uprising, Sargent Luis Alexander Bandres Figueroa

865. The Mission examined the arrest and detention of 24 military sergeants and one civilian accused of involvement in a military uprising at Cotiza on 21 January 2019. The Mission selected one of the cases, Sergeant Luis Alexander Bandres Figueroa, who commanded the group, for more detailed investigation.

866. Based on information collected,[1573] the Mission has reasonable grounds to believe that similar acts were commited against the following individuals: Andres Alfonzo Paredes Soler; Jorge Enrique Rico Arrieta; Alberto José Piñango Salas; José Daniel González Ospedales; Nomar Eduardo Salcedo Méndez; Yordanis Alirio Camacaro González; Luis Geraldo Oviedo Piña; Roberto Catalino Romero Pérez; Hugo Alexander Carrillo Santana; Yofre Javier Castro Alviarez; Luis Alfredo Lobo Medina; Ronaldo Jesús Romero Aguinagalde; Carlos Enrique Rivero Martínez; Kelvin Manuel Charles Ramírez; Hevert David Glod Vásquez; Luis Alberto Peña Arteaga; Jlihe Thubal Hernández Palma; Geomer Narciso Martínez Natera; Edgar Jesús Díaz Vivenes; Wolfang Arquimedes González Carrasco; Luis Alfredo Milanes Chirinos; Asdrubal Gabriel Chirino López; Yeicer Moises Montero Mujica; Carlos Andres Villa Torres.

The Uprising and Arrest

867. On 21 January 2019, a group of at least 24 officers[1574] of the Venezuelan Bolivarian National Guard published a video, filmed from the San José de Cotiza military base in Caracas, in which they disavowed the Government of Maduro. The declaration was made at 4 a.m. and broadcast on social media.[1575]

868. The group was led by Sergeant Luis Alexander Bandres Figueroa, who appears in videos with other officers, encouraging further defections. In one video, Mr. Bandres can be seen saying, “People of Venezuela, here speaks Third Sergeant Major Luis Alexander Bandres Figueroa of the GNB. I am alongside my GNB warriors and we ask for the support of the people of Venezuela, to take the streets, this is what you wanted and here we are with you”.[1576]

869. The sergeants were quickly confronted by a combined force of SEBIN, DGCIM, FAES, GNB and PNB units. The FAES unit was commanded by General Bastardo and the GNB by Commander Velarde. The units opened fire,[1577] but the sergeants did not engage them with fire in return. Instead, they sought cover and tried to negotiate their surrender.[1578] No one was killed or injured.

870. Residents of Cotiza neighbourhood took to the streets in support of the military uprising, and security forces used tear gas against them.[1579] After an hour, at around 5 a.m.,

[1573] Mission Interview with Foro Penal in July 2020, Mission Interview with Sandra Hernández on 24 June 2020, Documents C3DD21, C3DD22, C3DD24, on file with the Mission, Mission Interview C3DD25 on file with the Mission, Mission Interview with Jesús Medina Ezaine on 27 July 2020.

[1574] The sergeants claim they were over 100 military officers, whereas the official narrative refers to a “small group”.

[1575] YouTube Video, “Vivo Play, Militares de comando GNB se pronuncia en Cotiza”, 21 January 2019, available at: https://www.youtube.com/watch?v=c4ESkNRYQdY; See also, YouTube Video, Caraota Digital, Del alzamiento militar a la protesta en Cotiza: así transcurrió la antesala del 23Ene (+Cronología), 21 January 2019, available at: https://www.youtube.com/watch?v=lbA990H1mpg, El Tiempo, Levantamiento militar contra Maduro | EL TIEMPO, 21 January 2019, available at: https://www.youtube.com/watch?v=U3IGTsnYXcc.

[1576] YouTube Video, Vivo Play, Militares de comando GNB se pronuncia en Cotiza, 21 January 2019, available at: https://www.youtube.com/watch?v=c4ESkNRYQdY

[1577] Document C3DD06, on file with the Mission.

[1578] Ibid.

[1579] YouTube Video, Agencia EFE, Manifestantes de Cotiza respaldan a militares sublevados en Caracas Agencia AFE, 21 January 2019, available at: https://www.youtube.com/watch?v=aMeR909EpdI; See

GNB Commander, Major General Richard López Vargas and Major General Rodríguez Cabello, Commander of the REDI Capital, arrived to negotiate the sergeants' surrender.[1580]

871. A video uploaded on YouTube, verified and corroborated by the Mission, captured negotiations between Major General López Vargas and the sergeants. The insurgent group claimed to number around 120. They argued that, "the troops are suffering the same situation as the people of Venezuela", denounced inadequate health, housing and living standards, and complained about higher-ranking officers' corruption.[1581] Their families later echoed these complaints in a conference organized by the NGO Foro Penal.[1582]

872. In a live radio interview at around 6.15 a.m., Sergeant Bandres explained that FAES and GNB forces surrounded them, and that both military and civilian prosecutors were present to negotiate their surrender and to avoid bloodshed.[1583] The interview was interrupted when the sergeants were detained. In a written statement that his lawyers shared with the Mission, Sergeant Bandres said they surrendered their weapons and were taken to the military police headquarters in Fort Tiuna.[1584]

873. Around one and a half hour later, at 7.45 a.m., Diosdado Cabello issued a series of tweets announcing the sergeants' surrender and capture. He claimed that the sergeants had already begun to confess and that they claimed to have been deceived by offers of "castles and villas" and then had been abandoned.[1585] Minister of Defence Vladimir Padrino López issued an official communication providing details of the incident and explaining that the group had been captured and was being questioned.[1586] He also tweeted, "Whoever disrespects his weapons with infamous vices will be punished to the full extent of the law".[1587]

Detention and Interrogation

874. On 21 January 2019, the families of the 24 arrested sergeants lost contact with them. They knew nothing of their fate or whereabouts for the next eight days.[1588] In the case of Sergeant Bandres, his wife last heard from him in the early morning of 21 January. Family members searched in Fort Tiuna, DGCIM, SEBIN and courts, but were unable to obtain information.

875. The 24 sergeants were taken in DGCIM vehicles to Fort Tiuna, where they were received by CEOFANB commander Remigio Ceballos and the Army Commander General,

also YouTube Video, NTN24, Venezuela: Población de Cotiza se unió a manifestación de militares sublevados contra Maduro, 21 January 2019, available at: https://www.youtube.com/watch?v=X_89K2SLqJw

[1580] Written declaration of Luis Bandres on 17 February 2019 made from RamoVerde prison shared by Foro Penal, on file with the Mission.

[1581] YouTube Video, Anonimus CR. Diálogo de Negociación para la Entrega de los Militares en Cotiza, 24 January 2019, available at: https://www.youtube.com/watch?v=mikcx5ovtjm; YouTube Video, VivoPlay, Militares rebelados en Cotiza son torturado, 21 February 2019, available at: https://www.youtube.com/watch?v=zaMjW4drfNw

[1582] YouTube Video, VivoPlay, Militares rebelados en Cotiza son torturado, 21 February 2019, available at: https://www.youtube.com/watch?v=zaMjW4drfNw

[1583] YouTube Video, VenePress TV, Militar que se sublevó contra Maduro narró en vivo su detención, 21 January 2019, available at: https://www.youtube.com/watch?v=Tnrbqa5SMSo

[1584] Written declaration of Luis Bandres on 17 February 2019 made from Ramo Verde prison shared by Foro Penal on file with the Mission and Mission Interview with Sandra Hernandez on 24 June 2020.

[1585] https://twitter.com/dcabellor/status/1087329858869489664?s=20, https://twitter.com/dcabellor/status/1087330513407365120?s=20, https://twitter.com/dcabellor/status/1087332326462447617?s=20

[1586] Press Release of the FANB, 21 January 2019, available at: http://www.mindefensa.gob.ve/mindefensa/2019/01/21/comunicado-de-la-fuerza-armada-nacional-bolivariana-13/

[1587] https://twitter.com/vladimirpadrino/status/1087330772242128901?s=20

[1588] Mission Interview with Sandra Hernández on 24 June 2020; YouTube Video, Sergio Novelli, Entrevista a Rossi de Goncalves, hermana del Sargento Luis Bandres Figueroa, GNB alzado en Cotiza, 22 January 2019, available at: https://www.youtube.com/watch?v=JWCfQUkXmiM.

General Jesús Suárez Chourio. They were then transported to the DGCIM Headquarters in Boleíta Norte.[1589]

876. Upon arrival in Boleíta, DGCIM officers tried to coerce Sergeant Bandres into recording a video accusing Juan Guaidó, Julio Borges and María Corina Machado of financing the uprising. When Sergeant Bandres refused, DGCIM officers stripped him naked, blindfolded him and isolated him in a dark room. They attached his arms to the ceiling with handcuffs and suspended him for two days, causing him to lose feeling in his arms and hands.

877. They hit him with a bat and kicked him, including in his testicles. They asphyxiated him with a bag, electrocuted him in different soft parts of his body including behind his ears and on his testicles. When Sergeant Bandres fainted from the electrocution, they poured water on his body and electrocuted him again. He lost control of his bowels and the officers forced him to eat his own waste. Sergeant Bandres was deprived of water and food throughout this time and was told that his wife and children had also been captured and were being tortured.[1590]

878. Sergeant Bandres was also subjected to sexual violence, including an attempted rape with a pickaxe handle.[1591] According to his wife, "The torture was so unbearable that he was asking them to let him go to the bathroom hoping to find chlorine to drink and commit suicide".[1592]

879. The other sergeants arrested with Sergeant Bandres were subjected to similar acts. The Mission examined the declarations they made to their legal representatives and the complaints filed to the Public Prosecutor's Office, as well as public declarations made by their families and lawyers.

880. The sergeants were subjected to heavy beatings, asphyxiation including with bags filled with toxic gas, forced nudity, isolation in rooms with very low temperature and constant lighting, beating with rifles, bats and blunt objects, blindfolding for days and electrocution among others. "We were handcuffed back to back, for several days and nights. In order to eat we had to throw ourselves on the floor like dogs" explained one of the sergeants.[1593]

881. The Mission received information from another witness who had been present in DGCIM Boleíta during these events who confirmed having heard the sergeants' screams that day from his cell.[1594]

882. Sergeant Bandres' wife told the Mission that during a search of the family home, DGCIM officers stole property, including the car and children's clothes. She claimed that the children missed three months of school as a result.[1595]

The Judicial Process

883. On 24 January 2019, the 24 sergeants were presented before the Third Court of Military Control under Judge Maickel Amezquita Pion for the initial court appearance. They were not permitted to contact their families in advance of the hearing or to assign a legal representative of their choice. The civilian arrested with them was presented to the same tribunal on 28 January 2019.

884. According to Sergeant Bandres he displayed signs of torture when presented in court. He was presented in dirty clothes, full of excrement and vomit. Neither the judge, nor the

[1589] Written Declaration of Luis Bandres on 17 February 2019 made from Ramo Verde prison shared by ForoPenal, on file with the Mission, and Mission Interview with Sandra Hernández in June 2020.
[1590] Ibid.
[1591] Ibid.
[1592] Mission Interview with Sandra Hernández in June 2020.
[1593] Documents C3DD21, C3DD22, C3DD24 on file with the Mission. See also YouTube Video, Vivo Play, Militares rebelados en Cotiza son torturados, 21 February 2019, available at: https://www.youtube.com/watch?v=zaMjW4drfNw.
[1594] Mission Interview C3DD25 on file with the Mission.
[1595] Mission Interview with Sandra Hernandez in June 2020.

prosecutor or the public defender requested any investigation into what might have caused this.[1596]

885. The sergeants were charged with treason,[1597] instigating a rebellion,[1598] mutiny,[1599] disobedience,[1600] removal of effects belonging to the National Armed Forces[1601] and outrage against the Armed Forces.[1602] The judge ordered the sergeants' detention in Ramo Verde.

886. On 28 February 2019, the Inter-American Commission on Human Rights granted precautionary measures in favour of Sergeant Bandres, requesting the Venezuelan State to adopt the necessary measures to protect his rights to life and personal integrity, and to adopt the necessary measures to guarantee that the conditions of detention comply with applicable international standards.[1603] At the time of writing, these measures had not been implemented.

887. The sergeants' preliminary hearing took place on 24 April 2019, following a series of deferrals and after the 65 days time limit established by law.[1604] By then, some of the sergeants' families had managed to remove the public defender and assign a legal representation of their choice. The private lawyers explained to the Mission that their work was hindered from the beginning. They were not permitted access to case files until immediately before the hearing, denying them time to prepare an adequate defence.[1605] The court ordered the sergeants' continued detention and sent the case to trial.

888. During the preliminary hearing, Sergeant Bandres and the other sergeants told the court that they had been tortured. A defence lawyer requested forensic medical examinations for all 24 sergeants.[1606] On 22 August 2019, seven months after the arrest and almost four months after the request was made, a doctor examined the sergeants. The medical examination was a routine check, not a forensic medical examination in line with the Istanbul Protocol, and the torture marks had disappeared by then.[1607]

889. On 8 May 2019, the lawyers representing six of the sergeants filed a complaint with the Public Prosecutor's Office, along with a request to respect and guarantee the physical integrity, the right to life and the right to health of the six men, in accordance with articles 43 and 83 of the Constitution.[1608]

890. On 11 February 2020, the lawyers brought the precautionary measures issued by the Inter-American Commission in favour of Luis Lobo Medina and Andrés Paredes Soler the attention of the first Military Tribunal. The measures related to their deteriorating health.[1609] The court took no action.

[1596] Mission Interview with Sandra Hernandez on 24 June 2020 and information provided by NGO Foro Penal in June 2020.

[1597] Organic Code of Military Justice, art. 464, num. 25.

[1598] Organic Code of Military Justice, art. 476, num. 1.

[1599] Organic Code of Military Justice, arts. 488-489, num. 4, art. 570, num 1.

[1600] Organic Code of Military Justice, art. 519 and art.521, para. 4.

[1601] Organic Code of Military Justice, art. 570, para. 1.

[1602] Organic Code of Military Justice, art. 506.

[1603] Inter-American Commission on Human Rights, Resolution 8/2019.

[1604] Article 236 of the Criminal Procedure Code foresees a period of 45 days following judicial deprivation of liberty during which the prosecution may present its accusation. Article 309 establishes that once the accusation has been presented, the preliminary hearing should take place within 20 days.

[1605] Mission Interview with legal team of Foro Penal in June 2020.

[1606] Mission Interview with legal team of Foro Penal in June 2020, expediente CJPM- TM1J-004-2019.

[1607] The Mission did not have access to this filing due to limited mobility of legal counsel during the Covid-19 restrictions, however, it is referenced by the legal team in the Mission Interview with Foro Penal in June 2020; Mission Interview with Sandra Hernández on 24 June 2020.

[1608] The Mission did not have access to this filing due to limited mobility of legal counsel during the Covid-19 restrictions; however, it is referenced by the legal team in the Mission Interview with Foro Penal in June 2020.

[1609] Inter-American Commission on Human Rights, Resolution 5/2020 Precautionary Measures No. 751-19.

Detention in Ramo Verde

891. After the initial appearance hearing, Sergeant Bandres was held for a further two weeks at DGCIM Boleíta and tortured again. On 4 February 2019, he was transferred to Ramo Verde prison and his family was not informed. Having discovered his whereabouts, on 8 February 2019, his family went to Ramo Verde to inquire about him. They were informed that he was in an adaptation period and could not receive visits, during this time Sergeant Bandres was placed in the "El Tigrito" cell for 15 days.[1610]

892. On 15 February 2019, Sergeant Bandres'wife and children were allowed to see him. His wife told the Mission, "He was extremely thin; he had marks on his legs. His ribs were purple. His arms and hands had cuts. He could hardly move them and he had scars and marks on his face". She said it was very shocking for her and her children.[1611] On another occasion, in April 2019, Sergeant Bandres was punished and left outdoors in the cold and under the rain. He was later put in a dark solitary confinement cell, without a bed, and was not given food. He spent around 15 days there, and suffered gastritis, dehydration and malnourishment.[1612] On another occasion on 24 August 2019 DGCIM officers stripped him naked during a cell search, tried to choke him and beat him, breaking two of his ribs.[1613]

893. On 28 and 30 August 2019, the families of Sergeants Luis Alexander Bandres, Geomer Martínez Natera, Kelvin Manuel Charles Ramírez and the NGO Foro Penal, representing Sergeant Andres Alfonso Paredes Soler, filed a complaint to the Public Prosecutor's office, on the treatment inflicted by DGCIM during the search in RamoVerde.[1614]

894. The journalist Jesús Medina Ezaine was detained in the same annex as Sergeant Bandres at Ramo Verde at the time. He told the Mission that the sergeants had arrived at Ramo Verde with clear signs of torture and that he witnessed DGCIM officers regularly undertaking cell searches during which Sergeants Bandres, Martínez and Camacaro were badly beaten.[1615]

Treatment in La Pica Prison

895. On 5 March 2020, Sergeants Bandres and Geomer Martínez Natera were removed from their cells by DGCIM officers and transferred to DEPROSEMIL La Pica prison in the city of Maturin, Monagas state, around 500 km from Caracas.[1616] When Sergeant Bandres' wife attempted to visit her husband in Ramo Verde, the Director informed her that Sargeant Bandres had been moved, without providing further information on his whereabouts.

896. Sergeant Bandres' wife discovered where her husband was when he called her five days later, on 10 March to inform of his whereabouts. She since relocated to Monagas state to be able to bring water and food to the prison for him. At the time of writing, she had not had any official communication with him nor had she been able to see him since his transfer to La Pica in March 2020.[1617]

897. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

898. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, short term enforced disappearance and torture and other cruel, inhuman

[1610] Mission Interview with Sandra Hernández on 24 June 2020.
[1611] Ibid.
[1612] Ibid
[1613] Written statement made by Luis Bandres on 24 August 2019, during his detention in Ramo Verde shared by Foro Penal on file with the Mission.
[1614] Information shared by the NGO Foro Penal of claim filed on 30 August 2019, to the Thirteenth Public Prosecutor's Office on Fundamental Rights and Mission Interview with Sandra Hernández on 24 June 2020.
[1615] Mission Interview with Jesus Medina Ezaine on 27 July 2020.
[1616] Document C3DD24, on file with the Mission.
[1617] Mission Interview with Sandra Hernández on 24 June 2020.

or degrading treatment or punishment was committed against Sargeant Bandres and the other sergeants. The Mission has also reasonable grounds to believe that sexual violence was committed against Sargeant Bandres in the form of threats of rape.

899. DGCIM officers from the Special Directorate of Penal and Criminalistic Investigations under the leadership of Hannover Guerrero were involved, along with officers from the Special Affairs Unit, including Alexander Granko Arteaga.

CASE 17: Captain Rafael Acosta Arévalo

The Arrest and Detention

900. On 22 June 2019, Captain Rafael Acosta Arévalo's wife, Waleska Pérez, published a video on social media expressing concern that she had not heard from her husband since 2 p.m. the previous day.[1618] At that time, he had been heading to a "personal meeting" in Guatire, Miranda state, with active and retired military officers. For several days, his family did not know his whereabouts. His lawyers were unable to communicate with him until 28 June 2019, when he appeared before a military court (see below).[1619]

901. On Wednesday, 26 June 2019, the Government announced that DGCIM had detained Captain Acosta Arévalo. In a press conference, the Minister of Communication and Information, Jorge Rodríguez, announced that Captain Acosta Arévalo had been arrested, with other individuals, accused of involvement in a coup plot on 23 and 24 June 2019 called "Vuelvan Caras".[1620] The Minister showed a video of Captain Acosta Arévalo supposedly planning the plot. The Minister did not provide information about his place of detention.

902. On 27 June 2019, Attorney General Tarek William Saab made a televised statement adding to the information presented the previous day by Minister Jorge Rodríguez.[1621] He said that the Public Prosecutor's Office was opening an investigation into the alleged "Vuelvan Caras" plot. The Attorney General accused fourteen civilians and retired military personnel including Captain Acosta Arévalo. The investigation was assigned to the Thirty-Ninth National Prosecutor's Office.

903. On the same day, National Constituent Assembly president Diosdado Cabello spoke about the plot on his television show "Con el Mazo Dando". He referred to the detention of Captain Acosta Arévalo and other accused saying, "They are in good protection of the authorities, providing declarations and adding to what must be added".[1622]

904. According to a DGCIM report,[1623] on the morning of 26 June 2019, two DGCIM officers travelled from Caracas to Guarenas to arrest Captain Acosta Arévalo, based on intelligence information they had received. They identified and intercepted Captain Acosta Arévalo at a bus stop. After presenting his documents to the DGCIM officers, Captain Acosta Arévalo fled and suffered a fall. According to the DGCIM report, two witnesses to the arrest corroborated this version of events.[1624]

905. The DGCIM version appears to stand in contrast with that of Captain Acosta Arévalo's family, who had not seen or heard from him since 21 June. Since that date, the

[1618] https://twitter.com/TAMARA_SUJU/status/1142553771857371136?s=20.

[1619] Mission Interview with Waleska Pérez on 24 April 2020, Mission Interview with Alonso Medina in April 2020.

[1620] YouTube Video, Luigini Bracci Roa, ¿Quién era Rafael Acosta Arévalo y por qué fue detenido? Videos mostrados por Jorge Rodríguez, 26 June 2016, available at: https://www.youtube.com/watch?v=QhUPlRf-ElM.

[1621] YouTube Video, Luigini Bracci Roa, Fiscal General Tarek William Saab: Rueda de prensa sobre golpe de estado del 23 y 24 junio 2019, 27 June 2019, available at: https://www.youtube.com/watch?v=q8mYPObfjKQ.

[1622] YouTube Video, Con el Mazo Dando, Con el Mazo Dando, Programa #258, minute 01:29:00, available at: https://www.youtube.com/watch?v=Kp3n5ZP1LMA

[1623] Police Record No. DGCIM DEIPC AP 431/2019 and Act of Initial Appearance, 1 July 2019, Thirty-Sixth Court of Control, criminal case file No. 36 C-19.464-19, on file with the Mission.

[1624] Interview Record, No DGCIM DEIPC, AE-374/2/2019, on file with the Mission.

location and whereabouts of Captain Acosta were unknown, family members and the legal defense team suspect Captain Acosta had been taken to an unofficial detention center run by the DGCIM.[1625]

Captain Acosta Arévalo's Death

906. According to the DGCIM report, the DGCIM officers brought Captain Acosta Arévalo to the Carlos Arvelo military hospital at 7 a.m on 28 June 2019.[1626] The doctor certified that he had trauma to the thorax, nose, finger and ankle, moderate dehydration and a skin infection. The report concluded that he was in stable condition.[1627]

907. During the evening of 28 June 2019, Captain Acosta Arévalo made an initial court appearance at the Third Military Court of Control of the Libertador Bolivarian municipality, Capital District. The other accused were also presented in court. Captain Acosta Arévalo's case was assigned to a military tribunal, as he was charged with military crimes (treason to the homeland,[1628] military rebellion[1629] and instigation to rebellion[1630]). Captain Acosta Arévalo was a civilian, having been discharged from the military in 2006.

908. DGCIM officers brought Captain Acosta Arévalo into the hearing in a wheelchair. Prior to the hearing, Captain Acosta Arévalo's lawyer had a brief interaction with his client. DGGIM officers insisted on being present during the conversation. According to his lawyer, the first thing that Captain Acosta Arévalo did was request help. However, Captain Acosta Arévalo was unable to articulate most basic words, could not move his hands or legs and was bruised and bleeding. He was barefoot. His eyes were wide. Captain Acosta Arévalo's lawyer asked him if he had been tortured and he nodded.[1631]

909. Seeing Captain Acosta Arévalo's condition, court staff tried to give him some water. When the presiding judge saw Captain Acosta Arévalo in the entrance of the courtroom, he ordered Captain Acosta Arévalo's immediate transfer to the military hospital Vicente Salias Sanoja in Fort Tiuna. The hearing proceeded for the other accused. Captain Acosta Arévalo's appearance was postponed until the following day.

910. At around 9 p.m. on 28 June, DGCIM officers drove Captain Acosta Arévalo from the courtroom to the hospital. The drive lasted around five minutes by car, according to the DGCIM police record.[1632] According to a medical record to which the Mission had access, Captain Acosta Arévalo reached the hospital with no vital signs.[1633] An electrocardiogram was performed at 9.30 p.m. confirming that Captain Acosta Arévalo had no heartbeat.

911. The CICPC lists the hospital's morgue as his place of death.[1634] However, people are generally taken to the morgue once already deceased, raising questions about the exact time and place of death. Between 28 and 29 June 2019, no one – including family members or his lawyer – was allowed access to the hospital, as per instructions from DGCIM officers.[1635]

912. Captain Acosta Arévalo's death was not officially announced until 29 June 2019. That day, the FANB, via the Ministry of Defence, issued a press release stating, "On Friday 28 June 2019, [Captain Acosta Arévalo] was presented before the Military Criminal Judge […]

1625 Mission Interview with lawyer Alonso Medina in April 2020, Mission Interview with Waleska Pérez on 24 April 2020.
1626 Police Record No. DGCIM DEIPC AP 431/2019, on file with the Mission.
1627 Medical Report, C.I. No.9.661.191, Historia 74-36-13 on file with the Mission.
1628 Organic Code of Military Justice, art. 464 item26, art. 465, art. 467.
1629 Organic Code of Military Justice, art. 476 item 1, art. 478 item 4, art. 487.
1630 Organic Code of Military Justice, art. 481, art. 487.
1631 Mission Interview with lawyer Alonso Medina in April 2020; Document C3DD50 on file with the Mission.
1632 Police Record No. DGCIM-DEIPC-AP- 431/1/2019, on file with the Mission.
1633 Provisional medical report dated 28 June 2019 from the General Directorate of Health of the Military Hospital Dr.Vicente Salias, on file with the Mission.
1634 Documents No. 9700-017-25093, No. 9700-017-25094, No. 9700-017-25095, signed by the head of the Homicide Investigation Division of the Corps of Scientific, Criminal and Criminalistic Investigations (CICPC), on file with the Mission.
1635 Mission Interview with Alonso Medina in April 2020.

and before commencing, he fainted".[1636] The press release stated that Captain Acosta Arévalo died, despite receiving medical attention.

913. On 28 June 2019, Sinue Villalobos, from the Directorate of Forensic medicine of the SENAMECF, undertook an external examination of the corpse in hospital morgue. The Mission had access to the examination report.[1637] According to the report, he had 38 injuries, 30 on the front and eight on the back of his body. Captain Acosta Arévalo had a broken nasal septum, abrasions on the shoulder, elbows and knees, and bruises on various parts of his body, including thigh, buttocks and back. Captain Acosta Arévalo's body also showed a fracture in one foot and signs of burns on his foot and on his wrist.

914. According to the police investigation report, Captain Acosta Arévalo's body was transferred to the directorate of the National Service of Medicine and Forensic Science (SENAMECF), in Colinas de Bello Monte on 28 June 2019. Forensic anatomic pathologists working for SENAMECF and CICPC officers were present for the autopsy, as were representatives of the Public Prosecutor's Office.[1638]

915. The Mission had access to the autopsy results. The procedure established cause of death as severe cerebral edema (fluid retention or swelling) from acute respiratory failure, due to rhabdomyolysis (muscle breakdown) caused by generalized polytrauma (having been subjected to multiple traumatic injuries).[1639] His family requested access to his cadaver to carry out an independent autopsy, but received no response.[1640]

916. On 9 July 2019, Judge Norelys León of the Thirty-Sixth Court of Control granted a request from the Public Prosecutor's Officer for a controlled burial.[1641] On 10 July 2019, over 10 days after Captain Acosta Arévalo's death, family members were called to the Bello Monte morgue to identify the body. The body was buried later that day, although not in accordance with the familie's wish for a Christian burial in their city of origin. The media was not permitted access to the burial and the coffin was sealed.[1642]

Accountability

917. On 30 June 2019, the Public Prosecutor's Office charged two DGCIM officers, Lieutenant Ascanio Antonio Tarascio Mejía and Second Sergeant Estiben José Zárate Soto, 23 and 22 years old respectively, with the murder of Capitain Acosta Arévalo. Both were low-ranking officers with the Special Directorate of Penal and Criminalistic Investigations (DEIPC) of the DGCIM. They were the only people arrested in conjunction with the case.

918. The two DGCIM officers were charged with preterintentional (involuntary) homicide, meaning the perpetrator had intent to injure but not to kill, as the death would not have occurred without pre-existing condition unknown to the accused.[1643] Both Captain Acosta

[1636] Ministry of Defense, Official statement of the FANB, 29 de Julio 2019, available at: http://www.mindefensa.gob.ve/mindefensa/2019/06/29/comunicado-oficial-de-la-fuerza-armada-nacional-bolivariana-3/.

[1637] Record of removal of cadaver, signed by Inspector Richard Perdomo assigned to the Homicide Investigation Division and Detective Jefe Katherine Olivares assigned to the Technical Inspections división of the CICPC, 28 June 2019, criminal case file No. 36C-19.464-19, on file with the Mission.

[1638] Necropsy included in Initial Act of Criminal Investigation, 29 June 2019, Homicide Investigation Division, CICPC, criminal case file No. 36C-19.464-19, on file with the Mission.

[1639] Ibid.

[1640] Mission interview with lawyer Alonso Medina in April 2020; Mission Interview with Waleska Pérez on 24 April 2020.

[1641] Correspondance FMP-34 NN-0189-2019 from the Public Prosecutor´s office on 9 July 2019; and correspondence 670-19 of the Thirty-Sixth Court of Control of the Criminal Judicial Circuit of the Metropolitan Area of Caracas, signed by Judge Norelys León Zaa on 9 July 2019, on file with the Mission.

[1642] YouTube Video, TVV, Se realizó inhumación controlada al Capitán Rafael Acosta Arévalo, 10 July 2019, available at: https://www.youtube.com/watch?v=zv3Ldcqxp4A; Mission Interview with Waleska Perez on 24 April 2020; Mission Interview with Alonso Medina in April 2020.

[1643] Criminal Code, art. 410.

Arévalo's lawyer and his wife have affirmed that Captain Acosta Arévalo was in good physical condition prior to his detention and had no underlying health problems.[1644]

919. The Public Prosecutor's Office did not carry out an investigation into allegations of torture. Most of the information presented in the prosecutor's investigation related to Captain Acosta Arévalo himself, including information about requests made to his bank, the migration service, his cellular phone provider and family members.[1645]

920. The DGCIM officers' preliminary hearing took place on 1 July 2019 before the Thirty-Sixth Court of Control for the Caracas area Criminal Circuit. The court ordered the detention of both men. The men were ordered to be held at DGCIM Boleíta during pre-trial detention.[1646]

921. Captain Acosta Arévalo's legal representatives were not notified about the hearing, so could not make representation. The only information heard was that put forth by the Public Prosecutor's Office, which did not present any information regarding Captain Acosta Arévalo's whereabouts between 21 and 26 June 2019.[1647] The Public Prosecutor's Office did not present any probatory evidence, such as intent to injure Captain Acosta Arévalo.[1648]

922. The public prosecutors did not mention the word "torture" in the accusation. The crime of torture has a higher penalty (15 to 25 years)[1649] than that of preterintentional (involuntary) homicide (seven to 15 years).[1650] Further, under Venezuela's specialized law on torture, the State has co-responsibility for the crimes.[1651] As a result, only the direct perpetrators faced charges, exempting higher-level officers from responsibility.

923. On 24 September 2019, the court issued its judgment, finding the two DGCIM officers guilty of preterintentional (involuntary) homicide and sentencing them each to six years and eight months' imprisonment.[1652] An appeal against the convictions is currently before the Court of Appeals. However, the Mission has not been able to verify the place of detention of the accused.

924. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

925. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention and short term enforced disappearence was committed against Captain Acosta Arévalo. The Mission also has reasonable grounds to believe that torture and other

1644 Mission Interview with Waleska Pérez on 24 April 2020; Mission Interview with lawyer Alonso Medina in April 2020

1645 File K-19-0017-00346, Causa No. 36 C-19.464-19, on file with the Mission.

1646 Act of initial appearance, Causa No. 36 C-19.464-19, on file with the Mission.

1647 Mission Interview with Alonso Medina in April 2020.

1648 File K-19-0017-00346, Causa No. 36 C-19.464-19 on file with the Mission.

1649 Special Law to Prevent and Sanction Torture and Other Cruel, Inhuman or Degrading Treatment, Official Gazette No. 40.212, 22 July 2013, art. 14, available at: http://monitorlegislativo.net/wp-content/uploads/2014/11/Ley-Especial-para-prevenir-y-sancionar-la-tortura-y-otros-tratos-crueles-inhumanos-y-degradantes-2013.pdf.

1650 Criminal Code, art. 410.

1651 Special Law to Prevent and Sanction Torture and Other Cruel, Inhuman or Degrading Treatment, Official Gazette No. 40.212, 22 July 2013, arts. 2 and 5. In addition, article 20 provides for sanctions for the intellectual author of the crime and article 30 excludes the defence of superior orders as possible grounds for excluding criminal responsibility. Law available at: http://monitorlegislativo.net/wp-content/uploads/2014/11/Ley-Especial-para-prevenir-y-sancionar-la-tortura-y-otros-tratos-crueles-inhumanos-y-degradantes-2013.pdf.

1652 Prensa Provea, Condena de implicados en asesinato de Rafael Acosta es insuficiente, available at https://www.derechos.org.ve/actualidad/condena-de-implicados-en-asesinato-de-rafael-acosta-es-insuficiente. NTN24, Venezuela: Sentenciaron a 6 años y 8 meses a involucrados en la muerte del capitán Acosta Arévalo, 25 September 2019, available at: https://www.ntn24.com/america-latina/venezuela/sentenciaron-6-anos-y-8-meses-involucrados-en-la-muerte-del-capitan-acosta.

cruel, inhuman and degrading treatment was committed against Captain Acosta Arévalo to the extent that it resulted in his death.

926. The DGCIM Special Directorate of Penal and Criminalistic Investigations and the Special Affairs unit are beleived to have been involved in these violations.

CASE 18: Ariana Granadillo and Family

927. In January 2018, Ariana Granadillo was a 21-year-old medical student at Romulo Gallegos National Experimental University. Ms. Granadillo's father, Argenis Granadillo, is retired Colonel Oswaldo García Palomo's a second cousin. The Granadillo family lived in a rural area in Monagas State where Mr. Granadillo worker as a farmer.[1653]

928. The Granadillo family and the García Palomo family had always had a close relationship. In later January 2018, Ms. Granadillo moved in with the Garcia Palomo family at their home in Miranda to undertake a medical internship at nearby Victorio Santaella Hospital.

Detention of Sorbay Padilla and her Son (1 February 2018)

929. On 1 February 2018, Ms. Granadillo was at the García Palomo home with Colonel Garcia Palomo's wife, Sorbay Padilla. Ms. Padilla's 22-year-old daughter, her 24-year-old son and one of Ms. Granadillo's female cousins were also there. Colonel García Palomo had left a few days earlier, telling his family he was visiting their farm.[1654]

930. At around 1 p.m., trucks and white sedans without plates entered the gated neighbourhood. Ms. Padilla heard loud banging on the front door and yelling from outside. She answered the door, and more than 20 officers entered the house. They said they had an arrest warrant for Colonel García Palomo but did not present it.[1655] They did not present a warrant for the esearch or other arrests either.

931. The officers were armed and most wore DGCIM uniforms, although Ms. Granadillo remembers two officers wore SEBIN uniforms.[1656] Many had covered faces and some wore balaclavas with images of skulls. Most were men, though witnesses recall at least two female officers.[1657] They responded to orders from an officer referred to as "Captain Santiago".[1658]

932. The officers demanded to know Colonel García Paloma's whereabouts. They beat his son in front of the women. DGCIM officers held guns to Ms. Padilla and her daughter's heads, demanding they answer questions about the colonel. Officers searched the house and seized belongings, including computers and cellular phones. They put personal belongings into suitcases, including clothing, shoes, perfume, electronics, and kitchenware.[1659]

933. Officers handcuffed and hooded Ms. Padilla and her son and drove them away in separate vehicles. They threatened the remaining three young women – Ms. Granadillo, Ms. Padilla's daughter and their cousin – not to leave the house or contact anyone, if they wanted

[1653] Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Argenis Granadillo on 9 June 2020.

[1654] Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Sorbay Padilla on 22 June 2020.

[1655] Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Sorbay Padilla on 22 June 2020; Investigator Field Report, Fifth Prosecutor's Office Investigation Division, Public Prosecutor's Office of Colombia, 14 February 2018, on file with the Mission.

[1656] Mission Interview with Ariana Granadillo on 18 May 2020.

[1657] Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Sorbay Padilla on 22 June 2020.

[1658] Ibid.

[1659] Ibid.

to live. The remaining officers took the family's cars (a 2006 silver Toyota Burbuja and a 2012 black Jeep Grand Cherokee)[1660] and left at approximately 3.20 p.m.[1661]

934. Ms. Padilla told the Mission she tried to calm her captors while in the vehicle, asking for a cigarette. They removed her hood. She saw that they entered Caracas, passing Plaza Venezuela. Near the entrance to La Carlota they hooded her again. A few minutes later, she heard a gate open and children playing. From the bottom of the hood, she could see a garden as they removed her from the car. She became frightened, realizing they had brought her to a house and not an office or detention centre.[1662]

935. Ms. Padilla and her son arrived at the house simultaneously. Officers put them in a bedroom and left them there for several hours. More officers arrived at the house. They separated Ms. Padilla from her son, taking her to a laundry room at the exterior of the house. They interrogated her about Colonel Garcia Palomo and his relationships with Oscar Pérez, María Corina Machado and others. She told the officers she had high blood pressure and needed medication. The next day, they returned with her blood pressure medicine, and she realized they must have returned to her house.[1663]

936. "El Capitán" led Ms. Padilla's interrogation over the next two days. He demanded to know why a wife would not know her husband's whereabouts. The officers told Ms. Padilla that it the fault of her husband that she was in the situation. "El Capitán" became angry and pulled her by the hair. One of the female officers struck Ms. Padilla in the face. Officers gave her eight electric shocks, to her ribs, legs, chest and back. Her interrogators repeatedly grabbed her face, dislodging a dental crown, which she swallowed.[1664]

First Detention of Ms. Granadillo and Two Others (2 February 2018)

937. The DGCIM officers who arrested Ms. Padilla and her son had left Ms. Granadillo unguarded at the house with Ms. Padilla's daughter and Ms. Granadillo's cousin, threatening them not to leave. During the early hours of the morning on 2 February 2018, Ms. Padilla's daughter left surreptitiously, as the women feared the officers might return to detain her.[1665]

938. At around 8 or 9 a.m. on 2 February 2018, Ms. Padilla's son's girlfriend came to the house looking for him, as he had not answered his telephone. Shortly thereafter, "El Capitán" and two other officers returned to the house. They asked where Ms. Padilla's daughter was. When they failed to find her, they detained her son's girlfriend, without providing an arrest warrant.[1666]

939. Three officers (including one female officer), returned to the house at 8 p.m. The female official searched the house, putting more personal items into a suitcase. The other two officers spoke respectfully to Ms. Granadillo and her cousin, saying they just wanted to ask some questions.[1667]

940. They took Ms. Granadillo and her cousin into the back seat of a white sedan with tinted windows and no plates. After driving for a while, their attitudes hardened, and they hooded and handcuffed the women and told them they now owned them.[1668]

941. After a 40-minute drive, they arrived at the location where Ms. Padilla and her son where being held. Very loud music played in the house. Two officers took the women upstairs and pushed them onto the floor of a small bathroom, still hooded and handcuffed. One official

[1660] Investigator Field Report, Fifth Prosecutor's Office Investigation Division, Public Prosecutor's Office of Colombia, 14 February 2018, on file with the Mission.
[1661] Text messages on file with the Mission.
[1662] Mission Interview with Sorbay Padilla on 22 June 2020.
[1663] Ibid.
[1664] Mission Interview with Sorbay Padilla on 22 June 2020; Investigator Field Report, Fifth Prosecutor's Office Investigation Division, Public Prosecutor's Office of Colombia, 14 February 2018, on file with the Mission.
[1665] Mission Interview with Ariana Granadillo, 18 May 2020.
[1666] Ibid.
[1667] Ibid.
[1668] Ibid.

told the other, known as "El Árabe", to take charge of them. The other left, closing the door behind him.[1669]

942. "El Árabe" informed the women that he had a knife and that if either of them tried anything he would cut their faces. He told Ms. Granadillo's cousin to keep her eyes closed and he would take off her hood. Ms. Granadillo told the Mission that she heard the sound of packing tape. He then removed Ms. Granadillo's hood as well, telling her that if she opened her eyes he would cut her. He held the blade against her cheek and brought his face close to hers, breathing on her. He touched her hair, her face, her mouth and her breasts. As "El Árabe" started putting his hands beneath her clothes, another official opened the door and he stopped. The officers then taped a paper folder tightly around her face so she could not see.[1670]

943. Ms. Padilla told the Mission that at one point the official guarding her in the laundry room told her he needed to go inside the house. He said the young women were alone inside with other officers, who might do something to the young women, and that he did not like that. Ms. Padilla understood this to mean that the officers might sexually abuse the young women.[1671]

944. That night, the officers left Ms. Granadillo and her cousin to sleep on the floor, with wrists taped together. "El Capitán" arrived with a female official at around 2 a.m. They hit the two women, kicked them in the ribs and pulled them by the hair. They asked about Ms. Granadillo's father and why she lived in the colonel's house. She told them her father lived in the countryside and had nothing to do with the military.[1672]

945. From her location in the laundry room just outside the house, Ms. Padilla could occasionally hear her son's voice inside the house. She also heard the young women's voices when they arrived, as well as the sounds of other people coming and going. Both Ms. Padilla and Ms. Granadillo could hear Ms. Padilla's son scream during beatings. Ms. Padilla also heard other men screaming, whose voices she did not recognize. When the beatings occurred, the officers turned up the music and the television, ran a blender, and played video games at full volume. [1673]

946. The following morning, 3 February 2018, Ms. Granadillo unexpectedly began menstruating. She told "El Capitán" that she needed sanitary products. He insulted her, taunted her and refused to assist. He told her it was the fault of the colonel and she would have to deal with this shame, that she would be naked and covered in blood in front of them. She was forced to use the toilet in front of "El Árabe" and another male officer.[1674]

947. Ms. Granadillo was taken into an office that seemed to belong to "El Capitán", where he interrogated her further. "El Capitán" wore a DGCIM uniform, as did most of the officers in the house. Ms. Granadillo also remembers seeing an official in clothing with the SEBIN logo throughout the operation.[1675]

948. Later that morning, an older official, who appeared to Ms. Granadillo to outrank the others, arrived at the house. He forced Ms. Granadillo and her cousin to sign a document stating they would not make any complaints about what had occurred. "El Capitán" told her that should anyone ask what he looked like, she should describe someone with the opposite appearance.[1676]

1669 Ibid.

1670 This specific method of covering detainees' faces used by DGCIM has been corroborated by the Mission in other confidential records. It is mentioned in the testimony of Lieutenant Ronald Dugarte before the Organization of American States, minute 00:08:08 available here: https://www.youtube.com/watch?v=F0LaSJb39h4.

1671 Mission Interview with Sorbay Padilla on 22 June 2020.

1672 Mission Interview with Ariana Granadillo on 18 May 2020.

1673 Mission Interview with Sorbay Padilla on 22 June 2020; Mission Interview with Ariana Granadillo on 18 May 2020.

1674 Mission Interview with Ariana Granadillo on 18 May 2020.

1675 Ibid.

1676 Ibid.

949. Ms. Padilla was taken to a room where a female official transcribed a statement on a computer. It stated that Ms. Padilla's declaration had not been coerced and that her rights had been respected. They printed the document and compelled her to sign it.[1677]

950. Ms. Granadillo and her cousin were taken back to the García Palomo house separately from Ms. Padilla and her son's girlfriend. They were all told that DGCIM would continue to watch them. "El Capitán" threatened Ms. Padilla that he would continue to detain her son. He later told his mother he was taken to DGCIM offices in Boleíta to sign similar papers before they returned him to the house.

951. Upon arriving at the García Palomo house, the family found their belongings strewn about, furniture destroyed, and numerous items missing.[1678] Out of fear, the family chose not to file any official complaint at that time. The García Palomo family fled the country a few days later.[1679] They filed a complaint from Colombia with the Investigation Division of the Public Prosecutor's Office on 13 February 2018.[1680]

Second Detention of Ms. Granadillo and her Parents (24 May 2018)

952. By May 2018, Argenis Granadillo and his wife (Ms. Granadillo's parents) had moved to Miranda to stay with Ms. Granadillo in the García Palomo house while she completed her internship at the hospital. Mr. Granadillo walked his daughter to work each morning, and noticed vehicle surveillance.[1681]

953. Around 8 a.m. on Friday 24 May 2018, DGCIM officers forced the neighbourhood security guard to ring the doorbell to the García Palomo house.[1682] Seeing the familiar face, Mr. Granadillo opened the door, but was confronted by around ten officers with covered faces and armed with rifles. Most wore black DGCIM jackets, but two wore clothing with no distinctive marks.[1683]

954. The officers took the family to the living room. Ms. Granadillo recognized "El Capitán" and one other official. Ms. Granadillo told the officers they did not know the whereabouts of Colonel García Palomo. The officers stole personal items from the house. Officers hooded the three family members and loaded them into two vehicles with tinted windows and no licence plates.[1684]

955. The family was taken to a house that Ms. Granadillo confirmed was different from the first location. It was larger, consisting of three storeys. It was also run down, smelled humid and many things were broken, including the locks to the doors. The view from the livingroom window was of a mountainous area, which Ms. and Mr. Granadillo later recognized as in or near Fort Tiuna.[1685]

956. Officers separated the family members, tying Ms. Granadillo and her father up underneath stairwells in small confined spaces where they could neither lie down nor stand up. Throughout the night, officers took each family member separately to a home office space where they interrogated them about Colonel García Paloma and weapons stockpiles. Each family member was threatened that if they did not share the required information, their other family members would be hurt or killed. Officers also threatened to rape female family members. Ms. Granadillo and her father both told the Mission they could hear each other being beaten at different times.[1686]

1677 Mission Interview with Sorbay Padilla on 22 June 2020.
1678 Photos on file with the Mission.
1679 Mission Interview with Sorbay Padilla on 22 June 2020.
1680 Investigator Field Report, Fifth Prosecutor's Office Investigation Division, Public Prosecutor's Office of Colombia, 14 February 2018, on file with the Mission.
1681 Mission Interview with Argenis Granadillo on 9 June 2020.
1682 Ibid.
1683 Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Argenis Granadillo on 9 June 2020.
1684 Ibid.
1685 Ibid.
1686 Ibid.

957. Mr. Granadillo had recently had surgery, and was still noticeably healing from the incision on his lower abdomen. He was tied to the chair and beaten with sticks, on his back, legs, knees, and on the soles of his feet. The officers asphyxiated him with a plastic bag and poured water over his hood. They threatened to cut off his genitals and to kill him. For Mr. Granadillo, the most intense psychological torture occurred when officers threatened to rape his wife and his daughter, and to do so in front of him.[1687]

958. Ms. Granadillo was interrogated by five officers, including a woman. They surrounded her, beating her face and stomach, threatening to kill her parents. The following night, a female officer called "La Negra" asphyxiated Ms. Granadillo with a plastic bag, while male officers held her arms and legs down. When they removed the bag, Ms. Granadillo was dizzy and could hardly breathe. She told the officers she could not take any more, but the woman asphyxiated her again. She pulled her hair violently.[1688]

959. El Capitán told Ms. Granadillo that he saw her going to the bakery and mentioned specific times he saw her with friends, confirming the surveillance Mr. Granadillo noticed in the days leading up to the detention. They had Ms. Granadillo's telephone and tried to exchange messages with Ms. Padilla. Ms. Padilla confirmed to the Mission she had received the messages.[1689]

960. One of the first nights, officers appeared drunk and possibly under the influence of narcotics. Ms. Granadillo saw "La Negra" had very large pupils. She became aggressive with Ms. Granadillo, grabbing her by the neck. The other officers, who also appeared drunk, calmed La Negra down until she released Ms. Granadillo.[1690]

961. On the third day, officers united the three family members in a living room. Over the next few days, they were routinely separated and taken to El Capitán's office for interrogation. They opened Ms. Granadillo's social networks and asked who her friends were. One day they would torture her, and the next day try to convince her they were friends.[1691]

962. Early on, the officers asked Ms. Granadillo about Ms. Padilla's brother (Colonel García Palomo's brother-in-law). They searched for his address in the National Elections Council database while she was present. She believed they would kidnap him as well. One night, Ms. Granadillo and Mr. Granadillo each separately recognized the voice of Ms. Padilla's brother in the house. Mr. Granadillo heard him being walked up the stairs, as each time he tripped or bumped into something he spoke. Mr. Granadillo and Ms. Granadillo both heard him being beaten. He later fled Venezuela, but his sister and Mr. Granadillo both told the Mission that he did not file a complaint out of fear.[1692]

963. During the daytime, around six officers would remain in the house while others came and went. Some of them lived upstairs, washing their clothes onsite. According to Ms. Granadillo and her father, the house had three floors. Some officers would rush to gather items and leave in the middle of the night, as if preparing for an operation. They occasionally brought other people back with them, who they then be beat.[1693]

964. On 29 May 2018, while Ms. Granadillo and her parents were still being held by DGCIM, two other Granadillo family members filed a complaint alleging arbitrary detention and enforced disappearance with the Public Prosecutor's Office for Fundamental Rights. The complaint further stated that on 25 May 2018, Colonel García Palomo's brother-in-law was

[1687] Mission Interview with Argenis Granadillo on 9 June 2020.
[1688] Mission Interview with Argenis Granadillo on 9 June 2020.
[1689] Mission Interview with Sorbay Padilla on 22 June 2020; Mission Interview with Ariana Granadillo on 18 May 2020.
[1690] Mission Interview with Ariana Granadillo on 18 May 2020.
[1691] Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Argenis Granadillo on 9 June 2020.
[1692] Ibid.
[1693] Ibid.

also detained from his home in Barquisimeto, Lara state, and that his whereabouts were equally unknown.[1694]

965. Two days after the complaint was filed, on 31 May 2018, the DGCIM officers hooded the family and removed them from the house using an unmarked white sedan. They told the family not to make any complaints or speak to the media. They forbade them from returning to the García Palomo house, not even to gather their personal belongings or legal documents.[1695]

966. El Capitán specifically told Ms. Granadillo that they would continue to look for Colonel García Palomo, and that they would not hesitate to "disappear" her again to put pressure on the colonel. He told her to abandon her studies and leave town so he would not have to detain her again.[1696]

967. Earlier that morning, an official had taken Mr. Granadillo's hood to use. They gave him another, poorer quality, hood, which he could partially see through. Mr. Granadillo saw that the house was located in a wealthy gated neighbourhood, on a quiet one-way street with nice houses approximately 20 metres apart from one another. He did not see any other people besides the security guard post. The security guard raised a barrier to let them pass. They turned right, and Mr. Granadillo saw a white wall with large silver letters that said "Urbanización San José".[1697]

968. They dropped the family members on the side of a road in Caracas, where they asked for assistance from a passer-by to call relatives and seek safety.[1698]

969. Approximately one week later, Mr. Granadillo requested a meeting with a military officer whom he knew from childhood. He wanted to ask for help and for the return of belongings and documents. They met at an office in Fort Tiuna. Mr. Granadillo and his daughter took a taxi to the office, and on the drive to the location, they recognized the same mountainside view they had seen from the living room window. Mr. Granadillo's friend alluded to his knowledge about DGCIM's detention of the family, and the meeting was tense. The friend told Mr. Granadillo that his cousin was a terrorist, and joked that, "they really fucked you up, eh?"

Ms. Granadillo's Third Detention (24 June 2018)

970. On 27 May 2018, while DGCIM held Ms. Granadillo and her parents at a clandestine site, the Second Military Court of Control issued an arrest warrant[1699] for Ms. Granadillo and Ms. Padilla, alleging the military crimes of treason[1700] and inciting military rebellion.[1701] Neither Ms. Granadillo nor Ms. Padilla were aware of the warrant.[1702]

1694 Record of Hearing No. 126, Office for the Protection of Human Rights, Public Prosecutor's Office, 29 May 2018, on file with the Mission.

1695 Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Argenis Granadillo, 9 June 2020.

1696 Mission Interview with Ariana Granadillo on 18 May 2020.

1697 Mission Interview with Argenis Granadillo on 9 June 2020.

1698 Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Argenis Granadillo on 9 June 2020.

1699 Arrest warrant No. 057-2018, referenced in S.I.I.P.O.L. Exclusion Request CJPM-TM2oC-057-2018, 3 July 2018, on file with the Mission.

1700 Article 464.25: "Attempt to change the republican form of the nation through violent means" alongside Article 467: "Anyone who knows that the crime of treason shall be committed, and has not complied with Article 170, shall be sentenced as if he has committed the crime"; Article 170: "All persons must denounce the preparation or commission of military crimes of which they have knowledge to the military, police or judicial authorities".

1701 Article 481: "Incitement to rebellion shall be punished with five to ten years prison and expulsion from the armed forces for officers and classes; four to eight years for individuals in troops or marines".

1702 The Mission did not have access to the documentation leading to this warrant, due to limited mobility of legal counsel during the Covid-19 restrictions. Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Sorbay Padilla on 22 June 2020.

971. On 22 June 2018, Ms. Granadillo and her parents left Venezuela for Colombia. On 23 June at Peracal, near the Colombian border, CICPC officers boarded the bus to check IDs. They asked Ms. Granadillo to exit the bus and told her she was under arrest on a warrant issued by a military tribunal in Caracas.[1703] Ms Granadillo's parents continued to cross the border.[1704]

972. Ms. Granadillo was held for around three days in Peracal in a cell measuring around one square metre. She was presented before a tribunal in San Cristóbal, complying with legal requisites, before being transferred onwards to Caracas.[1705]

973. On 24 June 2018, Douglas Rico, the CICPC Director, published news of Ms. Granadillo's arrest alongside her photo and charge of military rebellion on his Instagram[1706] and Twitter[1707] accounts. The information and her photo were widely shared on social media.

974. CICPC officers transferred Ms. Granadillo with other prisoners from station to station across Venezuela over the next few days, en route to Caracas. She was spent time in CICPC stations in Táchira, Zulia, Mérida, Barinas, Cojedes, Yaracuy, Portuguesa, and Barquisimeto, arriving at a CICPC base in El Rosal in Caracas on 29 June 2018.[1708] She often did not receive food or access to a shower. While in Mérida, Ms. Granadillo was held with around 30 female detainees in a small cell without beds. The commissioner threatened to deprive her of food for a week as punishment for her and her family.[1709]

975. On 29 June 2018, Ms. Granadillo's sister filed a petition to the Public Prosecutor's Office on Fundamental Rights requesting guarantees for her safety and integrity.[1710]

976. On 3 July 2018, Ms. Granadillo was presented again at a military tribunal in Fort Tiuna. Judge Colonel José Rafael Mejía López authorized Ms. Granadillo's release from custody with precautionary measures including weekly presentation at court.[1711]

977. Ms. Granadillo fled Venezuela on 11 July 2018. She has not been able to continue her medical studies and continues to suffer physical effects and psychological trauma from the ordeal.

978. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

979. Based on the facts above, the Mission has reasonable grounds to believe that Ariana Granadillo, Argenis Granadillo, Sorbay Padilla, and at least five other relatives, were subject arbitrary detention, to short term enforced disappearance and torture and cruel, inhuman or degrading treatment. Additionally, the Mission has reasonable grounds to believe that sexual

[1703] Mission Interview with Ariana Granadillo on 18 May 2020; Mission Interview with Argenis Granadillo on 9 June 2020.

[1704] Mission Interview with Argenis Granadillo on 9 June 2020.

[1705] https://twitter.com/alfredoromero/status/1012386334579855360.

[1706] Instagram photo since deleted, previously available here: https://www.instagram.com/p/Bka74scBFvT/?utm_source=ig_share_sheet&igshid=1qmup8i5k232a; Information from the Instagram post was screenshot and shared on Twitter via *DolarToday* reporter Jesús Medina: https://twitter.com/jesusmedinae/status/1010992635920703494?s=21.

[1707] https://twitter.com/DouglasRicoVzla/status/1010983833687162885.

[1708] NTN24, Estudiante Ariana Granadillo es recluida en el Cicpc en Caracas, 30 June 2018, available at: https://www.ntn24.com/america-latina/venezuela/estudiante-ariana-granadillo-es-recluida-en-el-cicpc-en-caracas-92182.

[1709] Mission Interview with Ariana Granadillo on 18 May 2020.

[1710] The Mission did not have access to this filing due to limited mobility of legal counsel during the Covid-19 restrictions. However, it is referenced by the legal counsel of her sister in a video available here: https://twitter.com/alfredoromero/status/1012765727261102081.

[1711] The Mission did not have access to the act of initial appearance due to limited mobility of legal counsel during the Covid-19 restrictions. Decision referenced in referenced in S.I.I.P.O.L. Exclusion Request CJPM-TM2oC-057-2018, 3 July 2018; https://twitter.com/ntn24ve/status/1014395886431072258?lang=es

violence was perpetrated against Ariana Granadillo and Argenis Granadillo in the forms of sexual assault, threats to rape family members, and threats of genital mutilation, as part of the torture perpetrated against them.

980. DGCIM officers under the leadership of an official with the alias "Captain Santiago" were involved in the short term enforced disappearances and in the torture and cruel, inhuman or degrading treatment of all individuals.

CASE 19: Karen Palacios (2019)

981. DGCIM occasionally arrested and detained civilians with no connections to military operations or personnel and held them in DGCIM Boleíta. The Mission documented four such cases, including the case of Karen Palacios.[1712]

982. Karen Palacios was a 25-year-old professional clarinettist at the time of her arrest. Since childhood, she had studied with the national youth orchestra system. She suffered from chronic depression and Asperger syndrome since her teenage years, dedicating herself completely to her music.

983. On 26 May 2019, Ms. Palacios published a string of tweets that went viral in Venezuela. She criticized the National Philharmonic Orchestra, alleging that her contract had been cancelled due to her political views. She tweeted, "[…] Today, after the ninth performance of 'Popul Vuh' they tell me that my contract was rejected because I signed against the regime. Now I ask myself, when they called me to offer me the contract, why did they not tell me that it was a prerequisite to think like them?"[1713] On 28 May 2019, Ms. Palacios gave an interview on Radio Caracas on the programme "La Fuerza es la Unión" with Jesús Torrealba to the same effect.[1714]

984. On 29 May 2019, pro-Government Twitter outlet "La Tabla" unearthed and published screenshots of two (since deleted) messages Ms. Palacios had published on 1 May 2019 when her account had less than 500 followers. Ms. Palacios had tweeted, "[…] I really hope to read one sleepless night that Maduro fled, that he was killed, that he's in jail, or any other crap that could make me happy".[1715] She continued, "This crap will continue until the day we get mad and 100 of us together kill 10 soldiers, or colectivos, or any other shit that dares cross us".[1716] The two tweets had garnered no retweets at the time La Tabla had taken screenshots of them. Following the publication of her deleted tweets, Twitter users began circulating insults, threats and calls for her arrest.[1717]

985. On Saturday, 1 June 2019, plainclothes DGCIM officers came to Ms. Palacios' grandmother's house where she was staying in Los Teques, Miranda. They claimed to be music professors, interested in Ms. Palacio's philharmonic contract.[1718] When Ms. Palacios' mother expressed doubts, the men insisted they had come from the presidential offices in Miraflores Palace. They said they wanted Ms. Palacios to provide an interview to a victim's assistance office there.[1719]

1712 Mission Interview C2EE18 in July 2018, Mission Interview C1AA027 in May 2020 and case of Carlos Marron Colmenares.

1713 https://twitter.com/KrenClarinet/status/1132718886615429121.

1714 https://www.youtube.com/watch?v=8fRms5c0COc&feature=youtu.be

1715 Screenshot of since deleted tweet available here: https://twitter.com/latablablog/status/1133812775644553217/photo/1;

1716 Screenshot of since deleted tweet available here: https://twitter.com/latablablog/status/1133812775644553217/photo/2.

1717 See, for example, https://twitter.com/luishenriquev/status/1133830772329259008; https://twitter.com/mariaaliciaru12/status/1133868573280153600; https://twitter.com/jos86rodriguez/status/1133846411219542016; https://twitter.com/FidelinaMontes/status/1133901170106351616; https://twitter.com/elipsis108/status/1133828656017678336; https://twitter.com/mamaugre/status/1133907699022946304.

1718 Document C2EE19 on file with the Mission; Mission Interview C2EE17 in June 2020.

1719 Document C2EE19, on file with the Mission; Mission Interview C2EE17 in June 2020.

986. When Ms. Palacios and her mother got into their vehicle, they saw two uniformed officers (one male and one female) who had not come to the house. They also saw weapons in the vehicle. One of the officers told them not to worry, that they would bring them home again right after Ms. Palacios' interview.[1720] They arrived in Caracas but were not taken to Miraflores Palace. They were taken to DGCIM Boleíta, where they arrived around 1 p.m.

987. Officers took Ms. Palacios inside while her mother waited outside. DGCIM officers told her again that they only needed to question her daughter and that she would be right back. At around 6 p.m., officers handed Ms. Palacios' mother a telephone through which Ms. Palacios told her mother that she would be held until her initial court appearance the following Monday. When she began to cry, the officers apologized for having tricked her.[1721]

988. On Monday 3 June 2019, Ms. Palacios appeared before the Fifth Court of Control, charged with public incitement to commit a crime or to hate,[1722] and was granted non-custodial measures. The family accepted a public defender, only later did they seek private defence. The judge issued an order to release Ms. Palacios on the following Wednesday.

989. The public defender filed the required paperwork for Ms. Palacios' release on thef ollowing day Tuesday 4 June 2019. The next day, her mother went to DGCIM, where they denied having received release orders. At the tribunal, judicial officers explained that the order had not been processed. The secretary then filled out the forms and told her to return to Boleíta to wait. The order did not arrive. The next morning, the courts bailiff's station told her that the presidency of the circuit had not yet approved the order, despite the approval of all other orders from the previous day.[1723]

990. On 18 June 2019, the release orders were officially issued. However, Ms. Palacios remained in custody at Boleíta.[1724] Her mother continued to request her release, with no response from DGCIM.[1725] Ms. Palacios was unable to receive visits from her lawyer or family during her detention at Boleíta.[1726]

Detention in DGCIM Boleíta

991. Ms. Palacios' mother went every day to DGCIM headquarters to take her daughter drinking water. Occasionally, the officers would allow her to also provide toilet paper and sanitary napkins. DGCIM prohibited visits from family members and her lawyers for the first month of her detention.[1727]

992. Ms. Palacios was held in a basement cell with no windows, with nine other women and only two bunkbeds. Guards kept bright white lights on at all hours preventing Ms. Palacios and the women from sleeping. Air conditioning was kept at very low temperatures, which increased Ms. Palacios' asthma. On the first day of her detention, DGCIM officers pushed Ms. Palacios to the ground, causing her to slide across the floor.[1728] They later

[1720] Ibid.
[1721] Mission Interview C2EE17 in June 2020.
[1722] Criminal Code, art. 285.
[1723] Mission Interview C2EE17 in June 2020.
[1724] Mission Interview C2EE11 in June 2020; Information reported in the media indicates that multiple women held in DGCIM Boleíta at that time had also been issued judicial release orders. See, for example: Infobae, Una víctima de las torturas cuenta el horror que se vive en los sótanos de la Dirección de Contrainteligencia de Maduro, 21 July 2019, available at: https://www.infobae.com/america/venezuela/2019/07/21/una-victima-de-las-torturas-cuenta-el-horror-que-se-vive-en-los-sotanos-de-la-direccion-de-contrainteligencia-de-maduro/
[1725] Mission Interview C2EE17 in June 2020; NTN24, Tenía miedo que la mataran mientras dormía: madre de la clarinetista presa en Venezuela", 15 July 2019, available at: https://www.youtube.com/watch?time_continue=2&v=xElGmjyaI68&feature=emb_title.
[1726] Mission Interview C2EE11 in June 2020.
[1727] Mission Interview C2EE11 in June 2020; Mission Interview C2EE17 in June 2020.
[1728] Document C2EE19, on file with the Mission; Mission Interview C2EE17 in June 2020.

threatened to kill her, as well as all the detainees, in the event of a coup d'état.[1729] One day, DGCIM officers lied to Ms. Palacios saying her grandmother had died and that her mother blamed Ms. Palacios for the death and did not want see her again.[1730]

993. On 8 July 2019, DGCIM transferred Ms. Palacios and seven other women from the DGCIM facilities in Boleíta to the National Feminine Orientation Institute (INOF), a women's prison in Miranda. Ms. Palacios' family and lawyers were not informed and were not aware of a judicial transfer order.[1731] News circulated on social media that women had been transferred to an unknown location.[1732] On 10 July 2019, congressional representative Adriana Pichardo denounced that the women's whereabouts were still unknown.[1733] On 11 July 2019, lawyers located Ms. Palacios in INOF, in a poor psychological state.[1734]

994. On 16 July 2019, Tarek William Saab announced on television that Ms. Palacios had been detained because, "She incited, via social media, the assassination of the President and any other Chavista".[1735] He went on to state that the "clarinettist has already been released". When Mr. Saab made that statement, Ms. Palacios had not yet been released.[1736]

995. Later that 16 July 2018, an email notification arrived at INOF (not through the bailiff service as normally required) ordering Ms. Palacios' release.[1737] Ms. Palacios was released with non-custodial measures from INOF that night.[1738] She was in a state of crisis, unable to eat, drink or sleep. She began to fall into periodic states of severe depression.[1739]

996. Ms. Palacios' preliminary hearing has since been deferred many times. It had still not occurred at the time of writing, having been scheduled for March 2020, but deferred again to prevent the spread of Covid-19.[1740]

Findings

997. Based on the facts above, the Mission has reasonable grounds to believe that Karen Palacios was subject to arbitrary detention, and cruel, inhuman or degrading treatment. DGCIM officers were involved in the arrest, detention, and cruel, inhuman or degrading treatment of Ms. Palacios within the DGCIM Boleíta detention facility. Information collected from other former Boleíta detainees has provided reasonable grounds to believe that conditions in the facility may amount to torture or cruel inhuman and degrading treatment.

[1729] Mission Interview C2EE17 in June 2020; YouTube Video, NTN24, "Tenía miedo que la mataran mientras dormía": madre de la clarinetista presa en Venezuela, 15 July 2019, available at: https://www.youtube.com/watch?time_continue=2&v=xElGmjyaI68&feature=emb_title.

[1730] Mission Interview C2EE17 in June 2020.

[1731] Mission Interview C2EE17 in June 2020; Mission Interview C2EE11 in June 2020.

[1732] https://twitter.com/TAMARA_SUJU/status/1148422038538739718; https://twitter.com/TAMARA_SUJU/status/1148422039495032834; https://twitter.com/SebastianaSin/status/1148587973291761664; https://twitter.com/SebastianaSin/status/1148587992413593600.

[1733] El Nacional, Denuncian que presas de la Dgcim siguen desaparecidas, 10 July 2019, available at: https://www.elnacional.com/venezuela/politica/denuncian-que-presas-dgcim-siguen-desaparecidas_288040/; https://twitter.com/SebastianaSin/status/1149008491006353409.

[1734] Mission Interview C2EE11 in June 2020.

[1735] YouTube Video, Globovision, Tarek William Saab: Escoltas de Guaidó admitieron haber sustraído fusiles 5/5, 17 June 2019, available athttps://www.youtube.com/watch?v=hK880BAqUUs&t=1s. [Note: programme aired on 16 June 2019, video uploaded 17 June 2019].

[1736] Mission Interview C2EE17 in June 2020; Tweet from legal team on 16 July 2019 at 5 p.m. stating Ms. Palacios had not been released https://twitter.com/alfredoromero/status/1151236383379533824.

[1737] Mission Interview C2EE17 in June 2020.

[1738] Fifth Control Court of the Caracas Metropolitan Area Circuit, Record No. 610-10, 16 July 2019, on file with the Mission; INOF, Release Record, 16 July 2019, on file with the Mission; Video of her release, published by her legal team on 16 July 2019, https://twitter.com/alfredoromero/status/1151279066508595203.

[1739] Mission Interview C2EE17 in June 2020.

[1740] Mission Interview C2EE11 in June 2020.

CHAPTER IV. VIOLATIONS IN A SECURITY OR SOCIAL CONTROL CONTEXT

I. Background

998. A number of human rights violations that the Mission has been mandated to investigate have taken place within the context of security operations. In this context, the Mission has investigated human rights violations falling within two main groups: (1) those during large-scale joint police and military security operations called the Operations for People's Liberation (Operaciones de Liberación del Pueblo, OLP) and Operations for People's Humane Liberation (Operaciones de Liberación Humanista del Pueblo, OLHP); and (2) those during more targeted security operations implemented either by a single State security force, or in small combined operations.

999. In total, the Mission independently investigated 16 cases to establish facts. Of these, 5 related to violations in the framework of the OLP/OLHP, involving the deaths of 57 individuals and the detention of approximately 1,420 individuals. Eleven cases investigated related to killings by State police forces, in particular the PNB/FAES and the CICPC, which resulted in the death of 18 individuals.

1000. The Mission also analyzed information reported in reliable secondary sources, including information from Venezuelan NGOs, international organizations and press articles between 2014 and 2020. These referred to 135 OLPs/OLHPs and 2,417 cases of killings in other contexts caused by security forces. The Mission considers that the review provides a strong indication that the specific cases investigated in detail form part of a wider pattern of conduct.

1001. Public statements by high-level Government officials related to security policies, statements by other persons with inside knowledge, and information from persons who have documented this type of conduct by state forces, are also referenced throughout. The Mission also accessed interviews with police officers collected by reliable sources, as cited.

A. Violent Death Rate

1002. Venezuela faces a serious situation of insecurity. By all available indicators, the rates of violent deaths are among the highest in the world.[1741] Since 2014, the Public Prosecutor's Office has reported numbers of violent deaths only for 2015 and 2016. In 2015, the Public Prosecutor's Office documented 17,778 intentional homicides (a rate of 63.5 per 100,000).[1742] In 2016, it documented 21,752 intentional homicides (70.1 per 100,000).[1743]

1003. The Public Prosecutor's Office also reported 115 femicides in 2015[1744] and 122 in 2016.[1745] These numbers refer only to women killed for reasons related to their gender.[1746]

[1741] See UNODC homicide rates by country (2017), available at: https://www.unodc.org/documents/data-and-analysis/gsh/Booklet2.pdf.

[1742] See Annual Report of the Public Prosecutor's Office 2015, p. 45, available at: https://transparencia.org.ve/wp-content/uploads/2016/07/Informe-Anual-2015-fiscalia.pdf. See also Acceso a la Justicia, Informe sobre el Desempeño del Ministerio Público (2000-2018), p. 64.

[1743] See Annual Report of the Public Prosecutor's Office 2016, p. 12, available at: https://lortegadiaz.com/wp-content/uploads/2017/10/INFORME-ANUAL-2016_web.pdf.

[1744] See Annual Report of the Public Prosecutor's Office 2015, p. 45, available at: https://transparencia.org.ve/wp-content/uploads/2016/07/Informe-Anual-2015-fiscalia.pdf. See also Acceso a la Justicia, Informe sobre el Desempeño del Ministerio Público (2000-2018), p. 64.

[1745] See Annual Report of the Public Prosecutor's Office 2016, p. 12, available at: https://lortegadiaz.com/wp-content/uploads/2017/10/INFORME-ANUAL-2016_web.pdf.

[1746] Femicide was typified in Venezuela in the reform of Organic Law on the Right of Women to a Life Free from Violence, 25 November 2014, in Official Gazette No. 40548: ("[…] femicide is the homicide of a woman, committed by a man, for reasons strictly linked to her gender").

Women's rights organizations have denounced the lack of consistent official statistics and disaggregated data, as it limits the possibility to analyse trends in violence against women.[1747]

1004. Absent clear official numbers, the NGO Venezuelan Observatory of Violence (OVV)[1748] has the most widely referenced information regarding insecurity in Venezuela. The OVV has documented the following numbers of violent deaths: in 2014, 24,980 violent deaths (a rate of 82 per 100,000);[1749] in 2015, 27,875 violent deaths (90 per 100,000);[1750] in 2016, 28,479 violent deaths (91.8 per 100,000);[1751] in 2017, 26,616 violent deaths (89 per 100,000);[1752] in 2018, 23,047 violent deaths (81.4 per 100,000);[1753] and in 2019, 16,506 violent deaths (60.6 per 100,000).[1754] These numbers are not disaggregated by sex or age. The OVV attributes the decrease in violent deaths in recent years to factors unrelated to State measures to combat crime.[1755]

1005. The reasons behind these high numbers are complex, varied and beyond the scope of the Mission's investigation. However, analysts have attributed the high violent death rates in Venezuela to a number of factors, including weak rule of law, corruption, inequality, poverty and lack of opportunities.[1756] The presence of organized crime in the country may also be contributing to high numbers of killings. According to the investigative organization InSight Crime, there are various armed groups in Venezuela that carry out a range of illegal activities, including illegal mining, extortions, kidnapping and trafficking in drugs and other contraband.[1757] People interviewed by the Mission for the cases investigated have also alleged links between security forces and organized crime, as noted further throughout this section.

B. Killings by Security Forces

1006. The violent death rates noted include those committed by State security forces, both police and military. The right to life is a non-derogable right, which cannot be limited at any time.[1758] According to the Constitution "[t]he right to life is inviolable" and the death penalty is prohibited.[1759] Taking life unlawfully is criminalized under article 405 of the Criminal

[1747] See, for example: El Entrompe de Falopio, Desde Nosotras: Situacion de los derechos humanos de las mujeres en Venezuela, 2018, pp. 91-94, available at: http://entrompedefalopio.org/wp-content/uploads/2018/11/Desde-Nosotras-Informe-Completo.pdf; Equivalencias en Acción, Women on the Edge: Women's rights in the face of the worsening complex humanitarian emergency in Venezuela, May 2019, pp. 74-76, available at: https://cepaz.org/wp-content/uploads/2019/09/WOMAN_LIMITE_web_compressed.pdf.

[1748] The Venezuelan Observatory for Violence works with eight universities around the country to gather information on rates of violent death, using a combined methodology of review of press articles, information obtained from Government sources and surveys. See a description of its methodology at: https://observatoriodeviolencia.org.ve/news/informe-anual-de-violencia-2019/.

[1749] https://institutolacso.org/wp-content/uploads/2019/11/INFORME-ANUAL-DE-VIOLENCIA-2014.pdf.

[1750] https://institutolacso.org/wp-content/uploads/2019/11/INFORME-ANUAL-DE-VIOLENCIA-2015.pdf.

[1751] https://institutolacso.org/wp-content/uploads/2019/11/INFORME-ANUAL-DE-VIOLENCIA-2016.pdf.

[1752] https://institutolacso.org/wp-content/uploads/2019/11/INFORME-ANUAL-DE-VIOLENCIA-2017.pdf.

[1753] https://institutolacso.org/wp-content/uploads/2019/10/INFORME-ANUAL-DE-VIOLENCIA-2018-1.pdf.

[1754] https://observatoriodeviolencia.org.ve/news/informe-anual-de-violencia-2019/.

[1755] This includes the reduction of opportunities for crime resulting from the economic crisis, the suspension of public services and emigration from the country, among others. See https://observatoriodeviolencia.org.ve/news/informe-anual-de-violencia-2019/.

[1756] See for example, https://observatoriodeviolencia.org.ve/news/informe-anual-de-violencia-2019/; https://www.insightcrime.org/news/brief/caracas-most-violent-city-in-the-world-2015-report/.

[1757] See InSight Crime, Venezuela: A Mafia State?, p. 5, available at: https://www.insightcrime.org/wp-content/uploads/2018/05/Venezuela-a-Mafia-State-InSight-Crime-2018.pdf.

[1758] ICCPR, art. 6.1. The right to life is also protected by the American Convention on Human Rights (art. 4).

[1759] 1999 Constitution, art. 43.

Code. Extrajudicial execution is not a specific crime provided for in Venezuelan law, though there is a qualified type of "murder" committed by a public official.[1760]

1007. The organic laws of the various police forces, including the PNB[1761] (and its bylaw[1762]) and the CICPC[1763] permit the use of lethal force if necessary to protect the life of a police officer or a third party. However, as discussed further in this section, the Mission's investigations indicate that a large number of killings were not in accordance with legal provisions on the use of force.

1008. Resistance to authority is criminalized by the Criminal Code, which provides that "Anyone who exercises threat upon a public official [...] to do or refrain from doing anything within his duties shall be sentenced to one to three years' imprisonment".[1764] However, resistance to authority does not necessarily imply an imminent and grave threat that can be repelled with lethal force.

1009. Overall, there is a lack of official, publicly available information from Government sources regarding killings by State security forces. The Mission requested this information from the Government on 14 May 2020,[1765] but did not receive a response at the time of writing.

1010. Since 2014, the Ministry of the Interior has shared information on deaths by security forces, which are categorized as "resisting authority", with other sources, as reflected in the table below. Also in the table is data collected by NGOs, in particular the OVV (which documents all deaths by security forces) and COFAVIC (which documents those deaths that it says can be categorized as "extrajudicial executions"). Even the lowest estimates here suggest that killings by State agents in Venezuela are among the highest rates in Latin America.[1766] None of the sources disaggregate by sex or age of the victim.

[1760] Criminal Code, art. 407 (2).

[1761] Decree No. 5.895, con Rango, Valor y Fuerza de Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional, published in the Official Gazette No. 5880 (reforms published in Official Gazette No. 5940), arts. 68-72, available at: https://derechovenezolano.files.wordpress.com/2013/04/ley-orgc3a1nica-del-servicio-de-policc3ada-y-del-cuerpo-de-policc3ada-nacional.pdf.

[1762] Decree No. 2765 of 21 March 2017, arts. 60-90, available at: https://pandectasdigital.blogspot.com/2017/03/reglamento-general-de-la-ley-organica.html.

[1763] Decree No. 9.045 con Rango, Valor y Fuerza de "Ley Orgánica del Servicio de la Policía de Investigación, el Cuerpo de Investigaciones Científicas, Penales y Criminalísticas y el Instituto Nacional de Medicina Forense" (15 June 2012), arts. 84 and 85, available at: https://pandectasdigital.blogspot.com/2017/03/ley-organica-del-servicio-de-la-policia.html.

[1764] Criminal Code, art. 215.

[1765] REF: MissionV/CG/001.

[1766] The Monitor de Uso de Fuerza letal en América Latina carried out a comparative study of Brazil, Colombia, El Salvador and Venezuela. For the report of 2017, the Organization determined that the numbers of deaths of civilians by security forces in Venezuela were the highest in the comparison. According to these figures, Brazil reported 4,670 deaths, Colombia reported 169 deaths, El Salvador reported 407 deaths, and Mexico reported 371 deaths. See http://www.monitorfuerzaletal.com/app/9SfbJ2os932UW8Af5wn8qspLl3S6fRN1SRItTN3x.pdf.

Table 5:
Numbers regarding deaths attributable to security forces, according to source

Year	*Ministry of Interior*[1767]	*Former Attorney General*[1768]	*OVV*[1769]	*COFAVIC*
2014	1383[1770]	NA	NA	1018[1771]
2015	2596	1777	NA	1396[1772]
2016	5995	4667	5281[1773]	2379[1774]
2017	4998	1848 (between January and June 2017)	5535[1775]	2017[1776]
2018	5287[1777]	NA	7523[1778]	1839[1779]
2019	1569[1780] (between 1 January and 19 May 2019) or 4 172[1781] (up to July 2019)	NA	5286[1782]	1441[1783]

1011. In her July 2020 report to the United Nations Human Rights Council, the High Commissioner for Human Rights reported that 1,324 individuals, including nine women, were killed in the context of security operations between 1 January and 31 May 2020.[1784]

[1767] These are reportedly deaths for "resisting authority".
[1768] Complaint by ex-Attorney General, Luisa Ortega Díaz, to the International Criminal Court, 16 November 2017, p. 35.
[1769] Information available at https://observatoriodeviolencia.org.ve/. The OVV works with eight universities around the country to gather information on rates of violent death, through a methodology of monitoring press, conducting household surveys and analysing official information where it has access to such data. See a description of its methodology at: https://observatoriodeviolencia.org.ve/news/informe-anual-de-violencia-2019/.
[1770] Data from 2014 to 2017 (inclusive) from: Keymer Ávila, El Uso de la Fuerza Pública y el Derecho a la Vida en Venezuela, on the basis of data provided by Ministry of the Interior, p. 43 (2019).
[1771] These are categorized as "extrajudicial executions". See COFAVIC, Venezuela: Ejecuciones Extrajudiciales, p. 46, available at: https://cofavic.org/wp-content/uploads/2020/05/Ejecuciones-Extrajudiciales-Final-1-1_2017.pdf.
[1772] Ibid.
[1773] https://observatoriodeviolencia.org.ve/news/2016-ovv-estima-28-479-muertes-violentas-en-venezuela/.
[1774] These are categorized as "extrajudicial executions". See COFAVIC, Venezuela: Ejecuciones Extrajudiciales, p. 46, available at: https://cofavic.org/wp-content/uploads/2020/05/Ejecuciones-Extrajudiciales-Final-1-1_2017.pdf.
[1775] https://observatoriodeviolencia.org.ve/news/2017-informe-ovv-de-violencia/.
[1776] Information provided to the Mission by COFAVIC.
[1777] A/HRC/41/18, para. 50. The report cites as the source "Information provided by the Government".
[1778] https://observatoriodeviolencia.org.ve/news/ovv-lacso-informe-anual-de-violencia-2018/
[1779] Information provided to the Mission by COFAVIC.
[1780] A/HRC/41/18, para. 50. The report cites as the source "Information provided by the Government".
[1781] News sources also said that the Minister of the Interior, Néstor Reverol, stated in a television programme in July 2019 that so far in the year, 4,172 people had died resisting authority. See: https://lta.reuters.com/articulo/venezuela-violencia-informe-idLTAKBN1YV1GS.
[1782] https://observatoriodeviolencia.org.ve/news/informe-anual-de-violencia-2019/.
[1783] Information provided to the Mission by COFAVIC.
[1784] A/HRC/44/20, para. 35.

1012. At regional level, other NGOs have tracked killings committed by police. The Victims Monitor (Monitor de Víctimas) documented 603 people killed in 2018,[1785] 304 in 2019[1786] and 203 (until 1 August)[1787] only in Caracas by police forces in the exercise of their duties. In Zulia state, the human rights organization CODHEZ documented 657 deaths attributable to state security forces in 2019 alone and only in Zulia. This was based on a review of incidents reported by the press.[1788]

1013. According to information from 2016 (the only official data that is publicly available), the numbers of killings committed by State security forces outweigh the number of State security officers killed each year. In 2016, for example, the Public Prosecutor's Office documented 325 police or military officers killed compared to 4,667 deaths by security forces.[1789] It is unclear how many of these officers were killed while on duty.

1014. The Mission requested information from the Government on the progress of investigations into killings by State security forces.[1790] As at the writing of this report, it is had not received a response. The Mission only has information about one investigation carried out by the Public Prosecutor's Office into 43 OLP/OLHPs, involving 1,074 security officers[1791] and the investigation in the Barlovento case, detailed below. However, there is little information available regarding how these investigations have advanced since the change of the Attorney General in 2017.

C. State Security Policies

1015. As noted above in Chapter II on the Security Framework, since 2014, the Government has implemented a range of policies to address insecurity in the country. Some specific plans adopted include Plan Patria Segura, Plan Zamora, Peace Zones, Peace Quadrants, Protection for Peace Systems (SP3) and Plan Carabobo 2021 with its strategic lines of action.[1792] These security policies announced various measures involving prevention, diversion and deterrence programmes, community-based surveillance and informants, crime hot spots patrolling and policing, and the use of smart technology to track and target crime. Some policies provided for military involvement in civilian policing (Plan Patria Segura, Plan Zamora, Plan Carabobo 2021).[1793]

1016. The Mission's review of State plans, policies and discourse regarding security reveals a consistent reference to threats to destabilize the Government and "threats to the internal order". Executive orders adopted since 2016 declaring states of economic exception and emergency referred to links between political actors and armed groups funded by foreign interests "with the aim of generating problems of public order in Venezuela".[1794] These executive orders permitted the President to design and implement public security activities

[1785] https://miconvive.com/wp-content/uploads/2019/04/MDV-Reporte-Anual-2018-1.pdf.

[1786] See: https://runrun.es/monitor-de-victimas/398571/monitor-de-victimas-2019-estos-son-los-nombres-de-las-896-victimas-de-homicidio-en-caracas/.

[1787] https://miconvive.com/project/monitor-de-victimas/

[1788] http://www.codhez.ong/dataadmn/images/publicacion/informe/Boletn_-_Diciembre_2019.pdf.

[1789] See Annual Report of the Public Prosecutor's Office 2016, p. 12, available at: https://lortegadiaz.com/wp-content/uploads/2017/10/INFORME-ANUAL-2016_web.pdf.

[1790] Letter of 14 May 2020.

[1791] Complaint by ex-Attorney General, Luisa Ortega Díaz, to the International Criminal Court, 16 November 2017, p. 35.

[1792] The strategic lines of action under the Plan Carabobo 2021 include (1) the presence of all police patrols on the streets, in coordination with the FANB, the REDI and the ZODI, in accordance with the "reactivation of Patria Segura"; (2) the installation of patrols in designated "peace quadrants", which was described as the "heart" of the plan; (3) the strengthening of the System of Protection for Peace; (4) the reformulation of the Operations of People's Liberation (OLP), into the Operations for People's Humane Liberation (OLHP); and (5) the development of a communication strategy to describe to the population the nature of these criminal organizations. Luigino Bracci Roa, Cadena completa: Nicolás Maduro activa seis líneas para combatir la inseguridad, 18 January 2017, minute 20:30, available at: https://www.youtube.com/watch?v=9ZIia4O6X60.

[1793] See section on the Security Context, above, for a description of these plans anand policies.

[1794] Decree No. 2323 of 13 May 2016, Parte Considerando, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html.

"against destabilizing plans that threaten the peace of the nation".[1795] In Plan Zamora, organized crime and criminals were included in the lists of internal (civilian) enemies of the State.[1796] The Plan said that "fomenting of criminality and insecurity" was part of the "destabilization strategy by anti-Government actors".[1797]

1017. At the same time, there have been increasingly tough security tactics resulting in a range of human rights violations, in particular high numbers of extrajudicial executions. Beginning in July 2015, the OLP/OLHP were initially vaunted by high-level Government officials as a proactive crime-tackling measure. Following public outcry over violations during these operations, later acknowledged by the Government, and a Public Prosecutor's Office investigation, there was a policy shift in mid-2017 away from the large-scale operations. Security forces continued to carry out more targeted killings of criminals or people perceived to be criminals.

1018. The Mission's investigations suggest there are various motives behind the hard-line security tactics. These include the following:

- Demonstrating that the Government is responsive to the social problem of insecurity by being tough on crime. High-level Government officials have publicized deaths following security operations, during press conferences, on official websites and/or on social media, presenting the deaths as an indicator of the results of the operation. Indeed, there is a certain level of public support for a heavy-handed security approach. According to a 2020 study by the Venezuelan Observatory on Violence, based on a face-to-face survey of 1,200 people, over 30 per cent of those interviewed stated that they "strongly agree" (12.9 per cent) or "agree" (19.4 per cent) that the "Government has a right to kill criminals".[1798]
- Generating fear and reinforcing power for social control purposes. This is potentially to reduce the possibility of political uprisings, especially in poorer urban neighbourhoods (areas that were previous Chavist strongholds) where support for the Government has eroded as the economic crisis has deepened and protests against the State have increased. The network of community informants and "cooperating patriots" (RAAS, Communal Councils, UBCh, UPDI, discussed above), also play a role in this regard by carrying out surveillance at the local level and identifying and reporting on suspects to police.[1799] Presidential Decree No. 2323 of 13 May 2016 authorized these groups,[1800] together with military and police armed forces, to carry out "vigilance" to "maintain public order and guarantee security and sovereignty in the country".[1801]
- Maintaining or assuming domination over local economic and criminal markets. The Mission gathered credible insider information that police engage in various illicit activities, including control over petrol, moving and selling of contraband and extortions (referred to as "vacunas" or "vaccines") in exchange for "security and protection of commercial premises".[1802] In cases investigated by the Mission, witnesses have indicated that the police and military operations themselves provide economic incentives for committing violations, given that security forces routinely

[1795] Ibid., art. 16.

[1796] Comando Estratégico Operacional, Fuerzas Armadas Nacionales Bolivarianas, CEOFANB "Plan Estratégico Operacional Zamora", Caracas, D.C, p. 5.

[1797] Ibid., p. 14.

[1798] See Roberto Briceño-León and Alberto Camardiel, Technical Report to the National Survey on Police Violence and Lethality (2020), p. 23 (*¿Qué tan de acuerdo o en desacuerdo está usted con que la policía tiene derecho a matar a los delincuentes?*).

[1799] See for example, Acta policial (Irvin Beomon), Annex 3, p. 1, on file with the Mission.

[1800] The decree referred specifically to the Comités Locales de Abastecimiento y Distribución (CLAP) and the Consejos Comunales y demás organizaciones de base del Poder Popular (art. 9).

[1801] Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, art. 2.9, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html.

[1802] Mission Interview C1HH01 in June 2020.

took money, food and valuables during raids of homes of people they killed or detained. In the context of the OLPs, these were referred to as the "spoils of war".

II. The Operations for People's Liberation (OLP) and the Operations for People's Humane Liberation (OLHP)

A. Strategy and Objectives

1019. The Mission carried out an in-depth investigation into five OLP/OLHPs. It includes among the cases investigated a military operation in Barlovento which differs in some ways to the established patterns in the other operations, including because it was carried out in accordance with a military plan, Plan Rondón. The Mission also reviewed and partially investigated a further 135 OLPs/OLHPs that took place between July 2015 and March 2017, which were announced by official sources, published in news reports or documented by civil society organizations.

OLPs

1020. Government officials presented OLPs as a series of joint military and police operations, which began in July 2015 and continued until July 2017. When launching the OLPs in July 2015, the Government described them as "specially designed" to "liberate territories from criminal activity",[1803] including from drug trafficking, extortion, theft, kidnapping and homicide.[1804] In August 2015, President Maduro referred to OLPs as the most suitable solution to counter organized crime and achieve peace.[1805] The OLPs may also have had express "social cleansing" motives.[1806] State representatives described organized crime targeted by the OLPs as one of the main "practices of the national right-wing and its international allies that seek to oppress our people, as a strategy of unconventional warfare".[1807]

1021. Initially implemented five months before the National Assembly elections in December 2015, analysts have suggested OLPs were an effort to gain electoral popularity by showing results in combating crime.[1808] Government representatives have claimed links between the criminal gangs targeted in the OLPs and political actors and interests. For example, the May 2016 Presidential Decree declaring a state of exception[1809] referred

[1803] YouTube Video, Luigino Bracci Roa, González López: Mueren 14 maleantes en Cota 905, operativos en Betania y Ciudad Tiuna, 13 June 2015, minute 1:20, available at: https://www.youtube.com/watch?v=_Vd3TEAC16I.

[1804] YouTube Video, Globovisión Videos, González López aseguro que 82% de la población aprueba la OLP, 13 June 2016, minute 0:20, available at: https://www.youtube.com/watch?v=GRKHlQWqigU.

[1805] See statement of President Maduro in Telesur, Maduro: OLP are the best instrument to achieve peace, 4 August 2015, available at: https://www.youtube.com/watch?v=goyc40CDniA.

[1806] In televised statement, President Maduro mistakenly referred to OLPs as operations of "limpieza social" (social cleansing). See La Patilla video, Maduro llama operación de "limpieza" a la OLP, available at: https://www.youtube.com/watch?v=Y1GXUa9Tj58. Also, according to the former Attorney General, Luis Ortega Díaz, when the Public Prosecutor's Office raised concerns regarding the high level of complaints received about OLPs, the Minister of the Interior said that the orders had come from the President and that the order was to carry out a "social cleansing". Complaint by ex-Attorney General, Luisa Ortega Díaz, to the International Criminal Court, 16 November 2017, on file with the Mission.

[1807] Asociación Control Ciudadano, Balance OLP: Desarticuladas 157 bandas criminales en 143 incursiones, la mayoría en Miranda, 13 July 2016, available at: https://www.controlciudadano.org/noticias/balance-olp-desarticuladas-157-bandas-criminales-en-143-incursiones-la-mayoria-en-miranda.

[1808] See e.g., Keymer Ávila, Las Operaciones de Liberación del Pueblo (OLP): entre las ausencias y los excesos del sistema penal en Venezuela, 10 October 2016, https://www.revistamisionjuridica.com/las-operaciones-de-liberacion-del-pueblo-olp-entre-las-ausencias-y-los-excesos-del-sistema-penal-en-venezuela/.

[1809] Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html.

explicitly to "information gathered in OLPs", which "detected the existence of armed criminal groups" and "established their links to political actors and interests".[1810]

1022. A first phase of operations took place from July 2015 to May 2016. In May 2016, a "new phase" was officially launched.[1811] From the "presidential command post", together with some members of his cabinet, President Maduro informed the country that he had been monitoring this "new phase" of OLPs.[1812] He said that Diosdado Cabello was coordinating the command post.[1813] President Maduro noted that the Minister of the Interior was leading the operations to "correct all the problems, errors and weaknesses that existed in the early phases of OLPs". He added "We have learned lessons and the key is that the people, the armed forces and the police are united. And the key is to stay on the ground".[1814]

1023. The OLPs were characterized, in part, by the use of mixed military and police forces in a single operation. Official statements in 54 videos of operations confirm the participation of a large number of combined military, police and intelligence forces. On 19 occasions documented by the Mission, State representatives stated publicly that the President ordered the operation.[1815] The President explicitly referred to OLPs in 26 public statements.[1816] On 18 occasions, the Ministry of the Interior presented the operational results achieved during the OLP.[1817]

1024. 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.[1818] In 2017, the Public Prosecutor's Office investigated 43 operations carried out since July 2015.[1819] These investigations helped shed light on victim numbers and profiles, peak areas of implementation and other patterns, as detailed below.

OLHPs

1025. In January 2017, following strong public criticism of events at Barlovento,[1820] the Government relaunched the OLPs as the Operations for People's Humane Liberation, OLHP.[1821] In a televised statement, President Maduro said that OLPs "have had a good experience, but have also faced criticism".[1822] Then Vice-President Tareck El Aissami assured the public that the OLHPs would not be repressive operations but were "search blocks against paramilitary groups, criminal groups that operate within a territory and subject that

[1810] Ibid., parte Considerando.
[1811] YouTube Video, Diario 2001, González Lopez announces new phase of the OLPs, minute 1:26, 10 May 2016, available at https://www.youtube.com/watch?v=kTMZeNZW_OQ.
[1812] YouTube Video, Diario Panorama, Maduro: Llegamos para quedarnos en la nueva fase de la OLP, 10 May 2016, available at: https://www.youtube.com/watch?v=oEe9g_rC9no.
[1813] Ibid., minute 0:17.
[1814] Ibid., minute 0:33.
[1815] Compilation of videos on file with the Mission.
[1816] Compilation of videos on file with the Mission.
[1817] Gustavo González López was Minister of the Interior from 10 March 2015 to 3 August 2016 (He concurrently was Director of SEBIN during this time). On 3 August 2016, he was replaced by Néstor Enrique Reverol Torres.
[1818] YouTube Video, Globovisión Videos, González López aseguro que 82% de la población aprueba la OLP, 13 June 2016, minute 0:40, available at: https://www.youtube.com/watch?v=GRKHlQWqigU.
[1819] Public Prosecutor's Office, actuaciones del Ministerio Público relacionadas con los OLP (julio 2015-marzo 2017), available at: https://es.scribd.com/document/360500346/Informe-del-Ministerio-Publico-sobre-OLP-2017#from_embedAc.
[1820] The Barlovento case is detailed below.
[1821] YouTube Video, Luigino Bracci Roa, Cadena completa: Nicolás Maduro activa seis líneas para combatir la inseguridad, 18 January 2017, minute 1:15.00, available at: https://www.youtube.com/watch?v=9ZIia4O6X60.
[1822] Ibid., minute 1:15.00.

community to violence, to criminality".[1823] He also said OLHPs would be implemented with full respect for human rights.[1824]

1026. In contrast to the first two phases of the OLPs, the Government published a Protocol of Action for the OLHP, containing information about organization and operational design.[1825] OLHPs were defined as a "system planned and articulated" by the Ministry of the Interior, together with the CEOFANB, "for the liberation of the areas taken by organized crime, in order to eradicate criminal and paramilitary activities".[1826] The protocol made clear that the Ministry of the Interior and the Ministry of Defence (which was not involved in the OLP operations, marking a difference between the two) were responsible for the OLHPs.[1827] The protocol defined the participation and responsibilities of specific security institutions, including the CICPC, PNB, SEBIN, the Public Prosecutor's Office, and state and municipal police.[1828]

1027. The protocol established defined operational quadrants, under which OLHPs would "completely eradicate the organized gangs that generate violence and consequently reduce crime".[1829] Command of quadrants was assigned to police or military officials designated by the Ministry of the Interior. The Protocol stated that, "it is necessary to have an organization that allows […] flexibility and operational functionality", with a determined duration depending on the situation of criminal activity within the quadrant.[1830]

1028. The OLHP protocol also integrated a community-based vigilance system, via the Popular System of Protection for Peace (SP3), which was to have a representative within the ZODIs in order to coordinate intelligence information received from "cooperating patriots, the popular information system and social intelligence".[1831]

1029. The OLHP protocol has a specific provision regarding use of force. It states that when the use of firearms is "unavoidable", the security forces are obligated to act in proportion to the seriousness of the crime and the legitimate objective pursued; minimize damage and injury to respect and protect human life; proceed to provide medical assistance as soon as possible; try to notify relatives of affected people; and immediately notify supervisors. With respect to persons in custody or detention, no force shall be used except when strictly necessary to maintain security or the physical integrity of persons at risk.

1030. The OLHP protocol also specifically mandates that special attention should be provided to vulnerable groups including children, adolescents, older persons, women and persons with disabilities.[1832]

1031. By mid-2017, Government representatives had largely stopped referring to OLPs/OLHPs in statements, indicating a change of strategy. This shift coincided with a 14 July 2017 public announcement that the specialized tactical force, the FAES, within the PNB, would take the lead in the fight against crime and terrorism.[1833]

[1823] See statements by Tareck El Aissami in El Nuevo Herald, Gobierno venezolano asegura que nuevo plan de seguridad no es represivo, 18 January 2017, available at: https://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article127217494.html.

[1824] Ibid.

[1825] Protocolo de Actuación de los CSE en las OLHP Enero 2017 "RESERVADO", available at: https://es.scribd.com/document/360500479/Protocolo-de-Actuacion-de-Los-Cuerpos-de-Seguridad-de-Estado-en-La-OLHP.

[1826] Ibid., art. 2.1, p. 17.

[1827] Ibid., p. 9.

[1828] Ibid., pp. 53-59.

[1829] Ibid., art. 2.1, p. 17.

[1830] Ibid., art. 2.6, p. 19.

[1831] Ibid., art. 4.27, p. 50.

[1832] Ibid., Chapter III, art. 5.2, p. 52.

[1833] See YouTube Video, Luigino Bracci Roa, Maduro en la graduación en la UNES de la Policía Nacional Bolivariana, 14 July 2017, minute 1:32:00, available at: https://www.youtube.com/watch?v=JQ43MSRCeUA.

B. OLP/OLHP Tactics

1032. The OLP/OLHPs differed from other cases of killings by police forces, described in the next section, in the following ways: (1) the participation of mixed military and police forces; (2) a high public profile of operations; (3) a large investment of resources; and (4) a large number of arbitrary detentions. Otherwise, in particular regarding the *modus operandi* in the extrajudicial executions themselves, the OLPs followed similar patterns to other cases reviewed.

Operational Logistics

1033. The Mission has conducted an extensive review of 78 statements by high-level Government officials providing information about the results of the operations carried out.[1834] 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 up to that date.[1835]

1034. The Mission verified and reviewed 54 videos of OLPs, in which vehicles bearing insignia of PNB, SEBIN, CICPC, DGCIM and GNB, light armoured vehicles and motorcycle police are visible, though not always at the same time.[1836] In some, snipers were visible on roofs of houses.[1837] Unarmed 420 Bell, AS-350 Ecureuil and AS 332 Super Puma helicopters from the GNB and SEBIN, as well as GNB boats, were used in some of the operations.[1838] Shaanxi Y-8 type military aircraft was employed at the Colombian-Venezuelan border in the state of Táchira to airlift troops.[1839] Security forces were armed with various kinds of weapons. They carried short firearms (Beretta 92CF and 92FS pistols, FN Browning GP-35 pistols, Glock 17 with long ammunition loaders) and long firearms (Colt M-4A1, Cavim Orinoco II-type rifles with silencer and H&K MP5, with and without silencer, AK-104 assault rifles, some with laser sights).

1035. The OLPs were launched as a national security policy and were implemented in 19 out of 24 states.[1840] Of the cases reviewed by the Mission, the majority took place in the

[1834] Mission compilation of 54 videos and official statements (18 statements by Ministers of the Interior Gustavo González López or Néstor Reverol Torres, 26 by President Nicolás Maduro and 34 by other police or military officials), on file with the Mission.

[1835] YouTube Video, Globovisión Videos, González López aseguro que 82% de la población aprueba la OLP, 13 June 2016, minute 1:02, available at: https://www.youtube.com/watch?v=GRKHlQWqigU.

[1836] Mission compilation of 54 videos and official statements (containing 18 statements by Ministers of the Interior Gustavo González López or Néstor Reverol, 26 by President Nicolas Maduro and 34 by other police or military officials), on file with the Mission.

[1837] TVS Pueblo, Operation for the Liberation and Protection of the People #Cota905, 14 July 2015, available at: https://www.youtube.com/watch?v=k3ffeqCKJRI.

[1838] La Patilla, This was the operation in COTA 905, 13 July 2015, minute 0:35, https://www.youtube.com/watch?v=BCwj7G5FJlI. Noticias Globovisión, 17 detained and 4 killed leaves OLP in Carabobo, minute 0:34, 12 August 2015, https://www.dailymotion.com/video/x31g327. State Government of Táchira, Contingent of paratroopers join the special OLP at the border, 21 August 2015, https://www.youtube.com/watch?v=SdGpU3BPDiA. Sucreranda Hugo Chávez Venezuela, "FANB Venezuela. OLP on the border in Táchira. Persecution to the paramilitary terrorists of Los Urabeños", 29 August 2015, https://www.youtube.com/watch?v=P23JXd-lGlI. MIJP Venezuela, OLP: 90 days of liberated zones and protected people, 13 October 2015, https://www.youtube.com/watch?v=jr7GuyOdzn0. Producción Carabobo, 29 1 16 support to the OLP Mañonguito, 29 January 2016, https://www.youtube.com/watch?v=_5kKLCcH7lI. Globovisión Videos, OLP in Caracas ends up with more than 100 undocumented people detained, 10 May 2016, https://www.youtube.com/watch?v=3Ni5MF_8lAk.

[1839] Noticias TNT, 4000 men make up OLP operation at the border, 21 August 2015, minute 0:20, https://www.youtube.com/watch?v=akY8zbZwzSA.

[1840] Public Prosecutor's Office, Actuaciones del Ministerio Público relacionadas con los OLP (julio 2015-marzo 2017), available at: https://es.scribd.com/document/360500346/Informe-del-Ministerio-Publico-sobre-OLP-2017#from_embedAc.

Caracas metropolitan area (26) and the states of Miranda (18) and Carabobo[1841] (14). Other states in which OLPs/OLHPs were carried out included Bolívar (12); Anzoátegui (8); Portuguesa (7); Aragua (6); Nueva Esparta (6); Táchira (5); Falcón (5); Zulia (5); Lara (5); Monagas (4); Barinas (3); Mérida (3); Cojedes (3); Trujillo (3); Apure (2); Vargas (2); Sucre (1); Amazonas (1) and Yaracuy (1).

1036. A common pattern is that the OLPs began during the earlier hours of the morning, often before dawn, and that security forces blocked off the streets of neighbourhoods so that people were unable to enter or leave. In some cases, the security forces had their faces covered.[1842] Both female and male security officials participated in the operations. OLPs took place primarily in urban, low-income neighbourhoods.

Prior Intelligence and Preparation

1037. Several of the operations were announced as having specific criminal targets. According to a reliable witness who worked on OLP cases, in some cases security forces carried out prior intelligence work to identify the targets.[1843] This included infiltrating social, cultural, sports and charitable activities in the neighbourhood; recruiting sex workers, who took photos of "wanted" clients; using drones to identify suspected criminals; reviewing pictures and profiles on social media; and reviewing contacts and photos contained in cell phones seized from known criminals.[1844]

1038. However, in other cases, there was reportedly a lack of prior preparation and identification of targets of the operations. According to a police officer interviewed, "there is no previous investigations, you grab an informant and then he tells you no, this one is involved, this one, this one, so you don't know if this guy has [...] he has problems or grudges with this one and then he uses the police to eliminate this one, his competition".[1845] Most lethal victims in the cases investigated did not have criminal records or outstanding arrest warrants against them.

1039. The Mission had access to statements made by police officers in an interview with an international citizen security expert indicating that their commanders had received very few operational instructions in advance, supposedly in order to maintain an element of "surprise" and to prevent information from leaking.[1846] This resulted in a lack of time to train operatives properly and a lack of clear instructions from superiors regarding the operations.[1847]

Killings in OLP/OLHPs

1040. According to official sources, a high number of deaths occurred during OLPs/OLHPs. In its investigations, the Public Prosecutor's Office identified at least 505 people killed during the OLPs (502 men, three women, including 27 adolescents). [1848] In the 140 cases reviewed by the Mission, 413 people were killed (306 men, among them 16 minors and three women)

[1841] In the case of Carabobo, the OLPs were endorsed by the Legislative Council of the Carabobo state. Agreement no. 0045-2015 of the Legislative Council of the State of Carabobo of 21 July 2015, published in the Official Gazette No. 5372, 29 July 2015, art. 1.

[1842] See also TVV, Militar venezolano usa máscara durante operativo de seguridad, 14 March 2020, available at: https://www.youtube.com/watch?v=GjmhhayBebw.

[1843] Mission interview C4FF01 in April 2020.

[1844] Mission interview C4FF01 in April 2020.

[1845] Document C4FF01, on file with the Mission.

[1846] Mission Interview C4FF02 in April 2020.

[1847] Ibid.

[1848] Of the deaths documented during OLPs by the Public Prosecutor's Office, the highest numbers occurred in Carabobo state (136 people or 26.9 per cent) and in the Caracas metropolitan area (126 people or 25 per cent). Deaths in other states included in Bolívar (76); Miranda (40); Portuguesa (26); Monagas (15); Aragua (14); Falcón (9); Zulia and Nueva Esparta (8); Mérida (7); Táchira (5); Cojedes, Sucre and Trujillo (4); Vargas (2). Public Prosecutor's Office, actuaciones del Ministerio Público relacionadas con los OLP (julio 2015-marzo 2017), p. 9, available at: https://es.scribd.com/document/360500346/Informe-del-Ministerio-Publico-sobre-OLP-2017#from_embed. The press outlet Runrunes.es carried out an extensive study on OLPs and documented 560 deaths in that context. See https://www.connectas.org/especiales/olp/.

There was no information available on the sex of 104 victims. In 52 cases, between one and three deaths were registered, in 36 cases between four and nine deaths were registered in a single operation and in eight cases, there were ten or more deaths in a single operation.

1041. The investigations indicate that in a number of cases, security forces did not act in accordance with national law, nor did they comply with relevant international standards regarding use of lethal force. International human rights standards affirm that the use of potentially lethal force for law enforcement purposes is an extreme measure that should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat.[1849]

1042. The OLPs/OLHPs present a clear pattern of Government authorities claiming that deaths took place during a "confrontation" or the victims were "resisting authority". In most of the cases, family members of the fatal victims, including women, older persons and children, were removed from the houses by the security forces, so there were few eyewitnesses of the death. However, the information suggests that security forces used lethal force against the victim when it was not strictly unavoidable to protect lives:

- In all five cases investigated by the Mission, family members and other eyewitnesses last saw the victim alive under the control of various armed security officials, meaning that it would have been difficult for him to have accessed a gun and/or escaped from the officers.[1850] This was the case, for example, of a teenager in the Jardines del Valle hbourhood, who was last seen alive by his family on his bed in his underwear, surrounded by police officers.
- Victims received fatal shots to vital areas, sometimes at point blank range. The Mission reviewed 18 autopsy reports, related to 35 victims, in which shots were fired to the head, neck and the thorax.[1851] The fatal shots would suggest that security forces did not attempt to employ non-lethal methods of control, de-escalation or restraint prior to use of lethal force.
- Very few security forces died or were injured in the OLPs, which could suggest the absence of an armed confrontation. In the 140 cases reviewed by the Mission, only 12 security officers were injured (in five operations). No deaths were reported.

1043. Victims and witnesses to OLP/OLHPs repeatedly alleged that security forces had planted information or simulated confrontations.[1852] Allegations of cover-ups documented in the cases investigated and reviewed by the Mission, include planting weapons or contraband, shooting walls of the house to make it look like a gunfight took place, and firing shots in the air while shouting statements to simulate the victim's attempted escape.

1044. In light of the above, the Mission has reasonable grounds to believe that the individuals killed in the cases investigated in OLP/OLHP operations were arbitrarily deprived of their life in violation of article 6 of the ICCPR and applicable national legislation.

[1849] See Code of Conduct for Law Enforcement Officials, commentary to art. 3 and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, para. 9. These instruments, and in particular their provisions on the use of force as they relate to the right to life and physical integrity—article 3 of the Code of Conduct and principle 9 of the Basic Principles—are relied upon as authoritative by regional courts. See, for example, Inter-American Court of Human Rights, Montero-Aranguren et al. (Detention Center of Catia) v. Venezuela, 5 July 2005, IACtHR Ser. C No. 150, paras. 68-69; Zambrano Vélez et al. v. Ecuador, 4 July 2007, IACtHR Ser. C. No. 166, para. 84. See also the Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions (Minnesota Protocol).

[1850] Case 20, 21, 22, 23, 24 detailed below.

[1851] Based on the review by the Mission of 18 autopsy reports and 12 casefiles the Public Prosecutor's Office in the Barlovento case.

[1852] La Cota, 13 July 2015 and 10 May 2016, OLP Santa Rosa de Agua, Maracaibo, Zulia (September 2015), OLHP in Jardines del Valle, Caracas (2017).

Arrests and Detentions

1045. The prohibition of arbitrary deprivation of liberty is provided by the ICCPR[1853] and the Venezuelan Constitution.[1854] The Venezuelan Criminal Code punishes arbitrary detention with a maximum penalty of three and a half years,[1855] which can be increased to five years with aggravating circumstances, including threats, violence or any other forms of coercion.[1856]

1046. While official numbers vary, the Public Prosecutor's Office stated that between July 2015 and March 2017, security forces detained 2,911 individuals.[1857] One year after the official launching of the OLPs, the Minister of the Interior referred to 2,399 people detained for different crimes.[1858] The NGO Provea has documented many more, reporting an estimated 15,946 arrests in the context of OLPs in 2015 alone.[1859] The Mission has not been able to obtain information about how those detained were subsequently processed within the judicial system.

1047. The Mission had access to reliable data from the Public Prosecutor's Office of 329 cases of detentions that occurred in more than 160 operations, involving 877 people who were allegedly detained *in flagrante delicto*, during OLPs between 12 July 2015 and 13 October 2016. Of the 877 people detained, 137 were women (16 per cent). The highest number of cases were recorded in Miranda state (22 per cent), Táchira (20.6 per cent) and the Metropolitan Area of Caracas (12.7 per cent).[1860]

1048. Many of the detainees were later charged with crimes that would have required prior investigation and thus security forces should have obtained a warrant prior to the arrest,[1861] which was not done. Of the 877 people detained *in flagrante delicto*, the most common crimes charged were: (1) resistance to authority, either alone or with other offences (26.8 per cent); (2) illegal possession of firearms, either alone or with other offences (25.7 per cent); (3) smuggling, in different forms (8.2 per cent); and/or (4) drug trafficking either alone or with other offences (7.6 per cent). There is no information available regarding the length of detention or the outcome of these cases.

1049. In the review of cases, the detainees were not informed of the reasons for their arrest, in violation of article 9 of the ICCPR and 44 (2) of the Constitution. The requirement that all arrested persons be informed of the reasons for the arrest is essential to enable arrestees seeking release, if they believe that the reasons given are invalid or unfounded. The information should include the general legal basis of the arrest, but also enough factual details to indicate the substance of the complaint.[1862] In addition, the Mission documented cases of violence used during arrests.

1050. The Mission also documented temporary detentions of family members of victims who were killed, in particular women, children, and older persons, who were removed by force or detained for short periods in order to remove them from the houses where the killings took place.

1853 ICCPR, art. 9.
1854 1999 Constitution, art. 44.
1855 Criminal Code, art. 176.
1856 Criminal Code, art. 175.
1857 Public Prosecutor's Office, actuaciones del Ministerio Público relacionadas con los OLP (julio 2015-marzo 2017), available at: https://es.scribd.com/document/360500346/Informe-del-Ministerio-Publico-sobre-OLP-2017#from_embedAc.
1858 Globovisión, González López aseguró que 82% de la población aprueba la OLP, 13 July 2016, available at: https://www.youtube.com/watch?v=GRKHlQWqigU.
1859 PROVEA (2016) Derecho a la Libertad Personal en Venezuela En Informe Anual de PROVEA 2015. Venezuela, 2016, available at: http://www.derechos.org.ve/pw/wp-content/uploads/Derecho-a-la-Libertad-Personal.pdf.
1860 Data on file with the Mission.
1861 As per 1999 Constitution, art. 44.
1862 See CCPR/G/GC/35, para. 25.

1051. The security officials entered homes and seized items without a search warrant. There were consistent allegations by witnesses and victims that security forces destroyed furniture and installations, and stole items from the houses raided. This includes basic goods, such as food, as well as valuables, such as cash, cell phones and computers. A police officer who participated in 16 OLPs and was interviewed by a contact of the Mission said, "those who work in the OLPs have the privileges that […] it's like a pirate act. If we end up here with a group of criminals and they had good cell phones and they had good […] they had economic resources, all of that is shared, they call it the 'spoils of war' among the OLP officers".[1863]

1052. In light of the above, the Mission considers that there are reasonable grounds to believe that security forces carried out arbitrary arrests and detentions during OLPs/OLHPs. However, further investigation should be carried out into the judicial cases of those detained in the operations to determine whether specific procedural and due process guarantees have been also violated, in addition to the arbitrary arrests noted.

Gendered Impact of Operations

1053. Executions and detentions were overwhelmingly perpetrated against young men, who faced much higher risks of physical violence than their female or older male relatives. Officers involved in the operations also perpetrated concomitant acts of violence against women.

1054. In all four major operations investigated, the Mission reviewed reports that women had been hit, dragged by the hair, or otherwise mistreated. Some received gendered insults. For example, women in La Cota 905 said officials would call them "damned gossips" (*malditas chismosas*), "mothers' cunts" (*coños de su madre*), "big mouths" (*sapas*), "bitches" (*cabronas*), among other names, while being beaten or pushed from their homes during raids.[1864]

1055. These acts generally occurred in the process of removing relatives from the homes. In one instance, officers reportedly hit a toddler and his mother.[1865] Another mother was hit in the stomach while holding her infant when she resisted leaving the house.[1866] In another incident, a relative asking for information about the welfare of her family members was threatened by a GNB official who told her he would call in a female officer to beat her.[1867]

1056. Female relatives were generally the ones to file complaints about the murder of their family members, or to seek information about their whereabouts. They were threatened and intimidated during these processes. CICPC officers told one female relative after she filed a complaint that she should "leave it at that, because the family was very big and she should think about those who were left".[1868] Another woman received a text message a few hours after filing a complaint that said, "I'm watching you from the corner. You're going to wake up with flies in your mouth".[1869] Others reported they felt intimidated by police presence outside their homes, or subsequent home raids.[1870]

1057. Surviving family members also faced the additional social and economic hardship resulting from the executions, detentions and raids. Many of the young men killed provided economic support to the homes, without which the burden fell disproportionately on the shoulders of women. As most executions occurred in households with scarce economic resources, the theft of food, medicine and other belongings significantly affected the

[1863] Document C4FF01, on file with the Mission.
[1864] Statement made by a victim in an interview with a Venezuelan citizen security expert (C4FF03) No. 6, on file with the Mission, 20 July 2018; Statement made by a witness in an interview with a Venezuelan citizen security expert (C4FF03) No. 7, on file with the Mission, 14 June 2018.
[1865] OLPs in the Cota 905 neighbourhood (13 July 2015 and 10 May 2016).
[1866] Mission Interview C4FF07 in June 2020.
[1867] Document C4FF03 on file with the Mission, pp. 14-20.
[1868] Document C4FF03 on file with the Mission.
[1869] Mission Interview C4FF04 in June 2020.
[1870] Mission Interview C4FF05 in March 2020; Document C4FF06 on file with the Mission.

surviving families and exposed surviving female relatives and those in their care to additional vulnerabilities.[1871]

C. Cases

1058. The Mission selected the following cases for detailed investigation. Selection criteria included substantive, security and other considerations, including, inter alia, availability of witnesses, legal case files and digital information. These cases are representative of similar situations experienced by many others. The inclusion of these cases and not others does not imply that others have not also suffered violations, nor minimizes the experiences of other victims.

CASE 20: OLPs in the Cota 905 neighbourhood (13 July 2015 and 10 May 2016)

1059. Cota 905 is a densely populated area of various neighbourhoods located along Avenida Guzmán Blanco, in Libertador municipality, west of Caracas. Built on the slope of a hill, Cota 905 overlooks the capital. It comprises La Vega, El Paraíso and the Santa Rosalía parishes and connects to the sectors of El Valle and El Cementerio. The area has long been associated with gangs and contraband.

1060. The area lacks adequate housing, public infrastructure and socio-economic resources. Many residents struggle to pay for food, school supplies and other necessities.[1872]

1061. By early 2015, organized criminal gangs operating in El Cementerio, El Valle and Cota 905 reportedly merged.[1873] The gang was led by Carlos Luis Revete, alias "El Coqui". By 2016, the gang had between 70 and 120 members, using Cota 905 as a base for extortion, kidnapping, vehicle theft and drug trafficking. The gang reportedly had a significant arsenal that included grenades, rifles and small arms.[1874]

1062. Despite being one among the most wanted criminals in Venezuela,[1875] some residents helped shield El Coqui from authorities, either out of fear or loyalty. El Coqui also reportedly bribed some members of security forces to alert him in advance of operations, including the first OLP on 13 July 2015.[1876] Repeated arrest operations against El Coqui made Cota 905 one of the areas most affected by OLPs. For two years, the security forces carried out operations in Cota 905 at least every week and sometimes several times a week.[1877] Local residents accused them of extortion.[1878]

1063. Prior to the OLP in Cota 905 in July 2015, there had been a series of attacks against Caracas police and one on a Government member.[1879] On 5 June 2015, five police officers were injured by a group of heavily armed individuals.[1880] Later that month, on 20 June 2015, an armoured vehicle carrying Sports Minister Pedro Infante was fired upon, though no one

[1871] Mission Interview with COFAVIC, 1 May 2020.
[1872] Mission Interview C4FF03 in February 2020.
[1873] Reportero 24, Caracas: la incursión policial en La Cota 905, https://www.reportero24.com/2015/07/14/caracas-la-incursion-policial-en-la-cota-905/. See also El Nacional, Fear at Cota 905, available at: https://www.dailymotion.com/video/x3xkmos.
[1874] InSight Crime, Carlos Luis Revete, alias 'El Coqui', 26 September 2019, available at: https://es.insightcrime.org/venezuela-crimen-organizado/carlos-luis-revette-alias-el-coqui/.
[1875] El Cooperante, «El Coki», «el Malony» y «Oreja»: Los rostros del hampa más buscados en Venezuela, 21 July 2016, available at: https://elcooperante.com/estos-son-los-rostros-del-hampa-en-venezuela-los-mas-buscados-por-las-autoridades/.
[1876] InSight Crime, Carlos Luis Revete, alias El Coqui, 26 September 2019, available at: https://es.insightcrime.org/venezuela-crimen-organizado/carlos-luis-revette-alias-el-coqui/.
[1877] Mission Interview C4FF03 in February 2020.
[1878] Document C4FF02, on file with the Mission.
[1879] Keymer Ávila in Cuestión Digital, Cota 905: entre las ausencias y los excesos, 20 July 2015, available at: http://questiondigital.com/cota-905-entre-las-ausencias-y-los-excesos/.
[1880] La Razón, Tiroteo en La Cota 905 deja cinco policías heridos, 5 June 2015, available at: https://www.larazon.net/2015/06/tiroteo-en-la-cota-905-deja-cinco-policias-heridos/.

was injured.[1881] The following day, on 21 June 2015, two PNB officers were injured in the Los Laureles sector.[1882]

The 13 July 2015 OLP

1064. Four operations were carried out on 13 July 2015, one in Aragua, one in Miranda, and two in Caracas, including in the Cota 905 neighbourhood. These were the first in a series of operations that became known as OLPs.

1065. On 13 July 2015, President Maduro announced on television that he had ordered and coordinated the four OLPs together with GNB Commander General Reverol, Defence Minister General Padrino López and Interior Minister Gustavo González López, as well as with PNB, CICPC and local police commanders. President Maduro said that OLPs would be implemented throughout the country. He called upon police chiefs to show the highest standards of leadership and morality.[1883]

1066. The same day, the Minister of the Interior held a press conference and announced that the Cota 905 operation was underway, "within seven areas of responsibility and six areas of containment".[1884] According to him, the operation was being carried out mainly by the GNB, with PNB, SEBIN, CICPC support, including air support.[1885] The Minister of the Interior confirmed that he had received direct instructions and guidance (*orientaciones directas*) from President Maduro for the operation, from the planning phase onwards.[1886]

[1881] Noticiero Venevisión, Proyectil impactó parabrisas de camioneta de ministro del Deporte en enfrentamiento en La Cota 905, 22 June 2015, available at: https://www.youtube.com/watch?v=1YQOXBYdJlc.

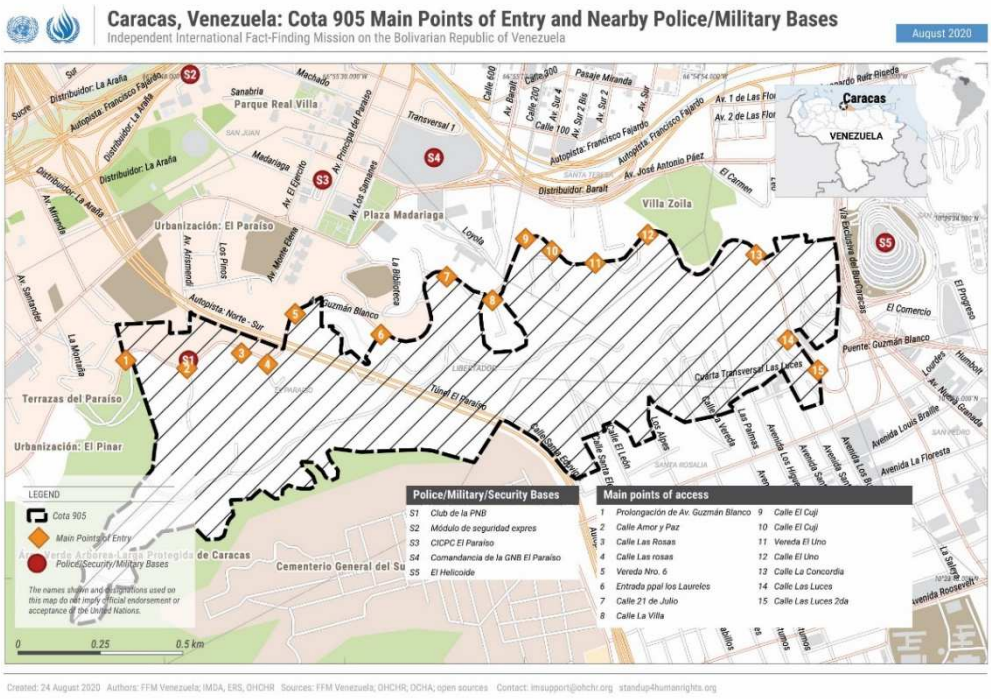
[1882] Reportero 24, Caracas: la incursión policial en La Cota 905, available at: https://www.reportero24.com/2015/07/14/caracas-la-incursion-policial-en-la-cota-905/.

[1883] YouTube Video, Luigino Bracci Roa, Intervención completa de Nicolás Maduro sobre el Esequibo y la OLP, from minute 58:30 to minute 1:12:00, 14 July 2015, available at https://www.youtube.com/watch?v=56lqlEKvJNM&t=705s.

[1884] YouTube Video, Luigino Bracci Roa, González López: Mueren 14 maleantes en Cota 905, operativos en Betania y Ciudad Tiuna, 13 July 2015, from minute 05:40, available at: https://www.youtube.com/watch?v=_Vd3TEAC16I.

[1885] YouTube Video, Luigino Bracci Roa, González López: Mueren 14 maleantes en Cota 905, operativos en Betania y Ciudad Tiuna, 13 July 2015, from minute 05:54, available at: https://www.youtube.com/watch?v=_Vd3TEAC16I.

[1886] Ibid., minute 7:45.



1067. The operation started at around 3 a.m. Monday, 13 July 2015, as security forces cordoned off the outer perimeter of the neighbourhood. A witness described police moving through the neighbourhood "from the top to the bottom".[1887] A PNB officer who participated explained that the security forces divided into groups, one entering through Las Quintas, one through El Cementerio and another through Torres de la Vega.[1888] The same PNB agent said that the GNB fenced the hill with tanks "so that no one left, no one could run away".[1889]

1068. Video footage taken that day shows dozens of armed agents at the crossroads between Avenida Páez and Avenida Laureles, one of the main entrances into the neighbourhood.[1890] There were vehicles bearing SEBIN, CICPC and GNB insignia, accompanied by motorcycle police.[1891] Some of the GNB vehicles were armoured. An unarmed BELL 429 SEBIN helicopter flew overhead.[1892] Another television report showed three snipers on roofs of houses.[1893] Security forces were armed with various kinds of weapons, including AK-103 assault rifles (some with laser sights) and FN Browning GP-35 pistols.[1894]

1069. The Public Prosecutor's Office also confirmed that it deployed 18 prosecutors from different units (vehicles, homicides, criminal, ordinary, criminal responsibility and juveniles) during the operation.[1895]

1070. Witness accounts described security forces entering houses without judicial orders, which are required under Venezuelan law for searches in private areas,[1896] questioning

1887 Statement made by a victim and witness of the operation in an interview with a Venezuelan citizen security expert (Interview No. 3), on file with the Mission.

1888 Statement made by a police officer in an interview with a national citizen security expert No. 2, on file with the Mission.

1889 Ibid.

1890 YouTube Video, La Patilla, Así fue el operativo en La Cota 905, 13 July 2015, available at: https://www.youtube.com/watch?v=BCwj7G5FJlI&has_verified=1.

1891 Ibid.

1892 Ibid., minute 0:35.

1893 YouTube Video, TVS Pueblo, Operación de Liberación y Protección del Pueblo #Cota905, 14 July 2015, available at: https://www.youtube.com/watch?v=k3ffeqCKJRI.

1894 Ibid., minute 0:35.

1895 YouTube Video, 800 News, Fueron presentados ante Fiscalía 19 imputados por caso Cota 905, 15 July 2015, available at: https://www.youtube.com/watch?v=e-T4qLzuhis.

1896 2012 Organic Criminal Procedure Code, art. 197.

individuals and stealing valuables from houses. One female witness said they came in: "Without an order! Without a paper! Without a prosecutor! Without anything! […] It was chaos". She also recounted that if "you did not go out quickly, they would kick [the door] down".[1897]

1071. Another woman witnessed officials taking the men from their homes: "they took all the men out and made them kneel outside. It was like they were going to take all the men and leave the women here".[1898] Photos published in the press show dozens of young men kneeling with their shirts over their heads in the custody of security forces.[1899]

1072. Another woman denounced police abuse during the operation: "There were people beaten, the houses were looted, there was a lot of police abuse, televisions were broken, computers and money we had at home were stolen".[1900] She stated that security forces threatened women in the neighbourhood with obscene language and told them they would demolish their houses if they did not stay inside.[1901]

1073. Witnesses also alleged that the security forces attempted to plant evidence to make it appear that a confrontation or a crime took place. One young man said, "I was with my wife […] they sent her outside, they closed the door" […]. "They put a gun in my hand, so that they could justify that it was a confrontation […] 'We are going to kill you if you don't tell us where this and the other is, because you are also a thug from here'".[1902]

1074. According to a statement made by a female witness to a Venezuelan citizen security expert that the Mission consulted, none of the victims was a gang leader: "They, more than anything, come looking for him [El Coqui]. [But] they take the first thing they see in the middle, which has nothing to do with him."[1903] A CICPC officer was also quoted saying, "The gang leaders were not there. El Coqui […] had left the night before because they called him".[1904] The official statement on the operational results confirms that no high-profile gang leader was among the deceased.[1905]

1075. According to information shared by the Minister of the Interior during the press conference on 13 July, security forces detained more than 134 people, including 32 Colombians, during the operation.[1906] Video footage verified by the Mission from 13 July 2015 showed trucks leaving Cota 905 with men bent over and piled on top of each other.[1907]

1076. On 15 July 2015, the then Attorney General, Luisa Ortega Díaz, confirmed that only 19 of the detainees had been brought before a judge, accused of crimes including homicide,

1897 Statement made by a victim and witness of the operation in an interview with a Venezuelan citizen security expert No. 3, on file with the Mission.

1898 Statement made by a victim and witness in an interview with a Venezuelan citizen security expert No. 6, on file with the Mission.

1899 Informe 21, Nuevos detalles: estos fueron los abatidos en La Cota 905, 15 July 2015, available at: https://informe21.com/actualidad/nuevos-detalles-estos-fueron-los-abatidos-en-la-cota-905.

1900 YouTube Video, PROVEA, Habitantes Cota 905 denuncian atropellos policiales durante operativo liberación del pueblo, minute 0:18, 18 July 2015, available at: https://www.youtube.com/watch?v=06HHMN3c86Q.

1901 Ibid., minute 1:48.

1902 Ibid.

1903 Statement made by a victim and witness of the operation in an interview with a Venezuelan citizen security expert (Interview No. 3), on file with the Mission.

1904 RunRun.es in alliance with Connectas, La máscara del terror official en Venezuela, date not specified, available at: https://www.connectas.org/la-mascara-del-terror-oficial-en-venezuela-2/.

1905 Revista CICPC, Cicpc identifica a 14 fallecidos y vehículos recuperados en La Cota 905, 14 July 2015, available at: http://www.revistacicpc.com/noticias.php?id=210.

1906 YouTube Video, Luigino Bracci Roa, González López: González López: Mueren 14 maleantes en Cota 905, operativos en Betania y Ciudad Tiuna 13 July 2015, at 6:46, available at: https://www.youtube.com/watch?v=_Vd3TEAC16I.

1907 YouTube Video, La Patilla, Así fue el operativo en La Cota 905, 13 July 2015, minute 3:55, available at: https://www.youtube.com/watch?v=BCwj7G5FJlI&has_verified=1.

robbery and drug trafficking.[1908] The Mission does not have information about how the other 115 detainees were processed.

1077. An official source confirmed that 14 young men were killed in the operation.[1909] They were: Nelson Enrique Díaz (17); Ender Armando Rojas Sánchez (19); Carlos Eneisis Bejarano Rodríguez (19); Kelvin Jesús Istúriz Rondón (19); Ricardo Antonio Ordaz Clemente (19); Alberto José Rausseo Fernández (20); Edison José Alcalá (22); José Gregorio Sánchez (22); Yorángel José Lezama Ramos (24); Carlos Luis Castro (25); Elio Jesús Martínez Monagas (25); Greydelberg Lenin Urbina Avendaño (25); Jonathan Antonio Pérez (26); and Danny Jesús Sojo Velázquez (30).[1910] The total number of deaths was at least 15; one victim was not mentioned in the official report, but the Mission received information about his identity.

1078. Several witnesses later provided interviews to the media stating that the deaths occurred while the victims were in custody.[1911] At least one of the men was taken alive by security forces and found dead in the morgue the following day.[1912] His family members recounted that he was detained in the morning of 13 July when he left his home, located in the La Pilita sector of the El Naranjal neighbourhood. His mother said, "At 9 a.m. I started calling him desperately […]. I insisted and insisted, until at 4 p.m. one of his sisters called me telling me that the neighbours saw him when he was taken into custody on the stairs".[1913]

1079. Having no information on the young man's whereabouts, his relatives went to look for him in the Forty-Third GNB detachment in El Paraíso parish. An officer told the family that they were verifying his criminal record and that he would be transferred, to the Zone 7 PNB headquarters in Boleíta, at 3 a.m, along with other detainees. At 6 a.m. on 14 July 2015, his relatives found out that he was not among this group. They then decided to go to the morgue, where they eventually found him dead.[1914]

1080. The Medicine and Forensic Sciences National Service performed autopsies on the 15 men on 13 and 14 July 2015. The Mission had access to the autopsy reports, according to which, 14 victims had gunshot wounds in vital body parts.[1915] In nine cases victims died of hypovolemic shock from a gunshot wound to the chest. In four cases, the cause of the death was skull fracture from a gunshot wound to the head. In one case, the victim presented

[1908] Public Prosecutor´s Office, Fiscal General: serán presentadas 19 personas detenidas en el operativo de seguridad en La Cota 905, 15 July 2015, available at: https://web.archive.org/web/20190508204028/http://www.ministeriopublico.gob.ve/web/guest/buscador/-/journal_content/56/10136/8964196.

[1909] Revista CICPC, Cicpc identifica a 14 fallecidos y vehículos recuperados en La Cota 905, 14 July 2015, available at: http://www.revistacicpc.com/noticias.php?id=210.

[1910] Revista CICPC, Cicpc identifica a 14 fallecidos y vehículos recuperados en La Cota 905, 14 July 2015, available at: http://www.revistacicpc.com/noticias.php?id=210.

[1911] Sandra Guerrero in El Nacional, Familiares de 4 muertos en Cota 905 niegan que hubo enfrentamiento, 16 July 2015, available at: http://web.archive.org/web/20150719011123/http://www.el-nacional.com/sucesos/familiares-muertos-cota-niegan-enfrentamiento_0_665333658.html

[1912] Runrun.es, A mi hermano se lo llevaron con vida y apareció muerto en la morgue, 14 July 2015, available at: https://runrun.es/nacional/212885/a-mi-hermano-se-lo-llevaron-con-vida-y-aparecio-muerto-en-la-morgue/. Crónica Uno, Encuentran muerto a muchacho detenido en La Cota 905, 14 July 2015, available at: http://cronica.uno/encuentran-muerto-a-muchacho-detenido-en-la-cota-905/. See also Noticias TV, Así permaneció la morgue de Bello Monte tras sucesos de La Cota 905, 14 July 2015, available at: https://www.youtube.com/watch?v=s9WHnRMdPG4; El Nacional, Algunos cadáveres de La Cota 905 tienen tiros a corta distancia, 15 July 2015, available at: https://runrun.es/nacional/213078/algunos-cadaveres-de-la-cota-905-tienen-tiros-a-corta-distancia/.

[1913] Crónica Uno, La OLP en La Cota 905 fue la palabra de los pobres contra el gobierno, 13 August 2015, available at: https://cronica.uno/olp-en-la-cota-905-es-la-palabra-de-los-pobres-contra-el-gobierno/.

[1914] Contrapunto, Detenidos por la PNB en La Cota 905 fueron localizados muertos en la morgue de Bello Monte, 16 August 2015, available at: https://web.archive.org/web/20150816145532/http://www.contrapunto.com:80/noticia/pnb-impide-declarar-a-familiares-de-los-abatidos-en-operativo-en-la-cota-905/.

[1915] Document C4FF13 on file with the Mission.

hypovolemic shock caused by gunshot wounds to the head, thorax and abdomen. In three of the 14 cases, the victims' bodies presented gunpowder marks in the head and chest (right temporal regional, left nasal bridge and sternal chest region, respectively), which indicate a very close-range shot.

Official Statements

1081. Official statements confirming the deaths claimed the victims died either in crossfire or "resisting authority". In the press conference following the operation, the Minister of the Interior described the 14 deaths and injuries to 1 person (who later died), as having been "a result of a confrontation".[1916] On 14 July 2015, the day after the operation, the Vice Minister of Internal Policy and Legal Security made a radio statement congratulating security forces for the operation. He noted that there was a low number of deceased: "Those were types that resisted before any actions by the justice could be taken and confronted [police], [thus] receiving shots by our security and intelligence agencies".[1917]

1082. Other Government representatives echoed the explanation given by the Ministry of the Interior regarding causes of death. Three days after the operation, then-Ombudsman, Tarek William Saab, told the press that the security forces were "confronted" upon entering Cota 905, without providing further details.[1918] The then-Attorney General, Luisa Ortega Díaz, also spoke publicly two days after the operation, claiming that the objectives of the operation had been achieved in accordance with the Constitution and with respect for human rights.[1919] There is no information indicating that police or military personnel were killed or wounded in the operation. In total, 14 firearms and 2 grenades were seized in the Cota 905 operation.[1920]

1083. On 4 August 2015, President Maduro announced, "in the days to come, we will continue to expand operations to all the states in the country, to all communities, to continue liberating and protecting the people".[1921]

1084. On 10 November 2015, the Public Prosecutor's Office opened *ex officio* a formal investigation against several of the officials who participated in the 13 July operation. Several members of security forces were charged as a result:

- Four PNB agents with intentional homicide[1922] and misuse of service weapon[1923] for the deaths of Kelvin Jesús Istúriz Rondón, Yorángel José Lezama Ramos, Jonathan Antonio Pérez and José Gregorio Sánchez.[1924]

[1916] YouTube video, Luigino Bracci Roa, González López: Mueren 14 maleantes en Cota 905, operativos en Betania y Ciudad Tiuna, 13 July 2015, from minute 07:16, available at: https://www.youtube.com/watch?v=_Vd3TEAC16I.

[1917] Radio Mundial, Grupos paramilitares que operan en el país serán deportados (+Audio), 14 July 2015, minute 01:15, available at: http://www.radiomundial.com.ve/sites/default/files//ENTREVISTA.mp3.

[1918] Noticias Globovisión, Defensoría está abierta a denuncias tras operativo en La Cota 905, minute19:20, available at: https://www.dailymotion.com/video/x2y468r.

[1919] Radio Mundial, Serán presentadas 19 personas detenidas en operativo de seguridad en La Cota 905, 15 July 2015, available at: http://www.radiomundial.com.ve/article/ser%C3%A1n-presentadas-19-personas-detenidas-en-operativo-de-seguridad-en-la-cota-905.

[1920] YouTube Video, Luigino Bracci Roa, González López: Mueren 14 maleantes en Cota 905, operativos en Betania y Ciudad Tiuna, 13 July 2015, minute 6:33, available at: https://www.youtube.com/watch?v=_Vd3TEAC16I.

[1921] Ministerio del Poder Popular para la Comunicación y la Información, GNB transita el camino de las transformaciones profundas por la seguridad del pueblo, 4 August 2015, available at: http://www.minci.gob.ve/gnb-transita-el-camino-de-las-transformaciones-profundas-por-la-seguridad-del-pueblo/.

[1922] Criminal Code, art. 405 and ff.

[1923] Criminal Code, art. 277-283. Law for Disarmament and Control of Arms and Ammunition, art. 115.

[1924] Public Prosecutor's Office, Actuaciones del Ministerio Público relacionadas con los OLP (julio 2015-marzo 2017), pp. 22-23, available at: https://es.scribd.com/document/360500346/Informe-del-Ministerio-Publico-sobre-OLP-2017#from_embedAc.

- Several PNB officials with intentional homicide[1925] and misuse of service weapon[1926] for the deaths of Ricardo Antonio Ordaz Clemente.[1927]
- CICPC officers with intentional homicide[1928] and misuse of service weapon[1929] for the death of Alberto José Rausseo Fernández.[1930]
- Five SEBIN officers with intentional homicide[1931] and misuse of service weapon[1932] for the deaths of Nelson Enrique Díaz, Carlos Eneisis Bejarano Rodríguez, Edison José Alcalá and Jorge Luis Castro.[1933]

1085. The Mission had access to the case file on the deaths of Nelson Enrique Díaz, Carlos Eneisis Bejarano Rodríguez, Edison José Alcalá and Jorge Luis Castro. The initial court appearance occurred on 3 March 2016 and charges were presented on 15 July 2016. The file was last updated on 3 March 2017. According to the case file, the trial was scheduled for 19 July 2017.[1934] However, the Mission does not have information about whether the trial actually took place.

1086. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

The 10 May 2016 OLP

1087. At 4.36 p.m. on 10 May 2016, the Minister of the Interior announced at a press conference that an OLP was in progress, having started at 8.00 a.m. that morning in the following four areas of Caracas: Coche, El Valle, El Cementerio y Cota 905.[1935] The Minister of the Interior explained that the OLP intended to "free the people from the scourge of the paramilitarized underworld".[1936] He framed the operation as part of a new phase of OLPs, involving the participation of "a civic/military/police force of more than 3,000 men […] and countless officials".[1937]

1088. During the press conference, the Minister reported that 249 vehicles, 400 motorcycles, 33 armoured personnel carriers, 19 ambulances and 2 helicopters had been involved in the operation.[1938] Control posts were established in 136 points in roads heading out of the capital city.[1939] Video footage from that day, verified by the Mission, also shows three GNB armoured vehicles making their way into the neighbourhood.[1940] The Minister of the Interior

[1925] Criminal Code, art. 405 and ff.
[1926] Criminal Code, arts. 277-283. Law for Disarmament and Control of Arms and Ammunition, art. 115.
[1927] Public Prosecutor's Office, Actuaciones del Ministerio Público relacionadas con los OLP (julio 2015-marzo 2017), pp. 22-23, available at: https://es.scribd.com/document/360500346/Informe-del-Ministerio-Publico-sobre-OLP-2017#from_embedAc. Ibid.
[1928] Criminal Code, art. 405 and ff.
[1929] Criminal Code, arts. 277-283. Law for Disarmament and Control of Arms and Ammunition, art. 115.
[1930] Public Prosecutor's Office, Actuaciones del Ministerio Público relacionadas con los OLP (julio 2015-marzo 2017), pp. 22-23, available at: https://es.scribd.com/document/360500346/Informe-del-Ministerio-Publico-sobre-OLP-2017#from_embedAc.
[1931] Criminal Code, art. 405 and ff.
[1932] Criminal Code, art. 277-283. Law for Disarmament and Control of Arms and Ammunition, art. 115.
[1933] Public Prosecutor's Office, Actuaciones del Ministerio Público relacionadas con los OLP (julio 2015-marzo 2017), pp. 22-23, available at: https://es.scribd.com/document/360500346/Informe-del-Ministerio-Publico-sobre-OLP-2017#from_embedAc.
[1934] Document C4FF16 on file with the Mission.
[1935] YouTube Video, Luigino Bracci Roa, Situación en Venezuela, González López anuncia primeros resultados de nueva OLP en Cota 905, minute 0:46, 10 May 2016, available at: https://www.youtube.com/watch?v=MkmI0mRZEWc.
[1936] Ibid., minute 4:51.
[1937] Ibid., minute 0:53.
[1938] Ibid., minute 3:48.
[1939] Ibid., minute 4:03.
[1940] El Cooperante, Operación Liberación del Pueblo llega a El Valle, El Cementerio y Cota 905, 10 May 2016, available at: https://www.youtube.com/watch?v=BUF-zaTSkno.

reported that 15 firearms and 2 fragmentation grenades were seized[1941] and that 1,131 people had been detained to verify their identity.[1942]

1089. The Minister of the Interior announced that four people had been killed or "taken down" ("*abatidas*") in what he described as confrontations with security forces in Cota 905. Two died during the operation and two others died later in hospital.[1943] The operation was still ongoing at the time of the Minister's press conference at 4.30 p.m. on 10 May 2016.[1944] After or during that press conference, security forces killed at least five more people, bringing the total killed in the operation to at least nine people.[1945]

1090. One of the young men killed in the operation (hereinafter C4FF25) had just finished high school and he was the father of a child. One of his female relatives, C4FF15, reported that he did not have a criminal record. She said that C4FF25 was killed because he was the relative of one of the most wanted gang leaders of the area. He was killed inside his modest home in the La Chivera area of Cota 905. C4FF15 described his house as very small "with a single entrance and without a window".[1946]

1091. C4FF25 had been asleep and was sick with the Zika virus.[1947] At around 8 a.m. on 10 May 2016, around 15 armed men broke into the house. They were later revealed to be CICPC officers. They were dressed in black and had their faces covered. They did not present a warrant. They beat the other two people that were present, including the female witness C4FF16, forcing them to leave the house.[1948] The last time C4FF16 saw C4FF25, he was sitting on the ground with the CICPC officials around him. They referred to C4FF25 by his name, without ever having asked for or verified his identity.[1949]

1092. C4FF16 sought help from neighbours. Residents yelled at the men in black that C4FF25 was an innocent person. However, the neighbours did not intervene because they were afraid. C4FF16 telephoned a relative, C4FF15, to ask for help. C4FF15 attempted to reach her relative's house, but could not make it past the police cordon. C4FF16, from outside the house, heard C4FF25 being yelled at and being beaten.

1093. The police officers did not allow anyone to enter the house. C4FF25's body was found later in the morgue. It is unclear whether he was alive or dead when he was taken from his house.

1094. During a televised programme on 11 May 2016, GNB General Sergio Rivero Marcano reported on the 10 May operation accompanied by General Eduardo Serrano, PNB Chief of Operations and General Zavarse, GNB Commander of Zone Command No. 43 (Capital District). General Rivero Marcano explained that the operation was implemented according to instructions given by President Maduro, with the GNB deployed to the Coche parish, the PNB deployed to the Cementerio sector and the CICPC to La Cota 905.[1950] General Rivero said that there were no wounded or killed agents of the armed forces and that nine individuals were killed in a "confrontation" with security forces.[1951]

1941 YouTube Video, Luigino Bracci Roa, Situación en Venezuela, González López anuncia primeros resultados de nueva OLP en Cota 905, minute 1:43, 10 May 2016, available at: https://www.youtube.com/watch?v=MkmI0mRZEWc.

1942 Ibid., minute 1:17.

1943 Ibid., minute 2:14.

1944 Ibid., minute 2:41.

1945 Statement of Major General Sergio Rivero Marcano in Contacto Con Nicolás Maduro. OLP contra el paramilitarismo. Venezuela, from minute 1:15:30, 11 May 2016, available at https://www.youtube.com/watch?v=t_CEDxANJcY

1946 Statement made by C4FF15 in an interview with local NGO No. 4, on file with the Mission.

1947 Statement made by C4FF15 in an interview with a Venezuelan citizen security expert No. 5, on file with the Mission.

1948 Statement made by C4FF15 in an interview with local NGO No. 4, on file with the Mission.

1949 Ibid.

1950 Sucreven HCF, Contacto Con Nicolás Maduro. OLP contra el paramilitarismo. Venezuela, from minute 1:13:32, 11 May 2016, available at https://www.youtube.com/watch?v=t_CEDxANJcY.

1951 Ibid., minute 1:22:22. See also El Estímulo, 9 muertos deja operativo militar para ubicar al "Coqui" y "Lucifer", 11 May 2016, available at: https://www.elestimulo.com/nueve-muertos-deja-operativo-

1095. According to C4FF15, State authorities put together a false case file inventing a criminal record of the victim. She said, "They wrote that he had extorted, that he had stolen, that he was the leader of gang".[1952] C4FF15 said there still has not been justice for the crime, noting that "this will keep happening […]. No one will change anything. Not even if you file thousands of complaints everywhere you can […] so the only thing left to do is to pray, to ask God to do justice someday, because on this side no one will bring justice".[1953]

Findings

1096. Based on the facts above, the Mission also has reasonable grounds to believe that at least 15 young men were extrajudicially executed by security forces. More investigation is required into the detentions that occurred during the same operation in order to conclude whether they were arbitrary.

1097. Of these 15 young men, five were extrajudicially executed by five SEBIN officers, five were extrajudicially executed by PNB agents and one was extrajudicially executed by CICPC officers.

1098. The Mission has reasonable grounds to believe that C4FF25 was extrajudicially executed by Caracas-based CICPC officers during the 10 May 2016 operation.

CASE 21: OLP Santa Rosa de Agua, Maracaibo, Zulia (September 2015)

1099. Originally an indigenous Añú settlement, Santa Rosa de Agua sits on the shores of Lake Maracaibo, Zulia state. Its population is mainly dedicated to activities related to fishing. It is accessible both by land and by lake, with direct access to the Caribbean Sea, making it strategically important for both legal and illegal economic activities. Prior to the OLP detailed here, security forces carried out four OLPs in Zulia state in August and September 2015.

1100. The first took place at Los Filúos market in La Guajira municipality on 9 August 2015. Zulia state governor Francisco Arias Cárdenas appeared on television and announced that the operation aimed to combat smuggling in the region.[1954] He was flanked by the REDI Occidente Commander, the ZODI commander for Zulia, the GNB Third Regional Commander and the Zulia state PNB chief (CPBEZ).[1955] Also present were the Commanders of the 13th and 11th Brigades and Zulia state prosecutors.

1101. On 9 August 2015, Major General Urbano, ZODI commander for Zulia, explained that ZODI number 11 of Zulia state had carried out the OLP, directed by the FANB commander-in-chief and President Nicolás Maduro, in accordance with General Vladimir Padrino López's guidelines, as FANB strategic operational commander.[1956]

1102. The General explained that a joint citizen security operation had begun at 2 a.m. in 111 Wayuu Integral Defence Area involving 2,350 men and women from the FANB and state security agencies.[1957] According to the General, they used armoured vehicles, floating units and helicopters, tactical and strategic low-level radars and state-of-the-art communications,

militar-para-ubicar-al-coqui-y-lucifer/. See also Radio Mundial, Abatidos 9 delincuentes al enfrentar a la OLP en Caracas, 11 May 2016, available at: http://www.radiomundial.com.ve/article/abatidos-9-delincuentes-al-enfrentar-la-olp-en-caracas.

1952 Statement made by C4FF15 in an interview with a Venezuelan citizen security expert No. 5, on file with the Mission.

1953 Ibid.

1954 YouTube Video, Observatorio Venezolano de Seguridad Ciudadana OVS, OLP Municipio La Guajira Estado Zulia Parte II 09/08/15, from minute 0:27, 9 August 2015, available at: https://www.youtube.com/watch?v=kaUSNlh4y4c.

1955 Major General Franklin García, Major General Tito Urbano Meleán, Major General Manuel Graterol Colmenares, Major General Carlos Sánchez Vargas, respectively. YouTube Video, Observatorio Venezolano de Seguridad Ciudadana OVS, OLP Municipio La Guajira Estado Zulia Parte II 09/08/15, minute 1:07, 9 August 2015. Video on file with the Mission.

1956 Diario Panorama, Reporte del despliegue de la OLP en Los Filúos, estado Zulia, available at: https://www.youtube.com/watch?v=LGw-anr5dB4.

1957 Ibid., minute 1:03.

social strategic intelligence and counterintelligence.[1958] He declared the following operational results: the dismantling of the Los Filúitos gang, 10 arrests, the seizure of 14 weapons of different calibres and the confiscation of food, products and 176,000 litres of fuel.[1959]

1103. The second of the four OLPs took place on 13 August 2015 in "La Guajirita II" community, Idelfonso Vásquez parish, Maracaibo municipality. State security forces detained 12 people. Local residents complained that security forces broke into the houses and stole money, clothes and necessities. There were no reports of deaths.[1960]

1104. The third OLP is the one described in detail, below. It took place on 14 September 2015 in Santa Rosa de Agua sector, Maracaibo municipality. Zulia State Governor Arias Cárdenas told the media that the objective was to reduce crime in the sector and restore peace and tranquillity to the town.[1961] According to the Governor, he received "innumerable messages thanking the armed force, the security force and public order".[1962]

1105. According to official sources, five people were killed during this 14 September operation.[1963] No killings had been reported for the other operations.

1106. Approximately 60 people were arrested during the 14 September operation and weapons[1964] and drugs were seized. The majority of those captured were fishermen returning from their work early in the day. They were taken to a multipurpose community court in Santa Rosa de Agua. After the initial verifications of their background records, only two people remained in detention: one wanted in connection with a 2007 homicide and the other for drug trafficking offences.[1965] Residents denounced abuses by security forces, claiming that women trying to defend their families were mistreated, and personal belongings were stolen.[1966]

1107. A fourth OLP was carried out on 23 September at "Las Pulgas" (flea) market, Chiquinquirá parish, municipality of Maracaibo. Major General Urbano confirmed that 1,500 troops, FANB officials, security and intelligence corps were deployed. He also stated that the OLP had been "directed by our commander in chief and our strategic operational commander of the armed forces [...]. We have carried out a synchronized, organized and very well executed operation" that resulted in the arrest of 80 people.[1967] Local media also reported the

1958 Ibid., minute 1:15.

1959 Ibid., minute 2:23.

1960 Comisión para los Derechos Humanos del Zulia (CODHEZ), Situación general de derechos humanos en el estado Zulia, informe anual 2016, p. 62, available at: http://codhez.ong/dataadmn/images/publicacion/informe/CODHEZ_INFORME_ANUAL_2016.PDF.

1961 See tweet from Governor Francisco Arias Cárdenas, https://twitter.com/PanchoArias2012/status/643398600488321024. See also Agencia Venezolana de Noticias, Autoridades aplican OLP en el sector de Santa Rosa de Agua, available at: http://www.avn.info.ve/contenido/autoridades-aplican-olp-sector-santa-rosa-agua-maracaibo.

1962 Noticias Venezuela, Arias Cárdenas sobre la OLP en Santa Rosa de Agua, 14 September 2015, minute 0:45, available at: https://www.youtube.com/watch?v=0QMv6NofuTM.

1963 CPBEZ GBZ, Comisión mixta dio de baja a cinco miembros de la banda "Los Chatarreros", 15 September 2015, available at: https://www.facebook.com/cpbez.gbz/photos/a.859986000738461/957646460972414/?type=3. The Mission confirmed that authorities erred in naming one of them among those killed. It appears they mistook him for his brother who was actually killed during the operation.

1964 Three pistols (9 mm, 380 and 765 calibres requested for robbery since 2007) and two revolvers, both 38 calibres, Smith and Wesson and Ranger brands. See Diario La Verdad, "La matanza policial se extiende a Santa Rosa, 15 September 2015, available at: http://www.laverdad.com/sucesos/82857-la-matanza-policial-se-extiende-a-santa-rosa.html.

1965 CPBEZ GBZ, Comisión mixta dio de baja a cinco miembros de la banda "Los Chatarreros", 15 September 2015, available at: https://www.facebook.com/cpbez.gbz/photos/a.859986000738461/957646460972414/?type=3.

1966 Diario La Verdad, Denuncian abusos en OLP en Santa Rosa de Agua, 14 September 2015, available at: http://www.laverdad.com/sucesos/82817-denuncian-abu-sos-en-olp-de-santa-rosa-de-agua.html.

1967 Statement by Major General Tito Urbano, OLP despliega más de 1500 efectivos en el estado Zulia, minutes 0:02 and 0:44, 23 September 2015, available at: https://www.youtube.com/watch?v=R0AuZSpV-MY.

seizure of 35 tons of food[1968] and the demolition of 50 tarantines (artisan shops) in the central part of the city. There were no reports of deaths.[1969]

The OLP in Santa Rosa de Agua

1108. One of the officers who participated in the operation revealed to national authorities that the OLP was planned and prepared the previous day, 13 September 2015, in the GNB Regional Command Three headquarters. The planning meeting was attended by the commander of the GNB; the director of the CPBEZ; the head of the National Anti-Extortion and Kidnapping Command (CONAS); the commander of the Coast Guard and the CICPC.[1970]

1109. This source also revealed that CPBEZ police officers were summoned on 14 September 2015 at 1 a.m. to the Directorate of Intelligence and Preventive Strategy (DIEP) headquarters of Zulia State Police. At 3 a.m., the GNB sealed off the area in which the OLP was about to be implemented.[1971] Planning command for the operation was in the CPBEZ Directorate in Los Patrulleros sector.[1972]

1110. The OLP was carried out in accordance with operation orders no. 256-15 and no. 257-15 dated 13 and 14 September 2015.[1973] The order was implemented between 3 to 7 a.m. at different points of the city. Six hundred and ten agents from three different security bodies took part: CPBEZ, in particular from the West Maracaibo Department and DIEP, GNB (including CONAS) and CICPC.[1974] According to some sources, SEBIN officers also participated, although this has not been confirmed.[1975] The CPBEZ component was commanded by Major General Carlos Sánchez Vargas, CPBEZ director since 2015.[1976]

1111. The operation was activated via land and lake,[1977] as officers from difference forces moved in 30 police and military vehicles, CPBEZ motorcycles and 4 GNB boats.[1978] The GNB implemented a perimeter ring of checkpoints. The CPBEZ units acted inside this area. The CICPC was responsible for obtaining and preserving information where violent deaths occurred.[1979]

1112. A female relative of the victims, C4FF06, was at her residence in Urbanización la Victoria during the early morning of 14 September 2015. Someone told her that there were police officers at her relatives' home, so she headed there. She managed to get to within 300 metres of the house, evading at least five GNB checkpoints that prevented access to the Santa Rosa sector.[1980]

[1968] Notiactual, Madrugan con OLP en las Pulgas y la Avenida Libertador de Maracaibo, 23 September 2015, https://www.notiactual.com/madrugan-con-olp-en-las-pulgas-y-la-avenida-libertador-de-maracaibo-fotos/.

[1969] Diario Panorama, OLP en Las Pulgas incautó 30 toneladas de alimentos y detuvo a 80 personas, 23 September 2015, article on file with the Mission.

[1970] Document C4FF03 on file with the Mission.

[1971] Document C4FF03 on file with the Mission.

[1972] Ibid.

[1973] Document C4FF03 on file with the Mission.

[1974] CPBEZ GBZ, Comisión mixta dio de baja a cinco miembros de la banda "Los Chatarreros", 15 September 2015, available at: https://www.facebook.com/cpbez.gbz/photos/a.859986000738461/957646460972414/?type=3.

[1975] Comisión para los derechos humanos del Zulia (CODHEZ), Lo que fue la Operación Liberación y Protección del Pueblo en Santa Rosa de Agua en Maracaibo, 4 October 2015, available at: https://codhez.wordpress.com/2015/10/04/lo-que-fue-la-operacion-liberacion-y-proteccion-del-pueblo-en-santa-rosa-de-agua-en-maracaibo-edo-zulia/.

[1976] The decision to put a military in charge of the Zulia Police was taken after a corruption scandal involving police officers in Maracaibo.

[1977] Mission Interview C4FF05 in June 2020. See also Versión Final, 410 "sabuesos" toman Santa Rosa, p. 32, available at: https://issuu.com/versionfinal/docs/d2494.

[1978] Document C4FF03 on file with the Mission. See also Versión Final, 410 "sabuesos" toman Santa Rosa, p. 32, available at: https://issuu.com/versionfinal/docs/d2494.

[1979] Mission Interview C4FF05 in March 2020.

[1980] Audiovisual document by C4FF05 on file with the Mission.

1113. Along the way, she saw several officials with long weapons, some located on the roofs of houses. When she asked officers at a security cordon what was happening, they told her were implementing the OLP under presidential decree. A male GNB official told her she was being "pig-headed", meaning stubborn, and told another official to find a female officer to beat her up and put her in jail. She retreated out of fear of being hurt or arrested.[1981]

1114. The day after the operation, Mayor General Sánchez Vargas announced that the five dead were dangerous individuals, killed in a confrontation with police. He said they belonged to the criminal gang "Los Chatarreros"[1982] involved in robberies, car thefts and extortion.[1983] He conceded that four of the five had no criminal record.[1984]

The Death of Two Brothers

1115. C4FF19 and C4FF20 were part of a middle-class family of five brothers.[1985] They had no criminal records according to the Police Investigation and Information System (SIIPOL).[1986]

1116. At around 4 a.m. on 14 September 2015, three CPBEZ vehicles stopped outside the brothers' house. Four DIEP officers arrived in a white Toyota. Three more police officers from the West Maracaibo Department arrived on motorcycles. Another two DIEP officers served as support in the operation.[1987]

1117. A female victim and eyewitness, C4FF17, told national authorities that she was in C4FF20's house when they heard gunshots and the sound of glass breaking at around 4 a.m. They hid in the bathroom and telephoned a relative, asking him to seek help from the police. When they opened the bathroom door, they saw 20-30 men in uniform, carrying long weapons with lasers and guns. They were dressed in black with bulletproof vests, with white lettering on their arms. According to C4FF17, they were CPBEZ rapid response officers.[1988]

[He] was told to get down on the floor and crawl into the living room [...]. They threw him on the furniture where he sat in his underwear. He was unable to defend himself, he had just got out of bed. They grabbed me wildly by the hair, dragged me through the house and pushed me out into the street. They were demanding [his] name and he answered 'C4FF20.' One of them said 'it is him', while others said 'it is not, it is not', [...]. As I was crossing the gate to leave the grounds, I heard some shots [...]. I turned around to try to re-enter the house but they prevented me.[1989]

1118. The officers would not allow C4FF17 back into the house, so she waited outside. At around 5.30 a.m., she saw a white CICPC pickup truck park in front of the house and leave again shortly afterwards.[1990] Upon re-entering the house at around 10 a.m., she noticed blood traces leading from the living room to a larger puddle on the back door of the house; there was also blood in the parking space outside the house. Before she managed to reach the hospital, news that C4FF20 was a criminal gang member who had died in a confrontation with the police was being broadcast on the radio.[1991]

1981 Document C4FF03 on file with the Mission.

1982 Members of the gang were allegedly alerted the night before the operation by an informant they had inside the police and left the area in the early morning of 14 September 2015. Mission Interview C4FF05 in June 2020.

1983 CPBEZ PNB, Comisión mixta dio de baja a cinco miembros de la banda "Los Chatarreros", 15 September 2015, available at: https://www.facebook.com/cpbez.gbz/photos/a.859986000738461/957646460972414/?type=3.

1984 Diario La Verdad, La matanza policial se extiende a Santa Rosa, 15 September 2015, available at: http://www.laverdad.com/sucesos/82857-la-matanza-policial-se-extiende-a-santa-rosa.html.

1985 Mission Interview C4FF06 in June 2020 and document C4FF03 on file with the Mission.

1986 Document C4FF03 on file with the Mission.

1987 Ibid.

1988 Documents C4FF26 and C4FF03 on file with the Mission.

1989 Ibid.

1990 Document C4FF03 on file with the Mission.

1991 Ibid.

1119. C4FF18 was in C4FF19's house at 4.10 a.m. on 14 September 2015. Once informed by phone about events at his brother's house, C4FF19 left his house to get help. C4FF18 remained and later heard gunshots and knocking at the door, so she locked herself in the bathroom.[1992] When she opened the bathroom door, she found "many men, about 50 men, all pointing at me [...]. There were many officers from different police agencies. They wanted to get me out of the house and they were grabbing me by the arms, mistreating me".[1993] Some officials were wearing beige and black, others were wearing blue pants with a light blue shirt from the Regional Police, and others were wearing black flannel with navy blue jeans and a black cap with yellow letters from the CICPC.[1994]

1120. C4FF18 was recovering from a leg operation and could not move easily, so instead of taking her outside, the officers locked her in another room. She said, "Through the hole in the handle I was seeing everything that they did; they went in, they came out, they knocked down and broke everything that got in their way".[1995]

1121. C4FF18 heard three shots. She believes that the first shot she heard was fired at C4FF20's house. She believes that the second shot was fired against the door of the courtyard of her house. She heard the third shot 15-20 minutes after the second. She believes that it was fired in the courtyard of her house. Immediately after hearing this shot, she heard C4FF19 moan.

1122. When C4FF18 managed to leave the house around five hours later, at about 9 a.m., she learned that the two brothers were both lying dead in the Pons Hospital.[1996] Several neighbours claimed to have seen one of the two brothers alive when the officers took him away in their vehicles.[1997]

1123. The dead men's relatives reported that the officers who entered their homes stole their belongings. One of them found the house was in complete disarray when she returned,[1998] with electronic items, clothes and jewellery among the items missing.[1999] Another relative also accused the officers of theft.[2000]

The Criminal Investigation

1124. The brothers' female relative, C4FF06, filed a complaint with the CICPC in Zulia about the deaths on 14 September 2015. As she did so, CICPC officers threatened her, saying to "leave it at that, because the family was very big and she should think about those who were left".[2001] In September 2017, C4FF06 filed a complaint with the Third Court of Maracaibo against the CPBEZ officers that she accused of intimidating her by loitering near her home, asking neighbours about her and tracking her family's vehicle.[2002]

1125. The threats received did not manage to intimidate victims in their search for justice. Given the importance of the case, the Seventy-Sixth Public Prosecutor's Office with National Competence supported the local Forty-Fifth Prosecutor's Office in the investigation.[2003]

1992 Documents C4FF18 and C4FF03 on file with the Mission.
1993 Document C4FF03 on file with the Mission.
1994 Ibid.
1995 Ibid.
1996 Document C4FF03 on file with the Mission.
1997 Statement by a neighbour: "There were no confrontations. There was an execution [...] I am an exceptional witness and I saw that they took one of them and later he appeared in the morgue and that is really a criminal practice" in De Primera Mano TV, Vecinos de Santa Rosa de Agua denuncian abuso policial, 15 September 2015, https://www.youtube.com/watch?v=Lnq571y9wsk. Another neighbour told a relative of the family that from the balcony of his house he managed to see C4FF19 alive minutes before he was forced into the CICPC van. Mission Interview C4FF06 in June 2020.
1998 Video of C4FF20's house after the OLP, on file with the Mission.
1999 Document C4FF03 on file with the Mission.
2000 Ibid.
2001 Document C4FF04 on file with the Mission.
2002 Ibid.
2003 Mission Interview C4FF05 in June 2020.

1126. On 20 October 2016 and 11 November 2016, hearings were held and four CPBEZ agents were charged with aggravated homicide,[2004] misuse of service weapons[2005] and simulation of a punishable act.[2006] The events in Santa Rosa de Agua were reported by the CPBEZ to the CICPC's Zulia Homicide Division as having occurred in the context of an exchange of fire. According to two officers who participated in the operation, no injuries or deaths were reported among the security agents.[2007]

1127. One mid-ranking CPBEZ officer told the CICPC investigation that the OLP was carried out by mixed units of the GNB, CICPC, and CPBEZ, as decreed by the President.[2008] While passing a house in a vehicle he and his fellow officers saw two men who, upon seeing the police, ran inside the brothers' house.[2009]

1128. The same CPBEZ officer told the investigation that three West Maracaibo Department police officers and a DIEP officer were fired upon as they entered the house and had to return fire to protect themselves and others.[2010] Officers provided conflicting accounts as to where the two men's bodies fell after having been shot. A police officer stated that one of the victim fell in the backyard of the house, while the other brother was shot in the outer alley. This officer's supervisor stated that one of the deceased fell to the ground in front of the garage, while the other victim received the fatal injury outside, behind the house.[2011]

1129. Technical and scientific tests carried out during the CICPC investigation established that the brothers were not shot where the police claimed. A luminol test and haematological analysis carried out by the CICPC indicated that C4FF20 was killed inside his house,[2012] validating the family's belief that he was executed in his living room, next to the kitchen, and later dragged outside through the kitchen door. The CICPC investigation also showed that C4FF19 was shot outside the house in the alleyway that leads to an outside bathroom located in the courtyard of the house. A family member also told the Mission that they believe agents had tampered with the crime scene in the house.[2013]

1130. Both bodies arrived at the hospital with no signs of life. One of the doctors working at Pons Hospital told the Public Prosecutor's Office that several unidentified patients, all of them lifeless and with gunshot wounds, were admitted that day, brought by CICPC officials. The doctor recalled that some arrived in jeans, others only in a sweater, most were barefoot. They were sent directly to the morgue.[2014]

1131. According to the respective necropsy protocols, C4FF19 presented two wounds in the right pectoral and left interpectoral area.[2015] C4FF20 also had two wounds: the first in the right pectoral area, the second in the right arm, with a deformed shell lodged in the right scapular area.[2016] For both brothers, the cause of death was established as hypovolemic shock due to gunshot wounds to the chest.[2017]

1132. According to documentary evidence, four types of ammunition shells were collected at the scene. They were positive for four different weapons, all pistol-type:[2018]

[2004] Criminal Code, art. 405 and ff.
[2005] Criminal Code, art. 277-283. Law for Disarmament and Control of Arms and Ammunition, art. 115.
[2006] Criminal Code, art. 239. Document C4FF03 on file with the Mission.
[2007] Document C4FF03 on file with the Mission.
[2008] Ibid.
[2009] Ibid.
[2010] Ibid.
[2011] Ibid.
[2012] Document C4FF03 on file with the Mission.
[2013] Mission Interview C4FF06 in June 2020.
[2014] Document C4FF03 on file with the Mission.
[2015] Ibid.
[2016] Ibid.
[2017] Ibid.
[2018] Document C4FF03 on file with the Mission.

Shells	*Calibre*	*Compatibility*
2	380 car	Gun not visible, serial: 4383
3	.7.65 mm	Gun brand CZ, model 83, serial: 024451
3	.9 mm	Glock
2	.9 mm	Glock (but different weapon than above)

1133. Glock pistols were the weapons assigned to the officers that day. The CICPC presented the other two guns as the brothers' weapons and claimed both were found near C4FF20's body. According to the officers, C4FF19 had thrown his gun next to his brothers' body, while trying to escape over the exterior wall.[2019]

1134. Documentary evidence determined that the brothers were killed by shots from two 9mm Glock pistols with serial numbers EHV316 and EBG406 and that these were the weapons assigned to two of the officials that participated in the OLP.[2020]

1135. The investigation progressed under the Seventy-Sixth Public Prosecutor's Office. Four agents were charged according to their degree of participation. One officer was charged with simulation of a punishable act, aggravated homicide, misuse of a service weapon, and three of his colleagues were charged as accomplices to one or more of these crimes.

1136. The Public Prosecutor's Office requested the dismissal of the case against one of the officers because he was killed in the area of La Rinconada in Maracaibo on 19 November 2016.[2021] Another officer evaded arrest and was a fugitive from justice at the time of writing.[2022]

1137. In September 2016, the Public Prosecutor's Office requested arrest warrants for the officials who had participated in the OLP from the Third Court of Control of the Criminal Circuit of the state of Zulia, but the court ruled that the request was unmerited.[2023]

1138. At the end of September 2016, the Seventy-Sixth National Public Prosecutor's Office, who led the investigation and presented the accusation, was replaced by the Forty-Fifth Local Public Prosecutor's Office. According to a complaint filed by the victims' relatives to the Public Ministry of the Judicial Circumscription, the Forty-Fifth Local Public Prosecutor's Office lacked impartiality and initiated the trial without summoning the victims.[2024]

1139. On 9 November 2017, the Third Control Court in a preliminary hearing ordered that the officials be tried and await trial without applying any precautionary measures to guarantee their presence at trial.[2025]

1140. The Eighth Trial Court decided the case on 21 November 2018 and acquitted the two officers on all counts, arguing that evidence was not conclusive to determine, beyond reasonable doubt, the police officers' criminal responsibility for the killings.

[2019] Mission Interview C4FF05 in June 2020 and document C4FF03 on file with the Mission.
[2020] Document C4FF03 on file with the Mission.
[2021] Document C4FF03 on file with the Mission.
[2022] Mission Interview C4FF05 in June 2020.
[2023] Ibid.
[2024] Document C4FF19, on file with the Mission.
[2025] Document C4FF16, on file with the Mission. See also Versión Final, Cuatro policías imputados por muertes de Santa Rosa están libres, 26 March 2018, available at: https://versionfinal.com.ve/sucesos/cuatro-policias-imputados-por-muertes-en-olp-de-santa-rosa-estan-libres/.

The Death of Two Stepbrothers

1141. The stepbrothers came from a low-income family and lived together. C4FF21 worked as an angler, despite having a disability. The eldest brother, C4FF22, worked for a local newspaper.[2026]

1142. According to a reliable source, CPBEZ officers killed C4FF21 in the corridor of his house, in front of his mother. As the officers were removing the body, his brother C4FF22 arrived. The police arrested him and took him away, supposedly to make a statement. When their mother went to the morgue to identify C4FF21's body, she found her other son lying on the stretcher next to him.[2027]

1143. The stepbrothers' case was assigned to the Forty-Fifth Prosecutor's Office. The family initially pressed for an investigation into the deaths, but later stopped asking questions of authorities, after feeling intimidated by patrols parked near their house. They feared that something could happen to another member of the family.[2028]

1144. The Mission interviewed a female victim who witnessed some of the events. She passed by the stepbrother's home on the morning of 14 September 2015 as it was surrounded by police officers. She recognized C4FF21, who had just returned from fishing. When the woman passed the house again a couple of hours later, she found her neighbour crying desperately because her son had been killed.[2029]

The Death of C4FF23

1145. The victim, C4FF23, had four siblings. One of them had been in prison since 2013 for murder.[2030] At between 4 and 5 a.m. on 14 September 2015 security forces broke into the victim's house. A female relative, C4FF04, was in the house across the street.

1146. C4FF04 got dressed and crossed the street, where she saw tens of security officers from the PNB, CICPC and GNB, carrying long and short weapons. There were men and women, some in uniform, others in civilian clothes, several of whom had their faces covered. She was stopped by a group of around ten police officers, men and women, who grabbed her by the hands and neck. They took her phone away. She remained outside C4FF23's house.

1147. At around 6.30 a.m., the officers inside the victim's house took a young male relative into custody, hooded. They forced everyone else to leave the house, leaving C4FF23 inside. C4FF04 could not see him. She heard the officers order the young man to kneel down and she heard him beg for his life. She then heard the gunshot that she believes ended his life. Shortly afterwards, C4FF04 saw the officers taking his body out of the house, wrapped in a sheet. They put him into a white van, with no official logo.

1148. C4FF04 went to the CPBEZ command in Los Patrulleros sector, where her other young male relative was detained. She saw about 60 detainees, many of them well-known local fishermen. Her relative was released that same night.

1149. After the operation, the family noticed that personal belongings were missing from the house, including money, a suitcase, make-up products and a phone.

1150. C4FF04 filed a complaint with the local Forty-Fifth Prosecutor's Office. A few hours later, she received a text message from an unknown number, saying, "I'm watching you from the corner. You're going to wake up with flies in your mouth".[2031] She chose not to pursue the case and left Venezuela the following month.

[2026] Ibid.
[2027] Ibid.
[2028] Mission Interview C4FF05 in March 2020.
[2029] Mission Interview C4FF05 in March 2020.
[2030] Mission Interview C4FF04 in June 2020.
[2031] Ibid.

The Arrest and Detention of C4FF08

1151. C4FF08 lived with his family in a single-storey house in the Manaure sector.[2032] At the time of the events, he had two jobs, as a merchant seaman and restaurant waiter. C4FF08 told the Mission that, around 4 a.m. on 14 September 2015, between 10 and 15 DIEP and GNB officers broke into the house, without a search warrant.[2033] Some officers were in uniform, others in civilian clothes. They carried long and short weapons.[2034]

1152. C4FF07, a female relative who was inside the house, woke up when five officers entered her room, pointing guns at the people present. When she left the room, she saw another 15 officers in the house, belonging to various security forces. They forced the men present in the house to lie face down on the living room floor and kitchen. The officers hit one of them with their weapons. The other two were lying in underwear, also face down. The officers shouted, calling them "damned dogs".[2035]

1153. According to C4FF07, the officers forced her to leave the house, with her two-year-old baby in her arms.[2036] When she resisted, the police hit her in the stomach. The baby was left naked, without a diaper.[2037] In the alley, she saw about 50 police officers, official vehicles and dozens of motorcycles.[2038] The agents were forcing some of the neighbours to kneel in front of their houses, with their hands above their heads. C4FF07 walked the short distance to her parents' house, where she waited for the operation to end.[2039]

1154. According to C4FF07, there was no one home when she returned after a couple of hours. Their furniture was upside down and objects were missing, including cell phones, watches, cash, food, school uniforms and car parts.[2040]

1155. C4FF08 told the Mission that the officers had taken him and his two other male relatives out of the house in handcuffs and escorted them 20 metres to another house where 15 of their neighbours were also detained.[2041] At around 7 a.m., the officers took them in CPBEZ vehicles to the DIEP command in Los Patrulleros sector. Around 30 more men were detained there. The young man was questioned about the profile and occupation of the other two brothers, C4FF19 and C4FF20, who were killed during the OLP.[2042]

1156. According to the Mission's interview with C4FF08, at the DIEP command, General Vargas gave instructions to his men. He pointed at C4FF08 and threatened to imprison him and plant drugs on him. Two policemen started punching him and telling him he had been unlucky. The beating caused C4FF08 to faint. When he regained consciousness, he was alone in a small cell. The other detainees, including his male relatives, had been released around 9 p.m. He did not know the reasons for his arrest, until two days later, when brought before the judge.[2043]

1157. C4FF08 told the Mission that, during the time he spent in the CPBEZ commando in the Patrulleros sector, he could not use the toilet, and had to relieve himself in a plastic bag and a pot.[2044] He was not permitted to leave the cell. His relatives brought food daily and he

[2032] Ten years ago the Manaure sector became a dangerous area of Santa Rosa due to the action of criminal gangs dedicated to the theft of boats/motors, and the control of drug trafficking in the city of Maracaibo. On the night of 13 September 2015, a few hours before the OLP, a confrontation took place between the Manaure gang and the Echo del Zulia gang, in which two young people belonging to the first group died. Mission Interview C4FF07 in June 2020.
[2033] Mission Interview with C4FF08 in June 2020.
[2034] Ibid.
[2035] Mission Interview with C4FF08 in June 2020.
[2036] Mission Interview C4FF07 in June 2020.
[2037] Ibid.
[2038] Mission Interview C4FF07 in June 2020.
[2039] Ibid.
[2040] Ibid.
[2041] Mission Interview C4FF08 in June 2020.
[2042] Ibid.
[2043] Ibid.
[2044] Ibid.

saw them for an hour on Saturdays. The police often entered his cell, threatened him and beat him.[2045]

1158. On 29 October 2015, the Twenty-Third Public Prosecutor's Office of the Judicial District of Zulia state charged C4FF08 for drug trafficking and possession. The trial began on 5 April 2016 in the Eighth Trial Court of Zulia State Criminal Judicial Circuit, under case No. 8J-1013-16. The trial lasted two months, during which four hearings were held, on 5 and 14 April, 10 May and 6 June 2016.[2046]

1159. Five police officers from the DIEP Information Research and Processing Section who participated in arrest stated that CF4408 had been arrested close to a renowned local restaurant. Their accounts were inconsistent on different aspects of the story, including where they found the narcotic substance. Their statements on timing of the operation and presence of witnesses were also contradictory.[2047]

1160. C4FF08's lawyers called ten defence witnesses and were able to prove C4FF08's innocence. They were also able to show the court that C4FF08 had been removed from his house in underwear during an OLP and that he had not been carrying the drugs officers claimed to have found on his person.[2048] Prosecution evidence was not sufficiently reliable or convincing for the Court to determine C4FF8's criminal responsibility.

1161. After spending 9 months and 27 days in detention, on 13 June 2016, CF4408 was found not guilty and was released. The judge denied the request presented by the defence to charge the officials involved for manipulating records and simulating a punishable act.[2049]

1162. After the release, C4FF08's family moved to an apartment located in the centre of Maracaibo, where they noticed surveillance. C4FF08 recognized some of the officers who had beaten him during his detention. C4FF08 and his closest family left the country in 2016.[2050]

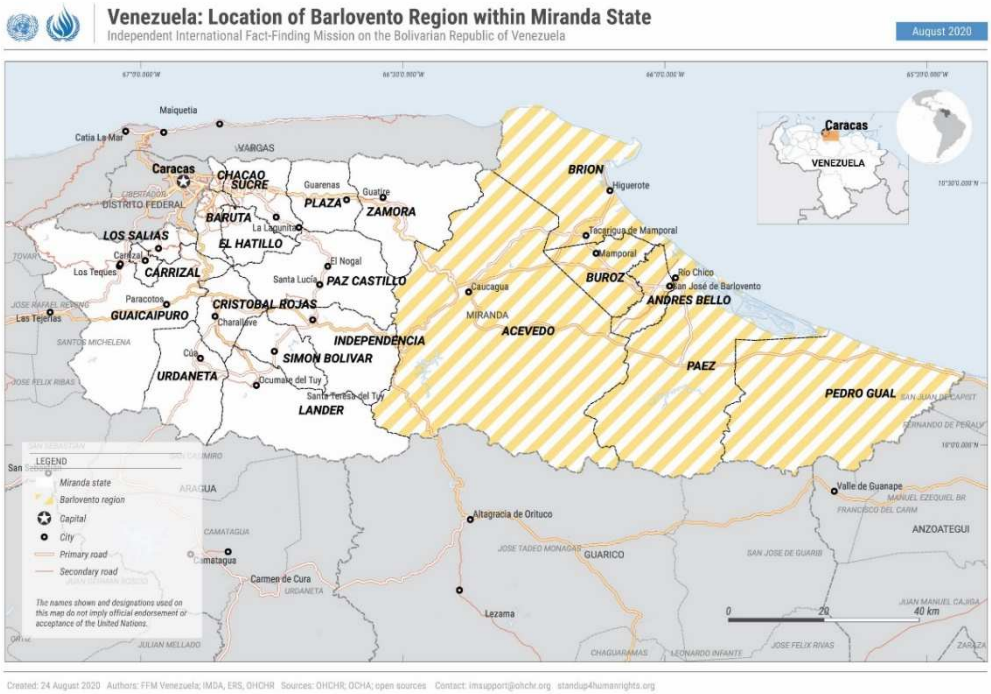
Findings

1163. Based on the facts above, the Mission has reasonable grounds to believe that extrajudicial executions were committed against C4FF19 and C4FF20. CPBEZ officers from the Maracaibo DIEP and West Department were involved in these violations. The Mission also has reasonable grounds to believe that C4FF21 and C4FF23 were extra-judicially killed by security forces during this OLP, although no unit or division has been specified. In spite of the scarcity of information available relating to C4FF22, based on the circumstances surrounding his death, the Mission has reasonable grounds to believe that he was also extra-judicially executed by security forces.

1164. The Mission has reasonable grounds to believe that C4FF08 was victim of acts of torture or cruel, inhuman and degrading treatment committed by police officers belonging to CPBEZ Maracaibo DIEP Information Research and Processing Section. The same force detained him arbitrarily.

[2045] Ibid.
[2046] Document C4FF06 on file with the Mission.
[2047] Document C4FF06 on file with the Mission.
[2048] Ibid.
[2049] Ibid.
[2050] Mission Interviews C4FF07 and C4FF08 in June 2020.

CASE 22: Barlovento, Miranda (October 2016)



1165. Ninety kilometres east of Caracas, the Barlovento sub region takes up 4,610 square kilometres of Miranda state and consists of six municipalities: Acevedo, Andrés Bello, Brión, Buroz, Páez and Pedro Gual.[2051] It is inhabited largely by people of African descent[2052] who mainly engage in cocoa and coffee farming. At the time of the Barlovento operation, opposition leader Henrique Capriles Radonski was Governor of Miranda state. Barlovento was declared a Peace Zone in 2013, in an attempt to reduce crime.[2053] Analysts have linked the high crime rates to criminal gangs who compete for land and cocoa farming profits.[2054]

1166. Events preceding the operation included the 10 January 2016 killing of two GNB sergeants, while escorting PDVSA trucks along a highway,[2055] to which authorities responded on 12 January with an OLP in Caucagua, municipality of Acevedo.[2056] On 2 April 2016, a retired GNB General and his wife were killed in Caucagua,[2057] leading to a deployment of over 400 soldiers and police across four municipalities.[2058] On 10 April 2016, three FANB officers, among them a couple, were kidnapped, along with their two-month-old daughter.

2051 Gobernación del estado de Miranda, Plan de ordenación de territorio del estado de Miranda, February 2011, table number 35, p. 118, available at https://www.scribd.com/doc/97733588/Plan-de-Ordenacion-de-Territorio-Del-Estado-Miranda.

2052 CEPAL, La población indígena y afrodescendiente de Venezuela y el aporte del censo indígena en el estudio de la asistencia escolar, April 2015, p. 7, available at: https://www.cepal.org/mujer/noticias/noticias/5/27905/poblacionindigenav.pdf.

2053 Diario Panorama, Rangel Ávalos: nos hemos reunido con 280 bandas en el estado Miranda, 25 August 2013, available at: https://www.youtube.com/watch?v=vOhEvicOgFo.

2054 Connectas, El amargo cacao venezolano: entre el delito y el asedio oficial, date not specified, available at: https://www.connectas.org/especiales/el-amargo-cacao-venezolano/.

2055 El Estímulo, El enigma de los asesinatos de militares en Venezuela, 21 March 2017, available at: https://elestimulo.com/el-enigma-de-los-asesinatos-de-militares-en-venezuela/.

2056 Runrun.es, La máscara del terror oficial en Venezuela, available at: https://www.connectas.org/especiales/olp/seleccion-de-victimas/index.html.

2057 Runrun.es, Asesinan a general retirado y su esposa en Caucagua, 2 April 2016, https://runrun.es/nacional/255615/asesinan-a-general-retirado-y-a-su-esposa-en-caucagua/.

2058 InSight Crime, Número de muertos aumenta mientras prosigue operación de seguridad en Venezuela, 18 April 2016, available at: https://es.insightcrime.org/noticias/noticias-del-dia/numero-muertos-aumenta-recrudecimiento-operacion-seguridad-venezuela/.

They were released on 12 April 2016 and an OLP was carried out the following day.[2059] On 9 May 2016, an air force captain and his wife were kidnapped in the Andrés Bello municipality. They were released on 12 May and an OLP was subsequently carried out on 14 May 2016.[2060]

1167. According to Minister of the Interior, Néstor Reverol Torres, the security situation in Miranda[2061] had prompted President Maduro to activate a joint operation.[2062] The Minister said that the operation had been ordered to combat arbitrary evictions of houses by violent elements linked to Colombian paramilitarism and organized crime.[2063] Other officials with knowledge of the operation have suggested that revenge for the death of the retired GNB General and his wife might also have been a factor.[2064] Others have suggested a criminal motive.[2065]

1168. On 10 October 2016, the Interior Minister explained that the deployment included 1,299 military and police officers from 15 units from different parts of the country. He noted that the area covered under the operation represented 53.85 per cent of Miranda state.[2066] The military component of the operation had reached the region on 7 October 2016, three days before the deployment of other security forces. As he spoke to the press, he was accompanied by high-ranking military leaders, including Admiral Reigio Caballos, the then second strategic CEOFANB commander, Major General Onella Fereira, head of the REDI Capital and Major General Alberto Bellorín, commander of the ZODI Miranda.[2067]

1169. A former high-ranking official in State intelligence services informed the Mission that the FANB led the operation because ordinary police forces were no match for the powerful gangs operating in Barlovento. The witness explained that DGCIM had gathered previous electronic intelligence on the criminal groups and that the police were tasked with containment while the CICPC provided expertise.[2068]

[2059] El Pitazo, Activan OLP en Barlovento tras secuestro de tres militares y un bebé, 13 April 2016, available at: https://archivo.elpitazo.net/regiones/activan-olp-barlovento-tras-secuestro-tres-militares-bebe/.

[2060] El Pitazo, Secuestran capitán de aviación en Barlovento, 10 May 2016, available at: https://archivo.elpitazo.net/sucesos/secuestran-capitan-la-aviacion-barlovento/. See also El Cooperante, Por segunda vez: despliegan OLP en Barlovento tras liberación de capitán de la aviación, 14 May 2016, available at: https://elcooperante.com/por-segunda-vez-despliegan-olp-en-barlovento-tras-liberacion-de-capitan-de-la-aviacion/.

[2061] YouTube Video, Multimedio VTV, Miranda: inmueble usado para secuestro será puesto de commando, 18 October 2016, minute 1:49, video on file with the Mission.

[2062] Ibid., minute 1:57.

[2063] YouTube Video, Multimedio VTV, Detenidos militares vinculados a desapariciones de personas en Barlovento, 26 November 2016, minute 0:17, video on file with the Mission.

[2064] Mission Interview C4FF09 in February 2020.

[2065] See tweet by Army Brigadier General Antonio Rivero stating that Major General Álvarez Bellorín, commander of the ZODI Miranda, organized the Barlovento operation because "the people worked in Caracas with General Zavarse, who coordinated the operation with General Álvarez, allegedly for non-compliance with a payment for hamponiles deeds". Maduradas, Aseguran que general del Ejército ordenó la masacre de Barlovento (implican a 11 militares), 28 November 2016, available at: https://maduradas.com/muy-grave-aseguran-que-general-del-ejercito-ordeno-la-masacre-de-barlovento-implican-a-11-militares/.

[2066] Diario Panorama, Reverol: 1.300 funcionarios resguardarán Barlovento en plan especial de seguridad, minutes 0:10 and 1:05, available at: https://www.youtube.com/watch?time_continue=53&v=iJQrrdDvc24&feature=emb_logo., minute 1.30

[2067] Ibid., minute 0:15.

[2068] Mission Interview C4FF10 in May 2020.

Plan Rondón

1170. The Barlovento operation was part of a military plan called Plan Rondón.[2069] According to the plan, public order disturbances, looting, drug trafficking, kidnapping, robbery and extortion in the area since 2008 resulted in a threat to the nation's security. The acts amounted to internal subversion requiring a military operation to restore order.[2070]

1171. Plan Rondón classified different categories of enemies, listed in an annex, to which the Mission did not have access. The plan's objective was to neutralize swiftly groups that may generate violence.[2071] Plan Rondón also demanded respect for standards on the use of lethal force and the prohibition against torture,[2072] and reporting of human rights violations.[2073]

1172. Plan Rondón established "manoeuvres" for the execution of operations. These included: harassing the enemy and weakening its power through constant pressure; isolating the enemy from support networks, both physically and psychologically; carrying out offensive actions to destroy and/or capture guerrilla or paramilitary groups and criminal gangs and all those representing a danger to institutions; and exploiting the success of the operation, to destroy completely or capture all targeted groups.[2074]

1173. The REDI Capital was responsible for the operation, with the support of the ZODI Miranda. The REDI was to direct intelligence operations, criminal investigations and control public order, as well as execute operational tasks, including house raids to identify and question suspects.[2075] The raids were to be carried out in accordance with judicial orders.[2076]

1174. Plan Rondón envisaged the following tactical deployments: 120 soldiers from the Caribbean Battalion in Capaya sector of Acevedo municipality; 120 soldiers from the Caribbean Battalion in El Márquez sector of Acevedo municipality; 120 members of the Forty-Second Parachute Brigade in El Cumbo sector of Andrés Bello municipality; 120 Marine Corps members in La Busca sector of Brión municipality; 120 soldiers from the rural commands in La Trinidad sector of Buroz municipality; 120 combatants from the rural commands in Santa Bárbara sector of Páez municipality. The Bolivarian Army Special Forces, the Mar commands, the Naval Police, the Air Police, the GNB Special Forces, GNB commands and CONAS, were stationed at Higuerote airport.[2077]

[2069] Plan Rondón, Documento de una masacre / Luisa Ortega Díaz, Formal operations order by REDI Capital to all agencies, signed by Major General José Adelino Ornelas Ferreira, 7 December 2017, available at: http://rupturaorg.blogspot.com/2017/12/operacion-rondon-documento-de-una.html.

[2070] Ibid.

[2071] Plan Rondón, Documento de una masacre / Luisa Ortega Díaz, 7 December 2017, p. 4, available at: http://rupturaorg.blogspot.com/2017/12/operacion-rondon-documento-de-una.html.

[2072] Ibid., p. 16.

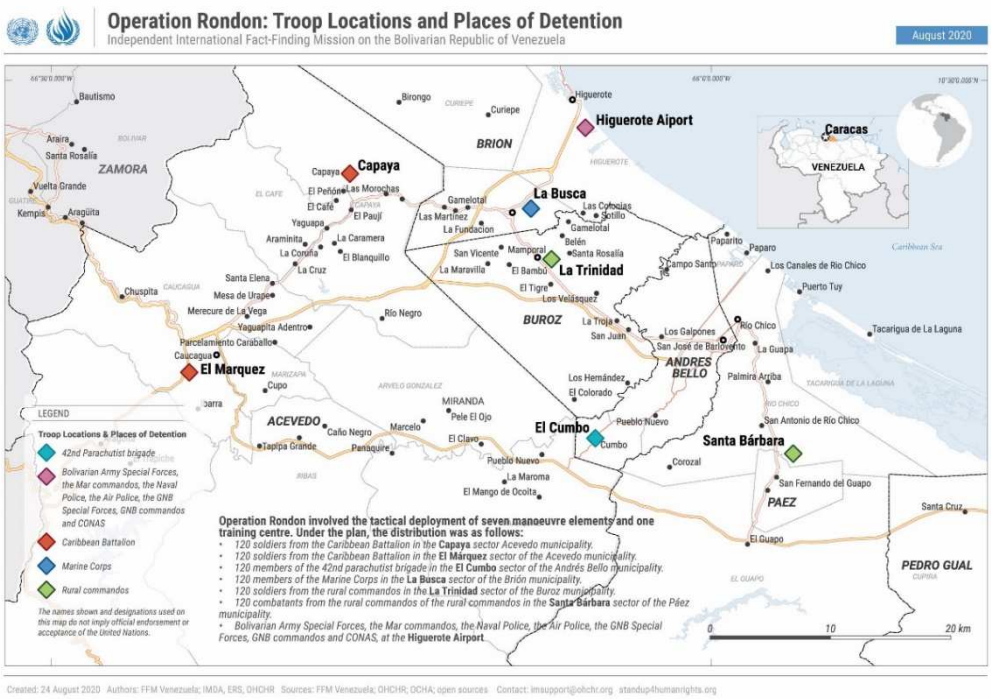
[2073] Ibid., p. 22.

[2074] Plan Rondón, Documento de una masacre / Luisa Ortega Díaz, 7 December 2017, p. 7, available at: http://rupturaorg.blogspot.com/2017/12/operacion-rondon-documento-de-una.html.

[2075] Ibid., p. 4.

[2076] Ibid.

[2077] Ibid., pp. 5-17.



1175. The operational details of Plan Rondón were discussed among military commanders five days before the troop deployment to the area, in a meeting held in Caracas at La Carlota Airport on 2 October 2016. Aerial reconnaissance was carried out throughout the Barlovento area in order to show each commander his area of responsibility.[2078]

Events in Barlovento

1176. On 7 October 2016, military officials arrived in Barlovento from other regions. The contingent included soldiers from the 323 Caribbean Battalion "José María Camacaro Rojas" based in Cumaná, state of Sucre (over a four-hour drive to the Barlovento region).[2079] Troops arrived in El Café town in Acevedo municipality. They stationed themselves in a building at the entrance to El Café. From the base in El Café, the troops conducted raids in different parts of Barlovento over the next 10 days, although they remained in the region for over a month.[2080]

1177. Another contingent of soldiers belonging to the 321 Caribbean Battalion "Major General Pedro Zaraza" based in Barcelona, Anzoátegui, also arrived on 7 October 2016 and stationed themselves at La Bloquera, Alfarería Bell (a provisional and semi-abandoned sandpit that was created for the construction of the Caucagua - Higuerote highway), in Caucagua parish, Acevedo municipality.

1178. Both military units were instructed to work quickly to clear criminal gangs from the area.[2081] Two sources with knowledge of the operation informed the Mission that the order of the operation was given by President Maduro, through the Minister of the Interior, Néstor Reverol and the Minister of Defence, General Padrino López.[2082] Major General Álvarez

2078 Document C4FF07 on file with the Mission.

2079 Public Prosecutor´s Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 11, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf

2080 Efecto Cocuyo, El luto de un municipio en Barlovento tras una operación militar, 12 December 2016, available at: https://www.youtube.com/watch?v=n0pl52VZx_0.

2081 Document C4FF07 on file with the Mission.

2082 Mission Interview C4FF10 in May 2020 and Document C4FF07 on file with the Mission.

Bellorín reassured military commanders that they had the full support of other high-level Government officials.[2083]

Detentions

1179. Between 13 and 18 October 2016, FANB forces detained 35 men in Barlovento,[2084] arresting people inside homes, from queues to buy food and public buses.[2085] Those arrested were all men. They were not presented in court for an initial court appearance. Twelve were later found dead in two different mass graves. The whereabouts of five were still unknown at the time of writing.[2086]

1180. Eight of the detainees were released: four on 21 October; the release date of the other four is unknown. Seven of the eight released men told family members that they had been tortured.[2087] One managed to escape and appeared seriously injured in the state of Anzoátegui.[2088] The Mission does not have information regarding 9 of the 35 people detained.

1181. The 12 men whose bodies were recovered had been detained between 15 and 18 October at different locations in the Acevedo municipality. According to then Interior Minister Néstor Reverol Torres, the detentions occurred in Capaya, Yaguapa, El Café, Cabural and Aramina towns.[2089]

1182. The detainees came from two seemingly unconnected groups.[2090] One was from El Café sector, some of whom knew each other, and another group from Aragüita area.[2091] Based on an open sources review, the Mission gathered some information regarding names and dates of detention of 17 detaintees, who were later killed or disappeared.

Table 6:
Dates of detention of disappeared and deceased victims in Barlovento

Date of detention	*Name*	*Disappeared (X) Deceased (XX)*
13 October 2016	Yulmar Renegifo	X
	Wilmer Serrano	X
	Andris Bandris	X
	Jefferson Suárez	X

2083 Document C4FF07 on file with the Mission.

2084 Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 11, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf. In its annual report for the year 2016, the Ombudsman reported that its delegate for the state of Miranda, in the complaint received on 21 October, received information about the alleged enforced disappearance of approximately 32 people. See also Defensoría del Pueblo, Informe anual 2016, p. 56, available at: http://www.defensoria.gob.ve/images/informes_anuales/INFORME_ANUAL_2016_Final.pdf.

2085 Document C4FF08 on file with the Mission.

2086 Document C4FF08 on file with the Mission.

2087 Document C4FF08 on file with the Mission.

2088 This person appeared alive after a few days in another state. He was shot in the leg and had allegedly been thrown into the Tuy River by some soldiers who believed him dead. Mission Interview C4FF09 in February 2020.

2089 Multimedio VTV, Detenidos militares vinculados a desapariciones de personas en Barlovento, minute 0:48, 26 November 2016, video on file with the Mission.

2090 Delsa Solórzano, En vivo con los familiares de las víctimas de la MASACRE de Barlovento, statement of the sister of one of the victims, minute 27:40, available at: https://www.pscp.tv/w/1ZkJznbXPaWJv. See also VPI TV, Exclusivo: Habla madre del joven que sobrevivió a la masacre de Barlovento, minute 7:38, 30 November 2016, available at: https://www.youtube.com/watch?v=mAQ8sknd-44. See also Caraota Digital.Net, Hablan los familiares de la masacre de Barlovento, 2 December 2016, available at: https://www.youtube.com/watch?v=5ejKkchS1NA.

2091 Mission Interview C4FF09 in February 2020.

Date of detention	*Name*	*Disappeared (X) Deceased (XX)*
15 October 2016	Carlos Gabriel Marchena Silva (detained with three other men released on 18 October)	XX
	Héctor Óscar Rodríguez	XX
	Antonio Miguel Aladejo	XX
16 October 2016	Freddy Hernández (detained with four others, whose date of release is not clear)	XX
	Denny Acevedo	XX
	Anthony Vargas	XX
	Eliézer Ramírez	XX
	Luis Alirio Sanz	XX
	Kendri González	XX
	Víctor Manuel Martínez	XX
	Yorman Mejías	XX
	Jairo Rivas	XX
18 October	Reibi Torres	X

1183. According to the Public Prosecutor's Office, a least 25 of the 35 arrests were made without an arrest warrant.[2092] One of the men later found dead had been travelling from Caucagua with his wife and two children, when soldiers stopped their bus in El Café. They reviewed his documents and took him to the command to check his criminal record.[2093] Another victim was at his mother's home when the soldiers arrived and took him away at gunpoint. His mother said, "I had a nervous breakdown and my brother-in-law went to bring him his identification and sweater because they took him in shorts and barefoot".[2094] Another man's mother was thrown to the floor and told, "You mothers are the accomplices; you go about aiding and abetting".[2095]

1184. Approximately 20 of the 35 detainees were taken to the 323 Caribbean Battalion base temporarily installed in El Café.[2096] When their relatives learned this, they arrived at the El Café base to ask for them. Soldiers explained that the detainees were being held while their judicial records were verified.[2097] The Venezuelan Police Information System (SIPOL) later revealed that such verification had only been made in respect of two of the victims in October 2016.[2098]

1185. From 15 to 18 October 2016, family members brought the detainees food. The Public Prosecutor's Office later retrieved a bag from one of the corpses, in which family members

[2092] Document C4FF08 on file with the Mission.
[2093] Efecto Cocuyo, Dennys Acevedo fue detenido frente a su familia en la masacre de Barlovento, 12 December 2016, available at: https://www.youtube.com/watch?v=y82oOMQFkPI.
[2094] La Patilla, Madre de víctima de masacre de Barlovento reveló nombre del Coronel que daba las órdenes, minute 1:08, 29 November 2016, available at: https://www.youtube.com/watch?v=x5gvayMxxrc.
[2095] The New York Times, In a brutal year in Venezuela, even crime fighters are killers, 30 December 2016, available at: https://www.nytimes.com/2016/12/30/world/americas/venezuela-violence.html.
[2096] Document C4FF15, on file with the Mission.
[2097] Document C4FF15 on file with the Mission.
[2098] Ibid.

had purportedly delivered food to him in El Café. The bag contained fragments of written notes that read "18-10-16 To: Óscar Rodríguez. God Bless you. Bon appetit" and "18-10-16 Hello my son, as you awake, God bless you, how are you? For: Óscar Rodríguez".[2099]

1186. On 2 November 2016, prosecutors searched El Café military base, following a complaint filed on 27 October by relatives. The prosecutors found numerous printed photos with the names of the detainees and their identification numbers. They established that the photographs had been taken in the military base itself.[2100]

Torture in El Café Military Base

1187. Soldiers are accused of torturing the detainees to gather information about the whereabouts of members of criminal gangs that operated in the region.[2101] The Public Prosecutor's Office, based on the autopsy report, concluded that the deceased were subjected to electric shocks on various parts of the body, including genitals, tear gas inhalation and blows with blunt objects.[2102]

1188. According to victims and witnesses, there were at least two torture areas within El Café military base. The first was a small room with standing room for five, known as "El Tigrito", in which naked detainees were exposed to teargas.[2103] The second torture area was an office to which detainees were brought blindfolded with wrists and feet tied together. The soldiers placed stockings in their mouths and forced them to lie on the floor, before pouring water over them and electrocuting them.[2104]

1189. Among the torture allegations later made by El Café military base survivors or their family members are the following:

- The mother of a man who had been released also said her son had been drugged.[2105]
- One survivor reported that he had been tortured with blunt and short sharp objects, in order to provide information about the "Coyón gang".[2106]
- A detainee's mother said soldiers had administered electric shocks to her son's genitals. Her son was beaten so badly that he required surgery and was hospitalized for 17 days.[2107]
- An adolescent survivor told the press that soldiers had stripped him naked and beaten him with the butt of a rifle, before hanging him by the arms from the ceiling and interrogating him about the gangs. He stated, "They told me, 'we are going to play a

[2099] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 30, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf.

[2100] Mission Interview C4FF09 in February 2020.

[2101] Efecto Cocuyo, Obreros, estudiantes, agricultores: ¿Quiénes eran las víctimas de la masacre de Barlovento?, 16 December 2016, available at: https://efectococuyo.com/la-humanidad/obreros-estudiantes-agricultores-quienes-eran-las-victimas-de-la-masacre-de-barlovento/. See also The New York Times, In a brutal year in Venezuela, even crime fighters are killers, 30 December 2016, available at: https://www.nytimes.com/2016/12/30/world/americas/venezuela-violence.html.

[2102] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 9, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf.

[2103] Document C4FF09 on file with the Mission.

[2104] Document C4FF08 on file with the Mission.

[2105] VPI TV, Exclusivo: Habla madre del joven que sobrevivió a la masacre de Barlovento, minute 4:50, 30 November 2016, available at: https://www.youtube.com/watch?v=x5gvayMxxrc.

[2106] Efecto Cocuyo, Obreros, estudiantes, agricultores: ¿Quiénes eran las víctimas de la masacre de Barlovento?, 16 December 2016, available at: https://efectococuyo.com/la-humanidad/obreros-estudiantes-agricultores-quienes-eran-las-victimas-de-la-masacre-de-barlovento/.

[2107] VPI TV, Exclusivo: Habla madre del joven que sobrevivió a la masacre de Barlovento, minute 1:00, 30 November 2016, available at: https://www.youtube.com/watch?v=mAQ8sknd-44.

little game […]. It is called electrocution'". They administered shocks to his abdomen, neck, penis, buttocks, back, hands – "I felt like my eardrums would explode".[2108]

Transfer and Enforced Disappearance

1190. After 18 October 2016, soldiers at the El Café base told family members that the men were no longer there.[2109] They explained that the detainees had been transferred that day to Fort Guaicamacaure, Chaguaramal town in Pedro Gual municipality (1.5 hours by car from El Café).[2110] The soldiers claimed that the criminal background checking system in El Café was malfunctioning, and the transfer was necessary for this reason.[2111]

1191. The Mission was informed that a transfer to Fort Guaicamacuare did not take place.[2112] Detainees were instead transferred at the end of October from El Café to another military base in Alfarería Bell, where they stayed for around a week before being executed.[2113] Another source with qualified knowledge of the operation confirmed that the men were transferred from El Café to Alfarería Bell, and that the transfer took place approximately 15 days into the operation. This source revealed that the commander of the ZODI Miranda ordered the transfer to prevent Public Prosecutor's Office representatives and family members from locating the detainees.[2114]

1192. Family members were unaware of their loved one's whereabouts and continued to search for them.[2115] According to one relative, "His mother-in-law and I went to Sotillo, to Curiepe, to the airport […] to a command here in La Trinidad. We went to Chaguaramal to different places and nothing, no, we never found him".[2116] A detainee's uncle said, "We went to Chaguaramal, we went to other places, nothing, nothing, no answers, nobody, not even the Lieutenant Colonel gave us an answer, he did not even show up".[2117] A victim's sister said that, upon arriving in Fort Chaguaramal "an official told us they were there to bring him food and clothes. The next day […] they said they had already been transferred. We asked to where and they told us to Higuerote heliport. [There] they told us that they were not there".[2118]

1193. One of the detainees later released explained that he had been forced to sign a document saying he had not been beaten and had been provided with food, well treated, and

[2108] The New York Times, In a brutal year in Venezuela, even crime fighters are killers, 30 December 2016, available at: https://www.nytimes.com/2016/12/30/world/americas/venezuela-violence.html.

[2109] Delsa Solórzano, En vivo con los familiares de las víctimas de la MASACRE de Barlovento, minute 33:13, available at: https://www.pscp.tv/w/1ZkJznbXPaWJv. See also Efecto Cocuyo, Obreros, estudiantes, agricultores: ¿Quiénes eran las víctimas de la masacre de Barlovento?, 16 December 2016, available at: https://efectococuyo.com/la-humanidad/obreros-estudiantes-agricultores-quienes-eran-las-victimas-de-la-masacre-de-barlovento/.

[2110] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 11, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf. See also RunRun.es, ¿En qué se parecen las masacres de Barlovento y Tumeremo?, 2 December 2016, available at: https://runrun.es/investigacion/289036/en-que-se-parecen-las-masacres-de-barlovento-y-tumeremo/.

[2111] Efecto Cocuyo, Carlos Marchena, uno de los fallecidos en la masacre de Barlovento, 13 December 2016, minute 0:48, available at: https://www.youtube.com/watch?v=EgxbQbY2Phs.

[2112] Mission Interview C4FF09 in May 2020. See also Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 11, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf

[2113] Document C4FF08 on file with the Mission.

[2114] Document C4FF07 on file with the Mission.

[2115] Unidad Venezuela, Familiares de ajusticiados en Masacre de Barlovento ofrecen desgarradores testimonios en la morgue, minute 1:12, 28 November 2016, available at: https://www.youtube.com/watch?v=2g80XRbopwU.

[2116] Digital.Net, Hablan los familiares de las víctimas de la "Masacre de Barlovento", minute 1:39, 2 December 2016, available at: https://www.youtube.com/watch?v=5ejKkchS1NA.

[2117] Delsa Solórzano, En vivo con los familiares de las víctimas de la MASACRE de Barlovento, from minute 33:30, available at: https://www.pscp.tv/w/1ZkJznbXPaWJv.

[2118] Ibid., minute 34:45.

his rights had not been violated.[2119] This coincided with information received from a reliable source with direct knowledge of the operation. He informed the Mission that the commander of ZODI Miranda had instructed that detainees be forced to sign and fingerprint declarations that they had been treated well, before being transferred from El Café to the Alfarería Bell military base, "as a backup in case something happened".[2120]

1194. The FANB later told relatives that once the detainees' criminal records had been confirmed, they were to be released from El Café command base. The FANB claimed that the men had been intercepted by members of a rival criminal gang and had been killed.[2121] Military records collected by the Public Prosecutor's Office during the technical inspection at El Café military base falsely indicated that the detainees were released between the 16 and 17 October 2016.[2122]

1195. On 18 October 2016, the Interior Minister reported that the operation had successfully dismantled a gang (led by "El Anthony") engaged in kidnapping and extortion.[2123] He also said that armed forces had taken control of a private home that had been used for kidnapping operations.[2124] The Minister said that five people had been killed in Barlovento.[2125]

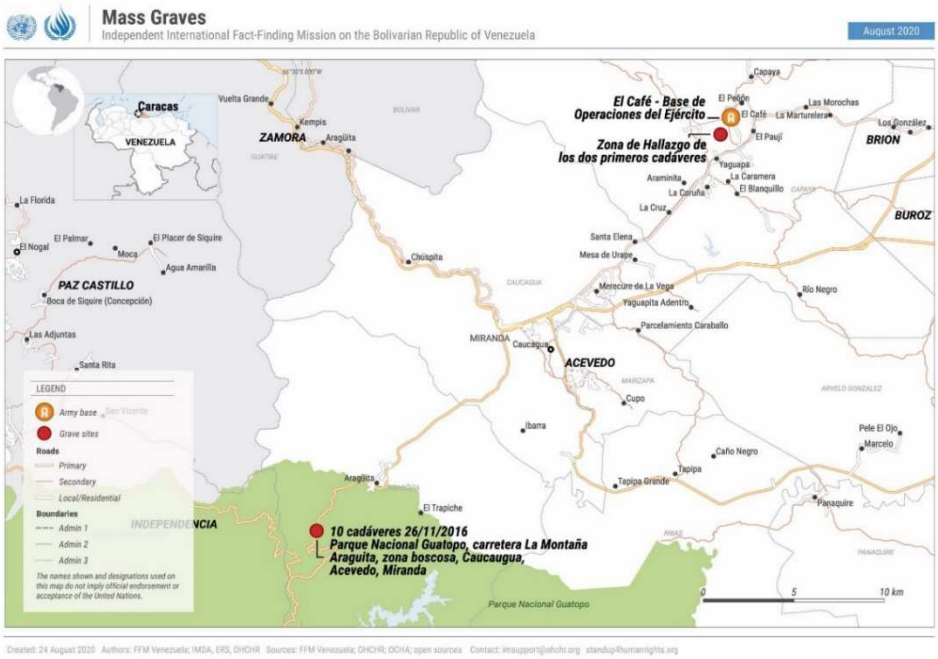
Discovery of Mass Graves

1196. On 27 October 2016, the Public Prosecutor's Office in Miranda received a complaint filed by a detainee's mother regarding the disappearance of 12 people in El Café.[2126] The Sixty-Second Prosecutor's Office was assigned to the case. It carried out several inspections, including at the base in El Café (1 and 11 November);[2127] Fort Guaicamacuare (4 November);[2128] the CONAS command in Caucagua and at the Higuerote airport (16 to 22 November).[2129] It also seized two official vehicles at the El Café base.[2130] The Public Prosecutor's Office requested that the FANB hand over certified copies of the names of detainees and a list of military personnel deployed to the area.[2131]

1197. During investigations, the Public Prosecutor's Office identified a witness who provided consistent information on the location of the victims' graves. On 25 November 2016, two bodies, of Kendri Javier González Utrera and Carlos Gabriel Marchena Silva, were found in a grave in La Maturera sector of Brión municipality, in an old sandpit on the edge of the national road that leads from Caucagua to Higuerote.[2132]

[2119] Gabriel Bastidas en Vivo Play, Testimonio de sobreviviente de la masacre de Barlovento, minute 1:06, 30 November 2016, available at: https://www.youtube.com/watch?v=_J6p-pz-_dM.
[2120] Document C4FF07 on file with the Mission.
[2121] Mission Interview C4FF09 in May 2020.
[2122] Document C4FF09 on file with the Mission.
[2123] YouTube Video, Multimedio VTV, Miranda: inmueble usado para secuestro será puesto de commando, minute 0:47, 18 October 2016, video on file with the Mission; Así tenían a los secuestrados en Barlovento, según Néstor Reverol (Fotos+Video), 20 October 2016, article on file with the Mission.
[2124] Ibid., minute 0:10.
[2125] Ibid., minute 1:04.
[2126] Venevisión News, Entrevista Venevisión: Luisa Ortega Díaz, Fiscal General de la República, 30 November 2016, minute 2:44, available at: https://www.youtube.com/watch?v=tm3NWIJULQM.
[2127] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 12, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf
[2128] Ibid.
[2129] Ibid.
[2130] Ibid.
[2131] Document C4FF09 on file with the Mission.
[2132] RunRun.es, Cronología | Los Muertos de Barlovento, 27 November 2016, available at: https://runrun.es/investigacion/288543/cronologia-los-muertos-de-barlovento-o-como-una-olp-termino-en-masacre/.

1198. On 26 November 2016, ten bodies were found in a mass grave in a wooded area in the Guatopo National Park, Aragüita sector, near the Montaña road that connects Caucagua and Aragüita.[2133]



1199. Detainees were transferred to the execution sites in two official vehicles, passing through two FANB checkpoints. The Mission does not have information about whether these were established under Plan Rondón, and specifically the Barlovento operation, or whether they were pre-existing. The first checkpoint was on the road bordering the Guatopo National Park and connecting Caucagua and Aragüita towns. The other checkpoint was located along the road leading from El Café to Capaya.[2134]

1200. The 12 people who died, including their ages and professions, where known, were:[2135]

- Anthony Jesús Vargas Pérez (19, student and construction apprentice)[2136]
- Héctor Óscar Rodríguez Piñate (20)
- Víctor Manuel Martínez Olivares (20)
- Carlos Gabriel Marchena Silva (20, butcher shop manager)[2137]

2133 Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 12, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf. RunRun.es, Cronología | Los Muertos de Barlovento, 27 November 2016, available at: https://runrun.es/investigacion/288543/cronologia-los-muertos-de-barlovento-o-como-una-olp-termino-en-masacre/.

2134 Mission Interview C4FF09 in May 2020.

2135 Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, pp. 20-21, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf; See also Efecto Cocuyo, Obreros, estudiantes, agricultores: ¿Quiénes eran las víctimas de la masacre de Barlovento?, 16 December 2016, available at: https://efectococuyo.com/la-humanidad/obreros-estudiantes-agricultores-quienes-eran-las-victimas-de-la-masacre-de-barlovento/.

2136 Runrun.es, 9 veces han diferido audiencia de funcionarios involucrados en la masacre de Barlovento, 17 August 2017, available at: https://runrun.es/nacional/322096/9-veces-han-diferido-audiencia-de-funcionarios-involucrados-en-la-masacre-de-barlovento/.

2137 Runrun.es, 9 veces han diferido audiencia de funcionarios involucrados en la masacre de Barlovento, 17 August 2017, available at: https://runrun.es/nacional/322096/9-veces-han-diferido-audiencia-de-funcionarios-involucrados-en-la-masacre-de-barlovento/

- Freddy Manuel Hernández Ramírez (21, farmer)
- Eliezer Justarlis Rámirez Cordero (22, Navy student)
- Yorman Vicente Mejías Martínez (22, farmer)
- Antonio Miguel Aladejo Camacho (27)
- Kendri Xavier González Utrera (28)
- Jairo Antonio Rivas Salcedo (28, electrician)
- Denny Antonio Acevedo Vamonde (30, construction worker)
- Luis Alirio Sanz Espinoza (30, mechanic)

1201. According to a witness whose identity must remain anonymous for security reasons, soldiers belonging to the 323 Carribean Battalion killed 12 men on the same day, probably at the end of October, although the exact date was not specified.[2138] The Mission has a written statement indicating that a high-ranking officer belonging to the 323 Battalion shot two of the victims with his service weapon in the La Maturera sector and ordered the soldiers who had witnessed the crime to dig a grave. Then they went to the wooded area in the Guatopo National Park, where soldiers killed the other 10 detainees.[2139]

1202. According to information received by the Mission, the order to disappear the 12 detainees reached commanders level on 23 October 2016, apparently from a COAFANB representative on the ground who said, "Remember that you are close to a promotion and another thing. I do not want bodies floating nor vultures wandering around. I want the mission to be accomplished by tomorrow, before the meeting".[2140]

1203. The autopsy report mentioned in the Public Prosecutor's Office public report on the investigation, recorded that the two victims in the first gravesite died of "fracture of the skull due to passage of a projectile from a firearm".[2141] The comparative ballistics study carried out by the Public Prosecutor's Office found that Kendri Javier Hernández Utrera had been killed by a pistol-type firearm, brand Sig Sauer 9-millimetre, Parabellum model P226, which was assigned to one of the soldiers belonging to the 323 Caribbean Battalion.[2142]

1204. The Public Prosecutor's Office investigation determined that the ten men in the mass grave died from "hypovolemic shock caused by a stab wound".[2143] A reliable source with knowledge of the case and the autopsy results said the wounds were likely caused by a blade, presumably a machete, which was never found.[2144] Of those stabbed, four had fatal neck injuries and four had fatal neck and chest injuries. One had injuries to the head and one to the neck, shoulder and left leg.[2145] A public official who attended the exhumation, reported that some victims were found face down with their hands tied and their heads covered.[2146]

1205. A witness with knowledge of the events told the Mission that military officers arrived at the scene and forced the detainees out of the vehicle one by one. The officers played loud music in the vehicle so that the remaining detainees would not hear the screams of those

[2138] Mission Interview C4FF09 in May 2020.
[2139] Document C4FF08 on file with the Mission.
[2140] Document C4FF07 on file with the Mission.
[2141] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, pp. 13, 23 and 25, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf.
[2142] Ibid., p. 19. Document C4FF08 on file with the Mission.
[2143] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 13, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf.
[2144] Mission Interview C4FF09 in February 2020.
[2145] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, pp. 22-45, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf.
[2146] Mission Interview C4FF09 in February 2020.

being executed.[2147] Once the victims were killed, the soldiers reported that the mission had been completed.[2148] Security forces did not claim that a confrontation had occurred. No weapons were found with the victims.[2149]

The Death of a Teenager

1206. At around 10 a.m. on 19 November 2016, the 321 Venezuelan Army Caribbean Battalion "Major General Pedro Zaraza", based at La Bloquera, Alfarería Bell military installation in Caucagua, received an anonymous phone call, reporting that an armed individual was hiding in a house in La Cotara sector, Aragüita parish.[2150] Once there, the military officers detained a 16-year-old boy, taking him from his home without a search or arrest warrant.[2151] He was arrested along with three other young men who were later released.[2152]

1207. The teenager was transferred to the military base in La Alfarería Bell and detained with three other young men. Soldiers dropped tear gas canisters from a hole in the ceiling and then covered the hole.[2153] After an hour, the young man began to feel sick and was transferred to Caucagua's Dr. Rivero Saldivia Hospital. By the time he arrived, he showed no signs of life.[2154]

1208. The soldiers told the doctor that the teenager had an epileptic seizure.[2155] Former Attorney General Luisa Ortega Díaz stated that "when the doctor, a brave doctor, saw that situation, she said that this was not an epileptic attack, because the person was too injured, with a skull fracture and other injuries".[2156] The health centre contacted the Public Prosecutor's Office, which performed an autopsy and determined that the cause of death was mechanical asphyxiation due to bronchial aspiration, general polytrauma and head trauma.[2157] The autopsy report also found multiple contusions, bruises, hematomas and swelling over the body.[2158]

The Public Prosecutor's Office Investigation

1209. After the discovery of the bodies in November 2016, the Public Prosecutor's Office reported that it was going to order custodial measures against 12 soldiers for the death of the 12 men.[2159] The former Attorney General publicly condemned these acts. She called on the "governing body in charge of this type of operations, to review them […] because, although it is true that it is necessary to take measures to combat crime, these cannot be carried out compulsively, violently against an entire population and especially against the most vulnerable".[2160] According to the former Attrney General and the then Ombudsman, the 12 men had no criminal records.[2161]

2147 Ibid.
2148 Ibid.
2149 Ibid.
2150 Document C4FF11 on file with the Mission.
2151 Public Prosecutor's Office, Informe anual 2016, p. 22, available at: https://transparencia.org.ve/wp-content/uploads/2016/07/Informe-anual-2016-MP.pdf.
2152 Mission Interview C4FF09 in February 2020.
2153 Public Prosecutor's Office, Informe anual 2016, p. 22, available at: https://transparencia.org.ve/wp-content/uploads/2016/07/Informe-anual-2016-MP.pdf.
2154 Documents C4FF11 and C4FF12 on file with the Mission.
2155 Mission Interview C4FF09 in February 2020.
2156 Venevisión News, Entrevista Venevisión: Luisa Ortega Díaz, Fiscal General de la República, 30 November 2016, minute 12:54, available at: https://www.youtube.com/watch?v=tm3NWIJULQM.
2157 Documents C4FF11 and C4FF12 on file with the Mission.
2158 Document C4FF11 on file with the Mission.
2159 Noticiero Venevisión, Entrevista Venevisión: Luisa Ortega Díaz, Fiscal General de la República, minute 04:45, 30 November 2016, https://www.youtube.com/watch?v=tm3NWIJULQM.
2160 Ibid., minute 17:10.
2161 Ibid., minutes 15:27 and 15:51. See also Noticias Venevisión, Saab confirmó que los 12 asesinados en Barlovento no tenían antecedentes penales, 29 November 2016, available at: https://www.youtube.com/watch?v=yhavh_4lrq8.

1210. The investigation was entrusted to a multidisciplinary team from the Public Prosecutor's Office. It was coordinated by the former Director General for procedural action with the Sixty-Second national and Tenth local Public Prosecutor's Offices. The investigation team included experts in criminalistics, forensic professionals and psychologists. It was supported by the CICPC and the Medicine and Forensic Sciences National Service.[2162]

1211. Former Attorney General Luisa Ortega Díaz highlighted "the determined participation of the Minister of the Interior and Justice, Minister Reverol, who contributed important elements to clarify the events, Commissioner Douglas Rico, as well as the participation of an NGO, the Network Support for Justice and Peace".[2163] The investigation for the death of the teenager, officially initiated on 20 November 2016, was also carried out by the Sixty-Second national Prosecutor's Officer.[2164]

1212. On 27 November 2017, the Public Prosecutor's Office announced that it was filing charges against 12 members of the 323 Caribbean Battalion, for the death of the 12 men:

- Lieutenant-Colonel José Angel Rojas Córdova
- Major Luis Eduardo Romero Arcia
- Sergeant Major Miguel Francisco Rodríguez Rodríguez
- First Sergeant Orlando José Mosegui Barrios
- First Sergeant Rafael Luis Acevedo Galanton
- First Sergeant Luis Ramón Figuera Salazar
- First Sergeant Francisco José Rivas Salazar
- First Sergeant Ronny José Antón Antón
- Second Corporal Archimedes José Aguey
- Second Corporal Luis Eduardo Machado Márquez
- Captain Daniel Rafael Contreras Primera
- First Corporal Fabián de Jesús Rangel Rangel.[2165]

1213. The Public Prosecutor's Office informed the public that it would charge the accused with (1) intentional homicide[2166]; (2) torture and inhuman and degrading treatment;[2167] (3) enforced disappearance;[2168] and (4) illegitimate deprivation of liberty,[2169] among others. The investigation into the enforced disappearance of the five young men who were not found is linked to this process.

1214. On 29 November 2016, seven more members of the 321 Caribbean Battalion were arrested for the death of the teenager. Those put in pre-trial detention were Lieutenant Ender

[2162] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 6, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf.

[2163] Venevisión News, Entrevista Venevisión: Luisa Ortega Díaz, Fiscal General de la República, minute 11:26, 30 November 2016, available at: https://www.youtube.com/watch?v=tm3NWIJULQM.

[2164] Mission Interview C4FF09 in February 2020.

[2165] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 49, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf. See also Diario Panorama, Defensor del Pueblo: Detuvimos a otro mayor y un capitán del ejército por caso Barlovento, 29 November 2016, minute 02:41, available at: https://www.youtube.com/watch?v=YdiS3Tw_hvI. See also Venevisión News, Fiscalía imputará a mayor y capitán del Ejército por muerte de 12 personas en Barlovento, 8 December 2016, available at: https://www.youtube.com/watch?v=M-AOttRaAYc.

[2166] Criminal Code, art. 405 and ff.

[2167] 1999 Constitution, art 46. 2013 special law to prevent and punish torture, art.17.

[2168] 1999 Constitution, art 45 and Criminal Code, art. 180-A.

[2169] 1999 Constitution, art. 44 and Criminal Code, arts. 175 and 176.

Alexander Flores Fajardo; First Lieutenant Yorgenis Moisés Monsalve Rubio; Third Sergeant Major Miguel Francisco Rodríguez Rodríguez; Second Sergeant Joneal Gil Bello; First Sergeants Álvaro José Torres Tonito and Rafael David Achique Medina; and First Corporal Jefferson Jonathan Florián Pérez.[2170] These men were charged with qualified homicide,[2171] torture,[2172] illegitimate deprivation of liberty[2173] and violation of the home[2174]. Despite attempts, the Mission has not been able to gather information on the status of the judicial process.

1215. As of February 2017, the 12 soldiers belonging to the 323 Caribbean Battalion accused of the death of the 12 young men were held in pre-trial detention at the order of the Court of First Instance in Control Functions No. 1 of the Criminal Judicial Circuit of the Miranda state.[2175] The accused spent three months in Tocuyito prison and since 10 March 2017, have been in the Thirty-Fifth Military Police Brigade Detention Centre in Fort Tiuna.[2176]

1216. The case against Lieutenant Rojas Córdova was still under process at the time of writing. Two of the accused were sentenced to 22 years, nine months and 15 days. This decision was appealed by the Public Prosecutor's Office, requesting 26 years despite the fact that the two accused confessed their participation in the crime.[2177]

1217. On 7 August 2020, the Mission contacted the Government requesting a status update in both this case and the death of the teenager. At the time of writing, it had not received a response.

Findings

1218. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary detentions, acts of torture, extrajudicial executions and enforced disappearances were committed against the twelve men mentioned above. Soldiers belonging to FANB 323 Caribbean Batallion "José María Camacaro Rojas" were involved in these violations. Five other young men were still forcibly disappeared at the time of writing.

1219. The Mission has reasonable grounds to believe that at least seven people were arbitrarily detained and tortured before being released.

1220. The Mission also has reasonable grounds to believe that the teenager mentioned above was arbitrarily detained and tortured to death by soldiers belonging to FANB 321 Carribean Batallion "Major General Pedro Zaraza".

[2170] Crónica Uno, Fiscal: Siete militares más fueron detenidos por torturar hasta morir a un joven en Barlovento, date not specified, available at: https://cronica.uno/fiscal-siete-militares-mas-fueron-detenidos-torturar-morir-joven-barlovento/. See also Aporrea, Presos otros siete militares por asesinato de un adolescente en Barlovento, 29 November 2016, https://www.aporrea.org/ddhh/n300896.html

[2171] Criminal Code, art. 405 and ff.

[2172] 1999 Constitution, art 46. 2013 special law to prevent and punish torture, art.17.

[2173] 1999 Constitution, art. 44 and Criminal Code, arts. 175 and 176.

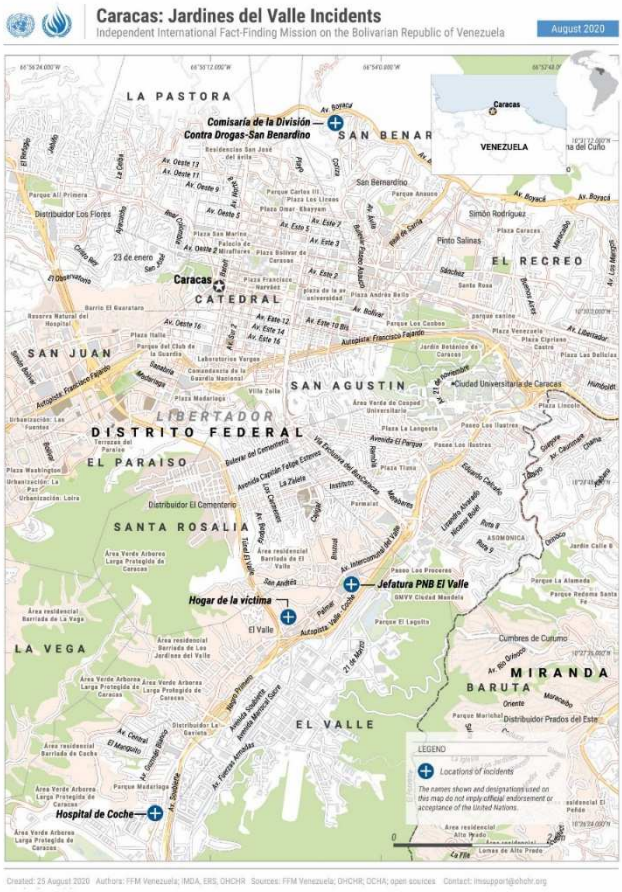
[2174] Criminal Code, arts. 183 and 184.

[2175] Public Prosecutor's Office, Barlovento: informe sobre víctimas y hechos ocurridos en Barlovento: masacre a 12 personas, February 2017, p. 49, available at: https://lortegadiaz.com/wp-content/uploads/2017/12/barlovento-ultima-version4-16-05-2017.pdf.

[2176] Document C4FF07 on file with the Mission.

[2177] Ibid.

CASE 23: OLHP in Jardines del Valle, Caracas (March 2017)



1221. On 15 January 2017, President Maduro announced the reformulation of the OLPs into the Operations for People's Humane Liberation (OLHPs). He stated, "Necessarily, after some mishaps that occurred in the OLPs, I have decided to restructure the OLPs".[2178] He noted that the Government had "dedicated several weeks to study the achievements and the errors, the abuses, that there were in some cases and we have taken up again the concept of humanism of the operations of liberation of the people".[2179]

The 10 March 2017 OLHP

1222. One of the first OLHPs began at around 4 a.m. on 10 March 2017 in Los Jardines del Valle sector of Caracas, between 2nd, 9th, 12th, 13th, 14th, 15th and 16th streets.[2180] Los Jardines del Valle is on the slope of a hill overlooking the city. Venezuelan human rights defenders have suggested that its position and its proximity to La Cota 905 and El Cementerio neighbourhoods makes it a strategically important drug and arms trafficking route.[2181] The

[2178] YouTube Video, Luigino Bracci Roa, Situación en Venezuela, Maduro restructurará OLP, depurará la PNB, incorporará 10 mil policías y aumentará cuadrantes, minute 7:24, 15 January 2017, available at: https://www.youtube.com/watch?v=seV4j3Bhft0.

[2179] Ibid., minute 8:01.

[2180] Asociación Control Ciudadano, Violaciones de Derechos Humanos 2017. Caso de derechos humanos violaciones en El Valle, 28 February 2017, available at: http://www.controlciudadano.org/coyuntura/violaciones-de-derechos-humanos-2017-caso-violaciones-de-ddhh-de-la-olp-en-el-valle.

[2181] Mission Interview with C4FF12 in April 2020 and Mission telephone conversation with C4FF26 in June 2020.

OLHP intended to capture two alleged criminals operating in the sector, but it seems they managed to escape before the operation began.[2182]

1223. Digital information confirms that State forces deployed considerable logistical and human resources in the operation. According to one estimate, there were 240 officers deployed.[2183] The Mission has verified videos showing dozens of PNB officers (including the Anti-Drug and Intelligence and Strategy Directorates), the GNB (including CONAS), the CICPC and the DGCIM in various points of the sector.[2184]

1224. Some wore official vests over civilian clothes. Others were in uniform with helmets, protective shields and balaclavas. They carried short firearms (Beretta 92CF and 92FS pistols, Glock 17 with long magazine) and long firearms (Colt M-4A1, Cavim Orinoco II-type rifles with silencer and H&K MP5, with and without silencer). The videos also depict vans with CICPC and PNB official logos, along with dozens of motorcycles.[2185]

1225. In one video verified and geo-located by the Mission,[2186] six snipers were seen stationed in one of the neighbourhood homes and dozens of young men can be observed being detained, some with their faces covered with T-shirts, others barefoot.[2187] The video also captures the arrest of a woman amidst the male detainees.[2188] The video shows security forces carrying the dead body of a man by the ankles and wrists, before dumping it into the flatbed of a truck.[2189] The man's body is partially covered by a white sheet. The security forces carrying him appeared to belong to the PNB and have "Dirección de Inteligencia Estratégica" written on the back of their vests.[2190]

1226. During the operation, DGCIM agents could be seen wearing skull masks, some black and others green, supposedly to protect their identity.[2191] These images featured heavily in media broadcasts, prompting CICPC director, Douglas Rico, to issue a directive prohibiting CICPC officers from covering their faces during acts of service, "since this generates distrust in the community and often protects police malpractice. The transparency of our work goes hand in hand with our personal and institutional image".[2192]

1227. According to a news outlet, when the OLHP was over, nine people had been killed and more than 60 detained.[2193] Several witnesses reported damage to their properties.[2194]

2182 RunRun.es, Nueve muertos y 50 detenidos tras despliegue de OLP en los Jardines del Valle, 10 March 2017, available at: https://runrun.es/nacional/venezuela-2/300395/al-menos-9-abatidos-y-50-detenidos-tras-despliegue-de-olp-en-los-jardines-de-el-valle/.

2183 Noticiero Venevisión, Ultimaron a ocho antisociales durante OLHP en El Valle, 10 March 2017, minute 0:24, available at: https://www.youtube.com/watch?v=xVWQtiCoF1g. See also: Globovisión, OLP deja siete delincuentes abatidos y 16 detenidos en El Valle, minute 1:44, 10 March 2017, available at: https://www.youtube.com/watch?v=ti6cs5lAyK4.

2184 Compilation of videos on file with the Mission.

2185 Iguana TV, Imágenes exclusivas comando OLHP en El Valle, 10 March 2017, available at: https://www.youtube.com/watch?v=x-McSzvlLCg. See videos published by the journalist Román Camacho on his twitter account, available at https://runrun.es/nacional/venezuela-2/300395/al-menos-9-abatidos-y-50-detenidos-tras-despliegue-de-olp-en-los-jardines-de-el-valle/.

2186 Iguana TV, Imágenes exclusivas comando OLHP en El Valle, 10 March 2017, available at: https://www.youtube.com/watch?v=x-McSzvlLCg.

2187 Ibid., minutes 1:57 and 2:31.

2188 Ibid., minute 2:10.

2189 Ibid., minute 2:34.

2190 Ibid., minute 2:34.

2191 TVV, Militar venezolano usa máscara durante operativo de seguridad, 14 March 2017, minute 0:09, available at: https://www.youtube.com/watch?v=GjmhhayBebw.

2192 Notitotal, Prohíben el uso de máscaras y pasamontañas a funcionarios en servicio, 22 March 2017, video on file with the Mission.

2193 Aporrea, Nueve muertos dejó operativo policial en los Jardines del Valle, Caracas, 10 March 2017, available at: https://www.aporrea.org/ddhh/n305273.html.

2194 Document C4FF14 on file with the Mission, in which one neighbour said that: "I looked out the window and saw that in front of my house there were some officials dressed in black going inside the neighbours' house. They were knocking down the neighbour's doors. I watched what was going on".

The Death of C4FF24 and Detention of his Family

1228. During the 10 March 2017 operation, C4FF24's family was inside their home in the Jardines del Valle sector. The house has two floors with an entrance, living room, kitchen, bathroom and bedroom on the ground floor and two bedrooms and a laundry room on the top floor. The top floor is accessible via a staircase in the kitchen.[2195]

1229. At 6.30 a.m., C4FF11, a male relative of the victim, was in the kitchen preparing breakfast for his family. The other family members were asleep in a bedroom on the ground floor, while C4FF24 was sleeping in his room on the top floor.[2196] C4FF11 heard vehicles stopping abruptly in front of his house. He looked out of the window and saw two white Toyota trucks with PNB badges on the sides. In the back of the trucks, he saw about 20 PNB Anti-Drug officers. They were all dressed in black and wearing bulletproof vests. Some of them wore balaclavas covering their faces.[2197]

1230. A few minutes later, C4FF11 heard knocking on his front door. Eleven officers, eight men and three women, broke in. They did not present an arrest warrant or a search warrant. Some wore black uniforms and others had covered faces, including the three female officers. Five police officers stayed on the ground floor, while six others ascended to the top floor of the house. They held a gun to C4FF11's head.[2198]

1231. At 7 a.m., while C4FF24 was still upstairs, C4FF11 and his female relatives were ordered to leave the house in their underwear and pyjamas. Of the four officers that escorted them, three were women. Three vans with PNB plates were waiting outside the house. An officer in one of the vehicles gave orders to the other agents.[2199] C4FF11 asked the police what was going on and why they had entered his house in that way. The officers told him that this was an OLHP and that they were acting under presidential orders.[2200]

1232. C4FF11 went back into the house to see what was happening to C4FF24. He reached the top floor and saw C4FF24, sitting on the bed in his underwear, surrounded by police officers.[2201] When they saw him, the police again forced C4FF11 to leave the house, threatening to beat him up. The official apparently commanding the operation ordered one of the agents to bring a pair of trousers for C4FF11.[2202]

1233. At 7.30 a.m., the officers forced C4FF11 and his female relatives into a white Toyota Hilux van with PNB logos. C4FF24 remained in the house alone with numerous police officers. The family was taken to the PNB command in San Bernardino, about 40 minutes from their residence,[2203] arriving at the PNB Drug Enforcement Division at 8.10 a.m. They stayed there for approximately two hours. Officers made them wait outside on stools in the parking lot. They were not allowed to use their mobile phones.[2204]

1234. Before leaving the sector in a PNB vehicle, C4FF11 had warned several of his acquaintances that C4FF24 was still in the house under police control.[2205] That morning, at least eight people, including relatives and neighbours from the sector, went to the family's home to look for C4FF24. Some managed to approach the house, while others were held back

Another resident of the neighbourhood confirmed that he "Watched from the house that the officials were breaking down the bars of the neighbour's houses".

2195 Document C4FF14 on file with the Mission.
2196 Mission Interview C4FF11 in May 2020.
2197 Document C4FF14 on file with the Mission.
2198 Mission Interview C4FF11 in May 2020.
2199 Ibid.
2200 Document C4FF14 on file with the Mission.
2201 Document C4FF14 on file with the Mission.
2202 Mission Interview C4FF11 in May 2020.
2203 Document C4FF14 on file with the Mission.
2204 Mission Interview C4FF11 in May 2020.
2205 Document C4FF14 on file with the Mission.

by a police siege. Female relatives of the family reported having been insulted by the officers while trying to reach the house.[2206] Others complained that they were pushed away.[2207]

1235. A female relative managed to reach the house. She recalled seeing about 20 officials deployed in the sector, some of whom had dogs. She spoke to a policewoman, who told her that no one was in the house. At about 7.40 a.m., she heard a shot coming from inside her relatives' property and then saw the police officers who were standing outside the house firing a volley of shots. The police were shouting that there was a confrontation.[2208]

1236. At around 7.50 a.m., approximately 20 minutes after the police had taken C4FF11 and other family members away, a female neighbour heard a detonation, followed by a burst of gunfire that lasted about 15 seconds. The woman told a local news station six days later, "they sounded pa pa pa, say it was, keep saying it was a confrontation […]. I heard everything, I am a witness and I am a mother. And what they did to that child should not have been done".[2209] She added that the officers who fired the shots were in the alley and were aiming at the gate of C4FF24's house.[2210]

1237. Within minutes of the shooting, slightly before 8 a.m., the neighbour saw some PNB officials carrying C4FF24's body, partially covered by a bloodstained sheet, to one of the vans parked outside.[2211] She saw that the teenager was wearing a grey-and-blue shirt and no shoes.[2212] She also witnessed police officers who "just stood there and waited for a while, and then they just laughed like they'd killed a dog".[2213] The Mission had access to the testimony of several other witnesses who reported not having heard a request for help from inside the house. They also claimed to have seen the teenager's lifeless body in the police car.[2214]

1238. At 10 a.m., C4FF24's family members were transferred from the PNB command in San Bernardino to PNB headquarters in El Valle parish, where they sat waiting in a PNB van, guarded by seven PNB officers.[2215] At some stage, several relatives came looking for them there, having previously searched for them in different places.[2216] The teenager's three family members were handcuffed at all times.[2217] The officers would not let them out of the vehicle, not even to go to the bathroom.

1239. At 3 p.m. they were released and, at 4 p.m., C4FF11 and his female relatives were able to enter the house. C4FF24 was not there. They realized that several things had been stolen, including a tablet, speakers, a watch, clothes, perfume and food. There was no blood in the house because C4FF24's half-sister, who had reached the house before their relatives were released, had already mopped the living room. C4FF24's family found his body at the Leopoldo Manrique Tarrero hospital morgue, on the outskirts of Coche parish.[2218]

The Criminal Investigation

1240. C4FF24 was a teenager and father of a two-month-old girl at the time of his death. According to C4FF11, after the baby was born, he had dropped out of school and was working delivering cleaning products.

2206 Document C4FF14 on file with the Mission.
2207 Ibid.
2208 Ibid.
2209 Verified video on file with the Mission.
2210 She saw the presence of five officials in the alley, three were standing in front of C4FF24's house, one was inside the house, looking out. She could also see that there were three vehicles parked outside: a black van carrying some canines and two white double-cabin vans. Document C4FF14 on file with the Mission.
2211 Document C4FF14 on file with the Mission.
2212 Ibid.
2213 Document C4FF14 on file with the Mission.
2214 Ibid.
2215 Ibid.
2216 Ibid.
2217 Ibid.
2218 Mission Interview C4FF11 in May 2020.

1241. The PNB identified C4FF24 as belonging to a criminal gang known as "El Chiva". According to the PNB, he had a police record for theft from 12 October 2016.[2219] When the CICPC searched for this in the Integrated Police Investigation System (SIIPOL), they did not discover a police record.[2220] The investigation into his death was conducted by different units of the Public Prosecutor's Office, including the Thirty-Ninth and Sixty-Sixth Prosecutors' Offices, as well as the Eighty-First Prosecutor's Office for Human Rights.

1242. According to documentary evidence consulted by the Mission, the PNB Anti-Drug commission that helped implement the OLHP in the Cerro Grande sector, where the family's house was, consisted of 10 officers, under the coordination of a supervisor.[2221]

1243. The Mission accessed records in which the supervisor of the police operation reported that, on 10 March 2017, his officers had spotted an unknown citizen, apparently C4FF24, with a nervous and evasive attitude. When the officers shouted at him, he ran away, escaping into a nearby house.[2222]

1244. According to his statement, C4FF24 was shot by one of the official "carrying the regulation weapon, Beretta type pistol, model PX4 and using it to repel the illegal aggression in order to protect his integrity and that of the third parties [...]."[2223] When they stopped, they realized that the subject was injured, so two other police officers on board the Toyota Hilux, plate 3P00911, took him to the hospital. The police officer who shot and killed C4FF24 confirmed this version.[2224] Both accounts differ from that of the family members, who said that C4FF24 was in his room on his bed surrounded by police when police officers removed them from the house.

1245. The Mission could corroborate that residents who had been in the vicinity that day denied that a chase occurred during or after the arrest of C4FF24's family.[2225] Two witnesses have stated that officials "were not chasing anyone, they were quietly deployed on all sides and mounted by the bars of the houses".[2226]

1246. The Mission established that the CICPC carried out a technical inspection of the crime scene on 10 March 2017, after the shooting. Among the findings, there was a revolver-type firearm, Smith and Wesson brand, model 36-1, calibre 38SPL, serial J938270, movable bridge digits 63419, found in the living room.[2227]

1247. The Mission accessed documentary evidence corroborating that one of the 9mm bullets found at the scene was fired from a Beretta pistol, model PX4STORM, serial order PX1072M, a weapon registered at the central weapon storage facility and assigned to one of the police officers on duty that day.[2228] As for the Smith and Wesson revolver found in the house, it had no police registration or application.[2229] According to C4FF24's relatives, the family did not own that firearm, so they assumed that someone had planted it at the crime scene.[2230]

1248. The autopsy report consulted by the Mission showed that C4FF24's body presented two wounds caused by the passage of a single bullet in the anterior thorax. The shots caused perforations of his right lung lobe, the left ventricle of his heart, the abdominal aorta and the spleen. The body also presented a fractured sternum, hemithorax and severe cerebral edema. The cause of death was hypovolemic shock due to a gunshot wound to the chest. The description of the wounds and lack of gunpowder marks on the teenager's body suggested

[2219] Document C4FF14 on file with the Mission.
[2220] Ibid.
[2221] Ibid.
[2222] Ibid.
[2223] Document C4FF14 on file with the Mission.
[2224] Ibid.
[2225] Document C4FF14 on file with the Mission.
[2226] Ibid.
[2227] Ibid.
[2228] Ibid.
[2229] Ibid.
[2230] Mission interview C4FF11 in May 2020.

that he was not shot at point blank range, but it was not possible to determine the distance with certainty.[2231]

1249. A police officer who participated in events provided a statement, which is included in the documentary evidence the Mission reviewed. According to this, C4FF24 was shot inside the house, in the living room. It was not possible to ascertain the victim's body position in the crime scene at time of his death.[2232]

1250. A reliable source told the Mission that, despite the involvement of 11 officers during the OLHP in the sector, the Thirty-Ninth National Public Prosecutor's Office charged only one officer with the aggravated pre-meditated homicide,[2233] unlawful deprivation of liberty,[2234] violation of domicile[2235] and improper use of a service weapon.[2236] The same source also informed the Mission that the alleged perpetrator has detention measures in place that are not being complied with, meaning that he remains at liberty.[2237]

1251. According to consistent information received by a witness who had direct knowledge of the case, the Public Prosecutor's Office focused the investigation on the responsibility of the direct perpetrator, without analysing facts in their context. Actions were not taken to clarify the chain of command and the case was dealt with as the personal performance of an individual acting independently from combined military structures.[2238]

1252. The investigation only focused on the circumstances surrounding the death of C4FF24 and did not address the detention of his relatives, nor the bad treatment they claim to have suffered while in custody.[2239]

1253. At the time of writing, the case was still awaiting trial. During a preliminary hearing, which took place on 12 December 2019 before the Twenty-Second Tribunal in Control Functions of the Criminal Judicial Circuit in Caracas, the control judge accepted the Public Prosecutor's Office's request to charge the officer with the crimes mentioned above. The victim's relatives were not notified of the hearing, as required by national law. The case was still pending and the evidentiary hearing has been postponed at least three times.[2240]

1254. On 7 August 2020, the Mission contacted the Government requesting a status update in this case. At the time of writing, it had not received a response.

Other Related Cases: The Death of Two Young Brothers

1255. The Mission was also able to speak to C4FF13, a female relative of two brothers who were also killed during the operation on 10 March 2017.[2241] They also lived in Los Jardines sector, in a two-storey house with a living room, kitchen, two bathrooms and two bedrooms on the ground floor, and a further three bedrooms and a bathroom on the top floor.

1256. That day, five people were inside the house. The eldest brother did not have a steady job, but sometimes unloaded trucks at Coche parish market. The youngest was still in school. C4FF13 told the Mission that neither of them had a criminal record.

1257. According to C4FF13, both young men were on the top floor when seven police officers, six men and one woman, arrived at 6.30 a.m. The eldest brother was sleeping. The youngest had woken up at 6 a.m. to get ready to go to school. The police officers knocked on

2231 Document C4FF14 on file with the Mission.
2232 Ibid.
2233 Criminal Code, art. 405 and ff.
2234 Criminal Code, arts. 175 and 176.
2235 Criminal Code, arts. 183 and 184.
2236 Criminal Code, art. 277-283. Law for Disarmament and Control of Arms and Ammunition, art. 115
2237 Mission Interview C4FF12 in April 2020.
2238 Ibid.
2239 Ibid.
2240 Ibid.
2241 Mission Interview C4FF13 in May 2020.

the door and rushed in. The two boys ran downstairs, so that all five people were in the same room on the ground floor.[2242]

1258. Once inside, the officers informed the family that they were carrying out an operation. They were requested to show the search warrant, but responded that they were acting under presidential order. C4FF13 told the Mission that the agents presented themselves as PNB. All had their faces covered and all but one were wearing black uniforms.[2243]

1259. The officers locked C4FF13 and other female relatives in one of the rooms on the first floor. Just before being forced into the room, C4FF13 saw police officers forcing the men to lie down on the living room floor, face down, with their hands behind their backs. Some of the officers searched the house.[2244]

1260. Around 7 a.m., one of the officers ordered that C4FF13 and other female relatives be taken into custody, escorting them on foot from the house through an alleyway. C4FF13 told the Mission that when she left the house the young men were still lying on the living room floor. Once she was a few metres from the house, she heard gunshots. Upon hearing the gunshots, the police officers escorting them began to shoot into the air. They also made calls on a radio, and she heard them say there was a confrontation and requested support.[2245]

1261. As events were unfolding, a male relative living a short distance away attempted to reach the house. He was unable to do so as police were restricting access to the sector. From his position at the police roadblock, he was able to see the house and he saw officials taking the oldest brother up to the top floor. When he was able to move past the roadblock and reach the house, he asked a police officer about the young men. The agent replied that one had gone to school while the other was still in the house. The police would not let him inside.[2246]

1262. According to C4FF13, the oldest brother was killed in one of the rooms on the top floor, where bullet holes were found on the mattress, while the youngest brother was killed in the living room, where his relatives, who had access the house at around 3 p.m., found a pool of blood. C4FF13, citing the forensic report, explained to the Mission that the youngest brother was shot in the abdomen and chest area and the oldest was shot twice in the chest.

1263. Both died from hypovolemic shock due to the passage of a bullet through the chest. Their parents later found them that afternoon, in the Coche Hospital, neither with signs of life. C4FF13 returned home at around 3 p.m., where she alleges police officers were stealing money and household items. When she objected, a female agent returned a black bag containing her blender, coffee maker, Nintendo and some sheets. Another agent ran away with her money. Later, C4FF13 realized that a camera, clothes, cutlery sets, a wallet, a mobile phone, a watch, a wifi router and a computer monitor were also missing. The walls had also been damaged, seemingly to remove lodged bullets.[2247]

Findings

1264. Based on the facts above, the Mission has reasonable grounds to believe that extrajudicial executions were committed against C4FF24 and that C4FF11 and that members of his family were victims of an arbitrary detention. Caracas based PNB Anti-Drug officers were involved in these violations. The Mission has reasonable grounds to believe that extra judicial executions were committed against the two young brothers during the same operation.

[2242] Ibid.
[2243] Ibid.
[2244] Mission Interview C4FF13 in May 2020.
[2245] Ibid.
[2246] Ibid.
[2247] Asociación Control Ciudadano, Violaciones de Derechos Humanos 2017. Caso de derechos humanos violaciones en El Valle, 28 February 2017, available at: http://www.controlciudadano.org/coyuntura/violaciones-de-derechos-humanos-2017-caso-violaciones-de-ddhh-de-la-olp-en-el-valle.

III. Other extrajudicial executions by police forces

A Numbers of Killings

1265. As noted above, under the 1999 Constitution,[2248] the civilian security forces consist of the uniformed national police corps; the scientific, criminal and criminological investigation corps (CICPC); a civilian fire department and emergency management corps; and a civil defence and disaster management organization.[2249] The 2008 Organic Law on the Police Service and National Police[2250] defines the "integrated police system", comprising the Ministry of the Interior, the PNB, the state police and the municipal police, among others.[2251] The official websites of police institutions contain little information about police work and indicators.[2252]

1266. The Mission investigated 11 cases involving 18 arbitrary deprivations of life by State security forces, which are included in the case studies below. The Mission also conducted an extensive review of cases reported by local press from January 2014 to December 2019 in order to identify and corroborate patterns and changes over time.[2253]

1267. In total, the Mission reviewed 2417 incidents involving 4681 killings by security forces outside of the context of the OLP/OLHPs. This included 96 cases in 2014, 119 cases in 2015, 177 in 2016, 178 in 2017, 625 in 2018 and 1222 in 2019.[2254] As noted above, these do not represent the totality of cases of killings by security forces, which according to the most conservative estimates are for most years, over 10 times these amounts (see table 5 above). The states and regions where the killings by security forces most commonly occurred were Caracas (443), Aragua (289), Zulia (290) Miranda (258) and Lara (226). Other states with significant numbers included Anzoátegui (171), Carabobo (138), Bolivar (106) and Guarico (95). The Mission is not suggesting that all these killings by State security forces constituted arbitrary deprivations of life.

1268. The cases analyzed in the comprehensive press review revealed the involvement of various different police forces and shifts over time in the perpetration of crimes.

Table 7:
Number of victims killed per year per security force (where identified in available information) in cases reviewed by the Mission, outside the context of OLPs/OLHPs

Security Force	*2014*	*2015*	*2016*	*2017*	*2018*	*2019*	*TOTAL*
CICPC	68	47	94	91	264	12	576
PNB	12	12	26	31	26	0	107
PNB/FAES	0	0	0	10	119	796	925
State police	2	6	4	7	57	10	86
Municipal police	24	16	8	15	43	10	116

[2248] Under article 55 of the 1999 Constitution, the State security forces are required to respect human rights and the use of arms is limited by the principles of necessity and proportionality, among others.

[2249] Constitution 1999, art. 332.

[2250] Decree No. 5.895, con Rango, Valor y Fuerza de Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional, published in the Official Gazette No. 5880 (reforms published in Official Gazette No. 5940), available at: https://derechovenezolano.files.wordpress.com/2013/04/ley-orgc3a1nica-del-servicio-de-policc3ada-y-del-cuerpo-de-policc3ada-nacional.pdf. See also webpage of the PNB, available at: http://www.policianacional.gob.ve/index.php/resena/. A proposed reform of the Organic Law has been debated in the National Assembly since 2015. See: https://transparencia.org.ve/project/proyecto-de-la-ley-de-reforma-de-la-ley-organica-del-servicio-de-policia-y-del-cuerpo-de-policia-nacional/.

[2251] Ibid., art. 22.

[2252] http://www.mpprij.gob.ve/, http://www.policianacional.gob.ve/, http://www.cicpc.gob.ve/.

[2253] The press clippings were provided to the Mission by the NGO, PROVEA.

[2254] Ibid.

Security Force	*2014*	*2015*	*2016*	*2017*	*2018*	*2019*	*TOTAL*
GNB		1	13	26	2	34	8	84
Joint actions		2	10	24	8	34	18	96
Other		11	24	26	21	79	379	540
TOTAL		**120**	**128**	**208**	**185**	**656**	**1233**	**2530**

1269. Between 2014 and 2018, the CICPC was the security force most commonly involved in cases (45.4%). Subsequently, in 2019, the PNB/FAES was identified as the perpetrator in the majority of cases (64.5% of cases). These two security forces were responsible for 59% of killings in the years under review. Beyond cases in which the CICPC is directly responsible, witnesses have also alleged that CICPC forensics agents have allegedly also played a role in the cover-up of extrajudicial executions by other police forces, as noted in the case of the Briceño Vera Brothers, below.[2255]

1270. The Mission focused its investigations on these two main alleged perpetrators, the CICPC and the FAES given that time and resource limitations prevented an investigation into all security forces. The Mission investigated in-depth 8 killings involving the CICPC and 10 killings involving the PNB/FAES. An overview of these institutions is in the Security Framework section above. Both of these institutions report to the Ministry of the Interior.[2256]

1271. In the cases reviewed, the victims were overwhelmingly young males (3058). The male victims fell between the following age ranges: under 18 years hold (6 per cent), between 18 and 25 years old (51 per cent), between 26 and 35 years old (31 per cent) and over 35 years old (11 per cent). Only 27 cases reviewed involved women victims of killings.[2257]

1272. The Mission was able to identify common patterns in the cases it reviewed. Despite having different hierarchical structures, the *modus operandi* in killings by the different police forces, including CICPC and PNB/FAES, is similar and is discussed jointly here. Where differences exist between the various security forces, these are mentioned.

1273. On 25 August 2020, in what the Mission recognizes as a positive step, the Attorney General announced that the Public Prosecutor's Office was investigating the killing by PNB/FAES officers in Zulia state of two young journalists, and condemned the patterns of police cover up for these crimes.[2258]

B Patterns

Identification and Targeting

1274. In the cases investigated, the police approached houses directly, suggesting that they had carried out prior intelligence to identify and locate the victims. This was corroborated in interviews with police officers to which the Mission had access. One police officer told an international security expert in an interview to which the Mission had access that the

[2255] See also report by Proiuris, Brutalidad Policial en Venezuela, el CICPC mata igual que los FAES (2020), available at: https://es.scribd.com/document/464370592/2-Reporte-Actuacion-Cuerpo-de-Seguridad-Rev3-06#from_embed.

[2256] CICPC: Decree No. 9.045 con Rango, Valor y Fuerza de "Ley Orgánica del Servicio de la Policía de Investigación, el Cuerpo de Investigaciones Científicas, Penales y Criminalísticas y el Instituto Nacional de Medicina Forense" (15 June 2012), art. 48, available at: https://pandectasdigital.blogspot.com/2017/03/ley-organica-del-servicio-de-la-policia.html; PNB/FAES: Decree No. 5.895, con Rango, Valor y Fuerza de Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional, published in the Official Gazette No. 5880, arts. 17 and 18, available at: https://derechovenezolano.files.wordpress.com/2013/04/ley-orgc3a1nica-del-servicio-de-policc3ada-y-del-cuerpo-de-policc3ada-nacional.pdf.

[2257] Data based on the 2417 incidents reviewed by the Mission.

[2258] YouTube Video, Luigini Bracci Roa, Fiscal General sobre asesinato por el FAES de dos jóvenes de La Guacayama TV en Cabimas, 25 August 2018, available at: https://www.youtube.com/watch?v=93lPRSYcCO4.

PNB/FAES kept files with information about targets, including photos, names, nicknames, suspected crimes and the identity of the person implicating the eventual victim.[2259] Interviewees have also confirmed that information is gathered in part from community-based informants, including the Community Councils.[2260] Overall however, PNB/FAES officers interviewed were consistent that intelligence work was deficient, lacked adequate resources and was subject to a significant margin of error.[2261]

1275. The killings most often took place in the victims' house or the neighbourhood.[2262] 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.[2263] Police entered homes without presenting a warrant.[2264] In almost all of the cases reviewed, police removed the victim's family members, primarily women, older persons and children, from their homes or isolating them from the target in separate rooms or locations in the house.[2265] This was purportedly to hinder the possibility that there were eyewitnesses to the events. Some family members were taken to and held at police stations.[2266] One female relative was dropped off in an unsafe location far from her home in the middle of the night, exposing her to additional danger.[2267]

1276. In several cases, the neighbourhoods were cordoned off and neighbours were told to stay inside their homes.[2268] Some were still able to see or hear certain relevant events, such as shouts or shots fired. During the detentions, some family members, especially women, were insulted for being wives or mothers of "criminals". In two cases, family members were told that the police were radioing headquarters to check the fatal victim's criminal record.[2269]

1277. A number of officials had their faces covered. This is despite the fact that the organic law of the PNB requires that police be identified and uniformed at all times.[2270] The Mission

[2259] Document RSHH05, on file with the Mission.
[2260] Document RSHH04, on file with the Mission.
[2261] Document RSHH04, on file with the Mission; Document RSHH06, on file with the Mission; Document RSHH05, on file with the Mission.
[2262] Case 24: Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar, Yohandri Antonio Trujillo Núñez (18 May 2016); Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (19 July 2017); Case 26: José Daniel Bruzual Pulido; Case 28: C5GG09 (November 2018); Case 29: Luis Enrique Ramos (24 January 2019); Case 30: Luis Alejandro Pérez Llovera (8 April 2019); Case 31: Luis Alfredo Ariza Gamarra (13 May 2019); Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019).
[2263] Including in the cases of Case 26: José Daniel Bruzual Pulido, Case 27: C5GG06 (Ocotber 2018), Case 28: C5GG09 (November 2018), Case 30: Luis Alejandro Pérez Llovera (8 April 2019), Case 31: Luis Alfredo Ariza Gamarra (13 May 2019), Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019), Case 34: John William Linares Rodríguez and Carlos Diosveide Rodríguez Ortiz (29 January 2020).
[2264] Including in the cases of Case 24; Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar, Yohandri Antonio Trujillo Núñez (18 May 2016), Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016), Case 26: José Daniel Bruzual Pulido, Case 27: C5GG06 (October 2018), Case 28: C5GG09 (November 2018), Case 29: Luis Enrique Ramos (24 January 2019), Case 30: Luis Alejandro Pérez Llovera (8 April 2019), Case 31: Luis Alfredo Ariza Gamarra (13 May 2019).
[2265] Including in the cases of Case 24: Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar, Yohandri Antonio Trujillo Núñez (18 May 2016), Case 35: Brothers Irvin Enrique Beomon Mejía (7 August 2016), Case 27: C5GG06 (October 2018), Case 28: C5GG09 (November 2018), Case 30: Luis Alejandro Pérez Llovera (8 April 2019), Case 31: Luis Alfredo Ariza Gamarra (13 May 2019).
[2266] Including in Case 29: Luis Enrique Ramos (24 January 2019), Case 30: Luis Alejandro Pérez Llovera (8 April 2019).
[2267] Case 27: C5GG06 (October 2018)
[2268] Including in the cases of Case 26: José Daniel Bruzual Pulido, Case 27: C5GG06 (October 2018), Case 29: Luis Enrique Ramos (24 January 2019), Case 30: Luis Alejandro Pérez Llovera (8 April 2019).
[2269] Case 27: C5GG06 (October 2018), Case 31: Luis Alfredo Ariza Gamarra (13 May 2019).
[2270] Decree No. 5.895, con Rango, Valor y Fuerza de Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional, published in the Official Gazette No. 5880 (reforms published in Official Gazette

interviewed a witness who reported recognizing a member of the State security force as one of her neighbours once he removed his facemask during an OLP.[2271] Although most police officials were male, female officials also participated in the killings. In at least seven cases investigated by the Mission, witnesses mentioned the presence of female officers. In at least one case, a female officer appeared to lead the operation.[2272]

1278. An allegation appearing in almost all of the cases investigated was that the police officers took basic goods, such as food and clothing, and valuables, such as cash, jewellery, and electronics from the houses of the fatal victims.[2273]

Extrajudicial Executions

1279. Based on its investigation and given the high number of deaths allegedly due to "resistance of authority" the Mission has reasonable grounds to believe that PNB/FAES and CICPC committed extrajudicial executions during the operations described below, characterised by the reiteration of the conduct and similarities in the modalities of the operations.

1280. The Mission documented a pattern of shootings at point blank range in vital areas, including the head[2274] and thorax[2275] with one or two shots. One former PNB/FAES officer interviewed by the Mission said police officers refer to killings as "squaring people".[2276] This interviewee said that there is a "triangle" from the chest of the victim upwards "where shooting people is allowed".[2277] This appears to indicate a lack of intention to employ less lethal force to restrain or apprehend the suspected offender. Article 65 of the Organic Law of the Police provides that special precautions need to be taken to protect human life and reduce the damages and injuries when the use of firearms is inevitable.

1281. In the 11 cases investigated by the Mission, the official version of the events was that the victims were killed while resisting arrest, in a "confrontation" and/or during an exchange of fire.[2278] In all these cases, the official versions and the versions of the relatives of the person killed have been irreconcilable. Witnesses interviewed by the Mission 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 their hands raised. In some cases, they saw the officers firing the fatal shot.

1282. Cases investigated and reviewed have enabled the Mission to identify a pattern of allegations that police attempted to cover up killings by simulating confrontations.[2279] In 565

No. 5940), art. 68, available at: https://derechovenezolano.files.wordpress.com/2013/04/ley-orgc3a1nica-del-servicio-de-policc3ada-y-del-cuerpo-de-policc3ada-nacional.pdf.

2271 Case 27: C5GG06 (October 2018).

2272 Ibid.

2273 Including in the cases of Case 24: Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar, Yohandri Antonio Trujillo Núñez (18 May 2016), Case 27: C5GG06 (October 2018), Case 28: C5GG09 (November 2018), Case 29: Luis Enrique Ramos (24 January 2019), Case 30: Luis Alejandro Pérez Llovera (8 April 2019), Case 31: Luis Alfredo Ariza Gamarra (13 May 2019), Case 34: John William Linares Rodríguez and Carlos Diosveide Rodríguez Ortiz (29 January 2020).

2274 Case 25: Irvin Enrique Beomon Mejía (7 August 2016).

2275 Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016), Case 26: José Daniel Bruzual Pulido, Case 28: C5GG09 (November 2018).

2276 C1HH01 in June 2020.

2277 Ibid.

2278 Including in the cases of Case 24: Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar, Yohandri Antonio Trujillo Núñez (18 May 2016), Case 25: Irvin Enrique Beomon Mejía (7 August 2016), Case 25: Inyerber José Beomon Mejía, Case 27: C5GG06 (October 2018), Case 28: C5GG09 (November 2018), Case 29: Luis Enrique Ramos (24 January 2019), Case 30: Luis Alejandro Pérez Llovera (8 April 2019), Case 31: Luis Alfredo Ariza Gamarra (13 May 2019), Case 34: John William Linares Rodríguez and Carlos Diosveide Rodríguez Ortiz (29 January 2020).

2279 Including in the cases of Case 24: Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar, Yohandri Antonio Trujillo Núñez (18 May 2016), Case 25: Inyerber José Beomon Mejía, Case 26: José Daniel Bruzual Pulido, Case 27: C5GG06 (October 2018), Case 28: C5GG09 (November 2018), Case 30: Luis Alejandro Pérez Llovera (8 April 2019), Case 31: Luis Alfredo

cases reviewed by the Mission, the families of the victim alleged that a simulation or altering of the information had taken place.[2280] This includes:

- Altering the crime scene and/or destroying forensic information
- Simulating that a shootout had occurred by shooting objects around the house
- Simulating that the victim was escaping by shouting statements like "don't run away!"
- Firing a shot from the hand of the victim to leave him with traces of gunpowder that will then be detected in forensic examinations
- Planting weapons (often a .38 calibre weapon) or contraband
- Transferring victims to hospitals even if the person is dead (and in some cases delaying taking the victim to the hospital)

1283. PNB/FAES officials interviewed by the Mission corroborated these allegations, confirming practices of simulation of apparent confrontation. A former FAES 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".[2281] Another fomer FAES officer also said that the police routinely planted a gun or a grenade (called in the jargon "agricultural missions" to plant "seeds")[2282] and then alleged that there was an armed confrontation.[2283]

1284. 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.[2284] In 723 of the cases reviewed by the Mission, the families of the victims said that the victim had no criminal history.[2285] 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.[2286]

1285. Effective investigations and accountability for these deaths has been lacking. Where authorities know or should have known of potentially unlawful deprivations of life, they are obliged to investigate and, where appropriate, prosecute the perpetrators of such incidents.[2287] An investigation into violations of the right to life should commence ex officio.[2288] A failure to respect the duty to investigate an allegation of unlawful death may in itself constitute a breach of the right to life.[2289]

Gendered impacts

1286. Fatal victims in the cases reviewed by the Mission were exclusively male, consistent with the overall trend of targeting young men. Although women were not direct targets of physical violence in the operations, in at least four of the cases documented, female family

Ariza Gamarra (13 May 2019), Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019).

2280 Data of file with the Mission.

2281 Mission Interview C5HH01 in July 2020.

2282 Mission interview C1HH03 in June 2020.

2283 Mission interview C5HH03 in July 2020.

2284 Statement made by a FAES police officer with an international citizen security expert, Document RSHH02, on file with the Mission. Compilation of social media posts with photos of the victims, on file with the Mission.

2285 Data on file with the Mission.

2286 Data on file with the Mission.

2287 Human Rights Committee, General Comment No. 36, CCPR/C/GC/36, para. 13. See also CCPR/C/21/Rev.1/Add. 13, para. 15.

2288 See CCPR/C/GC/36, para. 29, citing European Court of Human Rights, Tanrikulu v. Turkey (application No. 23763/94), Judgment of 8 July 1999, para. 103.

2289 See /HRC/26/36, para. 79. See also Kaya v. Turkey, European Court of Human Rights, application No. 22729/93 (19 February 1998) paras. 86-92. See also 2017 Revised United Nations Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, p. 4 and Preamble to the UN Basic Principles and Guidelines on the Right to Remedy and Reparation.

members reported being physically assaulted by security forces.[2290] In one case, all the family members, including a toddler, were beaten by FAES officers. A female PNB/FAES officer took the fatal victim's sister to another room where she continued to beat her.[2291]

1287. Female officers often took charge of managing female family members encountered during the operations, though in one case male officials beat a 16-year-old girl on her back and her buttocks while insulting her and her mother.[2292] In one case where no female officers participated, male officers threatened to send for a female officer to handle an incompliant woman.[2293]

1288. In at least seven of the cases investigated by the Mission, female family members reported threats from security officers, either during the operations or when filing complaints and seeking accountability. The mother of a fatal victim reported that officers said they would return to kill her other son, an act that did occur.[2294] In another case, officers told a mother that unless she disclosed her eldest son's whereabouts, they would return to kill her other three sons.[2295] A grandmother who tried to keep officers out of her house was told it would be much worse for her if they had to resort to violence, so she let them inside despite their lack of warrant.[2296] In a case where three male relatives had been killed, FAES threatened to "wipe out" the family. Just over a year later, CICPC agents killed another two male relatives.[2297]

1289. In some cases, security officers also degraded female relatives on the basis of their gender and relationships to their male targets. One mother was insulted for having given birth to and then supporting criminals.[2298] Female relatives in another case were forced by a female official to strip and jump naked, ostensibly to ensure they did not have contraband hidden in their vaginas, while she criticized them for being the romantic partners of criminals. FAES officers called the girls and women "damned bitches" (*malditas perras*) and "whores" (*putas*).[2299]

1290. In almost all of the cases documented, surviving female relatives reported suffering significant economic hardship following the executions of their sons, brothers or husbands.[2300] Many of the men executed were fathers of young children, and families lived in precarious situations in marginalized neighbourhoods.[2301] In some cases, after the killings, no men were left in the household.[2302]

1291. Both young and older women shouldered additional financial responsibilities, not only to replace the economic support previously provided by the men and ensure the health, education and well-being of children and older persons in their care, but also to replace basic goods and valuables stolen during the operations.[2303] At least one woman was forced to

[2290] Case 26: José Daniel Bruzual Pulido; Case 29: Luis Enrique Ramos (24 January 2019); Case 25: The Briceño Vera Brothers (20 May 2019); Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019).

[2291] Mission interview with María Ramos in June 2020, para. 9, para 12.

[2292] Complaint filed to Public Prosecutor's Fundamental Rights Office, 1 November 2019, p. 3, on file with the Mission.

[2293] Case 32: The Briceño Vera Brothers (20 May 2019).

[2294] Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (17 July 2017).

[2295] Case 32: The Briceño Vera Brothers (20 May 2019).

[2296] Csae 30: Luis Alejandro Pérez Llovera (8 April 2019)

[2297] Mission interview with C5GG12 in June 2020, para. 3.

[2298] Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (17 July 2017).

[2299] Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019).

[2300] See, for example, Case 27: C5GG06 (October 2018), Case 28: C5GG09 (November 2018).

[2301] Case 26: José Daniel Bruzual Pulido; Case 34: John William Linares Rodríguez and Carlos Diosveide Rodríguez Ortiz (29 January 2020).

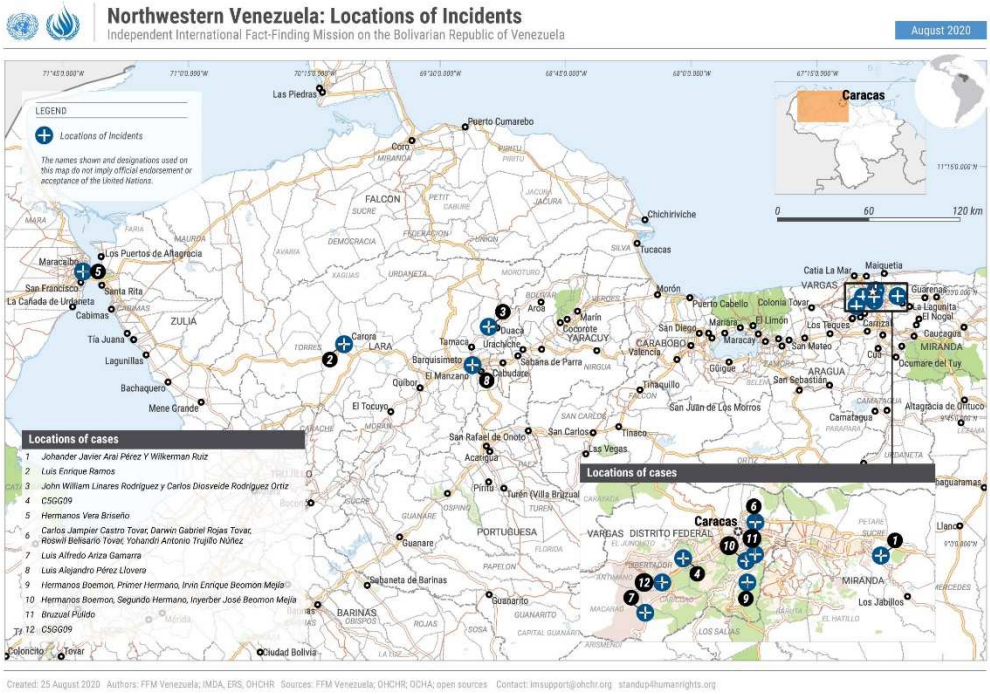
[2302] See, for example, Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (17 July 2017), Case 26: José Daniel Bruzual Pulido.

[2303] Case 26: José Daniel Bruzual Pulido.

migrate, leaving her toddler in the care of the grandmother, increasing the caregiving responsibility of older relatives.[2304]

C. Cases

1292. The Mission selected the following cases for detailed analysis. Specific selection criteria included whether the cases were representative of the pattern, as well as security and other considerations, including, inter alia, availability of witnesses, legal case files, and digital information. These cases are representative of similar situations experienced by many others. The inclusion of these cases and not others does not imply that others have not also suffered violations, nor minimizes the experiences of other victims.



CASE 24: Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar, Yohandri Antonio Trujillo Núñez (18 May 2016)

1293. On 18 May 2016, Carlos Jampier Castro Tovar (19), Darwin Gabriel Rojas Tovar (28), Roswil Belisario Tovar (25) and Yohandri Antonio Trujillo Núñez (21) were at their home in the "Los Lanos" neighbourhood, Santa Barbara alleyway next to the Santa Barbara Church, San Bernardino Parish, Capital District.[2305] They were there with Ms. Glory Tovar, mother to Carlos and Darwin, her husband, another son, her two daughters-in-law and two nephews.[2306] Roswil was one of her nephews and Yohandri was a friend.

1294. According to information accessed by the Mission, Roswil Belisario Tovar had been detained in 2013 for murder.[2307] Yohandri Antonio Trujillo Núñez was wanted for a crime,

2304 Case 31: Luis Alfredo Ariza Gamarra (13 May 2019).

2305 Mission interview with Glory Tovar in May 2020.

2306 The Mission confirmed these facts with Glory Tovar. Glory Tovar´s original statement was provided to COFAVIC; see also La Tercera, El alza de la violencia hunde a Venezuela en la desesperanza, 17 July 2017, available at: https://www.latercera.com/noticia/alza-la-violencia-hunde-venezuela-la-desesperanza/.

2307 CICPC, Criminal Records Report, 20 May 2016, annex 2 p. 20, on file with the Mission; see also CICPC Criminal Records Report, 19 May 2016, annex 8 p. 13, on file with the Mission.

although the Mission could not find information about the crime he allegedly committed.[2308] Carlos Jampier Castro Tovar and Darwin Gabriel Rojas Tovar had no criminal record.[2309]

The Facts

1295. Ms. Tovar was preparing breakfast at around 9 a.m. on 18 May 2016, when one of her children said, "Mommy, there's a policeman at the door".[2310] Ms. Glory Tovar asked the police through a window, "What can I do for you?"[2311] She then opened the door and about five policemen wearing CICPC uniforms entered. They did not produce a search warrant.[2312] They told her that they were conducting a search and that if they did not find anything they would leave.[2313] One of the policemen was giving the orders.[2314]

1296. They ascended to the first floor and started shouting, "women and children out!"[2315] They took Ms. Tovar's nine year old grandson out of his bathroom with a gun pointed to his head.[2316] Most of the family was taken from the house, but Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar and Yohandri Antonio Trujillo Núñez, remained inside.[2317]

1297. Ms. Glory Tovar remained in the vicinity and heard a struggle inside the house. She saw other police officers cordon off the area.[2318] She claims that neighbours were threatened and instructed to stay inside, so that they would not witness the situation.[2319] Witnesses in the area later told the Public Prosecutor's Office that the CICPC used two vehicles, a motorcycle and a Jeep.[2320]

1298. Ms. Glory Tovar confirmed to the Mission that when she looked through the window, she saw the four young men on the ground, with CICPC officers pointing guns at them.[2321]

2308 CICPC, Criminal Records Report, 19 May 2016, annex 8 p. 12, on file with the Mission.

2309 CICPC, Criminal Records Report, 20 May 2016, annex 2 p. 20, on file with the Mission; see also CICPC, Criminal Records Report, 19 May 2016, annex 8 pp. 14-15.

2310 Amnesty International, Crónica del tortuoso proceso de investigación de las ejecuciones extrajudiciales en Venezuela, 29 May 2018, available at: https://www.amnistia.org/ve/blog/2018/05/6351/cronica-del-proceso-de-investigacion-de-las-ejecuciones-extrajudiciales.

2311 Ibid.

2312 The Mission confirmed these facts with Glory Tovar. Glory Tovar´s original statement was provided to COFAVIC.

2313 Amnesty International, Crónica del tortuoso proceso de investigación de las ejecuciones extrajudiciales en Venezuela, 29 May 2018, available at: https://www.amnistia.org/ve/blog/2018/05/6351/cronica-del-proceso-de-investigacion-de-las-ejecuciones-extrajudiciales.

2314 Mission interview with Glory Tovar in May 2020.

2315 Amnesty International, Crónica del tortuoso proceso de investigación de las ejecuciones extrajudiciales en Venezuela, 29 May 2018, available at: https://www.amnistia.org/ve/blog/2018/05/6351/cronica-del-proceso-de-investigacion-de-las-ejecuciones-extrajudiciales.

2316 Mission interview with Glory Tovar in May 2020; see also Amnesty International, Crónica del tortuoso proceso de investigación de las ejecuciones extrajudiciales en Venezuela, 29 May 2018, available at: https://www.amnistia.org/ve/blog/2018/05/6351/cronica-del-proceso-de-investigacion-de-las-ejecuciones-extrajudiciales.

2317 Mission interview with Glory Tovar in May 2020; see also Public Prosecutor's Office 83 interview with Glory Tovar on 13 June 2016, annex 1 pp. 13-14, on file with the Mission; Public Prosecutor's Office 83; interview with C5GG01 on 13 June 2016, Statement, annex 1 p. 16-18, on file with the Mission; and Public Prosecutor's Office 83 interview with C5GG02 on 13 June 2016 Statement, annex 1 pp. 19-21, on file with the Mission.

2318 Corroborated by the Public Prosecutor's Office 83 interview with C5GG03 on 6 July 2017, annex 7 pp. 1-2, on file with the Mission.

2319 Corroborated by the Public Prosecutor's Office 83 interview with C5GG04 on 6 July 2017, annex 7 pp. 3-5, on file with the Mission.

2320 Public Prosecutor's Office 83 interview with C5GG05 on 13 June 2016, annex 1 p. 1, on file with the Mission.

2321 Mission interview with Glory Tovar in May 2020; Mission confirmed these facts with Glory Tovar. Glory Tovar's original statement was provided to COFAVIC; see also Amnesty International,

CICPC officials then placed sheets over the windows, presumably to prevent people from seeing what was happening inside.[2322]

1299. Around 40 minutes after the family had been removed from the house, Ms Glory Tovar heard the brothers shouting and crying for help from inside. Then she heard shots fired.[2323] It was around 11 a.m. by this stage. Ms. Glory Tovar remembers hearing more than ten shots, before she fainted. She does not know how long it took her to regain consciousness.[2324]

1300. A period of time elapsed, the length of which the Mission has been unable to establish. More officers arrived with briefcases and cleaning materials.[2325] The CICPC officers took the four covered bodies out of the house.[2326] Ms. Glory Tovar claims that the officers planted weapons at the scene to support the explanation of a confrontation.[2327]

1301. Furniture and broken objects were left in the house, as well as stained sheets, towels and curtains. Ms. Glory Tovar has accused the officers of shooting at the ceiling to simulate a confrontation.[2328] There were impact marks made by bullets in every room.[2329] The police stole household goods, computer equipment, mobile device, clothes and toolbox.[2330]

1302. The bodies were first taken to the José María Vargas Hospital.[2331] The relatives identified the bodies of the four young men in the morgue, each with gunshot wounds.[2332] According to Ms. Glory Tovar, CICPC claimed that the victims had been gang members, in

Crónica del tortuoso proceso de investigación de las ejecuciones extrajudiciales en Venezuela, 29 May 2018, available at: https://www.amnistia.org/ve/blog/2018/05/6351/cronica-del-proceso-de-investigacion-de-las-ejecuciones-extrajudiciales.

2322 Mission confirmed these facts with Glory Tovar. Glory Tovar's original statement was provided to COFAVIC; see also Public Prosecutor's Office 83 interview with C5GG03 on 6 July 2017, annex 7 p. 1, on file with the Mission.

2323 Mission confirmed these facts with Glory Tovar. Glory Tovar's original statement was provided to COFAVIC.

2324 Amnesty International, Crónica del tortuoso proceso de investigación de las ejecuciones extrajudiciales en Venezuela, 29 May 2018, available at: https://www.amnistia.org/ve/blog/2018/05/6351/cronica-del-proceso-de-investigacion-de-las-ejecuciones-extrajudiciales; see also Public Prosecutor's Office 83 interview with Glory Tovar on 13 June 2016, annex 1 p. 13.

2325 Mission interview with Glory Tovar in May 2020.

2326 Mission confirmed these facts with Glory Tovar. Glory Tovar's original statement was provided to COFAVIC; Public Prosecutor's Office 83 interview with C5GG03 on 6 July 2017, annex 7, pp. 1-2, on file with the Mission.

2327 Mission confirmed these facts with Glory Tovar. Glory Tovar's original statement was provided to COFAVIC; see also Annual Report of PROVEA 2016, Annex 22 casos de ciolaciones al derecho a la vida (2017), p. 30, available at: https://www.derechos.org.ve/web/wp-content/uploads/22-casos-de-violaciones-al-derecho-a-la-vida.pdf.

2328 Mission interview with Glory Tovar in May 2020; see also Public Prosecutor's Office 83 interview with Glory Tovar on 13 June 2016, annex 1 pp. 13-14; Public Prosecutor's Office 83 interview with C5GG01 on 13 June 2016 Statement, annex 1 pp. 16-18, on file with the Mission; and Public Prosecutor's Office 83 interview with C5GG02 on 13 June 2016 Statement, annex 1 pp. 19-21, on file with the Mission.

2329 See YouTube Video, Amnesty International, Venezuela: 'Esto no es vida' – Testimonios de familiares asesinados, 20 September 2018, minute 0:34, available at: https://www.youtube.com/watch?v=behbc4tnSww.

2330 Mission interview with Glory Tovar in May 2020; Amnesty International, Crónica del tortuoso proceso de investigación de las ejecuciones extrajudiciales en Venezuela, 29 May 2018, available at: https://www.amnistia.org/ve/blog/2018/05/6351/cronica-del-proceso-de-investigacion-de-las-ejecuciones-extrajudiciales.

2331 CICPC, Report on receipt of bodies, 18 May 2016, annex 1 p. 6, on file with the Mission.

2332 CICPC, Inspection of bodies, 18 March 2016, annex 2 pp. 22-44; see also Civil Registry, Death Certificates, annex 9, on file with the Mission.

possession of a firearm and had died in a confrontation with CICPC officers. Ms Glory Tovar disputes these allegations.[2333]

The Official Position

1303. According to the CICPC Murder Division's report, the CICPC officers had been carrying out investigations at the Santa Bárbara alleyway when they saw four nervous and elusive individuals, who they order to stop. Instead, the individuals drew weapons and entered a house. Four police officers chased them into the house, where the officers were fired upon.

1304. The officers reported having no choice but to use their weapons to protect their lives and those of others. After a short exchange of gunfire the individuals were injured. The officers reported events by radio and backup arrived. The individuals were transported to the hospital for medical attention.[2334] The same report reflects the collection of four firearms at the scene of the events and the existence of four bodies with injuries compatible with gunshot wounds at the hospital.[2335]

1305. According to the police version, published in the press on the day of the incident, "Police were patrolling when they observed four individuals who, upon noticing the police presence, did not respond to the officers' calls. In the middle of the crossfire, the anti-socials fled to a three-story house, which the officers entered".[2336]

1306. There is no indication that any CICPC officers were injured in the operation. The four young men were all killed; there is no information that less-lethal force was attempted or de-escalation or restraint measures were used.

Legal Proceedings

1307. Four of the CICPC officers involved in the operation were summoned by the Eighty-Third Prosecutor's Office of the Caracas Metropolitan Area:[2337] Deivy José Quintero Loreto; Edgardo Rafael Alfonzo Martínez; Darryl José Pérez Patio; Deivis Calderón. Ms. Glory Tovar has confirmed to the Mission that an official with the Public Prosecutor's Office told her, "I am not going to file charges against the police because two of your relatives had criminal records".[2338]

1308. The case was transferred to the 125th Prosecutor's Office, which reported making progress with the investigations.[2339] According to Ms. Glory Tovar a court hearing had not yet occurred at the time of writing, more than four years after the events.

1309. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

[2333] Amnesty International, Crónica del tortuoso proceso de investigación de las ejecuciones extrajudiciales en Venezuela, 29 May 2018, available at: https://www.amnistia.org/ve/blog/2018/05/6351/cronica-del-proceso-de-investigacion-de-las-ejecuciones-extrajudiciales; 2001 On Line, Familia desmiente presunto enfrentamiento con el Cicpc en San Benardino, 21 May 2016, available at: https://www.2001online.com/en-la-calle/131493/familia-desmiente-presunto-enfrentamiento-con-el-cicpc-en-san-benardino.html.

[2334] CICPC, Report of Criminal Investigation by the Murder Division, 18 May 2016, annex 1 pp. 7-12, on file with the Mission.

[2335] Ibid.

[2336] La Vida De Nos, Glory Tovar, 30 January 2018, available at: https://www.lavidadenos.com/disparosalcorazon/glory-tovar/

[2337] Public Prosecutor's Office 83, Summonses to appear, 31 October 2016, annex 5 pp. 22-25, on file with the Mission.

[2338] Mission interview with Glory Tovar in May 2020.

[2339] Public Prosecutor's Office 83, Order for the commencement of an investigation, 18 May 2016, annex 1 p. 3, on file with the Mission.

Findings

1310. Based on the facts above, the Mission has reasonable grounds to believe that extrajudicial executions were committed against Mr. Carlos Jampier Castro Tovar, Mr. Darwin Gabriel Rojas Tovar, Mr. Roswil Belisario Tovar and Mr. Yohandri Antonio Trujillo Núñez. CICPC officers active on 18 May 2016 in Los Llanos, San Bernardino, Capital District, including Deivy José Quintero Loreto; Edgardo Rafael Alfonzo Martínez; Darryl José Pérez Patio and Deivis Calderón were involved in the extrajudicial executions.

CASE 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (19 July 2017)

1311. Located in southern Caracas, the parish of El Valle has 147,592 inhabitants and is one of the most violent areas of the capital. According to the NGO Victims Monitor, El Valle had a homicide rate of 74.5 per 100,000, of which 34.6 per cent was attributable to State security forces for the period between May 2017 and May 2018.[2340]

Irvin Enrique Beomon Mejía

1312. Mr. Irvin Beomon was 22 years old at the time of his death. He was detained on suspicion of murder in late 2015. On 6 April 2016, he escaped from the "Sub-Delegation El Valle" detention centre along with six other detainees.[2341] There appears to have been an armed confrontation during the escape, in which one or more police officers were killed. Mr. Irvin Beomon's mother stated that the other six escapees were tracked down and killed in the following days and months. Her son was the last one to be found.[2342]

1313. Mr. Irvin Beomon had three warrants out for his arrest, for crimes unknown to the Mission. He was also wanted by the Police Murder Investigations Division, for another unidentified crime. His police records also show an entry dated 31 January 2014, by the Police Murder Investigations Division for the crime of intentional homicide, for which he was detained, and another entry dated 25 August 2015, by the Sub-Delegation El Valle for attacking a public officer.[2343]

1314. At the time of his death, he no longer lived with his mother Zenaida Mejía and his younger brother Inyerber José Beomon Mejía (20) or his grandmother in the family home.[2344]

The Facts

1315. On the morning of 7 August 2016, Mr. Irvin Beomon went to visit his mother's house in Parroquia El Valle, Municipio Libertador, Capital District. His mother shared the bouse with his 20-year-old brother, Inyerber José Beomon Mejía. According to his mother, Mr. Irvin Beoman had just finished breakfast at around 10 a.m. and was relaxing on the balcony when a CICPC officer shot him from outside the house.[2345] The bullet went into his right buttock and Mr. Irvin Beomon fell to the ground.[2346]

[2340] Monitor de Víctimas, Bajo Tierra: Las muertes por parte de organismos públicos y el aumento de las muertes violentas en Caracas, available at: https://miconvive.com/wp-content/uploads/2018/12/Bajo-Tierra.-Reporte-MDV-2.pdf.

[2341] Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC. The Mission has not be able to ascertain whether Mr. Irvin Briceño had been convicted of the murder, or whether he was in pre-trial detention at the time of the escape.

[2342] Mission interview with Zenaida Mejía in May 2020.

[2343] CICPC, Record of the Police Investigation, K-16-0017-00630, 7 August 2016, annex 1 pp. 49-50, on file with the Mission.

[2344] Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.

[2345] Mission interview with Zenaida Mejía in May 2020. Public Prosecutor's Office 81 interview with Zenaida Mejía on 9 January 2017, annex 1 p. 76, on file with the Mission.

[2346] Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.

1316. CICPC officers then broke into the house, entering without a warrant. According to Zenaida Mejía, they immobilized Mr. Irvin Beomon and searched the property.[2347] Five officers were involved, all with short firearms. The CICPC officers tied Mr. Irvin Beomon's hands[2348] and climbed on top of him.[2349]

1317. Ms. Zenaida Mejía told the Public Prosecutor's Office that she remembered that one of the officers asked "are we going to take him?" to which another responded "no, it is a *coquero*, kill him" (in local slang, "*coquero*" refers to a person who must be shot dead). The CICPC officer shot Mr. Irvin Beomon in the head. The CICPC officers then locked Ms. Zenaida Mejía in the bathroom.[2350]

1318. Ms. Zenaida Mejía managed to leave the bathroom without the officers noticing. Her son was on the floor but he said, "Mommy I am alive", "I love you mommy" and blew her a kiss with his left hand.[2351] His mother told him to play dead.[2352] One of the CICPC officers heard them, approached her and said, "That bastard is alive", before firing a third shot into Mr. Irvin Beoman's chest.[2353]

1319. The Mission also secured access to Mr. Beoman's death certificate, which recorded hypovolemic shock, internal bleeding caused by gunshot as cause of death.[2354] This coincides with the report issued by the Medical Examiner's Office, reviewed by the Mission, which states that Mr. Irvin Beomon was shot four times, twice in the leg, once in the head and once in the chest, the latter being the cause of death.[2355]

1320. According to Ms. Zenaida Mejía, the officers said that they would return and kill her other son. They insulted her for giving birth to and then covering up for criminals.[2356] Her other son, Inyerber José Beomon Mejía, had been present when the CICPC killed his brother and was threatened. Ms. Zenaida Mejía told the Mission on 6 May 2020 that the CICPC told him, "We'll come for you within a year".[2357] The Mission notes that this "temporal" detail was not mentioned in Ms. Mejía's statement to the Public Prosecutor's Office on 9 January 2017. Nonetheless, Ms. Mejía did tell the Public Prosecutor's Office that CICPC officers told her other son that he too would be "taken away".[2358]

1321. The CICPC Police Investigation Act states that officers were patrolling the area where the Beomon Mejía family lived and observed a male subject carrying a firearm. The officers called out to him, but the individual fired shots at the officers and fled on foot, running into an alleyway before entering a house. The police pursued him into the house and the person confronted them, firing shots. CICPC officers fired shots to repel the attack. The police officers used 9mm calibre pistols.[2359]

2347 Ibid.

2348 Public Prosecutor's Office 81 interview with Zenaida Mejía on 9 January 2017, annex 1 p. 78, on file with the Mission.

2349 Mission interview with Zenaida Mejía in May 2020.

2350 Public Prosecutor's Office 81 interview with Zenaida Mejía on 9 January 2017, annex 1 p. 78, on file with the Mission.

2351 Mission interview with Zenaida Mejía in May 2020.

2352 Public Prosecutor's Office 81 interview with Zenaida Mejía on 9 January 2017, annex 1 p. 78, on file with the Mission.

2353 Mission interview with Zenaida Mejía in May 2020; Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.

2354 Civil Registry, Death certificate, 022/1522, 11 August 2016, annex 1 p. 1, on file with the Mission.

2355 SEMAMECF, Report of body examination (Irvin Beomon), 136-171232, 6 October 2016, annex 1 p. 51, on file with the Mission; SEMAMECF, Autopsy Protocol (Irvin Beomon), annex 1 pp. 53-54, 136-171232, 22 September 2016, on file with the Mission.

2356 Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.

2357 Mission interview with Zenaida Mejía in May 2020.

2358 Public Prosecutor's Office 81 interview with Zenaida Mejía on 9 January 2017, annex 1 p. 77, on file with the Mission.

2359 CICPC, Record of the Police Investigation, K-16-0017-00630, 7 August 2016, annex 1 pp. 47-50, on file with the Mission.

1322. According to the Police Investigation Act, the CICPC retrieved a 38-calibre pistol from the scene, which the police claimed had been fired at them. The Police Investigation Act recorded that Mr. Irvin Beomon's body had six gunfire wounds. It also provided a ballistic trajectory report showing that the 38-calibre pistol apparently found at the scene had been fired.[2360]

1323. According to the technical ballistic survey, the shells found at the site where Mr. Irvin Beomon was killed were fired by the 38-calibre revolver found at that site.[2361] The electron microscopy report indicates that there were traces of bullet fulminate in Mr. Irvin Beomon's right hand, which according to the expert who signed that report can only be detected when a gunshot is fired.[2362] The Mission received information from a former FAES officer that it was common practice to effect a gunshot with the hand of the dead person in anticipation of this expertise.[2363] The Mission has not been able to establish whether Mr. Beomon's case is an example of these practices.

1324. Similarly, the former FAES officer stated that it was common practice for policemen to carry a weapon of low calibre and usually without numeration to be planted at the scene of the crime. This practice was so common that there was a nickname for these kinds of firearms, called "chimbos".[2364] Here too, the Mission has not been able to establish whether Mr. Beomon's case is an example of this practice.

1325. Mr. Irvin Beomon's family disputed details formally, in a complaint submitted to the Public Prosecutor's Office that he had a firearm and he confronted the authorities. The Eighty-First Prosecutor's Office for Human Rights was assigned to investigate the case.[2365] At the time of writing, Mr. Irvin Beomon's family had no indication that the investigation had progressed.[2366] After Mr. Beomon's death, according to his mother, CICPC officials continued to harass his relatives.

1326. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Inyerber José Beomon Mejía

1327. Mr. Inyerber José Beomon Mejía was 20 years-old at the time of his death. He worked in maintenance at the National Institute of Socialist Training and Education in San Martín, Caracas. He had been detained on suspicion of homicide in 2013 at Sub-Delegation El Paraíso.[2367]

1328. As mentioned above, Ms. Zenaida Mejía stated that during the incident in which Irvin Enrique Beomon Mejía was killed, CICPC officials had sworn to her that they would return and kill her second son.[2368] After Irvin's death, Ms. Zenaida Mejía recalled that the police had told her that they would come for Inyerber within a year.[2369]

2360 Ibid.
2361 CICPC, Ballistic Report (Irvin Beomon), 9700-18-4976-16, 15 January 2017, annex 1 pp. 74-75, on file with the Mission.
2362 CICPC, Microscopic Report (Irvin Beomon), 9700-053-AME-ATD-2557-16, 8 August 2016, annex 1 p. 73, on file with the Mission.
2363 Mission interview with C5GG80 in July 2020.
2364 Ibid.
2365 The Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC. Public Prosecutor's Office 81 interview with Zenaida Mejía on 9 January 2017, annex 1 p. 76-79, on file with the Mission.
2366 Mission interview with Zenaida Mejía in May 2020.
2367 CICPC, Minutes of criminal interview, K-17-0017-00467, 20 July 2017, annex 1 p. 6, on file with the Mission.
2368 Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.
2369 Mission interview with Zenaida Mejía in May 2020.

The Facts

1329. On 19 July 2017, at about 11 a.m., Inyerber José Beomon Mejía went shopping with his mother, Zenaida Mejía, near El Valle Parish. Ms. Zenaida Mejía entered a store while Inyerber José waited outside.[2370] From inside the store she heard motorcycles arriving.[2371] After making her purchases, she left the store and was notified by the neighbours that the men on the motorcycles were PBN officers and they had arrested her son.[2372] Ms. Zenaida Mejía told the Mission that her son was only carrying his phone and wallet, and that he had not been armed.[2373]

1330. Ms. Zenaida Mejía went to several PNB commands to request information about Mr. Beomon Mejía's whereabouts. In each command that she visited, the officials denied having any information.[2374]

1331. Hours later, Inyerber José's mother was informed that her son's dead body had been admitted to the Coche Hospital of the Libertador Municipality in Caracas. It was one of six dead bodies brought in together.[2375] The Mission notes that, on the day following the events Ms. Zenaida Mejía provided a statement to the CICPC Murder Investigations Division.[2376] In this occasion she only reported this phone call, during which she was told that her son was killed in an exchange of fire with the police.

1332. The Mission was able to access the death certificate, which recorded hypovolemic shock caused by a gunshot wound to the chest, as the cause of death.[2377] Consistent with this, the Medical Examiner's Report recorded a wound with a circular border in the sternum and a wound with a circular border in the left iliac fossa (hip).[2378] Two firearm projectiles were removed from Inyerber Jose's body.[2379]

1333. The technical inspection carried out by the CICPC listed the locations where the killing might have taken place. This was based on bullet casings that were retrieved from the entrance "Los Cardoso", behind the Antonio Pinta Saína school, Parroquia el Valle, Caracas;[2380] the Portuguese staircase, next to the Antonio Pinta Saína school, Parroquia el Valle, Caracas;[2381] and Callejón los Cedros, staircase 2 San Andrés, the upper part of La Ceibita.[2382]

[2370] The Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.

[2371] Mission interview with Zenaida Mejía in May 2020.

[2372] The Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.

[2373] Mission interview with Zenaida Mejía in May 2020.

[2374] The Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.

[2375] Mission interview with Zenaida Mejía in May 2020; The Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.

[2376] CICPC, Minutes of criminal interview, K-17-0017-00467, 20 July 2017, annex 1 p. 5, on file with the Mission.

[2377] Civil Registry, Death certificate, 066/2816, 21 July 2017, annex 1 p. 3, on file with the Mission; SEMAMECF Corpse Removal Report (Inyerber Beomon), 136-175972, 9 August 2017, annex 1 p. 46.

[2378] CICPC, Forensic Technical inspection (Inyerber Beomon), 17-0017-00467, 19 July 2017, annex 1 p. 8, on file with the Mission; SENAMECF, Autopsy Report (Inyerber Beomon), 136-175972, 31 July 2017, annex 6, on file with the Mission.

[2379] SENAMECF, Notification (Inyerber Beomon), 9700-129-0075, 2 October 2017, annex 1 p. 16, on file with the Mission.

[2380] CICPC, Technical Inspection (Inyerber Beomon), No. 1919, 19 July 2017, annex 1 p. 24, on file with the Mission.

[2381] CICPC, Technical Inspection (Inyerber Beomon), No. 1920, 19 July 2017, annex 1 p. 32, on file with the Mission.

[2382] CICPC, Technical Inspection (Inyerber Beomon), No. 1921, 19 July 2017, annex 1 p. 38, on file with the Mission.

1334. On that day, a police unit was dispatched when "comrades of the sector" notified the authorities that visibly armed individuals were involved in trafficking drugs, kidnapping and collecting extortion money in the Cardones del Valle sector.[2383]

1335. According to the CICPC investigation, the police unit went to the sector and noticed a vehicle from which someone opened fire on the police. Six people got out of the vehicle and dispersed through the surrounding alleyways, shooting at the police. Five of them died from police gunfire. The sixth, after hiding in a house, refused to give himself up alive and detonated a grenade, ending his life.[2384] Police collected two 36-calibre firearms from the scene.[2385]

1336. Ms. Zenaida Mejía disputed this version of events. She filed a formal complaint with the 125th Prosecutor's Office for Human Rights.[2386] The CICPC's initial investigation report states that five bodies were admitted to the morgue on 19 July 2017 and all had multiple firearm injuries.[2387] Ms. Zenaida Mejía has come to believe that her son and five other young people were arrested in various places and then taken to the sites where they were executed.[2388]

1337. Police investigations were conducted by the CICPC, the force that was allegedly responsible for the killings. At the time of writing, Mr. Beomon Mejía's family had received no indication that the investigation was progressing, despite numerous attempts to follow up submitted in writing to the 125th Prosecutor's Office.

1338. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1339. Based on the facts above, the Mission has reasonable grounds to believe that extrajudicial executions were committed against Mr. Irvin Enrique Beomon Mejía and Mr. Inyerber José Beomon Mejía. CICPC officers active on 7 August 2016 and on 19 July 2017 in Parroquia El Valle, Municipio Libertador, Capital District, were involved in the extrajudicial executions.

CASE 26: José Daniel Bruzual Pulido (22 August 2017)

1340. Mr. Bruzual Pulido lived in Callejón Rondón, los Rosales, la Bandera, Distrito Capital, with his three young children.[2389] He worked as an electrician and motorcycle taxi driver. According to the Mission's source, who must remain confidential, Mr. Bruzual Pulido had never been in trouble with the police before.[2390]

The Facts

1341. On 22 August 2017, Mr. Bruzual Pulido was at home with his two sons.[2391] His daughter, the eldest, was not at home that day.[2392] During the early hours of the morning, the FAES had killed three men and two women who were allegedly responsible for kidnapping

[2383] National Bolivarian Police, Police Report, 20 July 2017, annex 3 p. 1.
[2384] CICPC, Initial Investigation Report, K-17-0017-00467, 20 July 2017, annex 2 p. 7, on file with the Mission.
[2385] CICPC, Memorandum of remise of weapons, 9700-203-3748, 19 July 2017, annex 4, on file with the Mission.
[2386] The Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.
[2387] CICPC, Initial Investigation Report, K-17-0017-00467, 20 July 2017, annex 2 p. 3, on file with the Mission.
[2388] The Mission confirmed these facts with Zenaida Mejía. Ms. Mejía's original statement was provided to COFAVIC.
[2389] Mission interview with C5GG16 in July 2020.
[2390] Ibid.
[2391] Mission confirmed these facts with Elibeth Pulido. Her original statement was provided to COFAVIC.
[2392] Mission interview with C5GG16 in July 2020.

the wife of GNB Colonel Alirio Cruz Ortega.[2393] Using a telephone trace, the CICPC located the alleged perpetrators and FAES units were dispatched to "El Topito" in the San Antonio neighbourhood.[2394]

1342. At around 6.30 a.m., El Topito residents heard shots fired in the area.[2395] The operation succeeded in freeing the commander's wife.[2396] Although this operation had occurred in a different sector, there were many police officers in Callejón Rondón as well.[2397] These neighbourhoods share a common border.

1343. According to neighbours, at around 9 a.m., Mr. Bruzual Pulido was out on the balcony, smoking a cigarette, when a group of FAES and regular PNB police officers passed by, pointed at him and told him to come down. The FAES and PNB officials were dressed in civilian clothes, wearing black bulletproof vests and using four police vehicles.[2398] When he replied that he was at home, not doing anything, the officers entered the premises.[2399] One officer climbed over the fence and onto the balcony of Mr. Bruzual Pulido's house with a rifle.[2400] The photograph shows the fence and the balcony of the house where the FAES agent entered.

1344. Meanwhile, other officials told witness C5GG17 to open the door to the complex. They insulted her and threatened to shoot her. She opened the door out of fear and FAES agents entered the complex, joining their colleague who had entered via the balcony.[2401]

1345. Inside the apartment, the FAES officers pushed one of Mr. Bruzual Pulido's children out of his room and told him to go look for his father's gun.[2402] The little boy went up to the second floor with the police officers. Thinking they were referring to the firearm belonging to his grandmother's partner, who worked as a bodyguard, the boy pointed to a space above

2393 Monitor de Víctimas, One year after the death of her son, mother hopes for justice, August 2018, available at: https://monitordevictimas.com/ejecucion-2/a-un-ano-de-la-muerte-de-su-hijo-madre-espera-que-hagan-justicia/.

2394 Ibid.

2395 Ibid.

2396 Ibid.

2397 Mission interview with Elibeth Pulido in May 2020.

2398 Ibid., Monitor de Víctimas, One year after the death of her son, mother expects justice, August 2018, available at: https://monitordevictimas.com/ejecucion-2/a-un-ano-de-la-muerte-de-su-hijo-madre-espera-que-hagan-justicia/.

2399 Mission interview with Elibeth Pulido in May 2020; Monitor de Víctimas, "One year after the death of her son, mother expects justice", August 2018, available at: https://monitordevictimas.com/ejecucion-2/a-un-ano-de-la-muerte-de-su-hijo-madre-espera-que-hagan-justicia/.

2400 Mission interview with C5GG16 in July 2020.

2401 Ibid.

2402 Mission interview with Elibeth Pulido in May 2020.

a window where the gun was usually kept.[2403] It was not there; the boy's grandmother's partner was out at work and had taken his firearm.[2404]

1346. C5GG16 was close to the apartment. He told the Mission that from the place he was at that moment, he heard everything that was occurring in Mr. Bruzual Pulido's house. First, he heard banging on the door and then the noise of and what sounded like someone being beaten. He heard Mr. Bruzual Pulido say, "C5GG17, call my mother, they are going to kill me".[2405]

1347. There was a short silence. Then C5GG16 heard Mr. Bruzual Pulido say: "No, not in front of my children".[2406] An officer opened the front door of Mr. Bruzual Pulido's apartment and took the two children to his grandmother's house, who lives in the adjoining apartment.[2407]

1348. Once the children entered the adjoining apartment, the officer called for support on the radio. The officers began banging on the ceiling while shouting, "He's on the roof, he's on the roof!"[2408] Then they started shooting.[2409]

1349. After a short while, Mr. Bruzual Pulido's mother arrived outside her home. She had been called by neighbours after they heard the gunshots and the children crying.[2410] FAES officials told her that a criminal got into her house and that they had to enter in order to kill him. When she tried to access the house, a police officer grabbed her by the neck, pulled her aside and told her to leave or they would kill her.[2411]

1350. By this time, however, they had already taken the body, wrapped in a sheet.[2412] According to an account she provided to Amnesty International, there were around 50 FAES officers in the compound and on her doorstep at that time.[2413] There are more witnesses to what happened, but they were too afraid to provide accounts to the Mission.

1351. Mr. Bruzual Pulido's mother told the Mission that the FAES agents had referred to him as a criminal, linking him to the kidnapping referred to above. Ms. Elibeth Pulido claims that they planted weapons, including a revolver, a grenade, a shotgun and a bulletproof vest, and said there had been a confrontation.[2414]

1352. Later, the lifeless body of Mr. Bruzual Pulido was transferred to the Coche Hospital with a gunshot wound to the chest.[2415]

[2403] Monitor de Víctimas, One year after the death of her son, mother hopes for justice, August 2018, available at: https://monitordevictimas.com/ejecucion-2/a-un-ano-de-la-muerte-de-su-hijo-madre-espera-que-hagan-justicia/.

[2404] Ibid.

[2405] Mission interview with C5GG16 in July 2020. Elibeth Pulido said that a neighbour told her that she heard the same screams. Mission interview with Elibeth Pulido in May 2020.

[2406] Ibid.

[2407] Ibid.

[2408] Ibid.

[2409] Ibid.

[2410] Monitor de Víctimas, One year after the death of her son, mother hopes for justice, August 2018, available at: https://monitordevictimas.com/ejecucion-2/a-un-ano-de-la-muerte-de-su-hijo-madre-espera-que-hagan-justicia/.

[2411] Mission interview with Elibeth Pulido in May 2020.

[2412] Monitor de Víctimas, One year after the death of her son, mother hopes for justice, August 2018, available at: https://monitordevictimas.com/ejecucion-2/a-un-ano-de-la-muerte-de-su-hijo-madre-espera-que-hagan-justicia/.

[2413] Amnesty International Report, This is not life, citizen security and the right to life in Venezuela, 2018, available at: https://www.amnesty.org/download/Documents/AMR5389752018SPANISH.PDF.

[2414] Statement by Elibeth Pulido to Mission.

[2415] The Mission confirmed these facts with the victim's mother. The victim's mother original statement was provided to COFAVIC.

1353. Police officers stole food, belongings and cash from the family.[2416] They stole the family's wallet, with an ID card, shoes and household items.[2417]

1354. The case was handled by the 127th Public Prosecutor's Office for Fundamental Rights.[2418] Ms. Elibeth Pulido told the Mission that the investigation is not progressing.[2419] When she has raised this with the Ombudsperson's Office, she was told that there was nothing that they could do. She does not have a copy of the file and she claims she has not been given access to it.

1355. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1356. Based on the facts above, the Mission has reasonable grounds to believe that an extrajudicial execution was committed against Mr. José Daniel Bruzual Pulido. FAES and PNB officers active on 22 August 2017 in Callejón Rondon, La Bandera, Capital District, were involved in the extrajudicial execution. The Mission has also reasonable grounds to believe that the treatment of Mr. Pulido's mother amounts to cruel, inhuman or degrading treatment.

CASE 27: C5GG06 (October 2018)

1357. The events occurred in the west part of Barquisimeto, the capital of the Lara state. The majority of the population in the area where the events took place lives in precarious economic conditions due to continuous food shortage and lack of access to basic services.[2420]

1358. Mr. C5GG06 lived with his sister and mother in Barquisimeto, Lara. He had a daughter and a grandson.[2421] He had studied mechanics and worked assembling and disassembling engines. He specialized in diesel engines.[2422] Mr. C5GG06 had a criminal record, having been convicted of stealing and possession of narcotics. As a result, he spent some time in prison until 2015.[2423] His family admits that he had a problem with drug addiction.[2424]

The Facts

1359. In October 2018, Mr. C5GG06 was with his sister C5GG07 in their house in Barquisimeto, Lara. At around 8.10 p.m., they heard a voice call "C5GG06" three times from outside. Ms. C5GG07 looked out but as she did not see anyone, she went back inside the house.[2425]

[2416] Monitor de Víctimas, One year after the death of her son, mother hopes for justice, August 2018, available at: https://monitordevictimas.com/ejecucion-2/a-un-ano-de-la-muerte-de-su-hijo-madre-espera-que-hagan-justicia/.

[2417] Mission interview with Elibeth Pulido on 21 May 2020.

[2418] Monitor de Víctimas, One year after the death of her son, mother hopes for justice, August 2018, available at: https://monitordevictimas.com/ejecucion-2/a-un-ano-de-la-muerte-de-su-hijo-madre-espera-que-hagan-justicia/.

[2419] The Mission confirmed these facts with the victim's mother. The victim's mother's original statement was provided to COFAVIC.

[2420] Mission Interview C5FF14 in July 2020.

[2421] Mission interview with C5GG07 on 6 June 2020, para. 23.

[2422] Ibid., para. 1.

[2423] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 3.

[2424] Ibid., p. 4.

[2425] Ibid., p. 10.

1360. At 8.30 p.m., they heard a sound at the door. Mr. C5GG06 came out to open it and saw police officers wearing FAES uniforms. They had already entered the front of the house,[2426] without having shown a search warrant.[2427]

1361. The police detained Mr. C5GG06 on the porch. Ms. C5GG07 told the Mission that she saw them surround her brother, throw him to the ground and kneel on him.[2428] All the FAES officers had guns.

1362. Two female FAES officers entered the house. The other police officers referred to one as "Gocha" and the other as "Caraqueña". Gocha appeared to be in command of the operation.[2429] She ordered Ms. C5GG07 to leave her house, telling her this was a "regular check-up".[2430] When Ms. C5GG07 was leaving, her brother told her "don't leave me alone, little sister".[2431]

1363. Ms. C5GG07 told the Mission she saw more than 50 FAES officers outside her house.[2432] They appeared to have closed down the entire community.[2433] The police officers were dressed in black. All except for one had their faces covered. Later, one police officer revealed his face and Ms. C5GG07 recognized him as one of their neighbours.[2434]

1364. The FAES officers had surrounded her house and there were also FAES officers at the doors of the neighbours' houses, telling people to stay inside and not to look out of the windows.[2435] Ms. C5GG07 heard the FAES officers order the neighbours to turn off all the lights, saying that everything had to be dark.[2436]

1365. The female FAES officer referred to as "Gocha" ordered Ms. C5GG07 to get into the FAES vehicle.[2437] Gocha remained outside the vehicle from where she informed Ms. C5GG07 that her brother was wanted for rape[2438] and for the theft of a motorbike, which was found behind his house.[2439]

1366. No more than 10 minutes later,[2440] at around 9 p.m., the FAES officers drove Ms. C5GG07 a few blocks from her house and told her to leave the vehicle.[2441] She had an exchange of words with the police.[2442] She decided to go first to her sister's house, which was on her way home. She was afraid, both of the FAES and the general insecurity in the area.

[2426] Ibid., p. 10
[2427] Statement from the victim's sister provided to OVV Lara, para. 2.
[2428] Ibid., para. 2.
[2429] Ibid., para. 4; The Mission confirmed these facts with C5GG07. Her original statement was provided to OVV Lara, p. 10.
[2430] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 10.
[2431] Mission interview with C5GG07 on 6 June 2020, para. 7; The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 10.
[2432] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 12.
[2433] Mission interview with C5GG07 on 6 June 2020, para. 3.
[2434] Ibid.
[2435] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 12.
[2436] Mission interview with C5GG07 on 6 June 2020, para. 11.
[2437] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 11.
[2438] Ibid., p. 10.
[2439] Mission interview with C5GG07 in June 2020, para. 10; The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 11 and 12.
[2440] Mission interview with C5GG07 in June 2020, para. 5.
[2441] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 13.
[2442] Mission interview with C5GG07 in June 2020, para. 5.

At this stage, only her intuition told her that her brother had been killed. This is what she told her sister when she arrived at her house.[2443] Then, she went back home.

1367. The FAES officers entered the house at 8.30 p.m. and left at 2 a.m. the following day.[2444] Ms. C5GG07 believes the FAES officers took all the spent cartridges from the shots they fired, as she could not find any in the house.[2445] In addition, they stole a painting and a rug.[2446] Around 2 a.m. the CICPC arrived at the house and later took Mr. C5GG06's body to the morgue.[2447] After some efforts to recover his body from the morgue, his family was able to bury him in the cemetery.[2448]

1368. In the hours and days after the incident, Ms. C5GG07 spoke with her neighbours, who had not been able to see anything but told her that they had heard shouts from the house. They heard Mr. C5GG06 cry, "Sister, they are going to kill me!" The neighbours later told Ms. C5GG07 that the police had simulated an escape attempt, shouting "Run! Run!", "There he goes", "Don't let him escape".[2449] Ms. C5GG07 said that the police planted a shotgun next to her brother,[2450] fired several shots and to simulate an escape and confrontation.[2451] Ms. C5GG07 told the Mission that her brother had never had a shotgun in his house.[2452]

1369. Mr. C5GG06 was killed on the porch of his house, on a carpet,[2453] between the door and the living room.[2454] According to the death certificate, he died as a result of internal bleeding from the perforation of his viscera caused by a gunshot wound.[2455] Ms. C5GG07 told the Mission that she found a pool of blood on the porch when she returned to the house.[2456] Then the CICPC arrived to do an examination[2457] and the police took the body to the clinic.

1370. A local newspaper reported that C5GG06 had confronted the FAES, opening fire at officers when they attempted to arrest him for property and drugs crimes. The report alleged that he had been a gang leader.[2458]

1371. The Mission secured access to the death certificate, which recorded that Mr. C5GG06 died resisting authority.[2459] Authorities have not released any information suggesting that FAES officers or other public servants were killed or injured during the operation. The Mission has not found any information from witnesses or local media sources confirming the authorities´ account.

Legal Proceedings

1372. In October 2018, Ms. C5GG07 went to the CICPC headquarters in Barquisimeto but did not receive any information suggesting that an investigation into her brother's death was underway. The same day, she visited the 21st Prosecutor's Office, also in Barquisimeto,

[2443] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, pp. 13 and 14.
[2444] Ibid., p. 19.
[2445] Ibid., p. 19.
[2446] Ibid., p. 14.
[2447] Ibid., p. 20.
[2448] Ibid., pp. 24, 28.
[2449] Mission interview with C5GG07 on 6 June 2020, para. 7.
[2450] A photo of the gun was published in a local press report, Document C5GG08, on file with the Mission. The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 15.
[2451] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 16-17.
[2452] Mission interview with C5GG07 on 6 June 2020, para. 8.
[2453] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 17.
[2454] Mission interview with C5GG07 on 6 June 2020, para. 12.
[2455] Civil Registry, Death Certificate of C5GG06, on file with the Mission.
[2456] Mission interview with C5GG07 on 6 June 2020, para. 12.
[2457] Ibid..
[2458] Document C5GG08, on file with the Mission.
[2459] Civil Registry, Death Certificate of C5GG06, on file with the Mission.

where she was told that they needed a used bullet cartridge to proceed with the investigations.[2460] She searched her house, but could not find one, so an investigation was not opened.[2461] The death certificate referenced an investigation conducted by the Lara Homicide Police Buro, for resistance to authority.[2462] At the time of writing, the family had no information about this investigation.

1373. Ms. C5GG07 told the Mission that she wants justice to be done, for those responsible to pay for what they have done and for the victims to stop having to suffer.[2463] Ms. C5GG07 has been seriously traumatized by the events.[2464] Mr. C5GG06 was also contributing financially to cover the costs of the house,[2465] and his death resulted in economic damage to her.

Findings

1374. Based on the facts above, the Mission has reasonable grounds to believe that an extrajudicial execution was committed against C5GG06. FAES officers active in October 2018 in the west of part of Barquisimeto, Lara, were involved in the extrajudicial execution. The Mission has also reasonable grounds to believe that Ms. C5GG07 was victim of an arbitrary detention.

CASE 28: C5GG09 (November 2018)

1375. Mr. C5GG09 (25) lived at his home with his mother in Libertador Municipality, Capital District. He longed to join his wife who, due to economic hardship and insecurity, had recently moved to Ecuador.[2466] The Mission spoke to Mr. C5GG09's mother, who explained that he was a good son who always helped out with household expenses. In his absence, his mother has many problems coping with daily expenses.

The Facts

1376. The events occurred in October 2018. Around 4.30 a.m., FAES officials arrived at the house in which Mr. C5GG09 lived with his mother. There were eight officers in total, six men and two women. Two of the six men wore masks covering their faces, as did one of the two women. The victim's mother remembers that they were all dressed in black, with the FAES insignia.[2467]

1377. They broke down the living room door and entered without showing a search warrant.[2468] The first thing they did was turn off the lights and break the bulbs and lamps in the house. They took Mr. C5GG09 out of his room where he had been sleeping and led him outside into the yard. They did not allow him to get dressed; he was wearing a pair of boxer shorts.[2469]

1378. The officers took Mr. C5GG09 out into the small yard and made him kneel down next to an exterior staircase, leading to the first floor of the house. Soon afterwards, officers escorted his mother from the house. The Mission was unable to ascertain how many officers escorted her, whether they were men or women and how far they took her from the house.[2470]

[2460] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, pp. 21-23.
[2461] Mission interview with C5GG07 in June 2020, para. 21.
[2462] Civil Registry, Death Certificate of C5GG06, on file with the Mission.
[2463] Mission interview with C5GG07 in June 2020, para. 25.
[2464] The Mission confirmed these facts with C5GG07. Her original statement was provided to OVVLara, p. 34.
[2465] Ibid., p. 24.
[2466] Mission interview with C5GG10 in May 2020.
[2467] Ibid.
[2468] Ibid.
[2469] Ibid.
[2470] Ibid.

1379. What is clear is that the officer left Ms. C5GG10 unguarded. Worried about her son and keen to see what was happening, she managed to enter her neighbour's house via an exterior staircase. She watched through a window as the officers still kept her son in a kneeling position by the staircase and pointed a gun at him.[2471] Mr. C5GG09's mother told the Mission that she witnessed the FAES officer fire a shot into the air. Then they shot her son.[2472] She saw them leave a gun on the floor near his body.[2473]

1380. The neighbour also saw everything but is an older person and was too afraid to provide her account to the Mission.[2474] Photos of the location where the victim was shot, and of the place from where the witness and her neighbour saw him being shot are on file with the Mission. These photos show that it is indeed possible to see the exact place in which the shot occurred from the neighbour´s window.

1381. A male FAES agent shot Mr. C5GG09. His face was covered. There were three other FAES officers at the scene when he was shot. The others were elsewhere. Ms. C5GG10 saw that the FAES officers dressed her son after he was shot.[2475] The FAES officers put him in a van and drove him to the hospital. According to his mother, he was already dead. By 5.30 a.m., the FAES agents had already taken the body, driving away in a white Toyota Hilux van and a patrol car.[2476]

1382. The Mission secured access to the death certificate, issued in November 2018, which said that Mr. C5GG09 died from hypovolemic shock caused by a gunshot wound to the abdominal trunk.[2477]

1383. The victim's mother has confirmed to the Mission that when she attempted to file a complaint with the Public Prosecutor's Office, she was told that all necessary details had already been recorded.[2478] They said that her son was a neighbourhood criminal. Inside his home, FAES agents stole their belongings. They took her phone (although it was later returned), $425, a watch and cologne.

Legal Proceedings

1384. A complaint was filed with the Public Prosecutor's Office. The victim's mother returned regularly to the Public Prosecutor's Office for three months, but eventually stopped going there because she believed there would be no justice. The Mission was informed that the family has not received information on whether an investigation into the killing was underway.

Findings

1385. Based on the facts above, the Mission has reasonable grounds to believe that an extrajudicial execution was committed against C5GG09. FAES officers active in November 2018 in Libertador Municipality, Capital District, were involved in the extrajudicial execution.

CASE 29: Luis Enrique Ramos (24 January 2019)

1386. Luis Enrique Ramos was 29 years-old at the time of his death. He was a basketball player, with three small children who made his living selling shoes. He was also a musician

[2471] The Mission confirmed these facts with the victim's mother. The victim's mother original statement was provided to Monitor de Víctimas.
[2472] Mission interview with C5GG10 in May 2020.
[2473] Ibid.
[2474] Ibid.
[2475] Mission interview with C5GG10 in May 2020.
[2476] Ibid.
[2477] Civil Registry, Death certificate of C5GG09, on file with the Mission.
[2478] The Mission confirmed these facts with C5GG10. The victim's mother original statement was provided to Monitor de Víctimas.

and played in the church. He was a popular figure locally; after his death, many people attended his funeral procession in Carora.[2479]

The Facts

1387. On 23 January 2019, a large anti-Government march took place in Carora town, Torres municipality, Lara state, convened by the opposition.[2480] The march went from the Corazón de Jesús church to Rotor Square, three or four blocks from the town hall.[2481] Mr. Ramos had been critical of the Government. He participated in the march along with several members of his family.[2482] He left the march at around noon on 23 January 2019 and went home to spend time with his family.[2483]

1388. His house was located in Torres municipality, Trinidad Samuel parish, behind Calicanto church. Twelve people lived there, his wife and children, his father, mother and sister María Ramos, together with her children and husband. The house has five bedrooms, two living rooms, two bathrooms and a kitchen.[2484]

1389. That afternoon, while the family was at home, Mr. Ramos received a voice message in a WhatsApp group chat referring to him by his nickname Cabeza de Piña ("Pineapple Head"). The audio was from a person Luis Ramos did not know. After asking some questions, he found out that the sender was in Colombia.[2485] The content of the audio was as follows:

Greetings to the people of Carora, my brother. I will speak to you clearly tonight. We're going to take Carora […] We are going to take over the town hall. The Toso warriors are coming […], the big "canilla" is coming, Candelilla is coming. All the warriors of the Chalet will come, the Cabeza de Piña warriors, those people are coming also. We are going to take over everything. We are going to take over this Government, today we take over Carora, today we take over Carora, this is the voice of the Calicanto underworld; brother.[2486]

1390. That audio had been sent to someone who worked with the Tuparamos gang – a well-known criminal network operating in Lara state – who then forwarded it to WhatsApp group chats. After that, it appears to have gone viral and been forwarded more widely by people unknown to and unconnected with the original senders and recipients. Luis Ramos told his brother Enrique Suárez that he had nothing to do with the people referred to in the message.

1391. The next day, 24 January 2019, another voice message circulated in the group. It was the same voice as the first message, alleging that it had been a joke:

What a pity with those people from Carora, with those people I named. That was a bad joke ("chalequeo"), my brother. I want you to disseminate this note, so it reaches the collectives, that it reaches the National Guard, that it reaches all those people [...]. There are no such people from Calicanto here. There is nothing there. Nobody is going to do anything. It was a pure lie.[2487]

[2479] Proiuris, Un audio viral marcó el final de dos jóvenes involucrados en protestas, 25 February 2019, available at: https://www.proiuris.org/?p=55009.

[2480] PROVEA, FAES mató a dos jóvenes en Carora por una nota de whatsapp, 25 February 2019, available at: https://www.derechos.org.ve/actualidad/faes-mato-a-dos-jovenes-en-carora-por-una-nota-de-whatsapp.

[2481] Mission interview with Enrique Suarez on 16 June 2020, para. 3.

[2482] Amnesty International, Hunger for Justice, Crimes against Humanity in Venezuela (2019), available at: https://reliefweb.int/sites/reliefweb.int/files/resources/AMR5302222019ENGLISH.PDF.

[2483] Mission interview with Enrique Suárez in June 2020, para. 2.

[2484] Ibid., para. 4.

[2485] Ibid., para. 5.

[2486] PROVEA, FAES mató a dos jóvenes en Carora por una nota de whatsapp, 25 February 2019, available at: https://www.derechos.org.ve/actualidad/faes-mato-a-dos-jovenes-en-carora-por-una-nota-de-whatsapp.

[2487] Proiuris, Un audio viral marcó el final de dos jóvenes involucrados en protestas, 25 February 2019, available at: https://www.proiuris.org/?p=55009.

1392. As the father of the family is a watchman, the family tends to get up early. In the morning of 24 January 2019, they woke up at around 5 a.m.[2488] Later that morning, the family heard rumours from neighbours that there were FAES convoys in the town hall.[2489] The town hall is approximately three kilometres from their house.

1393. During the afternoon of 24 January 2019, Luis Ramos arrived from buying food for lunch at the butcher and fruit shop. At that moment, FAES officers arrived and opened the gate to the property. Mr. Ramos asked who they were looking for and demanded that they show him an order. The FAES entered the house asking if "Pineapple Head" lived there. They said that they were the law and only obeyed orders.[2490]

1394. Mr. Ramos' sister remembers a large number of FAES agents were present in and around the house at the time, perhaps as many as 50 officers. Most of the agents had their faces covered and wore black uniforms, though some were in camouflage. Some of the uniforms had a FAES logo but others did not. The agent giving the orders did not have his face covered. He was called "boss" by the others.[2491] There were three female officials and the rest were men.

1395. According to Mr. Ramos' sister María, "they went inside the house like ants".[2492] Immediately, the FAES agents brought Mr. Ramos to his knees and handcuffed him. They told him they were looking for "Pineapple Head" and asked his name, while another official took his picture and left the house. A short time later, he went back inside saying, "confirmed, it's him". María saw them start beating her brother.[2493]

1396. The FAES agents hit all members of the family present, Mr. Ramos' parents, his sister and nephews including a 2-year-old child and a female in-law.[2494] Luis Ramos' sister said that the head of the operation and another FAES official beat her. Mr. Ramos was yelling at them not to beat her because she has a disability.[2495]

1397. María Ramos assumed that the FAES were there because of the WhatsApp audio and told them that her brother had nothing to do with it. The FAES officials replied that it did not matter, that they were acting on orders.[2496]

1398. The FAES officers then took all members of the family into a room in the back of the house, with the exception of María and Luis.[2497] María was taken into a room separate from Luis, where a female FAES agent beat her with her fists. After a short while, she was taken with the other family members to the room in the back.[2498]

1399. From the room where the family was held, they could see some of what was happening in the rest of the house. They heard objects being thrown around; María said "they were turning the whole house upside down". When the children cried, the FAES agents shouted at them "shut up you damn fatso". They threatened to burn them alive.[2499] Meanwhile, Luis Ramos was still in the living room, handcuffed, kneeling, while a FAES official beat him around the head.[2500]

1400. After a while, the man who María presumed to be the head of the operation made a video call and during the conversation, he said "change of plans, they are going to jail". The FAES officers let the family put on additional clothes before getting them out of the house.

[2488] Mission interview with María Ramos in June 2020, para. 1.
[2489] Ibid., para. 2.
[2490] Ibid., para. 5.
[2491] Ibid., para. 4.
[2492] Ibid., para. 18.
[2493] Ibid., para. 6.
[2494] Ibid., para. 7; Proiuris, Un audio viral marcó el final de dos jóvenes involucrados en protestas, 25 February 2019, available at: https://www.proiuris.org/?p=55009.
[2495] Mission interview with María Ramos in June 2020, para. 9.
[2496] Ibid., para. 10.
[2497] Ibid., para. 11.
[2498] Ibid., para. 12.
[2499] Ibid., para. 13.
[2500] Ibid., para. 15.

Mr. Ramos' sister María told the Mission that, as she was being taken from the house, she saw Mr. Ramos kneeling with a bag over his head. María Ramos also heard the blows as the FAES agents hit her brother.[2501] She affirmed that when they left the house, Mr. Ramos was still alive.[2502]

1401. The FAES agents forced the family into vehicles.[2503] María was unable to count the vehicles but remembers that they left her house in a convoy.[2504] Outside, María Ramos saw that FAES agents were everywhere in the neighbourhood, on the sidewalk, on the roofs, in front of the church and in the square.[2505]

1402. Once the family was in the vehicle, the FAES agents asked Luis' sister-in-law, "Your mom lives nearby, right?" It is unclear how the FAES knew this. The officers said they would take the family there. However, instead, they left them in a ravine on the way to the house. The FAES agents threatened María Ramos and the sister in law: "we do not want to see you there, *malditas perras*!"[2506] Luis' parents walked towards the house of the sister-in-law's mother.

1403. María Ramos and her sister-in-law were desperate and decided to go to the house of the brother of the person who had recorded the audio. They intended to complain with him and tell him "what had happened due to the lie he spread". When they failed to find him at home, they attempted to return to the family home, but FAES agents were blocking the streets. It was near the roadblock that they met Enrique Suárez, María and Luis Ramos' other brother.[2507]

1404. Enrique Suárez had been called by a cousin and niece, who live near the house, who told him what was happening. He then went to his mother's house as soon as he could and saw men with guns outside the house. He tried to enter from about eight different points, but there were officials with long weapons blocking the access.[2508]

1405. Enrique Suárez found an unguarded entrance through which he was able to get to within 80 metres of the house. From there, he could see the convoys, the cars, the vans of the mayor's office and a (private) Ford Fiesta car. Enrique Suárez claims that the latter vehicle belonged to "the leader of the Tupamaros", called Carlos Luis Sierra. He also told the Mission that there were members of the colectivos at the scene. Enrique Suárez stated that the FAES agents intimidated anyone approaching the scene and he heard shooting into the air.[2509]

1406. When María, Mr. Ramos' sister-in-law and Enrique met up, they decided to go find a lawyer in Enrique's car. As they were approaching the vehicle, they heard two shots fired. Enrique immediately made a call to 0800 FISCA, an emergency services number. He was told that nothing was going to happen to Mr. Ramos, that this was a routine operation and that a prosecutor on duty was going to call him.[2510]

1407. Elsewhere in the neighbourhood, FAES officers had ordered neighbours to remain inside their houses. In at least one house, FAES officials held the neighbours on the ground for hours. This occurred at the same time as events in the Ramos house, leading people at the scene later interviewed by another organization to speculate that FAES agents were trying to prevent them from witnessing events there.[2511]

1408. Together with María and the sister-in-law, Enrique rode to a health care centre, the CDI. Shortly after they got there, several FAES vehicles also arrived at the centre. FAES

[2501] Ibid., para. 16.
[2502] Ibid., para. 20.
[2503] Ibid., para. 17.
[2504] Ibid., para. 18.
[2505] Ibid.
[2506] Ibid., para. 20.
[2507] Ibid., para. 23.
[2508] Mission interview with Enrique Suárez in June 2020, para. 7.
[2509] Ibid., para. 8.
[2510] Ibid., para. 9.
[2511] Amnesty International, Hunger for Justice, Crimes against Humanity in Venezuela (2019), available at: https://www.amnesty.org/download/Documents/AMR5302222019SPANISH.pdf.

officers intimidated everyone there by shouting threats. They apprehended journalists and forced them to erase any material they had recorded. When they left, a staff member told them that the FAES officers had brought the body of a young man. According to Enrique, a care centre staff member informed him that the young man the FAES brought in was in fact dead, but the FAES officers forced medical staff to sign a document according to which he was still alive upon arrival.[2512]

1409. Enrique Suárez was able to see Mr. Ramos' body at the health centre. He told the Mission that his brother had been shot in the middle of his chest. He had what appeared to be another bullet wound in the side of his torso. His head appeared to have been beaten badly and there was blood coming from his ears. His hands were wrapped in surgical bandages completely covering his fists. Enrique could not see if he had marks left by the handcuffs.[2513]

1410. Amnesty International also examined the case and concluded that Mr. Ramos had been hit twice by high-calibre ammunition in the left lung and probably in the internal thoracic artery. Amnesty International presented a forensic opinion indicating that the injuries on both sides of the face, as well as in the pectoral region, had been caused by contusions suffered before he died.[2514]

1411. Later on 24 January 2019, Enrique, María and the rest of the family managed to enter the house. It was already very late, almost midnight. The FAES officials were still there. When they entered, they saw bullet holes in the fridge, in several places, and a bloodstain on the floor.[2515]

1412. On the same date, Mr. Eduardo Ramos, the person referred to in the first audio as "Candelilla" was also killed by FAES. Luis Enrique Ramos Suárez and Eduardo Ramos were not relatives but they had been neighbours and friends.[2516]

Official Response

1413. The Lara state security office released a statement via an official Instagram account on 29 January 2019. It claimed that FAES commandos had observed an individual with a firearm and "upon stopping him, he entered a house from where he fired at the police unit, which repelled the attack and injured the armed man, [who] was taken to a care centre where he died". According to this version, "a Smith & Wesson 38-calibre revolver was seized".

1414. The deceased was identified as Ramos Suárez Luis Enrique, alias Pineapple Head leader of the "el Calicanto" gang, which FAES believed had been planning an armed attack against the town hall building.[2517] According to the official version, Luis Enrique carried a firearm with which he threatened the officers. The Mission notes that no officials were reported dead or injured as a result of the operation.

1415. A newspaper article published on 1 February 2019 quoted Lara's Secretary of Security and Public Order saying that Mr. Ramos had been killed by FAES officials during a confrontation while "resisting authority": Who was identified in the audio? Members of organized crime gangs operating in Torres municipality, who are widely known, who did not become known through the audio, they became known for all the criminal activities they have carried out in Torres.[2518]

[2512] Mission interview with María Ramos in June 2020, para. 10.

[2513] Ibid., para. 11.

[2514] Amnesty International, Hunger for Justice, Crimes against Humanity in Venezuela (2019), p. 19, available at: https://www.amnesty.org/download/Documents/AMR5302222019SPANISH.pdf.

[2515] Mission interview with Enrique Suarez on 16 June 2020, para. 12.

[2516] Proiuris, Un audio viral marcó el final de dos jóvenes involucrados en protestas, 25 February 2019, available at: https://www.proiuris.org/?p=55009.

[2517] Instagram SeguridadLaraOficial, 29 January 2019, available at: https://www.instagram.com/p/BtMzgWaBha2/.

[2518] Tal Cual Digital, Se contradicen versiones oficiales sobre el asesinato de tres jóvenes en El Tocuyo, 1 February 2019, available at: https://talcualdigital.com/se-contradicen-versiones-oficiales-sobre-el-asesinato-de-tres-jovenes-en-el-tocuyo/; Proiuris, Un audio viral marcó el final de dos jóvenes involucrados en protestas, 25 February 2019, available at: https://www.proiuris.org/?p=55009.

1416. The family claims that the FAES agents stole three cell phones, medication and school supplies.[2519]

Legal Proceedings

1417. A month after the events, the relatives went to the Twenty-Fourth Prosecutor's Office for Fundamental Rights in Barquisimeto, where they learned that no investigation had been open into Mr. Ramos's death. Upon learning this, they filed a complaint with the Twenty-Fourth Prosecutor's Office. Had they not taken the initiative to follow up in this manner, they believe that authorities would not have even opened an investigation into his death.[2520]

1418. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1419. Based on the facts above, the Mission has reasonable grounds to believe that an extrajudicial execution was committed against Mr. Luis Enrique Ramos. FAES officers active on 24 January 2019 in Carora, Barquisimeto, Lara, were involved in the extrajudicial execution. The Mission has also reasonable grounds to believe that the relatives of Mr. Ramos were victims of an arbitrary detention.

CASE 30: Luis Alejandro Pérez Llovera (8 April 2019)

1420. Luís Alejandro Pérez Llovera was 28 years-old at the time of his death.[2521] He lived on Fifteenth Street, near La Varga, in Barquisimeto town, Lara,[2522] with his grandmother, Fanny Castillo.[2523] He had two daughters, aged ten and six. He did not live with his daughters but he contributed to their support[2524] and saw the eldest daughter every day.[2525] He worked in a public building.[2526]

1421. Mr. Pérez Llovera had a criminal record, having been imprisoned in the past for drug-related offences and theft. According to his grandmother, he did not have problems with the law since his release in 2016 and until the time of his death.[2527] He was planning to move to Colombia, where he had previously lived,[2528] given the financial struggles in the country.

The Facts

1422. On Sunday, 8 April 2019, Mr. Pérez Llovera was at his grandmother's house.[2529] At around 4 a.m., 15 police officers wearing FAES uniforms arrived at his home as Ms. Fanny Castillo was letting her dogs out.[2530] When she saw the FAES officers, she closed the inner gate. A FAES officer warned her that if he had to resort to violence, it would be worse for her.[2531] She opened the gate and the officers rushed into the house, telling her to go to her bedroom.[2532]

[2519] Ibid., para. 22.
[2520] Ibid., para. 16.
[2521] Identity card of Luís Alejandro Pérez Llovera, on file with the Mission.
[2522] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, on file with the Mission.
[2523] Mission interview with Fanny Castillo in June 2020, para. 1.
[2524] Ibid., para. 16.
[2525] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, p. 2, on file with the Mission.
[2526] Ibid.
[2527] Mission interview with Fanny Castillo in June 2020, para. 17.
[2528] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, p. 2, on file with the Mission.
[2529] Mission interview with Fanny Castillo in June 2020, para. 2.
[2530] Ibid., para. 3.
[2531] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, p. 2, on file with the Mission.
[2532] Mission interview with Fanny Castillo in June 2020, para. 8.

1423. The police did not show Ms. Castillo a search warrant before entering her home. At no time did they mention Mr. Pérez Llovera's name.[2533] Ms. Castillo said that she thought the FAES did not know who they were going to look for inside her house.

1424. The 15 FAES officers were armed with long guns. Two of the police officers were women. All but one were dressed in black. One of the male FAES officers was wearing a lighter, beige uniform and appeared to be in charge of the operation. He was an older man, who was wearing a backpack. Everyone was talking to him. He did not enter the house.[2534] Ms. Castillo saw the faces of almost all the officers involved in the operation.[2535]

1425. Six FAES officers followed Ms. Castillo into her room.[2536] They told her they would be taking her to the police station. They allowed her to leave her room and put on clothes, as she was not properly dressed.[2537]

1426. Ms. Castillo went to retrieve her clothes from another room of the house. She was accompanied by FAES officers and she passed by the door of her grandson's room. She saw him sitting on the bed, having just woken up.[2538] Three FAES officers were with him, one with a dagger, one with a handgun, and one with a long gun. There was another police officer outside the room who also had a long gun.[2539]

1427. While she was putting on clothes, a female police officer told one of the male police officers to "turn around". After dressing, she again passed by the door to Mr. Pérez Llovera's room. She saw that the police had restrained him; only his knees were visible. The police were beating him.[2540] A FAES officer, one of the two females, took her into the next room.[2541] The other officers remained in the street.[2542]

1428. About 15 minutes after the officers had entered the house, they took Ms. Castillo outside.[2543] She counted about six cars, four vans and two private cars, a green Toyota Corolla and a black Daihatsu Terios.

1429. The officers took Ms. Castillo by car to the FAES headquarters in Santa Rosa, approximately four kilometres from her house. Once there, they did not take down her name or ask her for any information, not even her identification. The FAES officers told her to stay at the police station. They said they were going to take her back to her house later. Ms. Castillo assumes that she had been brought to the police station so as not to witness what was happening inside her house.[2544] After about an hour and a half, she left, returning home on foot.[2545]

1430. Ms. Castillo told the Mission that when she returned to her neighbourhood after the four kilometres walk, the street had been fenced off.[2546] The 15 FAES officer present did not allow neighbours to leave their homes. Her neighbours later told her that the FAES came to their houses and told them not to leave. [2547]

1431. According to the information received by the Mission, Mr. Pérez Llovera was killed in a lot across the street from Ms. Castillo's house.[2548] That is where Ms. Castillo found a

[2533] Ibid., para. 7.
[2534] Ibid., para. 5.
[2535] Ibid., para. 4.
[2536] Ibid., para. 9.
[2537] Ibid., para. 13.
[2538] Ibid., para. 9.
[2539] Ibid.
[2540] Ibid., para 11.
[2541] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, p. 3, on file with the Mission.
[2542] Mission interview with Fanny Castillo in June 2020, para. 10.
[2543] Ibid., para. 12.
[2544] Ibid.
[2545] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, p. 3, on file with the Mission.
[2546] Mission interview with Fanny Castillo in June 2020, para. 3.
[2547] Ibid., para. 14.
[2548] Ibid.

pool of blood.[2549] He was shot twice.[2550] When Mr. Pérez Llovera's body was delivered to the family, he was dressed, so his grandmother assumed that the FAES made him put on clothes before killing him.[2551] He had been undressed, as he had been sleeping.

1432. According to Ms. Castillo, the police officers planted a pistol on Mr. Pérez Llovera's corpse.[2552] Ms. Castillo was told by neighbours that the FAES shouted "He got away! He got away!" and fired shots into the air, purportedly in order to simulate an escape.[2553]

1433. Mr. Pérez Llovera's mother arrived at 7 a.m. to visit her son, as she did every day. By the time she arrived, the police had already taken his body away.[2554]

1434. Inside her home, Ms. Castillo found bloodstains on the wall. From the smeared pattern of the blood, she assumed that it had been wiped on with a rag or piece of cloth. Ms. Castillo found household items and household electronics missing from the house.[2555] Mr. Pérez Llovera's mother later told her that she had seen police officers leaving the house with bags.[2556] It appeared that the police officers had cooked, making arepas and drinking coffee.[2557]

1435. The press reported that Mr. Pérez Llovera had died in a confrontation with the police.[2558] Local media also alleged that Mr. Pérez Llovera was a fraudster with false documents and that he had been accused of possession of weapons and selling drugs. A PNB source cited by the press said that Mr. Pérez Llovera had belonged to a criminal group.[2559]

1436. The neighbours said they heard multiple shots, although they have not established how many.[2560] The Mission has found no reports or indications of FAES agents being killed or injured in the event.

Legal Proceedings

1437. Ms. Fanny Castillo filed a complaint to the Twenty-First Prosecutor's Office on 8 April 2019, the same day as her grandson's death.[2561] She told the Mission that, by the time of writing, no one from the Public Prosecutor's Office had taken a statement from her and she did not know whether an investigation was in progress.[2562]

1438. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1439. Based on the facts above, the Mission has reasonable grounds to believe that an extrajudicial execution was committed against Mr. Luis Alejandro Pérez Llovera. FAES officers active on 8 April 2019 in Barquisimeto, Lara, reporting to the FAES headquarters in Santa Rosa were involved in the extrajudicial execution. The Mission also has reasonable grounds to believe that the grandmother of Mr. Llovera was victim of an arbitrary detention.

[2549] Ibid., para. 14.
[2550] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, pp. 4 and 6, on file with the Mission.
[2551] Mission interview with Fanny Castillo in June 2020, para. 14.
[2552] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, p. 3, on file with the Mission.
[2553] Ibid., p. 4.
[2554] Mission interview with Fanny Castillo in June 2020, para. 15.
[2555] Ibid., para. 16.
[2556] Ibid., p. 2.
[2557] The list of objects stolen is on file with the Mission.
[2558] El Informador, Presunto estafador fue abatido por el Faes en Zanjón Barrera, 9 April 9 2019, available at: https://www.elinformador.com.ve/uncategorized/presunto-estafador-fue-abatido-por-el-faes-en-zanjon-barrera.
[2559] Ibid.
[2560] OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, p. 4, on file with the Mission.
[2561] Ibid., p. 6. OVV Lara, Notes on the Pérez Llovera case, 11 July 2019, p. 6, on file with the Mission.
[2562] Mission interview with Fanny Castillo in June 2020, para. 17.

CASE 31: Luis Alfredo Ariza Gamarra (13 May 2019)

1440. Luis Alfredo Ariza Gamarra was 21 years-old at the time of his death. He lived with his partner Giorgelis De Jesús Campos and his one and a half year old son in Macarao parish, Adjuntas Sector, Capital District.[2563] According to family members, Mr. Ariza Gamarra wanted to be a graphic designer, but his immediate concern was securing employment that would allow him to pay for his university studies.[2564]

1441. Mr. Ariza Gamarra had been in trouble with the police. In May 2017, he attended a protest in the Petare parish, Sucre municipality, Miranda state and that evening the GNB arrested him at his home.[2565] He spent three months in detention and was charged with incitement to hatred, terrorism and theft. He was released on bail with a monthly reporting regime.[2566] According to his family, he complied with all precautionary measures imposed by the court including appearing before the court monthly.[2567]

The Facts

1442. On 13 May 2019, Mr. Ariza Gamarra was in the house[2568] where he lived with his partner Giorgelis De Jesús Campos and her family.[2569] The couple was sleeping in a room with Ms. De Jesus Campos' 4-year-old daughter. The little girl's brother was sleeping elsewhere in the house.

1443. At approximately 5 a.m., two FAES officials entered the house, without showing a search warrant.[2570] A further eight FAES officers remained outside.[2571] They all carried firearms.[2572]

1444. The FAES officers ordered Mr. Ariza Gamarra from his room, with his hands on his head.[2573] They took him to the living room and questioned him. Mr. Ariza Gamarra insisted that he was not a criminal ("no tenía mala conducta").[2574] According to C5GG11, the FAES officers announced that they would radio headquarters and check Mr. Ariza Gamarra's record as they escorted him from the house with a cover on his head.[2575]

1445. Two FAES officers, one female and one male, remained in the house with the rest of the family. They confirmed that although the officers did not mistreat them, they prevented them from leaving the house when they heard Mr. Ariza Gamarra screaming from outside.[2576]

1446. Five minutes later, a single gunshot was heard. The FAES later reported that there had been a confrontation.[2577] From a hill outside the house, a witness that spoke to the Mission confirmed seeing FAES officers throwing water on the bloody area where Mr. Ariza Gamarra

[2563] Proiuris, Preso por protestar y luego asesinado por las FAES, 12 July 2019, available at: https://www.proiuris.org/?p=56724.
[2564] Ibid.
[2565] Ibid.
[2566] Caracas Criminal Court of First Instance number 48, Interim release order, 48C19535-17, 28 July 2017, annex p. 7.
[2567] Mission interview with C5GG11 in April 2020, para. 1; Proiuris, Preso por protestar y luego asesinado por las FAES, 12 July 2019, available at: https://www.proiuris.org/?p=56724.
[2568] A copy of Mr. Ariza Gamarra's identity card is on file with the Mission.
[2569] Mission interview with C5GG11 in April 2020, para. 7.
[2570] Ibid., para. 3.
[2571] Ibid., para. 2; PROVEA, "FAES opera como una fábrica de ejecuciones en zonas populares", 4 July 2019, available at: https://www.derechos.org.ve/actualidad/faes-opera-como-una-fabrica-de-ejecuciones-en-zonas-populares.
[2572] Mission interview with C5GG11 in April 2020.
[2573] Ibid., para. 8.
[2574] Ibid.
[2575] Mission interview with C5GG11 in April 2020, para. 9; PROVEA, FAES opera como una fábrica de ejecuciones en zonas populares, 4 July 2019, available at: https://www.derechos.org.ve/actualidad/faes-opera-como-una-fabrica-de-ejecuciones-en-zonas-populares.
[2576] Ibid., para. 9.
[2577] Ibid., para. 12.

had been killed.[2578] A gun was found in the alleyway where he died, but family members insist that the FAES officials must have put it there, as Mr. Ariza Gamarra did not possess a gun.[2579]

1447. From the vantage point on the hill, two hooded FAES officers were seen, as well as a third FAES officer standing in front of the pool of blood. Neighbours reported that this man was the one who shot Mr. Ariza Gamarra. The FAES took the victim's documents, but nothing was stolen.[2580]

1448. The FAES first took Mr. Ariza Gamarra's body to the Miguel Pérez Carreño Hospital in the city of Caracas.[2581] He showed no signs of life upon arrival and had a wound in his chest.[2582] The death certificate recorded the cause of death as "hypovolemic shock, caused by the passage of a projectile in the thorax".[2583]

1449. According to the NGO Proiuris, the officials reported that Mr. Ariza Gamarra had been shot while resisting authority.[2584] Ms. Miriam Gamarra, the victim's mother, made a public pronouncement that an official at the Public Prosecutor's Office told her about a Presidential order to execute all those released with non-custodial measures, no matter what accusations they face.[2585] The Mission has not been able to confirm this allegation.

Legal Proceedings

1450. On 10 July 2019 and 24 September 2019, Ms. Miriam Gamarra filed complaints with the 127th Prosecutor's Office for Fundamental Rights. She has also visited the Public Prosecutor's Office on many occasions to inquire about the investigation into her son's case. At the time of writing, the family had not received information regarding progress in the investigation and had not had access to the case file.[2586]

1451. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

1452. In July 2019, FAES officers arrived at Ms. De Jesús Campos' house and showed her photos of her with Mr. Ariza Gamarra, causing her to fear for her life. In October 2019, Ms. Gamarra made a request to the Public Prosecutor's Office for protective measures for herself and for Ms. De Jesús Campos. Protective measures were granted for Ms. De Jesús Campos but not for Ms. Gamarra. However, the protective measures consisted of personal protection by the PNB, which includes FAES.[2587]

1453. Ms. De Jesús Campos left Venezuela due to fear and for economic reasons, having lost the financial support provided by Mr. Ariza Gamarra. Due to this situation, her daughter

[2578] Ibid., para. 14.

[2579] Ibid., para. 18; PROVEA, FAES opera como una fábrica de ejecuciones en zonas populares, 4 July 2019, available at: https://www.derechos.org.ve/actualidad/faes-opera-como-una-fabrica-de-ejecuciones-en-zonas-populares.

[2580] Proiuris, Preso por protestar y luego asesinado por las FAES, 12 July 2019, available at: https://www.proiuris.org/?p=56724; Declaration of the victim's partner, para. 19.

[2581] Mission interview with C5GG11 in April 2020, para. 15; Proiuris, Preso por protestar y luego asesinado por las FAES, 12 July 2019, available at: https://www.proiuris.org/?p=56724.

[2582] Mission interview with C5GG11 on 14 April 2020, paras. 3 and 15.

[2583] Death certificate, Number 901022415, 14 May 2019, on file with the Mission.

[2584] Proiuris, Preso por protestar y luego asesinado por las FAES, 12 July 2019, available at: https://www.proiuris.org/?p=56724.

[2585] YouTube Video, Miriam Gamarra's statement "#CuandoLaPoliciaMata | La historia de Luis Alfredo Ariza Gamarra", 12 July 2019, available at: https://www.youtube.com/watch?v=IzNVRD3ba6U&feature=emb_logo.

[2586] Public Prosecutor's Office 127, Request by Miriam Gamarra for the issuance of copies of the case file and application for procedural measures, 10 July 2019, annex pp. 12 and 13; Mission interview with C5GG11 in April 2020, para. 6.

[2587] Mission interview with C5GG11 in April 2020, para. 5.

cannot attend school.[2588] Mr. Ariza Gamarra's one and a half year-old son is being supported by his grandmother.[2589]

Findings

1454. Based on the facts above, the Mission has reasonable grounds to believe that an extrajudicial execution was committed against Mr. Luis Alfredo Ariza Gamarra. FAES officers active on 13 May 2019 in Macarao parish, Adjuntas Sector, Capital District were involved in the extrajudicial execution.

CASE 32: The Briceño Vera Brothers (20 May 2019)

1455. The Briceño Vera family lives on Calle 80 in the Pomona sector, Cristo de Aranza parish, Maracaibo Municipality, Zulia state. Two brothers, Luis Alberto Vera and Joendri Vera lived there together with their mother, a 30-year-old sister, another brother of 16 and two other sisters, aged six and nine.[2590] Luis Alberto Vera was 20 and Joendri Vera was 19 at the time of their deaths.

1456. The older brother (23) did not live with the family as he was in Colombia. He was wanted by the police in connection with a murder investigation. The police often came to the family home looking for him. On at least one occasion they told Ms. Briceño, his mother, that they would kill her three other sons, should she continue not to provide information about her eldest son's whereabouts.[2591]

The Facts

1457. At around 6.30 a.m. on 20 May 2019, about 15 FAES officers arrived at the family home.[2592] They were all men and all but three of them had covered faces.[2593] They tried to break through the door and threatened Ms. Briceño and her daughter, telling them that if they did not let them in, they would be picked up by "female police officers".

1458. Ms. Briceño described the incident in a video she uploaded to YouTube, which has been verified and geo-located by the Mission.[2594] She told the Mission that they broke down the door with a large hammer and let off a sound grenade as they entered.[2595] They did not produce a search warrant.[2596]

1459. The house is composed of a ground floor, with two bedrooms, a dining room and the kitchen, with an additional room upstairs.[2597] The FAES officers entered a room on the ground floor and came out with Ms. Briceño's 16-year-old son, whom they took to the kitchen. They fired shots in the kitchen. The marks apparently made by the bullets on the kitchen wall are visible in the YouTube video.[2598]

1460. Ms. Briceño told the Mission that when her nine and six-year-old daughters began crying, FAES officers pointed their weapons at them. Her 30-year-old daughter was wearing only underwear when the FAES entered the house. The FAES officers took Ms. Briceño upstairs and locked her in a room. When she tried to leave, she got into a struggle with one of the FAES officers. The officer punched and kicked her.[2599]

[2588] Ibid., para. 21.
[2589] Proiuris, Preso por protestar y luego asesinado por las FAES, 12 July 2019, available at: https://www.proiuris.org/?p=56724.
[2590] Mission interview with the victims' mother in May 2020, para. 10.
[2591] Ibid., para. 22.
[2592] Ibid., para. 8.
[2593] Ibid.
[2594] YouTube Video, De Primera Mano TV, Confrontation or execution?, 5 June 2019, available at: https://www.youtube.com/watch?v=lu65mZmYjtA.
[2595] Mission interview with the victims' mother in May 2020, para. 9.
[2596] Ibid., para. 8.
[2597] Ibid., para. 10.
[2598] Ibid., para. 12.
[2599] Ibid., para. 13.

1461. After a short while, the FAES officers took Ms. Briceño outside. As she was being escorted from the house, she saw that Luis Alberto and Joendri were on the floor in handcuffs.[2600] A hood had been placed over one of them. She told the Mission that her children were still alive when she was taken from the house.[2601]

1462. While detained by FAES officers outside her home, Ms. Briceño saw other FAES officers take two shotguns from a black van with the FAES insignia, also parked outside. She claims that these were the two guns that authorities later claimed to have found in the possession of her children.[2602]

1463. Local residents later told an online news service that there had been a heavy security force presence in the surrounding area at the time of the operation, which prevented them from moving in the neighbourhood.[2603] Ms. Briceño saw FAES officers fire shots at the outside corner of her house. She said her children were killed inside the house,[2604] in the room upstairs.[2605] That room had a lock, which the FAES officers broke to enter.[2606] There were impact marks on the wall that the family claims were caused by bullets.

1464. Ms. Briceño said that the officers stole everything from them, including shoes, a phone, two suitcases, clothes, a watch, and documents such as identity cards. The documents were not returned to her.[2607]

1465. According to Ms. Briceño, the CICPC arrived to clean everything up[2608] and she was allowed to enter her house only once they had left. The bodies were removed by the FAES. Ms. Briceño said that "they threw them into a van like dogs".[2609]

1466. A press release published on the day of the events in the newspaper *Noticia al día* claimed the following:

Two people who were accused of belonging to the gang "Los Papitos" were killed on Monday afternoon, 21 May, after confronting officers of the Special Action Force (FAES). The armed confrontation took place on Calle 80 in the Pomona sector, Cristo de Aranza parish, Maracaibo municipality. When the police officers saw them, they ordered the two to stop, but the individuals decided to shoot at the officers. In an exchange of fire, these individuals nicknamed "el Bello" and "el Naríz" were wounded.[2610]

1467. Despite the similarities with her address (Calle 80), Ms. Briceño believes that the report referred to other people shot by the FAES that day at another location.[2611] She does not believe that her sons were known as "El Bello" or "El Naríz". The Mission conducted a search for press reports and discovered a press report mentioning that on the same date in La Pomona, at street number 101, two men described as criminals and nicknamed "El Bello" and "Kike" were killed by FAES.[2612]

2600 Ibid., para. 14.
2601 Ibid., para. 14.
2602 Ibid., para. 17.
2603 YouTube Video, De Primera Mano TV, Confrontation or execution?, 5 June 2019, available at: https://www.youtube.com/watch?v=lu65mZmYjtA.
2604 Mission interview with the victims' mother on 15 May 2020, para. 16.
2605 YouTube Video, De Primera Mano TV, Confrontation or execution?, 5 June 2019, available at: https://www.youtube.com/watch?v=lu65mZmYjtA.
2606 Mission interview with the victims' mother in May 2020, para. 15.
2607 Ibid., para. 18.
2608 Ibid., para. 20.
2609 YouTube Video, De Primera Mano TV, Confrontation or execution?, 5 June 2019, available at: https://www.youtube.com/watch?v=lu65mZmYjtA.
2610 Noticia al Día, FAES liquidated two criminals in Maracaibo, 20 May 2019, available at: https://noticialdia.com/2019/05/faes-liquido-a-dos-delincuentes-en-maracaibo/.
2611 Mission interview with the victims' mother in May 2020, para. 23.
2612 Entorno Inteligente, FAES abatió a dos presuntos delincuentes en La Pomona, 10 September 2019, available at: https://www.entornointeligente.com/faes-abati-a-dos-presuntos-delincuentes-en-la-pomona/.

1468. The Mission has also not located any official publication or local news sources or digital information indicating that police officers were injured killed in the area on 20 May 2019.

Findings

1469. Based on the facts above, the Mission has reasonable grounds to believe that extrajudicial executions were committed against Mr. Luis Alberto Vera and Mr. Joendri Vera. FAES officers active on 20 May 2019 in Pomona sector, Cristo de Aranza parish, Maracaibo municipality, Zulia, were involved in the extrajudicial executions.

CASE 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019)

1470. At the time of events, Ruth Pérez lived in "Juana La Avanzadora" building, at kilometre 9 of the Petare-Santa Lucía highway in Caracas. Low-income families occupy the building. It has two underground floors and five floors above. Each floor has about 10 apartments.

1471. Various members of Ms. Pérez' family were living in the building. She was living on the first floor underground with her two daughters. Her nephew Johander Javier Arai Pérez was 21 at the time of his death. He lived on the third floor with his wife. Wilkerman Ruíz was Ruth Pérez's daughter's partner and he also lived on the third floor. He was also 21 at the time of his death. Ruth's mother and other family members also lived on the third floor.

1472. On 1 November 2019, members of the FAES raided the apartment building and killed Johander Javier Arai Pérez and his brother-in-law Wilkerman Ruíz.[2613] This incident will be addressed in further detail below.

1473. Ruth Pérez is a social and community leader and a Community Council member of Petare parish in Miranda state. She has used her position to denounce human rights violations committed by the police in her area of residence. In particular, Ruth Pérez spoke out about the death of her brother, Jesse Gabriel Pérez Chávez on 11 July 2018.[2614] She publicly accused FAES officials of murdering her brother and has been cited in local newspapers and national human rights reports.[2615] She made an official complaint about her brother's death with the 125th Prosecutor's Office. She believes that it is for this reason that the FAES took actions against her family.[2616]

1474. On 3 April 2019, officers wearing FAES uniforms with covered faces and firearms raided the building where Ms. Pérez lived, claiming they were searching for a criminal.[2617] Ms. Pérez's neighbours and family members living in the same building later told her that, when they came to their homes, the FAES officials asked repeatedly for her[2618] as the person responsible for public complaints against them. On this occasion, Ms. Pérez was not at home.[2619]

1475. It was reported that Ms. Ruth Pérez's daughter, a minor, was forced with another woman into a space, forced to strip naked and to jump several times in front of a female

[2613] Confirmed by the Mission in an interview with Ms. Ruth Pérez. Ms. Pérez originally made the statement to COFAVIC.

[2614] FIDH, Venezuela: Amenazas en contra de la Sra. Ruth Pérez y ejecución extrajudicial de su sobrino, 7 November 2019, available at: https://www.fidh.org/es/temas/defensores-de-derechos-humanos/venezuela-amenazas-en-contra-de-la-sra-ruth-perez-y-ejecucion.

[2615] El Nacional, Denuncian que la FAES mató a un albañil en un edificio, 13 July 2018, available at: https://www.elnacional.com/venezuela/sucesos/denuncian-que-faes-mato-albanil-edificio_243794/.

[2616] AFP, FAES, el escuadrón que siembra el terror en barrios pobres de Venezuela, 7 November 2019, available at: https://www.france24.com/es/20191107-faes-el-escuadr%C3%B3n-que-siembra-el-terror-en-barrios-pobres-de-venezuela.

[2617] Mission interview with Ruth Pérez in May 2020.

[2618] Mission interview with C5GG15 in July 2020.

[2619] Confirmed by the Mission in an interview with Ms. Ruth Pérez. Ms Pérez originally made the statement to COFAVIC.

officer.[2620] There was a suspicion that they might have introduced elements of an illegal nature into their vaginas, as they were "partners of criminals". During the incident, they were threatened with further violence, insulted, and felt humiliated.

1476. On 30 May 2019, FAES officials returned to the building and took two of Ms. Pérez's nephews, 19-year-old Veiker Pérez and 18-year-old Jondry Pérez into custody, along with another 18-year-old man, Alexander Flores. As on the previous occasion, Ms. Pérez's neighbours told her that the FAES officials had asked for her and this time they showed the neighbours a video of a complaint Ms. Pérez made to the media in July 2018 after her brother had been killed.

1477. On 14 August 2019, FAES officials returned to the building, detained Jondry Pérez and then killed him outside the building. On this occasion, Ms. Pérez was at home. She told the Mission that the FAES officials threatened her, saying, "we are going to kill all the members of your family and then we are going to kill you". Ms. Pérez reported the incident to the Public Prosecutor's Office on 16 August 2019.[2621]

The Facts

1478. On 1 November 2019, Mr. Johander Javier Arai Pérez was with his cousin Giancarlo and his wife in his apartment in the above-mentioned Juana La Avanzadora building in Caracas. At approximately 1 a.m., more than 20 FAES officials entered the building.[2622] Some were wearing camouflage uniforms, others were dressed in black, with balaclavas covering their faces,[2623] and some were wearing PNB uniforms with FAES vests.[2624]

1479. The officers entered Ms. Pérez's apartment on the first underground floor, beat her and her daughters, and prevented them from leaving their apartment.[2625] The officers called Ms. Pérez and her daughters "*malditas perras"* and "*putas".*[2626] FAES agents were in different apartments of the third floor, but not in the corridors.[2627]

1480. On the third floor, the FAES officers went first into Johander's apartment. He used to live there with his wife but he was alone on 1 November 2019. FAES officers broke into his apartment and took him out to the corridor. As observed by C5GG16, the officers forced him to kneel in the corridor, with his hands behind his back, as they kicked him in the face telling him that he was going to die.[2628] There were around five FAES officers surrounding him. Later, C5GG16 heard shots from the "balcony area", a semi-open area where, according to this witness, FAES agents were simulating an armed confrontation.[2629]

1481. Around the same time, Mr. Wilkerman Ruíz was in his apartment asleep. FAES officers broke in through the window and took him away.[2630] The officers made it clear that Mr. Wilkerman was going to be killed and took him down the stairs.[2631]

1482. Later, C5GG15 went up to the third floor and saw Mr. Johander Javier Arai Pérez's body on the floor, surrounded by FAES officers.[2632] C5GG15 did not see any weapon at the

[2620] Federación Internacional por los Derechos Humanos, Venezuela: Amenayas en contra de la Sra. Ruth Pérez y ejecución extrajudicial de su sobrino, 7 Novmber 2019, available at: https://www.fidh.org/es/temas/defensores-de-derechos-humanos/venezuela-amenazas-en-contra-de-la-sra-ruth-perez-y-ejecucion

[2621] Ibid.

[2622] Mission interview with Ruth Pérez in May 2020.

[2623] Ibid.

[2624] Mission interview with C5GG15 in July 2020.

[2625] Mission interview with Ruth Pérez in May 2020.

[2626] Complaint filed to Attorney General's Fundamental Rights Office, 1 November 2019, p. 2, on file with the Mission.

[2627] Ibid.

[2628] Mission interview with C5GG16 in July 2020.

[2629] Ibid.

[2630] Ibid.

[2631] Ibid.

[2632] Mission interview with C5GG15 in July 2020.

crime scene.[2633] Mr. Arai Pérez had been killed with two gunshots.[2634] According to press reports, neighbours claimed that the police were seeking Mr. Arai Pérez in connection with property crimes.[2635]

1483. Around this time, Ms. Pérez and her daughters tried to leave the apartment to find out what was happening. According to a complaint filed by Ms. Pérez, FAES officers repeatedly beat her and her daughters to make them return to their apartment and stop asking questions. They beat the 16-year-old on the buttocks, while cursing and insulting them.[2636]

1484. The FAES officers took Mr. Wilkerman to the ground floor. C5GG15 and Ms. Pérez could hear him begging them not to kill him, as he wanted to see the birth of his daughter.[2637] The FAES officer who killed him told Mr. Wilkerman that he was going to kill him because he did not like his tattoo.[2638] Ms. Ruth Pérez managed to see the place where Mr. Wilkerman was killed; she saw his body and she assures that he did not have any weapons.[2639]

Legal Proceedings

1485. Johander had a criminal record; he had been detained on suspicion of drugs offences. Mr. Wilkerman had been involved in drug related offences when he was 15 years old. At the time of writing, his family has not received any indication that an investigation was conducted into their deaths. The Mission could not ascertain whether proceedings relevant to the death of Ms Ruth Perez´s brother, before the 125th Prosecutor's Office, are unfolding.[2640]

Findings

1486. Based on the facts above, the Mission has reasonable grounds to believe that extrajudicial executions were committed against Mr. Johander Javier Arai Pérez and Mr. Wilkerman Ruiz. FAES officers active on 1 November 2019 in Petare, Sucre Municipality, Miranda, were involved in the extrajudicial executions. The Mission has also reasonable grounds to believe that the treatment of Ms. Ruth Pérez and her daughters could be considered as cruel, inhuman or degrading treatment.

CASE 34: John William Linares Rodríguez and Carlos Diosveide Rodríguez Ortiz (29 January 2020)

1487. Twenty six-year-old John William Linares Rodríguez had been living in Colombia for more than a year, working as a day labourer on a farm. He decided to leave Venezuela in September 2018 after the death of his father William Linares.[2641] From Colombia, Mr. Linares Rodríguez continued to send money to his family so that his sisters could study.[2642]

1488. In December 2019, Mr. Linares Rodríguez returned to Venezuela to spend the holidays there with his family in the west of Barquisimeto, Lara state. Since his birthday was

[2633] Ibid.
[2634] Mission interview with Ruth Pérez in May 2020.
[2635] AFP, FAES, el escuadrón que siembra el terror en barrios pobres de Venezuela, 7 November 2019, available at: https://www.france24.com/es/20191107-faes-el-escuadr%C3%B3n-que-siembra-el-terror-en-barrios-pobres-de-venezuela.
[2636] Complaint filed to the Office of the Public Prosecutor's Fundamental Rights Office, 1 November 2019, p. 3, on file with the Mission.
[2637] Mission interview with Ruth Pérez in May 2020; Mission interview with C5GG15 in July 2020.
[2638] Ibid.
[2639] Mission interview with Ruth Pérez in May 2020.
[2640] AFP, FAES, el escuadrón que siembra el terror en barrios pobres de Venezuela, 7 November 2019, available at: https://www.france24.com/es/20191107-faes-el-escuadr%C3%B3n-que-siembra-el-terror-en-barrios-pobres-de-venezuela.
[2641] Mission interview with C5GG12 in June 2020, para. 5.
[2642] La Prensa Lara, Dos primos fueron abatidos en supuesto enfrentamiento, 31 January 2020, available at: https://www.laprensalara.com.ve/nota/12086/2020/01/dos-primos-fueron-abatidos-en-supuesto-enfrentamiento.

on 29 January 2020, he decided to stay and celebrate it in Venezuela before returning to Colombia.[2643]

1489. One of the guests at the birthday celebration was his cousin Carlos Diosveide Rodríguez Ortiz, 31 years old. His cousin worked at the wholesaler as a pineapple seller in a fruit shop and lived with his wife and two small children.[2644]

1490. According to their family members, Mr. Linares Rodríguez and Mr. Rodríguez Ortiz (the "Rodríguez Cousins") had never had problems with the law.[2645] However, following their deaths, local media reported that Mr. Rodríguez Ortiz had a criminal record for a drug-related crime dating back to October 2006. The same media source acknowledged that Mr. Linares Rodríguez had no criminal record, but it alleged that he had been involved in a local homicide.[2646]

1491. In September 2018, members of the Rodríguez cousins' close family were killed by FAES in what was claimed to have been a confrontation on the Avenida Circunvalación Norte, Lara.[2647] This included Mr. William Linares (John Linares Rodríguez's father), along with Yoember Linares (John's brother) and Royer Aparicio (John's cousin).[2648] One of the versions indicates that, on that occasion, John was also present but managed to escape from the FAES.[2649]

1492. According to Proiuris, the official version indicated that they were members of a criminal gang.[2650] Family members accept that Mr. William Linares used to carry weapons without a permit and had participated in fights. Previously, to earn money, he recovered stolen items and returned them to their owners. He had previous arrests for possessing a firearm and resisting arrest. However, his relatives insist that Mr. William Linares had stopped participating in illicit activities by the time he was killed.[2651] His relatives insist that, in any case, the three men were shot after they had surrendered to the FAES and that no confrontation took place.[2652] FAES agents threatened relatives that they would "wipe out" the family.[2653]

The Facts

1493. On 29 January 2020, the Rodríguez cousins celebrated John's birthday at the home of a relative. Each time Mr. Rodríguez Linares visited Venezuela, he stayed at his relatives' house, where he had a room and felt safe from the FAES.[2654]

1494. At about 5 a.m. on 30 January 2020, CICPC agents arrived in the neighbourhood. Some travelled in official vehicles with CICPC logos, while others arrived in private vehicles. They were armed and wore bulletproof vests.[2655] They first went to Mr. Rodríguez Linares'

[2643] Mission interview with C5GG12 in June 2020, para. 6.
[2644] Ibid., para. 7; La Prensa Lara, Dos primos fueron abatidos en supuesto enfrentamiento, 31 January 2020, available at: https://www.laprensalara.com.ve/nota/12086/2020/01/dos-primos-fueron-abatidos-en-supuesto-enfrentamiento.
[2645] Mission interview with C5GG12 in June 2020, paras. 4 and 7; Mission interview with C5GG13 in June 2020, para 1 and Mission interview with C5GG14 in June 2020.
[2646] La Prensa Lara, Dos primos fueron abatidos en supuesto enfrentamiento, 31 January 2020, available at: https://www.laprensalara.com.ve/nota/12086/2020/01/dos-primos-fueron-abatidos-en-supuesto-enfrentamiento; see also Proiuris, CICPC mata a dos primos en barrio Las Tinajitas de Barquisimeto, 31 January 2020, available at: https://www.proiuris.org/?p=58233.
[2647] Proiuris, Lara: 93 ejecuciones extrajudiciales en menos de 5 meses, 11 May 2019, available at: https://www.proiuris.org/?p=59707.
[2648] Mission interview with C5GG12 in June 2020, para. 1.
[2649] Proiuris, Lara: 93 ejecuciones extrajudiciales en menos de 5 meses, 11 May 2019, available at: https://www.proiuris.org/?p=59707.
[2650] Ibid.
[2651] Mission interview with C5GG12 in June 2020, para. 2.
[2652] Ibid., para. 1.
[2653] Ibid., para. 3.
[2654] Ibid., para. 8.
[2655] Proiuris, Lara: 93 ejecuciones extrajudiciales en menos de 5 meses, 11 May 2019, available at: https://www.proiuris.org/?p=59707.

relatives in the neighbourhood.[2656] The CICPC agents said that they had linked him to a robbery that had occurred in the days after his arrival from Colombia.

1495. At around 6 a.m., the police returned to their vehicles and drove to another relative of Mr. Rodríguez Linares. Neighbours were watching what was happening.[2657] There were several police officers, but they could not remember exactly how many.[2658]

1496. After 6 a.m., the sun was up and it was clear enough to see properly. Individuals present described that CICPC agents approached the house, fired shots in their direction, which they understood as a warning not to come closer.[2659] Witnesses saw the cousins run out of their relatives' house, carrying no weapons.[2660]

1497. Witnesses interviewed by the Mission said they saw Mr. Linares Rodríguez turn himself in to the CICPC officers, after a failed attempt to escape, at the door of a neighbour's house. He was begging not to be killed and held his hands in the air. The CICPC agents shot and killed him.[2661]

1498. Mr. Rodríguez Ortiz was killed inside a neighbour's house after a failed attempt to escape "even though he begged not to be killed".[2662] Neighbours heard Mr. Rodríguez Ortiz screaming not to be killed, because he had children.[2663]

1499. At the relatives' house, the police stole everything they found, including clothes, necklaces and watches.[2664]

1500. In a press report issued a week after the killing, CICPC officials were cited saying that the Rodríguez cousins were killed in a confrontation. They reported seizing a.38 calibre pistol and a .38 revolver, with which the cousins allegedly confront the officers.[2665] According to this version, CICPC officers from the Barquisimeto sub-delegation were in the area investigating farm robberies. They saw some people who shot at them when ordered to stop.[2666]

1501. Witnesses interviewed by the Mission provided a different version of events. The CICPC did not report any casualties within their ranks and the Mission could find no indication of CICPC officers killed or injured in the reported armed confrontation.

Findings

1502. Based on the facts above, the Mission has reasonable grounds to believe that extrajudicial executions were committed against Mr. John William Linares Rodríguez and Mr. Carlos Diosveide Rodríguez Ortiz. CICPC officers active on 29 January 2020 in the west of Barquisimeto, Lara, were involved in the extrajudicial executions.

[2656] Mission interview with C5GG13 in June 2020, para. 1.
[2657] Mission interview with C5GG12 in June 2020, para. 10; Mission interview with C5GG13 in June 2020, para. 2.
[2658] Mission interview with C5GG12 in June 2020, para. 10.
[2659] Mission interview with C5GG13 in June 2020, para. 2.
[2660] Ibid., para. 3; Mission interview with C5GG14 in June 2020.
[2661] Mission interview with C5GG13 in June 2020, para. 5; Mission interview with C5GG14 in June 2020.
[2662] Mission interview with C5GG13 in June 2020, para 6; Mission interview with C5GG14 in June 2020.
[2663] Mission interview with C5GG12 in June 2020, para. 12.
[2664] Ibid., para. 13.
[2665] Proiuris, Lara: 93 ejecuciones extrajudiciales en menos de 5 meses, 11 May 2019, available at: https://www.proiuris.org/?p=59707; see also La Prensa Lara, Dos primos fueron abatidos en supuesto enfrentamiento, 31 January 2020, available at: https://www.laprensalara.com.ve/nota/12086/2020/01/dos-primos-fueron-abatidos-en-supuesto-enfrentamiento.
[2666] Proiuris, Lara: 93 ejecuciones extrajudiciales en menos de 5 meses, 11 May 2019, available at: https://www.proiuris.org/?p=59707.

CHAPTER V. VIOLATIONS IN THE CONTEXT OF PROTESTS

I. Background

1503. Between January 2014 and June 2020 an estimated 65,709 protests were held in Venezuela, according to the Venezuelan Observatory for Social Conflict.[2667]

1504. Although demonstrations occurred regularly across the country in each of the six years under review, they peaked at certain times, as did the measures put in place to counter them. The periods of particular intensity were February to April 2014, April to July 2017 and January to February 2019. The Capital District, Miranda, Lara, Táchira and Mérida were particularly affected. The Mission prioritized violations occurring during these peak periods and in these places.

1505. The Mission investigated 97 incidents in which violations were committed in the contexts of protests. Of these, 14 are included in in depth case studies below. The investigations were based on direct information and other information collected by a variety of sources, including Government, former military sources and NGOs. The cases investigated and reviewed involved killings in protests, arbitrary detentions, all followed by torture and cruel, inhuman and degrading treatment, including sexual or gender-based violence against male and female protesters.

1506. The Mission focused its investigations on arbitrary detentions, and especially on acts occurring after arrests of demonstrators, torture and cruel inhume and degrading treatment, including sexual and gender based violence against protesters, and extrajudicial executions. The Mission is also concerned about the effect of Supreme Court decisions and security policies and plans developed since 2014 on the right to peaceful assembly.

1507. The Mission notes that security plans and policies applied to demonstrations provided scope for military and paramilitary intervention in protests and sometime for the participation of *colectivos*, or armed citizen groups in security tasks.

A. Determining Arbitrariness of Detentions in the Context of Protests

1508. The context in which protests and demonstrations took place is, in some respects, factually and legally complex. This context is set out in detail Chapter II (Background). The relevant legal framework around authorization to demonstrate is often difficult if not impossible to determine. It includes multiple Presidential decrees, Ministerial resolutions, the 2010 Protests Law and a deeply unsatisfactory Supreme Court decision of 2014 which rather than clarifying the applicable law, gave broad discretion to administrative authorities and little guidance to citizens.

1509. The law in relation to the authorization and policing of demonstrations is important, in particular, in relation to arbitrary arrests and detentions. It is not relevant in relation to the assessment of what happened to people after they were taken into detention.

1510. The Mission recognizes that, regardless of the political and economic troubles Venezuela faced and faces, the State retains the right and obligation to exercise its power to maintain public order. The obligation on the State to maintain order requires a balance to be struck: limitations on rights such as freedom of speech and of association can only be limited under the Covenant where such measures are necessary and proportional in respect of a legitimate objective.

1511. The Mission does not doubt that in some demonstrations some protestors may have acted violently, thrown Molotov cocktails or other improvised weapons, and otherwise conducted themselves in breach of the law. In those circumstances it is within the reasonable

[2667] The Venezuelan Observatory for Social Conflict does not define "protest" clearly. The Mission considers protests as public gatherings including demonstrations, marches and sit-ins to express disagreement with a policy or course of action.

powers of the State to arrest protestors, and, subject to the provision of appropriate safeguards, such arrests would not, *prima facie*, be arbitrary.

1512. On the facts, however, the Mission notes that in several cases the allegations of *in flagrante* conduct are entirely contested.

1513. A more complex issue is the arrest of people on the basis of demonstrating without due authorization.[2668] The obstacles put in the way of meeting authorization regulations were significant and in the view of the Mission were often aimed at limiting the possibility of legal compliance.[2669] As noted below, the United Nations Human Rights Committee views arrest for demonstration in breach of authorization procedures as excessive.[2670]

1514. In order to determine whether or not arrest and detention were arbitrary two issues have to be considered. Firstly, was there a basis in law for the arrest; and secondly, was the person arrested afforded the appropriate safeguards. Failure to meet the relevant tests on either of these limbs would render an arrest arbitrary.

1515. The requirement for an arrest to have a basis in law relates not only to national laws, but also compliance with international law as established, in particular, in connection with Article 9 of the ICCPR. This requires that the laws in question meet the basic principles of clarity, certainty, publicity and general application. The Mission considers that the legal framework in relation to the authorization of demonstrations was difficult to navigate and in several respects fell seriously short of the required standards mentioned above. In this regard alone it is possible that arrests arising from laws that fail to meet such standards may be considered arbitrary.

1516. In addition to adherence to basic rule of law principles, Venezuelan national law and international human rights law require that restrictions on the rights to freedom of speech and of association must be proportional in securing legitimate ends. It is not possible for the Mission to enter into a detailed analysis of each regulation and resolution to determine whether a measure was indeed proportional to objectives sought. The Mission however notes that, for example, up to 30% of the Venezuelan national territory is now designated a Security Zone where no demonstration is allowed. Even in times of deep political tensions, it is not easy to see how such a categorization could be deemed proportional to the objective of securing public order while respecting the right to peaceful assembly.

1517. The lawfulness of arrests would also be vitiated if they were justified on the basis of falsified or planted evidence, which is an aspect of several of the cases investigated.

1518. With regards to appropriate safeguards (Article 9, paragraphs 2-5 of the ICCPR), these include the right to be informed promptly of the reason for arrest. The limited exceptions that would allow for delay (for example to secure a translator to explain the arrest) are not relevant in any of the cases the Mission has seen.

[2668] The Human Rights Committee has noted that: "Having to apply for permission from the authorities undercuts the idea that peaceful assembly is a basic right […]", and that "Where authorization regimes persist in domestic law, they must in practice function as a system of notification, with authorization being granted as a matter of course, in the absence of compelling reasons to do otherwise. Notification regimes, for their part, must not in practice function as authorization systems". Human Rights Committee, General Comment No. 37, CCPR/C/GC/37 (article 21: Right to peaceful assembly), paras 70 and 73.

[2669] Ibid., para. 70: "[…] Notification systems, entailing that those who intend to organize a peaceful assembly are required to inform the authorities in advance and provide certain salient details, are permissible to the extent necessary to assist the authorities in facilitating the smooth conduct of peaceful assemblies and protecting the rights of others. At the same time, this requirement must not be misused to stifle peaceful assemblies, and, like other interferences with the right, must be justifiable on the grounds in article 21"

[2670] Ibid., para. 71: "A failure to notify the authorities of an upcoming assembly, where required, does not render the act of participation in the assembly unlawful, and must not in itself be used as a basis for dispersing the assembly or arresting the participants or organisers, or the imposition of undue sanctions, such as charging them with criminal offences".

1519. In relation to the specific cases the Mission has considered, it notes that in relation to people arrested in demonstrations[2671], there are reasonable grounds to believe that they were not informed of the reasons for their arrest. In addition, the treatment they received during and shortly after arrest also failed to meet the required safeguards in terms of guaranteeing their physical integrity.

B. Legal Framework

1520. Article 68 of the 1999 Constitution guarantees the right to peaceful protest in the following terms: "citizens have the right to demonstrate, peacefully and without weapons, subject only to such requirements as may be established by law. The use of firearms and toxic substances to control peaceful demonstrations is prohibited. The activity of police and security corps in maintaining public order shall be regulated by law".

1521. The 2010 Law on Political Parties, Public Meetings and Protests further outlined the right to peaceful protests and public order.[2672] It reiterates that all people in Venezuela "have the right to assemble in public places or to protest, with no other limitations than those established by law".[2673] The law provides notification procedures for demonstrations, stipulating that notice must be provided to the competent authority 24 hours in advance of the demonstration.[2674] It also affirms that "the authorities shall dissolve any build-up of crowds (aglomeraciones) which are trying to […] encourage disorder or hinder free transit". Those apprehended "*in flagrante delicto* shall be punished by 15 to 30 days' detention".[2675]

1522. On 24 April 2014, the Supreme Court issued a judgement holding that, in accordance with the Constitution and the 2010 Protests Law, demonstrations require prior permission from local authorities and authorities may deny such permission.[2676] The judgment did not provide any guidance regarding the reasons for which authorization may be denied, leaving a wide margin of discretion to authorities. The judgment affirmed that administrative authorization procedures must be exhausted and that failure to exhaust them "absolutely limits the right to peaceful demonstration, preventing any kind of meeting or demonstration from being held".[2677]

1523. The Supreme Court stated that demonstrations occurring without prior authorization "may result in the [intervention] of police and security forces to control public order to ensure the right to free movement and other constitutional rights".[2678] Those denied permission that hold demonstrations nevertheless would be criminally liable for disobedience of authority.[2679]

1524. The Mission notes that the interpretation by the Supreme Court appears at variance with Venezuela's international obligations related to the right of peaceful assembly. Limitations to the exercise of the right to peaceful assembly must be necessary and

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2671 Including in Case 35: Marches, Colectivos and Torture (12 February 2014), Case 36: Valencia, Carabobo state (13 February 2014); Case 37: Arbitrary Detention of 23 people in Rubio, Municipio of Junin, State of Táchira (19 March 2017); Case 38: The Caracas Protest Camps; Case 45: Protests in Maracaibo, Zulia; Case 47: Torture in Detention of Protestors in San Cristóbal, Táchira State (July and August 2017); and Case 48: San Felipe, Yaracuy state (23 January 2019).

2672 Ley de Partidos Políticos, Reuniones Públicas y Manifestaciones, published in the Official Gazette No. 6.013, 23 December 2010, available at: https://www.sumate.org/documentos/Marco_Legal_Electoral_Venezuela/Ley_de_Partidos_Politico_2010.pdf

2673 Ibid., art. 41.

2674 Ibid., arts. 43-46.

2675 Ibid., art. 51.

2676 Judgment No. 276 of 24 April 2014, available at: https://vlexvenezuela.com/vid/gerardo-sanchez-chacon-593352510.

2677 Ibid.

2678 Judgment No. 276 of 24 April 2014, available at: https://vlexvenezuela.com/vid/gerardo-sanchez-chacon-593352510.

2679 Ibid. (In the event of disobedience of the decision taken by the first civil authority of the jurisdiction, either because the demonstration or public meeting was held despite having been expressly denied or because the conditions of time, manner and place that were previously authorized were modified, the referred authority must refer the matter to the Public Prosecutor's Office),

proportional to the achievement of a legitimate public purpose.[2680] Human rights standards impose a corresponding obligation on States to allow peaceful assemblies to take place without unwarranted interference and to facilitate the exercise of the right.[2681]

1525. The Mision considers notification systems may be compatible with international standards to inform the authorities in advance and provide certain details of demonstrations so that authorities can facilitate the smooth conduct of peaceful assemblies. However, blanket authorization requirements, allowing for an absolute margin of discretion by authorities to deny permission, would not be compatible with international human rights standards.[2682] Failure to notify authorities should not in itself be used as a basis for dispersing the assembly, arresting the participants or organisers or charging them with criminal offences.[2683]

1526. Prior to its April 2014 decision, the Supreme Court's Constitutional Chamber had, on 12 March 2014, issued a series of decisions, requiring municipal mayors to prohibit protests that block roads and to "use the necessary material and human resources" to prevent such blockages.[2684] Several opposition mayors who did not prevent the road blockades were later declared in contempt of this decision[2685] and arrested.

1527. In November 2014, President Maduro issued a Presidential Resolution adopting the "Organic Law on Security of the Nation". Among other provisions, the decree allows for the establishment of security zones, which the President may declare as circumstances require. The law provides penalties of up to ten years' imprisonment for anyone conducting a range of activities within the zones deemed disruptive. Further investigation would be required to ascertain the proportionality involved in the implementation of security zones and whether a lack of proportionality could render various arrests arbitrary.

C. Regulation of Police Action during Protests

1528. Under the 1999 Constitution, the police are primarily responsible for maintaining public order.[2686] The 2008 Organic Law of the police[2687] and the 2017 police bylaw[2688] outline the standards on progressive use of force by the PNB, state and municipal police. The laws describe the progressive and differential nature of the force based on the principles of legality, necessity and proportionality. The use of lethal force is only allowed when the law-enforcement official has to defend his own life or the life of a third person.[2689]

2680 ICCPR, art. 21.
2681 CCPR/C/GC/37, para. 8.
2682 CCPR/C/GC/37, paras. 70 and 73.
2683 Ibid., para. 71.
2684 Judgment No. 135 of 12 March 2014 (with respect to Mayors David Smolansky and Gerardo Blyde), available at: http://historico.tsj.gob.ve/decisiones/scon/marzo/161913-135-12314-2014-14-0194.HTML; Judgment No. 136 of 12 March 2014 (with respect to Mayors Vicencio Scarano Spisso and Salvatore Lucchese Scaletta), available at: https://vlexvenezuela.com/vid/salas-agentes-aduanero-asociados-593338054?_ga=2.184534498.550495912.1594144441-1054173431.1593915400
2685 See Judgment No. 138 of 17 March 2014, available at: https://vlexvenezuela.com/vid/osmer-castillo-representante-legal-593337878; See also YouTube Video, TSJ: Alcalde de San Diego y su director de Policía a 10 meses de prisión por permitir violencia, 19 March 2014, available at: https://www.youtube.com/watch?v=JPU07i80HZc. See also Judgement No. 245 of 7 April 2014, available at: http://historico.tsj.gob.ve/decisiones/scon/abril/162860-245-9414-2014-14-0205.HTML; Judgment No. 236 of 10 April 2014, available at: https://www.civilisac.org/civilis/wp-content/uploads/Sentencia-263.pdf.
2686 1999 Constitution, art. 332.
2687 Decree No. 5.895, con Rango, Valor y Fuerza de Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional, published in the Official Gazette No. 5880 (reforms published in Official Gazette No. 5940), arts. 68-72, available at: https://derechovenezolano.files.wordpress.com/2013/04/ley-orgc3a1nica-del-servicio-de-policc3ada-y-del-cuerpo-de-policc3ada-nacional.pdf.
2688 Decree No. 2765 of 21 March 2017, arts. 60-64, available at: https://pandectasdigital.blogspot.com/2017/03/reglamento-general-de-la-ley-organica.html
2689 Decree No. 5.895, con Rango, Valor y Fuerza de Ley Orgánica del Servicio de Policía y del Cuerpo de Policía Nacional, published in the Official Gazette No. 5880 (reforms published in Official Gazette No. 5940), art. 68, available at: https://derechovenezolano.files.wordpress.com/2013/04/ley-

1529. In 2011, the Minister of the Interior passed a resolution adopting "Rules on the action of the Police Forces in their various territorial political areas to guarantee public order, social peace and citizen coexistence in public meetings and demonstrations".[2690] The resolution applies to the PNB and state and municipal police forces.

1530. The resolution requires police to respect the right to life, ensure protection of vulnerable groups[2691] and apply progressive and differentiated use of force during demonstrations.[2692] The resolution establishes a Directorate for the Control of Public Meetings and Demonstrations,[2693] whose members must complete specific training "in order to implement properly procedures and actions to guarantee public order, social peace and citizen coexistence in public meetings and demonstrations".[2694]

1531. In 2012, following this resolution, the General Police Council, a police advisory body, issued a manual on guaranteeing public order, social peace and citizen coexistence in public meetings and demonstrations".[2695] Among other things, the manual outlines protocols on intervention in demonstrations, including on progressive use of force, in accordance with the principles of legality, necessity and proportionality.[2696]

D. Military Intervention in Maintaining Public Order

1532. The Constitution grants the GNB a "basic responsibility for conducting operations as required to maintain internal order within the country".[2697] The November 2014 FANB Organic Law authorized the GNB to intervene in matters of public order and to "Cooperate with the criminal investigation police, special administrative police and general administrative police functions in accordance with the law".[2698]

1533. As noted, the 2014 law was replaced with the 2020 Constitutional Law[2699] adopted by the National Constituent Assembly, which makes several references to the FANB's responsibility to maintain public order, including through the GNB,[2700] CEOFANB[2701] and the commanders of the REDIs and ZODIs.[2702]

1534. The Mission considers that policing of demonstrations should be assigned only to specifically trained law enforcement officials and in principle, the military should not be used to police assemblies.[2703] When this occurs in exceptional circumstances and military are

orgc3a1nica-del-servicio-de-policc3ada-y-del-cuerpo-de-policc3ada-nacional.pdf ("[…] El traspaso en el uso de la fuerza mortal sólo estará justificado para la defensa de la vida del funcionario o funcionaria policial o de un tercero").

2690 Resolution No. 113 of 15 April 2011, available at: https://pandectasdigital.blogspot.com/2016/08/normas-sobre-la-actuacion-de-los.html

2691 Including children, elderly and people with disabilities.

2692 Resolution No. 113 of 15 April 2011, art. 5, available at: https://pandectasdigital.blogspot.com/2016/08/normas-sobre-la-actuacion-de-los.html

2693 Ibid., art. 9.

2694 Ibid., art. 14.

2695 Manual de Actuación de Los Cuerpos de Policía Para Garantizar El Orden Público La Paz Social y La Convivencia Ciudadana en Reuniones Públicas y Manifestaciones, available at: https://es.scribd.com/doc/229939771/Manual-de-Actuacion-de-Los-Cuerpos-de-Policia-Para-Garantizar-El-Orden-Publico-La-Paz-Social-y-La-Convivencia-Ciudadana-en-Reuniones-Publicas-y-Manife

2696 Ibid., pp. 34-37.

2697 1999 Constitution, art. 329.

2698 Organic Law of the National Bolivarian Armed Forces (hereinafter 2014 Organic Law of the FANB), Presidential Decree No. 1439, 17 November 2014, published in Official Gazette No. 6156, art. 65, available at: https://pandectasdigital.blogspot.com/2016/07/ley-organica-de-la-fuerza-armada.html

2699 National Constituent Assembly, Constitutional Law on the National Bolivarian Armed Forces, published in the Official Gazette No. 6508, 30 January 2020, available at: https://pandectasdigital.blogspot.com/2020/02/ley-constitucional-de-la-fuerza-armada.html

2700 Ibid., art. 73.

2701 Ibid., art. 49.

2702 Ibid., art. 56.

2703 CCPR/C/GC/37, para. 80. See also CCPR/C/VEN/CO/4, 14 August 2015, para. 14.

deployed in support on a temporary basis, they must comply with the same international rules and standards as law enforcement officials.[2704]

FANB Intervention in Demonstrations (Resolution No. 8610)

1535. In Resolution No. 8610 of January 2015, the Minister of Defence authorized the FANB to intervene in public meetings and demonstrations and to use lethal force, in accordance with principles of progressive use of force.[2705] The use of firearms was permitted when "unavoidable" and special precautions must be taken to protect human life, reduce damage, injury and avoid affecting other people outside the situation that warrants intervention.[2706]

1536. With Resolution No. 8610 of January 2015, the Minister of Defence authorized the FANB to intervene in public meetings and demonstrations. However, according to the Constitution, the GNB is the only armed force that can participate in operations to maintain internal order in the country, and only in cooperation with police forces.[2707]

1537. The resolution outlines the FANB response to each stage of violence in the protests. This includes dissuasive dialogue when there is verbal violence, painless physical control when there is passive violence, the use of non-lethal intermediate weapons when there is active violence, and the use of partially lethal force with firearms or other potentially lethal weapons, when there is a situation of "moral hazard" perpetrated by the protesters.[2708]

1538. The resolution made the CEOFANB responsible for coordinating FANB interventions in demonstrations. FANB members must inform the Public Prosecutor's Office of any person detained, injured or killed in the course of protest operations, "always acting with respect for human rights and Constitutional guarantees".[2709] FANB members are prohibited from attacking the demonstrators' flags and banners, and are obliged to use chemical deterrents with the utmost caution and only when necessary.[2710]

Manual on GNB intervention in demonstrations

1539. On 1 April 2015, General Nestor Reverol Torres, at the time General Commander of the National Guard,[2711] issued a general order circulating a manual with operational rules and procedures for special administrative police and criminal investigators in matters of public order. The manual describes GNB actions in responding to situations threatening public order. According to the manual, "those individuals, who can be national or foreigners, who are on national territory and maintain positions opposed to those of the Government" are internal enemies (of the State).[2712]

1540. The Manual refers to groups threatening public order as "guarimberos". It defines guarimberos as "those who carry out extreme street actions, putting people's lives or physical integrity at risk, causing deaths and traumatic injuries, as well as damage to their goods and services, implementing harmful means of blunt impact, metals, combustible material, inflammable material, fire and other artefacts".[2713] The manual acknowledges that guarimberos may not intend to cause damage and may be protesting lack of services or civil

[2704] CCPR/C/GC/37, para. 80.
[2705] Resolution of the Minister of Popular Power and Defence No. 8610, 26 December 2014, published in Official Gazette No. 40.589, 27 January 2015, available at: https://docs.google.com/file/d/0B8fhBobOcJfUQm9udmV6WlNuMHM/view.
[2706] Ibid., art. 24.
[2707] Article 329.
[2708] Ibid., art. 21.
[2709] Ibid., art. 2.
[2710] Ibid., art. 15.
[2711] Minister of Interior at the time of writing.
[2712] Manual de normas y procedimientos operativos del servicio de policía administrativa especial y de investigación penal en apoyo a la administración pública en materia de orden público, MAP GNB CO 07 03 01-1, 1 April 2015, p. 160.
[2713] Ibid., p. 70.

and political rights,[2714] but it also accuses them of generating violence, requiring military intervention.[2715]

1541. The document outlines operational measures that the GNB should take in various situations involving protests, including when protesters close roads, carry out unauthorized marches and protests and takeover of public or private institutions. It also lists the steps to take in the case of the "continuous situation of disturbances to the public order (Guarimba)".[2716] In the case of guarimbas, the following measures are to be taken, among others:[2717]

- The commander of the REDI shall be requested to authorize the dispatch of the corresponding units;
- Once in the area, the GNB will assess the situation and carry out intelligence work to gather information related to the reason or motive of the Guarimba;
- The GNB will identify alleged leaders involved, the approximate number of demonstrators, damage to property, people injured, and objects used to block the roads, among others;
- Public Order teams will be used in a progressive and rational manner;
- Identification and detention of leaders and other participants.

1542. Depending on the level of violence registered in the protests, the chain of command varies. There are four main levels, each with a different command control and guidance related to intervention and use of force:[2718]

Table 8:
Levels of FANB intervention in protests

Level	*Description*	*Tactics permitted under manual*	*Governing authority*
I.	Peaceful protests that are duly authorized	Preventive training as a second ring of protection at a prudential distance behind the police site, which will be done, without the use of firearms or tear gas, and respecting at all times the human rights of citizens.	Ministry of the Interior, the Ministry of Defence and the CEOFANB
II.	Peaceful protests that are not authorized	Preventive measures will be taken and unauthorized access will be blocked, firearms and tear gas will not be used, and the human rights of individuals will be respected at all times	Ministry of the Interior, the Ministry of Defence and the CEOFANB (through the GNB)
III.	Violent protests (Guarimbas)	Two scenarios: (1) When the police forces can and do restore order through dispersion, with the GNB remaining on alert (2) When the demonstrators are violent and manage to break the police siege, the GNB intervenes to restore public order. The GNB assumes control of the overwhelmed police force, which will now cooperate under its instructions, at which time the FANB, through the units specialized in restoring public order in the Army, Navy and Air	Ministry of Interior, Ministry of Defence and the CEOFANB (through the GNB)

[2714] Ibid., page 71.
[2715] Ibid.
[2716] Ibid., pages 17-32.
[2717] Ibid., pages 31-32.
[2718] Ibid., page 46.

Level	*Description*	*Tactics permitted under manual*	*Governing authority*
		Force, must be alert and ready to cooperate. Progressive and differentiated use of force is increased by the passive resistance of the demonstrators. [Security forces will adopt] as a first measure the use of the water vehicle, then non-lethal weapons such as the friction gun will be used, which has the deterrent purpose of stunning, obfuscating and confusing, simultaneously the tear gas and finally an active containment action to control the final resistance.	
IV.	Very violent protests with firearms and loss of life[2719]	In these operations to restore public order, the officers of the FANB may not use lethal firearms […]. However, when the use of firearms is required, it will be done through the Public Order units created solely and exclusively for that purpose […], remaining at a prudent distance, attentive to the orders of superiors, and will only be used in case of imminent danger of death, extreme and exceptional circumstances, such as the defence of persons or third parties through illegitimate aggression Action will be limited by the principles of necessity, convenience, timeliness and proportionality for the use of firearms as established by law. [Use of force] shall be technically aimed at individually neutralizing the attacker or armed attackers who are infiltrating the public demonstration. Warning shots with firearms are strictly prohibited.	President as Commander in Chief, orders the intervention of the FANB through the specialized units for the operations of restoration of the Public Order […] under the direction of the GNB and supervision of the CEOFANB Ministry of Defence, through the CEOFANB, assumes the responsibility of coordinating and managing the operations to restore internal order through the GNB. The Ministry of the Interior will provide support to the police forces, which will be under the operational control of CEOFANB.

1543. At the logistical level, the manual outlines in detail the equipment available to the GNB for maintaining public order during demonstrations, including protection gear, communications equipment and intervention tactics, depending on the corresponding level. With respect to vehicles, the manual says that the GNB will have access to Tiuna tanks, heavy transport trucks, armoured vehicles, "barrier" trucks, the WCT-1 Multifunctional Deterrence Vehicles (hydrant trucks or "ballenas"), Toyota SUVs and motorcycles.

Plan Guaicaipuro

1544. Plan Guaicaipuro entered into force on 4 April 2017, to establish prevention and control operations to maintain and re-establish public order, safeguard public institutions,

[2719] Described as the following: demonstrations are simultaneous at the national level and become more violent, the use of firearms by demonstrators is evident, producing losses of human lives, the media and groups disaffected with the National Government call for civil disobedience, damage and injuries to third parties unconnected with the protests are produced, looting and serious damage to property occurs, generating a state of internal commotion, which is no longer of public order, but of internal order.

and guarantee peace and internal order.[2720] The plan was implemented in the Capital District and Caracas, covering areas of the metropolitan area, municipalities of the State of Miranda adjacent to the capital.

1545. Plan Guaicaipuro authorized ZODI 41 and GNB Command Zone 43, one covering the capital and the other the Capital District, to carry out citizen security and public order operations in Libertador Municipality in the Capital District and Chacao, Sucre, Haltillo and Baruta municipalities of Miranda State. The plan identified different zones and adjacent operations where specific troops were to be sent.[2721]

1546. Plan Guaicaipuro identified as "opposition forces" organizations opposing Venezuelan Government policies while violating public order. The plan defined opposition forces as political groups and/or students intending to violate the security zones established by the national executive, among others. The plan also referred to "Friendly Forces" or allies, including the components of the Army, Navy and Air Force, the Bolivarian Militia, the SEBIN, the DGCIM and the regional and municipal police.[2722]

1547. The plan set out identified Sectors (Blocking Lines), as well as the personnel and logistics to ensure their establishment.[2723] GNB members made up detachments, except for some members of the People's Guard (Preventive and Social Assistance Command, assigned to the FANB). The detachments were divided into Public Order Restoration Platoons (PROP), Public Order Armored Units (UNIBOP) and Combined Public Order Units (UNICOP). The military or police units were equipped with barrier trucks ("barreras"), hydrant trucks ("ballenas") and armoured personnel carriers, for the protection of avenues, highways, and bridges.[2724]

1548. The plan contained special provisions to protect the Supreme Court of Justice, the Office of the Comptroller General, the Public Prosecutor's Office, the National Assembly, the Vice Presidency and adjacent roads, referred to as Sector 5 "Centre of Power".[2725]

Plan Zamora

1549. On 18 April 2017, President Maduro announced that the Venezuelan Government was facing an attack, promoted by the United States Government and opposition members, aimed at provoking imperialist intervention in the country. For this reason, as Commander in Chief, President Maduro told Venezuelans he was activating a series of strategic military or civil measures, under Plan Zamora.[2726] President Maduro's explained that Venezuela was facing a US-led attack affecting peace, democracy and the Venezuelan Constitution.[2727] The President ordered the heads of REDI and ZODI to activate the first, green phase, of Plan Zamora. The President announced that Plan Zamora would defeat the coup d'état prevented an escalation of violence and to guarantee peace in Venezuela".[2728]

1550. Plan Zamora was not published, but the FFM obtained from two separate sources a copy that circulated within the FANB following President Maduro's announcement. The plan lists 8 categories of people defined as enemies[2729] and 19 categories of circumstances

[2720] Plan Guaicaipuro, p. 2.
[2721] Plan Guaicaipuro, p. 4.
[2722] Plan Guaicaipuro, p. 3.
[2723] Sector 1, Línea de Bloqueo El Paraíso, Av. O'Higgins, Dist. La araña; Sector 2, Línea de Bloqueo Santa Mónica; Sector 3, Línea de Bloqueo Bicentenario; Sector 4, Línea de Bloqueo Maripérez; Sector 5, Centro de Poder; Base aérea Generalísimo Francisco de Miranda (La Carlota).
[2724] Plan Guaicaipuro, p. 4-11.
[2725] Plan Guaicaipuro, p. 9
[2726] YouTube Video, Luigino Bracci Roa, Situación en Venezuela. Presidente Maduro desde Miraflores ordena activar Plan Zamora (completo), 18 April 2017, minute 51:31, available at: https://www.youtube.com/watch?v=eIwin97iqD8
[2727] Ibid., minute 5:04
[2728] Ibid., minute 52:00.
[2729] 1) Violent organizations or groups outside the law. 2) Individuals or groups of organized crime. 3) Criminal organizations that attempt against life and public and private property. 4) Organizations and foreign Governments, contrary to the legally constituted system of Government, which take on

constituting threats to the internal order. Among the forces described as friendly were the Ministries of People's Power, the DGCIM, the SEBIN, the Public Prosecutor's Office the CICPC, the PNB and state and municipal police.

1551. Various references to protests are made throughout Plan Zamora describing them as different kinds of threats to the internal order, including the following:

- Disaffected and organized groups carrying out protests that generate serious alterations of public order and prevent the good performance of public transportation;[2730]
- Disaffected and organized groups carrying out protests that generate violent alterations to the public order and looting of the supermarkets and shops;[2731]
- Groups generating violence and carrying out protests of a vindictive nature that generate serious alterations and prevent the good development of the activities in the supply to the population of the public services of electricity, water, service of wired and wireless telephone and gas;[2732]
- The destabilization of the political system including incitement to strikes, protests and illegitimate street actions in sectors of civil society by ultra-right-wing political actors;[2733]
- Closure of national and/or regional roads in order to protest against public services and other demands and thus create chaos in those sectors.[2734]

1552. Plan Zamora was a matrix plan distributed to the various REDIs and ZODIs to implement. It makes the REDIs responsible for general assessments of the situation in order to foresee and plan action that subordinate units must take.[2735] The plan outlines a chain of command, under which the CEOFANB appoints a liaison officer to coordinate with the REDI and the Ministries of the People's Power.[2736] The REDI activating the Plan shall designate a senior officer to liaise with the CEOFANB to coordinate support.[2737]

1553. The FFM interviewed a former military general who clarified the chain of command in the framework of protests prior to and after the adoption of Plan Zamora.[2738]

- Prior to Plan Zamora, the Interior Ministry was directly responsible for operations. The CEOFANB put the GNB at the Interior Ministry's disposal for operations to re-establish public order. The Ministry of the Interior would issue instructions to various institutions under its command, including (1) the PNB, (2) the SEBIN and (3) the GNB (which executed actions though its regional commands).
- Following activation of Plan Zamora in April 2017, operations were directed by the CEOFANB, under orders from the President as Commander in Chief. CEOFANB issued orders to (1) the REDIs (which planned and executed through the ZODIs); (2) the GNB (which responded to the REDIs and the ZODIs); and (3) the PNB (which was under the control of the GNB and the REDIs and ZODIs). The former general interviewed told the FFM that the ZODIs also enlisted the support of civilians in operations. This was authorized under the Presidential Decrees declaring states of

destabilizing actions in the national territory, in support of violent groups. 5) Criminal organizations dedicated to extraction or introduction contraband. 6) Unscrupulous persons and organizations dedicated to actions of economic warfare such as usury, hoarding, speculation or boycott. 7) Persons and/or organizations dedicated to environmental depredation for commercial purposes. 8) Armed organizations or citizens, outside the law.

2730 Plan Zamora, p. 9.
2731 Plan Zamora, p. 10.
2732 Plan Zamora, p. 11.
2733 Plan Zamora, p. 14.
2734 Plan Zamora, p. 16.
2735 Plan Zamora, p. 6.
2736 Plan Zamora, p. 16.
2737 Ibid.
2738 Mission Interview C1HH01 in June 2020.

- exception and economic emergency, which allowed civilian groups to cooperate in public order operations.[2739]

1554. On 17 May 2017, Defence Minister Vladimir Padrino Lopez announced the deployment of the "second phase" of Plan Zamora in Táchira, ordered by President Maduro, to maintain internal order. For this phase, Defence Minister announced the deployment of 2000 GNB and 600 special operation troops to Táchira.[2740] The Minister said, "We have decided, on the instructions of the President, to raise to a second phase, that is to say to a higher level of concentration and other additional activities, the use of the Zamora Plan in the state of Táchira". He said that human rights would be respected and that lethal firearms would not be used during the operation. He did not specify the timeframe for deployment.

1555. The FFM was able to access one such regional plan, the "Fragmentary Order of the Plan Zamora" of the ZODI No. 22, Mérida", issued in January 2019.[2741] As well as indicating that Plan Zamora continued to be implemented at least through early 2019, the Fragmentary Order outlines the strategy for military and police presence during the February 2019 protests in Mérida state.[2742] According to an organisation that tracks protests, Mérida saw 158 demonstrations that month, more than any other state.[2743]

1556. In its operative phase, the Fragmentary Order intended to "neutralize, expel and/or capture" enemy groups "that try to attack the independence and sovereignty of the nation or alter the Public Order".[2744] The implementation was coordinated with the PNB, Mérida state police and municipal police.[2745] The January 2019 Mérida plan outlines operational logistics to be used during protests. The GNB command zones were assigned equipment including armoured personnel carriers, "barreras", hydrant trucks ("ballenas") and patrol vehicles to secure various points, including key infrastructure (communications towers, gas plants, electrical stations).[2746]

Cooperation of military with civilians to maintain public order

1557. A number of cases the FFM investigated involved armed civilian groups, referred to as colectivos. As noted above, since 2014, the Government has expressly involved civilians in security tasks, often under the concept of the "civic-military union". Since 2016 until the time of writing, President Maduro had issued 26 decrees declaring a state of emergency in Venezuela. The decrees authorized Local Committees for Supply and Distribution (CLAP), the Communal Councils and "other grassroots organizations of the People's Power",[2747] to

[2739] See e.g., Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, art. 2.9, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html

[2740] YouTube Video, Luigino Bracci Roa, Situación en Venezuela. Ministro de Defensa Venezolano Vladimir Padrino, rueda de prensa completa. 17 May 2017, minute 13:50, available at: https://www.youtube.com/watch?v=gBxCmbELkto&list=PLQCTa5zJTI98M67LF8q7awycQqnYS0CZR&index=45

[2741] Orden de fragmentaria de la orden de Operaciones Zamora para el mantenimiento, control y restablecimiento del orden público ZODI No. 22, Mérida, January 2019.

[2742] Ibid., p. 3.

[2743] http://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/1-600-protestas-marcaron-la-conflictividad-en-venezuela-durante-febrero-de-2019-2. See a video of a protest in Mérida on 23 February 2019, YouTube Video, Protesta masiva contra el régimen de Maduro en Mérida – Venezuela el día 23 de febrero de 2019, 23 February 2019, available at: https://www.youtube.com/watch?v=LFRAgAKDWww.

[2744] Ibid., p. 4.

[2745] Ibid., pp. 7-9.

[2746] Ibid., pp. 5 and 6.

[2747] Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, art. 2.9, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html, art. 9. Ibid., art. 9.

participate together with State military and police armed forces,[2748] to carry out vigilance and maintain public order and guarantee security and sovereignty in the country.[2749]

1558. The Mission obtained a December 2016 PowerPoint presentation produced by the CEOFANB in preparation for a major military-civilian exercise, which indicated cooperation between the military and civilian groups in combatting "internal enemies and groups that generate violence". The exercise was to prepare and respond to "internal or external threats", one of which was said to be the "guarimbas in the sectors of opposition mayors".[2750] The FFM has located digital information that the Zamora 200 exercise took place on 14 January 2017. Videos from that day[2751] show footage of the "civic-military exercise Zamora 200" in different military bases around the country.[2752] In one video,[2753] an announcer refers to "destroying the enemy" and "calls on the people" to defend the homeland "with arms".[2754] President Maduro also participated.[2755]

II. Patterns

1559. The Mission investigated and reviewed 61 cases involving detentions and torture and cruel, inhuman or degrading treatment of protesters (15 took place in 2014, 35 in 2017 and six in 2019). Of these, seven are included in in-depth case studies below (involving 29 people: 20 men, 6 women, 2 boys and 1 girl). The Mission also investigated eight cases of sexual and gender-based violence against protesters (one against a girl, four against women, and three against men). In addition, it investigated and reviewed 36 cases of killings during protests, eight of which are included in in-depth case studies below.

1560. The Misison interviewed victims, witnesses, legal representatives and people with inside information within security forces and the judiciary, as referenced throughout this section. It also analyzed over 70 videos, which were all verified and geo-located to support the documentation of cases in the context of protests.

A. Protests

1561. Official Government information about numbers of demonstrations is not available[2756] but the Venezuelan Observatory of Social Conflict (OVCS) has documented the number of protests each year. According to the OVCS, 9286 protests took place in 2014;[2757] 5851

[2748] Ibid.

[2749] Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, art. 2.9, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html

[2750] Document C1HH01 on file with the Mission.

[2751] YouTube Video, Multimedio VTV, Ejercicio de Acción Integral Antiimperialista Zamora 200, 14 January 2017, video on file with the Mission,.

[2752] YouTube Video, Multimedio VTV, Ejercicio de Acción Integral Antiimperialista Zamora 200 - Edo. Falcón, 15 January 2017, video on file with the Mission.

[2753] YouTube Video, Luigino Bracci Roa, Impresionantes ejercicios cívico-militares en el Fuerte Guaicaipuro, Zamora-200, 14 January 2016, available at: https://www.youtube.com/watch?v=47vIj9qiCw0

[2754] Ibid., minute 4:00.

[2755] Ibid.

[2756] The Mission located only one instance of an official reference to the number of protests. In 2017, the Government reported before the Inter-American Commission on Human Rights that between 1 April and 31 July 2017, 9435 protests were registered, 5878 of which (62%) the Government said were violent. YouTube Video: Statement by the Government of Venezuela at the Hearing: Violence, Citizen Security, and Freedom of Expression in Venezuela, 165th IACHR Session, minute 62:48, available at: https://www.youtube.com/watch?v=rV0NW2PdBJs&feature=youtu.be

[2757] OVCS, Informe Conflictividad Social en Venezuela 2014, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2015/01/Conflictividad-en-Venezuela-2014.pdf

protests in 2015;[2758] 6917 protests in 2016;[2759] 9787 protests in 2017;[2760] 12,715 protests in 2018;[2761] 16,739 protests in 2019;[2762] and 4414 protests in 2020 (January to June).[2763]

1562. The OVCS also tracked protesters' demands, classifying protests as "political" (involving expressions of discontent with and opposition to the Government policies and decisions)[2764] or related to economic and social rights (ESR). This includes demands related to access to housing, water, services, basic goods and labour rights, among others, as well as to specific concerns at certain times, such as petrol unavailability and electricity blackouts. In 2014, 52% of demands were political (most in the first half of the year) and 48% were related to ESR.[2765] In 2015, 12% were political and 83% related to ESR.[2766] In 2016, there was no information about the number of political protests, but 70% related to ESR.[2767] In 2017, the OVCS reported that the protests combined political issues and ESR.[2768] In 2018, 11% were political and 89% related to ESR.[2769] In 2019, 42% were political and 58% related to ESR.[2770]

1563. The Mission reviewed 55 protests based on direct sources, including interviews with protesters who were present and verified video footage. The cases investigated and reviewed by the Mission showed different forms of protests, both planned and spontaneous, involving different participants, including students, political parties, neighbourhood associations, non-

2758 OVCS, Informe Conflictividad Social en Venezuela 2015, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2016/01/Conflictividad-social-en-Venezuela-2015.pdf

2759 OVCS, Informe Conflictividad Social en Venezuela 2016, available at: http://www.observatoriodeconflictos.org.ve/sin-categoria/conflictividad-social-en-venezuela-2016

2760 OVCS, Informe Conflictividad Social en Venezuela 2017, available at: https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2017

2761 OVCS, Informe Conflictividad Social en Venezuela 2018, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2019/01/Conflictividad-social-en-Venezuela-2018.pdf

2762 OVCS, Informe Conflictividad Social en Venezuela 2019, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/01/INFORMEANUAL-OVCS2019-1.pdf

2763 In May, 1075 (http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/06/INFORMEOVCS-MAY2020.pdf); in April, 716 (https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-durante-abril-2020); in March, 580 (https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-durante-marzo-2020); in February, 779 (https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/observatorio-de-conflictividad-registro-799-protestas-en-febrero); in January, 618 (https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-enero-de-2020)

2764 Described by OVCS as "protests rejecting the Government". OVCS, Informe Conflictividad Social en Venezuela 2014, p. 4, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2015/01/Conflictividad-en-Venezuela-2014.pdf

2765 Ibid., p. 6.

2766 OVCS, Informe Conflictividad Social en Venezuela 2015, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2016/01/Conflictividad-social-en-Venezuela-2015.pdf

2767 OVCS, Informe Conflictividad Social en Venezuela 2016, available at: http://www.observatoriodeconflictos.org.ve/sin-categoria/conflictividad-social-en-venezuela-2016

2768 OVCS, Informe Conflictividad Social en Venezuela 2017, p. 3, available at: https://www.observatoriodeconflictos.org.ve/tendencias-de-la-conflictividad/conflictividad-social-en-venezuela-en-2017

2769 OVCS, Informe Conflictividad Social en Venezuela 2018, p. 7, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2019/01/Conflictividad-social-en-Venezuela-2018.pdf .

2770 OVCS, Informe Conflictividad Social en Venezuela 2019, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/01/INFORMEANUAL-OVCS2019-1.pdf

Governmental organizations, unions and professional associations and other citizens. These include:

- Large-scale marches, rallies or mobilizations, which tended to be announced and called by political parties or student movements. In these situations, the protests were generally met with a large deployment of security forces.
- Small-scale demonstrations organised at local level, by neighbours within their communities, including "cacerolazos" (banging pots and pans), sit-in protests and other gatherings. This type of protests tended to be spontaneous and denounce, especially, concerns related to economic and social rights and were not necessarily organised by political parties, though political representatives may have attended them.

1564. Many demonstrations caused some form of transport disruption, either by taking the space in avenues and highways to march, or by establishing some forms of sit-in ("campamentos"/"sentadas") or roadblocks, including "guarimbas" made of different type of items (with metal panels or tree trunks or piling up garbage and construction supplies). In some of the cases reviewed, these forms of barricades cut roads for a certain period during the day. Others were more "permanent", blocking traffic for longer. In Táchira, this form of protest was common, including to protect the demonstrations, i.e. preventing the progress of security forces to areas where mobilizations or rallies were held.

1565. The Government responded to large-scale protests with coordinated operations, relying upon a high level of logistical support. Often, the marches were peaceful and were allowed to proceed along a street or avenue up to a certain point or protected area, where they were met with a line of security forces. As protesters attempted to continue forward, the security forces attempted to prevent them from continuing, disperse or repress protesters.

1566. According to the Mission's reviews of cases and videos of protests, security forces fired tear gas canisters (multiple at a time), anti-riot pellet guns and used hydrant trucks. According to the hospital assistance organization Cruz Verde, the most common affliction treated among the more than 5,000 patients assisted by them (as at 2017) was asphyxiation, due to respiratory tract irritation caused by exposure to tear gas,[2771] followed by different types of trauma and injuries caused by shotgun pellets.[2772]

1567. Some individuals involved in protests also committed violent acts, including throwing rocks or Molotov cocktails at the security forces. In other incidents, violence against security forces was reported. According to the information available to the Mission, 17 security personnel were killed and 507 injured in the context of protests between April and August 2017.[2773] Of the protests reviewed by the Mission, 13 involved some form of confrontation between security forces and protesters.

B. Detentions and Due Process

1568. In the vast majority of cases investigated and reviewed by the Mission, detainees were held incommunicado before being brought to a judge for their initial court appearance.[2774] As such, they were not able to contact their relatives to inform of their detention and had no access to a lawyer prior to the hearing with the supervisory judge. In most cases, the detainees

[2771] YouTube Video: Ponte en sus zapatos. Paul Moreno, Cruz Verde - OEA - Audiencias de Venezolanos ante Corte Penal Internacional, 16 November 2017, minute 7:11, available at: https://www.youtube.com/watch?v=8HDW8c9Z1S8

[2772] Ibid., minute 15:19.

[2773] Gobierno de Venezuela, Ministerio Público, Despacho de la Fiscal General de la República, Informe Anual 2014 a la Asamblea Nacional; Defensoría del Pueblo, En Defensa de la Paz y por la Verdad, Informe sobre sucesos abril-julio 2017, on file with the Mission.

[2774] In cases of detainees in Case 34: Marches, armed colectivos and torture (12 February 2014); Gloria Tobón in Case 36: arbitrary detention of 23 people in Rubio Municipality of Junín, State of Táchira (19 March 2014); C1AA03 in Case 37: case of Caracas protest camps (May 2014); Case 46: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017); Case 48: adolescents in San Felipe, Yaracuy state (23 January 2019).

were not informed of the reasons for their arrest until they were brought before a judge for the initial appearance after 48 hours of detention.

1569. Official statistics are not available publicly but civil society organizations have attempted to track numbers of arrests in the context of protests, identifying between 3459[2775] and 3696[2776] in 2014, between 2553[2777] and 5549[2778] in 2017 and an estimated 2252[2779] in 2019. In the cases investigated, a total of 403 persons were arrested (including 243 in the case of Caracas protest camps in May 2014). Of these, 312 were charged with a criminal offence during the initial appearance (66 held in pre-trial detention and 246 released with non-custodial measures at the initial appearance). In 35 cases, the detainees were released without charges.[2780]

1570. The Mission reviewed 12 cases out of the 66 individuals held in pre-trial detention.[2781] In these cases, there were not sufficient information provided to sustain the custodial measures, that there was an act punishable by deprivation of liberty; sound information to consider that the accused has been the author or participant in the commission of a punishable act; and reasonable presumption of danger of absconding or obstruction of the investigation.[2782] In the case of the 19 adolescents detained in Yaracuy, the judge in the case later admitted in a video, that no sufficient elements were presented to justify the pre-trial detention of the victims, stating that she had been coerced to make that decision.[2783]

1571. In the 246 cases of individuals charged but released conditionally at the initial appearance with non-custodial measures,[2784] the non-custodial measures included the periodic presentation before a judicial authority, as well as the prohibition to leave the city and prohibition to participate in public meetings or demonstrations.[2785] Two people the Mission interviewed indicated that the Administrative Service of Identification, Migration and Foreigners (SAIME) annulled their identity document (cédula de identidad) following their detention, with significant consequences on their ability to exercise rights, including the right to vote.[2786]

2775 https://www.derechos.org.ve/pw/wp-content/uploads/16libertad_personal1.pdf
2776 Foro Penal: Gráfica de arrestos por año 2014-2019, on file with the Mission.
2777 https://www.derechos.org.ve/web/wp-content/uploads/16libertad_personal-3.pdf
2778 Foro Penal: Gráfica de arrestos por año 2014-2019, on file with the Mission.
2779 Ibid.
2780 The Mission has not had access to the judicial status of the other 56 detainees in these cases. The Mission investigated the cases of 31 detainees in Case 35: Marches, armed colectivos and torture (12 February 2014); 11 detainees in Case 36: Valencia, Carabobo state (13 February 2014); Case 37: arbitrary detentions of 23 people in Rubio Municipality of Junín, State of Táchira (19 March 2014); 243 detainees in Case 38: Caracas protest camps (May 2014); 23 detainees in Case 45: protests in Maracaibo, Zulia (20 July 2017); more than 22 detainees in Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017); and 51 persons approximatively, including 19 children, in Case 48: San Felipe, Yaracuy state (23 January 2019).
2781 Demian Martin, Christian Holdack and Marco Coello detained in Case 35: Marches, armed colectivos and torture (12 February 2014); Juan Manuel Carrasco detained in Case 36: Valencia, Carabobo state (13 February 2014); Gerardo Carrero, Nixon Leal, Sairam Rivas detained in Case 38: Caracas protest camps (May 2014); C1EE02 (man) and C1EE09 (man) detained in protests in Case 45: protests in Maracaibo, Zulia (20 July 2017); C1AA13 (man) and C1AA14 (man) detained in Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017) and C1AA15 (adolescent boy) detained in Case 48: San Felipe, Yaracuy state (23 January 2019).
2782 2012 Criminal Procedure Code, art. 236.
2783 See in Case 48: San Felipe, Yaracuy state (23 January 2019).
2784 Gloria Tobón and other 22 persons detained in Case 37: Rubio, Municipality of Junín, State of Táchira (19 March 2014); C1AA02 (man); C1AA03 (woman) and C1AA26 (woman) and other 200 persons detained in Case 38: Caracas protest camps (May 2014).
2785 2012 Criminal Procedure Code, art. 242.
2786 In case of Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014) and in Case 38: Caracas protest camps (May 2014).

1572. In the cases reviewed by the Mission, the most common crimes charged under civilian jurisdiction were public incitement,[2787] instigation to commit a crime,[2788] criminal association ("agavillamiento"),[2789] and obstruction of a public thoroughfare.[2790] To a lesser extent, detainees were charged with damages or arson,[2791] use of minor to commit a crime[2792] and possession of an incendiary substance.[2793] In some cases investigated, the crimes charged did not relate to protests at all, such as drug possession.

1573. In several cases, the State did not present sufficient information to individualize the participation of the accused in the criminal act accused.[2794] For example, in the cases of the arrests on 8 May 2014 at the UN campsite, 96 individuals were all accused with the same crimes of incitement to disobey the law, criminal association (agavillamiento) and possession with inflammatory substances, without individualizing responsibility for the alleged criminal actions.[2795]

1574. In nine cases investigated, those interviewed alleged that charges were based on information later planted or fabricated by security forces, including forging police reports or taking pictures of protestors posing next to Molotov cocktails, among other items.[2796] For example:

- Gloria Tobón along the others detained had hoods placed over their heads and were posed by security forces next to Molotov cocktails and other items. These pictures were later circulated on social media.[2797]
- C1AA13 and C1AA14 also told the Mission that security forces took pictures of them next to supposed explosive items that did not belong to them. They also told the FMM that while the GNB officers were drafting their arrest report in from of them, they were mocking them about what they could make up in the report and then beaten C1AA13 after he complained about it.[2798]
- In the cases of Christian Holdack and Marco Coello, clothing stained with gasoline was presented, among others, as information of their participation in the violence of 12 February 2014. They both alleged that the gasoline was put on their clothes after their arrest.[2799]
- In the case of the Caracas campsite, an official infiltrator working for Navy Intelligence and later interviewed by the Public Prosecutor's Office admitted that

[2787] Criminal Code, art. 285.
[2788] Criminal Code, art. 285.
[2789] Criminal Code, art. 286.
[2790] Criminal Code, art. 357.
[2791] Criminal Code, arts. 343 and 473.
[2792] Organic Law for the Protection of Children and Adolescents art. 264.
[2793] Criminal Code, art. 296.
[2794] Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 38: Caracas protest camps (May 2014); and Case 48: San Felipe, Yaracuy state (23 January 2019).
[2795] Case 38: Caracas protest camps (May 2014).
[2796] Demian Martin, Christian Holdack and Marco Coello detained in Case 35: Marches, armed colectivos and torture (12 February 2014); Case 37: Gloria Tobón and other 22 persons detained Rubio, Municipality of Junín, State of Táchira (19 March 2014); Gerardo Carrero, Nixon Leal, Sairam Rivas; C1AA02 (man); C1AA03 (woman); C1AA26 (woman) and other 200 persons detained in Case 38: Caracas protest camps (May 2014); C1AA13 (man) and C1AA14 (man) detained in Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017) .
[2797] Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014).
[2798] Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017).
[2799] Case 35: Marches, armed colectivos and torture (12 February 2014).

GNB officers had planted weapons, explosives and drugs in the camp on the night of the arrest.[2800]

1575. The Mission interviewed a witness who worked for over 10 years in intelligence services in Venezuela, who confirmed the practice of planting information in protests, stating "there were times when there were interventions against students, but there was no merit to do so, so [the GNB] had to plant information".[2801] The witness said that Molotov cocktails were planted in the marches, "to show that these were not protests, but vandalism".[2802] A former SEBIN employee confirmed the practice of planting information on leaders, telling the Mission that in the cases of protests, "infiltrators identified leaders and followed them, obtained telephone numbers and searched for the boys, plated grenades, shotguns, pistols and false positives".[2803]

1576. In 2017, some protesters arrested in the context of demonstrations were prosecuted in military jurisdictions. The use of military tribunals for civilians is a deviation from the principle of "natural judge" as enshrined in article 49(4) of the Constitution.[2804] International human rights bodies have consistently recommended that military jurisdiction be limited to military crimes committed by military personnel.[2805]

1577. Of the 13 cases of detentions in 2017 investigated/reviewed by the Mission, 9 were brought before military jurisdictions.[2806] The most common charges were the crimes of attacking the sentry (a military crime involving the attack on a military guard, which carries a penalty of 14 to 20 years in prison[2807]), rebellion and damage to the facilities of the armed forces. In the cases of the two students leaders detained in Táchira in 2017, the accused told the Mission that they were pressured by the military attorney and the military judge to accept the military public defender rather than use a private attorney.[2808]

1578. Lack of judicial independence and the executive interference in judicial processes contribute to arbitrary detentions. In the January 2019 Yaracuy case documented by the Mission, the presiding judge later issued a statement alleging that the judicial hearing occurred in a police run detention facility and that police officers and other security forces had surrounded her as she wrote judgement.[2809]

1579. One former judge interviewed by the Mission said that "The pressure was tremendous during those days [2014] and so was the fear of reprisals".[2810] He said that the executive ordered judges to grant arrest and search warrants against certain people. The judge said that, "the anguish for me was tremendous, every 10 days, when I was on duty and I did not know if they were going to send me a political case".[2811] The former judge said the president of the

2800 Complaint by ex-Attorney General, Luisa Ortega Díaz, to the International Criminal Court, 16 November 2017, on file with the Mission, pp. 480-483, in Case 38: Caracas protest camps (May 2014).

2801 Mission Interview C1HH02 in July 2020.

2802 Ibid.

2803 Mission Interview C1HH03 in June 2020.

2804 "Everyone has the right to be tried by their natural judges in ordinary or special jurisdictions, with the guarantees established in this Constitution and in the law […]."

2805 See United Nations Basic Principles on the Independence of the Judiciary (1985), principle 5; General Comment of the Human Rights Committee No. 32, Article 14, Right to equality before courts and tribunals and to fair trial, CCPR/C/GC/32, para. 22; See also Rodríguez Vera y otros vs. Colombia, Judgmenet of 14 November 2014, para. 442; and United Nations Special Rapporteur on the independence of judges and lawyers report to the General Assembly A/68/285 (2013).

2806 For example, cases C1EE02; C1EE01 detained in Case 45: protests in Maracaibo, Zulia (20 July 2017); C1AA13 and C1AA14 in Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017).

2807 Organic Code of Military Justice, art. 501, available at: https://docs.venezuela.justia.com/federales/codigos/codigo-organico-de-justicia-militar.pdf

2808 C1AA13 and C1AA14 in Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017).

2809 Case 48: San Felipe, Yaracuy state (23 January 2019).

2810 Mission Interview C1HH04 in June 2020.

2811 Ibid.

judicial circuit visited him more than once and asked why he had released protesters "when the order was to leave them in detention".[2812]

1580. In light of the above, the Mission has reasonable grounds to believe that during the protests in the periods reviewed by the Mission (February to April 2014, April to July 2017 and January to February 2019), recurring arbitrary detentions of demonstrators occurred in violation of their right to liberty and security.

C. Torture and cruel, inhuman or degrading treatment

1581. Torture and cruel, inhuman or degrading treatment are prohibited under international human rights law.[2813] The prohibition is absolute and can never be subject to derogation or exception.[2814] The prohibition of torture and other cruel, inhuman or degrading treatment or punishment is not limited to acts carried out against persons deprived of their liberty, but also covers excessive police violence during arrest and the policing of assemblies.[2815]

1582. In the 2014 cases the Mission examined, detainees were generally brought to the closest facilities of the detaining force, whether military, GNB detachments or local police facilities. After 2017, with Plan Zamora in effect, the detainees were generally brought to the nearest REDI or ZODI for detention. In the cases investigated, the detainees stayed between three days and almost three years in detention. In almost all cases reviewed, the detainees were not allowed to contact their families or lawyers before the initial appearance hearing.

1583. In the cases investigated, the detainees were held with numerous other people who had been arrested in the context of the protests who experienced similar situations as those described in the cases investigated. This included a total of approximately 243 persons detained in the Protests Camps case (Caracas), 31 in the case of detentions on 12 February 2014 (Caracas); 23 in the case of the city of Rubio (Táchira) in 2014; 11 in the case of Valencia (Carabobo) in 2014; 23 in the case of Maracaibo (Zulia) in 2017; and 22 in the case in Tachira in 2017, and 51 in the case of San Felipe (Yaracuy) in 2019.

1584. Detainees suffered ill-treatment and torture during the arrest, in their transfer to a detention facility and in detention. In almost all cases documented by the Mission, the detainees were victims of torture and ill-treatments in the first moments or days of their detention. The facilities used to hold detainees before the initial appearance hearing were not adequately equipped as detention centres, with no sleeping space and restrooms, inadequate washing facilities and lack of food and water. Overcrowding in small cells was common. In many instances, detainees had to relieve themselves in their cells, using plastic bottles and bags, including in front of other detainees.[2816]

[2812] Ibid.

[2813] UDHR, art. 5; ICCPR, art. 7 and 10; CAT; CRC art. 37(a); Inter-American Convention to Prevent and Punish Torture, which Venezuela ratified in 1991.

[2814] ICCPR, art. 4(2); CAT, arts. 2(2) and (3).

[2815] See A/72/178 paras. 34 and 37 ff. See also CAT/C/VEN/CO/3-4, para. 12. The jurisprudence of regional mechanisms confirms the applicability of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment to the extra-custodial use of force. For instance, the The Inter-American Commission on Human Rights also regarded as torture the intentional, violent beating of a person prior to arrest (Inter-American Commission on Human Rights, "*Gayle v. Jamaica*, Merits", paras. 59-64); In *Cestaro v. Italy* and *Bartesaghi Gallo and Others v. Italy*, the European Court of Human Rights found that the violent punching, kicking and beating with rubber truncheons of anti-globalization protestors amounted to torture (European Court of Human Rights, *Cestaro v. Italy* (application No. 6884/11), Judgment of 7 April 2015, paras. 170-190; and *Bartesaghi Gallo and Others v. Italy* (application Nos. 12131/13 and 43390/13), Judgment of 22 June 2017, paras. 114 and 117.

[2816] In Case 35: Marches, armed colectivos and torture (12 February 2014); Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 38: Caracas protest camps (May 2014); two student leaders, in Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017); and Case 48: San Felipe, Yaracuy state (23 January 2019).

1585. The acts took various forms. In 43 cases investigated and reviewed by the Mission, the detainees were beaten.[2817] In two cases, they were given electric shocks,[2818] and/or in 10 instances were forced into stress positions, including by being kept handcuffed in the back and blindfolded for long periods, ranging from 5 to 12 hours.[2819] In seven cases, captors exposed detainees to tear gas in closed areas (e.g. cells or vehicles) and in other seven instances irritating products or tear-gas powder were put on detainees' faces and bodies.[2820] Sixteen cases investigated and reviewed included forms of sexual and gender-based violence.[2821] Sixteen cases also referred to psychological torture and ill-treatment, such as mock execution, serious death threats and humiliating treatments.[2822]

1586. Demonstrators appeared to be subjected to torture and/or ill-treatment as a form of punishment. Language used during torture/ill-treatment, including insults such as "maldito/a guarimbero/a" or "escuálido/a", suggests that the intention was to punish or humiliate arrested demonstrators for being part of the protests.[2823] In the case of Gerardo Carrero, his transfer to La Tumba and the treatment he received occurred after he had made a complaint to a judge about the torture he had received at the Helicoide.[2824]

1587. In other cases, the acts were related to the extraction of information. In the case of Marco Coello, for example, the torture and ill-treatment documented by the Mission resulted from the refusal to sign a document confessing crimes and accusing Leopoldo López as leader of the protest and instigator of the violence.[2825] In many cases, interviewees recounted that security officers made them sign documents saying that their rights had been respected and that they had not been mistreated during detention.[2826]

1588. Two student leaders in Táchira in 2017 were kept for nine days in military vehicles parked behind the GNB detachment, together with over 20 other detainees. During their time in the back of the trucks, they were crouched in stress positions all day long during all their detention period. They were asphyxiated daily with tear gas thrown in the vehicles, including once for a prolonged period causing nausea and losing control over body fluids. In San Felipe,

[2817] In Case 35: Marches, armed colectivos and torture (12 February 2014); Case 36: Valencia, Carabobo state (13 February 2014); Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 38: Caracas protest camps (May 2014); Case 45: protests in Maracaibo, Zulia (20 July 2017); Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017) and Case 48: San Felipe, Yaracuy state (23 January 2019).

[2818] Marco Coello in Case 35: Marches, armed colectivos and torture (12 February 2014) and Gloria Tobón in Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014).

[2819] Including in Case 35: Marches, armed colectivos and torture (12 February 2014); Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 38: Caracas protest camps (May 2014); Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017) and Case 48: San Felipe, Yaracuy state (23 January 2019).

[2820] Including in Case 35: Marches, armed colectivos and torture (12 February 2014); Case 38: Caracas protest camps (May 2014); Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017), and Case 48: San Felipe, Yaracuy state (23 January 2019).

[2821] In cases of Case 36: Valencia, Carabobo state (13 February 2014); Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 38: Caracas protest camps (May 2014); and Case 45: protests in Maracaibo, Zulia (20 July 2017).

[2822] Including the cases of Marco Coello in Case 35: Marches, armed colectivos and torture (12 February 2014); Cases of Juan Manuel Carrasco in Case 36: Valencia, Carabobo state (13 February 2014); Gloria Tobón in Case 37: Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 38: Caracas protest camps (May 2014); Case 45: protests in Maracaibo, Zulia (20 July 2017); and of C1AA13 in Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017) .

[2823] For example in Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 38: Caracas protest camps (May 2014); Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017) and Case 48: San Felipe, Yaracuy state (23 January 2019).

[2824] Case of Gerardo Carrero in Case 38: case of Caracas protest camps (May 2014).

[2825] Case of Marco Coello in Case 35: Marches, armed colectivos and torture (12 February 2014).

[2826] Including in Case 35: Marches, armed colectivos and torture (12 February 2014), and Case 38: Caracas protest camps (May 2014).

Yaracuy state in 2019, detainees, including many adolescent boys and girls, under state police custody were held in an adult facility before the initial appearance hearing and where severely beaten and asphyxiated with tear gas thrown in their cell.[2827]

1589. The Mission has also documented several acts of sexual or gender-based violence mostly as a form of degradation, humiliation or punishment. Sexual or gender-based violence may amount to torture or cruel, inhuman or degrading treatment, including rape and threats to rape.[2828] In the following cases investigated by the Mission, the detainees experienced specific gender based violence:

- The case of Gloria Tobón, in which several officers poured water over her and placed electrical charges on her breasts and various parts of her body and taunted her with sexist insults.[2829]
- The case of Juan Manuel Carrasco, who was raped during his arrest by a GNB official using the barrel of a rifle.[2830]
- The case of a man raped with an extensible baton by a PNB officer and was then insulted with homophobic slurs.[2831]
- The case of PNB officer who sexually assaulted, touching the breasts of a 13-year-old girl, touching her buttocks and between her legs, while making sexist comments and insults.[2832]
- The case of a sexual assault of a woman when detained by a PNB officer, while he mocked her and her partner.[2833]
- The case of detainees in the four protests campsite in May 2014, in which two female detainees told the Mission that GNB officers and guards at the court's cells threatened rape against male and female detainees, including gay and transgender detainees.[2834]
- In several cases investigated and reviewed by the Mission, women and men received sexist or homophobic insults during their arrest or detention.[2835]

1590. Some people arrested during demonstrations, in particular, those identified as leaders, were detained and kept for longer periods in SEBIN facilities, in conditions described in the Chapter on Targeted Political Repression. Cases investigated by the Mission include Sairam Rivas (detained 132 days in El Helicoide), Nixon Leal (detained over two and a half years in El Helicoide) and Gerardo Carrero (detained two and a half years in El Helicoide and in the SEBIN Headquarters in Plaza Venezuela in the "La Tumba" cell).[2836] While detained, they were subjected to various forms of torture and ill-treatment.[2837]

2827 C1AA13 and C1AA14 in case of two student leaders, in Case 47: Torture in detention of protestors in San Cristóbal, Táchira state (July and August 2017).

2828 See General recommendation No. 35 on gender-based violence against women of CEDAW, CEDAW/C/GC/35, 26 July 2017, para. 16; Istanbul Protocol (Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment), 2004, paras 215-216; Prosecutor v Kvočka et al., ICTY-98-30/1-T, Trial Judgment, 2 November 2001, paras 560-1; Prosecutor v Brđanin, ICTY-99-36-T, Trial Judgment1 September 2004, paras 498-500, 516; Saadi Ali v. Tunisia, para 3.8, U.N. Doc. CAT/C/41/D/291/2006 (Nov. 21, 2008) (finding that a victim who was subjected to rape threats while he was half-naked constituted torture); Al Nashiri v. Poland, Eur. Ct. H.R., App. No. 28761/11, paras 504, 511, 516 (2015) (finding that threats of sodomy, arrests, and rape constituted torture).

2829 Case of Gloria Tobón in Case 37: Rubio, Municipality of Junín, State of Táchira (19 March 2014)

2830 Case Juan Manuel Carrasco in Case 36: Valencia, Carabobo state (13 February 2014).

2831 Case 45: protests in Maracaibo, Zulia (20 July 2017).

2832 Ibid.

2833 Ibid.

2834 Case 38: Case of Caracas protest camps (May 2014).

2835 Case 37: arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Caracas protest camps (May 2014); Case 45: protests in Maracaibo, Zulia (20 July 2017).

2836 Case 38: Case of Caracas protest camps (May 2014).

2837 Ibid.

1591. The Mission received information from a former military general noting that, starting in 2014, political prisoners (protesters and others) were detained in SEBIN's facilities, "without any kind of court order" and "were to be interrogated with special techniques and to be submitted to special conditions of confinement".[2838]

D. Killings in Protests

Numbers

1592. The Mission investigated 36 cases of killings in protests (32 men/4 women) on the basis of information collected from direct sources and published by Government sources and non-Governmental organizations.[2839] Of these, 9 are included in in depth case studies below. The Mission also analyzed videos and images taken during protests, where available, which were verified and geo-located to help reconstruct events as they unfolded. All of the violations included in the cases studied took place during anti-Government demonstrations.

1593. Different official and non-Governmental sources have tracked deaths in protest, included in the table below. In the years other than 2014, 2017 and 2019, there were very few deaths recorded in protests, which is why they are not reflected here.[2840]

Table 9:
Numbers related to deaths in the context of protests, by source

	Public Prosecutor's Office	*Ministry of Communication*	*Defensoría del Pueblo*	*Foro Penal*	*OVCS*	*Provea*
2014	43[2841]	NA	NA	NA	42[2842]	3[2843]

[2838] Mission Interview C1HH01 in June 2020.

[2839] Bassil Da Costa (Distrito Capital, 12 February 2014); Robert Redman (Miranda, 12 February 2014); Génesis Carmona (Carabobo, 19 February 2014); Geraldine Moreno (Carabobo 22 February 2014); Guillermo Sánchez (Carabobo, 12 March 2014); Jairo Ortiz (Miranda, 6 de April 2017); Daniel Queliz (Carabobo,10 April de 2017); Grusenny Canelón (Lara, 11 April 2017); Carlos Moreno (Distrito Capital,19 April de 2017); Paola Ramírez (Táchira, 19 April 2017); Juan Pablo Pernalete (Caracas, 26 April 2017); Christian Ochoa (Carabobo, 26 April de 2017); Eyker Rojas (Lara, 27 April de 2017); Armando Cañizales (Miranda, 3 May 017); Hecder Lugo (Carabobo, 5 May 2017); Miguel Castillo (10 May 2017); Luis Alviarez (Táchira, 15 May 2017); Manuel Castellanos (Táchira, 17 May 2017); Yorman Bervecia (Barinas, 22 May 2017); Augusto Pugas (Bolívar, 24 May 2017); Manuel Sosa (Lara, 26 May 2017); Yoinier Peña (Lara, 3 June 2017); Nelson Arevalo (Lara, 16 June 2017); Fabián Urbina (Distrito Capital, 19 June 2017); David José Vallenilla (Distrito Capital, 22 June 2017); Rubén González (Carabobo, 10 July 2017); Andrés Uzcategui (Carabobo, 20 July 2017); Jean Carlos Aponte (Distrito Capital 26 July 2017); Gilimber Teran (Distrito Capital, 27 July 2017); Leonardo González (Carabobo, 27 July 2017); Jose Gustavo Leal (Táchira 28 July 2017); Ender Peña (Táchira, 31 de July 2017); Luis Espinoza (Carabobo,13 August 2017); Alixon Pisani (Distrito Capital, 22 January 2019); Stefany Jajoy (Distrito Capital, 22 January 2019); and Daniel Veliz (Yaracuy, 23 January 2019).

[2840] In 2015, according to Provea, there were three deaths (Provea, Informe Anual, Enero-Diciembre de 2015, available at: https://www.derechos.org.ve/pw/wp-content/uploads/Derecho-a-la-Vida.pdf). In 2016, there were two deaths (PROVEA: Informe Anual, Enero-Diciembre de 2016, available at: https://www.derechos.org.ve/web/wp-content/uploads/18Vida-5.pdf). In 2018, there was one death (PROVEA: Informe Anual, Enero – Diciembre 2018, available at: https://www.derechos.org.ve/web/wp-content/uploads/18Vida-4.pdf).

[2841] Gobierno de Venezuela, Ministerio Público, Despacho de la Fiscal General de la República, Informe Anual 2014 a la Asamblea Nacional, on file with the Mission.

[2842] Observatorio Venezolano de Conflictividad Social: Informe Conflictividad Social en Venezuela 2014, p. 4, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2015/01/Conflictividad-en-Venezuela-2014.pdf. "According to official data provided by the Public Prosecutor's Office, from February to June, there were 3.306 protesters detained, 973 injured and 42 deaths.

[2843] PROVEA: Informe Anual, Enero–Diciembre de 2014, available at: https://www.derechos.org.ve/pw/wp-content/uploads/18Vida1.pdf.

	Public Prosecutor's Office	*Ministry of Communication*	*Defensoría del Pueblo*	*Foro Penal*	*OVCS*	*Provea*
2017	124 (between April and July)[2844]	80 (between April and July) (73 men and 7 women)[2845]	52 (April and May)[2846]	133 (between April and July)[2847]	163 (between 1 April and 13 August)[2848]	139 (between April and June)[2849]
2019	NA	NA	NA	50 (between January and June)[2850]	61 (57 men and 4 women)[2851]	41[2852]

1594. According to the Public Prosecutor's Office reports an estimated 1,687 people were injured in protests in Venezuela, this includes 878 in 2014[2853] and 809 in 2017.[2854] For 2019, figures from Public Prosecutor's Office are not available. Other figures published by NGOs indicated a total number of 5,637 injured people, 854 in 2014,[2855] 3802 in 2017[2856] and 981 in 2019.[2857] Multiple witnesses told the Mission that those injured were reluctant to denounce injuries, or even seek medical assistance, for fear of being arrested or identified.[2858]

[2844] Public Prosecutor's Office, Balance de víctimas fallecidas y lesionadas durante manifestaciones en Abril-Junio de 2017, on file with the Mission. See also OHCHR, human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela, from 1 April to 31 July 2017, p. 10, available at: https://www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_EN.pdf.

[2845] Gobierno de Venezuela, Ministerio de Comunicación, Investigación Periodistica, Victimas fetales de la Violencia Política en Venezuela, April-June 2017.

[2846] Defensoría del Pueblo, En Defensa de la Paz y por la Verdad, Informe sobre sucesos Abril-Mayo 2017.

[2847] Foro Penal venezolano, reporte sobre la represión del Estado en Venezuela, p.1, julio 2017, available at: https://foropenal.com/julio-2017/

[2848] Observatorio Venezolano de Conflictividad Social: Informe Conflictividad Social en Venezuela 2017, available at http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2018/01/Conflictividad-social-en-Venezuela-2017-1.pdf

[2849] PROVEA: Informe Anual, Enero – Diciembre 2017, p. 38, available at: https://www.derechos.org.ve/web/wp-content/uploads/18Vida-1.pdf

[2850] Foro Penal venezolano, Reporte sobre la represión del Estado en Venezuela, informe anual 2019, available at: https://foropenal.com/reporte-sobre-la-represion-en-venezuela-ano-2019/ Foro Penal: Annual Report, 2019 - Political Repression in Venezuela.

[2851] Observatorio Venezolano de Conflictividad Social: Informe Conflictividad Social en Venezuela 2019, available at: http://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/01/INFORMEANUAL-OVCS2019-1.pdf

[2852] PROVEA: Informe Anual, Enero – Diciembre 2019, p. 3, available at: https://www.derechos.org.ve/informe-anual/informe-anual-enero-diciembre-2019

[2853] Gobierno de Venezuela, Ministerio Público, Despacho de la Fiscal General de la República, Informe Anual 2014 a la Asamblea Nacional, p. 4, on file with the Mission.

[2854] Public Prosecutor's Office, "Balance de víctimas fallecidas y lesionadas durante manifestaciones en abril – junio 2017", on file with the Mission.

[2855] Foro Penal Venezolano y otras ONG defensoras de las violaciones de derechos humanos, Venezuela 2014: Protestas y Derechos Humanos. Informe Febrero-Mayo 2014, p. 33, available at: https://foropenal.com/informe-protestas-y-derechos-humanos-en-venezuela-febrero-a-mayo-2014/

[2856] PROVEA: Informe Anual, Enero – Diciembre 2017, p. 2, available at https://www.derechos.org.ve/web/wp-content/uploads/14IntegridadPersonal-1-1.pdf

[2857] PROVEA: Informe Anual, Enero – Diciembre 2019, p. 5, available at: https://www.derechos.org.ve/web/wp-content/uploads/2020/07/14IntegridadPersonal.pdf

[2858] Mission Interview C1BB01, Mission Interview C1BB11, Mission Interview C1BB23.

Use of Force

1595. International standards on the use of force establish that all use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution, non-discrimination and accountability.[2859] Intentional lethal use of firearms may only occur when strictly unavoidable in order to protect life.[2860]

1596. When dispersing demonstrations that are unlawful but non-violent, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials recommend that law enforcement officials avoid the use of force or, where that is not practicable, restrict such force to the minimum extent necessary.[2861] When authorities disperse demonstrations that is no longer peaceful, they must take all necessary precautions to avoid or at least minimize the use of force and identify and isolate violent individuals.[2862]

1597. The Mission has reasonable grounds to believe that in the seven cases included below as in-depth case studies security forces used lethal force against the victim when it was not strictly unavoidable to protect lives. The Mission's cases reveal that security forces fired shots at point blank range and to vital areas (head, thorax, abdomen).[2863] In none of the cases investigated or reviewed were the victims using firearms or endangering other people's life when they were killed.

1598. In six of these cases,[2864] the Mission has reasonable grounds to believe that lethal force was either used in reckless way at odds with the principles of legality, necessity and/or proportionality or even deliberately. These killings thus amount to arbitrary killings in contravention with Venezuela's international obligation to respect and protect the right to life and in some cases constitute extrajudicial executions when the use of lethal force was deliberate, such as in the case of David Vallenilla. The Mission highlights the following:

2859 See Report of the United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/26/36), 1 April 2014. See also joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies, A/HRC/31/66, para. 54; and OHCHR/UNODC Resource Book on the Use of Force and Firearms in Law Enforcement (2017), at 16.

2860 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principles 9 and 14. These instruments, and in particular their provisions on the use of force as they relate to the right to life and physical integrity in particular—article 3 of the Code of Conduct and principle 9 of the Basic Principles—are relied upon as authoritative by regional courts. See, for example, See, for example, Inter-American Court of Human Rights, Montero-Aranguren et al. (Detention Center of Catia) v. Venezuela, 5 July 2005, IACtHR Ser. C No. 150, paras. 68-69; Zambrano Vélez et al. v. Ecuador, 4 July 2007, IACtHR Ser. C. No. 166, para. 84. See also the Principles on the effective prevention and investigation of extra-legal, arbitrary and summary executions (Minnesota Protocols).

2861 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle 13. See also Inter-American Court of Human Rights, Montero-Aranguren et al. (Detention Center of Catia) v. Venezuela, 5 July 2005, IACtHR Ser. C No. 150, paras. 67, citing IACtHR, Matter of Yare I and Yare II Capital Region Penitenciary Center. Provisional Measures, Order of the Court of March 30, 2006, fifteen whereas clause; and IACtHR Matter of Monagas Judicial Confinement Center ("La Pica") Provisional Measures. Court Order of February 9, 2006, seventeenth whereas clause. See also European Court of Human Rights (ECtHR), *Şimşek and Others v. Turkey*, judgment of 26 July 2005, §§ 104-133, where the Court found a violation of the substantive aspect of Article 2 since the officers had shot directly at the demonstrators without first having recourse to less life-threatening methods, such as tear gas, water cannons or rubber bullets.

2862 Report of the Special Rapporteur on extrajudicial, summary or arbitrary execution, A/HRC/26/36, paragraph 75 and A/HRC/31/66, para. 61.

2863 Jairo Ortiz Bustamante (Miranda, 6 April 2017), Pernalete Llovera (Caracas, 26-April 2017), Miguel Castillo (Caracas, 10 May 2017), Fabian Urbina (Distrito capital, 19 June 2017), David Vallenilla, 22 June 2017), José Gustavo Leal (Táchira, 28 Julio 2017).

2864 Csae 35: Bassil Da Costa (Distrito Capital, 12 February 2014); Case 39: Daniel Queliz (Carabobo, 11 April 2017); Case 42: Armando Cañizales (Caracas, 3 May 2017); Case 43: Miguel Castillo (Caracas, 10 May 2017); Case 44: David Vallenilla (Ditrsito Capital, 22 June 2017); Case 46: Ender Pena (Tachira, 30 July 2017).

- In the June 2017 David Vallenilla case video footage shows the victim throwing stones at security officers in the La Carlota military base. In response, soldiers shot Mr. Vallenilla at point blank range with a firearm.[2865]
- In April 2017 Daniel Queliz was shot in the neck by Carabobo state police while he was participating in a demonstration within his residence los Parques, in Valencia, Carabobo, not engaged in in violent acts.
- On 3 May 2017, witness said that Armando Cañizales was killed by a bullet fired by a GNB official during an anti-Government protest in Caracas, without participating in the acts of violence.[2866]
- On 30 July 2017, Ender Peña was killed after GNB officials started firing live rounds and teargas at protesters throwing stones and firing homemade mortars at an armoured personnel carrier.[2867]

1599. Security forces used less-lethal[2868] weapons in a lethal manner, which resulted in the death of the demonstrators. In the case of Juan Pernalete, killed by a gas canister in 2017, the less-lethal deterrent weapons were fired directly at the victim, who was not engaged in any violent behaviour. International jurisprudence on right to life cases involving teargas provides that these should be fired at a high angle[2869] rather than along a direct, flat trajectory, as it could potentially cause serious or fatal injuries. [2870] Also in the 2014 case of the death of Geraldine Moreno, security officials killed her with a less-lethal pellet gun, at point-blank range in the face.[2871]

1600. Different security forces were identified as responsible for the deaths. Of the 36 cases of deaths in protests reviewed by the Mission, in 18 the GNB, in 5 the PNB, in 3 local police, in 1 the FANB and in 1 the SEBIN were identified as responsible.[2872]

1601. The Mission examined seven cases in which colectivos were responsible for using lethal weapons that killed demonstrators.[2873] In each case investigated, State security forces failed to intervene. A Mission witness claimed that people are less likely to denounce colectivos, as they often live in the same neighbourhoods as their victims.[2874] The cases investigated by the Mission include the case of include Carlos José Moreno, shot by a group

2865 YouTube Video, TV capta muerte de joven venezolano frente a base aérea, 23 June 2017, available at: https://www.youtube.com/watch?v=E0HSeeh9bpM&has_verified=1.

2866 The points identified under the Plan Guaicaipuro were: Sector 1, Línea de Bloqueo El Paraíso, Av. O'Higgins, Dist. La araña; Sector 2, Línea de Bloqueo Santa Mónica; Sector 3, Línea de Bloqueo Bicentenario; Sector 4, Línea de Bloqueo Maripérez; Sector 5, Centro de Poder; Base aérea Generalísimo Francisco de Miranda (La Carlota).

2867 Interview with CICPC No. 6, on file with the Mission. Interview with CICPC No. 3 and No. 4, on file with the Mission.

2868 See https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf.

2869 European Court of Human Rights, Abdullah Yaşa and others v. Turkey, Judgment, 16 July 2013, para. 48.

2870 European Court of Human Rights, Ataykaya v. Turkey, Judgment, 22 July 2014, paras. 56–57.

2871 Human Rights Committee, General Comment No. 36 on the right to life (CCPR/C/GC/36, para. 14).

2872 Dacosta Frias (Caracas, 12 February 2014); Moreno Orozco (Carabobo, 22 February 2014), Canelón Scirpatempo (Lara, 11 April 2017), Case 41: Juan Pablo Pernalete Llovera (Caracas, 26-April 2017), Rojas Gil (Lara, 27 April17), Case 42: Armando Cañizales (Caracas, 3-May 2017), Lugo Pérez (Carabobo, 5-May 2017), Case 43: Miguel Castillo (Caracas, 10 May 2017), Castellanos Molina (Táchira, 17 May 2017), Bervecia Cabeza (Barinas, 22 May 2017), Manuel Sosa (Lara, 26 May 2017), Arevalo Avendaño (Lara,16 June 2017), Fabian Urbina (Distrito Capital, 19 June 2017), Ruben González (Carabobo, 10 July 2017), Jean Carlos Aponte (Distrito Capital, 26 July 2017), José Gustavo Leal Villasmil (Táchira, 28 July 2017), Luis Guillermo Espinoza (Carbobo, 13 Agosto 2017), Andres Uzcategui Ávila (Carabobo, 20 July 2017), Case 46: Ender Peña (Táchira, 30 July 2017)

2873 Case 35: Robert Redman (Miranda 12 February 2014); Génesis Carmona (Carabobo, 19 February 2014); Guillermo Sánchez (Carabobo, 12 March 2014); Paola Ramírez (Táchira, 19 April 2017); Case 40: Carlos Moreno (Distrito Capital, 19 April 2017); Yoinier Peña (Lara, 3 June 2017); Gilimber Teran (Distrito Capital, 27 July 2017).

2874 Mission Interview C1BB25.

of 12 men armed with pistols and shotguns wearing ski masks in April 2017. The men arrived at the demonstration shortly after GNB officers had left. The colectivo member found responsible was also revealed to be an off-duty police officer.

1602. In three of the killings investigated, high-level public authorities, including President Maduro, the Minister of the Interior and the Attorney General, made public statements in the days following the deaths.[2875] In each statement, the authorities implied that the victim was violent or that the death was caused by other protesters. In two cases, authorities denied the presence of security forces in the area of the death.[2876]

1603. In each case, the statements by the high-level authorities contrast with witness testimony. For example, regarding the May 2017 death of Miguel Castillo, Diosdado Cabello announced on his television programme that neither the GNB nor the PNB had been present and suggested that he was killed by other demonstrators.[2877] This contrasts with information collected by the Mission, including witness testimony and videos showing the presence of GNB officers at the site, on the bridge above the protesters, at the same time Mr. Castillo was killed.[2878]

Investigations

1604. The right to life under the ICCPR imposes positive obligations upon the State to investigate and prosecute all allegations of deprivation of life, whether committed by state agents or private individuals, including allegations of excessive use of force.[2879] Investigations must be independent, impartial, prompt, thorough, effective, credible and transparent.[2880] This principle has been upheld by regional courts, including the Inter American Court of Human Rights.[2881]

1605. The Government, in particular the Public Prosecutor's Office, has taken some steps to investigate killings by State security forces in the context of protests, particularly prior to the change of the Attorney General in 2017. Of the 36 cases investigated and/or reviewed by the Mission, four resulted in a final judgment with seven perpetrators being convicted and punished. Of the remaining 32 cases, six have proceeded to trial, eight have or are about to reach the preliminary hearing and 18 are still under investigation. None of these judicial proceedings have included investigations into the responsibility of superiors and commanders either for their participation in the crimes or for their failure to prevent or repress the crimes.

1606. The Mission has access to a database of information regarding the procedural stage of investigation into 165 cases of killings in protests for 2014, 2017 and 2019, provided by a reliable anonymous source.[2882] Of 165 cases of killing that occurred in 2014, 2017 and 2019, only five led to convictions and sentencing – A SEBIN officer was sentenced to 30 years' imprisonment for killing Bassil daCosta and a PNB officer was sentenced to six and a half years in relation to the same case. A GNB officer was sentenced to 30 years for killing Geraldin Moreno, and another for 16 years and six months. An alleged colectivo member was sentenced to five years for killing Guillermo Velasquez and another alleged colectivo

[2875] Case 41: Juan Pablo Pernalete (Caracas, 26 April 2017), Case 42: Armando Cañizales (Caracas, 3 May 2017) and Case 43: Miguel Castillo (Caracas, 10 May 2017).

[2876] Case 41: Juan Pablo Pernalete (Caracas, 26 April 2017) and Case 43: Miguel Castillo (Caracas, 10 May 2017).

[2877] See YouTube Video, Diosdado Cabello sobre asesinato de Miguel Castillo el 10 mayo 2017, 10 May 2017, available at: https://www.youtube.com/watch?v=hwcm2nkrPJU.

[2878] See YouTube Video, Análisis de momentos antes de la muerte de Miguel Castillo, 12 May 2017, available at: https://www.youtube.com/watch?v=ko3ClH18YhM; Mission Interview C1BB17.

[2879] CCPR/C/GC/36, paras. 28-29.

[2880] Ibid., para. 32.

[2881] See, for example, IACtHR Judgment 6 December 2001, Las Palmeras v. Colombia, para. 65. See also CCPR/C/GC/36, para. 29, citing European Court of Human Rights, Tanrikulu v. Turkey (application No. 23763/94), judgment of 8 July 1999, para. 103; and Kaya v. Turkey, European Court of Human Rights, (application No. 22729/93), judgment of 19 February 1998, paras. 86-92.

[2882] Document C1BB02 on file with the Mission.

member was sentenced to 27 years and six months for killing Adriana Pérez. Each of these killings occurred in 2014; two PNB officers were sentenced to 22 years for the 2017 killing of Christian Soriano.

1607. ALFAVIC2017, an organisation formed by the parents and relatives of 14 victims of killings in protests,[2883] reports having faced numerous barriers when attempting to clarify the circumstances surrounding the deaths.[2884] These include public prosecutors not sharing cases files with private attorneys and the high turnover of public prosecutors assigned to cases. ALFAVIC2017 also alleges that the GNB has refused to provide key information relevant to the investigations. The families of the victims accused the GNB of providing false information that their officers were not at the scene of killings, despite information showing otherwise. ALFAVIC2017 represents 13 cases in which demonstrators were killed in 2017. According to them, those responsible have only been detained in four cases.[2885]

III. Cases

CASE 35: Marches, armed colectivos and torture (12 February 2014)

1608. The 12 February, or Youth Day in Venezuela, commemorates the country's 1814 war of independence and is traditionally a day of student mobilization and demands. In 2014 the event took on extra significance, after news of arrests at demonstrations in Táchira state spread and student movements and opposition politicians called for large marches in Caracas and across the country. On that same day, President Nicolas Maduro attended an event with students in Caracas, before traveling to La Victoria for an official ceremony. Shortly before 1 p.m., the President delivered a speech broadcast on television and called for the Government and its allies, "not to fall for fascist provocation".[2886]

1609. The Mission has not been able to establish whether the opposition provided notification of the 12 February demonstration to the Government. The demonstration occurred prior to the Supreme Court ruling 267 on 24 April 2014, after which demonstrations would not be considered legal without authorisation from local authorities. On 12 February 2014, written notification of the demonstration would have rendered it legal under domestic law. The Mission has been informed that Leopoldo López' defence team attempted to present three witnesses at his trial to testify that prior notification had been made. The court did not accept the witnesses and Mr. Lopez was unable to produce formal notification in writing.

1610. In Caracas, the pro-opposition demonstrators gathered in the Plaza Venezuela where political figures gave speeches. Around noon, they marched the three and a half kilometres to the Public Prosecutor's Office on Mexico Avenue without incident. At the Public Prosecutor's Office more speeches were made. Leopoldo López gave a speech, called for non-violence and declared the demonstration over at 1.30 p.m., having achieved its purpose. The Mission has verified and analyzed images of the security cameras of the Public Prosecutor's Office, which confirm that it was a peaceful demonstration at this time.[2887]

1611. Instead of dispersing, pro-opposition demonstrators continued along Avenida Universidad. Security forces established roadblocks on Avenida Universidad, one of which gradually moved towards the demonstrators coming from the direction of the Public Prosecutor's Office, as captured on publicly available video, which has been geo-located and

[2883] Case 41: Juan Pablo Pernalete, Nelson Daniel Arévalo, Fabián Urbina Barrios, Luis Guillermo Espinoza, Rubén Darío González, Case 39: Daniel Queliz, Leonardo González, Yorman Bervecia, Case 43: Miguel Castillo, Yoinier Peña, Manuel Sosa, Augusto Puga, Roberto Duran and Luis Alviarez.

[2884] See Alfavic2017, Note to Journalists/Press, 10 December 2019, document on file with the Mission.

[2885] Ibid.

[2886] YouTube Video, teleSUR tv, Que nadie caiga en la provocación del fascismo: Maduro, 12 February 2014, available at: https://youtu.be/OP8jHS_lmcE.

[2887] Photographic material C1AA15, on file with the Mission.

verified by the Mission.[2888] Video footage published by Zurda Konducta TV,[2889] showed demonstrators approaching a PNB roadblock on Avenida Universidad burning rubbish and throwing rocks and other objects at the roadblock.[2890] GNB officers providing a second line of support fired teargas and pellets. A demonstrator threw himself over the police fence and climbed over their shields. He was arrested but quickly released.[2891]

Armed Colectivos Shooting at Protesters

1612. Three witnesses told the Mission that they saw a group of colectivos in the Monroy corner area of central Caracas, approximately 100 metres from Tracabordo corner, where SEBIN officers and other security forces officers were stationed at a roadblock. The alleged *colectivos* were confronted by demonstrators, who threw stones and bottles at them. According to the witnesses, the *colectivos* fired their weapons at demonstrators, before retreating toward Tracabordo corner. The *colectivos* travelled on motorcycles and a pick up truck. One of these witnesses estimated there were around 30 motorcycles. Sometimes the motorcycles carried two people.[2892] These statements are corroborated by witness interviewed by the Public Prosecutor's Office[2893] and by video footage that the Mission geo-located and verified.

1613. The Mission verified and geo-located a video filmed around noon from a rooftop showing armed civilians near Tracabordo corner. These are likely to be the colectivos referred to by witnesses. A group of around 40 men and women can been seen getting into two pick-up trucks, as shots are heard.[2894] Multimedia Universal published security footage which the Mission geo-located and verified, showing a group of at least 30 armed civilians on the street at the time. They move on motorcycles and a pick-up truck drives towards Avenida Universidad.[2895]

1614. The Multimedia Universal video also shows alleged *colectivos* firing their weapons towards protesters on the corner and then retreating. After a few minutes, this same group of armed colectivos returned towards Avenida Universidad on motorcycles and shot at protesters again. One *colectivo* member is filmed shooting upwards at an apartment in a building from which someone had thrown something.[2896] A third video, also verified and geo-located by the Mission, taken from a nearby building at around 2 p.m[2897] shows the same

[2888] YouTube Video, Jhonattan Chacon, Parque Carabobo 12F, Caracas, 12 February 2014, available at: https://www.youtube.com/watch?v=Et0Lydm1PUA, minute 6:35.

[2889] YouTube Video; Luigino Bracci Roa, Zurda Konducta, programa completo, 12/02/2014, disturbios opositores en Parque Carabobo, 12 February 2014, available at: https://www.youtube.com/watch?v=KX8Uzldow9E.

[2890] Ibid.

[2891] Mission Interview C1AA08 in May 2020; Mission Interview C1AA09 in May 2020, and YouTube Video, Luigino Bracci Roa, Zurda Konducta, programa completo, 12/02/2014, disturbios opositores en Parque Carabobo, 12 February 2014, available at: https://www.youtube.com/watch?v=KX8Uzldow9E, minute 1:05:26.

[2892] Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020; Mission Interview C1AA20 in July 2020.

[2893] Witness 1 testimony, Minutes of interview of 14 February 2014 by the Public Prosecutor's Office in the investigation on the murders of Bassil Alejandro Da Costa Frias and Juan Montoya, cited in José Vicente Antonetti, 12 F Historia de una emboscada: La verdad de lo ocurrido en Caracas, cuando fallecieron Bassil Da Costa y Juancho Montoya (Spanish Edition).

[2894] YouTube, BlancoNegroNo Venezuela Cuba, Tracabordo, 21 February 2014, available at: https://www.youtube.com/watch?v=AH19wNWgAZk.

[2895] YouTube Video, Multimediauniversal, "Las Balas del 12F", EL UNIVERSAL, 22 February 2014, available at: https://www.youtube.com/watch?v=akojd9Xen0g. The video is an edition of several recordings from security cameras located around 11 South Avenue, in La Candelaria, where Juan Montoya and Bassil Dacosta were fatally wounded. The source indicates that the images were leaked by the Public Prosecutor's Office.

[2896] YouTube Video, Multimediauniversal, Las balas del 12F, 22 February 2014, available at: https://www.youtube.com/watch?v=akojd9Xen0g.

[2897] Digital experts working with the Mission were able to establish the time of filming using shadow analysis

armed civilians from another angle, as they were shooting in the direction of demonstrators.[2898]

1615. A colectivo member interviewed by the Public Prosecutor's Office explained that colectivos had mobilized to prevent a possible coup d'état.[2899] An internal source from the FANB corroborated this to the Mission and confirmed that colectivos operated in coordination with the security forces to help control demonstrations, using significant logistics and sophisticated communications equipment.[2900]

1616. A witness told the Mission that at the time of the shooting, several bullets landed against the wall across the street.[2901] Doce Febrero published two videos, geo-located and verified by the Mission, taken after the shooting, which appear to confirm this.[2902] The shooting injured two protesters at Monroy corner, as also informationd in three additional videos showing the same events and published by M. Debiais and B. Jatar, also geo-located and verified by the Mission.[2903]

1617. A colectivo member and off duty police officer named Juan Montoya was shot dead by a man identified and accused by the Public Prosecutor's Office of being a fellow colectivo member.[2904] Although an investigation was carried out and a shooter identified, the Mission could not find information about a prosecution in this case.[2905]

1618. Footage of the events appearing in two videos published by El Estímulo and Noticias del Mundo,[2906] which the Mission geo-located and verified show around ten security officers, some in civilian clothes, several of them are filmed firing their guns at demonstrators.[2907]

2898 YouTube Video, Clairon Oliveros, Parque Carabobo 12/2/14 Los verdaderos Culpables (Piedras contra plomo), 12 February 2014, Mavailable at: https://www.youtube.com/watch?v=BvNNXw5-Ts8,

2899 Minutes of the interview ("Alberto") held on 14 February 2014 by the investigation on the murders of Bassil Alejandro Da Costa Frias and Juan Montoya, cited in José Vicente Antonetti, 12 F Historia de una emboscada: La verdad de lo ocurrido en Caracas, cuando fallecieron Bassil Da Costa y Juancho Montoya (Spanish Edition).

2900 Mission Interview C1AA29 in June 2020.

2901 Mission Interview C1AA08 in May 2020.

2902 YouTube Video, Doce Febrero, CARACAS DISPAROS Manifestacion Estudiantil 1, 12 February 2014, available at: https://www.youtube.com/watch?v=5ZrZhElgjvw; YouTubeVideo, Doce Febrero, CARACAS DISPAROS Manifestacion Estudiantil 2, 12 February 2014, available at: https://www.youtube.com/watch?v=HE9leKEgSl4

2903 YouTube Video, Manche Debiais, Disparos a un estudiante en Caracas durante protesta del 12F, 14 February 2014, available at: https://www.youtube.com/watch?v=MX-Wkhla0_I; YouTube Video, Braulio Jatar, Primer estudiante herido de BALA en la pierna!!! (Parque Carabobo, Caracas, Venezuela), 12 February 2014, available at: https://www.youtube.com/watch?v=Yy14Cltn7m0; YouTube Video, Braulio Jatar, 2do estudiante herido de BALA en el estomago, en Parque Carabobo, Caracas, Venezuela, 12 February 2014, available at: https://www.youtube.com/watch?v=l8P19mVXu5E.

2904 YouTube Video, Contrapunto al Dia, Hermes Barrera, alleged killer of Juancho Montoya, 1 July 2014, available at: https://www.youtube.com/watch?v=OEQg1oGr4OE,

2905 Gobierno Bolivariano de Venezuela, Miniterio del Poder Popular para Relaciones Exteriores, Responses to the committee against torture of the organization of the united nations on the list of issues related to the 3rd and 4th periodic report of the Bolivarian Republic of Venezuela, September 2014, para. 359, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fVEN%2fQ%2f3-4.Add.1&Lang=en; ElPitazo, Juancho Montoya: un líder de colectivos asesinado por su mano derecha el #12Feb de 2014, 12 February 2019, available at: https://elpitazo.net/gran-caracas/juancho-montoya-un-lider-de-colectivos-asesinado-por-su-mano-derecha-el-12-de-febrero-de-2014/

2906 YouTube Video, El Estímulo, Disparo a Bassil Da Costa 12 de febrero de 2014, 11 February 2015, available at: https://www.youtube.com/watch?v=S9swQFoft3U; YouTube Video, Noticias del Mundo, Policía disparando y matando civiles en Venezuela (12/febrero/2014), 12 February 2014, available at: https://www.youtube.com/watch?v=rxMDMlnIvSU.

2907 YouTube Video, El Estímulo, Disparo a Bassil Da Costa 12 de febrero de 2014, 11 February 2015, available at: https://www.youtube.com/watch?v=S9swQFoft3U; YouTube Video, Noticias del Mundo, Policía disparando y matando civiles en Venezuela (12/febrero/2014), 12 February 2014, available at: https://www.youtube.com/watch?v=rxMDMlnIvSU; See also YouTube Video, Luis

Twenty-three year old protester Bassil Dacosta, was shot dead at Tracabordo Corner, as captured by several videos.[2908] Bassil Dacosta was the first protester killed in the demonstrations of 2014 and his case attracted considerable attention, nationally and internationally. On 27 June 2019, SEBIN officer José Ramón Perdomo Camacho was convicted of intentional aggravated pre-mediated homicide and for improper use of a service weapon. He was sentenced to 29 years and six months in prison for the murder.[2909] PNB officer, Andry Yoswua Jaspe Lopez, was convicted of misuse of a service weapon and sentenced to six years imprisonment.

1619. The Public Prosecutor's Office also accused an army officer and four SEBIN officers with improper use of service weapons. These men were all acquitted at trial. The army officer, also filmed shooting at protestors at Tracabordo corner, was decorated in October that year with the Francisco de Miranda order in his third class by Minister Carmen Meléndez.[2910] One of the SEBIN officers also filmed shooting a firearm at protestors, at Monroy corner, was neither formally accused, nor summoned as a witness.[2911] The SEBIN officer in command and filmed at the scene that day was named in the investigation file, but neither formally accused, nor summoned as a witness. He was later promoted to FAES Director.[2912]

Detentions at Plaza Parque Carabobo

1620. After Bassil Dacosta's shooting demonstrators threw stones and Molotov cocktails at the Public Prosecutor's Office, causing damage.[2913] A group of demonstrators went to Plaza Parque Carabobo, opposite to the Public Prosecutor's Office where the CICPC has headquarters. They set fire to seven vehicles, six of which were CICPC patrol cars.[2914]

1621. CICPC officers made several arrests. According to three witnesses, they beat arrestees severely, including with a fire extinguisher.[2915] One witness saw a female friend who had been filming the burning patrols beaten and pulled by her hair during her arrest.[2916] Some

Sanchez-Vegas, Marcha 12F 2014 - Estudiante Asesinado!! - VENEZUELA CENSURADA S.O.S., 12 February 2014, available at: https://www.youtube.com/watch?v=kTLFLWB0hUQ.

2908 YouTube Video, Amnistía (Equipo de Investigación Últimas Noticias), Video sobre el 12 F ganador del Premio Gabriel García Márquez de Periodismo 2014 mención Cobertura, 11 February 2015, available at: https://www.youtube.com/watch?v=FwilaKmZxr8; YouTube Video, Runrun Estudio, 12F un año después: el video de la muerte de Bassil Dacosta con las respuestas, 12 February 2015, available at: https://www.youtube.com/watch?v=0O1FRYr3h1A

2909 Supreme Court, Exp. AA30-P-2019-000069, available at: https://web.archive.org/web/20200812213524/http://historico.tsj.gob.ve/decisiones/scp/junio/305790-130-27619-2019-C19-69.HTML

2910 Gaceta Oficial No. 40.529, 29 October 2014.

2911 YouTube Video, Runrun Estudio, 12F un año después: el video de la muerte de Bassil Dacosta con las respuestas, 12 February 2015, available at: https://www.youtube.com/watch?v=0O1FRYr3h1A, minute 7:28. See also YouTube Video, Amnistía (Equipo de Investigación Últimas Noticias), Video sobre el 12 F ganador del Premio Gabriel García Márquez de Periodismo 2014 mención Cobertura, 11 February 2015, available at: https://www.youtube.com/watch?v=FwilaKmZxr8.

2912 YouTube Video, Runrun Estudio, 12F un año después: el video de la muerte de Bassil Dacosta con las respuestas, 12 February 2015, available at: https://www.youtube.com/watch?v=0O1FRYr3h1A. See also YouTube Video, Jhonattan Chacon, PARQUE CARABOBO 12F, CARACAS (VIDEOS EXTRA EN LA INFO), 12 February 2014, available at: https://www.youtube.com/watch?v=Et0Lydm1PUA, minute 7:42; and https://runrun.es/investigacion/248568/con-colectivos-y-sebin-armaron-la-trama-de-violencia-el-12f/

2913 Mission Interview C1AA05 in May 2020; YouTube Video, Eleaxeiror, Protestas Parque Carabobo 2014, 12 February 2014, available at: https://www.youtube.com/watch?v=V36RCf-9WGU; YouTube Video, Samoels Oviedo, Protesta Ministerio Público - Parque Carabobo 12/02/2014 (2), 12 February 2014, available at: https://www.youtube.com/watch?v=KmJFO5VhB8I

2914 YouTube Video, Ultimas Noticias, Marcha estudiantil: 12 de febrero 2014, 12 Febrero 2014, available at: https://www.youtube.com/watch?v=zBjUILI9Fls, see minute. 2:25; YouTube Video, Parque Carabobo 12 de Febrero de 2014 3:55 Pm, 25 February 2014, available at: https://www.youtube.com/watch?v=SqfGpAPh4SE.

2915 Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020; Mission Interview C1AA20 in July 2020.

2916 Mission Interview C1AA08 in May 2020.

officers wore civilian clothes, which caused some of those arrested to think they were being robbed or attacked by armed colectivos.[2917]

1622. According to Foro Penal, the officers arrested 31 persons, including adolescent children, women and men, but witnesses indicated that the total numbers of persons arrested were higher.[2918] Most were arrested near Plaza Parque Carabobo and detained at the CICPC headquarters next to the square. Three witnesses told the Mission[2919] that CICPC officers lined up, creating a sort of corridor, through which the detainees had to pass on their way into the facility as officers hit them with their fists, helmets and the butts of their weapons. Among the detainees were Demian Martin, Christian Holdack and Marco Coello.

1623. Demian Martin was 18 years old at that time and studying international trade at the Universidad Alejandro Humboldt. Earlier that day, he had helped to carry Bassil Dacosta's body after he was shot.[2920] According to a witness, he and a female friend were filming the burning cars at Plaza Parque Carabobo when plain clothed men approached and beat his friend. He intervened to protect her and was arrested. Once inside the CICPC premises, he had to pass between rows of officers, as described above. Officers held his arms, while another kicked him in the stomach, leaving him breathless. An officer sprayed pepper spray in his face.[2921] When Demian Martin denied burning the cars, officers showed him pictures of himself at the protest in which he was behaving peacefully.[2922]

1624. Christian Holdack was 34 years old and, earlier that day, he had participated in the demonstrations. He claims he was filming and recording the events with a personal camera and phone, as evidenced in several pictures and videos, verified and geo-located by the Mission.[2923] He claims he was watching at the vehicles on fire at Plaza Parque Carabobo when he was arrested by several officers, one of them pointed his weapon at his head. [2924] Like Demian Martin, he was beaten by several officers while entering in the CICPC premises.[2925]

1625. Inside the facility, the officers kept the arrestees kneeling against a wall, with their hands behind their backs, as captured by a photo later made public.[2926] Over a five-hour period, officers intermittently punched and kicked the detainees, and banged their faces against the wall. Eventually the officers took the detainees to another room, one at a time, where they were told to sign documents attesting to their rights having been respected. CICPC officers told Demian Martin, Christian Holdack and other detainees that he would be allowed a phone call if he signed, which turned out not to be the case.[2927]

1626. Marco Coello was an 18-year-old high school student on 12 February 2014 and had been participating in the demonstrations all day. He claims that a teargas canister had hit Marco Coello at Plaza Parque Carabobo, leaving him stunned and unable to see the burning of the vehicles. A CICPC officer approached him, pointing a handgun. Officers then beat

[2917] Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020; Mission Interview C1AA20 in July 2020.

[2918] Foro Penal, Document C1AA18, on file with the Mission; Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020.

[2919] Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020; Mission Interview C1AA20 in July 2020.

[2920] https://imagenesntn24.canalrcn.com/ImgNtn24/bassil-da-costa_ap_0.jpg Demian Martin has his face painted with the colours of the Venezuelan flag.

[2921] Mission Interview C1AA08 in May 2020

[2922] Mission Interview C1AA05 in May 2020.

[2923] Mission Interview C1AA05 in May 2020; Photographic material, Document C1AA07, on file with the Mission.

[2924] Mission Interview C1AA05 in May 2020.

[2925] Mission Interview C1AA05 in May 2020.

[2926] Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020; Mission Interview C1AA20 in July 2020. Photographic material, Document C1AA17, on file with the Mission, See also https://impactovenezuela.com/presos-politicos-en-venezuela-condenados-a-muerte/; https://www.mic.com/articles/82157/11-images-showing-the-bloody-protests-happening-in-venezuela-right-now.

[2927] Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020.

him, using a fire extinguisher. He suffered similar treatment at CICPC headquarters as Demian Martin and Christian Holdack.[2928]

1627. Officers took Marco Coello into a bathroom where five officers were waiting for him, who accused him setting fire to the vehicles. A well-placed source told the Mission that the officers poured petrol over him and threatened him with a cigarette lighter. Later, he was taken to a room they called "the basement" (el sótano) where the officers kept asking him to confess, threatening him and his family, showing pictures of his mother, father and sister on an officer's mobile phone.[2929]

1628. They ordered him to sign a document declaring that Leopoldo López had sent him to the demonstration. When he refused, they beat him severely and then took him to another room, still handcuffed, where they wrapped him in a thin foam mattress, threatened to kill him and beat him with golf clubs and baseball bats. At one point, an officer knelt him down and put a gun in his mouth, telling him it was his last chance to implicate Leopoldo López. When he continued to refuse to sign, they tasered him until he shook and could no longer stand up.[2930]

1629. Shortly afterwards, a representative of the Ombudsman's Office arrived and questioned the detainees in front of the officer that had beaten them. The detainees did not reveal the treatment they had suffered. The Ombudsman's Office representative seemed to know the CICPC officers well, greeting them with a kiss and hug.[2931]

1630. By the early hours of 13 February 2014, 16 men who remained in detention at the CICPC centre, including Demian Martin, Christian Holdack and Marco Coello. Between 2 and 3 a.m., CICPC officers drove them to CICPC Special Action Brigades (BAE) headquarters on Avenida Leonardo Ruíz Pineda. They placed in a cell measuring approximately 2m by 4m, already containing other detainees. The 16 detainees were not allowed to communicate with their families. On 14 February at 11 p.m., they began to be presented in court, in some cases a few hours beyond the 48-hour legal limit.[2932]

Legal Proceedings

1631. Initial court appearances for the 16 continued until the morning of 15 February 2014. The detainees had only five minutes to meet with their lawyers before the hearing began.[2933] The judge ordered the release of ten detainees on bail. The Judge ordered the pre-trial detention of six:[2934] Luis Felipe Boada, Marco Coello, Nelson Gil, Ángel de Jesús González, Christian Holdack y Demian Martin. The six were detained in overcrowded cells at Chacao municipality police station, where they only relied on their families to provide with food and had to relieve themselves in front of others using plastic bags.[2935]

1632. On 1 April 2014, a judge confirmed charges against four of the defendants: Demian Martin; Marco Coello; Christian Holdack and Angel González. Marco Coello and Christian Holdack were charged with the crimes of arson,[2936] damages,[2937] public incitement,[2938] and

[2928] Mission Interview C1AA20 in July 2020.
[2929] Ibid.
[2930] Ibid.
[2931] Ibid.
[2932] Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020; Mission Interview C1AA20 in July 2020.
[2933] Ibid.
[2934] Accusation act, Document C1AA05, on file with the Mission; Mission Interview C1AA17 in June 2020; Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020; Mission Interview C1AA20 in July 2020.
[2935] Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020. See also Dailymotion Video, Globovision, Hacinamiento en calabozos de Polichacao es de 370 %, 6 June 2014, available at: https://www.dailymotion.com/video/x1ysj11.
[2936] Criminal Code, art. 343.
[2937] Criminal Code, arts. 473 (3) and 474.
[2938] Criminal Code, art. 285.

criminal association.[2939] Demian Martin and Angel González for public incitement.[2940] Charges against Luis Felipe Boada and Nelson Gil were dropped.[2941]

1633. Few days later, the Attorney General's Office accused Leopoldo López of several crimes related to the events of the 12 February demonstration, including public incitement leading to the violence.[2942] The charges against Marco Coello, Angel González, Christian Holdack and Demian Martin were therefore key to Mr. Lopez' prosecution.

1634. The Public Prosecutor's Office presented photographs of the accused attending the demonstration.[2943] In relation to Christian Holdack, it also presented one witness, a police officer, who said that he had seen him burning the cars and that he had traces of gasoline on his clothing, like Marco Coello; charges they both denied.[2944] The Judge upheld the public incitement charge against Demian Martin and Angel González on the basis that they both acted, as instigated by Leopoldo López, with the purpose of generating violence, since both were attending the demonstration, along with other demonstrators who were acting violently, and were inciting the commission of crimes, putting public peace at risk.[2945] Demian Martin and Angel González were not sentenced for any other crime.[2946]

1635. Demian Martin and Angel González were released with conditional measures on 11 April 2014, followed by Marco Coello 23 July 2014, after which he left the country. Christian Holdack was released with conditional measures on 17 March 2015, more than a year after the events at Plaza Parque Carabobo.[2947] Marco Coello and Christian Holdack were granted bail on medical grounds.

1636. Christian Holdack was later convicted of arson,[2948] criminal damage,[2949] public incitement,[2950] and criminal association.[2951]. He was sentenced to ten years and six months' imprisonment, but at liberty with conditional measure in place.[2952] Demian Martin and Angel González were convicted of public incitement[2953] and sentenced to four years and six months, but also remained at liberty.[2954] Marco Coello's trial was suspended, due to his absence.[2955]

1637. The Mission has found no information that any public officials were punished or made accountable for their actions against the detainees, despite the allegations of torture that they made in court, and, in the case of Marco Coello, to the Public Prosecutor's Office.[2956] During the same trial, Leopoldo López was convicted of inciting these offences and sentence to more than 13 years' imprisonment, as detailed below.[2957]

[2939] Criminal Code, art. 286.
[2940] Criminal Code, art. 285.
[2941] Final judgment, Case No. 28J-810-14, 1 October 2015, Document C1AA06, on file with the Mission.
[2942] Criminal Code, art. 285. Final judgment, Case No. 28J-810-14, 1 October 2015, Document C1AA06, on file with the Mission.
[2943] Document C1AA05, on file with the Mission and Document C1AA07, on file with the Mission.
[2944] Mission Interview C1AA05 in May 2020; Mission Interview C1AA20 in July 2020.
[2945] Final judgment, Case No. 28J-810-14, 1 October 2015, p. 273, Document C1AA06, on file with the Mission.
[2946] Ibid.
[2947] Final judgment, Case No. 28J-810-14, 1 October 2015, Document C1AA06, on file with the Mission. Mission Interview C1AA05 in May 2020; Mission Interview C1AA08 in May 2020; Mission Interview C1AA20 in July 2020.
[2948] Criminal Code, art. 343.
[2949] Criminal Code, arts. 473 (3) and 474.
[2950] Criminal Code, art. 285.
[2951] Criminal Code, art. 286.
[2952] Final judgment, Case No. 28J-810-14, 1 October 2015, Document C1AA06, on file with the Mission.
[2953] Criminal Code, art. 285.
[2954] Ibid.
[2955] Ibid. and Mission Interview C1AA30 in August 2020.
[2956] Mission Interview C1AA30 in August 2020.
[2957] Final judgment, Case No. 28J-810-14, 1 October 2015, Document C1AA06, on file with the Mission.

Chacao Municipality: Killing of Robert Redman

1638. After the incidents that occurred on Tracabordo corner and at Parque Carabobo Square, messages on Twitter called for demonstrators to head to Chacao Municipality.[2958] In Chacao, several incidents of violence were reported by local media that same evening.[2959] According to two witnesses interviewed by the Mission, around 9 p.m., protesters were on the corner of Monseñor Juan Grilc Rezman and Elice streets. They had set tyres on fire. There were no security forces present.[2960]

1639. The witnesses told the Mission that a motorcycle approached from the east side of Monseñor Juan Grilc Rezman Street and shots rang out. One of the witnesses[2961] identified the motorcycle as a KLR Kawasaki, like those used by the National Guard, ridden by two people. The driver was wearing a People's Guard uniform. On the passenger seat was a man in civilian clothes. The motorcycle drove towards the corner where demonstrators stood and the passenger fired around four shots towards them before leaving the scene.[2962] Robert Redman was shot in the head and killed.[2963]

1640. Robert Redman had graduated as an airline pilot in 2013 and was performing citizen journalism on his Twitter account. He had participated in the protests all day and had also helped carry Bassil Dacosta's body, as revealed by numerous videos and photos. He had stayed out with demonstrators and come to Chacao Municipality that evening.[2964]

1641. The Public Prosecutor's Office opened an investigation into Robert Redman's death and assigned the case to the Thirty-Sixth National and Fifty-Fifth Caracas Metropolitan Area Prosecutor's Offices. The Prosecutor Office report of 2014 listed the case as under investigation, but suggested that Robert Redman was killed in an exchange of fire between demonstrators and security forces.[2965] This stands in contrast to the accounts provided to the Mission by two witnesses who had been present at the time.[2966]

1642. More than six years after the events, the Mission has not been able to find any indication of progress in the investigations.

Findings

1643. Based on the above, the Mission has reasonable grounds to believe that torture and cruel, inhuman or degrading treatment were committed against Mr. Marco Coello, Mr. Christian Holdack and Mr. Demian Martin. The Mission also has reasonable grounds that torture and cruel, inhuman or degrading treatment was committed against other individuals during their arrest and detention in this case. CICPC personnel of the CICPC-Plaza Carabobo headquarters were involved in the torture and cruel, inhuman or degrading treatment. The Mission has also reasonable grounds to believe that the conditions of detention in the police detention facilities in Chacao Municipality police also amount to a violation of the prohibition of torture and cruel, inhuman or degrading treatment.

1644. The Mission has reasonable grounds to believe that Mr. Robert Redman was victim of arbitrary killing by an unidentified person in civilian clothing who, while seated in the passenger seat of an official motorbike driven by an officer of the Guardia del Pueblo, shot several rounds resulting in the death of Mr. Redman.

2958 https://twitter.com/experienciajovn/status/433722432403148801

2959 YouTube Video, Multimedio VTV, Grupos violentos generaron caos vehicular en Altamira y Chacao, 13 February 2014, video on file with the Mission.

2960 Mission Interview C1AA29 in May 2020; Mission Interview C1BB32 in June 2020.

2961 Mission Interview C1AA29 in May 2020.

2962 Mission Interview C1AA29 in May 2020; Mission Interview C1BB32 in June 2020.

2963 http://www.venezuelaawareness.com/2014/02/por-herida-de-bala-muere-estudiante-roberto-jose-redman-orozco-fotos/

2964 https://twitter.com/escualidoreload; YouTube Video, Front-Line TV, Roberto Redman Ayudando a Cargar a Bassil Dacosta 12-F, 28 March 2014, available at: https://www.youtube.com/watch?v=G5Em8xrRGIs

2965 Public Prosecutor's Office, Informe Hechos de Violencia 2014, on file with the Mission.

2966 Mission Interview C1AA29 in May 2020; Mission Interview C1BB32 in June 2020.

CASE 36: Valencia, Carabobo state (13 February 2014)

1645. As in other parts of the country, a large opposition march took place in Valencia, Carabobo state on 12 February 2014. The march advanced peacefully and without impediment along Avenida Bolívar, as several verified videos reveal.[2967] Violence was reported later that day, once the demonstration had ended. Governor Francisco Ameliach denounced the burning of a tanker truck and other material damage, which he attributed to violent groups and opposition party sympathizers.[2968]

1646. Demonstrations continued in Valencia the following day, 13 February 2014. These demonstrations occurred spontaneously, following the previous day's events. It is unlikely that notification was provided to authorities in accordance with legal procedures. Furthermore, the protest took place on a highway and was unlikely to have been considered legal, even had notification been provided.

1647. During the afternoon, groups of demonstrators cut off major roadways, including at El Viñedo Shopping Centre and El Trigal highway interchange.[2969] State police, GNB and other security forces were mobilized, with at least one GNB armoured vehicle, as can be seen in a video from the scene.[2970] Many demonstrators remained in the streets at night and some protesters blocked roads, sometimes using burning garbage or vehicle tires, as shown in media reports and photographs.[2971]

1648. At some time between 9 and 11 p.m., up to 50 GNB officers on motorcycles attempted to disperse the protesters near El Trigal overpass, firing teargas and pellets. One woman and three men, including Juan Manuel Carrasco, a 21-year-old student, ran to a car to escape the scene. Mr. Carrasco told the Mission that eight GNB officers shot pellets at them while they were in the car, breaking the car's windows.[2972]

1649. According to this account, GNB officers pulled the driver from the car, kicking him in the face and breaking his glasses. The GNB pulled the woman from the car and beat her. Mr. Carrasco exited the car and tried to make them stop. The woman managed to run away, while the GNB officers continued kicking and beating the three men with the butts of their weapons. The GNB officers dragged them away from the car and said, "See how you burn

2967 YouTube Video, Carlos Ortega, Marcha 12F Valencia - 12/02/2014, 12 February 2014, available at: https://www.youtube.com/watch?v=btcfKnUxwJc; YouTube Video, Valencia Venezuela, Marcha Valencia - Venezuela 12-02-2014, 12 February 2014, available at: https://www.youtube.com/watch?v=vHRsyVlwRho; YouTube Video, Sistemas Construbol, Marcha 12/02/2014 Valencia VIVA VENEZUELA!, 12 February 2014, available at: https://www.youtube.com/watch?v=R9lJ8jjqQsk.

2968 YouTube Video, Francisco Ameliach, Derecha causa destrozos en Valencia, 13 February 2014, available at: https://www.youtube.com/watch?v=y6amk0EeOJg; Noticias24 Carabobo, 12 February 2014, available at: https://noticias24carabobo.com/ameliach-mud-carabobo-planificado-cerrar-distribuidor/; https://noticias24carabobo.com/maduro-denuncia-carabobo-secuestraron-maquinas-asfalto//.

2969 https://twitter.com/Spynet1/status/434029988292349952; Noticias24 Carabobo, Manifestantes tomaron las calles de Valencia por segundo día consecutivo (+fotos), 13 February 2014, available at: https://web.archive.org/web/20140301224111/http:/noticias24carabobo.com/actualidad/noticia/36023/estudiantes-y-sociedad-civil-comienzan-a-concentrarse-en-valencia-fotos; See also YouTube Video, Protestas en Venezuela en la ciudad devalencia 13 de febrero, 13 February 2014, available at: https://www.youtube.com/watch?v=rtY9CwFPbl8

2970 YouTube Video, Protestas en venezuela en la ciudad devalencia 13 de febrero, 13 February 2014, available at: https://www.youtube.com/watch?v=rtY9CwFPbl8

2971 Noticias24 Carabobo, Manifestantes tomaron las calles de Valencia por segundo día consecutivo (+fotos), 13 February 2014, available at: https://web.archive.org/web/20140301224111/http:/noticias24carabobo.com/actualidad/noticia/36023/estudiantes-y-sociedad-civil-comienzan-a-concentrarse-en-valencia-fotos

2972 Mission Interview with Juan Manuel Carrasco on 26 June 2020; Copy of confidential document with witnesses' statements and complaints presented by defence lawyers on 15 February 2014, on file with the Mission, corroborated with Mission Interview C1AA23 in July 2020; Interview with one witness accessed by the Mission providing consistent information corroborated by the Mission, Document C1AA08, on file with the Mission.

your own car?" before setting it on fire.[2973] The press published photos of the burned car the following day.[2974]

1650. The officers took Mr. Carrasco and the others to a car park where Mr. Carrasco saw the GNB beating around ten arrested demonstrators. The GNB officers ordered Mr. Carrasco and the others to get down on the ground in a fetal position. Some officers fired teargas canisters and pellets at the detainees while beating them.[2975] Forensic medical reports summarized in court documents indicate that at least one man suffered an injury to his arm from pellets, and several men had wounds to their heads, faces, backs, abdomens and limbs, from the beatings.[2976] The Mission has accessed photographs taken after Mr. Carrasco's release, which show severe bruising on his back and left side.[2977]

1651. Mr. Carrasco told the Mission that as he was lying curled up on the ground, an officer approach him from behind while holding a rifle. He used the tip of the rifle to lower Mr. Carrasco's underwear. Saying, "Look at that ass", he penetrated Mr. Carrasco's anus with the point of the rifle, causing extreme pain.[2978] A forensic medical exam performed the following week indicated anal lacerations consistent with penetration by a foreign object.[2979] This officer had been giving orders to others and appeared in charge of the operation. Mr. Carrasco heard officers refer to him repeatedly as Sergeant Blanco and recognized him when he introduced himself by name at the initial appearance.

1652. The GNB Sergeant then ran the rifle tip over Mr. Carrasco's friend's buttocks. Mr. Carrasco told the Mission that he and his friend understood this as a threat to penetrate him as well. During the beatings, the GNB officers told the protesters they would kill them, that they would die that night. The officers held the group there for around two hours, beating them intermittently.[2980]

1653. Governor Francisco Ameliach denounced on his Twitter account that the demonstration was violent, confirming the arrest of eleven demonstrators, and accusing opposition political parties of using students as human shields.[2981]

2973 Ibid.

2974 Noticias24 Carabobo, En fotos: así quedaron los carros quemados en protesta cerca del distribuidor El Trigal, 14 February 2014, available at: https://web.archive.org/web/20140222013300/https:/noticias24carabobo.com/actualidad/noticia/36117/en-fotos-asi-quedaron-los-carros-incendiados-en-el-distribuidor-el-trigal/; Noticias24 Carabobo, Once detenidos y dos carros incendiados dejó manifestación en distribuidor El Trigal (+fotos), 14 February 2014, available at: https://web.archive.org/web/20140227203448/http:/noticias24carabobo.com/actualidad/noticia/36099/dos-carros-quemados-y-11-personas-detenidas-dejo-manifestacion-en-el-distribuidor-el-trigal-fotos/

2975 Mission Interview with Juan Manuel Carrasco in June 2020.

2976 Forensic medical reports performed on 14 February 2014, included in Sixth Prosecutor of Carabobo State, Request for Dismissal, GP-01-P2014-1945, 17 March 2015, p. 389-393, on file with the Mission.

2977 Picture on file with the Mission.

2978 Mission Interview with Juan Manuel Carrasco in June 2020; Copy of confidential document with witnesses' statements and complaints presented by defence lawyers on 15 February 2014, on file with the Mission, corroborated with Mission Interview C1AA23 in July 2020.

2979 Record No 052/2014, Expert Forensic Report, 20 February 2014, on file with the Mission.

2980 Mission Interview with Juan Manuel Carrasco in June 2020; Copy of confidential document with witnesses' statements and complaints presented by defence lawyers on 15 February 2014, on file with the Mission, corroborated with Mission Interview C1AA23 in July 2020.

2981 https://twitter.com/AmeliachPSUV/status/434290107160735744; https://twitter.com/AmeliachPSUV/status/434286629151584256; Noticias24 Carabobo, Once detenidos y dos carros incendiados dejó manifestación en distribuidor El Trigal (+fotos), 14 February 2014, available at: https://web.archive.org/web/20140227203448/http:/noticias24carabobo.com/actualidad/noticia/36099/dos-carros-quemados-y-11-personas-detenidas-dejo-manifestacion-en-el-distribuidor-el-trigal-fotos/

GNB Detention, Urban Security Detachment (DESUR)

1654. Sometime around midnight, officers transferred eleven of the arrested demonstrators to the GNB Urban Security Detachment (DESUR) in Carabobo, next to El Tocuyito prison. The demonstrators were brought in covered in blood. Officers ordered them to undress in front of them. Mr. Carrasco told the Mission that he felt humiliated, as he had been raped with the gun. He was forced to take a shower in front of officers and clean away the blood. His ribs were bruised and he could not stand easily. When he used the toilet, he bled from his rectum.[2982]

1655. Mr. Carrasco gave a statement when asked, in the hope that officers might give him painkillers. Instead, he was beaten again, until an officer stopped the aggressor for fear of breaking his ribs.[2983] The detainees were forced to sleep sitting upright. Officers sometimes kicked them as they passed by and or threw water on them.[2984]

1656. Relatives visited the detainees and brought food. Mr. Carrasco asked his sister to visit, so his parents would not see his physical state. A doctor came to examine the detainees. GNB officers wanted to be present during the exams, but the doctor insisted on privacy. Mr. Carrasco told the doctor what had occurred, including that he had been raped. The doctor treated him well, conducted a full examination and told the guards to treat him with care.

1657. According to medical records presented by the State in the act of initial appearance, Mr. Carrasco had contusions to his chest. The injuries from the penetration did not appear in the doctor's report to the judge.[2985] The forensic medical records included in the court records for the other detainees indicated a range of injuries from contusions and abrasions on their heads, necks, bodies and limbs, to injuries from buckshot.[2986]

1658. One of the men arrested with Mr. Carrasco had also suffered significant injuries, including major bruising on his head and eyes red with blood. In his case, the medical records in court records did appear to reflect the extent of his injuries, as contusions and hemorrhaging to his head and left eye in addition to traumatic injuries to his abdomen, back, right leg and left knee were documented, requiring medical assistance.[2987]

1659. On 15 February 2014, defence lawyers representing the detainees arrived at Carabobo Palace of Justice for their initial court appearance, but were informed that the Circuit President had ordered that the hearing be held at the GNB Urban Security Detachment (DESUR) next to Tocuyito prison, due to fumigation at the courthouse.[2988]

[2982] Medical records on file with the Mission indicate that Mr. Carrasco's doctor ordered an endoscopy, as well as identifying anal lacerations consistent with penetration from a foreign object. The doctor also x-ray exams of Mr. Carrasco's thorax due to severe bruising. Record No 052/2014, Expert Forensic Report, 20 February 2014, on file with the Mission; Mission Interview with Juan Manuel Carrasco on 26 June 2020; Copy of confidential document with witnesses' statements and complaints presented by defence lawyers on 15 February 2014, on file with the Mission, corroborated with Mission Interview C1AA23 in July 2020.

[2983] Mission Interview with Juan Manuel Carrasco in June 2020; Copy of confidential document with witnesses' statements and complaints presented by defence lawyers on 15 February 2014, on file with the Mission, corroborated with Mission Interview C1AA23 in July 2020.

[2984] Ibid. See also Report of the General Secretariat of the Organization of American States and the panel of independent international experts on the possible commission of crimes against humanity in Venezuela, 29 May 2018, p. 106, available at: http://www.oas.org/documents/eng/press/Informe-Panel-Independiente-Venezuela-EN.pdf

[2985] The summary medical report included in court records indicate bruising to Mr. Carrasco's back. Record 9700-146-853-14, 14 February 2014, on file with the Mission.

[2986] Mission Interview with Juan Manuel Carrasco in June 2020; Sixth Prosecutor of Carabobo State, Request for Dismissal, GP-01-P2014-1945, 17 March 2015, pp. 389-393, on file with the Mission.

[2987] Record 9700-146-850-14, 17 February 2014, in Sixth Prosecutor of Carabobo State, Request for Dismissal, GP-01-P2014-1945, 17 March 2015, p. 390, on file with the Mission.

[2988] Copy of confidential document with witnesses' statements and complaints presented by defence lawyers on 15 February 2014, on file with the Mission, corroborated with Mission Interview C1AA23 in July 2020.

1660. The initial appearance began at approximately 4.30 p.m. The public prosecutor charged each member of the group with violent property damage,[2989] obstruction of a public thoroughfare[2990] and the use of a minor to commit a crime.[2991] Mr. Carrasco and the others made statements and showed their injuries. Mr. Carrasco told the judge and prosecutor that he had been raped, had difficulty sitting and continued to bleed. The detainees detailed additional injuries to their heads and bodies, as well as theft of personal items.

1661. The prosecutor requested additional charges, including public incitement to disobey the law,[2992] public intimidation[2993] and criminal association.[2994] The hearing concluded at around 3.30 a.m. The judge ordered house arrest for six of the detainees, including Mr. Carrasco, and released the other five with non-custodial measures, including periodic presentation, with the prohibition to leave the country and to demonstrate or take part in public meetings.[2995]

1662. After 45 days, Mr. Carrasco's house arrest was lifted. He arranged psychological treatment from a professional specialized in victims of sexual violence and trauma. With Mr. Carrasco's permission, his psychologist shared her July 2014 assessment with the Mission and confirmed that he suffered from symptoms consistent with post-traumatic stress disorder following rape.[2996]

Public humiliation for rape victim

1663. During a 16 February 2014, interview on the NTN24 television channel, a Valencia based lawyer said that GNB members had beaten and mistreated students, burned a student's car and raped a student with a rifle. The lawyer mistakenly said that the students had not made the judge aware of this during their initial appearance in court. This information was widely circulated, particularly the news of the sexual violence, sparking public debate about its veracity.[2997]

1664. Mr. Carrasco responded with a television interview of his own, in which he confirmed the accusations.[2998] Journalists insisted that he provide medical proof he had been raped. Mr. Carrasco spoke to national and international press again in the following days, accusing GNB officers of rape and torture and expressing his fear of reprisals.[2999] After the interviews,

2989 Criminal Code, arts. 473 and 474.

2990 Criminal Code, art. 357.

2991 Law on the Protection of Boys, Girls and Adolescents, art. 264 states, "Those who commit a crime concurrently with a boy, girl or adolescent, will be sentenced with one to three years prison […]".

2992 Criminal Code, art. 285.

2993 Criminal code, art. 296 ("Those who, with the sole objective of producing terror in the public, encourage an uprising or cause public disorder, discharge firearms or through explosive or incendiary substances against people or properties, will be sentenced with three to six years prison […]").

2994 Law against Organized Crime and Terrorist Financing, art. 37.

2995 Copy of confidential document with witnesses' statements and complaints presented by defence lawyers on 15 February 2014, on file with the Mission, corroborated with Mission Interview C1AA23 in July 2020.

2996 Psychologist preliminary report, 1 July 2014, on file with the Mission; Mission Interview C1EE005 in April 2020.

2997 Reference to this interview was widely circulated on social media. See, for example: YouTube Video, Rolando D Molina, Denuncian agresión Brutal en @NTN24: violación anal a estudiante detenido en Valencia, 16 February 2014, available at: https://www.youtube.com/watch?v=sywYHCrzsq0&feature=youtube_gdata_player

2998 YouTube Video, OpinionNTN24, Victima de abuso de la GNB relata las violaciones a los DDHH a las que fue sometido [Parte II], 16 February 2014, available at: https://www.youtube.com/watch?v=kce8EEy0JQc

2999 See, for example, El Mundo, "'Los militares venezolanos me violaron con el cañón de un fusil'" 20 February 2014, available at: https://www.elmundo.es/internacional/2014/02/18/5303b724e2704e71118b4577.html; YouTube Video, Venezuela: venezolano violado con fusil, 20 February 2014, available at: https://www.youtube.com/watch?v=TP5rBmqcJko

officials from the Public Prosecutor's Office began coming to his house to conduct interviews, often late at night and accompanied by the police.[3000]

1665. On 20 February 2014, one week after the incidents, Mr. Carrasco underwent a series of additional forensic medical exams. A doctor provided an expert report to the Public Prosecutor's Fundamental Rights Office.[3001] The report identified abrasions to Mr. Carrasco's anal sphincter consistent with anal penetration by a foreign object approximately seven days prior, along with other injuries. The doctor recommended further evaluation by a surgeon to determine appropriate treatment, including an inferior and superior endoscopy, which Mr. Carrasco underwent on 21 February 2014.[3002]

1666. On 21 February 2014, then Attorney General Luisa Ortega Díaz gave a radio interview in which she claimed Mr. Carrasco had not mentioned his rape with a rifle in the medical examination carried out before his court appearance on 15 February 2014. She also claimed that neither he, nor his lawyers, had mentioned the incident at the hearing. She said her office was reviewing police records and interviewing doctors, prosecutors and the officers present that day to determine the veracity of the accusation. She committed to sanctioning those responsible, should the allegation be proved, but also hinted at prosecuting Mr. Carrasco otherwise.[3003] She did not mention plans to interview the victim or any possible civilian witnesses.

1667. In a televised interview on the same day, Human Rights Ombudswoman Gabriela Ramirez stated that a "baseless rumor campaign" had been started about human rights violations in the country, and that "you cannot say that torture had occurred if you do not have complaints".[3004] In regards to Mr. Carrasco's case, she stated that no evidence of rape had been presented during his detention, but that the Attorney General's office had instructed additional medical exams based on his complaint. She asked for patience for the results.[3005]

1668. In the following days, news about Mr. Carrasco and speculations about his accusation were widely circulated in the press and on social media. On 24 February 2014, then Attorney General Luisa Ortega Díaz again refuted Mr. Carrasco's accusation in a press conference dismissing the allegation as untrue, according to the medical examination performed the day after his arrest.[3006]

1669. During this period, Mr. Carrasco received a number of threats, including anonymous SMS messages threatening to kill him and stating his location and the clothes he was wearing.[3007] SEBIN vehicles frequently parked near his house. A witness told the Mission

[3000] Mission Interview with Juan Manuel Carrasco in June 2020; Mission Interview C1EE06 in June 2020.

[3001] Record No 052/2014, Expert Forensic Report, on file with the Mission.

[3002] Record No 052/2014, Expert Forensic Report, on file with the Mission.

[3003] Unión Radio Noticias, Fiscal Luisa Ortega Díaz, Fiscalía reporta 8 fallecidos y 137 heridos en protestas, 21 February 2014. cited in: COFAVIC, "Venezuela: Sentencias de silencio: Informe situación de Derechos Humanos en Venezuela en el contexto de protestas estudiantiles de febrero-mayo 2014", October 2014, available at: https://www.cofavic.org/wp-content/uploads/2014/11/COFAVIC-Sentencias-de-Silencio-Final-.pdf

[3004] Following her departure from the coutry, former Ombudmsperson Ramirez said that during the last year of her mandate there were increasing reports of human rights violations made to her office. See https://puntodecorte.com/gabriela-ramirez/; and https://elpais.com/internacional/2017/05/29/america/1496016110_862993.html

[3005] Partial clip of the interview available at YouTube Video, Elsiglocomve, Gabriela Ramirez 21 02 2014, 21 February 2014, available at: https://www.youtube.com/watch?v=5d846QsejbY; transcript of relevant section of interview cited in: COFAVIC, "Venezuela: Sentencias de silencio: Informe situación de Derechos Humanos en Venezuela en el contexto de protestas estudiantiles de febrero-mayo 2014", October 2014, available at: https://www.cofavic.org/wp-content/uploads/2014/11/COFAVIC-Sentencias-de-Silencio-Final-.pdf

[3006] Alba Ciudad, "Fiscalia determino que Juan Manuel Carrasco no fue victima de violación en Carabobo," 24 February 2014, available at: https://albaciudad.org/2014/02/fiscalia-determino-que-no-hubo-caso-de-violacion-en-carabobo/

[3007] Mission Interview with Juan Manuel Carrasco in June 2020.

that Mr. Carrasco encountered a SEBIN officer in a bakery who slapped him, called him a faggot and threatened to rape him "for real".[3008]

Impunity for rape

1670. On 26 February 2015, Mr. Carrasco's mother wrote to Attorney General Ortega Díaz and was invited to a meeting on 11 March 2015. His mother shared the details of what had happened to Mr. Carrasco, showing the Attorney General the forensic medical reports.[3009]

1671. The following week, on 17 March 2015, the judge in charge dismissed all charges against Mr. Carrasco and the ten others.[3010] According to Foro Penal, three GNB members were accused of torture and cruel treatment in 2014. According to the same source, the accused remained at liberty and had not been tried at the time of writing over six years later.[3011] After the charges against Mr. Carrasco were dropped, he left Venezuela.

1672. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1673. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment, including rape, were committed against Juan Manuel Carrasco. There are also reasonable grounds to believe that other male detainees were also victims of arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment. The Mission has reasonable grounds to believe that other forms of sexual violence, including rape threats were also perpetrated against another male detainee, amounting to torture and cruel, inhuman or degrading treatment.

1674. GNB personnel of the GNB Regional Command No. 2, Urban Security Detachment (DESUR) headquartered in Valencia, Carabobo State, were involved in the arbitrary arrests and detentions, and in the torture and cruel, inhuman or degrading treatment.

CASE 37: Arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014)

1675. It was the arrest of students in Táchira state on 4 February 2014 that provided the catalyst for the nationwide protests which followed.[3012] Táchira continued to experience demonstrations throughout the first half of 2014.[3013] The protests were characterized by roadblocks, known as "barricades" (or "guarimbas"), which restricted movement on public roads.[3014] The barricades usually consisted of piles of garbage, construction debris, household furniture and appliances, and tires, sometimes set on fire.

1676. In San Cristobal, some barricades became permanent features, making roads impassable. Others barricades closed roads at 5 p.m., forcing residents to return home before that time. For several weeks, public transport in San Cristobal was largely paralyzed and

[3008] Mission Interview C1EE06 in June 2020.
[3009] Mission Interview C1EE06 in June 2020; copy of letter on file with Mission.
[3010] Record GP01-P-2014-1945, Judicial Criminal Circuit, Valencia, 17 March 2015, on file with the Mission.
[3011] Mission Interview C1AA23 in July 2020.
[3012] Equipo de Defensores de Derechos Humanos del Táchira, Informe Preliminar sobre la situación de los Derechos Humanos en el estado Táchira, abril 2015.
[3013] Manifestar / Espacio Público, Report on public demonstrations in Venezuela 2014, https://manifestar.org/wp-content/uploads/2016/02/Informe-manifestaciones-2014-3.pdf.
[3014] "Hay más de cien barricadas por todo San Cristóbal", le dice a BBC Mundo el alcalde Daniel Ceballos. "Está comprometido como el 40% de la ciudad, sostiene", BBC Mundo, San Cristóbal: la ciudad de las barricadas en Venezuela, 6 March 2014, available at: https://www.bbc.com/mundo/noticias/2014/03/140305_america_latina_venezuela_tachira_aa

shops opened only in the mornings. Some sources report demonstrators extorting money from people wishing to pass through the barricades.[3015]

1677. On 19 February 2014, President Maduro and Minister of the Interior, Miguel Rodriguez Torres, announced on television that the Government would remove the barricades, with GNB teams deploying from Caracas to San Cristobal. They also announced the establishment of a special FANB General Staff in San Cristobal. National Guard General Vivas Landino was assigned to lead operations, in consultation with Táchira state Governor, José Vielma Mora. GNB Generals Benavidez Torres and General Orlando Rodríguez were responsible for coordination.[3016]

1678. President Maduro referred to the protests and barricades as a fascist attack, for which he blamed San Cristobal mayor.[3017] The mayor of San Cristobal at the time was opposition leader Daniel Ceballos. The following day, the Minister of the Interior Relations, Justice and Peace, Miguel Rodríguez Torres, announced the deployment of a paratrooper battalion to Táchira state as reinforcement for regular forces.[3018]

1679. Road blockades intensified the following days and protesters denounced the militarization of Táchira state. Following the increased military presence in the region, the protests spread beyond San Cristóbal, with barricades erected elsewhere, including one blocking access to Rubio city in the Municipality of Junín, around 25 kilometres from San Cristóbal.[3019] On 24 February, GNB forces deployed to Rubio, with the support of presumed colectivos, as showed on two publicly available videos that the Mission geo-located and verified.[3020]

1680. On 11 March 2014, an unidentified assailant killed student leader Daniel Tinoco during a protest at a roadblock in San Cristobal.[3021] On 17 March 2014, the Supreme Court of Justice issued precautionary measures over the Municipality of San Cristobal. These

[3015] Equipo de Defensores de Derechos Humanos del Táchira, Informe Preliminar sobre la situación de los Derechos Humanos en el estado Táchira, April 2015, available at: https://issuu.com/proveaong/docs/informe_ddhh_tachira; Arturo Sosa, Febrero 2014: Reflexiones Incompletas desde San Cristóbal, 14 March 2014, available at: https://cpalsocial.org/documento.html?documento_id=24; Walter Márquez, Denuncia ante la Corte Penal Internacional, January 2016, on file with the Mission; PROVEA Venezuela 2014, Protesta y Derechos Humanos, Febrero-mayo 2014, available at: https://issuu.com/proveaong/docs/informe-final-protestas2; CIVILIS, Informe sobre Ataques a Civiles en Áreas Residenciales, Febrero-mayo 2014, available at: https://www.civilisac.org/civilis/wp-content/uploads/Informe-Ataques-a-Civiles-en-Areas-Residenciales-2014-1.pdf

[3016] YouTube Video, Diario Panorama, "Si tengo que decretar estado de excepción en Táchira, lo haré": Presidente Maduro, 19 February 2014, available at: https://www.youtube.com/watch?v=PiUMbDXvnYE; Panorama Digital, Rodríguez Torres sobre Táchira: "No se trata de una militarización, ni una suspensión de las garantías", 20 February 2014, available at: https://www.aporrea.org/actualidad/n245597.html.

[3017] Ibid.

[3018] Nodal, Gobierno envía batallón de paracaidistas a Táchira, 21 February 2014, available at: https://www.nodal.am/2014/02/venezuela-siguen-los-ataques-violentos-de-sectores-de-la-oposicion-y-asesinan-otro-militante-chavista/#Gobierno_envia_batallon_de_paracaidistas_a_Tachira

[3019] Equipo de Defensores de Derechos Humanos del Táchira, Informe Preliminar sobre la situación de los Derechos Humanos en el estado Táchira, April 2015, available at: https://issuu.com/proveaong/docs/informe_ddhh_tachira; PROVEA Venezuela 2014, Protesta y Derechos Humanos, Febrero-mayo 2014, available at: https://issuu.com/proveaong/docs/informe-final-protestas2; CIVILIS, Informe sobre Ataques a Civiles en Áreas Residenciales, Febrero-mayo 2014, available at: https://www.civilisac.org/civilis/wp-content/uploads/Informe-Ataques-a-Civiles-en-Areas-Residenciales-2014-1.pdf

[3020] YouTube Video, Ataque de la GNB a manifestantes y habitantes de Rubio Tachira Venezuela, 26 February 2014, available at: https://www.youtube.com/watch?v=RX73rbzWWi8; YouTube Video, GNB arremete junto con colectivos contra protesta en Rubio Tachira 24feb, 24 February 2014, available at: https://www.youtube.com/watch?v=UL-x0lFbl-E

[3021] Public Prosecutor's Office, Informe Hechos de Violencia 2014, available at: https://es.slideshare.net/MiguelRosario/informe-do-ministrio-pblico-da-venezuela-sobre-las-guarimbas

extended the measures issued some days earlier by the Supreme Court over other municipalities, ordering the removal of barricades and restoration of public order.[3022]

1681. On 19 March 2014, San Cristobal Mayor Daniel Ceballos was removed from office, arrested and charged with rebellion and criminal association. He was later tried and imprisoned for over four years. According to the judgment, he failed to meet his obligations by removing barricades and allowing demonstrators to commit violent acts.[3023] On the same day, an unidentified assailant killed GNB sergeant Jhon Rafael Castillo Castillo near a protest in San Cristóbal.[3024] According to official communications, he was the fourth GNB official to die in demonstrations since the protests began in February 2014.[3025]

Use of force and arrests of demonstrators, in Rubio, Municipality of Junin, on 19 March 2014

1682. By 19 March 2014, barricades had blocked access to Rubio city for several weeks. According to two witnesses, there were two barricades blocking the entrance to the city, near the bus terminal, one on Avenida Perimetral and another on the Rubio-San Cristóbal road.[3026]

1683. A witness told the Mission that on the morning of 19 March 2014, GNB and FANB forces deployed to the city.[3027] The Mission has also verified, geo-located and analyzed video footage of the events.[3028] These videos show a convoy of vehicles including 20 motorbikes with two GNB officers each, a tank, two armoured GNB vehicles and two trucks marked Regional Command No. 1 and other vehicles bearing GNB insignia. The 211th Motorized Infantry Battalion stationed in Rubio, Táchira provided logistical support.

1684. A witness told the Mission that at around 8.30 a.m., GNB officers arrived on motorcycles armed with long and short firearms and approached the barricade. Several wore balaclavas or helmets and some wore vests without the name tags on their uniforms. The officers fired towards the crowd without warning, causing protesters to run.[3029]

1685. Events as described by witnesses are corroborated by videos verified by the Mission.[3030] The videos show National Guard and military officers were firing guns and throwing stones at protesters. Other videos captured events from different angles, showing at least six military reservists and three GNB officers from Regional Command One, some

[3022] Supreme Court Judgement No. 137 of 17 March 2014, available at https://vlexvenezuela.com/vid/juan-ernesto-garanton-hernandez-593337902.

[3023] Supreme Court, Constitutional Chamber, Exp. No. 14-0194, 10 April 2014, available at: https://www.accesoalajusticia.org/wp-content/uploads/2014/04/SC-N%C2%BA-263-10-04-2014.pdf

[3024] Public Prosecutor's Office, Informe Hechos de Violencia 2014, https://es.slideshare.net/MiguelRosario/informe-do-ministrio-pblico-da-venezuela-sobre-las-guarimbas

[3025] Listin Diario, Ministra venezolana dice protestas dejaron 4 efectivos muertos y 79 heridos, 20 March 2014, available at https://listindiario.com/las-mundiales/2014/03/20/314959/ministra-venezolana-dice-protestas-dejaron-4-efectivos-muertos-y-79-heridos; El País, Detenido el alcalde de San Cristóbal, epicentro de las protestas en Venezuela, 20 March 2014, available at: https://elpais.com/internacional/2014/03/19/actualidad/1395264119_278787.html

[3026] Mission Interview C1AA06 in May 2020; Mission Interview C1AA11 in June 2020.

[3027] Mission Interview C1AA06.

[3028] YouTube Video, GNB reprimiendo al pueblo. Rubio, Táchira, 19 May 2014, available at: https://www.youtube.com/watch?v=yL0iN95cCSs; YouTube Video, NTN24 Venezuela, "Nos han atacado con armas de guerra": residente de Rubio, Táchira sobre disturbios en el municipio, 19 March 2014, available at: https://www.youtube.com/watch?v=YK8gwUzU4Ko

[3029] Mission Interview C1AA06 in May 2020

[3030] YouTube Video, Guardia Nacional Reprime Poblacion de Rubio, 19 March 2014, available at: https://www.youtube.com/watch?v=dg-oVrx0AIY; YouTube Video, enfretamiento de la GNB contra manifestantes en RUBIO EDO TACHIRA, 19 March 2014, available at: https://www.youtube.com/watch?v=yFxHkYPKkpY; YouTube Video, NTN24 Venezuela, Captan a la GNB recogiendo casquillos y disparando contra manifestantes en la población de Rubio, 19 March 2014, available at: https://www.youtube.com/watch?v=equC1tLrOUU; YouTube Video, Arremetida de GNB contra Manifestantes en Rubio, 19 March 2014, available at: https://www.youtube.com/watch?v=t_GLG3ll-68; Mission interview C1AA11 in June 2020.

holding rifles. One GNB Lieutenant in command was armed with 9mm guns. As the unit approached demonstrators, some members fired their weapons. NGOs reported that on that day, at least two people were shot and more than 20 had pellet wounds.[3031]

1686. Another video, which the Mission geolocated and verified, shows a joint operation of at least eight military reservists of the 211th Motorized Infantry Battalion, unarmed and some throwing stones, and four Regional Command One GNB officers holding rifles, commanded by a GNB Lieutenant. Demonstrators run away when the security officers approach. The video also shows at the scene a pickup truck with the silver logo of DGCIM.[3032]

1687. According to a witness, Gloria Tobón had been at the bus terminal that morning, with her 22-year-old daughter, when motorcycles arrived, carrying National Guard officers.[3033] Gloria Tobón saw GNB officers hitting a woman and pulling her by her hair. When she tried to intervene, a GNB motorcycle officer beat her, insulted her and dragged her by her hair along the ground. His motorcycle companion then put the barrel of his gun to her forehead. The first official shouted, "Kill that bitch".[3034]

1688. The official holding the gun loaded it and returned it back to Gloria Tobón's forehead, as she remained on the ground. A passer-by intervened by pushing the official's arm. The gun fired, but the bullet hit a nearby tree. The passer-by remonstrated with the officers, who eventually retreated.[3035] Gloria Tobón sought refuge in a relative's house nearby. At around 10.30 a.m. she and her daughter attempted to go home, but the streets were full of military personnel and GNB firing teargas. When they heard gunshots, both she and her daughter started running and became separated.[3036]

1689. A soldier grabbed Gloria Tobón by the neck, insulted her and lifted her off the ground. She was handcuffed, put on a motorcycle between two officers and taken to a truck,[3037] where another solider threw vinegar in her face and called her "*hija de puta*" and a *guarimbera*. The soldiers interrogated Ms. Tobón in the vehicle, asking who the protest leaders were and who financed them. Several soldiers had their faces covered with balaclavas. They threatened to give her electric shocks.[3038]

1690. Ms. Tobón was transferred to GNB Command in Rubio, along with others arrested during the protests, including her daughter. Gloria Tobón remained handcuffed and blindfolded as the officers led her into a separate room. They demanded information about protest leaders and tore off her shirt. The soldiers poured water over her and administered electric shocks to her breasts and other parts of her body. They shouted at her and called her "bitch". A soldier suggested providing electric shocks to her vagina, and they began to remove the rest of her clothes. A female soldier intervened and told them to stop. The female official put a cloth over Gloria Tobón and took her back to the other detainees.[3039]

1691. There were 23 detainees in total and they all remained handcuffed and blindfolded for 12 hours. During that time, the guards beat them with their hands or their fists. One witness reported that she heard "horrible screams" coming from another male detainee held in a separate room. Detainees were insulted and threatened with death. They were told that they would be killed, chopped up and buried so that the family would never know about them.[3040]

1692. At one point, a Lieutenant told the detainees that he had taken a picture of them and posted it on social media. During that time, a photograph was indeed made public on

3031 PROVEA Venezuela 2014, Protesta y Derechos Humanos, Febrero-Mayo 2014, available at: https://issuu.com/proveaong/docs/informe-final-protestas2.

3032 YouTube Video, Guardia Nacional reprime a población de Rubio Tachira, 19 March 2014, available at: https://www.youtube.com/watch?v=OxoZmsPQWkA; Mission interview C1AA11 in June 2020.

3033 Mission Interview C1AA06 in May 2020.

3034 Ibid.

3035 Ibid.

3036 Ibid.

3037 Ibid.

3038 Ibid.

3039 Ibid.

3040 Ibid.

Twitter,[3041] showing more than 10 people, men and women, sitting on benches, handcuffed and blindfolded with cloths or their clothes, some bare-chested and others with their shirts torn. The picture shows Ms. Tobón at the back on the benches.[3042] There were more than 30 Molotov cocktail bottles, a mortar and small bags containing unidentified substances in front of the detainees.[3043]

1693. Nine other people who had been arrested in previous protests were also held in the facility's military detachment. An additional three people, including two councillors from Rubio, were also brought to the detachment and were released that same day. One of them saw Gloria Tobón and the other detainees and witnessed their bruises. When he spoke to Ms. Tobón, she told him about the violence she had suffered.[3044]

1694. At around 3 a.m. on 20 March, officers put the original 23 detainees into an army truck and drove them to local viewpoint. They were made to line up by the side of the road while soldiers pointed weapons at them. The detainees feared they would be executed.[3045] Instead, the officers took them to a GNB Border Detachment Number 12 in San Antonio, near the customs point, where they were checked by a doctor. They spend the rest of the night there, sitting on chairs. They still had no access to water, food or medicine and were unable to see their families. Women were not given sanitary pads. A female lieutenant saw Gloria Tobón's bruises, allowed her to shower and took her to the pharmacy for painkilling medicine.[3046]

1695. The 23 remained in detention for another two days until 22 March 2014, when officers brought them to the First Instance Criminal Court of Tachira state for initial court appearances. A crowd had gathered outside the tribunal to protest against their arrest.[3047] Ms. Tobón and 16 others were accused of public incitement,[3048] criminal association[3049] and use of adolescents to commit crimes,[3050] and non-compliance with the special regime for security zones.[3051] Five of the detainees were also charged with the crime of public intimidation with an explosive device[3052]. The judge ordered Ms. Tobón and her daughter's release with non-custodial measures. They were released on the evening of 22 March 2014.[3053] Ms. Tobón then accessed medical attention for burns to her breasts and other body parts, as well as other injuries she had suffered.[3054]

1696. Five days after the court appearance, the prosecutor appealed against the judge's decision to grant Ms. Tobón non-custodial detention but Táchira state appeals court upheld the decision. Two years after her arrest, Ms. Tobón was informed that the case against her had been dismissed.[3055]

1697. On 9 April 2014, Ms. Tobón filed a complaint with the Ombudsman's Office about her treatment during her arrest and detention and with the Public Prosecutor's Office No. 20

[3041] https://twitter.com/guerrerojesus00/status/446773555565703168
[3042] Mission Interview C1AA06 in May 2020.
[3043] https://twitter.com/guerrerojesus00/status/446773555565703168
[3044] Mission Interview C1AA06 in May 2020; Mission Interview C1AA12 in May 2020; Mission Interview C1AA28 in May 2020.
[3045] Mission Interview C1AA06 in May 2020.
[3046] Ibid.
[3047] Mission Interview C1AA06 in May 2020; Mission Interview C1AA28 in May 2020.
[3048] Criminal Code, art. 285.
[3049] Criminal Code, art. 286.
[3050] Organic Law for the Protection of Children and Adolescents art. 264
[3051] Organic Law on National Security, Official Gazette 37.594, 18 December 2002, art. 56
[3052] Criminal Code, art. 296.
[3053] Mission Interview C1AA06 in May 2020; Mission Interview C1AA28 in May 2020. Boleta de Notificación, 8 April 2014, Document C1AA13, on file with the Mission.
[3054] Mission Interview C1AA06 in May 2020.
[3055] Mission Interview C1AA06 in May 2020; Mission Interview C1AA28 in May 2020.

with jurisdiction over fundamental rights.[3056] At the time of writing, she had not been informed of any progress in the case.[3057]

1698. In the months following her release, Ms. Tobón and her family were subject to anonymous death threats, insults and other forms of harassment, forcing her to leave Rubio.[3058]

Findings

1699. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment, including sexual violence, were committed against Ms. Gloria Tobón. There are also reasonable grounds to believe that other male and female detainees were also victims of arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment during their arrest and detention along with Ms. Tobón.

1700. GNB personnel of the GNB Regional Command No. 1 in Rubio, Táchira, under the command of General of Division (GNB) Franklin Horacio Garcia Duque, were involved in the arbitrary arrests and detentions, and in the torture and cruel, inhuman or degrading treatment.

CASE 38: The Caracas protest camps (May 2014)

Four protest campsites in Caracas

1701. On 24 March 2014, the Jóvenes Venezolanos organization set up a protest camp called outside the UN headquarters on Avenida Francisco de Miranda, Los Palos Grandes, Chacao Municipality, in Caracas. Following this, several camps were set up around the country, including three other campsites in Caracas: in Plaza Alfredo Sadel, in Las Mercedes, Baruta Municipality; in Plaza Bolivar, Chacao Municipality; and in Santa Fe Municipality.[3059]

1702. The campsite at the UN headquarters was the largest with between 80 to 100 tents, hosting around 200 persons staying at night. A witness who had been involved in the protest told the Mission that organisers had not sought permission from authorities to set up the tents, which partially block a public highway. During the day, there were many more demonstrators joining activities organised at the site. The campsite at Sadel Square included approximatively 70 to 100 tents housing more than 130 persons who spent the night there. Plaza Bolivar was smaller with between 20 and 30 tents, housing more than 35 persons. The campsite in Santa Fe included about five tents with less than ten persons.[3060]

1703. All four sites together housed more than 350 people, including adolescent children, women and men, some of whom affiliated with opposition political parties.[3061] According to witnesses they were protest sites from which marches and awareness-raising activities on political and social issues were planned. A hunger strike was also held at the UN headquarters

[3056] Written submission to the Ombudsperson's Office, Document C1AA14, on file with the Mission; Mission Interview C1AA28 in May 2020.

[3057] Mission Interview C1AA06 in May 2020; Mission Interview C1AA28 in May 2020.

[3058] Written submission to the Ombudsperson's Office, Document C1AA14, on file with the Mission. Mission Interview C1AA28 in May 2020.

[3059] Mission Interview C1AA02 in May 2020; Mission Interview C1AA03 in May 2020; Mission Interview C1AA04 in May 2020; Mission Interview C1AA07 in May 2020; Mission Interview C1AA026 in June 2020, Mission Interview C1AA027 in May 2020.

[3060] Ibid.

[3061] YouTube Video, NTN24 Venezuela, Jóvenes se apostaron en la sede de la ONU en Caracas para entregar documentos de la violación, 25 March 2014, available at: https://www.youtube.com/watch?v=o-9gsQ1qVIg; YouTube Video, NTN24 Venezuela, Estudiantes acampan en sede de la ONU en Caracas para exigir presencia, available at: https://www.youtube.com/watch?v=pukt53jXCUI. UNOSAT, Document C1AA09, on file with the Mission.

campsite to demand the release of political prisoners among other claims.[3062] Some local people brought food and other supplies and provided access to their bathroom facilities.[3063]

Evictions and arrests (8 May 2014)

1704. On 8 May 2014, GNB No. 5 Command intervened at 3 a.m. at the campsites at the UN headquarters and in Plaza Sadel simultaneously. The PNB and Guardia del Pueblo, meanwhile, evicted campers from Plaza Bolivar and the fourth campsite in Santa Fe.[3064]

1705. The Mission interviewed six witnesses who had been in campsites located at the UN headquarters and Plaza Sadel[3065] and analyzed open source material, satellite imagery[3066] and documentation from the Public Prosecutor's Office.[3067] The Mission had access to police and judicial reports related to the eviction and the arrests and detentions carried out on 8 May 2014 at the Bolivar Square campsite[3068] and police and judicial reports related to arrests made at the UN campsite.[3069]

1706. Several hundred officers armed with short and long firearms, supported by motorcycles, vans, trucks and armoured vehicles, carried out the evictions at UN headquarters and Plaza Sadel campsites.[3070] According to most witnesses, the officers were wearing National Guard uniforms, but without their names displayed. Two witnesses indicated that other security forces officers in civilian clothes were also present.[3071]

1707. According to two witnesses, General Manuel Quevedo, Regional Commander No. 5, was present at the UN campsite operation and appeared to coordinate. These two witness also identified Interior Minister Rodriguez Torres in the site, in command. One of the witnesses indicated that he took the lead in the arrest of one of the camp's leader, Gerardo Carrero.[3072]

1708. Both operations involved similar procedures. These consisted of cordoning off the area with the vehicles and armed GNB officers, while officers went tent by tent to take out

[3062] YouTube Video, Jóvenes Venezolanos, Gerardo Carrero y Tito Molinos de Jóvenes Venezolanos, 16 April 2014, available at: https://www.youtube.com/watch?v=c6ePFeqtPcQ; YouTube Video, Notimundo Venezuela, Campamento Plaza Sadel, 23 April 2014, available at: https://www.youtube.com/watch?v=eLU_1wkQUrc; YouTube Video, Jovenes Venezolanos Rueda de Prensa en el Campamento #ConcienciaNacional frente la ONU, 24 April 2014, available at: https://www.youtube.com/watch?v=Xn2nwGQ1MmA. YouTube Video, Jovenes Venezolanos, archa hacia el Campamento en la ONU #CalleSinRetorno, 24 April 2014, available at: https://www.youtube.com/watch?v=MEmUNkTYNsQ; YouTube Video, NTN24 Venezuela, Estudiantes venezolanos anuncian 'nueva fase de protesta' tras fallo del TSJ, 28 April 2014, available at: https://www.youtube.com/watch?v=nLqKLohZq1c; YouTube Video, Jóvenes Venezolanos, Campamento #ConcienciaNacional 28/04, 29 April 2014, available at: https://www.youtube.com/watch?v=mhip857ELs0.

[3063] Mission Interview C1AA02 in May 2020; Mission Interview C1AA03 in May 2020; Mission Interview C1AA04 in May 2020; Mission Interview C1AA07 in May 2020; Mission Interview C1AA026 in June 2020, Mission Interview C1AA027 in May 2020.

[3064] YouTube Video, Ministro Rodríguez Torres muestra incautado en campamentos, 8 May 2014, available at: https://www.youtube.com/watch?v=JDyttivbnJ0

[3065] Mission Interview C1AA02 in May 2020; Mission Interview C1AA03 in May 2020; Mission Interview C1AA04 in May 2020; Mission Interview C1AA07 in May 2020; Mission Interview C1AA026 in June 2020, Mission Interview C1AA027 in May 2020.

[3066] UNOSAT, Document C1AA09, on file with the Mission.

[3067] Complaint by ex-Attorney General, Luisa Ortega Díaz, to the International Criminal Court, 16 November 2017, on file with the Mission

[3068] Document C1AA10, on file with the Mission.

[3069] Document C1AA11, on file with the Mission.

[3070] Various journalistic sources cited the Mayor of the Municipality of Chacao, Ramón Muchaco, who indicated that 700 members of the National Guard participated in the intervention in front of the UN offices. See El Universo, Policía de Venezuela detiene a 243 personas y desmantela campamentos de protesta, 19 April 2014, available at: https://www.eluniverso.com/noticias/2014/05/08/nota/2934766/policia-venezuela-detiene-243-personas-desmantela-campamentos.

[3071] Mission Interview C1AA02 in May 2020; Mission Interview C1AA027 in May 2020.

[3072] Mission Interview C1AA007 in May 2020; Mission Interview C1AA027 in May 2020.

the people who were sleeping in the tents. Officers pointed their weapons at them and handcuffed them with metal handcuffs or plastic ties. The officers gathered the detainees, making some of them kneel on the ground.

1709. They separated the men and women before putting them on several buses for their transfer to the assigned place of detention at the Regional Command No. 5.[3073] Once the buses left, the GNB dismantled the sites. The tents and most of the belongings found in the camps were loaded up on trucks to be taken to Regional Command Five.[3074]

1710. The six witnesses the Mission interviewed[3075] said that the officers used excessive force. Accounts testified that during the arrests some people were kicked and beaten, including people who did not resist arrest and who were already handcuffed or held on the buses. Several GNB officers also made insults and threats against detainees, including death threats, and used pepper spray and teargas against detainees who were already on the buses.[3076]

Detention at Regional Command of the GNB No. 5 (8-10 May 2014)

1711. According to Foro Penal, 239 persons (155 men and 77 women, three adolescent boys and four adolescent girls) were arrested that night in the four campsites. The detainees from the campsites locates at the UN and in Plaza Sadel (in total 130 men and 61 women) were initially taken to the GNB Regional Command Five, located in Tazón, in the Capital District (today called GNB Command Zone 43).[3077]

1712. Location of the Regional Command Five premises was corroborated by four witness interviewed by the Mission.[3078] The other detainees of Plaza Bolivar (22 men and 14 women) were held at the PNB station in Catia Municipality. The three men and two women arrested at the campsite in Santa Fe were initially held in the command of the Guardia del Pueblo at Mariperez sector. Seven juveniles were held at the GNB Command in Cochecito.[3079]

1713. Upon arrival at Regional Command Five, men and women were separated and detained in different sectors. The 61 women were taken to a large chapel. The 130 men were at first all together, before being located in two different areas gathered by campsites. Over three days, the detainees were held at the Command, but were transferred to the court daily, sometimes spending most of the day in the court cells. On 10 May 2014, they were presented to a judge.[3080]

1714. Women and men, while held in separate areas, provided similar testimonies regarding their detention in Regional Command Five. During the three days, the detainees were unable to wash themselves. The women did not receive sanitary pads.[3081] None of the detainees were granted access to a lawyer.[3082] Women and men were kept handcuffed most of the times, in

[3073] Mission Interview C1AA002 in May 2020; Mission Interview C1AA003 in May 2020; Mission Interview C1AA004 in May 2020; Mission Interview C1AA007 in May 2020; Mission Interview C1AA026 in June 2020; Mission Interview C1AA027 in May 2020.

[3074] Mission Interview C1AA002 in May 2020; Mission Interview C1AA003 in May 2020; Mission Interview C1AA004 in May 2020; Mission Interview C1AA027 in May 2020.

[3075] Mission Interview C1AA002 in May 2020; Mission Interview C1AA003 in May 2020; Mission Interview C1AA004 in May 2020; Mission Interview C1AA007 in May 2020; Mission Interview C1AA026 in June 2020, Mission Interview C1AA027 in May 2020.

[3076] Mission Interview C1AA003 in May 2020; Mission Interview C1AA007 in May 2020.

[3077] Foro Penal, Document C1AA12, on file with the Mission.

[3078] Mission Interview C1AA002 in May 2020; Mission Interview C1AA003 in May 2020; Mission Interview C1AA026 in June 2020; Mission Interview C1AA027 in May 2020.

[3079] Document C1AA12, on file with the Mission.

[3080] Mission Interview C1AA002 in May 2020; Mission Interview C1AA003 in May 2020; Mission Interview C1AA004 in May 2020; Mission Interview C1AA007 in May 2020; Mission Interview C1AA026 in June 2020; Mission Interview C1AA027 in May 2020.

[3081] Mission Interview C1AA003 in May 2020 and Mission Interview C1AA026 in June 2020.

[3082] Mission Interview C1AA002 in May 2020; Mission Interview C1AA003 in May 2020; Mission Interview C1AA004 in May 2020; Mission Interview C1AA007 in May 2020; Mission Interview C1AA026 in June 2020; Mission Interview C1AA027 in May 2020.

pairs or groups, even for trips to the bathroom. One witness recounted that his hand was handcuffed to another's foot, so he had to walk around bent over when going to the bathroom.[3083] Several witnesses alleged being mistreated or seeing others mistreated.[3084] For instance, one female detainee told the Mission she was severely beaten and two female detainees told how several persons were threatened at Regional Command Five and in court cells, including rape threats.[3085]

1715. One male detainee recounted how GNB officers put another detainee through a mock execution. Another detainee was falling asleep, despite orders to stay awake. The officer, who unbeknown to the sleeping detainee had removed the magazine from his gun, placed the barrel of the weapon on the sleeping detainee. When he opened his eyes, the officer pulled the trigger. He told the detainee he could blow his brains out whenever he wants.[3086]

Justification for the evictions and judicial process

1716. On 8 May 2014, Interior Minister Miguel Rodríguez Torres held a press conference at Regional Command Five and announced that protestors would commit terrorist acts and would return to the camps, under a façade of peaceful protest. According to the Minister, this was based on intelligence, surveillance, and infiltration work. He claimed there were drugs, weapons and explosives circulating in the camps.[3087]

1717. The Minister also exhibited items he said had been seized from the tents, including a revolver, Molotov cocktails, pyrotechnic explosives, drugs, money and cell phones. The following day, he gave an interview saying intervention guaranteed city dwellers free transit on Francisco de Miranda Avenue, allowing them to regain a normal life, rather than being confined by guarimberos.[3088]

1718. Although Minister Torres stressed that authorities had conducted investigations prior to the evictions, the arrests were justified on *in flagrante delicto* grounds,[3089] at a time when almost all arrestees had been sleeping.[3090] All six witness the Mission interviewed confirmed that authorities neither presented arrest warrants, nor provided reasons for arrests.[3091]

1719. All six witnesses interviewed by the Mission sustained that the activities undertaken in the camps were peaceful.[3092] An official infiltrator working for Navy Intelligence and later

[3083] Mission Interview C1AA002 in May 2020

[3084] Mission Interview C1AA002 in May 2020; Mission Interview C1AA003 in May 2020; Mission Interview C1AA026 in June 2020.

[3085] Mission Interview C1AA003 in May 2020; Mission Interview C1AA026 in May 2020.

[3086] Mission Interview C1AA002 in May 2020.

[3086] Mission Interview C1AA002 in May 2020; Mission Interview C1AA003 in May 2020; Mission Interview C1AA004 in May 2020; Mission Interview C1AA007 in May 2020; Mission Interview C1AA027 in May 2020.

[3086] Mission Interview C1AA002 in May 2020.

[3087] YouTube Video, Ministro Rodríguez Torres muestra incautado en campamentos, 8 May 2014, available at: https://www.youtube.com/watch?v=JDyttivbnJ0

[3088] YouTube Video, Multimedio VTV, Menos del 20% de detenidos en el campamento son estudiantes, 9 May 2014, video on file with the Mission.

[3089] The "in fragante delicto" is expressly stated in the police procedural act relative to the arrests of the demonstrators' campsite of the Plaza Bolivar, Chacao Municipality, Document C1AA10, on file with the Mission. See also police procedural act relative to the arrests of demonstrators of UN campsite, Document C1AA11, on file with the Mission.

[3090] YouTube Video, Ministro Rodríguez Torres muestra incautado en campamentos, 8 May 2014, available at: https://www.youtube.com/watch?v=JDyttivbnJ0; Mission Interview C1AA002; Mission Interview C1AA003; Mission Interview C1AA004; Mission Interview C1AA007; Mission Interview C1AA026; Mission Interview C1AA027.

[3091] Mission Interview C1AA02 in May 2020; Mission Interview C1AA03 in May 2020; Mission Interview C1AA04 in May 2020; Mission Interview C1AA07 in May 2020; Mission Interview C1AA026 in June 2020, Mission Interview C1AA027 in May 2020.

[3092] Ibid.

interviewed by the Public Prosecutor's Office admitted that GNB officers had planted weapons, explosives and drugs in the camp on the night of the arrest.[3093]

1720. According to demonstrators, they kept a supply of medicines for treating minor injuries, as well as gloves, gas masks or masks and shields, mortars and fireworks powder, as well as some fuel, among others, but no firearms, drugs or explosives.[3094]

1721. Satellite imagery that the FFM accessed and analysed, as well videos available on YouTube that the FFM has geo-located and verified, show that none of these sites were obstructing the circulation. The campsite outside the UN headquarters on Avenida Francisco de Miranda, was occupying half of the avenue, leaving three rows free for circulation on both sides, as well as free circulation for pedestrians.[3095] The campsites on Sadel Square and Bolivar Square were occupying the space at the centre of the square, not cutting any road.[3096]

Treatment of detainees in SEBIN custody

1722. Thirty demonstrators (18 men, 12 women) arrested at Plaza Bolivar appeared in court on 9 May 2014 accused of attempted obstruction of public thoroughfare,[3097] possession of explosive and incendiary devices[3098] and public incitement.[3099] The judge ordered their release with non-custodial measures and, on 28 August 2014, withdrew all charges, at the request of the Public Prosecutor's Office. The judgment relied on the fact that police had failed to

3093 Complaint by ex-Attorney General, Luisa Ortega Díaz, to the International Criminal Court, 16 November 2017, on file with the Mission, pp. 480-483.

3094 Mission Interview C1AA002 in May 2020; Mission Interview C1AA004 in May 2020; Mission Interview C1AA0027 in May 2020.

3095 YouTube Video, NTN24 Venezuela, Estudiantes venezolanos anuncian 'nueva fase de protesta' tras fallo del TSJ, 28 April 2014, available at: https://www.youtube.com/watch?v=nLqKLohZq1c; NOSAT, Document C1AA09, on file with the Mission.

3096 YouTube Video, Notimundo Venezuela, Campamento Plaza Sadel, 23 April 2014, available at: https://www.youtube.com/watch?v=eLU_1wkQUrc; UNOSAT, Document C1AA09, on file with the Mission.

3097 Criminal Code, art. 357.

3098 Criminal Code, art. 296.

3099 Criminal Code, art 285.

provide any witness testimony or information that could individualise the criminal actions against the accused.[3100]

1723. The initial court appearances for those arrested at the UN headquarters and Sadel Square campsites occurred on 10 May 2014. According to Foro Penal and judicial reports, 18 people were released without charges and 113 were charged with public incitement[3101] and criminal association[3102], but released with non-custodial measures, including regular presentation before authorities. The judge ordered that 11 people (eight men and three women) remain in pre-detention.[3103] At the initial court appearance for the Santa Fe camp detainees on 10 May 2014, the judge ordered that one man and one women remain in pre-trial detention.[3104]

1724. All 13 were detained under SEBIN custody in the Helicoide, for periods ranging between three months and three years and seven months. Among them were Sairam Rivas (22 years old), Nixon Leal (23 years old) and Gerardo Carrero (28 years old).

1725. Sairam Rivas spent four months in El Helicoide, where she was held with the other women arrested in the campsites in a small room without windows. The detention room had a small bathroom with water. Meals and visits of family members or lawyers took place there.[3105] Sairam Rivas was charged with incitement to commit a crime,[3106] criminal association,[3107] use of minors in the commission of crimes.[3108] She was released with conditional measures on 16 September 2014. Her trial had not resumed at the time of writing.[3109]

1726. Nixon Leal and Gerardo Carrero spent almost three years in El Helicoide. Nixon Leal was charged with obstructing a public thoroughfare[3110] and public incitement.[3111] Gerardo Carreo was accused of drug trafficking,[3112] attempted obstruction of the public thoroughfare,[3113] public incitement[3114] and criminal association.[3115] During the first months of their detention, Nixon Leal and Gerardo Carrero were held in a small room, without windows or access to toilets or water. The artificial lighting remained on day and night. On three occasions, Mr. Leal and Mr. Gerardo Carreo were handcuffed, suspended high by their wrists to the bars of a staircase, holding their full weight on their toes, for many hours at a time.[3116]

1727. The Mission interviewed two witnesses to corroborate information previously made public about the treatment suffered by Gerardo Carrero in the Helicoide.[3117] In August 2014,

[3100] Police and judicial reports, Document C1AA10, on file with the Mission.
[3101] Criminal Code, art. 285.
[3102] Criminal Code, art. 286.
[3103] Foro Penal, Document C1AA12, on file with the Mission and police and judicial reports, Document C1AA11, on file with the Mission.
[3104] Foro Penal, Document C1AA12, on file with the Mission.
[3105] Mission Interview C1AA004 in May 2020.
[3106] Criminal Code, art. 283; Mission Interview C1AA004 in May 2020.
[3107] Criminal Code, art. 286; Mission Interview C1AA004 in May 2020.
[3108] Organic Law for the Protection of Children and Adolescents art. 264; Mission Interview C1AA004 in May 2020.
[3109] Mission Interview C1AA004 in May 2020.
[3110] Criminal Code, art. 357.
[3111] Criminal Code, art. 285
[3112] Organic Law on Drugs, art. 149.
[3113] Criminal Code, art. 357.
[3114] Criminal Code, art. 285
[3115] Criminal Code, art. 286.
[3116] Mission Interview C1AA007 in May 2020; Mission Interview C1AA027 in May 2020.
[3117] Mission Interview C1AA007 in May 2020; Mission Interview C1AA027 in May 2020. About previous statements about Gerardo Carrero's treatment in detention, see Report of the General Secretariat of the Organization of American States and the panel of independent international experts on the possible commission of crimes against humanity in Venezuela, 29 May 2018, pp. 132-134, available at: http://www.oas.org/documents/eng/press/Informe-Panel-Independiente-Venezuela-EN.pdf; Inter-American Commission on Human Rights, Precautionary Measures No 223-13, 2 March 2015 and Working Group on Arbitrary Detention, decisions 26/2015.

SEBIN officers suspended him handcuffed by his wrists from an overhead pipe and hit him with planks of wood, after he had smuggled a declaration out of the facility.

1728. Mr. Carrero's lawyers filed a complaint with the Public Prosecutor's Office. Mr. Carrero was presented on 26 August 2014, at the Forty-Eighth Control Court while his bruises were still visible. The judge ordered his transfer to a detention facility other than SEBIN and ordered an investigation. SEBIN officers filled the courtroom and ordered all court officers to leave, with the exception of the judge. SEBIN officers then took Mr. Carrero to the SEBIN facility at Plaza Venezuela, where he was held in "La Tumba".[3118] A former Plaza Venezuela detainee and one witness corroborated the following information about Mr. Carrero's treatment at the facility.[3119]

1729. At La Tumba, Mr. Carrero was kept in solitary confinement in a 2 x 3 meters cell, several floors underground, where he could hear the distant sound of underground trains. He had no access to sunlight or natural air and the temperature was extremely cold. He was allowed access to a toilet once a day for five minutes. He was not allowed visitors and was not provided books. He did not have a watch and lost the notion of time. On 22 February 2015, after a 15-day hunger strike, he was transferred back to El Helicoide.[3120]

1730. Mr. Carrero and Mr. Leal were released on 31 December 2016 after three years in detention, with the non-custodial measures, including periodic presentations.[3121]

Findings

1731. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment were committed against C1AA002 (man), C1AA003 (woman), C1AA026 (woman), Sairam Rivas, Nixon Leal and Gerardo Carrero and others. GNB personnel from Regional Command No. 5 at El Tazón were involved. General Manuel Quevedo, Regional Commander No. 5 and Interior Minister Rodriguez Torres were at the site and in command, during the arrests and detentions.

1732. The Mission also has reasonable grounds to believe that sexual and gender-based violence, including rape threats, were perpetrated against female and male detainees at the GNB Regional Command No. 5 and at the Caracas court's cells, amounting to a violation of the prohibition of torture and other cruel, inhuman or degrading treatment.

1733. Based on the facts above, the Mission has reasonable grounds to believe that Sairam Rivas, Nixon Leal and Gerardo Carrero and others were also victims of arbitrary detention, as well as torture and cruel, inhuman or degrading treatment, carried out by SEBIN, during their detention in El Helicoide. There are also reasonable grounds to believe that Gerardo Carrero was also victim of arbitrary detention, torture and cruel, inhuman or degrading treatment when held in the SEBIN's headquarters in Plaza Venezuela.

CASE 39: Death in protest of Daniel Alejandro Queliz Araca in the Urbanization los Parques municipality of Valencia, Carabobo (10-11 April 2017)

1734. On 10 April 2017, the protest in Los Parques housing complex in Valencia began with a "cacerolazo", with neighbors banging pots and pans from their windows from around 7 p.m.[3122] The protest was spontaneous and authorization was not sought from authorities. It followed a series of larger protests in Valencia and nationwide earlier that month to protest Supreme Court Judgments No. 155 and No. 156. Some of the demonstrations had been

[3118] Mission Interview C1AA027 in May 2020.
[3119] Mission Interview with Laurent Saleh in July 2020; Mission Interview C1AA007 in May 2020.
[3120] Mission Interview C1AA007 in May 2020.
[3121] Mission Interview C1AA027 in May 2020.
[3122] Exp. MP-169285-2017, Acta de acusación, Interview with, Fiscalía 28 del Estado Carabobo No. 13, on file with the Mission.

violent, with demonstrators using Molotov cocktails and improvised mortars[3123] firing homemade[3124] explosives[3125] against security forces using teargas and buckshot.[3126]

1735. By 9.50 p.m. on 10 April, according to a witness later interviewed by the Public Prosecutor's Office, police were firing teargas and buckshot at demonstrators, who were in turn throwing stones at police.[3127] At around 10.30 p.m., Los Parques police station requested support from mobile police units as demonstrators were throwing rocks, bottles and Molotov cocktails at the station.[3128]

1736. At around 11.30 p.m. a mobile team of four Carabobo state police led by Marcos Ojeda arrived at Los Parques in a police truck as further reinforcement. As they arrived, several shots were heard.[3129] Three witnesses interviewed by the Public Prosecutor's Office said that police officers were shooting from the roof of the school towards Los Parques housing complex.[3130]

1737. Upon hearing the shots, protesters dispersed.[3131] Daniel Alejandro Queliz Araca, a 20-year-old law student who wanted to become a criminal lawyer, had been in front of the police station at the time.[3132] He was part of a group of around five people that were unable to reach safety. A witness from the scene told the Public Prosecutor's Office that he saw Mr. Queliz fall to the ground.[3133] He ran to assist him, even though the shooting continued.

[3123] Improvised mortars are part of the low cost artisanal weaponry used at demonstrations in Latin America, during 2010 decade. Consisting of an iron tube –commonly, less than one-meter length and about ten-centimetre of diameter – closed in one end, with a handgrip. They are loaded with explosive packages, which, after ignition, expel a wide dusty smoky blast, reaching about twenty meters towards the front far.See France 24 Facing gunfire, Nicaraguan protesters build own mortars, 9 June 2018, available at: https://www.france24.com/en/20180609-facing-gunfire-nicaraguan-protesters-build-own-mortars

[3124] The composition of the "explosive mix" of those packages may vary, depending on according the materials available in different regions, but the most common is to mix potassium chlorate with carbon, sulphur, aluminium powder or chips, and sand or soil. This explosive package, as an ammunition, it is not lethal like a conventional war mortar ammunition, particularly because it cannot fragment into shrapnel, but the dense dust of its blast may cause minor injuries to the opponents those fired upon opponents.

[3125] EL Pitazo, Carabobo: opositores se enfrentan a cuerpos de seguridad en Mañongo por ruptura del hilo constitucional, 10 April 2017, available at: https://archivo.elpitazo.net/sucesos/carabobo-opositores-se-enfrentan-a-cuerpos-de-seguridad-en-manongo-por-ruptura-del-hilo-constitucional/

[3126] El Pitazo, Concentración en Carabobo termina con enfrentamientos: ¿qué pasó con la convocatoria? 8 April 2017, available at: https://archivo.elpitazo.net/regiones/concentracion-carabobo-termina-enfrentamientos-paso-la-convocatoria/; Analitica, Valencianos marcharon y también fueron reprimidos, 8 April 2017, available at: https://www.analitica.com/actualidad/actualidad-nacional/valencianos-marcharon-y-tambien-fueron-reprimidos/

[3127] Exp. MP-169285-2017, Acta de acusación, Interview with Fiscalía 28 del Estado Carabobo No. 5, on file with the Mission.

[3128] Exp. MP-169285-2017, Acta de acusación, Interview with la Fiscalía 28 del Estado Carabobo, No. 28, on file with the Mission.

[3129] Exp. MP-169285-2017, Acta de acusación, Interview with la Fiscalía 28 del Estado Carabobo, No. 27, on file with the Mission.

[3130] Exp. MP-169285-2017, Acta de acusación, Interview with la Fiscalía 28 del Estado Carabobo, No. 10, on file with the Mission; Interview with, la Fiscalía 28 del Estado Carabobo No. 11, on file with the Mission; Interview with la Fiscalía 28 del Estado Carabobo No. 16, on file with the Mission.

[3131] Exp. MP-169285-2017, Acta de acusación, Interview with Fiscalía 28 del Estado Carabobo, No. 6, on file with the Mission.

[3132] Exp. MP-169285-2017, Acta de acusación, Interview with Fiscalía 28 del Estado Carabobo No. 5, on file with the Mission.

[3133] Exp. MP-169285-2017, Acta de acusación, Interview with Fiscalía 28 del Estado Carabobo No. 6, on file with the Mission.

1738. Neighbors managed to lift Mr. Queliz into a vehicle and take him to the Enrique Tejera Central Hospital.[3134] Shooting continued as the vehicle left the housing complex.[3135] A doctor examined Mr. Queliz upon arrival at the hospital, finding no signs of life. [3136]

The Investigation

1739. The Public Prosecutor's Office commissioned the Thirty-Forth and Thirty-Fifth National Public Prosecutor's Office and Twenty-Eighth Public Prosecutor's Office of Carabobo to investigate the death.

1740. An autopsy performed on 11 April 2017 revealed two wounds caused by the passage of a projectile fired from a firearm. One bullet had entered Mr. Queliz' back, without exiting, leaving a 9-millimetre calibre projectile, which the pathologist extracted from the body. The second wound was through the left hand. The cause of the death was hypovolemic shock due to haemorrhage caused by perforation of the left carotid artery from a single gunshot wound to the neck.[3137]

1741. Carabobo state police provided investigators with the registry of entry and exit of firearms from their weapon depot on 10 April 2017, the day in question. The weapons which shot Mr. Queliz had been assigned to Marco Antonio Ojeda Arias.[3138] With the shells collected at the scene, CICPC officers determined that there had been six shooters in total, using two types of ammunition. Ballistic comparisons provided further information that the weapon that fired the shot killing Mr. Queliz belonged to Marcos Ojeda of Carabobo state police.[3139]

1742. On 12 April 2017, at the request of the Public Prosecutor's Office authorized by the Carabobo Third Court of Control, the CICPC arrested two Carabobo police officers: Marcos Ojeda and Edien Romero.[3140]

1743. On 17 April 2017, the two police officers appeared in court for an initial hearing. The judge ordered their initial detention at a CICPC base called Miguel Peña Eje de Homicidios, before they could be transferred to another facility known as Internado Judicial Carabobo.[3141]

1744. On 30 May 2017, the Public Prosecutor's Office filed an accusation against the two policemen, charging Marcos Ojeda with pre-meditated homicide. Edien Romero was charged with the same crime, but as an accomplice. Both men were charged with misuse of service weapons. At the time of writing, the trial had not concluded and there were no verdicts in the case.[3142]

1745. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

[3134] Exp. MP-169285-2017, Acta de acusación, Interview with CICPC No. 13, on file with the Mission.
[3135] Exp. MP-169285-2017, Acta de acusación, Mission Interview C1BB16 in May 2020.
[3136] Exp. MP-169285-2017, Acta de acusación, Interview with CICPC No. 8, on file with the Mission.
[3137] República Bolivariana de Venezuela, Ministerio Público, Fiscalía Trigesima Cuarta (34°) Nacional Plena. Fiscalía Vigésima Octava (28), Circunscripción Judicial del Edo. Carabobo, OFICIO No. F34NN-0308-2017- protocolo de autopsia nº uccvdf-amc-dcf-ax- 113-2017 de fecha 25 April 2017.
[3138] Exp. MP-169285-2017, Acta de acusación, on file with the Mission.
[3139] Ibid.
[3140] Alba Ciudad 96.3 FM, Ministerio Público imputara a dos policías de Carabobo por muerte de Daniel Queliz, 12 April 2017, available at https://albaciudad.org/2017/04/ministerio-publico-imputara-a-dos-policias-de-carabobo-por-muerte-de-daniel-queliz/
[3141] Exp. MP-169285-201, Acta de acusación, on file with the Mission.
[3142] Infobae, La Fiscalía venezolana detuvo a dos policías por la muerte de Daniel Queliz en las protestas contra Nicolás Maduro, 18 April 2017, available at:https://www.infobae.com/america/venezuela/2017/04/18/la-fiscalia-venezolana-detuvo-a-dos-policias-por-la-muerte-de-daniel-queliz-en-las-protestas-contra-nicolas-maduro/; El Estímulo, Buscan a más implicados en el asesinato de Daniel Queliz, 18 April 2017, available at: https://elestimulo.com/buscan-a-mas-implicados-en-el-asesinato-de-daniel-queliz/

Findings

1746. Based on the facts above, the Mission has reasonable grounds to believe that Mr. Daniel Alejandro Queliz was victim of an arbitrary killing. Mr. Marco Antonio Ojeda Arias, Chief Supervisor within the Carabobo state police and Mr. Edien Romero Police Officer of Carabobo state police were involved.

CASE 40: Protest in Caracas and death of Carlos José Moreno Baron (19 April 2017)

1747. On 19 April 2017, Government supporters gathered at several concentration points around Caracas for a pro-Government march. The final destination was Bolivar Avenue, where President Maduro made a speech.[3143] The Democratic Unity Roundtable (MUD) also called for a march in Caracas that day, leading to the Ombudsman's Office where marchers demanded respect for the National Assembly, the release of political prisoners and fresh elections. Although the demonstration was announced in advance, the Mission has not been able to establish whether formal notification procedures were followed, or whether authorisation was granted. There were 26 concentration points, one of which was Plaza la Estrella.[3144]

1748. Both sides appeared keen for large marches to demonstrate the level of their support. The ruling party referred to a "mega-march" and "the most gigantic red tide ever seen", while the opposition called their protest march "the mother of all marches" and "the greatest expression of protest this Government has felt since it has been in power".[3145] Then Attorney General Luisa Ortega called on the security forces to respect the right to demonstrate peacefully.[3146]

1749. According to media reports, at 11 a.m., the GNB used teargas to disperse demonstrators in El Paraiso area as they attempted to reach the Ombudsman's Office. Demonstrators threw stones at the GNB.[3147] By noon, the GNB was using teargas against demonstrators on Francisco Fajardo highway in Bello Monte. Some demonstrators jumped into the Guaire River to escape the effects[3148]. The GNB also used teargas and pellets at La Carlota airbase as demonstrators attacked the building and damaged bars preventing entry.[3149]

3143 Globo Vision, Marchas y contramarchas marcan el clima político del país, 19 April 2017, available at: https://globovision.com/article/marchas-y-contramarchas-marcan-el-clima-politico-del-pais; YouTube Video, Luigino Bracci Roa, Presidente Maduro desde la Av Bolivar, monumental marcha del 19 de abril de 2017, available at: https://www.youtube.com/watch?v=XbDEwhC7xSY; Levante, Tres muertos en las protestas contra Maduro en Venezuela, 19 April 2017, available at: https://www.levante-emv.com/internacional/2017/04/19/muere-menor-tiro-protestas-caracas/1556233.html

3144 See map of route, available at: https://hatillo.comunicas.org/2017/04/18/oficialismo-y-oposicion-convocan-a-marchar-este-19-de-abril/; El Nacional, Movilizaciones del 19 de abril buscarán llegar a la Defensoría del Pueblo, 14 April 2017, available at: https://www.elnacional.com/oposicion/movilizaciones-del-abril-buscaran-llegar-defensoria-del-pueblo_177279/; La Semana, MINUTO A MINUTO: Así fue "La mamá de las marchas" en Venezuela, 19 April 2017, available at: https://www.semana.com/mundo/articulo/marcha-de-la-oposicion-en-venezuela-19-de-abril/522429

3145 BBC Mundo, "La madre de todas las marchas": oposición y gobierno de Venezuela miden sus fuerzas en la calle, 19 April 2017, available at: https://www.bbc.com/mundo/noticias-america-latina-39636433

3146 https://twitter.com/lortegadiaz/status/854709031436419073

3147 El Tiempo, Militar muere y ya son tres los fallecidos en protestas venezolanas, 20 April 2017, available at: https://www.eltiempo.com/mundo/latinoamerica/marchas-y-protesta-en-venezuela-de-19-de-abril-en-vivo-79380

3148 Efecto Cocuyo, "Dejen de dispararnos" rogaban manifestantes mientras huían hacia el río Guaire,19 abril de 2017, disponible en: https://efectococuyo.com/politica/dejen-de-dispararnos-rogaban-manifestantes-mientras-huian-hacia-el-rio-guaire/

3149 El Nacional, GNB dispersó a manifestantes en la autopista Francisco Fajardo, 19 April 2017, available: https://www.elnacional.com/sociedad/protestas/gnb-disperso-manifestantes-autopista-francisco-fajardo_177885/

1750. At about 4 p.m., after President Maduro's speech, his supporters began to retreat. Opposition supporters withdrew as well, leaving only a few pockets of unrest in Altamira.

The Facts

1751. On 19 April 2017, Carlos José Moreno Barón had been planning his 18th birthday party to take place in three days' time. He was a first semester student at the Economic and Social Sciences Faculty (FACES) at the Central University of Venezuela. According to a witness, at 9.40 a.m., Carlos Moreno said he was going to play football and left his home in the Bellas Artes neighbourhood of Caracas.[3150] He met a friend and made his way to the anti-Government march concentration point in Plaza la Estrella. Witnesses indicate that several PNB officers were near Plaza Estrella at the time but left a little before 10.30 a.m.[3151]

1752. Three witnesses interviewed later by the CICPC said that shortly after the PNB officers left, at least six motorcycles arrived carrying 12 men armed with pistols and shotguns wearing ski masks and bulletproof vests.[3152] The suspect referred to as "Caiman" told the CICPC that the men disembarked from their motorcycles and fired teargas into the square. According to the accounts these witnesses provided to the CICPC, one or more of them then fired live rounds at the demonstrators gathering in the square.[3153]

1753. Hearing the shots, Carlos Moreno's friend ran to safety. When he saw Mr. Moreno fall to the ground, he returned to him and shouted for help. A stranger carried Mr. Moreno to his motorbike and took him to Caracas Clinic Hospital. A 48-year-old man also received injuries from a shotgun.[3154]

1754. Carlos Moreno's mother received a phone call from the Caracas Clinic Hospital. When she arrived, the Security Director told her that her son had been shot in the head and required surgery. A little later, she was told that her son had died. According to the death certificate, Carlos José Moreno Barón died on 19 April 2017 at 1.20 p.m. The cause of death was recorded as a gunshot wound to the head in the left frontal region. This was confirmed by an autopsy performed on 2 May 2017.[3155]

1755. The Public Prosecutor's Office appointed the 55th Prosecutor's Office of the Caracas Metropolitan Area to take charge of the investigation on the day of Mr. Moreno's death. The Public Prosecutor's Office concluded that the shooters were members of an armed group operating in Cotiza known as the "March 5 Colectivo".[3156]

1756. The CICPC led investigations. A witness to the events identified the men on the motorcycles as members of the March 5 Collective. This witness indicated that this group was operating in Cotiza, in an area that includes Avenida Fuerzas Armadas, Avenida Panteón and San Bernardino. A witness also managed to identify one of the men who had not covered his face. The suspect, nicknamed "Caiman", was detained on 15 May 2017.[3157]

1757. According to the investigation report, Caiman admitted to the CICPC that he was a member of the March 5 Colectivo. By this account, the colectivo leader had received a telephone call ordering them to move to Panteón Avenue to disperse opposition demonstrators. The Mission has not been able to determine who made this phone call.

1758. The leader and at least 14 other people identified by their nicknames put on bulletproof vests, ski masks, and armed themselves with firearms and teargas. They rode motorcycles to Plaza la Estrella, where two of them disembarked and fired teargas canisters at the protesters.

[3150] Mission Interview C1BB24 in May 2020.
[3151] Mission Interview C1BB19 in May 2020; Mission Interview C1BB25 in May 2020.
[3152] Exp. MP-175762-2017, Acta de acusación, Interview with CICPC, No. 5 and No.6, on file with the Mission.
[3153] Exp. MP-175762-2017, Acta de acusación, Interview with CICPC No. 6, on file with the Mission.
[3154] Exp. MP-175762-2017, Acta de acusación, on file with the Mission.
[3155] Exp. MP-175762-2017, Acta de acusación, Acta de defunción No. 3004533, 19 April 2017; Protocolo de Autopsia No. UCCVDF-AMC-DCF-AX-117-2017, 2 May 2017, on file with the Mission.
[3156] Exp. MP-175762-2017, Acta de acusación, Acta de investigación penal, 5 May 2017, on file with the Mission.
[3157] Interview with CICPC, No. 7, on file with the Mission.

According to Caiman, a man nicknamed "Jonathan 38" was responsible for firing the live rounds.[3158]

1759. The CICPC arrested Jonathan 38 on 16 May 2017. He made a statement confirming he was a member of the March 5 Colectivo. He also confirmed that on 19 April 2017, he and 15 other colectivo members went to Plaza Estrella to disperse opposition demonstrators with teargas.[3159] CICPC officers verified that Jonathan 38 was a serving policeman.[3160] They searched his house and found a 9 millimeters Beretta pistol and a police issue bulletproof vest.[3161]

1760. At the initial court appearance on 17 May 2017, the Seventy-Ninth Prosecutor's Office charged Caiman with aggravated pre-meditated homicide, with aggravating circumstances established under the Protection of Children and Adolescents Law. The chief detective of Sucre municipal police, aka Jonathan 38, was also charged with the same crime. The two men were also charged with criminal association, illegal possession of a firearm and with causing injury to the 48-year-old man that was shot with buckshot. Caracas Metropolitan Area Ninth Tribunal of Control ruled that the two men would be detained at Internado judicial Rodeo III a prison in Guatire, Miranda state.[3162] On 30 June, the Public Prosecutor's Office formalized the accusation and requested the prosecution of Jonathan 38 and Caiman.[3163]

1761. The preliminary hearing took place on 18 September 2018. At the time of writing, the two men had not been tried, more than three years after Carlos Moreno was killed. No other March 5 Colectivo members or other individuals were charged with crimes. There is nothing to suggest that an investigation has been carried out into who gave the order to the colectivo, as revealed by the CICPC investigation.

1762. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1763. Based on the facts above, the Mission has reasonable grounds to believe that Mr. Carlos José Moreno Baron was victim of an arbitrary killing. Two men belonging to March 5 Colectivo, a man nicknamed "Jonathan 38", chief detective of Sucre municipal police and another man referred to, as "Caiman" were involved.

CASE 41: Death in protest of Juan Pablo Pernalete Llovera, Altamira Caracas (26 April 2017)

1764. The situation deteriorated further during a large MUD and pro-Government demonstrations on 19 April 2017, as official reports that Carlos Moreno had been shot by a group of armed civilians near La Estrella Square, in San Bernardino sector, Caracas reached protester.[3164] Outside Caracas, at 9 p.m., a Venezuelan military officer was killed, allegedly by a sniper, during a confrontation between groups of protesters and security forces in San

[3158] Exp. MP-175762-2017, Acta de acusación, Acta de investigación penal, 15 May 2017, on file with the Mission.

[3159] Exp. MP-175762-2017, Acta de acusación, Acta de investigación penal, 16 May 2017, on file with the Mission.

[3160] Él es adscrito al Instituto Autónomo de Policía Municipal de Sucre desde el 16/08/2016, Exp. MP-175762-2017, Acta de acusación, acta de investigación, 16 May 2017, Acta de acusación, on file with the Mission.

[3161] Exp. MP-175762-2017, Acta de acusación, on file with the Mission.

[3162] El cooperante, mandan a El Rodeo a un hombre por muerte de adolescente en protesta en San Bernadino, 17 May 2017, available at: https://elcooperante.com/mandan-a-el-rodeo-a-un-hombre-por-muerte-de-adolescente-en-manifestacion-en-san-bernardino

[3163] Exp. MP-175762-2017, Acta de acusación, on file with the Mission.

[3164] See the Case 40: Death of Carlos Moreno.

Antonio de los Altos, Miranda state.[3165] Security forces arrested 15 people in Caracas during the day.[3166]

1765. Protests continued and on 26 April 2017, pro-Government demonstrators marched from Plaza Morelos to the Miraflores palace.[3167] The march, which was guarded by the Capital District Fire Department, reached its destination without impediment.[3168] The MUD, meanwhile, organized a large march to the Ombudsman's Office. Organizers announced the march in advance, but the Mission has not been able to establish whether formal authorization was sought or granted. The GNB and the PNB placed anti-riot vehicles on the Francisco Fajardo highway to block access to the city centre,[3169] According to media reports, two people received head injuries from teargas canisters, including an El Nacional journalist.[3170]

The Facts

1766. After lunch on 26 April 2017, 20-year-old basketball player Juan Pablo Pernalete told his parents that he was going to participate in the march with some friends.[3171] Mr. Pernalete met friends in Plaza Francia in Altamira and the group walked along Avila Avenue to joined demonstrators there.[3172]

1767. The Mission secured access to case files in which a witness to the events described what he saw. The witness had been at the corner of Avila de Altamira Avenue, near the British Tower, as the GNB fired teargas at demonstrators in Avila Avenue and Jose Félix Sosa Avenue.[3173] Small groups of protesters responded, throwing stones and Molotov cocktails at the GNB. At approximately 2.30 p.m., Juan Pablo Pernalete ran towards the GNB line.[3174]

1768. A separate witness told the Mission that Mr. Pernalete was about to throw something at the GNB, but he did not know what it was.[3175] Sources have indicated that it was a bottle.[3176] A GNB officer fired a teargas canister at Mr. Pernalete from 15 metres away and it struck him in the chest, causing him to fall backwards.[3177] Mr. Pernalete managed to run to a nearby pharmacy told a friend he had trouble breathing. Friends carried him away from the teargas,

[3165] Efecto Cucoyo, Un GNB fallecido y 19 PNB heridos dejó jornada del #19A en Caracas y Miranda, 19 April 2017, available: https://efectococuyo.com/sucesos/un-gnb-fallecido-y-19-pnb-heridos-dejo-jornada-del-19a-en-caracas-y-miranda/

[3166] El Nacional, "Marcha del silencio" llegó a su destino resguardada por la PNB, 22 April 2017, available at: https://www.noticiascol.com/2017/04/22/marcha-del-silencio-llego-a-su-destino-resguardada-por-la-pnb/

[3167] TeleSurtv, Juventud revolucionaria marcha en Venezuela por la paz, 26 April 2017, available at: https://www.telesurtv.net/news/Jovenes-venezolanos-marchan-por-la-paz-y-contra-la-violencia-20170426-0005.html

[3168] Efecto Cucoyo, El río rojo de la "juventud patriota" se disolvió al llegar a Miraflores, 26 April 2017, available at: https://efectococuyo.com/politica/el-rio-rojo-de-la-juventud-patriota-se-disolvio-al-llegar-a-miraflores/

[3169] El Munido, VENEZUELA Lluvia de gases y perdigones para frenar una nueva marcha de la oposición contra Nicolás Maduro, 26 April 2017, available at: https://www.elmundo.es/internacional/2017/04/26/5900f861268e3eef088b46af.html

[3170] Diario Contraste Noticias, Esposo de la Señora Herida por Bomba Lacrimogena Revelo el Motivo por el que-Protestó contra Maduro, 27 April 2017, available at: https://www.diariocontraste.com/2017/04/esposo-de-la-senora-herida-por-bomba-lacrimogena-revelo-el-motivo-por-el-que-protesto-contra-maduro/#; El Nacional, Mujer agredida por GNB: "Lo hizo a propósito, yo lo vi", 29 April 2017, available at: https://www.elnacional.com/sociedad/protestas/mujer-agredida-por-gnb-hizo-proposito_179720/

[3171] Mission Interview C1BB06 in May 2020.

[3172] Exp. MP-190-587-2017, interview with, CICPC No. 3, on file with the Mission

[3173] Exp. MP-190587-2017, interview with CICPC No. 4, on file with the Mission

[3174] Ibid.

[3175] Mission Interview C1BB14 in May 2020.

[3176] Exp. MP-190587-2017, interview with, CICPC No. 13, on file with the Mission.

[3177] Exp. MP-190587-2017, interview with CICPC No. 4 and No. 6, on file with the Mission.

but could no longer talk. A friend sought help and Mr. Pernalete was transported by motorcycle to Chacao Health Centre.[3178]

1769. Juan Pablo Pernalete entered the emergency room at Chacao Health Centre at 2.50 p.m. showing no signs of life. The doctors spent 35 minutes trying to revive him. Mr. Pernalete's mother arrived and was informed by the Chacao Municipality municipal Mayor that Mr. Pernalete's had died.[3179] Juan Pablo Pernalete's father arrived shortly afterwards.[3180]

1770. An announcement was made to the press from Salud Chacao that same afternoon, according to which Mr. Pernalete had been declared dead at 3.26 p.m., and the presumed cause of death was thoracic trauma.[3181]

Official announcements

1771. At 8 p.m. on the day of Mr. Pernalete's death, Diosdado Cabello, then vice-president of the United Socialist Party of Venezuela (PSUV) announced on his program broadcast on state television that the GNB had not been present in Altamira Square, where Juan Pablo Pernalete was injured.

1772. On 28 April 2017, the newspaper Ultimas Noticias reported that an unnamed official source had indicated that Mr. Pernalete's death was caused by a captive bolt gun (used to stun cattle), instead of by a teargas canister.[3182]

1773. In a 29 April 2017 meeting with international journalists, the Minister of Communication and Information, Ernesto Villegas, announced that according to police, a captive bolt-action gun could have killed Mr. Pernalete. Delcy Rodriguez, Minister of Foreign Affairs suggested that security forces were not involved in Mr. Pernalete's death.[3183]

The Investigation

1774. On 26 April 2017, the Public Prosecutor's Office appointed the Eighty-First Prosecutor's Office for Caracas Metropolitan Area to investigate Mr. Pernalete's death. An autopsy was performed on 26 April 2017 in the National Hall of Medicine and Forensic Sciences (SENAMECF) Bello Monte Caracas, which established "cardiogenic shock due to hemorrhagic cardiac contusion caused by closed trauma to the chest at a precordial level" as cause of death.[3184] The Public Prosecutor's Office carried out forensic analysis on Mr. Pernalete's t-shirt[3185] and on a Chinese-made teargas canister model NF 01.[3186]

1775. Autopsy photographs showed a dark circular mark touching the left nipple. Investigators concluded that the marks were indicative of "a wound caused by an equimotic

[3178] Exp. MP-190587-2017, iInterview with CICPC No. 4, on file with the Mission; Mission Interview C1BB14 in May 2020.

[3179] YouTube Video, Todos por la Libertad, Testimonio de los padres de Juan Pablo Pernalete en la OEA, 22 November 2017, available at: https://www.youtube.com/watch?v=oATfZ_z5jSo&t=4s.

[3180] La Tercera, Tienes que ser fuerte, tu hijo está muerto": la conmovedora historia del joven Juan Pablo Pernalete, uno de los casi 40 muertos en las protestas de Venezuela, 17 May 2017, available at: https://www.latercera.com/noticia/tienes-fuerte-hijo-esta-muerto-la-conmovedora-historia-del-joven-juan-pablo-pernalete-uno-los-casi-40-muertos-las-protestas-venezuela/.

[3181] YouTube Video, Neil Orlando Figueroa Lopez, Muere Juan Pablo Pernalete Yovera, 1 May 2017, available at: https://www.youtube.com/watch?v=3LBduTsifhI&t =219s;

[3182] UltimasNoticias, Con pistola de perno habrían matado a joven, 28 April 2017, article on file with the Mission and available at: https://web.archive.org/web/20190329170910/http://www.ultimasnoticias.com.ve/noticias/sucesos/con-pistola-de-perno-habrian-matado-a-joven/.

[3183] YouTube Video, Luigino Bracci Roa, Caso Juan Pernalete: Ministros venezolanos informan a medios internacionales sobre investigaciones, 29 April 2017, available at: https://www.youtube.com/watch?v=-dwEfnCEtwI.

[3184] Exp. MP-190587-2017, Informe Pericial No. UCCVDF-AMC-DCF- AX-127-2017, 9 May 2017, on file with the Mission.

[3185] Exp. MP-190587-2017, Informe Pericial UCCVDF-AMC-DC-FC- 188-2017, 13 may 2017, on file with the Mission.

[3186] Ibid.

contusion at the level of the left pectoral anatomy". Forensic analysis also showed that the markings on Mr. Pernalete's t-shirt and the circular markings on his chest match the shape, size and characteristics of a Norinco NF 01 tear-gas projectile.[3187]

1776. Several witnesses testified to having seen the moment when the GNB officer fired the teargas canister at Juan Pablo Pernalete[3188] and the moment it struck him.[3189] As mentioned above one witness told the investigation that the GNB officer fired at Juan Pablo Pernalete from a distance of no more than 15 meters approximately.[3190] The same witness has confirmed this with the Mission. On 16 November 2017, Mr. Pernalete's father told an OAS Panel of Independent International Experts that the ballistics report procured by the Public Prosecutor's Office concluded that the teargas canister had been fired directly at his son, from a distance of 15 to 20 meters.[3191]

1777. In a press conference on 24 May 2017, the then Attorney General Luisa Ortega Díaz, announced that Mr. Pernalete had killed from cardiogenic shock having been hit by a teargas canister and that the GNB unit responsible had been identified. The Attorney General said that the individual officer responsible would be identified in the following days. The Attorney General read out the warning notice on the teargas canister, containing a prohibition on direct fire.[3192] On 25 May 2017, Minister of Defence Vladimir Padrino López issued a press release criticizing the Attorney General's statement, calling her conclusions a "prequalification of facts".[3193]

1778. On 1 November 2018, the Public Prosecutor's Office requested information on the GNB deployment at the scene. On 21 February 2019, the Commander of Zone Command GNB-43 (Capital District) responded that on 26 April 2017, there had been no law enforcement officers in the area between 2 p.m. and 3 p.m. on the day in question. This stands in contrast with witnesses' statements and video footage from the scene.[3194]

1779. The National Constituent Assembly dismissed Luisa Ortega Díaz as Attorney General on 5 August 2017 and appointed Tarek William Saab in her place. On 8 September 2017, he announced that he would reopen the investigation and accused the Attorney General's crime lab of having tampered with information.[3195] The prosecutor in charge of the case had been changed 14 times at the time of writing. A reliable source has informed the Mission that, at the time of writing, there had been no developments and no GNB officer had faced prosecution.[3196]

1780. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

[3187] Exp. MP-190587-2017, Informe pericial No. UCCVDF-AMC-DC-FC-188-2017, 13 May 2017, on file with Mission.

[3188] Exp. MP-190587-2017Interviews with, CICPC No. 4, No.6 and No.7, on file with the Mission.

[3189] Interviews with CICPC No.7 and No.13, on file with the Mission.

[3190] MP-190587-2017, Mission Interview C1BB14 in May 2020.

[3191] YouTube Video, Pernalete, Jose - OEA - Audiencias de Venezolanos ante Corte Penal Internacional, 17 November 2017, available at: https://www.youtube.com/watch?v=4O9OCW4R2vU.

[3192] YouTube Video, Luisa Ortega Díaz: A Juan Pernalete lo mató una bomba lacrimógena #24M, 4 May 2017, available at: https://www.youtube.com/watch?v=vsNCBKYHgvA.

[3193] El Nuevo Siglo, Fuerza Armada venezolana arremete contra la Fiscal General, 25 May 2017, available at: https://www.elnuevosiglo.com.co/articulos/05-2017-fuerza-armada-venezolana-arremete-contra-la-fiscal-general.

[3194] Exp. MP-190587-2017, Informe Pericial No. DASTI-0477-2017, 14 September 2017, document on file with Mission.

[3195] El Nacional, Tarek William Saab reabrirá caso de Juan Pablo Pernalete, 7 September 2017, available at: https://www.elnacional.com/venezuela/politica/tarek-william-saab-reabrira-caso-juan-pablo-pernalete_202639/.

[3196] Mission interview C1BB06 in May 2020.

Findings

1781. Based on the facts above, the Mission has reasonable grounds to believe that Juan Pablo Pernalete Llovera was victim of an arbitrary killing and that the GNB - REDI Capital – was involved.

CASE 42: Death of Armando Cañizales (3 May 2017)

1782. Supporters and opponents of President Maduro took to the streets of Caracas on 1 May 2017. During a speech to supporters that day, President Maduro announced that he would call for a National Constituent Assembly to initiate constitutional reform. He told supporters that the Assembly would reform State structures and defeat the coup d'état sought by the opposition.[3197] MUD supporters marched to the Supreme Court to demand fresh general elections and to elect new member of the National Electoral Council (CNE) and the Supreme Court.

1783. The MUD responded to President Maduro's call for a National Constituent Assembly, by summoning supporters to march again on Wednesday 3 May 2017.[3198] The demonstration had been announced in advance, but the Mission has not been able to establish whether organizers satisfied formal notification procedures and received authorization. Government supporters also planned to march, to accompany the President to the National Electoral Council offices where he would present his decree.[3199]

3 May 2017 at opposition protest, security forces shoot at Armando Cañizales

1784. Opposition demonstrators gathered at Altamira junction beginning at 11 a.m. on 3 May 2017.[3200] At noon, protesters marching along Francisco Fajardo highway encountered GNB personnel with armoured vehicles blocking further access. Protesters set up barricades[3201] and the GNB fired teargas. By around 3 p.m., clashes had broken out, with protesters throwing stones and Molotov cocktails, and the GNB using vehicle-mounted water cannon and firing teargas.[3202]

1785. Eighteen-year-old Armando Cañizales had joined the protest, after registering at Central University of Venezuela, as he wanted to become a doctor. The Mission secured access to the CICPC investigation file, in which a witness revealed that Armando, his brother and a friend were near GNB lines on Francisco Fajardo highway as things turned violent.[3203] Another witness told the CICPC that GNB reinforcements arrived, with around 100 officers on motorcycles and armoured vehicles. The GNB began firing shotguns at protesters as they walked together across the bridge.[3204]

1786. A witness told the CICPC that Armando Cañizales and his brother were facing the GNB at the Avenida Rio Janeiro/Avenida Jalisco corner when he heard a shot. Armando

3197 El Commercio, Nicolás Maduro convoca Asamblea Constituyente para derrotar 'golpe de Estado, 1 May 2017, available at: https://www.elcomercio.com/actualidad/nicolasmaduro-asambleaconstituyente-convocatoria-oposicion-venezuela.html.

3198 República, Oposición marcha hoy contra el fraude Constituyente, 3 May 2017, available at: https://republica.gt/2017/05/03/oposicion-marcha-hoy-en-contra-del-fraude-constituyente/.

3199 Vanguardia.com, Chavismo y oposición protestan en Venezuela en respuesta a Constituyente, 3 May 2017, available at: https://www.vanguardia.com/mundo/chavismo-y-oposicion-protestan-en-venezuela-en-respuesta-a-constituyente-HQVL396573.

3200 Lapatilla.com, 3May Manifestantes comienzan a trancar la autopista Francisco Fajardo 11:00 am, 3 May 2017, available at: https://www.lapatilla.com/2017/05/03/3may-manifestantes-comienzan-a-trancar-la-autopista-francisco-fajardo-1100-am/.

3201 Ibid.

3202 BBC Mundo, 5 escenas de violencia de una intensa jornada de protestas en Venezuela en contra del gobierno de Nicolás Maduro, 4 May 2017, available at https://www.bbc.com/mundo/noticias-america-latina-39801435.

3203 Exp. MP-204114-2017, interview with, Ministerio Público, Fiscalia Trigesima Novena a Nivel Nacional con Competencia Plena, No. 4, on file with the Mission.

3204 Exp. MP-204114-2017, interview with, Ministerio Público, Fiscalia Trigesima Novena a Nivel Nacional con Competencia Plena, No.3, on file with the Mission.

Cañizales grabbed his chest and ran a few meters before collapsing. His brother came to his aid and removed the gas mask and black helmet he had been wearing. Armando Cañizales had a neck wound. He was placed onto a motorcycle and driven to a nearby ambulance.[3205]

1787. The CICPC investigation report confirms that ambulance staff found no signs of life. They attempted to resuscitate him en route to Domingo Luciani Hospital.[3206] At 3.40 p.m. Armando Cañizales' father received a call from an acquaintance telling him that his son was in hospital.[3207] His father arrived at the hospital after 4 p.m., where staff informed him that his son had been killed by a gunshot wound in the supraclavicular region.[3208]

1788. The Mission located and verified a video showing the moments before Armando Cañizales was shot.[3209] In footage shot from behind him, he walks towards security forces, gesturing with his arms apart. The Mission interviewed a witness to the scene who confirmed that off camera, there were around 50 protesters with stones behind Mr. Cañizales at the time.[3210] Another witness told the Public Prosecutor's Office that some protesters had slingshots. They were in a standoff with the line of around 30 GNB visible on camera. The CICPC investigation report to which the Mission secured access to a witness account which describes the scene when Mr. Cañizales is facing the GNB line.[3211]

1789. On 4 May 2017, Minister of the Interior, Néstor Reverol, announced that the CICPC had visited the site and retrieved seven chrome spheres similar to those found in Mr. Cañizales' body. He said that six of the spheres were found where the GNB had been located and one where Armando Cañizales was killed. According to the Minister, the demonstrators had fired the spheres at the GNB, as opposed to the other way around.[3212]

1790. On 5 May 2017, Vice President Tareck El Aissami repeated the previous day's message, adding that scientific tests confirmed that the ball bearings had been fired with a non-conventional homemade weapon. He said that Mr. Cañizales had been in the sightline of those firing at the GNB.[3213]

The Investigation

1791. On 3 May 2017, the Public Prosecutor's Office assigned the investigation to the Coordinator of Crimes against Persons and the Fifty-Fifth Prosecutor's Office for Caracas Metropolitan Area.

1792. The Mission secured access to the autopsy report, which established hypovolemic shock due to a haemorrhage caused by a perforation of the left carotid artery as cause of death. According to the report, the wound was caused by a shot from a firearm. A silvery metal sphere measuring 1.1 cm was located in the posterior region of the left thorax without

[3205] Exp. MP-204114-2017,interview with CICPC No. 2, on file with the Mission; interview with Ministerio Público, Fiscalia Trigesima Novena a Nivel Nacional con Competencia Plena, No. 4, on file with the Mission.

[3206] Exp. MP-204114-2017, interview with Ministerio Publico, Fiscalia Trigesima Novena, No.8, on file with the Mission.

[3207] Exp. MP-204114-2017, interview Fiscalia Trigesima Novena al Nivel Nacional con Competencia Plena, No. 5, on file with the Mission.

[3208] Exp. MP-204114-2017, interview with CICPC No.1, on file with the Mission.

[3209] See YouTube Video, Caraotadigital.net, Material sin editar caso Armando Cañizales Caraota Digital 2, 11 May 2017, available at. https://www.youtube.com/watch?v=GhQqRpF3DS4

[3210] Mission Interview C1BB17 in May 2020.

[3211] Exp. MP-204114-2017, Interview with, Ministerio Público, Fiscalia Trigesima Novena a Nivel Nacional con Competencia Plena, No.3, on file with the Mission.

[3212] Albaciudad 96.3 FM, Disparo de esfera metálica causó muerte de Armando Cañizales: Presumen que provino de grupos opositores (+Videos), 4 May 2017, available at: https://albaciudad.org/2017/05/armando-canizales-fue-asesinado-por-disparo-de-una-esfera-metalica-cromada-presumen-que-fue-disparada-por-grupos-violentos/

[3213] See YouTube Video, Luigi Bracci Roa, 5 May 2017, available at: https://www.youtube.com/watch?v=VPVfOOnNl8k

an exit hole.[3214] The tests the CICPC performed on Mr. Cañizales' gas mask also confirmed this.[3215]

1793. The examination revealed that the metal sphere had entered the base of Mr. Cañizales' neck from the front.[3216] In the video, Mr. Cañizales had been standing facing the GNB lines. It was filmed a few moments before the shot was fired, leaving the possibility that he may have turned around, but two witnesses confirmed that he did not.[3217] A witness also revealed that demonstrators were using slingshots against the GNB at the time, but they did not possess firearms.[3218] The autopsy report attributes the wound that killed Mr. Cañizales as having been caused by a firearm.

1794. According to a witness interviewed by the Mission, the Public Prosecutor's Office initially appointed temporary prosecutors who were changed two months later. The GNB has failed to provide information about which of its personnel were deployed to the area that day, despite requests from lawyers representing Armando Cañizales' parents.[3219] At the time of writing, more than three years after his death, those responsible for his death were yet to be identified.

1795. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1796. Based on the facts above, the Mission has reasonable grounds to believe that Mr. Armando Cañizales was victim of an arbitrary killing and that the GNB - REDI Capital – was involved.

CASE 43: Killing of Miguel Castillo (19 May 2017)

1797. Protests in support of both parties continued in the days following Armando Cañizales' death. On 10 May 2017, opposition supporters adopted "Our Shield is the Constitution" as a slogan and marched towards the Supreme Electoral Tribunal from various gathering points around Caracas.[3220] Security forces used the same tactics as on 3 May and in some areas, clashes broke out, with protesters throwing blunt objects and Molotov cocktails.[3221]

1798. Miguel Castillo was a 27-year-old graduate, who worked in an advertising agency in Miranda State, although he wanted to be a sports journalist. On 3 May 2017, he had helped carry Mr. Cañizales to the motorcycle that brought him to hospital.[3222] A witness told the Mission that Miguel Castillo had expressed fear that security forces could identify him and changed the clothes he wore at protests.[3223]

3214 Exp. MP-204114-2017, Inspección Téchnica No. UCCVDF-AMC-IT-128-2017, 3 May 2017, on file with the Mission.

3215 Exp. MP-204114-2017, Informe Pericial, No. UCCVDF-AMC-DC-307-2017, 30 June 2017, on file with the Mission.

3216 Exp. MP-204114-2017, Inspección Téchnica No. UCCVDF-AMC-IT-128-2017, 3 May 2017, on file with the Mission.

3217 Exp. MP-204114-2017, Interview with Ministerio Publico, Fiscalia Trigesima Novena a Nivel nacional Con Competencia Plena, No. 3 and No. 4, on file with the Mission.

3218 Exp. MP-204114-2017, Interview with Ministerio Publico, Fiscalia Trigesima Novena a Nivel nacional Con Competencia Plena, No. 4, on file with the Mission.

3219 Mission Interview C1BB12 in May 2020.

3220 Monumental, Venezolanos marchan hacia el Tribunal Supremo de Justicia en defensa de la Constitución, 10 de mayo 2017, available at: https://www.monumental.co.cr/2017/05/10/venezolanos-marchan-hacia-el-tribunal-supremo-de-justicia-en-defensa-de-la-constitucion/

3221 Cronica Uno Los Hechos como son, 10 May 2017, Manifestantes resistieron la represión con los "puputov" y escudos alusivos a la Constitución, available at: https://cronica.uno/manifestantes-resistieron-la-represion-los-puputov-escudos-alusivos-la-constitucion/

3222 Mission Interview C1BB09 in May 2020.

3223 Mission Interview C1BB22 in May 2020.

1799. At 2 p.m. on 10 May, Mr. Castillo and friend headed to the opposition demonstration on foot.[3224] Around 20 minutes later, Mr. Castillo and other demonstrators were on Las Mercedes Avenue in front of the Venezuelan American Centre (CVA), Baruta municipality in Miranda state. The GNB was at the edge of the Las Mercedes bridge. The Mission has verified a video of the scene in which detonations can be heard.[3225]

1800. The Mission has received reliable information that Miguel was hit by a projectile, jumped up and shouted "I'm hit, I'm hit" and fell to the ground. He was carried to a paramedics motorcycle and driven to an ambulance waiting in a petrol station. The ambulance took him to Las Mercedes Polyclinic, in Libertador municipality, Miranda State, where he arrived with no signs of life.[3226]

1801. Miguel Castillo's mother, sister and brother arrived at the polyclinic where a doctor informed them that he had died. His death certificate indicated that he died at 2.30 p.m. from hypovolemic shock, haemorrhage, perforation of the heart and left lung, resulting from a gunshot wound, which perforated his left arm and chest.[3227] According to a media report, Miguel Castillo had rescued another young man in the confrontation with GNB shortly before his death.[3228]

Official Statements made about the Case

1802. On 10 May 2017, PSUV vice president Diosdado Cabello announced on his television show that General Fabio Zavarce had informed him that neither the GNB, nor the PNB had been present when Miguel Castillo was shot. Diosdado Cabello suggested that he had instead been killed by opposition sympathizers.[3229]

1803. On the same day, the Minister of the Interior, Néstor Reverol, announced that, according to the CICPC, Miguel Castillo had been shot at very close quarters and that the person responsible must have been among the demonstrators.[3230]

1804. On 11 May, President Maduro, announced that an investigation had been opened, saying that a demonstrator had again died from a bullet that it could only have been fired by an unconventional "popular" type of weapon (a chopo). President Maduro also said that those who killed Miguel Castillo had been 5 meters away from him at the time.[3231]

The Investigation

1805. On 10 May 2017, the Public Prosecutor's Office announced that the 34th National and 126th Metropolitan Area Prosecutors' Office would investigate Miguel Castillo's death. An autopsy was carried out, along with ballistic and trajectory analysis of the projectile and a planimetric survey of the scene of the crime. The investigators also took statements and studied audiovisual material from security cameras on Avenida Las Mercedes. The Mission secured access to the technical investigation, which determined that the shooter had fired from above.[3232]

3224 Mission Interview C1BB09 in May 2020.

3225 See YouTube Video, Caraotadigital.net, Imágenes sin editar - Minutos antes de la muerte de Miguel Castillo, 10 de mayo 2017, available at: https://www.youtube.com/watch?v=GgjXMJgx90c

3226 See YouTube Video, Maduradas.com, "Basta": Tía de Miguel Castillo, asesinado durante la represión a opositores en Caracas, 10 de mayo 2017, available at: https://www.youtube.com/watch?v=F0DeeXUL90I

3227 Certificado de acta de defunción No. 3004565 10 May 2017, on file with the Mission.

3228 ELestímulo, La muerte de Miguel Castillo cambió las consignas por letanías, 11 May 2017, available at: https://elestimulo.com/la-muerte-de-miguel-castillo-cambio-las-consignas-por-letanias/

3229 See YouTube Video, Diosdado Cabello sobre asesinato de Miguel Castillo el 10 mayo 2017, 10 May 2017, available at: https://www.youtube.com/watch?v=hwcm2nkrPJU

3230 See Youtube Video, Luiggi Bracci Roa, Nestor Reverol, rueda de prensa del 17 May 2017, casos Diego Arellano y otros, 10 de mayo 2017, available at: https://www.youtube.com/watch?v=sdt_a9hEs-Q

3231 See YouTube Video, Lapatilla Patillavideo, Lo que dijo Maduro sobre el asesinato de Miguel Castillo Bracho, available at: https://www.youtube.com/watch?v=lrl5Ec4O5eU

3232 Document C1BB01, on file with the Mission.

1806. A witness the Mission interviewed explained that the GNB had been on the bridge connecting La Mercedes with La Rosal, while the demonstrators were below the bridge.[3233] The witness saw demonstrators assisting a young man who had been injured.[3234] The Mission has also verified audio-visual material showing the GNB troops on the bridge and the protesters below it.[3235]

1807. The Mission also secured access to a witness statement indicating that several security cameras belonging to an entity called VEN 911, which is attached to the Ministry of the Interior, were located near the site.[3236] Sources close to the case told the Mission that the prosecution viewed the security camera recording.[3237] The Mission was informed that these recordings were not made available to the Public Prosecutor's Office by VEN 911, despite their apparent importance for clarification of facts.[3238]

1808. Sources close to the case told the Mission that, at the time of writing, there had been no progress in the investigations into Miguel Castillo's death. According to these sources, the GNB had failed to provide information required by the Public Prosecutor's Office regarding which GNB troops had been stationed on the bridge that day and the weapons there were equipped with.[3239] Neither the victim's family nor his legal representative had been able to access the case file.[3240]

1809. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1810. Based on the facts above, the Mission has reasonable grounds to believe that Mr. Miguel Castillo was victim of an arbitrary killing and that the GNB - REDI Capital – was involved.

CASE 44: Death in protest of David José Vallenilla Luis, Caracas (22 June 2017)

1811. On 20 June 2017, the Plenary Chamber of the Supreme Court of Justice admitted a request for a preliminary hearing on the merits against Attorney General Luisa Ortega. The case had been presented by PSUV deputy Pedro Carreño, alleging that the Ms. Ortega had committed serious misconduct in office.[3241]

1812. In response, opposition parties called upon supporters to march to the Public Prosecutor's Offices across the country the following day in support of the Attorney General.[3242] The Mission can confirm that the announcement was made publicly and in advance, but is not aware of whether formal authorization was requested or granted by local authorities. Marchers in Caracas were to gather at 10 a.m. in four concentration points: Bello Monte, Altamira, Santa Monica and Santa Fe.[3243]

1813. The media reported several incidents occurring during the afternoon of 21 June 2017. At 2 p.m., the GNB restricted access to demonstrators approaching central Caracas from the

[3233] Mission Interview C1BB17 in May 2020.
[3234] Ibid.
[3235] Ibid.
[3236] Mission Interview C1BB05 in May 2020.
[3237] Mission Interview C1BB05 in May 2020 and Mission Interview C1BB09 in May 2020.
[3238] Document C1BB01, on file with the Mission.
[3239] Document C1BB01, on file with the Mission.
[3240] Mission Interview C1BB09 in May 2020; Mission Interview C1BB05 in May 2020.
[3241] República Bolivariana de Venezuela, Tribunal Supremo de Justicia, sala plena del tsj admitió solicitud de antejuicio de mérito contra la fiscal general de la república, 20 June 2017, available at: http://www.tsj.gob.ve/-/sala-plena-del-tsj-admitio-solicitud-de-antejuicio-de-merito-contra-la-fiscal-general-de-la-republica
[3242] Infobae, La oposición venezolana marchará en apoyo a la fiscal Luisa Ortega en una "fase decisiva" de protestas, 22 June 2017, available at: https://www.infobae.com/america/venezuela/2017/06/22/la-oposicion-venezolana-marchara-en-apoyo-a-la-fiscal-luisa-ortega-en-una-fase-decisiva-de-protestas/
[3243] El Carabobeño, Oposición marcha hoy en apoyo al Ministerio Público, 22 June 2017, available at: https://www.el-carabobeno.com/oposicion-marcha-hoy-apoyo-al-ministerio-publico/

concentration points. Protester on Francisco de Miranda Avenue were dispersed with teargas.[3244] Between 3 p.m. and 4 p.m. military personnel tried to dislodge protesters blocking the Francisco Fajardo highway. The Mission has confirmed that the military assisted the GNB in this endeavor.[3245]

1814. Twenty-two year old David Vallenilla was working at the Bello Campo Clinic, on Avenida Francisco de Miranda, Caracas, and left at 3 p.m. to go to the protest. David José Vallenilla and a group of friends walked along the Francisco Fajardo Highway in the direction of the Francisco de Miranda Generalissimo Air Base, La Carlota.[3246]

1815. The Mission has located, verified and geo-located a video of clashes between protesters and security forces outside La Carlota military base, in which David José Vallenilla can be seen.[3247] Wearing a mouthpiece, dressed in blue and carrying a backpack against his stomach, he approached the fence separating La Carlota base from Francisco Fajardo highway.

1816. David José Vallenilla stopped near the gate, picked up an object and threw it over the gate, as soldiers wearing protective riot gear ran in his direction inside the compound, on the other side of the gate. One soldier carried a shield and the other a long rifle. The two soldiers came within two or three meters of David José Vallenilla[3248] and one of them poked his rifle through the fence and fired directly into David José Vallenilla's chest.[3249]

1817. David Vallenilla, fell to the ground, then managed to get up, at which point the officer shot at him again, this time missing. A third official with a shield arrived and threw an object at David Vallenilla while he is on the ground.[3250]

1818. Another protester arrived with a shield to protect David Vallenilla, who managed to take a few steps away from the fence. The soldier shot at the man with the shield but he managed to protect himself. The three soldiers retreated and three others arrive, two with shields and one with a long weapon. They were joined by another officer who also shot at the demonstrators.[3251]

1819. The same video shows that several protesters carry David Vallenilla to the other side of Francisco Fajardo Avenue.[3252] Several paramedics from the Cascos Verdes organization arrived and administered CPR to David Vallenilla,[3253] before taking him on a motorcycle to Avila Clinic.[3254] David Vallenilla was admitted to the clinic at 4.20 p.m. with no signs of

[3244] Analitica PNB reprime movilización opositora en Chacaíto, 22 June 2017, available at: https://www.analitica.com/actualidad/actualidad-nacional/sucesos/pnb-reprime-movilizacion-opositora-en-chacaito/; Efecto Cocuyo un periodismo que ilumina, Fuerte enfrentamiento entre manifestantes y PNB en Chacaíto, 22 June 2017, available at: https://efectococuyo.com/politica/fuerte-enfrentamiento-entre-manifestantes-y-pnb-en-chacaito-fotos-y-video/

[3245] Exp. MP-283490-2017, Acta de acusación, p. 195, Copia Fotostática y legible marcada con la letra "D", comisión de operaciones del día 22 de junio de 2017, on file with the Mission.

[3246] Exp. MP-283490-2017, Acta de acusación, p. 6, interview with Fiscalía Centésima Vigésima Sexta del Ministerio Publico del Área Metropolitana de Caracas, No. 1, on file with the Mission.

[3247] YouTubeVideo, TV capta muerte de joven venezolano frente a base aérea, 23 June 2017, available at: https://www.youtube.com/watch?v=E0HSeeh9bpM&has_verified=1.

[3248] Exp. MP-283490-2017, Acta de acusación, p. 76, experticia de trayectoria balística, No. UCCVDF-AMC-DC-TB-460-2017, 6 September 2017 No. UCCVDF-AMC-DC-TB-460-2017, on file with the Mission.

[3249] YouTubeVideo, TV capta muerte de joven venezolano frente a base aérea, 23 June 2017, available at: https://www.youtube.com/watch?v=E0HSeeh9bpM&has_verified=1, minute 0.06.

[3250] Ibíd., minute 0.20.

[3251] Ibid.

[3252] YouTube Video, TV capta muerte de joven venezolano frente a base aérea, 23 June 2017, available at: https://www.youtube.com/watch?v=E0HSeeh9bpM&has_verified=1, minute 8.46.

[3253] Exp. MP-283490-2017, Acta de Acusación, p. 6, interview with Fiscalía Centésima Vigésima Sexta del Ministerio Publico del Área Metropolitana de Caracas, No. 1, on file with the Mission.

[3254] Ibid.

life[3255] and was pronounced dead at 5.30 p.m. The cause of death was recorded as ashypovolemic shock, internal hemorrhage from perforated lungs, heart and liver from a gunshot wound, and multiple projectiles to the chest.[3256]

1820. The same day, the Public Prosecutor's Office announced that the One Hundred and Twently Sixth Prosecutor's Office of the Caracas Metropolitan Area would investigate David Vallenilla's death. Also that day, the Minister of the Interior, Néstor Reverol, announced that a sergeant assigned to the air police group guarding La Carlota had been identified as the shooter, using an unauthorized weapon.[3257]

1821. The medical forensic service performed an autopsy on 22 June 2017. They established that there were three entry wounds caused by a multiple projectile firearm shot, located in the anterior mid-thorax region. They located four metallic spheres (0.9 to 1 cm in diameter) of gray color in the left thoracic cavity.[3258] The Public Prosecutor's Office determined that an Air Force first sergeant had fired a 12-gauge mosberlo shotgun, model 500, serial number k-101909.[3259]

1822. A forensic examination identified a scratch on the inside of the firearm's barrel and concluded that the weapon had fired unconventional ammunition, like ball bearings. This type of ammunition corresponds to the type of projectiles extracted from David Vallenilla's body.[3260] Investigators found four ball bearings on Francisco Fajardo highway at La Carlota military base. These were similar to those retrieved from Mr. Vallenilla's body.[3261]

1823. The Public Prosecutor's Office analyzed the video showing the moment when the first sergeant killed David Vallenilla. The investigation determined that the distance between the muzzle of the firearm and Mr. Vallenilla's chest had been no more than two meters when the weapon was fired.[3262]

1824. The investigation ruled out that the object thrown by Mr. Vallenilla was explosive in nature, since chemical substances related to explosives were not detected on other objects collected at the scene.[3263] The Mission notes the ball bearings similar to those fired at Mr. Vallenilla were also fired at two other victims in cases investigated by the Mission: those of Armando Cañizales[3264] and Miguel Castillo.[3265]

[3255] Exp. MP-283490-2017, Acta de Acusación, acta de investigación, 22 June 2017, suscrita por J.H, adscrito a la División de Investigaciones de la Unidad Criminalística contra la Vulneración y Protección de los Derechos Fundamentales del Ministerio Publico, on file with the Mission.

[3256] República Bolivariana de Venezuela, Consejo Nacional Electoral, Certificado de Acta de Defunción No. 3268463, 22 June 2017.

[3257] See tweets at: https://web.archive.org/web/20190216093928/http://www.presidencia.gob.ve/Site/Web/Principal/imagenes/adjuntos/Web/2017/06/2017-06-23_reverol/Aimg-5660_0.png.

[3258] República Bolivariana de Venezuela, Ministerio Publico, Unidad Criminalística contra la Vulneración de los Derechos Fundamentales, Área Metropolitana de Caracas, Informe Forense, No. UCCVDF-AMC-DCF-IF-234-2017, on file with the Mission.

[3259] Observaciones y análisis de las muestras colectadas en las regiones dorsales de ambas manos del sargento primero de aviación pudieron corroborar que él disparó un arma de fuego, see Exp. MP-283490-2017, Acta de acusación p. 79, Experticia de Análisis de Trazas de Disparos (A.T.D), 6 October 2017, on file with the Mission.

[3260] Exp. MP-283490-2017, Acta de Acusación, Informe Pericial No. UCCVDF-AMC-DC-AB-493-17, pp. 85-87, 18 October 2017, on file with the Mission.

[3261] Exp. MP-283490-2017, Acta de Acusación, Informe Pericial No. UCCVDF- AMC-DC-ME-391-2017, p. 60, 28 July 2017, on file with the Mission.

[3262] Acta de acusación, Exp. MP-283490-2017, p. 76, experticia de trayectoria balística, No. UCCVDF-AMC-DC-TB-460-2017, 6 September 2017 No. UCCVDF-AMC-DC-TB-460-2017, on file with the Mission.

[3263] Acta de acusación, Informe Pericial No. 9700-35-ALFQ-263-17, pp. 42, 23 June 2017, on file with the Mission.

[3264] Exp 204114-2017, Informe Pericial No.UCCVDF-AMC-DCF-AX-152-2017, 25 May 2017, on file with the Mission.

[3265] Document C1BB01, on file with Mission.

1825. The investigation was completed on 19 October 2017 and the Public Prosecutor's Office requested that Air Force first sergeant Arli Cleiwi Mendez Teran be prosecuted for aggravated manslaughter with malice aforethought and misuse of a service weapon.[3266] The preliminary hearing was scheduled for 24 January 2018, but subsequently postponed five times.[3267] When the hearing took place on 10 August 2018, the Twenty-First Control Judge ordered a public trial, before which the accused would remain in detention.[3268] At the time of writing, more than three years after the killing, the trial was yet to take place.

1826. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1827. Based on the facts above, the Mission has reasonable grounds to believe that Mr. David José Vallenilla Luis was victim of an extrajudicial execution. Air Force first sergeant Arli Cleiwi Mendez Teran was involved.

CASE 45: Protests in Maracaibo, Zulia (20 July 2017)

Demonstration

1828. On 20 July 2017, a large demonstration was held in Maracaibo, Zulia in response to a nationwide general strike. As organizers, the MUD announced the general strike publicly and in advance, but the Mission has not be able to establish whether local organizers in Maracaibo complied with formal procedures for authorization, nor whether it was granted. A mixed GNB/PNB deployment responded, with the GNB focused mainly on crowd-control, while the PNB conducted the arrests, according to witnesses.[3269]

1829. By the end of the day, around 140 demonstrators or passers-by had been detained.[3270] Detainees were transferred to the CODESUR military facility north of Maracaibo and held in GNB custody. GNB officers erected a tent to shield detainees from the sun. The GNB released over 100 of the detainees within a few hours.[3271]

1830. One demonstration took place near the National Electric Company facilities (Corpoelec)[3272] in the Amparo sector.[3273] Photos posted on Twitter showed security forces blocking streets southwest of the facilities (Calle 83 and Avenida Circumvalacion 2), and that uniformed officers had entered the electricity company premises.[3274] Photographs of

[3266] Acta de acusación, Exp. MP-283490-2017, 19 October 2017, on file with the Mission.

[3267] Efecto Cocuyo, fijan para el 24Ene audiencia preliminar por el caso de David Vallenilla, 10 January 2018, available at: https://efectococuyo.com/politica/fijan-para-el-24ene-audiencia-preliminar-para-el-caso-de-david-vallenilla.

[3268] Tribunal Vigésimo Primero en Funciones de Control del Circuito Judicial Penal de la Circunscripción Judicial del área metropolitana de Caracas, 10 August 2018, 208º y 159º, Acta de audiencia preliminar.

[3269] Mission Interview C1EE03 in June 2020.

[3270] Foro Penal lawyer indicated around 140 detentions in Maracaibo, while press accounts indicated 140 for Zulia state. Witnesses recall more than 120 detainees in Maracaibo. Mission Interview C1EE03 in June 2020; https://twitter.com/lauravalbuenam/status/888362693849214978; La Verdad, Venezuela registra record de arrestos en un dia, 21 July 2020, available at: http://www.laverdad.com/politica/124190-venezuela-registra-record-de-arrestos-en-un-dia-desde-abril.html

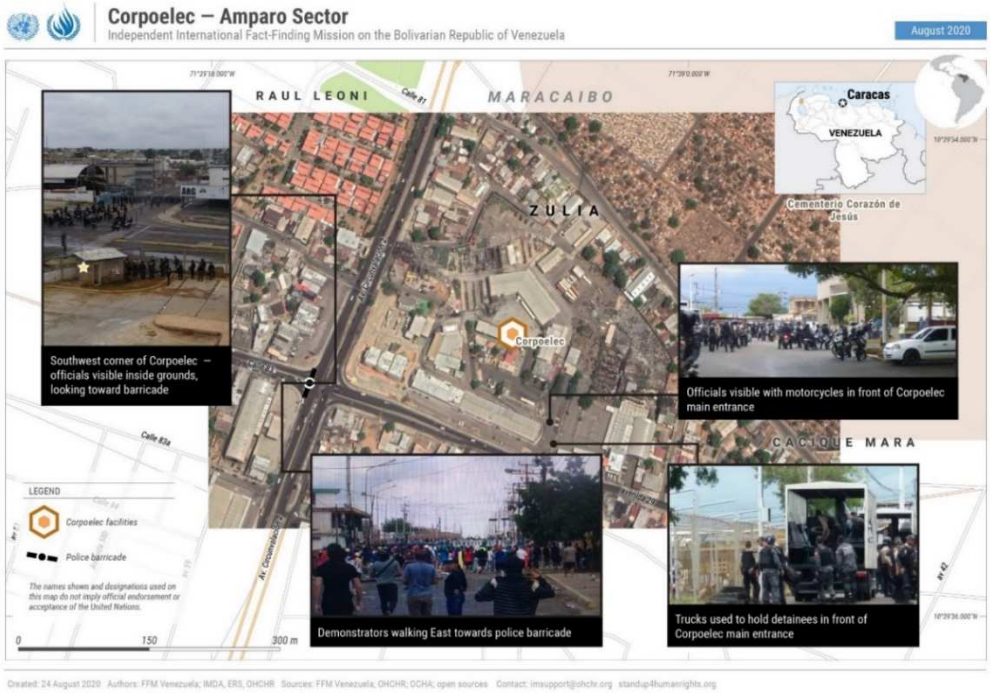
[3271] Mission Interview C1EE03 in June 2020; one of the detainees estimated around 120 people had been taken to Regional Command Three, and around 100 released. Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, pp. 9, on file with the Mission.

[3272] These facilities belong to the National Electric Corporation (CORPOELEC), and are referred to interchangeably by the name Venezuelan Electric Energy (ENELVEN), the name of the Maracaibo subsidiary.

[3273] https://twitter.com/CorpoelecZulia_/status/888181954998349824; https://twitter.com/AloLetty/status/888120684404129792

[3274] https://twitter.com/CorpoelecZulia_/status/888181954998349824/photo/1; https://twitter.com/CorpoelecZulia_/status/888181954998349824/photo/3

uniformed officers on motorcycles at the southeast main entrance to the facility were also posted.[3275] Other photos posted on Twitter show demonstrators moving eastward along Calle 83 towards the police blockade.[3276]



Police report of detentions

1831. According to the police record presented at the initial court appearance, PNB and GNB joint units deployed in regular vehicles and an armored personnel carrier, assigned by Command Zone 11 of GNB-CONAS, as per the "Special Security Operations and Patrols to Maintain and Re-establish Public Order 2017", ordered and directed by GNB Command Zone 11.[3277] The police report states that at around 6.50 p.m., a joint GNB/PNB deployment encountered a public disturbance around the Amparo intersection in Maracaibo involving "a group of citizens with their faces covered, visibly carrying Molotov cocktails, blunt objects and shields, attacking public and private property in the area".[3278]

1832. According to the police report, these people called the police, "dirty, sold out traitors" and attacked them, throwing stones, blocks and glass bottles, as well as using improvised mortars to fire homemade explosives[3279] and slingshots. The police report recorded injuries and bruising to officers, as well as damage to armored personnel carriers, rendering them unusable. When demonstrators attempted to break into Corpoelec facilities,[3280] security forces used chemical agents to disperse them. Security forces detained 20 men during the operation

3275 https://twitter.com/ElZulia/status/888140101468999680/photo/4; Photograph of the same location is included in the forensic report of the site: Technical report No. 0265, Criminal Investigation MP-33561-2017, 8 February 2018, p. 12, on file with the Mission.

3276 https://twitter.com/CorpoelecZulia_/status/888181954998349824/photo/2

3277 Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, pp. 5-6, on file with the Mission.

3278 Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, p. 5, on file with the Mission.

3279 See footnotes to the first paragraph, of Case 39, above.

3280 According to domestic law, an electric company's facilities could be considered a "security zone". Organic Law on National Security, Official Gazette No. 37.594, 18 December 2002, art 48.4 "Areas surrounding military and public facilities, and basic, strategic and essential service industries".

and seized three shields, two bags containing two Molotov cocktails and an assortment of fireworks. The detainees were held in GNB Command Zone 11.[3281]

Witness reports about the detention

1833. Witness accounts gathered by the Mission stand in contrast to the police report. The Mission analyzed the times and locations where the individuals stated they had been detained, using legal files, witness statements and information posted on social media.[3282]

1834. According to witness statements during the initial court appearance, 23 individuals (20 men, 2 women, and 1 girl) were arrested in different locations and at times different to those recorded in the police reports.[3283] Some arrests were made around 7.30 a.m., some around midday and some at around 6 p.m. Only two of the 23 detainees remember being arrested at the time indicated by the police.[3284] Although some people were arrested along Calle 83, the road leading to the site of the disturbance, others told the court they had been arrested up to three kilometers away.[3285] The police reports did not record the arrest of the women or the 13-year-old girl.

1835. At around 12 p.m., C1EE09 and his girlfriend were stopped by four PNB officers on two motorcycles. C1EE09 told the Public Prosecutor's Office that officers touched his girlfriend sexually and stole her possessions. According to his statement, the officers arrested and beat him, before driving him to Corpoelec.[3286]

1836. The father of another detainee told the Public Prosecutor's Office that motorcycle police had arrested his son in front of their family hardware store, as they were closing due to the protests.[3287] Security officers on motorcycles detained another young man in front of a hospital where he had dropped off a pregnant friend.[3288] A 13-year-old girl went outside her house to pick up her four-year-old sister when a police officer picked her up by her buttocks and her hair, placing her on a motorcycle.[3289]

1837. Another young man, C1EE02, was detained around 6 p.m. by two PNB officers on a motorcycle as he stood in the doorway of his house. C1EE02 worked on gender and sexual diversity issues within the Zulia governor's office, where he promoted LGBTQI health and the prevention of gender-based violence. He had participated in the demonstration earlier that day, but had not stayed long and was not at the protest when arrested. PNB officers forced him onto a motorcycle, injuring his head with a helmet when he resisted.[3290]

1838. According to press reports, an 18 year old suffered a tibia fracture when he was hit by a teargas canister around 3 p.m. during a protest near the 911 headquarters on La Limpia Avenue not far from Corpoelec.[3291] Another media source reported that a woman lost an eye

[3281] Act of initial appearance, pp. 6-7, on file with the Mission.

[3282] Mission Interview C1EE02 and C1EE03 in June 2020; Private accusation, Criminal Case File VP03-P-2018-008080, on file with the Mission; Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, on file with the Mission.

[3283] Mission Interview with C1EE03 in June 2020; Private accusation, Criminal Case File VP03-P-2018-008080, on file with the Mission; Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, on file with the Mission.

[3284] Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, pp. 5-6, on file with the Mission.

[3285] Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, pp. 5-13, on file with the Mission.

[3286] Private accusation, Criminal Case File VP03-P-2018-008080, p. 3 on file with the Mission.

[3287] Interview cited in Private Accusation, Criminal Case File VP03-P-2018-008080, p. 20, on file with the Mission.

[3288] Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, on file with the Mission.

[3289] Interview MP-335651-2017, Private accusation, Criminal Case File VP03-P-2018-008080, p. 28 on file with the Mission.

[3290] Mission Interview C1EE02 in June 2020.

[3291] La Verdad, Tres heridos por repression durante protesta en Maracaibo, 20 July 2017, available at: http://www.laverdad.com/politica/124180-tres-heridos-por-represion-durante-protesta-en-maracaibo.html

when GNB officers fired a teargas canister at close range inside her home around 6 p.m. as they pursued protesters through the neighborhoods near Corpoelec.[3292] Both were taken to the University Hospital of Maracaibo for urgent care.

1839. By around 6.30 p.m, all the detainees had been loaded into the back of a large truck parked in front of the Corpoelec facilities.[3293] Male and female officers beat the detainees with helmets, fists, and the butts of their weapons and sprayed chemical agents into their faces.[3294] When a detainee's father requested his son's release, he was beaten with police batons, before also being arrested. He told the Public Prosecutor's Office that he saw the PNB officers beating the detainees in the truck and burning a detainee's hair.[3295]

1840. Witnesses told both the Mission and the Public Prosecutor's Office they saw PNB officers sexually assault one of the detained women, touching her sexually while mocking her boyfriend.[3296] Two days later, she spoke to one of the private defence lawyers outside the tribunal when she went to her boyfriend's initial appearance. The lawyer confirmed to the Mission that she told the lawyers about the sexual assault, but was too afraid to make a statement about it.[3297]

1841. PNB officers also sexually assaulted the 13-year-old girl. According to her statement to the Public Prosecutor's Office, and corroborated by other witness statements gathered by the Mission, officers removed her shirt while in the truck. They sprayed her and her brother in the face with pepper spray, and burned her brother's hair. Her mother arrived and begged for her daughter and son's release, but officers mocked her for crying.[3298]

1842. Officers touched the girl's breasts, buttocks and between her legs.[3299] They told her it was impossible to have such a body at such a young age.[3300] A witness told the Mission that he heard an officer call the girl "a whore for hanging out with so many men" and say that women should not be doing what she was doing in the protest.[3301] Her brother said that officers groped her, causing her to cry and ask to go home.[3302]

1843. The detainees were taken inside Corpoelec and held in a locker room for several hours. Officers told the detainees to remain face down on the ground and some officers walked on the detainees' backs, stomping their boots. If a detainee protested or raised his head, the officer beat them. At least one male detainee was struck hard on the buttocks with police batons.[3303] Officers insulted the detainees, calling them "little opposition faggots"

[3292] Version Final, Mujer pierde un ojo tras agresión de la GNB, 21 July 2017, available at: https://versionfinal.com.ve/sucesos/mujer-pierde-un-ojo-tras-agresion-de-la-gnb/

[3293] These vehicles were used on 20 July 2017, as visible in photographs circulated on social media: https://twitter.com/ElZulia/status/888140101468999680/photo/2

[3294] Declarations of multiple witnesses included in Private accusation, Criminal Case File VP03-P-2018-008080, on file with the Mission.

[3295] Interview cited in Private accusation, Criminal Case File VP03-P-2018-008080, p. 20 on file with the Mission.

[3296] Interview with C1EE02 in June 2020; Interview cited in Private accusation, Criminal Case File VP03-P-2018-008080, p. 20 on file with the Mission; Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, p. 12, on file with the Mission.

[3297] Mission Interview C1EE02 and C1EE03 in June 2020; Interview conducted by HRW in 2017, verified by Mission.

[3298] The words are lyrics from the song "Lloraras" by Oscar D'Leon. Interview MP-335561-2017 cited in Private accusation, Criminal Case File VP03-P-2018-008080, p. 27, on file with the Mission.

[3299] Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, on file with the Mission, pp. 7-9; Private accusation, Criminal Case File VP03-P-2018-008080, p. 12 on file with the Mission.

[3300] Interview MP-335651-2017, Private accusation, Criminal Case File VP03-P-2018-008080, p. 9, 21, 27 on file with the Mission; Mission Interview C1EE02 in June 2020.

[3301] Mission Interview C1EE02 and C1EE03 in June 2020; Interview conducted by HRW in 2017, verified by Mission.

[3302] Mission Interview C1EE03 in June 2020; Interview MP-335561-2017, Private accusation, Criminal Case File VP03-P-2018-008080, p. 26 on file with the Mission.

[3303] Private accusation, Criminal Case File VP03-P-2018-008080, p. 3 on file with the Mission.

(*marisquitas opositoras*), and threatened to kill them.[3304] Another witness said they made them kneel and pray the Lord's Prayer during the beatings.[3305]

1844. Officers grabbed C1EE09 by the hair and one said, "This is the big ass who made me run, we are going to play with him!"[3306] C1EE09 also remembered an officer said, "This is the one who fucks the mothers of the police, we are going to fuck him".[3307] Several officers grabbed him by the arms and legs. C1EE02 told the Mission that he that officers also insulted him with homophobic slurs.[3308]

1845. C1EE09 told the Mission that the officers lowered his pants and one of them raped him with a police baton. They continued to insult and degrade him, and said things like "look how he tightens, look how he moans" and that he must like what they were doing to him.[3309] At least ten officers were present in the room as this occurred. After the rape, they beat him unconscious.[3310]

1846. According to two witnesses, the officers took the 13-year-old girl and the second woman to another area, next to the locker room.[3311] Witnesses heard an official tell one woman that if she engaged in sex acts she would be released. When the woman returned, she looked traumatized.[3312] All three female detainees (two women and one girl) were released after being threatened not to reveal what had occurred.[3313]

1847. At least 11 officers, including two female officers, were present during the events. Although some were later identified by witnesses, others had covered faces and/or covered names on their uniforms.[3314] One witness identified the PNB supervising chief to the Public Prosecutor's Office, saying he had been present throughout.[3315]

1848. At around 8 p.m., the men were transferred to GNB Command Zone 11 (commonly referred to as Regional Command Three). A witness told the Mission that GNB officers noticed the detainees' injuries as they arrived and complained amongst themselves that the PNB always brought detainees in bad shape. According to the witness, a GNB officer asked the PNB driver why he had brought detainees is such a battered condition.[3316] Witnesses that the GNB did not mistreat them.[3317]

1849. On 21 July 2017, PNB officers transferred the detainees to Alfonso Pons hospital for medical exams.[3318] The officer who allegedly raped C1EE09 participated in the transfer.[3319] During the transfer, the PNB officers threatened to beat the detainees again if they told the

[3304] Mission Interview C1EE02 in June 2020; Interview conducted by HRW in 2017, verified by Mission.
[3305] Private accusation, Criminal Case File VP03-P-2018-008080, p. 12 on file with the Mission.
[3306] Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, p. 7, on file with the Mission.
[3307] Interview with C1EE09 in Private accusation, Criminal Case File VP03-P-2018-008080, p. 12, on file with the Mission.
[3308] Mission Interview C1EE02 in June 2020.
[3309] Private accusation, Criminal Case File VP03-P-2018-008080, p. 3, 24, on file with the Mission.
[3310] Private accusation, Criminal Case File VP03-P-2018-008080, p. 3, 24, on file with the Mission.
[3311] Mission Interview C1EE02 in June 2020; Interview MP-335651-2017, Private accusation, Criminal Case File VP03-P-2018-008080, p. 24-25 on file with the Mission.
[3312] Mission Interview C1EE02 and C1EE03 in June 2020; Interview conducted by HRW in 2017, verified by Mission.
[3313] Mission Interview C1EE02 and C1EE03 in June 2020.
[3314] This was mentioned by multiple detainees in their statements to the Public Prosecutor's office, contained in Private accusation, Criminal Case File VP03-P-2018-008080, pp. 12-13, on file with the Mission.
[3315] Interview MP-335651-2017, 28 May 2018, in Private accusation, Criminal Case File VP03-P-2018-008080, p. 35 on file with the Mission.
[3316] Mission Interview C1EE02 in June 2020.
[3317] Ibid.
[3318] PNB officers coordinated with the GNB during these joint commissions to transfer detainees to court and medical exams as required. The names of the officers charged with the transfer are indicated in an investigative interview conducted on 4 August 2017, in Private accusation, Criminal Case File VP03-P-2018-008080, p. 7 on file with the Mission.
[3319] Ibid.

doctors about their injuries.[3320] Officers were present during the medical examination. According to a witness, the female doctor saw their injuries and did not want to sign a report of good health. Officers spoke to her and she signed the report.[3321] The Mission was unable to secure direct access to the medical reports.

Initial appearance and accusations of rape and torture

1850. On 22 July 2017, the 20 remaining detainees were transferred to the Zulia Eighteenth Military Control Court, again under the custody of PNB officers. The detainees were charged with the military crimes of rebellion as civilians,[3322] attack and outrage against the sentinel,[3323] offense to the armed forces,[3324] destruction of vessels or other military belongings,[3325] and violation of a security zone. These military crimes bear lengthy sentences.

1851. The detainees were represented by private defence counsel, who urged the tribunal to drop the charges, arguing that the military tribunal lacked jurisdictional competence in the matter, that the charges did not apply to the circumstances and that insufficient information had been presented. They also challenged the PNB's detention records, pointing out the inconsistencies explained above.[3326]

1852. Eighteen of the 20 detainees made statements to the judge and displayed their injuries. C1EE09 declared he had been raped, among other abuses. He identified the PNB officer who had raped him by name.[3327] Other detainees confirmed C1EE09's account and detailed the additional abuses occurring in PNB custody, including pepper spray to the eyes and being shot with buckshot.[3328] The defence counsel stated the acts constituted torture.[3329] The military prosecutor did not ask any questions. One of the detainees alleged that when they waited outside the courtroom, PNB officers wearing skull masks threatened to kill them.[3330]

1853. The judge ordered the Public Prosecutor's Office's Fundamental Rights Unit to open an investigation into the allegations, and new forensic medical examinations.[3331] The forensic

[3320] Mission Interview C1EE02 in June 2020; statements made in initial appearance, Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, p. 4-9, on file with the Mission; Interview with C1EE09 in Private accusation, Criminal Case File VP03-P-2018-008080, p. 12, on file with the Mission.

[3321] Mission Interview C1EE02 in June 2020; Private accusation, Criminal Case File VP03-P-2018-008080, pp. 4, 21 on file with the Mission.

[3322] Military Criminal Code, art. 476 ("Military rebellion consists: 1. In promoting, assisting or sustaining an armed movement to alter the internal peace of the Republic or to impede or create difficulties in the exercise of the Government in any of its powers. 2. In committing, during a civil war, in order to favor the enemy of the law, any of the acts enumerated in ordinals 26, 27, 28 and 29 of article 464, when applicable"). Art 486 states, "Rebellion is a military crime even for non-military persons, if the following circumstances concur: 1. That the rebels are controlled by military servicepersons, or that the movement begins, is sustained or supported by national forces. 2. That ten or more individuals form groups that are militarily organized. 3. That even in groups less than ten, other groups of forces exist in other locations in the Republic with the same aim. 4. That antagonizes the national forces in any way."

[3323] Ibid., art. 501 ("Attacks on the sentinel will be punished by 14 to 20 years prison") and art. 502 ("Anyone who threatens or offends the sentinel with words or gestures, shall be punished with an arrest of six months to one year").

[3324] Ibid., art 505 ("Anyone who slanders, offends or scorns the National Armed Forces or any of its units shall face punishment of three to eight years in prison").

[3325] Ibid., art 552 ("Anyone who destroys, in any way, forts, vessels, aircrafts, stations, arsenals or other military or naval belongings, shall be punished with eight to sixteen years in prison").

[3326] Defense statement, 22 July 2017, on file with the Mission.

[3327] Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, p. 8, on file with the Mission.

[3328] Act of initial appearance, Criminal Case No. CJPM-TM18C-063-2017, 24 July 2017, pp. 6-9, on file with the Mission.

[3329] Defense statement, 22 July 2017, on file with the Mission.

[3330] Mission Interview C1EE03 in June 2020.

[3331] Mission Interview C1EE03 in June 2020; Request for Forensic Medical Examination, Act No. CJPM-JM18C-400/2017 directed to the Director of Forensic Medicine in Maracaibo, 24 July 2017.

medical exams carried out three days later, on 25 July 2017, indicated that C1EE09 had a bruise on his buttocks in the shape of a bar and anal fissures consistent with penetration. The other young men presented injuries such as bruises to the face and head, abdomen, back, and legs produced by blunt objects, lesions from buckshot on the abdomen, burns to the buttocks and neck, and chemical burns to the eyes.[3332]

1854. The judge ordered C1EE09's release on house arrest and sent the other 19 detainees to pre-trial detention. They were returned to the GNB Command Zone 11 and then transferred to Cabimas Prison two days later.

1855. When they arrived at the Cabimas Prison, the officers tried to make C1EE02, a homosexual man, enter a male cell, yelling, "walk, faggot!" (*camina, maricón!)*. A high-ranking prison official intervened and decided to place him in a female cell at the prison. He knew C1EE02 was homosexual and believed such measures would protect him from sexual assault. The prison did not have sufficient measures in place to protect male or female inmates from sexual abuse.[3333]

1856. After around 40 days, the judge dismissed the charges and closed the case.[3334] All detainees were released from Cabimas Prison.

Judicial Procedure

1857. Nine months later, in May 2018, the 45th Prosecutor's Office of Zulia, specialized in human rights protection, requested the arrest of ten PNB officers, on charges of rape and cruel treatment for acts perpetrated against C1EE09. On 7 May 2018, DGCIM arrested eight of the officers; two had fled the country. Their initial appearance took place at the Tenth Control Court of Zulia, and they were sent to pre-trial detention at the Zulia State Police central command. The Mission has been informed, however, that the accused officers are free to come and go from the police command centre.[3335]

1858. The preliminary hearing was deferred seven times in 2018, and victim representatives had difficulties accessing the criminal file. They eventually secured access to the document, through a constitutional protection order.[3336]

1859. The preliminary hearing took place on 5 December 2018 before the Tenth Control Court of Zulia. The judge confirmed the charges of rape and cruel treatment, with one of the defendants charged with perpetrating the acts and the others as accomplices. Lawyers from CODHEZ, in support of the victim of rape, requested unsuccessfully that the defendants be charged with torture, as per the domestic Law on Torture, Cruel and Inhuman Treatment.[3337]

[3332] Forensic medical report, No. 356-2452-3664, 25 July 2017, cited in Private accusation, Criminal Case File VP03-P-2018-008080, p. 3 on file with the Mission, pp. 14-18.

[3333] The witness had met the director of the prison during his previous health advocacy work, distributing sexual health materials in different detention centres on behalf of the Zulia governor's office. Mission Interview C1EE02 and C1EE03 in June 2020.

[3334] In the case of one detainee, a suspended sentence was ordered after he pled guilty to a lesser offense. Interview C1EE03 in June 2020.

[3335] Mission Interview C1EE03 in June 2020.

[3336] La Verdad, Enjuiciaran a ocho policías por violar a un estudiante detenido, 5 June 2019, available at: http://www.laverdad.com/sucesos/156360-enjuiciaran-a-ocho-policias-por-violar-a-un-estudiante-detenido.html

[3337] Mission Interview C1EE08 in July 2020. Special Law to Prevent and Sanction Torture and Other Cruel, Inhuman and Degrading Treatment, Official Gazette No. 40.212, 22 July 2013, arts 17 and 18. CODHEZ, Codhez exige enjuiciamiento por tortura a policías acusados de violar a joven detenido en las protestas de 2017, 16 July 2018, available at: http://www.codhez.org.ve/noticias/126-codhez-exige-enjuiciamiento-por-tortura-a-policias-acusados-de-violar-a-joven-detenido-en-las-protestas-de-2017.html

1860. By 2020, the trial had been deferred nine times, due to the absence of either the prosecutors, the defence attorneys or difficulties transporting the accused.[3338] As of the time of writing, the trial still had not begun.[3339]

1861. No charges have been brought for acts of arbitrary detention, torture, including sexual violence, or other cruel, inhuman or degrading acts against the other victims, including the underage girl or the other women detained on 20 July 2017.[3340]

1862. No charges have been brought against commanding officers, including those who were present during the acts that occurred in the Corpoelec facilities.[3341]

Findings

1863. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment were committed against C1EE02 (man), C1EE09 (man), a 13-year-old girl, a man and a woman, and others. There are also reasonable grounds to believe that sexual and gender-based violence was perpetrated, including rape against C1EE09 (man) and other forms of sexual violence against a 13-year-old girl and a woman, amounting to torture and cruel, inhuman or degrading treatment.

1864. PNB officers deployed in Maracaibo as part of a joint mission with the GNB under the command of Zone 11 of the GNB (Zulia) and Zulia Center of Police Coordination were involved in the arbitrary arrests and detentions, as well as in the torture and cruel, inhuman or degrading treatment, including rape and other forms of sexual violence.

CASE 46: Killing in protest of Ender Peña in San Cristobal, Táchira Context (30 July 2017)

1865. On 27 July 2017, the Government announced a prohibition on demonstrations that could affect the National Constituent Assembly election scheduled for Sunday, 30 July, to come into effect the following day.[3342] The MUD called upon supporters to take to the streets from Friday, 28 to Sunday, 30 July to protest against the election.[3343] The Mission is not in a position to assess whether the prohibition could be justified in context, which would determine whether the prohibition would be considered valid under international human rights law. This has no bearing on the events which follow.

1866. On 28 July, media reported that protesters had closed roads in San Cristóbal, Guasimo, Bello Monte and Cárdenas municipalities.[3344] On 28 July 2017, José Gustavo Leal Villasmil, was shot dead while attending a demonstration near a polling centre at Alberto Adriani High School in San Cristobal municipality.[3345]

[3338] Panorama, Diferido por novena vez inicio de juicio de los 8 ex pnb implicados en caso de tortura: Codhez, 17 January 2020, available at: https://www.panorama.com.ve/sucesos/Diferido-por-novena-vez-inicio-de-juicio-de-los-8-expnb-implicados-en-caso-de-tortura-Codhez-20200117-0020.html

[3339] Mission Interview C1EE03 in June 2020.

[3340] Mission Interview C1EE08 in July 2020.

[3341] Mission Interview C1EE08 in July 2020.

[3342] ElUniverso, Gobierno de Venezuela prohíbe manifestaciones que afecten votación de la Asamblea Constituyente, 27 July 2017, available at: https://www.eluniverso.com/noticias/2017/07/27/nota/6300943/gobierno-venezuela-prohibe-manifestaciones-que-afecten-votacion

[3343] Pilotzi Noticias, Oposición llama tomar las calles de Venezuela contra constituyente/, 28 July 2017, available at: https://pilotzinoticias.com/tag/manifestacion/

[3344] Efecto Cocuyo periodismo que ilumina, Con trancazos se prepararon en regiones antes de comenzar toma de Venezuela, 28 July 2017, available at: https://efectococuyo.com/politica/con-trancazos-se-prepararon-en-regiones-antes-de-comenzar-toma-de-venezuela/

[3345] El Pitazo, José Gustavo Leal no quería irse de Venezuela, sino luchar por su libertad, 29 July 2017, available at: https://archivo.elpitazo.net/sucesos/jose-gustavo-leal-no-queria-irse-venezuela-sino-luchar-libertad/

1867. On 29 July, riots occurred in Táchira municipalities, with opposition sympathisers burning voting machines in San Cristóbal, Cárdenas, La Fría and San Antonio del Táchira.[3346] Four deaths were reported on Election Day in Táchira state; a GNB agent and four civilians, including Ender Ricardo Peña Sepúlveda.[3347]

The case

1868. The Mission secured access to the case file, which included testimony from 19 witnesses who described the events that occurred on 30 July 2017 in Rómulo Colmenares neighbourhood, San Cristóbal municipality. According to this version of events, protesters began to pile debris onto Avenida Rotaria in Rómulo Colmenares during the morning hours.

1869. At 5 a.m., approximately 20 GNB troops arrived on foot. Some deployed in front of Galpón parking lot and others in front of Vicente Davila High School. They attempted to disperse protesters using teargas. One witness recalled that the GNB units in front of the high school shot live rounds at the demonstrators.[3348] Another witness provided more detail, telling the investigation that at 6 a.m., around 60 demonstrators were finishing the barricade to block the road and prevent people from going to vote, when the GNB officers at Vicente Davila high school began shooting at the demonstrators. The protesters fired improvised mortars[3349] to fire homemade explosives at the GNB.[3350]

1870. According to two accounts,[3351] at 11 a.m., GNB officers at Vicente Dávila high school used buckshot and teargas canisters to disperse the demonstrators at the traffic lights on Avenida Rotaria. After a short while, a black Toyota van arrived, containing men dressed in black covering their faces with ski masks. They were equipped with long weapons and shields. They had "CONAS" written on their outfits. Once they got out of the van, they began to shoot at the protesters. Protesters ran for cover and the shooters got back into the van and left.

1871. According to a witness, by 2 p.m. many protesters were on the pedestrian overpass on Avenida Rotaria and at the traffic light at the entrance of the Romulo Colmenares housing complex. The GNB had parked an armoured vehicle on Avenida Rotaria. A GNB officer carrying a shotgun and a sniper rifle was standing next to a kiosk near Vicente Davila high school. From the vehicle, the GNB fired pellets and teargas canisters at protesters outside the entrance of the Rómulo Colmenares neighbourhood.[3352]

1872. Demonstrators on the pedestrian overpass on Avenida Rotaria, including Ender Peña, went to join the others at the Rómulo Colmenares neighbourhood entrance and the GNB shot them with buckshot. The protesters threw stones and fired homemade mortars towards the security forces.[3353]

1873. One witness told the investigation that security forces had managed to clear the area of protesters by 3.30 p.m., but some protesters returned. A GNB armoured personnel carrier and three CONAS officers were on the other side of Avenida Rotaria. One of the officers had climbed a tree near the Vicente Dávila high school, another was on the high school stairs and the third one was near a kiosk. The three officers fired their weapons at the protesters.[3354] The same witness indicated that GNB troops were also firing both live rounds and teargas from

[3346] Libertaddigital, Queman al menos 38 centros de votación en Venezuela tras un nuevo asesinato de un joven opositor, 29 July 2017, available at: https://www.libertaddigital.com/internacional/latinoamerica/2017-07-29/queman-al-menos-38-centros-de-votacion-para-protestar-contra-las-elecciones-de-maduro-1276603640/

[3347] Maduradas, available at: https://maduradas.com/ultima-hora-de-un-tiro-en-la-cara-asesinaron-a-gnb-en-un-centro-de-votacion-en-la-grita/

[3348] Interview with CICPC No. 14, on file with the Mission.

[3349] See footnotes to the first paragraph, of Case 39, above.

[3350] Interview with CICPC No. 5, on file with the Mission.

[3351] Interview with CICPC No. 11 and No. 12 on file with the Mission.

[3352] Interview with Fiscalia Cuarta Circunscripción Judicial del Estado Táchira, No. 8, on file with the Mission.

[3353] Interview with CICPC No. 9, on file with the Mission.

[3354] Interview with CICPC No. 3, on file with the Mission.

the armoured personnel carrier.[3355] Protesters continued to throw stones and fire homemade mortars at the armoured personnel carrier.[3356]

1874. The protesters ran for cover behind some houses in front of Romulo Colmenares neighbourhood. The Mission secured access to three written testimonies, describing to the Public Prosecutor's Office that at 4.30 p.m. Ender Peña was sheltering behind a wall and peeked out to try to locate where the CONAS officers were shooting. At that moment, he was hit by a gunshot and fell to the ground.[3357] Two witnesses indicated that three CONAS officers were using sniper rifles.[3358]

1875. Ender Ricardo Peña Sepúlveda was 18 years old, was a recent high school graduate and played soccer for the Lotería de Táchira. He joined the protest on Avenida Rotaria, in the Concordia sector at around 2 a.m.[3359] He was admitted to Táchira polyclinic at 5.30 p.m. and underwent surgery but was declared dead at 7.19 p.m.[3360]

1876. On 1 August 2017, Mr. Peña's funereal was held at the Santa Rosa de Lima church near Avenida Rotaria. A witness interviewed by the Mission said he heard gunshots at the ceremony.[3361] He left the church and saw at least seven men in civilian clothes firing from inside a house, belonging to a PSUV National Assembly member. The witness identified the men as members of a colectivo. When the parish priest went to mediate with the colectivo members, they stopped shooting. The shooting outside the church appears in a press article[3362] and the Mission was able to view a registered video of a witness' testimony.[3363]

The investigation

1877. An autopsy was performed on Ender Peña's body on the day he died and the Mission was able to access the report. It revealed a perforating wound to the abdomen produced by the passage from front to back of a projectile fired by a firearm. The cause of death was established as hypovolemic shock, internal bleeding, and hemoperitoneum.[3364] CICPC officers determined that this projectile was part of the body of a bullet for a 223-caliber firearm or its 5.56x45 equivalent.[3365]

1878. CICPC investigators collected shells at the scene. They established that there were shells of three different calibres, fired by eight different weapons, three of which fired bullets of the same calibre as the one used to kill Mr. Peña.[3366]

1879. The Public Prosecutor's Office made an official request for information to the head of CONAS No. 21, of GNB Zone Command No. 21, San Cristóbal Táchira state on 19

[3355] Ibid.
[3356] Interview with CICPC No. 6, on file with the Mission.
[3357] Interview with CICPC No. 3 and No. 4, on file with the Mission..
[3358] Interview with CICPC No. 3 and No. 4, on file with the Mission.
[3359] Mission Interview C1BB28 in June 2020.
[3360] Interview with CICPC No. 3, No. 4 and No. 5, on file with the Mission.
[3361] Ibid.
[3362] ElEstimulo, Entre balas, llanto y consignas del Deportivo Táchira despidieron a Ender Peña, 1 de agosto de 2017, available at: https://elestimulo.com/entre-balas-llanto-y-consignas-del-deportivo-tachira-despidieron-a-ender-pena/;
[3363] YouTube Video, Vecina cuenta lo que pasó en el funeral del jugador Ender Peña, 2 August 2017, available at: https://www.youtube.com/watch?v=RcaS7TKp5Ps
[3364] Servicio Nacional de medicina y de Ciencias Forenses, No. 9700-164 -3835, 1 August 2017.
[3365] División de Laboratorio Criminalística, delegación estadal Táchira, Experticia de reconocimiento técnico, departamento de balística, Táchira, No. 9700-134 LCT 4620 17, 4 August 2017.
[3366] División de Laboratorio Criminalística, delegación Estatal Táchira, Departamento de balística, No. 9700-134 LCT 4620 17, 4 August 2017.

September 2017.[3367] Follow up requests were made on 29 November 2017[3368] and 11 January 2018.[3369]

1880. The Mission has been informed that the GNB Zone Command No. 21 responded saying they do not have records of the personnel deployed to the area on 30 July 2017. In August 2020 the Mission was reliably informed that the Public Prosecutor's Office is considering closing the case for lack of progress.[3370]

1881. The Mission contacted the Government requesting a status update in this case on 7 August 2020. At the time of writing, it had not received a response.

Findings

1882. Based on the facts above, the Mission has reasonable grounds to believe that Mr. Ender Peña was the victim of an arbitrary killing and that the CONAS No. 21 of GNB Zone Command No. 21 was involved.

CASE 47: Torture in Detention of Protestors in San Cristóbal, Táchira State (July and August 2017)

1883. C1AA13 and C1AA14[3371] were well known in their neighbourhood in San Cristobal Municipality, Tachira state, for their involvement in opposition political parties' youth movements. They helped to organize protests and awareness-raising events, and would paint the names of protesters killed in public places. They had both also participated on numerous occasions in marches and protests in the city of San Cristóbal. A few weeks before their arrest, along with other student leaders, they had travelled around Táchira state talking to people about social and political demands.[3372]

Torture in detention in Regional Command One

1884. In July 2017, a group of around 20 protesters in hoods erected a barricade of burning car tires and garbage in a neighbourhood in San Cristobal municipality. There were several military and Government buildings in this area. The barricade blocked the road and some local residents complained that protesters were asking for money or cigarettes to let them pass. When informed of the barricade, C1AA13 claims to have negotiated passage of vehicles.[3373]

[3367] Solicitud de la Fiscal Auxiliar Vigésima (20) del Ministerio Público con Competencia en Materia de Protección de Derechos Fundamentales de la Circunscripción Judicial del estado Táchira Comisionada de entrega de Diligencias de Investigaciones dirigida al Jefe del comando Anti Extorsión y Secuestro No 21 de la Guardia nacional Bolivariana Comando de zona No 21, Municipio San Cristobal, 29 September 2017, No 20-F20-2185-2017, on file with the Mission.

[3368] Segunda Solicitud de la Fiscal Auxiliar Vigésima (20) del Ministerio Público con Competencia en Materia de Protección de Derechos Fundamentales de la Circunscripción Judicial del estado Táchira Comisionada de entrega de Diligencias de Investigaciones dirigida al Jefe del comando Anti Extorsión y Secuestro No 21 de la Guardia nacional Bolivariana Comando de zona No 21, Municipio San Cristobal, No 20-F20-2545-2017, 29 November 2017on file with the FMM.

[3369] Tercera Solicitud de la Fiscal Auxiliar Vigésima (20) del Ministerio Público con Competencia en Materia de Protección de Derechos Fundamentales de la Circunscripción Judicial del estado Táchira Comisionada de entrega de Diligencias de Investigaciones dirigida al Jefe del comando Anti Extorsión y Secuestro No 21 de la Guardia nacional Bolivariana Comando de zona No 21, Municipio San Cristobal, No 20-F20-0022-2018, 11 January 2018, on file with the Mission.

[3370] Mission Interview C1BB38 in August 2020.

[3371] The Mission is preserving the identity of these two persons and some details on this case, such as dates and places, for security reasons.

[3372] Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020, both corroborating and expanding prior statements shared with the Mission in a Joint Submission from Crimes Against Humanity Observatory, Defiende Venezuela, Un Mundo Sin Mordaza, June 2020, Document C1AA03, on file with the Mission.

[3373] Mission Interview C1AA13 in June 2020; Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.

1885. In the early afternoon, some of the hooded people at the barricade began approaching a public building located about 100 metres from the barricade. Half an hour later, around 20 GNB motorcycles, with two officers on each, approached the barricade. The GNB formed a line, dismounted and fired teargas and pellets without warning. Several neighbourhood people at the barricade ran for cover, including C1AA13 and C1AA14.[3374]

1886. C1AA13 ran towards his housing estate, but a GNB member on a motorcycle kicked his legs out from under him. The GNB officer, a Regional Command One Captain, arrested C1AA13, who did not resist.[3375] C1AA14 ran but the motorcycles caught up with him as well. An officer pointed a gun and threatened to kill him if he moved. Six GNB officers beat him in the torso and head, to bring him to his knees and handcuff him.[3376] Both C1AA13 and C1AA14 were taken to GNB Regional Command No.1, next to Pueblo Nuevo Stadium in San Cristobal.[3377]

1887. At the GNB command, C1AA13 saw a large board with names of human rights activists and known student leaders on it, including his own. During interrogation, GNB officers showed C1AA13 photos they had taken of him before demonstrations and while participating in them.[3378] C1AA13 and C1AA14 were the only people arrested from those who had been at the barricade.[3379]

1888. A GNB official wrote the arrest report in front of C1AA13 and C1AA14, saying, "let's see […] what should I write?" They included elements that did not match the facts as claimed by C1AA13 and C1AA14, and were later used in their accusation.[3380] When C1AA13 complained, an officer hit him on the back of the head, causing him to black out for a moment.[3381] The GNB officers photographed C1AA13 and C1AA14 separately next to a table on which some items, including a homemade mortar and Molotov cocktails, were assembled. Both denied ownership of these items.[3382]

1889. In the afternoon, the Regional Command One Captain took C1AA13 and C1AA14 to a parking lot and forced them to squat with their hands tied behind their backs for more than an hour. They said that officers slapped them if they moved. While in that position, a GNB officer applied an irritating substance to various parts of their bodies, including in their eyes and mouth and poured water on them, which increased the burning. They remained handcuffed there until nightfall, before being put into one of four vans, referred to as "holes" by the guards.[3383]

1890. There were already 20 people in a van with only 2 x 2 meters interior space with very little ventilation. C1AA13 and C1AA14 remained in the van for nine days. At one stage, the number of detainees in the van reached 28, although there was only sitting room for five people. The overcrowding forced them to adopt painful positions, bent over or crouched, and prevented them from sleeping. As a result, many detainees suffered from dizziness, vomiting and fainting. They relied on relatives to bring food to the facility.[3384] They had insufficient

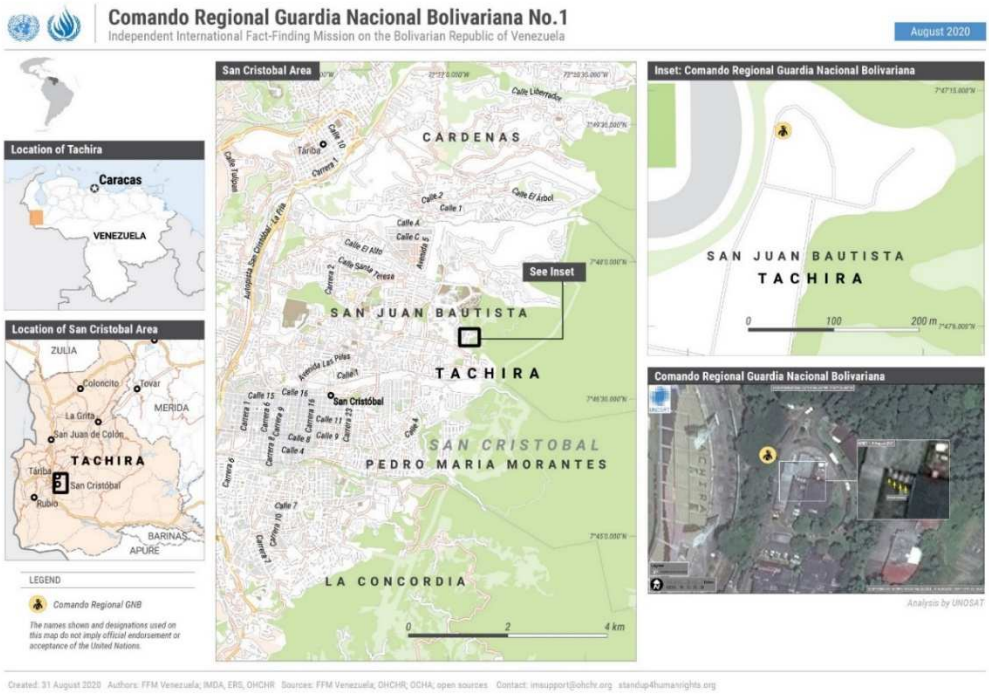
[3374] Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.
[3375] Mission Interview C1AA13 in June 2020; and Document C1AA03, on file with the Mission.
[3376] Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.
[3377] Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.
[3378] Mission Interview C1AA13 in June 2020; and Document C1AA03, on file with the Mission.
[3379] Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.
[3380] Presentation brief and request for deprivation of liberty before the Eleventh Military Court of Control by Assistant Military Prosecutor, Document C1AA03, on file with the Mission.
[3381] Mission Interview C1AA13 in June 2020; and Document C1AA03, on file with the Mission.
[3382] Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.
[3383] Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.
[3384] Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.

water to drink and only plastic bags as bathroom facilities. Detainees were only taken out once a day for five minutes, when they were hosed down in the yard.[3385]

1891. Several times a day throughout the nine days that C1AA13 and C1AA14 spent in the van, guards released tears gas into the confined space, causing some detainees to asphyxiate and lose consciousness.[3386]

1892. There were detainees in the other three vans as well, but most of those arrested in relation to protests were held with C1AA13 and C1AA14 in the fourth vehicle. Each day, several detainees were selected for beating, in a process called "the sabanazo" (the bed sheets). GNB officers would select one person and take him to another of the vehicles. Officers threw the selected detainee to the floor into a van. The other detainees had to cover him with a sheet and were then forced to punch and kick any part of the person's body not covered by the sheet. Guards insisted that the beating had to be hard enough to make the vehicle move.[3387]

1893. The Mission located the vans as described by the witnesses using satellite imagery. The Mission located the vans as described by the witnesses using satellite imagery. This image was taken at the time of the events reported here.



Transfer to Santa Ana Prison

1894. Approximately one week after their arrest, the GNB attempted to transfer all the persons detained in the context of protests, including C1AA13 and C1AA14, to Santa Ana prison. Upon arrival, the prison authorities did not accept the detainees so the GNB returned them to Regional Command One. Twenty-eight detainees were put into the fourth van. Two witnesses told the Mission that the following day, GNB officers announced "Halloween night". The officers released large quantities teargas into the van over a prolonged period, causing the detainees to pass out and lose control of bodily functions. The next day officers gave the detainees five minutes to wash themselves and clean the vehicle.[3388]

3385 Mission Interview C1AA13 in June 2020; and Document C1AA03, on file with the Mission.
3386 Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.
3387 Ibid.
3388 Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.

Judicial proceedings against C1AA13 and C1AA14

1895. Two days after their arrest, C1AA13 and C1AA14 were taken from the van for a few hours and presented before the Eleventh Court of Military Control of the City of San Cristóbal, Táchira state, for an initial appearance. The Military Prosecutor's Office accused C1AA13 and C1AA14 of attacking a sentinel[3389] and outrage to the National Armed Force,[3390] crimes under the Organic Code of Military Justice.[3391] The Judge ordered the prevention detention of C1AA13 and C1AA14.

1896. According to the accusation, around 50 people group attacked military motorcycles as they were patrolling, throwing (homemade) explosive devices. Under Article 191 of the Organic Code of Criminal Procedure, the GNB arrested C1AA13 and C1AA14.[3392]

1897. C1AA13 and C1AA14 were also accused of possessing five glass explosive devices and C1AA14 was accused additionally of possessing a homemade launch for the devices. The accusation acknowledged a lack of witnesses, but referred to the tense situation as explanation for this. Both C1AA13 and C1AA14 wanted a private attorney from a civil society organization to represent them, but the Senior Military Prosecutor told them that this would prolong proceedings so they agreed to a military public defender.

1898. C1AA13 and C1AA14 informed the military public defender about the treatment and conditions they suffered in Regional Command One, but he did not present these details in court. Instead, the military public defender told C1AA14's family not to publicize the torture allegations. He also demanded payment for providing legal defence.[3393]

1899. Twenty days after their arrest, C1AA13 and C1AA14 were released from pre-trial detention with conditional measures, including weekly presentations in court. At the time of writing, their trial was pending. The Mission has found no information indicating that the GNB officers accused of torture have been investigated or punished.

Findings

1900. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment were committed against C1AA13 and C1AA14 and other male detainees. Officer from GNB Regional Command No. 1, Zone 21 were involved in the arbitrary arrests and detentions, and in the torture and cruel, inhuman or degrading treatment.

CASE 48: San Felipe, Yaracuy state (23 January 2019)

The demonstration

1901. Opposition parties called for nationwide demonstrations on 23 January 2019, to show support for Juan Guaidó's declaration as interim President on the same day.

1902. The demonstration in Yaracuy state began at 9 a.m. in Plaza Franklin Sánchez in the Municipality of Independencia.[3394] One witness told the Mission that the organisers had notified the municipality orally and that authorities had granted authorisation. That said, the notification was for a protest in Plaza Franklin Sánchez and not a march toward the Governor's office.[3395] Demonstrators then marched spontaneously, with the size of the surprising even the organizers.[3396]

[3389] Organic Law of Military Justice, art. 501
[3390] Organic Law of Military Justice, art. 505.
[3391] Presentation brief and request for deprivation of liberty before the Eleventh Military Court of Control by Assistant Military Prosecutor, in Document C1AA03, on file with the Mission.
[3392] Ibid.
[3393] Mission Interview C1AA13 in June 2020 and Mission Interview C1AA14 in June 2020; and Document C1AA03, on file with the Mission.
[3394] https://twitter.com/UnidosxYaracuy/status/1087893305504006144
[3395] Mission Interview C1AA19 in July 2020.
[3396] Mission Interview C1AA019 in July 2020; Mission Interview C1AA021 in July 2020.

1903. The Mission interviewed three witnesses that described representatives of opposition political parties making speeches in the plaza.[3397] At around 11 a.m., the demonstrators, who included children, women and men, began to march towards Teófilo Domínguez Square. The march was calm and the protesters sang songs and chanted slogans, as recorded and posted to social media.[3398]

1904. The marchers encountered a roadblock on Avenida Cartagena, staffed by various security forces, including the Police Public Order unit and the GNB. According to two witnesses, security forces fired teargas, as captured by a video posted on social media, which the Mission verified and geo-located.[3399] The march continued but ran into another roadblock ten blocks later, where teargas was fired again. Some demonstrators dispersed, but many others sought alternative routes to Plaza Bolivar, where the Government buildings were.[3400]

1905. The Mission interviewed three witnesses who described security forces firing teargas and pellets at them near Bolivar Square, causing them to disperse.[3401] The Mission also verified and geo-located one video posted on social media showing demonstrators running away from the Plaza Bolivar, as security forces fire teargas. A GNB armoured vehicle can also be seen.[3402]

1906. Several other pictures and videos, also verified and geo-located by the Mission, show people demonstrating in streets surrounding the square, amid security forces roadblocks, from which teargas was fired.[3403] In the streets surrounding Plaza Bolivar, videos show tires or garbage on fire and manhole covers, blocking some roads.[3404] Photographic material and videos at Plaza Bolivar show demonstrators throwing stones at security forces.[3405] This went on for several hours.[3406] A car was set on fire and other damage reported.[3407]

1907. At around 4 p.m., a group of demonstrators went to the Independencia Municipality Mayor's Office in Plaza Sucre, around 2 km away. According to two separate civil society organisations, an 18-year-old protester named Daniel Veliz, died there, allegedly shot by a public official from the Mayor's Office.[3408] The Mission has not been able to obtain information on the progress of an investigation in this case.

3397 Mission Interview C1AA018 in June 2020; Mission Interview C1AA019 in July 2020; Mission Interview C1AA021 in July 2020.

3398 Mission Interview C1AA019 in July 2020; Mission Interview C1AA021 in July 2020; https://www.instagram.com/p/BtCkZ8chnWn; and photographic material, on file with the Mission,

3399 Mission Interview C1AA019 in July 2020; Mission Interview C1AA021 in July 2020; https://twitter.com/lorenauzg/status/1088292262273052677

3400 Mission Interview C1AA019 in July 2020; Mission Interview C1AA021 in July 2020.

3401 Mission Interview C1AA018 in June 2020; Mission Interview C1AA019 in July 2020; Mission Interview C1AA021 in July 2020; https://twitter.com/KrmnDiaz19/status/1088232409894711296/photo/1; https://twitter.com/75JAVZLA/status/1088099014665482240

3402 https://twitter.com/KrmnDiaz19/status/1088154855691218946,

3403 Photographic material, Document C1AA16, on file with the Mission; https://twitter.com/KrmnDiaz19/status/1088232409894711296/photo/1; YouTube Video, Manifestation in Yaracuy-San Felipe 23 January 2019_2, 24 January 2019, available at: https://www.youtube.com/watch?v=D9KiBChOFZs.

3404 Photographic material, Document C1AA16, on file with the Mission. See also YouTube Video, Manifestation in Yaracuy-San Felipe 23 January 2019_4, 24 January 2019, available at: https://www.youtube.com/watch?v=rMdCEXThbRI

3405 Photographic material, Document C1AA16, on file with the Mission; YouTube Video, Manifestation in Yaracuy-San Felipe 23 January 2019 5, 24 January 2019, available at: https://www.youtube.com/watch?v=3xVCsOvFPj0; YouTube Video, Manifestation in Yaracuy-San Felipe 23 January 2019_6, 26 January 2019, available at: https://www.youtube.com/watch?v=CsV3XSpi1Fo; YouTube Video, protestas yaracuy 23 de enero de 2019, 23 January 2019, available at: https://www.youtube.com/watch?v=euiUqAsM1UE

3406 Mission Interview C1AA015 in June 2020; Mission Interview C1AA019 in July 2020; Mission Interview C1AA021 in July 2020.

3407 https://twitter.com/KrmnDiaz19/status/1088232409894711296

3408 See PROVEA, 3 de mayo, Asesinato de 5 personas en protestas recientes, eleva a 58 el número de fallecidos en protestas en 2019, available at:

Detention of children, including C1AA15[3409]

1908. According to two witnesses interviewed by the Mission, security forces started making arrests at around 3 p.m.[3410] The Missions sources acknowledge that some demonstrators were violent and caused material damage, but also described arrests carried out indiscriminately, which included a by-stander and a schoolchild not taking part in the violence.[3411] At least 51 persons were detained at that moment, including 17 adolescent boys and 2 adolescent girls.[3412]

1909. The Mission interviewed C1AA15, one of the 19 adolescents arrested that day, who described the treatment he received during his arrest and detention, expanding upon and corroborating a prior statement he had provided to Amnesty International.[3413] The Mission also had access to five other interviews, including the statement of three children who had been detained at the protest, which are consistent with the following accounts.[3414]

1910. According to C1AA15,[3415] around 5.30 p.m. a security officer he identified as a CONAS arrested him two blocks from Plaza Bolívar. He and other demonstrators were running away from teargas and pellet shots. He told the Mission that at the time of his arrest, the security official kicked him in the face and knocked him to the ground, kneeling and hitting him. C1AA15 and some other detainees were first taken to the Governor's Office.

1911. According to C1AA15's account he and the other detainees were placed against a wall by unarmed individuals that he identified as pro-government sympathisers. Another witness told the Mission he saw Governor's office staff punching the detainees and beating them with helmets, shields and sticks.[3416] C1AA15 indicated that one Police Public Order Unit officer had beaten him and many others.[3417] The detainees were later taken outside to the parking lot and made to stand against a wall, as soldiers hit them with rifle butts.

1912. There were at least eleven children among the 50 detainees; nine boys and two girls who were taken to Juan José de Maya police headquarters, known as the Baldosera.[3418] C1AA15 and other boys and girls were held in the same room with the adults.[3419] Several hours passed and night fell. C1AA15 had not been able to inform his family of his arrest. He was in bloodied clothes and in severe pain, which he told the Mission kept him awake all night.[3420] A new group of officers arrived at around midnight and beat the detainees again including with a stick. The Officers threatened to beat anyone who fell asleep. Shortly after, another officer arrived and lit a powder that generated a tear gas smoke, which caused the detainees breathing difficulties.[3421]

1913. At 9 a.m. the next day, some detainees were able to see family members for a few minutes during visiting hours. According to C1AA15, a SEBIN official came to photograph the detainees. He gave C1AA15 cloth to wipe his wounds so that he could take his picture. C1AA15 had a swollen cheek, a broken lip, a cut eyebrow and a head wound, as well as

https://web.archive.org/web/20190815023634/https://www.derechos.org.ve/actualidad/asesinato-de-5-personas-en-protestas-recientes-eleva-a-58-el-numero-de-fallecidos-en-protestas-en-2019

3409 Mission Interview C1AA15 in June 2020. The identity of C1AA15 is preserved for security reasons and is currently out of Venezuela.

3410 Mission Interview C1AA015 in June 2020; Mission Interview C1AA021 in July 2020.

3411 Mission Interview C1AA021 in July 2020; and Document C1AA01, on file with the Mission, which contains interviews with five witnesses conducted by Amnesty International in February 2019, consistent with facts corroborated by the Mission.

3412 Mission Interview C1AA021 in July 2020; Foro Penal, Document C1AA19, on file with the Mission.

3413 Mission Interview C1AA021 in July 2020; and Document C1AA01, on file with the Mission.

3414 Document C1AA01, on file with the Mission.

3415 Mission Interview C1AA015 in June 2020.

3416 Mission Interview C1AA025 in July 2020.

3417 Mission Interview C1AA015 in June 2020.

3418 Ibid.

3419 Ibid.

3420 Ibid.

3421 Ibid.

bruises over most of his body.[3422] The detainees spent two days in the police facility, with juvenile boys and girls held together with adults. Without toilet access, they relieved themselves in water pots and plastic bags.

1914. On 25 January 2019 at 5 p.m., the 19 adolescents among the detainees were presented before a judge, who had come to La Baldosera Command.[3423] Minutes before the hearing, the detainees received medical attention.[3424] C1AA15 was accused of criminal association,[3425] obstruction of public thoroughfare,[3426] damaging public property,[3427] disturbing public order[3428] and resisting arrest.[3429] The judge ordered the pre-trial detention of the adolescents.[3430]

1915. The following day, 26 January 2019, the two adolescent girls were taken to a detention facility for adult female detainees in Guama, Sucre Municipality.[3431] The adolescent boys were transferred to a juvenile detention centre, Entidad de Atención y de Internamiento "Manuel Segundo Álvarez", in Cocorote Municipality.

1916. On 29 January 2019, Ediluh Guédez Ochoa, Judge of Juvenile Control Court No. One of First Instance of the Yaracuy state, in charge of the process published a video, available on YouTube, in which she claimed that her decision to keep the adolescents in pre-trial detention had been made under coercion.[3432] The Mission has confirmed that the person appearing in the video, published four days after the hearing is indeed the Judge Ediluh Guédez Ochoa.

1917. The judge explained that she had reviewed the information and intended to release the adolescents but the President of the Criminal Judicial Circuit of Yaracuy pressured her to make a different decision. She said she felt pressured to conduct the hearing at a police headquarters, while surrounded by security force members. She also reported that she received death threats against her and her family the following day.[3433]

1918. On 31 January 2019, San Felipe First Instance Juvenile Control Court No. 1 ordered the adolescents' release, following a public outcry. They were released on condition that they comply with alternative measures, including monthly reporting measures and the requirement to attend a support programme, designed for recidivists, along with their parents.[3434]

1919. On 15 February 2019, the remaining adult detainees were released, also with non-custodial measures.[3435] The case remained pending at the time of writing.[3436]

Findings

1920. Based on the facts above, the Mission has reasonable grounds to believe that arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment were committed against C1AA15. The Mission has reFasonable grounds to believe that other male and female detainees, including adolescent boys and adolescent girls, were also victims of arbitrary arrest and detention, as well as torture and cruel, inhuman or degrading treatment

[3422] Ibid.
[3423] Mission Interview C1AA021 in July 2020.
[3424] Mission Interview C1AA015 in June 2020.
[3425] Criminal Code, art. 286.
[3426] Criminal Code, art. 357.
[3427] Criminal Code, arts. 473 and 474.
[3428] Criminal Code, art. 261.
[3429] Criminal Code, art. 218. Boleta de excarcelación, Document C1AA02, on file with the Mission.
[3430] Mission Interview C1AA021 in July 2020.
[3431] Mission Interview C1AA021 in July 2020.
[3432] YouTube Video, TalCual digital, Ediluh Guedez Juez 1ero. de Control - Yaracuy, 29 January 2019, available at: https://www.youtube.com/watch?v=c_58ibwzOPI
[3433] Ibid.
[3434] Mission Interview C1AA021 in June 2020.
[3435] El Informador, Liberan a 32 detenidos por protestas en Yaracuy, 16 February 2019, available at: https://www.elinformador.com.ve/venezuela/liberan-a-32-detenidos-por-protestas-en-yaracuy/
[3436] Mission Interview C1AA021 in June 2020.

during their arrest and detention. Police officers operating at the Yaracuy state police command, known as La Baldosera, were involved, along with other security forces.

CHAPTER VI: GENDER ANALYSIS AND SEXUAL AND GENDER BASED VIOLENCE

1921. The violations and crimes examined in this report have affected women and girls, and men and boys differently due to underlying gender roles, inequalities and stereotypes previously established within Venezuelan society. Patriarchal roles and stereotypes emphasize the ideal woman as a mother figure within the domestic sphere, and sexualize young women outside this role. Stereotypes also apply to men through the continued prevalence of *machismo,* which demands an exaggerated masculinity rooted in a man's role to defend his family, and, by extension, his homeland. *Machista* stereotypes weaponize homophobia and misogyny to discredit male opponents by insinuating their homosexuality or femininity, both of which connote weakness and defenselessness.[3437] These gender roles and stereotypes are reinforced during the perpetration of violence, as seen below.

I. Differentiated Impacts

A. Differentiated Impact of Detention Conditions on Women and Girls

1922. In some cases, unsuitable detention conditions disproportionately affected the rights of women and girls. The Mission investigated cases in which men and women, including minors, were detained together in either official or unofficial detention centres, including offices and kitchens in police stations, sometimes for multiple days, prior to initial court appearance.[3438]

1923. In several instances, men, women, boys and girls had to relieve themselves into bags in front of officials or in front of other detainees of the opposite sex.[3439] Due to a lack of adequate facilities, one woman told the Mission she was forced to shower naked in a male CICPC locker room during her detention. Male officers would enter the room and speak to her while she bathed, and a superior officer later made sexual advances.[3440] In at least two instances, women and men who did not know each other were held together in small SEBIN administrative offices in El Helicoide for multiple days before being moved into the formal detention area.[3441]

1924. In several cases, menstruating women were held after their arrest without access to menstrual hygiene products and without the ability to bathe properly. This resulted in women wearing wet and bloodied clothes, sometimes in the presence of men who they did not know,

[3437] Mission Interview with CEPAZ held on 21 April 2020; Mission Interview held with Union Afirmativa, held on 23 April 2020; Mission Interview with AVESA held on 24 April 2020; Mission Interview with academic expert on 16 April 2020. See, for example, Asociacion Civil Mujeres en Linea, Asociacion Venezolana por una Educación Sexual Alternativa (AVESA), Centro de Justicia y Paz (CEPAZ), and Centro Hispanoamericano de la Mujer FREYA, Women in Venezuela: a Mirage Called "Feminist Revolution", December 2017, available at: https://wafmag.org/2017/12/women-in-venezuela-a-mirage-called-feminist-revolution/ La Clase, Patriarchy and Machismo in Venezuela: An Interview with Comadres Purpuras (Part I), 24 October 2018, available at: https://venezuelanalysis.com/analysis/14127; and other reports referenced throughout this section.

[3438] Mission Interview C2EE15 in July 2020; Mission Interview C2EE10 in June 2020; Mission Interview C2EE09 in June 2020; Mission Interview C1EE04 in June 2020; Case 35: Marches, armed colectivos and torture (12 February 2014); Case 37: Arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 48: San Felipe, Yaracuy state (23 January 2019).

[3439] Case 35: Marches, armed colectivos and torture (12 February 2014); Case 48: San Felipe, Yaracuy state (23 January 2019).

[3440] Mission Interview C1EE04 in June 2020.

[3441] Case 6: Víctor Navarro, C2EE09 and eight others; Mission Interview C2EE15 in July 2020; Mission Interview C2EE10 in June 2020.

for multiple days. Women were sometimes presented in court in these bloodied clothes[3442] or were mocked by security officials about the blood.[3443] Invariably, women who spoke to the Mission described these situations as deeply humiliating.

1925. Neither SEBIN nor DGCIM detention facilities provided adequate conditions for women, who were held there for weeks, months or years. In El Helicoide, for example, up to 30 women were held in an overcrowded cell, without access to running water. When water was available in the center, men were provided first access. This disproportionately affected the female population, who in addition to having less access than men to water for drinking, bathing and cleaning, also needed additional water during menstruation.[3444] Female detainees reported that they also had less access to sunlight and physical activity compared to men.

1926. Women in custody also faced additional risks of sexual exploitation and coercive transactional sex.[3445] The Mission considers such acts sexual violence precisely due to their coercive nature.[3446] Adequate protection from these acts was not provided, nor were basic goods and commodities made available to all detainees without cost so as to prevent the need for transactional sex.

1927. Sexual contact between custodians and detainees is prohibited under both domestic and international law. The Law on the Rights of Women to a Life Free from Violence prohibits public officials charged with the custody of female detainees from engaging in sex acts with those detainees, even in the absence of force or threats.[3447] Under international law, the inherently coercive environment created by detention has been determined to vitiate the possibility of genuine consent to sex acts between officials or custodians and the detainee.[3448]

1928. Despite SEBIN guards engaging in sexual acts with detainees in El Helicoide, for example, contraceptives were not available, nor were detainees screened or treated for sexually transmitted infections or pregnancy. One witness told the Mission that after female detainees had sexual intercourse with guards, they worried they might become pregnant and tried to prevent conception.[3449] Another female detainee asked her family members to bring

[3442] Case 38: The Caracas protest camps (May 2014); Case 37: Arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 6: Víctor Navarro, C2EE09 and eight others; Mission Interview C2EE15 in July 2020; Mission Interview C2EE10 in June 2020;

[3443] Case 18: Ariana Granadillo and family.

[3444] Mission Interviews C2EE03, C2EE04, C2EE09, C2EE10, C2EE12, C2EE15 in May through July 2020.

[3445] Civil society organizations have indicated that transactional sex and other forms of sexual violence against both men and women in detention facilities is rampant in Venezuela. See, for example, Castro, Shaylim, Mujeres obtienen «privilegios» en cárceles a cambio de trabajos sexuales, Cronica Uno, 7 March 2018, available at: https://cronica.uno/mujeres-obtienen-privilegios-en-carceles-a-cambio-de-trabajos-sexuales/; Una Ventana a la Libertad, Situación de las mujeres privadas de libertad en Venezuela. (Una narrativa desde las vivencias), 18 March 2018, available at: https://www.derechos.org.ve/actualidad/una-ventana-a-la-libertad-presenta-informe-sobre-situacion-de-las-mujeres-encarceladas-en-venezuela-en-la-carcel-las-mujeres-no-necesariamente-son-culpables

[3446] The Mission considers that SEBIN El Helicoide was, by nature, a coercive environment. Detainees possessed limited autonomy and depended wholly on their custodians and other detainees to meet their basic needs. Women had less access to some necessities, such as water, than men. Detainees were also victims of violence or witnesses of violent acts against others, as documented in this report. Such coercive circumstances vitiate the possibility of genuine consent to perform sex acts, including transactional sex. The Mission thus considers transactional sex within these facilities to be inherently coercive, whether it occurred between officials and detainees, or between detainees themselves, and even when such acts were not performed under explicit threat or use of force. As noted below, coercive sex acts in detention are criminalized as rape under both domestic and international law.

[3447] Law on the Rights of Women to a Life Free From Violence, arts 43, 44: "[…] whoever engages in carnal acts, even without violence or threats, will incur the crime foreseen in the previous article, and will be sanctioned with fifteen to twenty years in prison in the following circumstances: […] 3. In the case where the victim is detained or sentenced and has been entrusted to the custody of the aggressor".

[3448] See, for example, ICTY, Prosecutor v. Furundžija, "Judgement", IT-97-17/1-T, 10 December 1998, para. 271.

[3449] Mission Interview C2EE15 in July 2020.

contraceptives to El Helicoide for her to distribute along with sexual health education to the female prisoners.[3450] However, contraceptives became increasingly unavailable throughout the country rendering private provision of such items impossible.[3451] Further, Venezuela maintains restrictive laws criminalizing abortion, even in cases of rape, and of risks to the health of the mother.[3452]

1929. The Mission also received concerning information about the treatment of pregnant women detained by DGCIM. The Mission received credible information that one woman had been severely beaten and asphyxiated to the point of losing consciousness, despite the fact that both she and her boyfriend (also in detention) informed guards that she was in the first trimester of pregnancy. Approximately one month after her arrest, the victim was taken to the hospital where she suffered a miscarriage. She had not been provided medical attention in the interim, despite requests from her family.[3453]

1930. Female family members of detained men and women also faced significant challenges, particularly when their relatives were detained for months or years. Due to the lack of adequate water, food, medicine, and other basic goods in detention centers, female relatives went daily or as often as possible to deliver these items to the detention centers. Transportation to and from the detention facilities could also be challenging for family members, particularly in times of gasoline shortages or when their relative was held far from their place of residence. For example, one woman had to relocate to another state in order to deliver food and water regularly to her husband.[3454] Some detainees told the Mission that security officials withheld some of these deliveries.[3455]

1931. In the cases documented by the Mission, the time and resources needed to provide these items was a significant strain on female family members and their households. Many of the detainees were breadwinners or otherwise contributed to household maintenance. Without their financial support, relatives struggled to maintain the household expenses while juggling caregiving responsibilities, providing for detainees, and pursuing legal processes. Several detainees described returning home after their release to find empty cupboards, and their relatives appeared to have lost significant weight.[3456] In at least one case, female relatives had to leave their paid employment in order to dedicate themselves to providing for the detainee and her case.[3457] Additionally, in four cases, female relatives told the Mission they had been subjected to undue invasive or humiliating body searches when visiting detainees, inhibiting their abilities to visit their relatives while maintaining their dignity and physical integrity.[3458]

[3450] Mission Interview C2EE03 in May 2020.

[3451] See, for example, Equivalencias en Acción Coalition, Indice de escasez de métodos anticonceptivos en farmacias de cinco ciudades de Venezuela, January 2019, available at: https://avesawordpress.files.wordpress.com/2019/02/indice-escasez-ma.-enero-2019.pdf; Convite X la Salud, Monitoring Access to Health in Venezuela, 22 May 2019, p. 16, available at: http://conviteac.org.ve/wp-content/uploads/2019/06/Boletín-22-CONVITE.pdf

[3452] Criminal Code, art 432-436.

[3453] Confidential information held on file with the Mission. Mission Interview C3EE11 in July 2020 and Mission Interview C2EE11 in June 2020; Precautionary measures issued by the Inter-American Commission on Human Rights, on file with the Mission.

[3454] Case 16: Cotiza uprising, Sargent Luis Alexander Bandres Figueroa.

[3455] See, for example, Case 5: Detention of Three Individuals – "Operation Tun Tun"; Case 7: Geraldine Chacón and Gregory Hinds (Community Ambassadors Foundation); Case 6: Víctor Navarro, C2EE09 and eight others; Mission Interview with Rosmit Mantilla in July 2020; Case 19: Karen Palacios (2019).

[3456] Mission Interview C2EE04 in May 2020; Mission Interview C2EE15 in July 2020.

[3457] Mission Interview C2EE04 in May 2020.

[3458] Mission Interview C2EE10 in June 2020; Mission interview with Lilian Tintori, 29 June 2020; Audio C3EE14 received in April 2020 on file with the Mission; Mission Interview C3DD05.

B. Differentiated Impact of Extrajudicial Executions during Security Operations on Men and Women

1932. Patriarchal gender roles influenced the way human rights violations such as extrajudicial executions and arbitrary detentions in the context of security operations affected men and women differently between 2014 and 2020. Although men and boys constituted the overwhelming majority of direct victims of these violations, women were significantly and disproportionately affected as secondary victims.[3459]

1933. The security operations investigated by the Mission occurred in primarily urban, low income areas. As mentioned above, security forces targeted young men in these neighborhoods for execution and detention during security operations, including OLPs/OLHPs and operations led by FAES or CICPC. All of the casualties of the incidents investigated by the Mission were men. Although official and unofficial statistics of casualties are not disaggregated by sex, estimates of male victims suggest they make up over 99% of all killings of civilians by security forces.[3460]

1934. This targeting occurred due to a real or perceived affiliation with criminal organizations, in spite of the fact that in several cases victims had no criminal record.[3461] Young men were generally separated from women, children and the elderly during the operations, as their sex and age matched the perceived generic profile for members of criminal organizations. Women of the same age were generally perceived to be wives, sisters and girlfriends, and therefore not active participants in criminal activities. As a result, a man's gender exposed him to a disproportionately higher risk of being killed or detained during a security operation compared to a woman of his same age.

1935. The Mission confirmed that although women and children were not specifically targeted for killing or detention in these operations, they did suffer from different forms of physical or psychological violence. Security forces generally removed them by force from their homes, sometimes dressed only in pyjamas or underwear due to the early hour of the raids.[3462] In some cases, officials beat and insulted them.[3463] In other cases, women were kept within the house and forced to witness the execution of their sons or husbands, causing them severe psychological harm.[3464] However, when women reported incidents of violence against them, their complaints were rarely investigated.[3465] A lawyer representing victims told the

[3459] See section on Violations in a Security and Social Control Context. The organization COFAVIC has estimated that 99% of all victims of extrajudicial executions are men, with 76% of the fatal victims being under the age of 25; nonetheless, they indicate that 76% of the individuals they assist in seeking justice or other support following these executions are women. COFAVIC, Principales Patrones en casos de violaciones a los derechos humanos – Enfoque de género, 2020, on file with the Mission.

[3460] In her July 2020 report to the United Nations Human Rights Council, the High Commissioner for Human Rights reported that of 1,324 individuals who were killed in the context of security operations between 1 January and 31 May 2020, only nine were women. This is consistent with civil society estimates that less than 1% of victims of extrajudicial killing operations are women. A/HRC/44/20, para. 35; Mission Interview with COFAVIC held on 1 May 2020; Mission interview with CODHEZ held on 17 July 2020; Mission Interview with Mission Interview with academic expert on 16 April 2020.

[3461] Ibid.

[3462] See, for example, Case 23: OLHP in Jardines del Valle, Caracas (2017)

[3463] See, for example, Case 23: OLHP in Jardines del Valle, Caracas (2017); Case 20: OLPs in the Cota 905 neighbourhood (13 July 2015 and 10 May 2016); Case 21: OLP Santa Rosa de Agua, Maracaibo, Zulia (September 2015); Case 22: Barlovento, Miranda (October 2016); Case 32: The Briceño Vera Brothers (20 May 2019); Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019); Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (19 July 2017); Case 29: Luis Enrique Ramos (24 January 2019).

[3464] Case 21: OLP Santa Rosa de Agua, Maracaibo, Zulia (September 2015); Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (19 July 2017).

[3465] The Mission is only aware of one investigation opened into violence against female relatives in the cases it investigated. Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019); Mission Interview with COFAVIC held on 1 May 2020; Mission Interview with CODHEZ held on 17 July 2020.

Mission that prosecutors indicated they would only investigate the killings, as they were the "most serious" offences.[3466]

1936. Further, many female relatives received threats from law enforcement and justice operators, impeding their ability to effectively access justice or reparations, even for the killings of family members.[3467] Nonetheless, some female relatives continued to push for justice and accountability. This role primarily fell to women, as any surviving men in the family feared targeted execution or detention for speaking out. A female expert on citizen security told the Mission, "Only mothers speak about this. There are no males left who can speak, or if there are, they can be attacked or killed if they raise their voices. […] They treated us badly [as women], but we can speak."[3468]

1937. Additionally, families suffering extrajudicial executions often lived in precarious socio-economic situations, even prior to the death of their young male relatives. Women generally carried the burden of family care, while men generated much of the income.[3469] Women remained disproportionately dependent either on male family members or on Government support programs and were focused on caregiving for children, older persons and persons with disabilities, making it difficult for them to seek paid employment outside the home.[3470] Women also spent significant time performing unpaid labor to procure and distribute food, including in community councils and Local Supply and Production Committees (CLAPs).[3471]

1938. The impact of these executions is likely to leave a long-term legacy on Venezuelan society, including on the status of women and girls. Female-headed households in Venezuela, in these particular contexts, are more likely to face conditions of poverty and extreme poverty, to lack access to healthcare and education, and to risk additional gender-based violence including involuntary sex work or trafficking, and are more likely to risk migration in dangerous circumstances.[3472]

[3466] Mission Interview with COFAVIC held on 1 May 2020.

[3467] The Mission documented threats against female relatives in at least six cases of targeted executions and Mission Interview with COFAVIC held on 1 May 2020; Mission Interview with CODHEZ held on 17 July 2020.

[3468] Mission Interview with academic expert on 16 April 2020.

[3469] Though the number of working women has increased slightly in the past decade, in 2018 only 54.9% of women were economically active compared to 67.9% of men. National Institute of Statistics, Household Survey, 2018, data available at: http://www.ine.gov.ve/index.php?option=com_content&view=category&id=95&Itemid=9; Mission Interview with CEPAZ on 21 April 2020; Mission Interview with COFAVIC held on 1 May 2020; Mission Interview with CODHEZ held on 17 July 2020. See also, for example: Garcia, Oriana, La mujer venezolana, líder de la familia y reivindicadora de los Derechos Humanos, 8 March 2020, available at: https://www.analitica.com/actualidad/actualidad-nacional/la-mujer-venezolana-lider-de-la-familia-y-reivindicadora-de-los-derechos-humanos/

[3470] Mission Interview with CEPAZ on 21 April 2020; El Entrompe de Falopio, Desde Nosotras: Situación de los derechos humanos de las mujeres venezolanas, informe anual 2018, 2018, p. 22, available at: http://entrompedefalopio.org/wp-content/uploads/2018/11/Desde-Nosotras-Informe-Completo.pdf

[3471] In 2016 the Government of Venezuela declared a state of emergency and created the CLAPs to distribute food as part of the local Community Councils structure, which had been developed in 2006. Presidential Decree No. 2323, National Gazette No. 6227, 13 May 2016. As many as 80% of CLAPs are led by women, according to Freddy Bernal, the head of the CLAPs system. Some experts believe that the CLAP and community council model has reproduced stereotypical gender roles, relegating female political participation to food, healthcare and cleaning projects: "as such, the role of women as unpaid caretakers is projected from the domestic, private sphere onto the community level and into the public sphere". Mission Interview GAEE01 in April 2020; Venezuela Analysis, Women and the Crisis in Venezuela: A Conversation with Gioconda Mota, 30 November 2018, available at: https://venezuelanalysis.com/analysis/14169.

[3472] According to the last official census conducted in 2011, 39% of Venezuelan households were female-headed. This number has likely increased due to migration in recent years. The last official census was conducted in 2011. National Institute of Statistics, XIV National Population and Housing Census, 2011, data available at: http://www.redatam.ine.gob.ve/Censo2011/index.html; El Entrompe de

C. Role of Female Officials in the Perpetration of Violent Acts

1939. The Government has undertaken measures to increase the presence and rank of female officers within the police force and national armed forces. In 2012, for example, the Gender Equality and Equity Council was established along with its internal guidelines[3473] to increase female participation in the police force, to eliminate gender discrimination and to provide improved attention to female victims of violence.

1940. Although still in the minority, female officials are present on the front lines during crowd control actions, during arrests, and during custody of demonstrators. They also participated in operations to detain political opponents and during security operations. Witnesses and lawyers have specifically mentioned the presence and participation of female officials in cases involving the GNB, PNB, SEBIN, DGCIM and FAES, including during acts of arbitrary detention, short term enforced disappearance, torture and extrajudicial execution, as documented throughout the Mission's report.

1941. In some cases, witnesses have told the Mission that female officials specifically managed the control, detention, or body searches of women and girls.[3474] Investigations revealed that female officials were often responsible for women during home raids. In at least one instance, a female police officer prevented a male officer from watching a woman dress.[3475] On another occasion, the intervention of a female soldier prevented male soldiers from removing the pants of a woman with the intention of touching her vagina and administering electric shocks.[3476]

1942. However, this female presence did not necessarily mean that women and girls escaped violence and other mistreatment; rather, female officials often used the same violent tactics against women as male officials used against men, and were even specifically directed to do

Falopio, Desde Nosotras: Situación de los derechos humanos de las mujeres venezolanas, informe anual 2018, 2018, p. 28-30, available at: http://entrompedefalopio.org/wp-content/uploads/2018/11/Desde-Nosotras-Informe-Completo.pdf; Mission Interview with CEPAZ held on 21 April 2020; See, for example, a 2019 report by the UNHCR that found that 50.2% of the families interviewed had at least one member who were or are at risk due to their specific demographic profile or because they had to resort to serious negative coping mechanisms, including survival sex, begging or sending children under 15 to work. UNHCR, Protection Monitoring Venezuela Situation: Update #1 January – June 2019, available at: https://reporting.unhcr.org/sites/default/files/UNHCR%20Protection%20Monitoring%20Report%20for%20VenSit%20-%20EN%20-%20July%202019.pdf#_ga=2.78402452.1096725601.1596545811-724578007.1596545811. See also: Women's Refugee Commission, The Time to Act Is Now: Addressing Risks of Exploitation for Venezuelan Women and Children Seeking Refuge, April 2019, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/Venezuela-crisis-Peru-Ecuador-04-2019.pdf; CARE, Rapid Gender Analsysis, May 2019, available at: https://reliefweb.int/sites/reliefweb.int/files/resources/CARERapidGenderAnalysis_Colombia_May2019.pdf

[3473] Act No. 0016, published in the Official Gazette No. 39.884, 15 March 2012; Internal guidelines for the Functioning and Organization of the Gender Equality and Equity Council of the Viceminister of the Integrated Policing System, National Gazette No. 40.032, 19 October 2012.

[3474] Mission Interview with COFAVIC held on 1 May 2020, Mission Interview with Espacio Público held on 11 May 2020. In some cases, participation of female officers is mandated by security protocols and guidelines, or particular care is to be taken to prevent disrespect and victimization of women and girls. See, for example, instructions for female officials to provide custody to and conduct search of, female detainees, and the separation of male and female detainees. Consejo General de la Policía, Manual sobre procedimientos policiales, May 2010, pp. 30, 35; Ministerio del Poder Popular para Relaciones Interiores, Justicia y Paz, Protocolo de Actuación de los Cuerpos de Seguridad de Estado en la Operación de Liberación Humanista del Pueblo, January 2017, p. 46; Manual sobre procedimientos policiales, 2010, p. 30.

[3475] Case 30: Luis Alejandro Pérez Llovera (8 April 2019).

[3476] Case 36: Valencia, Carabobo state (13 February 2014).

so.[3477] Some witnesses indicated that female officials acted with as much or more aggression than their male counterparts, against both male and female victims.[3478]

D. Differentiated Impact of Repressive Acts during Protests

1943. Gender norms also affected the way women and girls, and men and boys, participated in the demonstrations from 2014 through 2020, as well as the way they experienced the use of force by state officials.

1944. Men were more likely than women to be detained, injured or killed during the periods of large demonstrations occurring at a time of political crisis in 2014, 2017 and 2019. Young men often led the so-called "front lines" of the protests, confronting security forces deployed to control the crowds, sometimes using violence. This exposed them more to direct injuries or death resulting from use of live ammunition, buckshot or tear gas.[3479] Women and girls usually marched behind the front lines, or provided assistance to wounded demonstrators, bystanders and officials.

1945. Women were not, however, insulated from death, injury or detention. A lesser proportion of young women also joined the "front lines", facing risks similar to their male counterparts.[3480] Security forces killed at least 27 women during or immediately after demonstrations between 2014 and 2019.[3481]

1946. Most information published by both official and civil society sources is not disaggregated by sex, which creates challenges for understanding the full scope of violence against women in the context of demonstrations. Nonetheless, the Mission documented two cases in which women who participated on the front lines of protests received injuries from gas canisters and buckshot fired at close range.[3482] Sexual violence perpetrated against women and girls in this context is described in the section below.

1947. According to a lawyer who met with women and girls detained during protests, "when you are [a woman] you are at the mercy of the officials. Women [arrested during demonstrations] have to just endure it and get out however possible […] They are so focused on getting out that they put whatever happened to them in terms of threats and assault aside. It only comes out later. But most leave the country. They prefer not to follow up. And anyway, the complaints filed in court about torture are not investigated by the prosecutor."[3483]

1948. In several cases of women and girls arrested during demonstrations, security forces released them from custody, only presenting men for initial court appearance.[3484] For this reason, direct accounts of acts of violence against women and girls are not always included in court documents, limiting possibilities for accountability.

[3477] See, for example, a case where GNB officers threatened to call a female officer to beat and detain a woman who persisted in demanding information about her family members during a security operation, Case 21: OLP Santa Rosa de Agua, Maracaibo, Zulia (September 2015).

[3478] Mission Interview with COFAVIC held on 1 May 2020, Mission Interview C2EE03 in May 2020; Statement made by a witness in an interview with a Venezuelan citizen security expert (C4FF03) No. 7, on file with the Mission, 14 June 2018.

[3479] See, for example, YouTube video, BBC News Mundo, "La Resistencia" que protesta contra el gobierno de Venezuela - DOCUMENTAL BBC MUNDO, 28 July 2017, available at: https://www.youtube.com/watch?v=gC2loVDV0ho.

[3480] Mission Interview with CDH-UCAB held on 20 April 2020.

[3481] Document C1BB02, on file with the Mission.

[3482] Case 6: Víctor Navarro, C2EE09 and eight others; Case 36: Valencia, Carabobo state (13 February 2014). GNB guidelines on supporting public order during protests specifically mentioned that men, women, children and the elderly may be guarimberos, and therefore subject to the progressive and differentiated use of force indicated within the manual. Bolivarian National Guard, MAP GNB CO 07 03 01-1, Manual de Normas y Procedimientos Operativos del Servicio de Policía Administrativa Especial y de Investigación Penal en Apoyo a la Administración Pública en Materia de Orden Público, 1 April 2015, p. 79.

[3483] Mission Interview with CEPAZ held on 21 April 2020.

[3484] For example, Case 45: Protests in Maracaibo, Zulia (20 July 2017).

II. Assessment of Sexual Violence Perpetrated in the Context of the Mission's Mandate

1949. In accordance with its methodology, the Mission investigated 45 incidents of sexual violence perpetrated in the context of violations and crimes documented in this report. The investigations were based on direct information and information collected by reliable sources, including by non-Governmental organizations.[3485] Twenty of these incidents are detailed within 15 of the case studies in the report.[3486]

1950. The 45 incidents included 89 specific acts of sexual violence, as listed below. Many of the incidents involved multiple victims.[3487] Of these incidents, nine occurred in the context of demonstrations, 34 occurred during the interrogation or detention of targeted dissidents or opponents, and two occurred during security operations.

1951. Seventy-four percent of the incidents involved sexual violence against men, and 30% involved sexual violence against women. The higher number of male victims documented in this section correlates with the higher percentage of male victims of the various violations and crimes investigated within the Mission's mandate.

1952. The cases investigated and verified by the Mission are consistent with wider reporting trends on sexual and gender-based violence in Venezuela from 2014 to 2019,[3488] which still cannot be considered exhaustive, due to the likelihood of underreporting. Revictimization by public and judicial officials, lack of support for victims during accountability processes, lack of trust in law enforcement and prosecution services, and fear of reprisals, often stemming from explicit and implicit threats were all factors likely to contribute to underreporting.[3489]

1953. Mission investigations indicate that the use of sexual violence as a repressive technique during coercive circumstances such as arrest and detention is pervasive, and perpetrated by a number of different security services without adequate investigation, prosecution or sanction.

The acts of sexual and gender-based violence documented by the Mission included:

[3485] As noted in other sections, the Mission considers direct information to include interviews with victims, families and eyewitnesses with direct knowledge of incidents; interviews with Government and military officers and others with direct knowledge of specific cases or of the internal workings of certain institutions (insiders); verified digital information (in particular videos, satellite imagery or social media content) containing information of an incident; publically available statements or information regarding relevant facts provided by Government institutions and representatives (including televised statements or statements posted on social media); and laws, policies and directives of the Government in Venezuela.

[3486] The additional 25 incidents were investigated through direct interviews with victims and their family members, review of legal filings and judicial acts, and verification of previously recorded declarations to reliable sources. Not all incidents were selected for in-depth case studies, including due to security and privacy concerns.

[3487] For example, during an incident involving detentions during a protest occurring on 20 July 2017 in Maracaibo, Zulia, the Mission documented the rape of one man, the sexual assault of two women and one 14-year-old girl, with a potential fourth sexual assault of a woman who was not arrested which the Mission was unable to verify. Case 45: Protests in Maracaibo, Zulia (20 July 2017). In the case of violence perpetrated against the 35 men detained in Barlovento, Miranda, many of the victims were killed or continued to be disappeared. Reports that they were held naked and tortured with violence directed to their testicles indicate a potential high number of victims. Case 22: Barlovento, Miranda (October 2016).

[3488] The Mission conducted a trend analysis of a closed sample of open-source materials from NGOs and international organizations to identify reported incidents of sexual violence perpetrated by state officials in the context of demonstrations and targeted repression from January 2014 – March 2020. The Mission identified at least 75 distinct incidents, often involving more than one victim, in the documents reviewed. Those incidents broadly mirror those documented in this report in terms of type of conduct, perpetrator and timeframe. Incidents not included in this report merit further investigation.

[3489] Mission Interview with CEPAZ, held on 21 April 2020; Mission Interview with AVESA, held on 24 April 2020; Mission Interview with COFAVIC, held on 1 May 2020.

- Rape, using body parts or objects (three confirmed instances)
- Threats to rape individuals, or have others rape them (19 confirmed instances, multiple victims during group detentions)[3490]
- Threats of rape or other gender violence against victims' female loved ones (five confirmed instances)
- Sexual violence, including e.g. groping of breasts, buttocks and genitals, spanking (ten confirmed instances)
- Forced nudity, including for prolonged periods (23 confirmed instances, multiple additional victims during group detentions)[3491]
- Targeted violence against genitals (male and female), breasts or abdomens (female), including targeted beatings or the delivery of electric shocks (24 confirmed instances).
- Invasive and unnecessary body searches (male and female) of detainees or visitors (five confirmed instances, multiple additional victims)

1954. All acts of sexual violence investigated by the Mission were committed by State officials in coercive environments. Invariably, victims were under the custody or control of the perpetrators, in situations of punishment, coercion, discrimination or intimidation. As such, the acts of rape and other sexual violence investigated by the Mission, when viewed within the context of their commission, may appropriately be characterized as acts of torture or cruel, inhuman or degrading treatment.

1955. DGCIM and SEBIN perpetrated most of the cases of sexual violence documented by the Mission (24 and 10 incidents respectively), directing their actions against men and women perceived to be connected to military dissidence or political opposition. In these cases, officials used sexual violence as a means of torture, to coerce confessions or information from the victims, by inflicting both physical pain and psychological humiliation and distress. These acts were generally carried out in the detention facilities of the intelligence services, in particular DGCIM Boleíta, SEBIN El Helicoide, and SEBIN Plaza Venezuela ("La Tumba"), under the control of higher ranking officials. DGCIM also perpetrated some of the documented acts in the clandestine "safe houses" they maintained.

1956. DGCIM officials, in particular, used sexual violence against, primarily, men belonging to or associated with the military. Victims, their lawyers and family members repeatedly described incidents of forced nudity, targeted violence against male genitals and threats of rape that took place in the DGCIM headquarters in Boleíta. The Mission received credible information that a male detainee was raped in DGCIM Boleíta.[3492] Considering the consistency of the reported incidents, alongside detailed descriptions of sexual torture, the Mission believes that these practices are likely more widespread than currently documented.

1957. In El Helicoide, SEBIN officials threatened to rape men, women and their female family members during the interrogation process, and targeted blows and kicks to male genitals.[3493]

1958. In La Tumba, SEBIN held detainees naked as part of their "white torture". One detainee confirmed to the Mission that he was held naked in freezing temperatures, under

[3490] In some cases, officials threatened groups of arrestees or detainees with rape. The exact number of victims is therefore unconfirmed, but higher than indicated in this list. See, for example, Case 38: The Caracas protest camps (May 2014).

[3491] In several cases, security officials held groups of detainees naked together, often during acts of additional torture, including targeted violence to their genitals. The exact number of victims is therefore unconfirmed, but higher than indicated in this list. See, for example, Case 16: Cotiza uprising, Sargent Luis Alexander Bandres Figueroa.

[3492] The Mission has intentionally omitted all identifying information related to this incident at the request of individuals concerned.

[3493] Case 5: Detention of Three Individuals – "Operation Tun Tun"; Case 6: Víctor Navarro, C2EE09 and eight others; Case 12: Detentions of private citizens for statements on social media perceived as critical of the Government; Document C1EE01 on file with the Mission.

bright lights and in total isolation, causing feelings of helplessness and loss of all sensation.[3494]

1959. Seven incidents involving multiple victims occurred when GNB or PNB officials arrested demonstrators. In these incidents, officials used sexual violence to punish demonstrators for their participation in protests. These incidents included the rape of at least two male protesters and the sexual assault of several female protesters.[3495] Additionally, GNB and PNB officials threatened to rape both male and female arrestees, including members of the LGBTI population.[3496] For example, a witness arrested in 2014 told the Mission that GNB officials held a transgender woman protester with the male detainees, threatening to rape her when she went to the bathroom.[3497]

1960. The Mission only documented two incidents of sexual violence perpetrated in the context of security operations, and it does not appear that sexual violence was a common tactic used in this context.

A. Homophobic and Sexist Insults during Acts of Violence Investigated by the Mission

1961. The Mission documented at least 18 cases, generally with multiple victims, in which SEBIN, DGCIM, GNB, PNB and FAES officials used homophobic and sexist insults against both male and female individuals while perpetrating acts investigated by the Mission, including sexual violence.

1962. These acts occurred during home raids, arrests, interrogations and detention. In several particularly violent episodes, officials attacked the masculinity of male victims during acts of rape or other severe sexual violence, equating being a "filthy" "traitor" with male homosexuality and weakness.

1963. Expressions of femininity and male homosexuality are considered culturally incompatible with military and police identity,[3498] and DGCIM, in particular, used *machista* concepts of masculinity to humiliate and degrade military dissidents during interrogation. Additionally, the Military Justice Code continues to criminalize homosexual acts, and punish them with imprisonment and dismissal from the armed forces.[3499] A witness told the Mission that a female official who regularly asphyxiated detainees would say things like, "these are men who claim to be *commandos,* let's see what kind of wood they're made from."[3500]

1964. A civilian detainee told the Mission that an officer told him that since he was a *mariquita* (faggot), they would only apply 220 volts of electricity rather than 440, before applying electric shocks to his naked body.[3501] One military detainee told the Mission how DGCIM officials would subject new prisoners to a 'game' called "breastfeeding". They beat naked detainees with a bat with the word "*teta"* (tit) written on it. Officials also attached the

[3494] Mission Interview with Lorent Saleh in July 2020.

[3495] Case 36: Valencia, Carabobo state (13 February 2014); Case 37: Arbitrary detention of 23 people in Rubio, Municipality of Junín, State of Táchira (19 March 2014); Case 45: Protests in Maracaibo, Zulia (20 July 2017).

[3496] Case 38: The Caracas protest camps (May 2014); Case 36: Valencia, Carabobo state (13 February 2014).

[3497] Case 38: The Caracas protest camps (May 2014).

[3498] For example, in March 2015, police chief Freddy Bernal, then president of the Police Reform Commission, stated that homosexuals could participate in the police force as long as they did not publicly display their "sexual appetite", as it was against Venezuelan culture, "because imagine if a police officer wanted to use a pink shirt or lipstick". YouTube video, Ultimas Noticias, Freddy Bernal sobre oficiales gays, 19 March 2015, available at: https://www.youtube.com/watch?v=PGyETrmedN8&feature=emb_title; El Estimulo, Bernal se disculpa por declaraciones sobre gays en policías, 23 March 2015, available at: https://elestimulo.com/freddy-bernal-se-disculpa-por-declaraciones-sobre-gays-en-cuerpos-policiales/.

[3499] The Military Justice Code criminalizes "unnatural sexual acts" in article 565, by dismissal from the armed services and between one and three years prison.

[3500] Mission Interview C3DD03 in July 2020.

[3501] Mission Interview C2EE18 in July 2020.

bat perpendicularly to a wall and pushed the naked men backwards towards it, with the aim of anally penetrating them.[3502]

1965. In other cases, DGCIM and SEBIN officials attacked men's social identity by threatening to rape or otherwise harm their female relatives.[3503] One man told the Mission that these threats made him feel guilty and ashamed he had not done enough to protect his family.[3504]

1966. Likewise, officials punished women for participating in demonstrations or otherwise behaving in ways that departed from patriarchal gender expectations. For example, during the arbitrary detention of a 13-year-old girl in Zulia in 2017, PNB officers groped her breasts, crotch and buttocks, while calling her a whore for "hanging around so many men" in the protest that day.[3505] A GNB official held a gun to a woman's head during a protest in Táchira in 2014 while another told him to "Kill that bitch." Officials poured vinegar onto her face and beat her, calling her a bitch and a "*guarimbera hija de puta*" (protesting daughter of a whore).[3506] In SEBIN custody, a guard accused a woman of behaving promiscuously for talking with her male friends during visiting hours, and punished her by removing her visitation rights.[3507]

1967. The Mission also documented cases in which security officials insulted mothers, wives and girlfriends, blaming them for the execution of their male relatives, or for other acts of violence.[3508]

1968. By weaponizing gender roles and stereotypes during the perpetration of the violations under consideration in this report, State officials generated additional severe physical, psychological and moral harm to victims. This discriminatory rhetoric seemed to echo homophobic and sexist statements by high-ranking public officials during the period under review.[3509]

B. Additional cases of violence witnessed by detainees

1969. Some men and women interviewed by the Mission witnessed acts of sexual and non-sexual violence perpetrated against women detained for non-political reasons.

[3502] Mission Interview C3DD03 in July 2020.

[3503] Case 6: Víctor Navarro, C2EE09 and eight others; Case 18: Ariana Granadillo and Family; Statement included in Document C1EE01 on file with the Mission.

[3504] Mission Interview C3EE02 in June 2020.

[3505] Case 45: Protests in Maracaibo, Zulia (20 July 2017).

[3506] Case 35: Valencia, Carabobo state (13 February 2014).

[3507] Case 5: Detention of Three Individuals – "Operation Tun Tun".

[3508] See, for example, Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (19 July 2017); Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019).

[3509] President Maduro and other officials have been repeatedly criticized for homophobic and sexist language. See, for example, ACCSI and UNAF, La discriminación y la impunidad no son iguales ante la ley: Situacion de los derechos humanos de las lesbianas, gays, bisexuals, trans e intersexuales en Venezuela, October 2014, pp. 30 – 33; InfoBae, ¡Mariconsones!": los ataques homofóbicos con los que el régimen de Maduro y sus aliados creen descalificar a sus rivales, 19 September 2019: https://www.infobae.com/america/venezuela/2019/09/19/mariconsones-los-ataques-homofobicos-con-los-que-el-regimen-de-maduro-y-sus-aliados-creen-descalificar-a-sus-rivales/; YouTube video, NTN24, Homofobia: El arma política del chavismo contra sus rivales, 20 September 2019, available at: https://www.youtube.com/watch?v=Lc2_CzoZSGE; YouTube video, NTN24, Homofobia: El arma política del chavismo contra sus rivales, 20 September 2019: https://www.youtube.com/watch?v=Lc2_CzoZSGE; The Committee on the Elimination of Discrimination against Women (CEDAW) and the Inter-American Commission on Human Rights (IACHR) have also urged the state to minimize such public discourse. See: Concluding obserations on the combined seventh and eigth periodic reports of the Bolivarian Republic of Venezuela, CEDAW/C/VEN/CO/7-8, 14 November 2014, Paras 16-17; YouTube video, Comisión Interamericana de Derechos Humanos, Venezuela: Situación DDHH de personas LGBTI, 17 March 2015, available at: https://www.youtube.com/watch?v=4H_8Vxv9xoY.

1970. In SEBIN El Helicoide, the women's cell was located directly under an office used by SEBIN officials to torture detainees, from which the women could hear what occurred in the office above. Several women who had been detained there described the range of torture they regularly overheard against both men and women, including beatings, electric shocks and asphyxiation with plastic bags.[3510] On one occasion, SEBIN officials asked the women if they had any extra bags, which they then used to asphyxiate victims.[3511] They also saw the battered detainees as they were brought through the hallway into the detention area after the abuses.

1971. Two witnesses told the Mission about an incident which occurred in December 2015 in which they overheard the rape of a female detainee in the office above them.[3512] They told the Mission they heard an official tell the woman to "turn over" or "get on your knees", because it was her "turn". They then heard her cries of pain. One witness had to move to another area of the cell because she could not bear to listen. The victim was later brought into the women's cell, where she confirmed that she had been raped. One witness described that hearing a woman being raped was like torture for all the women in the cell.[3513]

C. Access to justice

1972. Most of the women and men whose cases are mentioned here chose not to make complaints for fear of reprisals, stigmatization, and distrust in the legal system.[3514] The young man raped by a GNB officer in February 2014 complained publicly and officially about the violence perpetrated against him and the other detainees. Rather than providing victim support or undertaking an effective investigation, the Attorney General made public statements discrediting him and casting doubt upon his accusations. His case was widely discussed in traditional and social media, causing him and his family significant retraumatization.[3515] It is possible that this discouraged many subsequent victims of sexual violence from reporting.

1973. Members of the LGBTQI population who spoke to the Mission said additional barriers kept sexual minorities from filing complaints about state officials.[3516] One advocate of LGBTQI rights stated, "In Venezuela, we are afraid to make formal complaints. This fear is even stronger when you are homosexual. You will not go to a prosecutor's office and tell them you were tortured for being homosexual. That process signifies revictimization. You know they will make fun of you. As a lesbian woman, as a gay man, even more so if you are transgender."[3517]

1974. The Law on Women's Right to Live a Life Free from Violence (2007) and its 2014 amendment typifies 21 types of violence against women.[3518] Many of the incidents included in this report fall under the scope of this law in addition to other domestic and international legislation. Special tribunals and prosecutors' offices for crimes related to violence against

[3510] Mission Interview C2EE04 in May 2020; Mission Interview C2EE09 in June 2020; Mission Interview C2EE14 in July 2020; Mission Interview C2EE10 in June 2020; Mission Interview C2EE15 in July 2020; Mission Interview C2EE12 in June 2020.

[3511] Mission Interview C2EE12 in June 2020.

[3512] Mission Interview C2EE10 in June 2020; Mission Interview C2EE15 in July 2020.

[3513] The International Criminal Tribunal for the Former Yugoslavia determined that being forced to watch serious sexual attacks on a female acquaintance would rise to the level of gravity required under the crime of torture. ICTY, Prosecutor v. Furundžija, IT-95-17/1-T, Judgment, para 267. Mission Interview C2EE10 in June 2020.

[3514] Mission interview with AVESA, held on 24 April 2020; Interview with CEPAZ, held on 21 April 2020; Interview with Espacio Publico, held on 11 May 2020. See also, for example, La Clase, Feminist Struggles in Venezuela: An Interview with Comadres Purpuras (Part II), 1 November 2018, available at: https://venezuelanalysis.com/analysis/14127

[3515] Case 36: Valencia, Carabobo state (13 February 2014).

[3516] Mission Interview C1EE02 in June 2020; Mission Interview C2EE14 in July 2020.

[3517] Mission Interview with Union Afirmativa, held on 23 April 2020.

[3518] Law on Women's Right to a Life Free from Violence (as amended), National Gazette No. 40549, 25 November 2014.

women were also established, and gender offices to assist and guide police forces.[3519] Nonetheless, significant obstacles persist in access to justice, including pervasive gender stereotypes within law enforcement and investigative bodies, traumatic and re-victimizing investigation methodologies, threats and intimidation from public officials and lack of adequate access to legal, medical and psychosocial assistance.[3520]

CHAPTER VII: RESPONSIBILITY

I. Findings per context

1975. The human rights violations and crimes outlined in this report give rise both to State responsibility and to individual criminal responsibility, either under domestic criminal law or international criminal law, or under both.

1976. The following paragraphs will analyse the various contributions made by individuals, institutions or entities to the commission of these violations and crimes. This analysis will be firstly done by context. It will then be followed by more general findings regarding both State responsibility and individual criminal responsibility.

1977. It is important to recall at this stage that the findings made by the Mission are based on a particular standard of proof: the Mission considers facts to be established if there are reasonable grounds to believe them. This standard is lower than both the standard required for a criminal conviction (certainty beyond a reasonable doubt), and the balance or probability test in civil matters (meaning that something is more likely than not to have happened). The findings of the Mission do not amount to a criminal conviction and the information presented here is, in most respects, less than would be needed to secure a criminal conviction. The determination of the individual criminal responsibility of persons mentioned in this section must be made by the competent judicial authorities.

A. Targeted Political Repression

1. SEBIN

Chain of command and communication

1978. Under its organic law, SEBIN reports to the Vice-President.[3521] Below the Vice-Presidency, the SEBIN hierarchy includes the Director General (appointed by the President), the Subdirector General, the Secretary General and the Directors of the substantive units, including the Directorates of Intelligence, Counter-Intelligence, Strategic Investigations and Immediate Actions.[3522] The Centro Estratégico de Seguridad y Protection de la Patria

[3519] Bolivarian Republic of Venezuela, Informe de implementación de las recomendaciones del CEVI Tercera ronda, MESECVI/CEVI/doc.258/17, 24 August 2017, available at: https://www.oas.org/es/mesecvi/docs/FinalReport2017-Venezuela.pdf

[3520] For a discussion of barriers to women's access to justice in Venezuela, see the section on "Guarantees of Non-Repetition" in Inter-American Court on Human Rights, López Soto y Otros vs. Venezuela, Sentence, 26 September 2018, paras 315 -349, available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_362_esp.pdf; See also: Equivalencias en Acción Coalition, Women on the Edge 2019: Women's rights in the face of the worsening complex humanitarian emergency in Venezuela, May 2019, pags 87-93, available at: https://cepaz.org/wp-content/uploads/2019/09/WOMAN_LIMITE_web_compressed.pdf; El Entrompe de Falopio, Desde Nosotras: Situación de los derechos humanos de las mujeres venezolanas, informe anual 2018, 2018, pp. 103-104, available at: http://entrompedefalopio.org/wp-content/uploads/2018/11/Desde-Nosotras-Informe-Completo.pdf

[3521] Decree No. 2524, Reglamento Orgánico del Servicio Bolivariano de Inteligencia Nacional (SEBIN), published in Official Gazette No. 40.153, 24 April 2013, available at: http://www.franciscosantana.net/2013/04/reglamento-organico-del-servicio.html

[3522] Ibid., arts. 22-25.

(CESSPA), created in 2014, was tasked with processing information received by intelligence agencies and establishing strategic lines of action.[3523]

1979. According to the Mission's investigations, this hierarchical structure has remained in place. There was no breakdown of authority or loss of discipline or control. The violations and crimes documented in this report were, in many instances, committed by officials acting within this well-articulated system involving a significant network of officials.

1980. However, parallel lines of command and communication have also been established, through which high-level authorities have passed direct orders to SEBIN officials. There is information that the President maintained close communication with superiors within SEBIN. The Mission interviewed several witnesses who stated that, on multiple occasions, the President and Diosdado Cabello, current President of the National Constituent Assembly, gave orders directly to the SEBIN Director General.[3524] The Director General then issued orders to the directors of substantive units, the Directorates. The Mission received information from one source that certain orders were passed in typewritten papers in a briefcase.[3525]

1981. The Mission spoke with former SEBIN Director General, General Christopher Figuera.[3526] General Figuera told the Mission that intelligence agencies provided intelligence information directly to President Maduro, bypassing CESSPA.[3527] General Figuera said that this parallel system hired undercover agents and coordinated with colectivos.[3528] Some witnesses interviewed by the Mission also reported having observed what they believed to be undercover agents or members of colectivos participating in arrests of intelligence agency targets. General Figuera described an "immediate action team", which carries out surveillance activities and detentions outside the framework of the law.[3529]

Responsibility for violations and crimes

1982. The Mission reviewed information setting out serious violations and crimes against targeted political dissidents taking place in SEBIN from 2014 to the present, especially up to 2018, including arbitrary detentions and torture and cruel, inhuman and degrading treatment, including acts of sexual violence. There are indications that similar acts were also committed against individuals who were not high-profile political dissidents.

1983. The Mission has recorded the names of over 20 SEBIN officers identified by victims as those directly responsible for the violations and crimes committed against them during arrests, interrogations and custody. These names are stored within its database. In many of the cases, officials affiliated with the SEBIN's Directoate on Strategic Investigations and its Directorate on Counter-Intelligence were identified as those responsible for the violations. Several other officials contributed to these crimes.

1984. With respect to participation in or knowledge of the arbitrary arrests and detentions the Mission notes that:

- The violations and crimes committed were specifically implemented against certain profiles of people, in particular political opponents, individuals critical of the Government and people associated with them. SEBIN was one of the most relevant components in an overall structure to suppress dissidence.

[3523] Ministry of the Interior Resolution No. 007-14 dated 29 January 2014, Published in the Official Gazette No. No. 40,355 dated 13 February 2014, article 11, available at: https://pandectasdigital.blogspot.com/2016/06/reglamento-interno-del-centro.html

[3524] Interview with Christopher Figuera in June 2020, Interview with C1HH03 in June 2020; Mission first interview with C5GG81.

[3525] Mission first interview with C5GG81 in June 2020.

[3526] See paragraph 15 of the methodology section regarding the Mission's evaluation of information provided by Christopher Figuera.

[3527] First Interview with Christopher Figuera in June 2020.

[3528] Ibid.

[3529] First Interview with Christopher Figuera in June 2020.

- There is information of intelligence-led investigations to arrest individuals. Prior to the arrests, the individuals targeted, their family members and associates were subject to surveillance. Their communications were listened to and their messages (telephone and email) were read.
- In several operations, SEBIN officials deployed significant human and material resources to carry out arrests, which could not have been done without prior approval from high-level officials. The State lent some of its most expensive and valuable equipment for intelligence and arrests, including armoured vehicles and helicopters.[3530]
- There is information that high-level authorities within SEBIN participated in the falsification of evidence. According to a former SEBIN employee, the planting of evidence was sufficiently pervasive that it made its way into the workplace lexicon in SEBIN, being referred to as "the seeds".[3531] In at least one case, there were allegations that high-level political authorities ordered that evidence be planted.[3532]

1985. With respect to participation in, or knowledge of, the acts of torture and cruel, inhumaor degrading treatment, the Mission observes:

- Some detainees explained clearly that the acts of torture were carried out in the presence or under the supervision of senior officials, including outside the detention areas in spaces near their offices in El Helicoide and Plaza Venezuela.
- Almost all political detainees were detained in one of two SEBIN buildings, El Helicoide and Plaza Venezuela. These buildings also housed SEBIN office spaces, including the offices of its directors. Given the building's layout, superiors would have heard the same shouts of people being tortured that detainees described hearing around El Helicoide.
- In some cases, high-level political authorities showed video footage of detainees' purported confessions, some while they were clearly under duress, filmed in SEBIN. This was the case, for example, of parliamentarian Juan Requesens, whose purported confession video, in which he appeared ailing and disoriented, was broadcast on Government television networks.
- The violations and crimes were widely denounced by the victims and their families, as well as by Venezuelan organizations and international institutions.
- Former SEBIN Director Christopher Figuera told the Mission that, upon taking up his position at the end of October 2018, he discovered what he described as "a culture of torture" within SEBIN, which pre-dated his appointment.[3533]

1986. Despite this, over the course of a number of years, the violations continued against targeted political dissidents. Up until 2018, the Mission has no evidence to suggest that SEBIN authorities or high-level political superiors took actions to prevent crimes, including condemning violations, taking disciplinary measures, sanctioning perpetrators or removing the conditions for the commission of crimes.

1987. General Figuera told the Mission that when he was appointed SEBIN General Director in later 2018, he tried to take measures to change the practices within the intelligence agency. He told the Mission that he investigated specific allegations of torture, dismissed one official he believed to be involved in violations and ensured the release of certain detainees, among other measures.[3534] The Mission is unaware of any criminal investigations into the torture allegations within SEBIN or sanctions against those responsible.

[3530] Ibid.
[3531] Mission second interview with C5GG81, para. 28.
[3532] In the case of Roberto Marrero, former SEBIN director Christopher Figuera said that he had received orders directly from the President to plant weapons (see Case 11: Roberto Marrero).
[3533] Mission Interview with Christopher Figuera in May 2020.
[3534] Document RSHH01, on file with the Mission.

Findings of the Mission

1988. On the basis of the foregoing, there are reasonable grounds to believe the President knew of violations and crimes, notably the arbitrary detentions and acts of torture or cruel, inhuman and degrading treatment, including acts of sexual violence, documented in this report and carried out within SEBIN since 2014. There is information that at times, he gave orders to the Director General and to Directors of other units in SEBIN. The Mission also believes that the Vice President knew or should have known of the same crimes. Although they had the effective authority to do so, they failed to prevent the crimes and violations, or to repress them.

1989. There are reasonable grounds to believe that high level authorities within SEBIN had knowledge of, participated, and contributed to the commission of these violations and crimes. This includes the Director General and the Directors of the substantive units, in particular, the Directorates of Intelligence, Counter-Intelligence, Strategic Investigations and Immediate Actions.[3535] The Subdirector and Secretary General should also have known about the crimes. Although all of these individuals had the effective authority to do so, they failed to prevent the crimes and violations, or to repress them.

1990. During the time period of the Mission's mandate, the Director Generals of SEBIN were Gustavo González López (17 February 2014 to 31 October 2018); General Cristopher Figuera (31 October 2018 to 30 April 2019),[3536] and again General Gustavo González López (1 May 2019 to time of writing). The Director of Counter-Intelligence during this timeframe was General José Gómez Larez. The Director of Strategic Investigations was Carlos Calderón Chirinos until November 2018,[3537] when he was replaced by Angel Florez. Commissioners Ronny González and Richard Centeno also held high-level positions within the Directorate of Strategic Investigations under Carlos Calderón Chirinos.

1991. There are reasonable grounds to believe that Diosdado Cabello exercised significant influence within the SEBIN, despite not having had a position within the hierarchy of the organisation during the period under review. As noted, several witnesses said that he gave orders to SEBIN. A number of the detentions in the cases investigated were allegedly part of the Tun Tun Operation announced by Diosdado Cabello in his television programme "Con el Mazo Dando". A number of arrests of political dissidents were broadcast on Mr. Cabello's television show. A previous SEBIN employee told the Mission that Mr. Cabello receives the information broadcasted from the SEBIN counter-intelligence directorate.[3538] Mr. Cabello's responsibility for violations merits further investigation.

2. *DGCIM*

Chain of command and communication

1992. Under its 2015 regulatory law, DGCIM is composed of the Director General, a Deputy Director General, Line Directorates, Military Counter-Intelligence Regions and other operational bodies and agencies.[3539] The Director General is appointed by the President[3540] and serves as the highest authority within DGCIM, responsible for the administration,

[3535] Ibid., arts. 22-25.

[3536] With relation to General Figuera, as noted in paragraph 1987 above, he told the Mission that he took various measures to address allegations of mistreatment of detainees in SEBIN. He also said that during his tenure as Director of SEBIN, there were no complaints of torture by detainees. This is corroborated by the information currently available to the Mission. However, the information available to the Mission indicates that the conditions of detention remained inhumane during his tenure.

[3537] General Figuera told the Mission that one of his first measures when he began his functions as Director of SEBIN was to remove Carlos Calderón Chirinos as Director of Strategic Investigations due to the allegations of mistreatment of detainees. Document RSHH01, on file with the Mission.

[3538] Mission Interview C2HH03 in June 2020.

[3539] Presidential Decree No. 1605, published in the Official Gazette No. 40.599, 10 February 2015, article 4, available at: http://www.franciscosantana.net/2016/02/reglamento-organico-de-la-direccion.html

[3540] Ibid., art. 6.

regulation, planning, promotion, development, protection, coordination and monitoring of military counter-intelligence.[3541] Under the law, DGCIM acts in close coordination with the President, advising him as Commander in Chief of the FANB on military counter-intelligence.[3542]

1993. DGCIM's regulatory law states that the specific organization and functioning of the Director General, the Deputy Director General, the Line Directorates, the Military Counter-Intelligence Regions and other operational bodies and agencies will be outlined in a bylaw,[3543] which had yet to be published at the time of writing. Nevertheless, through its investigations, including interviews with former DGCIM employees, the Mission has obtained information regarding the DGCIM's chain of command and the functioning of various units.

1994. This information confirms that DGCIM reports to the President as Commander in Chief. Below the President is the DGCIM Director General, who has been Iván Rafael Hernández Dala since January 2014. Iván Hernández Dala is also head of the presidential guard of honour. Below the Director General is the Deputy Director. Next in the hierarchy are the Directorates, including the Special Directorate of Penal and Criminalistic Investigations (DEIPC); the Operations Directorate; the Communications Directorate; the Technical Operations Directorate; the External Issues Directorate and the Regional Counter-Intelligence Directorates.[3544]

1995. Within DGCIM, there is also a Special Affairs unit, which does not appear in the formal hierarchy. The Mission has received information from several sources that the Special Affairs unit received direct orders from the President, meaning that the President sometimes bypassed the formal lines of authority, issuing instructions to directors down the chain of command. The Mission considers that further investigations into this unit and its involvement in specific cases should be carried out.

Responsibility for violations and crimes

1996. As described in the report, the Mission has reasonable grounds to believe that DGCIM officials engaged in a pattern of human rights violations and crimes against military dissidents, including arbitrary detentions, short term enforced disappearances and torture and cruel, inhuman and degrading treatment, including rape and other acts of sexual violence. These violations and crimes occurred during the period under review, increasing from 2017 to present.

1997. In each of the cases investigated by the Mission, the Special Directorate of Penal and Criminalistic Investigations (DEIPC) was identified as the main unit responsible for the violations and crimes committed against the military officials. In some cases, victims also identified officers from the Special Affairs unit as direct perpetrators of torture. In the cases investigated and reviewed, the Mission received information about the identity of 25 DGCIM officials, mainly from the DEIPC and Special Affairs units, who victims and witnesses identified as among those directly responsible for torture. The Mission has recorded and stored these names in its database.

1998. DGCIM is a highly centralized institution that responds directly to the President. All intelligence information gathered from around the country is sent to DGCIM headquarters in Caracas. One former DGCIM employee told the Mission that regional chiefs collect intelligence information, which is transferred to Boleíta headquarters and "the political part is handled" in Caracas.[3545] The source told the Mission that the "exchange of information [with the highest ranks in DGCIM] was ensured, especially in the political area".[3546]

1999. Many detainees were high profile military actors who were alleged to have been involved in the perpetration of serious crimes against the State. There are reasonable grounds

[3541] Ibid.
[3542] Ibid., art. 7.
[3543] Presidential Decree No. 1605, published in the Official Gazette No. 40.599, 10 February 2015, article 4, available at: http://www.franciscosantana.net/2016/02/reglamento-organico-de-la-direccion.html
[3544] Organigram provided by Christopher Figuera, coinciding with other documents on file with Mission.
[3545] Mission Interview C1HH02 in June 2020.
[3546] Ibid.

to believe that, given the profile of the detainees, high-level authorities within the DGCIM chain of command, including President Maduro, would request and receive information about these cases on a regular basis. DGCIM agents carried out investigations and arrests, and brought detainees to Caracas from different parts of Venezuela, using considerable human and material resources, including a helicopter in one case investigated, showing a high level of coordination and planning. The deployment of resources of this kind could only have taken place with the prior approval by superiors.

2000. Specifically with respect to high-level authorities' participation in or knowledge of the acts of torture and cruel, inhuman and degrading treatment, the Mission also notes the following:

- Prior to taking them to DGCIM Boleíta, DGCIM officials brought detainees to unofficial facilities throughout the country, where they were held for several days and during which time their whereabouts were not disclosed. These movements, occurring in a high number of cases, indicate significant logistics and coordination, of which superiors would have been aware.
- Almost all military detainees were held in DGCIM headquarters in Boleíta until their initial court appearances. This was the period when most acts of torture, including sexual and gender based violence, took place. DGCIM officials of all levels share the building with the detention facilities. The high-level officials would have been aware of the detention conditions and the treatment of detainees.
- There is information in certain cases of commander orders for decisions. In the case of the torture of Colonel García Palomo, General Cristopher Figuera said, "When [DGCIM] brought García Palomo to SEBIN, he was brought tortured, in dilapidated conditions, I didn't want to receive him, he was urinating blood. I told the doctor and the commissioner in charge not to receive him. He responded it is an order of 'my commander'".[3547]
- In many instances mid- and high level officials were involved in acts of torture, by ordering, instructing and/or participating in these acts. DEIPC Director, Colonel Rafael Franco Quintero, and Head of the Special Affairs Unit, Alexander Enrique Granko Arteaga were identified by witnesses as direct perpetrators or co-perpetrators of torture in more than one case. A former detainee explained that the Director of the DEIPC Colonel Franco Quintero filmed the acts of torture to which he was subjected.[3548] He also added that Subdirector Christopher Figuera undertook visits to the detention areas of the DGCIM Boleíta where detainees were visibly held in inadequate conditions and subjected to torture.[3549]

2001. The violations and crimes, continuous in nature and occurring against a high number of detainees, have been denounced by the victims and their families, as well as by Venezuelan organizations and international institutions. Nevertheless, DGCIM continued to be provided with the financial and material resources to continue to carry out acts that have resulted in unlawful conduct by DGCIM officials at the time of writing. As described, in early 2020, DGCIM expanded its detention area, called the "House of Dreams", to hold more military personnel and associated civilians.

2002. DGCIM officials who have been identified as direct perpetrators of crimes and subjected to international sanctions for that reason, have not been removed or been subjected to internal disciplinary sanctions, according to information gathered by the Mission.

2003. In fact, several high-ranking DGCIM directors identified as having been involved in the direct perpetration of crimes have been promoted to higher military ranks. This includes Major Alexander Granko Artega, head of the Special Affairs unit, who was promoted to the

[3547] YouTube Video, Alejandro Marcano Santelli, El torturador de la DGCIM Marcano en vivo con Christopher Figuera 11 June 2020, minute 48:00, available at: https://www.youtube.com/watch?v=v_mcJSwC_ws.

[3548] Mission Interview with C3DD03 in July 2020.

[3549] Mission Interview with C3DD03 in July 2020.

rank of Lieutenant Colonel in July 2020 via a resolution of the Ministry of Defence;[3550] Colonel Franco Quintero, Former Director of DEIPC in DGCIM who was promoted to the rank of General also in July 2020;[3551] and Mr. Hannover Guerrero Mijares, current director of the DEIPC, who was promoted to Second Commander and Chief of Staff (Estado Mayor) of the 35th Military Police Brigade via resolution of the Ministry of Defence in August 2020.[3552]

2004. The Mission is aware of only one case involving DGCIM, that of Captain Acosta Arévalo, in which an investigation into the treatment of the victim in DGCIM has taken place. However even in that case, the accused were not charged with torture or cruel, inhuman and degrading treatment and the responsibility for Captain Acosta Arévalo's death only reached low levels within the lines of command.

Findings of the Mission

2005. The Mission has reasonable grounds to believe that President Maduro, given his position of effective authority and control over DGCIM, and the existing reporting system, had knowledge of violations committed in DGCIM against military dissidentes and their associates, in particular, acts of torture and/or cruel, inhuman or degrading treatment, and has failed to take necessary measures to prevent these acts from occurring, or to repress them. In several cases there is credible information that he participated directly through ordering or instigating certain criminal acts.

2006. The Mission has reasonable grounds to believe that high-level authorities within DGCIM had knowledge of, and contributed to the commission of the acts of arbitrary detentions, short term enforced disappearances and of torture and/or cruel, inhuman and degrading treatment, including rape and other acts of sexual violence, carried out within DGCIM since 2014. This includes the Director General, the Deputy Director General, as well as the Director of the DEIPC and the Head of the Special Affairs Unit. These high-level DGCIM officials, having effective command and control, did not take measures to prevent violations or to repress them.

2007. The Director General of DGCIM is Major General Iván Hernández Dala (in office since January 2014). The deputy Directors of DGCIM have been respectively, General Christopher Figuera (from 2014 until October 2018) and Division General Rafael Ramón Blanco Marrero (from December 2018 until August 2020).[3553] The DEIPC Directors include Colonel Rafael Franco Quintero (2017-2018), Colonel Hannover Guerrero Mijares (2018-2019) and Teran Hurtado (2019 to present). The head of the Special Affiars unit is Major Alexanders Enrique Granko Arteaga.

3. Public Prosecutors and Judges

2008. The Mission observes that the individual responsibility of specific prosecutors or judges for violations or crimes, by acts or omissions, merits additional investigation. The potential responsibility of public prosecutors and judges in human rights violations against political and military dissidents is twofold.

2009. Firstly, in certain cases, prosecutors and judges have played a direct role in cases of arbitrary detentions. Some public prosecutors have put forward or continued prosecutions on the basis of insufficient evidence or knowingly falsified or misrepresented evidence. Judges have allowed prosecutions based on this evidence to continue. The Mission has also documented the role of some judges in violation of procedures established by law and due process guarantees. Specific judges and prosecutors could incur individual responsibility for these violations if shown that they were aware of these violations and acted intentionally.

[3550] Ministry of Defence Resolution No. 036583, 1 July 2020.
[3551] Ministry of Defence Resolution No. 036583, 1 July 2020.
[3552] Ministry of Defence Resolution No. 037274, 18 August 2020.
[3553] According to the US Department of Treasury, Mr. Blanco Marrero was promoted to the rank of General of Division in July 2016, six days after the death of Captain Acosta Arevalo, information available here - https://home.treasury.gov/news/press-releases/sm738. The Mission has not been able to verify this information independently.

2010. Secondly, the judiciary has failed to act as a check on the other State actors, perpetuating impunity for crimes committed. Most of the violations and crimes the Mission documented have not resulted in thorough investigations, prosecutions and convictions of those allegedly responsible. Despite receiving information that victims had been tortured, prosecutors and judges failed to investigate or sanction these acts. There are reasonable grounds to believe that these omissions were affected by a lack of judicial independence.

2011. The Mission finds reasonable grounds to believe that high-level political actors exerted significant pressure over certain members of the judiciary to influence the outcome of cases. Political influence over the judiciary increased both de jure and de facto during the period under review, including through the process of selection and removal of judges. This influence has compromised the independence of judges and prosecutors, directly contributing to violations described in this report.

2012. Some information collected by the Mission showing high-level political pressure over the judiciary includes the following:

- The Mission has received reliable and consistent information about a practice of circumventing the case assignment system in order to designate specific prosecutors and judges to cases to help ensure certain outcomes.
- Both Franklin Nieves, the prosecutor who requested the arrest of Leopoldo López, and Ralenys Tovar, the judge who issued the arrest warrant, described the trial as a sham, explaining that they acted out of fear and because of the pressure exerted by their chiefs.[3554] According to Mr. Nieves, President Maduro and Diosdado Cabello gave orders directly to the Attorney General about what cases to pursue.[3555]
- One former judge told the Mission that he had come under strong political pressure and feared reprisals.[3556] He accused the executive of ordering judges to issue arrest and search warrants against certain people. The judge said that, "the anguish for me was tremendous, every 10 days, when I was on duty and I did not know if they were going to send me a political case".[3557] The former judge said the president of the judicial circuit visited him more than once and asked why he had released protestors "when the order was to leave them in detention".[3558]

B. Repression in a Security and Social Control Context

1. *Operations for People's Liberation (OLP) and Operations for People's Humane Liberation (OLHP)*

Chain of Command and Communication

2013. The OLPs/OLHPs were part of a national security policy coordinated at the highest levels of Government. Official statements explained a clear command structure in which the President ordered the operations and the Ministry of the Interior was responsible for their tactical implementation. In several operations, the Government established "command

[3554] See La Patilla, Entrevista completa Franklin Nieves Conclusiones 27/10/2015, 28 October 2015, available at: https://www.youtube.com/watch?v=i4-t6NGl1Ec. See also https://www.bbc.com/news/world-latin-america-34656748. See also naidavideo, NTN24 26F Jueza Tovar presionada para apresar a Leopoldo López, available at https://www.youtube.com/watch?v=AmrbMTMRwX8;see also .https://www.elnacional.com/venezuela/politica/jueza-del-caso-leopoldo-lopez-huyo-del-pais-por-miedo-gobierno_212524/.

[3555] La Patilla, Entrevista completa Franklin Nieves Conclusiones 27/10/2015, 28 October 2015, minute 2:15, available at: https://www.youtube.com/watch?v=i4-t6NGl1Ec.

[3556] Mission Interview C1HH04 in June 2020.

[3557] Ibid.

[3558] Ibid.

posts", comprising high-ranking Government authorities, including the President, in order to follow the implementation of OLPs.[3559]

2014. The operations involved the participation of mixed military, civilian and intelligence forces. Under the chain of command, the Minister of the Interior gave operational orders to diverse institutions. Some of these were, by law, under his command hierarchy, including the PNB and the CICPC. The Minister of the Interior also gave operational instructions to institutions within the military chain of command, in coordination with the Minister of Defence, specifically to the REDI and ZODI,[3560] and coordinated with the DGCIM.[3561] In some of the cases investigated by the Mission, civilian police units acted under the direction of military commanders appointed directly by the executive.[3562]

2015. Beyond these command levels, various security forces participated in the operations, in particular (1) police (CICPC, PNB), (2) military (GNB through its various Command Zones, and the CEOFANB through the REDI and ZODI) and (3) intelligence services (SEBIN and DGCIM). Not all of these security forces participated in every operation. The directors of each of these institutions would have played a role in relaying orders given by the Ministry of the Interior. In addition to these national-level institutions, state and municipal police also participated in the implementation of OLPs/OLHPs.

2016. In the transition from the OLPs to the OLHPs, the President announced that OLPs would be restructured[3563] and a Protocol of Action on the OLHPs was adopted.[3564] The Protocol named the Ministry of Defence as also "responsible" for the OLHPs, marking a difference from the OLPs.[3565] Despite this, the Mission did not discern major operational differences between the OLPs and the OLHPs in practical terms. The responsibility of the Ministry of Defence in the OLHPs merits further investigations.

Responsibility for Violations and Crimes

2017. The violations and crimes set out in the present report were committed by officers pertaining to different forces who acted jointly. At the operational level, there are reasonable grounds to believe that the violations and crimes were not isolated events, committed by individuals acting beyond orders. Targets were selected using, on occasion, intelligence and significant police resources. Those who executed the material elements of the crimes acted in groups. The patterns identified by the Mission suggest a functional division of tasks. As a result, responsibility is not limited to those that shot the victims, but would extend to officers jointly participating in the violations. The Mission has not been able to identify all individuals bearing responsibility by name.

2018. At the mid-level, the command structure in the operations was complex and further investigation is required to determine potential responsibilities on a case by case basis. Given the diversity of institutions involved and the fact that the OLPs/OLHPs were carried out around the country, different intermediate level authorities were involved in implementing the operations. Given the hybrid military and civilian chain of command, military forces were more involved in some operations, whereas in others, civilian forces played a more prominent role.

3559 Maduro anuncia nueva fase de las OLP para proteger permanentemente al pueblo, 10 May 2016, available at: https://www.youtube.com/watch?v=lZCcrOhEUGU

3560 Maduro ordena despliegue de OLP en el estado Bolívar, 31 July 2015, minute 0:23, available at: https://www.youtube.com/watch?v=VgXGAN7eJvI; Globovisión, Despliegan OLP en Bolívar, 4 August 2015, available at: https://www.dailymotion.com/video/x30d381

3561 Mission's second interview with General Christopher Figuera in May 2020

3562 Mission interview with General Christopher Figuera in June 2020.

3563 YouTube Video, Luigino Bracci Roa, Situation in Venezuela, Maduro will restructure OLPs, purify the GNB, incorporate 10 thousand police and increase quadrants, minute 7:24, available at: https://www.youtube.com/watch?v=seV4j3Bhft0

3564 Protocolo de Actuación de los CSE en las OLHP Enero 2017 "RESERVADO", available at: https://es.scribd.com/document/360500479/Protocolo-de-Actuacion-de-Los-Cuerpos-de-Seguridad-de-Estado-en-La-OLHP

3565 Ibid., p. 9.

2019. The Mission has reasonable grounds to believe that the military commanders and political superiors (1) knew that killings and detentions were taking place during the operations and (2) knew or accepted the high probability that these acts were occurring outside the framework of the law.

2020. In making this conclusion, the Mission notes the following:

- The Mission documented 62 instances in which high-level Government officials announced deaths and mass detentions as part of the "results" of operations, sometimes while the operation was still underway or within a few hours of completion. This indicates both that the communications systems were functioning and that killings and detentions were reported from the security forces on the ground all the way to the Minister of the Interior.
- Information collected in interviews of police who participated in the operations indicates that, at least in some operations, there was a carte blanche to kill, whether or not resistance was exercised.[3566] Government representatives made statements in favour of heavy-handed security tactics used in the operations.[3567]
- Reports of abuses were made public by victims from the very first OLP, Cota 905 in 2015. These concerns were echoed by national and international organizations. The investigations carried out by the Public Prosecutor's Office into 43 OLPs/OLHPs, made clear that the operations resulted in at least 500 deaths and 1000 detentions. The Government, as noted, acknowledged "mishaps"[3568] and expressed willingness to listen to concerns about the OLPs, which is indicative of knowledge of the violations and crimes.[3569]
- Government representatives revealed publicly that significant resources were invesed into the operations. Nearly 100,000 security forces were deployed within the first year of OLPs. Hundreds of vehicles, including armoured cars, motorcycles, helicopters and boats, participated in the operations. The coordinated mobilization of such resources could not have happened without a well-functioning command structure.

2021. Despite knowledge at the high-level that crimes were being committed or were about to be committed, the authorities failed to take adequate measures to prevent or to repress them, even following the transition to the OLHPs. One of the first OLHPs, conducted in Caracas in March 2017, resulted in the death of 9 men and more than 60 people detained. High-level authorities continued operations, made several statements describing them as "successful" and congratulating security forces for operational achievements.[3570]

2022. Rather than postponing, suspending or significantly reforming the operations, the authorities continued to dispatch them and provide them with human and material resources. The violations and crimes continued to be committed.

[3566] Document RSHH04, on file with the Mission; and Document RSHH06, on file with the Mission.

[3567] See Chapter IV on Violations in the Security and Social Control Context on high-level statements praising tough tactics employed in OLPs.

[3568] YouTube Video, Luigino Bracci Roa, Situation in Venezuela, Maduro will restructure OLPs, purify the GNP, incorporate 10 thousand police and increase quadrants, minute 7:24, available at: https://www.youtube.com/watch?v=seV4j3Bhft0

[3569] YouTube Video, Luigini Bracci Roa, Maduro: "Bienvenida las opiniones y sugerencias para perfeccionar las OLP", 20 August 2015, available at: https://www.youtube.com/watch?v=38b3z_ip5-Y&feature=youtu.be

[3570] See YouTube Video, Noticias Venezuela, Maduro sobre OLP 1, No Date, available at: https://www.youtube.com/watch?v=_ZVzDiLGv7w; YouTube Video, MultiMedio VTV, Balance: En dos meses la OLP ha desplegado más de 50 mil funcionarios en todo el país, No Date, availlabe at: https://www.youtube.com/watch?time_continue=93&v=RPE7etaWKkU&feature=emb_logo; GloboVision, Despliegan OLP en Bolívar, No Date, available at: https://www.dailymotion.com/video/x30d381

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2023. For the reasons above, the Mission has reasonable grounds to believe that those in the highest positions of power regarding the OLPs/OLHPs, in particular the President, the Minister of the Interior, and the Minister of Defence contributed to the commission of the violations and crimes that occurred during the operations between July 2015 and July 2017. During the period of the OLPs, the Ministers of the Interior were Gustavo González López (between March 2015 and August 2016) and Néstor Reverol Torres (August 2016 to present). Since October 2014, General Vladimir Padrino López has been Minister of Defence, having taken over from Admiral Carmen Melendez Teresa Rivas (2013-2014).

2024. In addition, high-ranking officials within the military, police and intelligence institutions that regularly participated in the operations (CICPC, PNB, GNB, SEBIN and DGCIM), as well as those in charge of the respective REDI/ZODI, under the standard of reasonable grounds to believe, have also contributed to these violations and crimes. The Mission recommends further investigation into their responsibilities.[3571]

2025. The Mission has reasonable grounds to conclude, given the effective communication systems, that commanders and superiors knew or should have known about what happened in operations. These high-level officials, having effective command and control, did not take measures to prevent violations or to repress them. Although prosecutions have taken place as set out above, there are no examples of investigations and proceedings including officers higher up the chain of command. Where prosecutions have been conducted, they involved only low-level personnel, mostly the direct perpetrators of the crimes.

2. Barlovento Case

2026. While sharing some similar elements with the OLPs/OLHPs, responsibility in the Barlovento case is distinct. The Mission has been able to draw conclusions regarding responsibilities at various levels in the chain of the command for the violations and crimes committed, including extrajudicial executions, enforced disappearances, arbitrary detentions and torture and cruel, inhuman and degrading treatment, including acts of sexual violence.

2027. The Mission has reasonable grounds to believe that the responsibility extends beyond the level of command of those identified as responsible and charged by the Public Prosecutor's Office. Criminal investigations by the Public Prosecutor's office accused 12 members of the 323 Caribbean Battalion as the direct perpetrators of the violations and crimes committed during the Barlovento operation in October 2016. The case was still ongoing at the time of writing, with criminal responsibilities yet to be determined. Shortly after charges were filed, the FANB portrayed the incident as "an isolated event".[3572] The Minister of Defence announced that, "a military criminal investigation was opened and, based on the expertise gathered by the competent bodies, the responsibility of a superior officer and some professional troops who admitted guilt were determined".[3573]

2028. As noted, the Barlovento operation was carried out in accordance with a military plan, Plan Rondón, signed by Major General José Adelino Ornelas Ferreira, then head of REDI Capital. Under the plan, REDI Capital was said to be responsible for the operation, with the support of ZODI Miranda. The REDI was to direct intelligence operations, criminal investigations and control of public order, as well as operational tasks. In practice, two FANB brigades, the 323 Caribbean Battalion and the 321 Caribbean Battalion, were brought in by the REDI Capital from other states to implement the operation.

2029. The FANB hierarchy, referenced in Plan Rondón, outlines the chain command. According to the Mission's investigation, 323 Caribbean Battalion had two chains of

[3571] See the section on State Security Institutions, above, for the names of the heads of these institutions between 2015 and 2017, when the OLP/OLHPs were carried out.

[3572] Ministry of Defence, Press release of the National Bolivarian Armed Forces, 26 November 2016, available at: https://web.archive.org/web/20161128181107/http://www.mindefensa.gob.ve/mindefensa/2016/11/26/comunicado-de-la-fuerza-armada-nacional-bolivariana-2//

[3573] Ibid.

command, one administrative and one operational. Both lines reported to the Minister of Defence and then to the President as FANB Commander in Chief. On the operational side, 323 Caribbean Battalion is part of the Miranda Comprehensive Defence Area, Miranda state, which forms part of Miranda ZODI. Miranda ZODI reports to REDI Capital, which encompasses the Capital District, Miranda and Vargas. Above all of these is the CEOFANB, who reports to the Minister of Defence.[3574]

2030. In its analysis of the elements of military command responsibility, the Mission observes the following:

- Based on the available information, the military hierarchy had effective command and control over the troops. REDI Capital issued Plan Rondón. A high-ranking commander of the 323 Battalion told the Mission that, five days prior to the start of the operation, the 323 Caribbean Brigade Commander, Barrios Torres, ordered him to attend a meeting in Caracas.[3575] During that meeting, Major General Ornela Ferreira (REDI Capital commander) and Alvarez Bellorin (ZODI Capital commander) gave orders to participate in Operation Rondón. Following the implementation of the plan (date unknown), the high-ranking 323 Batallion commander was awarded with the CEOFANB Honor Merit Badge Bar and was nominated for a Ministry of Defence decoration.[3576]

- The command structures knew or should have known that violations and crimes were being committed by the subordinate units in charge of the operations. These were committed in the course of a wide timeframe of up to two weeks, from 13 October to around 27 October 2016. By the end of this timeframe there was a complaint filed before the Office of the Public Prosecutor. According to the investigations, the detainees were transferred from the El Café military base to the Alfarería Bell detachment, and to the execution sites in Caucagua and Aragüita.[3577] This suggests coordination and knowledge about their detention and their treatment and physical condition, not least because they were moved between various points and across checkpoints.

- There are reasonable grounds to believe that operational commanders failed to take necessary and reasonable measures to prevent or repress the violations and crimes. Instead, the information suggests that the commanders attempted to cover them up, for instance by transferring the detainees from the El Café military base. The violations and crimes occurred progressively over the span of several days to weeks. The seriousness of the crimes increased, from the unlawful detention through enforced disappearance, torture and killing. There are reasonable grounds to believe that an early intervention by command authorities could have prevented their occurrence.

2031. The Mission has found no information indicating that the responsibility of commanders up in the chain of command has been investigated, rather, there is information that the 323 Batallion commander was decorated.

2032. The Mission has reasonable grounds to believe that the following individuals knew or should have known that violations and crimes were committed in the Barlovento operation and failed to take measures to prevent or repress the direct perpetrators: the Minister of Defence, General Vladimir Padrino López; the head of the REDI Capital, Major General José Adelino Ornelas Ferreira; representative of the CEOFANB in Miranda, Brigade General Oswaldo José Aquino Laón; and the head of the ZODI Miranda, Brigade General Pedro Luis Alvarez Bellorin.

[3574] NTN News, Politician Teodoro Campos accompanies relatives of victims of massacre in Barlovento, from minute 1:20, 28 November 2016, available at: https://www.youtube.com/watch?v=MCqWsEBlj0U

[3575] Mission Interview C4FF10 in May 2020 and Document C4FF07 on file with the Mission.

[3576] Document C4FF07, on file with the Mission.

[3577] Document C4FF08, on file with the Mission.

3. FAES and CICPC

Chain of Command and Communication

2033. The Organic Law of the Police[3578] and the Organic Law of the CICPC[3579] establish the National Executive, through the Ministry of the Interior, as the Governing Body of the police and the CICPC.[3580] The Governing Body is responsible for dictating and supervising implementation of police policies, designing training, monitoring activities and ensuring that they are in line with human rights.[3581]

2034. The CICPC Organic Law establishes a Director, appointed by the Minster of the Interior, as CICPC head.[3582] The Director is *inter alia* in charge of planning, coordinating, directing, controlling and supervising activities[3583] and ensuring that the police forces act with strict observance of human rights and the laws[3584] in the discharge of their duties.

2035. The PNB depends on the Ministry of Interior and its director is appointed by the Minister.[3585] Although the FAES is part of the PNB, the Mission has received information that it receives instructions directly from the Minister of the Interior, as opposed to the PNB Director.[3586] At national level, the FAES was under the authority of Director Rafael Bastardo until May 2019, after which Miguel Dominguez Ramirez assumed national responsibility. There are also FAES Directors for different regions. The regions may comprise one or more states.

2036. FAES officers committed killings under the authority and orders of their Heads of Brigade. The same is true of CICPC, in which officers also report to Heads of Brigades. The killings were not isolated acts, committed by individuals acting alone. There are reasonable grounds to believe that throughout the reporting period, the command, control, discipline and communication systems within both the FAES and the CICPC were in place. The CICPC's legal framework and its organizational structure remained effective, de jure and de facto. The information also indicates that the FAES were subject to the authority of its Director and its internal hierarchy.

2037. There are reasonable grounds to believe that superiors knew that extrajudicial executions were being committed or about to be committed. Communication was expected and occurred up and down the chain of command. As noted below, the information established reasonable grounds to believe that superiors failed to prevent the violations and crimes. It also indicates that disciplinary or criminal proceedings were uncommon and projected upon the lowest levels of responsibility.

Responsibility for Violations and Crimes

The operational level

2038. As noted, there are reasonable grounds to believe that FAES and CICPC officers carried out extrajudicial executions. They did not act alone but as part of brigades or squads. There are also reasonable grounds to believe that other FAES or CICPC officers who

[3578] Decree No. 5.895, with the rank, value and force of the Organic Law of the Police Service and the National Police Corps, published in the Official Gazette No. 5880, arts. 17 and 18, available at: derechovenezolano.files.wordpress.com/2013/04/ley-orgc3a1nica-del-servicio-de-policc3ada-y-del-cuerpo-de-policc3ada-nacional.pdf

[3579] CICPC: Decree No. 9.045 with the rank, value and force of the "Organic Law of the Investigative Police Service, the Scientific, Criminal and Criminalistic Investigations Corps and the National Institute of Forensic Medicine" (15 June 2012), art. 19, available at: pandectasdigital.blogspot.com/2017/03/ley-organica-del-servicio-de-la-policia.htmlArticle 19.

[3580] CICPC Organic Law, art. 19

[3581] CICPC Organic Law, arts 18 and 20.

[3582] Ibid., art. 55.

[3583] Ibid., art. 57.2.

[3584] Ibid., art. 57.8.

[3585] Véase el organigrama de la policía en http://www.policianacional.gob.ve/index.php/organizacion/.

[3586] Document RSHH03, on file with the Mission.

participated in the operations contributed to the commission of these violations and crimes. The Mission has not been able to identify these individuals by name.

2039. The extrajudicial executions were not isolated acts, committed by individuals acting alone. There is information about an agreed practice to kill individuals with criminal records even if they offered no resistance during detention, including in order to demonstrate "results" in the fight against criminality. The victims were selected through prior background checks, particularly into their criminal records. Specific times and places were selected to carry out the operations. Police vehicles and firearms were used. Members of the FAES and CICPC, in their respective operations, acted jointly and performed different roles, to ensure that there were no relatives, neighbours or other witnesses present, to cover up the crime scene and to simulate "resistance to authority".[3587]

2040. The Mission has also received information in the Luis Enrique Ramos case that members of "colectivos" may have also participated in the operations, although further investigations are required.

The tactical level

2041. The FAES and the CICPC acted pursuant to a chain of command. Each FAES Delegation is under the authority of a Chief. The same is true of the CICPC, with Municipal Sub-Delegations operating under the authority of a Chief.

2042. Former FAES officers revealed to the Mission that FAES regional directors requested statistics of dead and detained people[3588] as a weekly or monthly procedure.[3589] The Heads of Brigade were responsible for compiling these statistics.[3590] A FAES officer indicated that, FAES personnel were issued instructions such as "today I want a dead man [...] each brigade has to have a dead man".[3591] Non-compliance could lead to reprimands. According to a FAES officer, compliance, particularly when an alleged criminal had been "eliminated", helped officers achieve promotions.[3592] Mission investigations revealed a common understanding within these forces concerning the "elimination" of individuals during operations, irrespective of whether the use of force was necessary and proportionate.

2043. Some FAES officials said that they believed their mission was to eliminate persons that are dregs of society, to perform a "social cleansing".[3593] There is information that the police would kill just because they did not like the person.[3594] Two former FAES officers, interviewed separately, told the Mission that should brigades fail to kill the required number of presumed criminals, they proceeded to "kill innocents".[3595] If the person was wanted for murder there was a "green light to eliminate him". If the person was wanted for crimes against property, a FAES officer said "depending on how the arrest goes down, we decide whether we screw him up or not".[3596]

2044. The information suggests close coordination between those who participated in the operations and the brigade detachment. This included intelligence gathered mostly from community-based informants[3597] and Community Councils.[3598] One FAES officer said that prior to attacking an area or a person there was some planning and organization, which included the compilation of files with information about targets including photos, names,

[3587] See Table 5, above.
[3588] Mission Interview C5GG80 July 2020.
[3589] Document RSHH03, on file with the Mission.
[3590] Mission Interview C5GG80 July 2020; Document RSHH03, on file with the Mission; Mission Interview C1HH02 in June 2020.
[3591] Document RSHH04, on file with the Mission.
[3592] Document RSHH03, on file with the Mission.
[3593] Document RSHH04, on file with the Mission.
[3594] First interview with C5GG81 in June 2020.
[3595] Second interview with C5GG81 in June 2020; Mission Interview C5GG80 in July 2020.
[3596] Ibid.
[3597] Mission Interview C5GG80 in July 2020.
[3598] Document RSHH04, on file with the Mission.

nicknames, suspected crimes and criminal records numbers.[3599] However, the Mission has not been able to establish whether these were common police records or special records with lists of persons sought for execution.

2045. The Mission has also received direct information regarding explicit orders to commit extrajudicial executions. The respective Heads of Brigades issued these orders.[3600] In some cases, the Brigade Chief was present in the operation,[3601] but the authorization was usually provided by radio. Radios were also used to perform background checks,[3602] after which the head of the operation, in direct communication with his or her superior, requested and received a "green light to kill". This instruction was transmitted in code: to kill is "eighty"; to go out and find someone to kill is referred to as "to go out eighty-ing".[3603]

2046. The Mission has received information of a functioning reporting system. Full reports about the operations were prepared, although the events were commonly presented as lawful operations. There is information that the reports relied upon repetition of standardised language.[3604] Heads of Brigades took responsibility, reviewed and passed on the files. Besides this official reporting system, there was also consultation between the head of the operation and his superior, the Head of Brigade, as mentioned above.[3605] Through this process, orders to execute individuals went down and information about the operations went up the chain of command.

2047. In several cases, victims' relatives reported having been threatened and persecuted for reporting and following up on the events.[3606] Some managed to obtain protective measures. However, at instances, they were protected by the same police force they had denounced.[3607] An interviewee has indicated that FAES operate in the understanding that they are untouchable.[3608] As noted below, the Mission received information from a former prosecutor who decided to investigate cases of extrajudicial executions committed by FAES agents but she was blocked, threatened and instructed never to investigate allegations of crimes committed by FAES.[3609]

2048. Although Mission investigations revealed the essential role displayed by the Heads of Brigades, the Mission has been unable to identify the Heads with authority over the 18 concrete extrajudicial executions documented in this report. It has also been unable to collect documentary proof of orders or authorizations to kill from the Heads of Brigade to the operational level before or during these particular events. The Mission recommends additional investigations in this respect.

Strategic level

2049. The strategic level is by law in charge of planning, training, supervising, monitoring, and evaluating these police bodies, as well as ensuring strict adherence to human rights

[3599] Document RSHH05, on file with the Mission.

[3600] Mission Interview C5GG80 in July 2020. According to RSHH02 "if it is large it is ordered by the Minister [of the Interior], otherwise it is decided by the commander of each FAES task force in each state".

[3601] Mission Interview C5GG80 in July 2020.

[3602] Ibid.

[3603] Ibid.

[3604] A former Prosecutor has confirmed this in an interview with the Mission, July 2020; the cases documented by the Mission show examples of such standard language: See Case 24: Carlos Jampier Castro Tovar, Darwin Gabriel Rojas Tovar, Roswil Belisario Tovar, Yohandri Antonio Trujillo Núñez (18 May 2016) Case 25: Brothers Irvin Enrique Beomon Mejía (7 August 2016) and Inyerber José Beomon Mejía (19 July 2017).

[3605] Ibid.

[3606] See for example the Arai Perez case and Luis Enrique Ramos case.

[3607] See Case 33: Johander Javier Arai Pérez and Wilkerman Ruiz (1 November 2019) and Case 31: Luis Alfredo Ariza Gamarra (13 May 2019).

[3608] Document RSHH02, on file with the Mission.

[3609] Mission Interview RSHH07 in July 2020.

obligations. Although in practice these duties are entrusted to specific offices, the strategic level retains effective authority and responsibility.

2050. The Mission's investigations indicate that high level authorities knew or should have known that extrajudicial executions were taking place. The Mission has received information from a former FAES official about meetings between the Minister of Interior, the PNB Director, the FAES National Director and the Director of the CICPC.[3610] Although the Mission does not have sufficient information that orders to commit extrajudicial executions targeting specific individuals were issued during these meetings, it has established that the participants decided whether and where to conduct "saturation" operations, understood as operations in which the police goes to communities after "useless" people and "eliminates" them.[3611]

2051. The Mission has received information that, although the higher levels in the chain of command only see statistics of deaths that have occurred and the quantity of drugs seized, they are "aware of what is going on".[3612] One former FAES officer with direct knowledge told the Mission that the reports reach the FAES Director and he meets with the Minister of Interior. According to this source, both figures know what is going on even though they do not know the details of each extrajudicial execution.[3613]

2052. Beyond the direct information received, the high number of reports made by Venezuelan and international organizations and media since 2014, documenting allegations of extrajudicial executions, was in the public domain and was known to the relevant authorities at strategic levels.

2053. Those with authority over FAES and CICPC had a duty to take measures to prevent and repress the violations and crimes.[3614] The officers' training was deficient for reasons that include lack of sufficient budget. There is video information that, rather than training to ensure respect for the lives of all people without distinction, officers were encouraged "to kill criminals without compassion" in the fulfilment of the mission.[3615]

2054. The Mission has been unable to find any information of specific orders intended to prevent this type of crime, protest against or criticise criminal conduct. To the contrary, soon after being urged by the High Commissioner for Human Rights to dissolve the FAES,[3616] the

[3610] Mission Interview RSHH07 in July 2020.

[3611] Mission Interview C5GG80 in July 2020; Document RSHH04, on file with the Mission, and Document RSHH05, on file with the Mission.

[3612] Mission Interview C5GG80 in July 2020.

[3613] Ibid.

[3614] These duties include, ensuring that the forces are adequately trained, issuing orders aiming at bringing the relevant practices into accord with the law; issuing orders specifically meant to prevent the crimes, as opposed to merely issuing routine orders; protesting against or criticising criminal conduct; insisting before a superior authority that immediate action be taken; securing reports that actions were carried out in accordance with the law; postponing operations; suspending, excluding, or redeploying violent subordinates; conducting operations in such a way as to lower the risk of specific crimes or to remove opportunities for their commission; and taking disciplinary measures to prevent the commission of crimes; see in this respect ICC Prosecutor v Bosco Ntaganda, "Decision on the Confirmation of Charges", 9 June 2014, ICC-01/04-02/06-309, para. 164; Prosecutor v Bemba, "Judgment pursuant to Article 74 of the Statute", Trial Chamber III, 21 March 2016, ICC-01/05-01/08-3343, paras. 203 and 204.

[3615] Indeed, the Mission has a verified and geo-located a video published on the official Instagram site of the PNB/FAES marching in "El Junquito" police academy for Special Forces, in Caracas. The video shows officers at a parade chanting: "fulfilling the mission is above everything, killing criminals without compassion". At the time of writing, the video is no longer available online. It is, however, on file with the Mission. See for a similar reasoning Prosecutor v. Katanga, "Decision on the Confirmation of Charges", 30 September 2008, ICC-01/04-01/07-717, para. 280 with FN 382 and para. 555.

[3616] See OHCHR "Human rights situation in the Bolivarian Republic of Venezuela - Report of the United Nations High Commissioner for Human Rights", A/HRC/41/18, 4 July 2019, para. 32.

President announced the following at a public event, "All support to the FAES in its daily work to provide security to the people of Venezuela, long live the FAES!"[3617]

2055. In almost all investigated cases, victims' family members told the Mission that proceedings were either not conducted, or no significant progress had been made despite the time elapsed.

2056. A former prosecutor told the Mission that when the FAES started operating in the state where that prosecutor resided, the killings started. The prosecutor found enough evidence to launch an investigation against certain FAES officers for extrajudicial executions. When the prosecutor refused to accept the superior's request to halt the investigation, FAES officers came and searched the prosecutor's house without a warrant. The officers stated "you are the one who does not let us do our job, we do not follow instructions from you, we only follow instructions from the President […] let us do our job, we came to clean up this town".[3618] The prosecutor was later told by the superior never to investigate allegations against FAES officers.[3619]

2057. The Mission's investigations show reasonable grounds to believe that sufficient measures to prevent the violations and crimes were absent. There are also indications that the national authorities did not take sufficient disciplinary or judicial action to punish the crimes, although further investigations are necessary to establish this more firmly. There is a sufficient link between the failure at the strategic level to take measures and the resulting extrajudicial executions.

Findings of the Mission

2058. The Mission has reasonable grounds to believe that the President and the Minister of Interior had knowledge of and contributed to the commission of the extrajudicial executions committed in the context of security operations, as documented in this report. Within the period under review, the Ministers of the Interior have been Miguel Rodríguez Torres[3620] (April 2013 to October 2014); Carmen Meléndez Teresa Rivas (October 2014 to March 2015); Gustavo González López (March 2015 to August 2016);[3621] and Néstor Reverol Torres (August 2016 to present).

2059. The Mission has reasonable grounds to believe that the Directors of the PNB and of the CICPC, as well as the FAES National Director, had knowledge of and contributed to the commission of those same crimes. Within the reporting period, the Directors of the PNB included Brigade General Manuel Pérez Urdaneta (January 2014 to April 2015); Major General Juan Francisco Romero Figueroa (April 2015 to September 2016); Major General Franklin García Duque (September 2016 to March 2017); Brigade General Carlos Anfredo Pérez Ampueda (March 2017 to May 2019); and Brigade General Elio Estrada Paredes (May 2019 to present). The Directors of the CICPC were José Gregorio Sierralta (2014 to February 2016) and Douglas Rico (February 2016 to present).

2060. Regional Directors and state level Directors bear responsibility corresponding to the areas where they exercised effective authority and control. The extrajudicial executions documented in the present investigation occurred in the Capital District, Lara, Zulia and Miranda. The FAES Director for the Western Region (since mid-2018 Alexander Bravo Amaricua) has authority over Zulia, Falcon and Lara states. The Mission has reasonable grounds to conclude that commanders and superiors knew or should have known about what

[3617] YouTube, Nicolas Maduro challenges Michelle Bachelet: "Long Live FAES", 18 July 2019, available at: https://www.youtube.com/watch?v=cTvY5_7Lq1s

[3618] Mission Interview RSHH07 in July 2020.

[3619] Ibid.

[3620] Miguel Rodríguez Torres later denounced the Government and was arrested in 2018. See Control Ciudadano, Information, available at: https://www.controlciudadano.org/tag/miguel-rodriguez-torres.

[3621] In August 2016, General Reverol Torres was indicted in the United States on drug trafficking related crimes allegedly committed while director of Venezuela's Anti-Drug Office. See Former Top Leaders of Venezuela's Anti-Narcotics Agency Indicted For Trafficking Drugs To The United States, 1 August 2016, available at: https://www.justice.gov/usao-edny/pr/former-top-leaders-venezuela-s-anti-narcotics-agency-indicted-trafficking-drugs-united. See indictment at: https://www.justice.gov/doj/page/file/1261891/download.

happened in operations. These high-level officials, having effective command and control, did not take measures to prevent violations or to repress them.

C. Violations in the Context of Protests

Chain of Command and Communication

2061. There was an articulated State response to protests, reflected in laws, policies and plans developed at the highest level. Some of these plans and policies have had the purpose of organizing the intervention of security forces to maintain public order in protests, including the intervention of military personnel and coordination with colectivos The progressive development of the legal and policy framework in the context of protests demonstrated multiple modifications made to the command structure, ensuring centralized control from the highest levels over the maintaining of public order during protests.

2062. Since 2014, the hierarchical command structure became increasingly militarized. Among the policies were the Plan Zamora, other targeted military plans (Plan Guaicaipuro, Plan Zamora Fragmentada in the state of Mérida), Ministry of Defence Resolution No. 8610[3622] and the Manual on GNB Intervention in Demonstrations.[3623] In addition, several of the plans and policies expressly involved civilians in security tasks.[3624]

2063. Public order operations in the context of protests often involved mixed military, police and security forces. Prior to the April 2017 launch of Plan Zamora, the Ministry of the Interior was responsible for operations and both civilian and military (GNB) forces were under its command.[3625] Post April 2017, the President as commander in chief ordered the operations and the CEOFANB (who reports to the Minister of Defence) implemented them through the REDI and ZODI,[3626] overseeing the participation of the mixed military/police. With respect to police, the forces participating in protests included CICPC, PNB, SEBIN and state and municipal police.

Responsibility for Violations and Crimes

Arbitrary arrest and detention

2064. In the cases investigated, the Mission has collected information regarding individuals and units involved in the perpetration of arbitrary detentions. The Mission observes that more investigations would be necessary to identify further individual responsibilities, especially at low and mid-levels of authority and control.

2065. The Mission considers that there were cases of arbitrary detentions committed in the context of protests. The Mission does not have sufficient information at this point to find that there was a high-level plan or policy to arbitrarily detain in the context of protests. Further investigation would be required to estabish such a plan or policy, as well as knowledge of a criminal pattern of conduct in relation to acts of arrest and detention.

Torture and cruel, inhuman or degrading treatment

2066. The Mission has reasonable grounds to believe that high-level security authorities knew or should have known that people arrested in the context of demonstrations were subjected to ill-treatment and torture. These acts took place in dozens of military and police detachments. They repeated over the years, especially in 2014 and 2017. They were not isolated incidents, executed by individuals acting alone and beyond orders. They were

[3622] Ibid., art. 24.

[3623] Manual de normas y procedimientos operativos del servicio de policía administrativa especial y de investigación penal en apoyo a la administración pública en materia de orden público, MAP GNB CO 07 03 01-1, 1 April 2015, p. 160.

[3624] See Chapter II, section on the Security Framework above.

[3625] Mission Interview C1HH01 in June 2020.

[3626] See e.g., Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, art. 2.9, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html

continuous in nature and implied the cooperation, by act or omission, of many state agents at different levels.

2067. In seven incidents of protests investigated involving torture or ill-treatment, including sexual and gender based violence, against 19 persons, the Mission has collected information regarding the individuals and unit involved in the perpetration of violations and crimes at various levels of the chain of command. In 3 of these incidents, involving 10 victims, the Mission has identified the chains of command at the direct, tactical, operational, strategic and political levels. The names of various individuals within the structures identified are stored in the Mission's database. The Mission has reasonable grounds to believe that high level authorities had knowledge of the torture and cruel, inhuman or degrading treatment, including the following:

- Arrests that took place in open spaces and beatings and ill-treatment occurring during arrests were documented in video footage and disseminated widely in the public media and in NGO reports;
- Some people arrested during protests, in particular those identified as leaders, were detained and kept for long periods in SEBIN facilities where high-level authorities at least should have known of their detentions and the conditions therein;
- In some cases investigated, commanders allegedly participated in the acts of torture, as seen in the Gerardo Carrero case where the SEBIN Director of Investigations is accused of direct involvement;
- In other cases, high-level officials were present during the torture and ill-treatment and failed to intervene. This includes the 2014 protests camps case, in which a military general and the Minister of the Interior were present at GNB/Regional Command Five where the protesters were detained and mistreated. The torture and ill-treatment of student leaders and others in military trucks in GNB/Regional Command One in San Cristobal Táchira in 2017 is another example, as a military general was regularly seen visiting and mocking detainees.

2068. In none of the cases investigated or reviewed of torture, ill-treatment and sexual and gender based violence has an alleged perpetrator been sentenced. Despite evidence of knowledge of allegations of torture and ill-treatment of protesters, the Mission is aware of no information indicating that high-level authorities have taken action to ensure the responsible bodies prioritise investigating allegations of torture.

Arbitrary deprivation of life

2069. With respect to arbitrary deprivation of life, in seven cases of arbitrary killings of protesters by State security forces, the Mission has identified the chains of command at the direct, tactical, operational, strategic and political levels. The names of various individuals within the structures identified are stored in the Mission's database.

2070. Further investigation is required into the flow of information between the operational level and the high-level authorities, prior, during or in the aftermath of events referred to in this section, to establish whether high-level authorities knew or should have known that crimes were being committed or about to be committed.

2071. Only five cases of killings in protests have resulted in court judgments finding the accused guilty.[3627] Of 165 cases reviewed by the Mission of killings in protests, 160 have not resulted in a judgment.[3628] Responsibility for this lies in some cases with security forces, which failed to cooperate with the justice system and provide information that would assist investigations. More investigation is required to establish the levels at which decisions affecting cooperation with the justice system are taken.

[3627] Document C1BB02, on file with the Mission.
[3628] Ibid.

2072. The Mission has documented statements at high level, which interfered with investigations[3629] In relation to the case of Juan Pablo Pernalete, The Mission has on file a letter[3630] signed by brigadier general commander of the GNB-43 zone stating that GNB was not at the scene of the killing, despite evidence showing otherwise.

2073. In certain cases, members of the Public Prosecutor's Office are responsible for failure to ensure prompt, thorough and impartial investigation required in cases of the loss of life, as illustrated by the David Vallenilla case. His June 2017 killing was clearly captured on video. The investigation was completed on 19 October 2017 and the Public Prosecutor's Office laid charges against an Air Force first sergeant.[3631] The lack of any meaningful progress in the case up until the time of writing establishes a reasonable ground to believe that the relevant authorities have failed to carry out the investigation and trial as required under the obligations to ensure the right to life. Lack of judicial independence and political pressure exerted upon some members of the judiciary is documented throughout this report.

Killings by colectivos

2074. The highest levels of Government were aware that *colectivos* were involved in security operations around demonstrations. As noted above, since 2014, the Government has expressly involved civilians in security tasks, often under the concept of the "civic-military union".[3632]

2075. President Maduro has been public about his support for *colectivos*, declaring in March 2019, to be their first defender and praising the character and patriotism of those involved.[3633] The Mission has information from the former Director of the SEBIN about meetings, which occurred between representatives of colectivos, and the President with Ministers of State also in attendance.[3634] Another former military official told the Mission that colectivos spokespersons and coordinators were in regular communication with President Maduro.[3635]

2076. The Mission has access to a 2014 communication sent by a high-level military officer to his superiors, including the Minister of Defence and the CEOFANB, informing them of colectivo participation in "internal order operations", which includes protests.[3636] The communication said that the participation of colectivos in such operations took place with the "support and knowledge of State entities and institutions and relevant authorities".[3637]

2077. The Mission has reasonable grounds to believe that *colectivos* were directly involved in several arbitrary killings, and that these arbitrary killings occurred either with facilitation of, or the participation of officials of various state agencies. The State has responsibility for acts of non-state actors when these acts are effectively under the control of state forces or authorities.

Findings of the Mission

2078. The Mission finds that high-level authorities knew or should have known about conditions of detention and that torture and/or ill-treatment was being practiced and that they had the effective authority and control to prevent and repress such violations, but failed to do so. In respect of those violations that occurred, they failed to take reasonable and appropriate

[3629] For example statements made by the Minister of Interior Relations and People's Power in Case 42: Death of Armando Cañizales (3 May 2017) and Case 43: Killing of Miguel Castillo (19 May 2017).
[3630] Document C1BB05, on file with the Mission.
[3631] Acta de acusación, Exp. MP-283490-2017, 19 October 2017, on file with the Mission.
[3632] See e.g., Presidential Decree No. 2323, published in Official Gazette No. 6227, 13 May 2016, art. 2.9, available at: https://pandectasdigital.blogspot.com/2016/05/decreto-n-2323-de-fecha-13-de-mayo-de.html, art. 9.
[3633] YouTube Video: Luigino Bracci Roa – Situación en Venezuela. Nicolás Maduro en contacto telefónico con Diosdado Cabello en Con el Mazo Dando, minute 31:35, 3 April 2019, available at: https://www.youtube.com/watch?v=yTOInr6ViRU
[3634] Mission Interview SCHH03 in June 2020.
[3635] Mission Interview SCHH05 in June 2020.
[3636] Mission Interview C1AA29 in June 2020.
[3637] Ibid.

steps to punish those responsible. In other cases, they participated directly in the cases in question; and in others, still they participated indirectly, creating the conditions for the violations to occur.

2079. To make more specific findings on responsibilities for arbitrary killings occurring at protests, the Mission requires more specific evidence connecting the crimes with the acts or omissions of those in superior positions of responsibility. Additional investigations in this respect are necessary.

II. State responsibility

2080. As the primary duty holder of international human rights obligations, a State is responsible for all acts that are attributable to it and constitute a breach of an international obligation.[3638] All branches of Government (executive, legislative and judicial), and other public or Governmental authorities, at whatever level, national, regional or local, are in a position to engage the responsibility of States.[3639] The State may also be held responsible for the wrongful conduct of non-State individuals or groups when the latter are acting in complete dependence on the State, and under its direction or its effective control, or with the acquiescence of the State.[3640]

2081. In addition to the State's obligation to prevent the occurrence of human rights violations and ensure that individuals have accessible and effective remedies when they occur,[3641] States also have the obligation to thoroughly and independently investigate and prosecute human rights violations.[3642]

2082. The Mission has reasonable grounds to conclude that the acts and conducts described in this report are in breach of Venezuela's international obligations under international treaty law.[3643] A failure to investigate and to bring to justice perpetrators of such violations can in and of itself give rise to a separate breach of the international obligations of the State.[3644] This is particularly the case for those violations under the mandate of the Mission that are recognized as criminal under either domestic or international law. Venezuela has the primary obligation to ensure accountability for these violations and crimes.

III. Individual criminal responsibility

2083. The violations and crimes documented in this report give rise to individual criminal responsibility, either under domestic criminal law or international criminal law, or under both.

2084. The violations and crimes documented in this report correspond to conduct that may be legally qualified, under Article 7 of the Rome Statute, as the crimes against humanity of murder, imprisonment or other severe deprivation of physical liberty in violation of

[3638] International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, (General Assembly resolution 56/83), hereinafter "ILC Articles", art. 2.

[3639] See Human Rights Committee, General Comment No. 31 "The Nature of the General Legal Obligation Imposed on States Parties to the Covenant", CCPR/C/21/Rev.1/Add. 13, para. 4. See also ILC Articles, art. 4.

[3640] ILC Articles, arts. 5 and 8, See also ICJ, *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, 1986* paragraphs 109-110; and *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. Serbia and Montenegro), Judgment, 2007* paragraphs 392, 397, 400, 401. See also A/HRC/37/CRP.2, para.116.

[3641] See ICCPR, art. 2. See also CCPR/C/21/Rev.1/Add. 13, para. 4, para. 15. See also A/RES/60/147, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

[3642] CCPR/C/21/Rev.1/Add. 13, para. 15.

[3643] See Chapter II, section on the Legal Framework, above.

[3644] Ibid.

fundamental rules of international law, torture, rape or any other form of sexual violence of comparable gravity, enforced disappearance[3645] of persons and other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health.

2085. Some of the same conduct may also constitute the crime against humanity of persecution. The Mission has reasonable grounds to believe that the conduct established in Chapters III and V of this report constitutes intentional and severe deprivations of the following rights: the rights to life, liberty and security of the person, the right not to be subjected to cruel, inhuman or degrading treatment or punishment, the right not to be subjected to rape and other forms of sexual violence, and the right not to be subjected to arbitrary arrest or detention. Taken together, these violations may constitute acts of persecution, while also consisting of distinct crimes against humanity. The materially distinct element of persecution, meaning the targeting of a person or persons, or a group, on the basis of discriminatory grounds, is made out when targeting is based *inter alia* on "political grounds".[3646] The direct victims of the crimes discussed in the cited Chapters were targeted due to their identity as perceived political opponents to the regime.

Contextual elements of the crimes against humanity

2086. As further elaborated below, the Mission has reasonable grounds to believe that most of the violations and crimes documented in this 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 a State policy. In relation to these crimes, the Mission has reasonable grounds to believe that crimes against humanity were committed in Venezuela in the period under review.

2087. These crimes include:

a. The imprisonment and other severe deprivations of physical liberty in violation of fundamental rules of international law, the acts of torture, rape and other forms of sexual violence, and other inhumane acts of a similar character documented in Chapter III, as well as the acts of torture, rape and other forms of sexual violence, and other inhumane acts of a similar character documented in Chapter V.

b. The murders (referred to as arbitrary killings and extra-judicial executions throughout the report), the imprisonment and other severe deprivations of physical liberty in violation of fundamental rules of international law, the enforced disappearances,[3647] the acts of torture and other inhumane acts of a similar character, committed against members of the civilian population in the context of security or social control operations.

2088. These crimes were committed as part of an attack directed against a civilian population. Indeed, first, the acts constituted a "course of conduct" in the sense that there was a multiple commission of acts, which formed part of an overall flow of events[3648] as opposed to crimes committed by isolated and uncoordinated individuals acting randomly on their own.[3649] Second, the attack was directed against the civilian population as the primary, as opposed to incidental, target of the attack.[3650] As noted below, acts committed against

[3645] Of the cases of enforced disappearances that the Mission investigated in depth, Barlovento could be characterized as a Crime Against Humanity under the Rome Statute. The rest are considered as a violation.

[3646] Rome Statute, art. 7(1)(h).

[3647] The cases of enforced disappearances referred to as crimes against humanity in this section only include those where, as required by Article 7 (1)(i) of the Rome Statute, the perpetrator intended to remove the disappeared person from the protection of the law "for a prolonged period of time".

[3648] Prosecutor v. Bosco Ntaganda "Judgment pursuant to Article 74", 8 July 2019, ICC-01/04-02/06-2359, para. 662.

[3649] Prosecutor v. Bemba, Judgment pursuant to Article 74, 21 March 2016, ICC-01/05-01/08-3343, para. 149; Prosecutor v. Bosco Ntaganda, Judgment pursuant to Article 74, 8 July 2019, ICC-01/04-02/06-2359, para. 662.

[3650] Prosecutor v. Bemba, Judgment pursuant to Article 74, 21 March 2016, ICC-01/05-01/08-3343, para. 154.

members of the military that have been placed *hors de combat* may properly fall under this definition. Third, the crimes listed above were, respectively, committed in furtherance of the following two distinct State policies:[3651]

a. 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 were perceived as being against the Government, and their relatives and friends who were targeted for being associated with them.

b. A policy to combat crime, including by eliminating individuals perceived as "criminals" through extrajudicial execution.

2089. The first of these two policies also targeted members of the military who were allegedly involved in attempts to overthrow the Government of Nicolás Maduro. Despite the requirement that the attack be directed against a civilian population as noted above, there is no need for the individual victims of crimes against humanity to be "civilians".[3652] International jurisprudence indicates that not only civilians but other "protected persons" under International Humanitarian Law also qualify.[3653] This includes members of armed forces placed hors de combat,[3654] *inter alia* by "detention".

2090. In the view of the Mission, the attack was both widespread and systematic. The perpetration of 54 acts of extrajudicial executions, 112 acts of illegal imprisonment, and 95 acts of torture and other cruel or inhuman treatment that the Mission investigated were indicative of wider patterns of conduct, as demonstrated throughout this report. In addition, the conduct took place over a time span of over five years and throughout the territory of Venezuela. Hence, the attack was widespread. Moreover, the attack was organized, as opposed to an "accidental" repetition of similar conduct. As noted, the crimes followed similar patterns; the same modus operandi was used to target victims.[3655] Hence, the attack was systematic.

2091. Finally, the crimes were committed "as part of" and "with knowledge of" the attack. Taking into consideration the aims, nature, and/or consequences of the crimes concerned,[3656] they did not differ in their context and circumstances[3657] neither from the other acts documented nor from the broader patterns identified by the Mission. Moreover, those who executed the crimes were aware that the violence exercised against political dissidents and

[3651] Article 7(2) (a) of the Rome Statute requires that that attack on the civilian population be "pursuant to or in furtherance of a State or organizational policy". The "plan or policy" requirement is designed to ensure that the acts in question are shown not to be random and unconnected. It involves a test that links the actions to a state or organization. The "plan or policy test" does not require proof of direct orders or of written plans. The test can be satisfied by inferences, including the unlikelihood that the acts were coincidental or not encouraged. See for example: Barrios Altos, La Cantuta and Army Intelligence Service Basement Cases, Case No. AV 19-2001, Sala Penal Especial de la Corte Suprema, 7 April 2009 (Peru), para. 715; Judgment, Kunarac et al, IT-96-23 & IT-96-23/1-A, AC, ICTY, 12 June 2002, para. 98 (Kunarac Appeal Judgment); Judgment, Prosecutor v. Tadić, IT-14-94-1-T, TC, ICTY, 7 May 1997, para. 653 ('Tadić Trial Judgment'); Judgment, Prosecutor v. Blaškić, IT-95-14-T, TC, ICTY, 3 March 2000, para. 205 ('Blaškić') '[t]his plan … need not necessarily be declared expressly or even stated clearly and precisely"; See also para 204 of the Blaskic judgment for a list of indicators from which a policy may be inferred; Prosecutor v. Ruto, Koshey and Sang,"Decision on the confirmation of charges", ICC-01/09-01/11, 23 January 2012, para. 210.

[3652] Prosecutor v. Bemba, Judgment pursuant to Article 74, 21 March 2016, ICC-01/05-01/08-3343, para. 156; Prosecutor v. Bosco Ntaganda, Judgment pursuant to Article 74, 8 July 2019, ICC-01/04-02/06-2359, para. 669.

[3653] Prosecutor v. Bemba, Judgment pursuant to Article 74, 21 March 2016, ICC-01/05-01/08-3343, para. 161.

[3654] ICTY, Martić Appeal Judgment, 8 October 2008, IT-95-11-A, paras 307 to 313.

[3655] Prosecutor v. Bosco Ntaganda Judgment pursuant to Article 74, 8 July 2019, ICC-01/04-02/06'2359, para. 663.

[3656] Prosecutor v. Bosco Ntaganda Judgment pursuant to Article 74, 8 July 2019, ICC-01/04-02/06'2359, para. 696.

[3657] Prosecutor v. Bemba, Judgment pursuant to Article 74, 21 March 2016, ICC-01/05-01/08-3343, para. 165.

persons with a criminal record, or with presumed criminal records or associations, was not spontaneous or unintended but repeated and coordinated.

2092. The Mission notes that while this report documents various instances of short term enforced disappearances as human rights violations – including cases where the time period when the individual was outside the protection of the law was as short as two or three days – the cases of enforced disappearances listed above as crimes against humanity only include those where, as required by Article 7 (1)(i) of the Rome Statute, the perpetrator intended to remove the concerned individual from the protection of the law "for a prolonged period of time".

2093. In relation to the killings of individuals in the context of protests, the Mission considers that it does not have enough information to determine whether they were committed pursuant to or in furtherance of a State policy. Further investigation into the participation of State authorities in the planning and implementation of a policy that encompassed the commission of such crimes, is needed.

2094. For this reason, the Mission refrains from including them in the list of crimes against humanity that it finds were committed in Venezuela in the period of review. This, however, does not contradict the fact that the Mission considers that they amounted to arbitrary deprivations of life, including in some cases extra-judicial executions in violation of human rights law, as explained above, as well as criminal acts under domestic law. As such, these acts must be duly investigated, prosecuted and punished as much as all other acts documented in this report, and their victims afforded an effective remedy – in this case, the relatives of those unlawfully killed.

Individual criminal responsibility

2095. As noted above, all the violations and crimes documented in this report give rise to individual criminal responsibility, both as crimes against humanity and as distinct crimes established in national law. While the Mission will not attempt to determine the modes of criminal responsibility in which different individuals mentioned throughout this report may incur – both before international and national jurisdictions – it will now provide a short overview of the contributions made by key individuals, which are further developed above and which are relevant for ensuring their accountability both at the international and national level.

2096. This report presents ample information that demonstrates 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 following civilian and military security forces and agencies: the PNB (including the PNB FAES), CICPC, the municipal and state police forces, SEBIN, the FANB, and DGCIM. Members of these security forces and agencies were the perpetrators of the violations and crimes documented in this report.

2097. Based on the information collected, the Mission finds that, in the period of review, the PNB and municipal and state police, the CICPC, the SEBIN, the FANB and the DGCIM consisted of functioning and organized entities, operating generally in accordance with established chains of command or authority and with established communication and reporting procedures. The available information indicates that the leadership of these entities exercised effective control over their subordinates, in accordance with a functioning disciplinary system.

2098. The Mission has also received information from sources, who were members of these entities, who indicate that the President at times circumvented the established chains of command to issue orders directly to mid-level members of those entities. Some of the same sources have also indicated that in parallel to the formal chains of command and operations, other individuals were integrated into the same or similar missions as the ones carried out by the formal security or intelligence entities. In both cases, nothing in the available information suggests that this affected the functioning of the formal entities and their operations.

2099. On the contrary, these actions appear to have only been used to strengthen the missions being implemented by those formal entities. Indeed, these sources indicated that members of the colectivos were available to substitute or supplement civilian or military

forces, where convenient. The colectivos would respond automatically when summoned by means of communication technology, in the form of message chains. They were provided weapons, credentials and some were put on a payroll.

2100. As documented above, the Mission has information indicating that the President and the Ministers of Interior and of Defence were aware of the crimes. They were in close contact with other members of the FANB, including the GNB, and also with the Directors of the PNB, CICPC, SEBIN and DGCIM. They gave orders, coordinated activities, and supplied resources in furtherance of the plans and policies set out in the report. The Mission does not find that every detail of every crime was necessarily known to those liable for them, but there are reasonable grounds to believe they had sufficient knowledge for relevant material contributions.[3658] In addition, these violations and crimes were widely publicized in various media reports and denounced by NGOs, lawyers, relatives and the victims themselves.

2101. The information available suggests that the measures taken by State authorities to prevent or repress these crimes, or afford an effective remedy to the victims, were for the most part insufficient. The Mission has documented cases where investigations were initiated, and in a few cases, sentences were issued. However, it is also noteworthy that even in the cases where investigations were initiated, and in the smaller number of cases where sentences were issued, these proceedings did not ensure the accountability of immediate superiors, or those higher up in the chain of command. In many cases, also, accountability did not cover all but some of the crimes committed against the given individuals. In the vast majority of cases, the violations and crimes documented in this report were met with impunity and inaction by the responsible authorities.

2102. At the same time, there are multiple indications that, despite having knowledge of the occurrence of the crimes documented in this report, the authorities mentioned in the previous paragraphs not only did not change their course of action, but in fact, continued to adopt policies and plans and contributed to their implementation, which resulted in the commission of those crimes. The policies and plans, at the very least, included an element of criminality in that if the events followed the ordinary course, implementation of the plan would lead to the commission of such crimes.[3659] Authorities provided essential contributions including the material, logistical and human resources necessary for the security and intelligence operations that, as documented in this report, resulted in the commission of crimes.

2103. For all these reasons, the Mission has reasonable grounds to believe that both the President and the Ministers of Interior and of Defence, ordered or contributed to the commission of the crimes documented in this report, and having the effective ability to do so failed to take preventive and repressive measures. 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.

2104. The Mission also has reasonable grounds to believe that the Directors of the security and intelligence entities involved in the commission of the crimes documented in this report ordered or contributed to the commission of these crimes, and having the effective ability to do so failed to take preventive and repressive measures. 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.

2105. The direct perpetrators of the crimes documented in this report are responsible for their actions. Their immediate supervisors and others in the chain of command who had knowledge or should have had knowledge about the crimes, had effective control over their subordinates, and failed to take adequate measures to prevent or repress the crimes are also liable for their criminal conduct. Their acts must be duly investigated and a determination of their individual criminal responsibility made by the competent judicial authorities.

[3658] See Prosecutor v Lubanga, Judgment on the appeal of Mr Thomas Lubanga Dyilo against his conviction, 1 December 2014, ICC-01/04-01/06-3121-Red, para. 123.

[3659] Ibid., paras. 450 and 451.

CHAPTER VIII: RECOMMENDATIONS

Recommendations to the Bolivarian Republic of Venezuela

Accountability and justice for victims

1. 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 for victims.

2. Ensure that investigations include those at higher levels of responsibility, with respect to all violations and crimes documented in this report.

3. Ensure that State institutions, including security forces and intelligence services, cooperate fully with investigations, handing over all information requested in a timely manner and allowing investigations to be conducted in their premises.

4. Ensure effective and gender-sensitive attention by law enforcement and prosecution services to victims and their relatives who report violations and crimes such as those described in the present report, and investigate all threats or intimidation against them.

5. Guarantee that victims of serious human rights violations and their relatives are granted appropriate and gender-sensitive reparations, including compensation, for the harm they have suffered, and have adequate access to medical, psychosocial and other support and services, and access to adequate and effective protection measures.

Targeted political repression

6. Cease public rhetoric, including from high-level authorities, that incites violence against those who express opposition to Government policies or actions, including protesters.

7. Ensure that parliamentary immunity is not lifted unless in accordance with procedures established under article 200 of the Constitution. Reinstate the parliamentary immunity of deputies that was not removed in accordance with this process.

8. Repeal the “Law against Hate” of the National Constituent Assembly and cease criminal prosecution under this law, including against political dissidents and journalists.

Arbitrary arrests and detentions

9. Guarantee that no person is arrested or detained except pursuant to a judicial order or in the act of committing a crime. Carry out systematic judicial review of the lawfulness of arrests.

10. Apply pre-trial detention exceptionally, only where necessary to ensure the presence of the accused at trial and where there is a well-founded risk of flight or obstruction of the investigation.

11. Carry out a judicial review of the legality of detentions in the cases referenced in the present report. Immediately release all detainees that have been detained arbitrarily.

12. Immediately implement pending judicial release orders related to individuals who have been granted non-custodial substitute measures or have served their sentences fully, but who remain detained, including those identified in the present report.

Due process guarantees

13. Ensure that criminal charges are based on sound and valid evidence, obtained through lawful means and absent torture, ill-treatment or duress.

14. Guarantee that detainees are allowed legal representation of their own choosing. Remove current obstacles to the right to a legal defence, including ensuring that

defence counsel is provided with essential court documents, promptly informed of hearings and allowed sufficient access to clients to adequately represent them.

15. Make sure that defendants are guaranteed the right to presumption of innocence and that Government authorities and others refrain from making public comment about pending criminal cases that could compromise this right.

16. Guarantee compliance with the timeframes established by law for the various procedural steps under the Criminal Procedure Code, avoiding delays of procedures and trials.

17. Respect of the legality principle not forcing the interpretations of crimes against the accused.

Judicial and Prosecutorial Independence

18. Guarantee the independence and impartiality of the judiciary; cease all practices interfering with judicial independence.

19. Guarantee that prosecutors are free from political or other pressure and able to investigate without fear or favour.

20. Guarantee the proper distribution of cases to prosecutors and judges based on objective criteria, in order to avoid forum shopping or to help secure certain outcomes in criminal proceedings.

21. Determine admission to the judicial career on the basis of a public competitive process to ensure the capability and suitability of candidates, as required by the Constitution, eliminating the practice of appointment of provisional judges.

22. Guarantee the career stability of judges and that the discipline or removal of judges is carried out in accordance with procedures that are public, oral and in accordance with due process guarantees.

Use of Military Tribunals

23. Ensure that military jurisdiction is limited to military offences committed by active members of the military. Transfer pending cases of civilians before military courts to civilian courts.

24. Prohibit that military accused of human rights violations are tried before military tribunals.

Enforced Disappearance

25. Cease enforced disappearance and allow detained individuals to immediately inform family members or others of their arrest and their whereabouts. Allow them immediate access to legal representation.

26 Esnure that all detainee records are freely accessible to family members and lawyers who request them.

27. Immediately cease the use of temporary or clandestine places of detention. Investigate and prosecute those suspected of participating in their creation and use. Ensure redress for the victims of detention in those locations.

28. Carry out prompt investigations into the five men disappeared in the Barlovento case.

Torture and Cruel, Inhuman or Degrading Treatment

29. Issue a directive from the highest political level to authorities within SEBIN and DGCIM to immediately cease and desist from any practices, including those described in the present report, that amount to torture or cruel, inhuman and degrading treatment, including acts of sexual and gender-based violence. Investigate and prosecute the use of torture, including during interrogations.

30. Suspend those members of SEBIN, DGCIM or any other institution of the State while they are being investigated for torture.

31. Ensure that detainees receive regular medical examinations by independent medical professionals. Make photographic documentation of trauma injuries an obligatory practice. Establish a practice of video recording medical examinations, subject to consent, especially when examining bodies of people killed or injured in police operations or in detention.

32. Ensure that medical professionals understand their legal duties and the risk of complicity in crimes, including crimes against humanity, if they contribute to them.

33. Train medical personnel in the investigation, interpretation and documentation of physical and psychological torture and other forms of ill-treatment, including through sexual and gender-based violence, based on the Istanbul Protocol.

Deaths in Custody

34. Ensure independent and impartial investigations in cases of deaths in custody, in line with the Minnesota Protocol by professionals trained in these standards. Allow for the participation of family members in the investigations. When requested, arrange the restitution of the corpse to families.

Detention Conditions

35. Abstain from detaining individuals in facilities, including those of SEBIN and DGCIM, that are not adequately equipped or legally mandated for this purpose.

36. Immediately cease use of detention conditions described in this report, such as solitary confinement, extreme temperatures, constant lighting or darkness, lack of bathroom access, inadequate food and water and overcrowding, which could amount to torture or cruel, inhuman and degrading treatment.

37. Desist from the use of invasive body searches of detainees and visitors to detention facilities, ensuring full respect for the individual's privacy and dignity.

38. Establish appropriate gender-specific conditions of detention in all sites where women, girls, and LGBTI persons are held in detention. Take immediate measures to ensure that all detainees, regardless of their gender, are protected from sexual and gender based violence while in detention, and that when such acts occur, they are adequately punished.

39. Detain juveniles only in exceptional cases and for the minimum necessary period and in facilities separate from adults.

40. Allow unimpeded access and monitoring of detention centres by international independent organizations and observers, including impromptu visits. Allow regular consular visits for foreign citizens and nationals holding dual nationality.

Security Framework

41. Ensure that security forces are regulated by laws that clearly prescribe their powers, establish oversight mechanisms and are aligned with international human rights standards. These laws should be approved by the National Assembly, rather than by Executive or National Constituent Assembly decrees. Ensure that such laws are strictly implemented.

42. Guarantee that plans and policies developed to address the situation of insecurity in Venezuela state clearly that human rights of suspects and all persons present during security operations must be respected, giving precise orders as to the objective of the operation.

43. Train security forces and intelligence services in human rights norms, including in relation to particular areas of concerns, including acts that constitute torture and cruel, inhuman or degrading treatment and sexual and gender based violence.

OLPs/OLHPs

44. Cease large-scale and mixed military/police security operations such as those implemented during the OLPs/OLHPs, to prevent the commission of violations and crimes such as those outlined in the present report.

Extrajudicial Executions

45. Collect and publicly disseminate reliable and disaggregated official statistics on killings attributable to security forces, in order to help analyse patterns of abuse and identify and investigate specific police units and individuals involved.

46. Immediately issue high-level directives within police forces, in particular the PNB and the CICPC, to halt extra judicial executions and publicly declare that these crimes will be promptly investigated and those responsible punished.

47. Consider establishing a special prosecutorial unit within the Public Prosecutor's Office to investigate crimes of extrajudicial executions by police, as well as police cover-ups.

48. Dismantle the FAES given the high number of extrajudicial executions carried out by this police force since its creation.

49. Ensure that policing activities, and especially any specialised bodies such as FAES, are required to continuously record the activities of agents with the use of body worn cameras.

Use of Informants

50. Establish clear and public rules on the use of informants by security forces and that receipt of social and economic benefits is not made contingent on participation in surveillance schemes.

Colectivos

51. Cease collaboration with, disarm and disband colectivos and any other armed groups operating outside state security structures that engage in illegal activities and are not subject to control and accountability.

52. Adopt the necessary legal and policy measures to prevent collaboration by the Government and members of State security forces with colectivos and investigate and prosecute those in violation of those norms.

Public order in the context of protests

53. Align legislation regulating protests, as well as implementation of this legislation, to comply with international human rights standards, including regarding progressive use of force and the principles of legality, necessity and proportionality.

54. Guarantee that the policing of demonstrations is assigned only to specifically trained law enforcement officials and avoid the use of military officials in maintaining public order, in accordance with international guidance.

55. Train police forces in use of non-lethal weapons and dialogue-based de-escalation tactics for the policing of assemblies and crowd control.

Public Institutions

56. Ensure the functioning of the branches of national public power in accordance with the Constitution. Restore the constitutionally mandated functions of the National Assembly, including legislative powers.

57. Ensure that the Office of the Ombudsperson acts independently, in accordance with the Paris Principles relating to the Status of National Institutions, in order to promote, defend and monitor human rights in Venezuela. Special focus should be placed on monitoring of the human rights situation of persons in detention centres.

Cooperation with International and Regional mechanisms

58. Actively cooperate with United Nations in and outside of Venezuela, including OHCHR and mandates established by the Human Rights Council, such as special procedures. Provide them with unfettered access to sites of human rights violations and victims, as well as access to all relevant information.

59. Cooperate with bodies of the Organization of American States. Comply with the precautionary measures issued by the Inter-American Commission and the provisional measures issued by the Inter-American Court. Implement Inter-American Court judgments related to Venezuela.

60. Ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention Against Torture.

61. Fully cooperate with the future work of any process mandated by the Human Rights Council and allow it full and unimpeded access to and throughout the country, including to victims and places of detention, and provide it with all the information necessary to fulfil its mandate.

Recommendations to the International Community

62. Ensure that future security cooperation and transfers of policing and military equipment are contingent on Venezuela committing to ensure its security forces uphold its international obligations under international human rights law.

63. States should consider also initiating legal actions against individuals responsible for violations and crimes identified in the present report, in accordance with their relevant domestic legislation.

64. Mandate through the Human Rights Council and/or General Assembly further investigations into the human rights violations and crimes highlighted in the present report.

65. Ensure that the Office of the Prosecutor of the International Criminal Court takes into consideration the needs of the victims of the crimes investigated by the Mission and those under its consideration to have justice served in a timely fashion.